

THE PUBLIC DEFENDER OF RIGHTS IN THE SLOVAK REPUBLIC

1. THE LEGAL STATUS OF THE PUBLIC DEFENDER OF RIGHTS IN THE LEGAL ORDER OF THE SLOVAK REPUBLIC

In 2001, the Slovak Republic joined the family of countries that have established the institute of ombudsman - Public Defender of Rights in their legal order. Public Defender of Rights is a constitutional authority, the position and competence of which is regulated by article 151a of the Constitution of the Slovak Republic. Extent and means by which a Public Defender of Rights, as an independent authority, participates in the protection of fundamental rights and freedoms of natural and legal entities, details and conditions of executing its office are provided for by Act Nr. 564/2001 Coll., on Public Defender of Rights, as amended.

Despite the fact that today the Public Defender of Rights in the Slovak Republic is de iure not a body classified among the obligatorily commenting subjects, and does not even have the right to legislative initiative, it gets involved in the commenting proceedings connected with the protection of fundamental rights and freedoms. The same happened for example in case of the recent re-codification of criminal law regulations, or in connection with the matter of legal regulations concerning the issuance of identity cards. Related to the performance of function, the Public Defender of Rights drew some conclusions, which were also included in the subject of the bill of act amendment on Public Defender of Rights. The Public Defender of Rights performs the initiating of legislative changes via the committees of the National Council of the Slovak Republic, mainly via the gestor Committee of the National Council of the Slovak Republic for Human Rights, Nationality and the Status of Women. The bill of act amendment on Public Defender of Rights was submitted to the National Council of the Slovak Republic in 2005.

The National Council of the SR adopted on the **3rd February 2006** the proposals of the Committee of Human Rights, Nationalities and Role of the Women for the publication of the constitutional law, according to which the **Constitution of the Slovak Republic No. 460/1992 Coll.** in latter amendments is changing and complementing and for the publication of law, according to which the **Law No. 564/2001 Coll. on the Public Defender of Rights** in latter amendments is changing and complementing and about the modification and replenishment of some further acts which are amending the legal status of the Public Defender of Rights in the Slovak Republic.

The recommendation to elaborate a proposal for the updating of the Public Defender of Rights' legal status was a part of the midyear report which has been submitted by the Public Defender of Rights' own initiative to the Committee of the National Council of the Slovak republic for Human Rights, Nationalities and Role of the Women even in 2004. **The Committee for Human Rights, Nationalities and Role of the Women** became the submitter of the updating proposal of the Constitution of the SR and the Act on the Public Defender of Rights. The mentioned initiative of the Committee can be clearly considered as **the climax of a very good co-operation of the Committee and the Public Defender of Rights by the defending of rights and freedoms of the natural and legal entities in the Slovak republic.**

By the elaboration of the amendment proposal of the Constitution of the Slovak republic and of the Act on the Public Defender of Rights has been preceded with the special professional attention **with the main aim to ensure a more operative and effective protection of rights and freedoms of natural and legal entities.** The basis for the mentioned facts created particularly the **practical application** of the legal modification,

examination of the complaints of the natural and legal entities, acting from ones own initiative, and last but not least **experiences and conclusions from the ombudsman meetings, in particular ombudsmen of the V4 countries, the International charter of the ombudsmen effectiveness, Constitution of the European Union, international contracts and agreements** modifying the protection of human rights and basic freedoms, which have been put to the analysis with the simultaneous respect of the **valid legal modification philosophy preservation.**

To the **changes approved** by the National Council of the Slovak republic belongs in particular the replenishment of the Public Defender of Rights among the **persons entitled to submit a proposal for the beginning of the pursuance to the constitutional court** in the case of the detection of facts indicating that the enforcing of legal rules can threaten the human rights and basic freedoms, the possibility of the Public Defender of Rights to participate on the **assertion of the responsibility of the persons working in public force authorities**, if these persons violated the basic rights or freedom of the natural or legal entities, **the duty of all public force authorities** to provide the needed **cooperation** to the Public Defender of Rights, **the term of 20 days** for the fulfilment of the duties of the Public Administration Authorities to provide information, explanations and standpoints to the factual and legal questions for the Public Defender of Rights and to fulfil further legal duties, because just from the promptness of the provision of the needed documents depends one of the preferred aims, and that is the service for citizen without due delays (the Public Defender of Rights has the experience when the Ministry send his standpoint only after a year and a half and that after several demands), the duty of the Public Administration Authorities to provide the needed files and documents, as well as explanation to the matter **also in the case when a special regulation restricts the right to look into the documents only for a defined authority sphere**, announcing his standpoint **directly to the National Council or to the Authority commissioned by the National Council** in cases, when he considers the measures concerning the case adopted by a superordinate authority or by the government of the Slovak republic as insufficient, because the Public Defender of Rights in the Slovak republic is a type of a parliamentary ombudsman. To the necessities of the complaint we can complement the determination of the Public Administration Authority against which is the complaint directing and in cases when it does not concern the person who submitted this complaint to hand in a written **approval of the aggrieved person or a written full power** in the matter from the reason of the protection and processing of personal data. Further proposals are dealing in particular with the procedural acting.

Among the originally proposed changes, which the National Council of the Slovak republic has not adopted, belong the extension of the Public Defender of Rights' field of activity for **all rights and freedoms** of natural and legal entities and hereby approaching to the protection with the whole "**maladministration**", **legal education** as a condition for the election of the Public Defender of Rights and **returning of an independent chapter** in the state budget. The adopted changes came into force from the **1st April 2006.**

According to the Act on Public Defender of Rights, the public defender of rights co-operates with the competent public administration and public prosecution authorities when performing its function. He can also co-operate with other subjects acting in the field of protection of rights and freedoms.

There are not any procedural provisions relating to the Public Defender of Rights which are obligatory i.e. for the Public Administration Authorities (Act on the Administration Pursuance). The examination and the settling of the motions is a sui generis (unique) pursuance and the Public Defender of Rights has not an arbitration authority in the right

sense of the word (therefore it is for example not possible to submit a remedy against his provision of the motion).

When processing the complaint, the **public administration bodies are obliged**, upon the demand of the Public Defender of Rights, to provide him with the information and explanation, enable to examine the documents or borrow him the documents, submit him with a statement in writing on factual and legal questions, arrange the evidence proposed in the reasoning of the resolution, settle the measures proposed by him, execute the measures proposed by him in case of their idleness, if the execution of such measures results from the law or other public statute with legal binding, enable him to be present at the oral trial, and ask questions from the participants of the proceeding and the persons participating in the discussion of the question.

Upon the present knowledge we can observe that in the majority of cases of complaint reviewing the public administration employees were helpful and the warnings of the employees of the Office of the Public Defender of Rights regarding the discrepancies did not accept as criticism, but as help for the elimination of deficiencies found by the Public Defender of Rights. We consider the co-operation with the state administration of courts, public prosecution office, Prison and Justice Forces and the Social Insurance Company to be very good.

The Public Defender of Rights, as well as the employees of the office prepared a number of presentations connected with the issue of fundamental rights and freedoms, and these presentations and reports were then published in the annual collections and special magazines, they co-operate with some non-governmental organisations to ensure education activities focused on the further education and increase of legal conscience of the population, for example in case of education of long-term unemployed or disabled people, etc. The implementation of co-operation with the non-governmental organisations is based on mutual agreements, or even without this form of legal anchoring. We consider as positive results of this co-operation mainly the common organisation of international conferences, increase of legal conscience in the form of mediating presentations of the specialist employees of the Office of Public Defender of Rights to the broad public at formal and informal events organised by non-governmental organisations.

The Public Defender of Rights and the lawyers of the Office of the Public Defender of Rights regularly co-operate with some medias, in some of them they only inform the viewers, listeners and readers with the legal enactment of selected areas of life, but also with their rights and duties. The Public Defender of Rights grants awards to the co-operating medias for their contribution in the area of increasing the legal conscience in the field of protection of rights and freedoms.

The Office of the Public Defender of Rights implements education activities not only in the framework of meetings of the Public Defender of Rights with the citizens of individual regions, but mainly in the direction to the young generation. The Public Defender of Rights continues in the cycle of meetings with the students of secondary schools and universities under the title of "Public Defender of Rights to the Children and Youth", as well as by monitoring in foster homes.

Apart from the procession of complaints, one of the highest priorities of the Public Defender of Rights is the effort to increase the legal conscience of the population. In order to increase knowledgeability, together with the legal conscience, the Office of the Public Defender of Rights is preparing information brochures and publications containing basic information on the activities of the Public Defender of Rights, as well as topic-focused materials, for example on delays in proceedings, on material scarcity, on the forms of maintenance recognition, etc.

2. FAMILIARIZATION WITH OBSERVANCE OF FUNDAMENTAL RIGHTS AND FREEDOMS ON THE INSTIGATION OF NATURAL PERSONS AND LEGAL ENTITIES

On the basis of our experience based on familiarization with motions we state that fundamental rights and freedoms pursuant to the Constitution of the Slovak Republic and international documents **are not violated materially** in the Slovak Republic.

Not all motions filed with Public Administration Bodies are justified. After familiarization with their content we ascertained in many cases, that the proceeding of Public Administration Bodies, and their decision making was correct and in accordance with legal regulation in force and principles of a democratic and legal state.

10 097 complaints were submitted to the Public Defender of Rights during four and a half year from the beginning of his activity. During this period the Public Defender of Rights ascertained 446 cases of the violation of basic rights and freedoms of natural and legal entities. To the most often proved violations belong in particular violations of the right on the negotiation of the issue without useless delay. Further he proved the violation of the right on the appropriate creature comforts in the old age and by the disability to work as well as by the loss of the breadwinner, the right on information, freedom of stay, violation of the legality rule or right on health protection, right on the education and free health care.

According to experience on the examination of motions it follows explicitly that **Article 48 par. 2 of the Constitution of the Slovak Republic** is violated most frequently, according to which every person is entitled to the settlement of his/her matter publicly without undue delay.

The right of every person to the settlement of his/her matter without undue delay is one of the fundamental rights and freedoms on the observance of which the Public Defender of Rights may participate according to the law. This right is an inseparable part of a **right to court and other legal protection**, guaranteed both by the Constitution of the Slovak Republic and international contracts and agreements.

With regard to the protection of the right of every person to the settlement of his/her matter without undue delay in the court proceeding, it is impossible to state definitely in all cases, after receiving opinion of State Administration Bodies, courts and after the assessment of all decisive facts and after taking into consideration the existing **judicature of the Constitutional Court of the Slovak Republic and the European Court for Human Rights** that any delay occurred in a proceeding, or if a delay occurred it involved only a part of a proceeding and such a delay was mostly removed by a court proceeding on the basis of both application of the Public Defender of Rights and own initiative of the State Administration Bodies (Court).

The assessment of the term adequacy is based on three basic criteria, namely according to the subject of the proceeding, behaviour of the party to the proceeding and the State Body. Only terms, which do not correspond with the subject of the particular matter, or unnecessary duration and lengthiness of a proceeding caused by a court, may be deemed as an unnecessary delay in a proceeding and violation of the right of every person to the settlement of his/her matter without undue delay. Neither data specified in motions, nor data provided by chairmen of particular courts, give any proof that, except for certain time periods of inactivity of a Court, undue delay caused by a Court is concerned.

Legal uncertainty is removed by a valid decision in the particular matter, and exactly **removal of legal uncertainty** forms the subject of right to settlement a case without undue delay. Therefore in cases, in which a valid decision on the particular subject was not taken, the chairmen of the particular courts, referring to the legislative of the Constitutional Court of the Slovak Republic, were requested to take **measures based on their own authority** resulting in not delayed operation and final decision in the particular matter.

In their opinions to the Public Defender of Rights, the presiding judges mostly stated the great work load of judges (number of cases assigned to one judge) and lack of court staffing (also resulting from changes in territorial circuits of courts resulting from reforms in the judicial system), challenging probation, behaviour of parties to proceedings (inappropriate behaviour and lack of co-operation of parties, objective and subjective facts on the part of judges) as **reasons of undue delay**.

3. PROCEDURE OF THE PUBLIC DEFENDER OF RIGHTS USED IN DEALING WITH THE COMPLAINTS

Forms of help or the arrangement of motion by the Public Defender of Rights can be divided into two groups depending on that if the motion belongs to the field of the Public Defender of Rights' activity or it is above his field of activity.

I. The Public Defender of Rights in the intent of the legislation of the Act No. 564/2001 Coll. on the Public Defender of Rights as amended by later regulations will investigate the motions which belong to his field of activity using the rights given by law, in particular to require the necessary files and documents from the Public Administration Authority as well as the clarification of the issue to which the motion relates and also to enter into the buildings of Public Administration Authorities and to investigate the content of the motion on the spot. The Act on the Public Defender of Rights in the case, if with the results of the arranged motion a violation of basic rights and freedoms is not proved, enacts that the Public Defender of Rights informs about that fact the applicant of a motion and the Public Administration Authority against whose procedure, decision or inactivity is the motion aimed.

If investigation of complaint results in proved breach of the fundamental rights and freedoms, the public defender of rights shall notify the public administration body, against activity, decision or inactivity of which the complaint has been submitted, of the result along with proposal of measures. The public administration body shall be obliged to inform the public defender of rights of its opinion of the results of investigation of complaint and adopted measures within 20 days from date of delivery of the public defender of rights call for adoption of measures. If the public defender of rights disapproves with the public administration body's opinion or does not consider the measures adopted as sufficient, he shall report the fact to the body that is superior to the body, against which the complaint has been submitted, or to the Government of the Slovak Republic, if such superior body does not exist. The superior public administration body or, if no superior body exists, the Government of the Slovak Republic above shall be obliged to notify the public defender of rights in writing of measures adopted in the matter. The notice shall be provided within 20 days from delivery of the Public Defender of Rights report. If the Public Defender of Rights does not consider **with this** measures adopted as sufficient, he shall report the fact to the National Council or to a body authorized by the National Council.

II. By the arrangement of motions which does not belong to the field of activity of the Public Defender of Rights information is given to the applicant about the reasons of the motion arrangement manner. At the same time the applicant is informed about the field of activity of the Public Defender of Rights and about the content of given legal rules as well as about the possibility to turn to the Authorities which are competent to solve the problem of

the applicant. Help in a form of legal advices and a regulation goes out from the Public Defender of Rights' own initiative not only in the Office of the Public Defender of Rights in Bratislava, but also in eight regional branches in the territory of Slovakia. Lawyers of the Office of the Public Defender of Rights rendered 17 670 legal advices as of 01 September 2006.

The Public Defender of Rights is not competent to submit proposals, applications or remedies in his name or in the name of the applicant of motion or to plead for him in a pursuance before the court.

4. PERSONNEL SECURITY AND THE ORGANIZATIONAL STRUCTURE OF THE OFFICE

With the Act on the Public Defender of Rights was simultaneously established the Office of the Public Defender of Rights (further only "the Office") which fulfils the duties connected with the professional, organizational and technical assigning of the Public Defender of Rights' activities. The number of the Office employees was modified by the Ministry of Finance of the SR, where 41 employees have been determined including the Public Defender of Rights. In the Slovak Republic are the relationships between the employers and the employees in the public administration solved in two ways – with the practice of work in the Civil Service and with the works in the public interest. From the number of 40 employees of the Office 28 employees are working in the Civil Service. It refers to the Head of the Office, Director of the Economic Department and the Inner Administration, Director of the Personnel Office, Supervisor and skilled employees in the legal sphere. The administrative-technical employees and the auxiliary staff practise their stints according to the provisions of the Act on the Work Performance in the Public Interest.

According to the provisions of the Act on the Public Defender of Rights the Public Defender of Rights issues the Organizational Order. On the top of the Office is the Head of the Office who is appointed and dismissed by the Public Defender of Rights. He is the Statutory Authority of the Office and he is responsible for his activity to the Public Defender of Rights.

According to the last version of this Order the Office is divided into these basic organizational units:

- **The Secretariat of the Public Defender of Rights** – providing of administrative activities of the Public Defender of Rights,
- **The Secretariat of the Office** – providing of administrative activities of the Head of the Office, chief employees and skilled employees in the legal sphere, providing of mail room activities and of the archive,
- **The Personnel Office** – providing of labour-law relations of the Office employees, realization of promotional activities and of the internet side, providing of library activities, settling of requests for information, providing of cooperation by the protection of basic rights and freedoms with the non-governmental organizations, providing of foreign industrial relations, organization of receptions for foreign delegations, of foreign business trips, of activities on the Department of the Economic Mobilization, Civil Defence and Classified Information,
- **Supervision and Internal Audit** – providing of financial supervision, realization of supervisory actions in the field of the management with the resources of the state budget, arranging of complaints and petitions,

- **Department of Primary Legal Analyses** – primary analysis of the motion examination (the department provides the division of motions according to the field of activity of each legal department and simultaneously arranges the most motions which does not belong to the Public Defender of Rights' field of activity),
- **Department of Legal Analyses and Expert Opinions I.** – professional activity connected with the performance of the Public Defender of Rights' activity in the field of the State Administration,
- **Department of Legal Analyses and Expert Opinions II.** – professional activity connected with the performance of the Public Defender of Rights' activity in the field of the Local Government,
- **Department of Legal Analyses and Expert Opinions III.** – professional activity connected with the performance of the Public Defender of Rights' activity in the field of the activity of legal and natural entities in the sphere of the Public Administration,
- **Economic Department and Department of the Internal Administration** – providing of works on the Department of Budget, Financing and Public Providing, administration of movable assets and immovable assets, fulfilling of tasks in the field of fire prevention and car transport.

5. INTERNAL RULES OF THE OFFICE CONCERNING THE DEALING WITH THE MOTIONS

Separate activities of the Office including dealing with the motions are objects of the modification of the internal legal rules. For the unification of the procedures by the preparation of data for settling of the motions of natural and legal entities the Office adopted the **Directive for the provision of internal control of the correctness of the motion settling**, the content of which is in particular:

1. ESTABLISHING OF A THREE-LEVEL CONTROL SYSTEM OF THE CORRECTNESS OF THE MOTION SETTLING

The control progresses on following levels: Legal Expert (Processor of the Motion) → Director of the Organizational Department → Public Defender of Rights

2. PROCEDURE BY THE MOTION SETTLING

- a) The procedure by the motion settling modifies the Act on the Public Defender of Rights.
- b) The mail room immediately verifies the evidence of the motion by the handing of the submissions. While he finds out, that the submitter of the just handed submission has already a registered motion in the Office, he submits the handed submission against a signature to the Director of the Department, who settles or has settled the processing of the motion of the same submitter, without a delay. The Director of the Department will decide, if it is concerning the supplementing of the motion or a new motion or as far as it does not concerning the legal advice after the agreement with the Head of the Office he decides, that the submission will be registered as an ordinary post of the Office and he will return the submission to the mail room of the Office for the registration without a delay. Otherwise he hands the matter in after the submission of the motion without a delay and with the stamp of the Office with the date of the submission to the Director of the Department of Primary Legal Analyses.

- c) On the basis of the general authorization by the Public Defender of Rights the Director of the Department of Primary Legal Analyses assigns the motion for settling to the relevant Department according to the factual effect without a delay. The Director of the Department of Primary Legal Analyses pays attention by the distribution of the motion also to the proportional redistribution on the separate departments with respect to the provision of the patness of their settling. To change the allocation of the motion can only the Public Defender of Rights or with his approval the Head of the Office and the Director of the Department of Primary Legal Analyses.
- d) The Director of the Department, to whom the motion was assigned, is responsible for the immediate allocation of the motion to the final processor.
- e) To adopt a motion verbally into the register can only the legal expert of the Office. Usually two legal experts adopt the motion verbally into the register, and that on the basis of an authorization by the Director of the Department, who on the basis of the general authorization by the Public Defender of Rights determines every workday which legal experts of the Office will adopt the motions verbally into the register and provide legal advices in the seat of the Office and in the regions of the Slovak Republic. The authorization to adopt the motion verbally into the register and provision of legal advices can modify only the Public Defender of Rights or with his approval the Head of the Office.
- f) For the working process of the motion settling the Office has established an automated system of file cabinet administration. The details are modified by an especial internal rule – File Cabinet Order of the Office.
- g) The processor is responsible for the factual and lingual correctness and for the formal side of the record settling as well. The processor draws up also a copy of the record by the submission of the record by the settling of the record to the Director of the Department in an automated way, which he submits physically to the Director of the Department provided with his own signature.
- h) The processor is responsible for the marking of all data into the automated system and their marking on the file covering at least by the conclusion of the file type motion. The processor is responsible for the immediate and complete conclusion of the file type motion in an automated system of the file cabinet administration also in the physical form after the submission of the concluding sent record to the submitter of the motion and to the touched Public Administration Authority or of an another concluding sent record in the file type motion according to the Act on the Public Defender of Rights.
- i) The processor chooses the most suitable method of the file settling. If he is settling the matter verbally (personally or telephonically) by the examination of the motion, he makes about it a record in the automated system and he draws up an official record. The record must contain data about time, about the result of the examination and settling and exact marking of that with whom was the matter settled.
- j) The Director of the Department controls the settling of the submission by the processor and is responsible for the judgement of the settling from the factual and professional point of view, as well as from the point of view of the fulfilling of generally binding rules and internal rules of the Office.
- k) The Director of the Department can return the record for the reworking or for the completing to the processor. For the reworking or for the completing of the record the Director determines a deadline. The Director of the Department marks the return of the record through an automated system.

- l) As long as the Director of the Department agrees with the processing of the sent record, he provides the abstract of the sent record with his signature and he moves forward the file to the Public Defender of Rights by an automated system also by a physical submission of the file to the Secretariat of the Office or on the basis of the signature law he draws up the final sent record and submits it for dispatch to the Secretariat of the Office.
- m) The signing of the records in the file type motion is ruled by the provisions of the Organizational Order of the Office. The Director of the Department is responsible for the correctness of the decision-making about the authorization for the signing of the record in the file type motion.

3. DEADLINES OF THE MOTION PROCESSING

The Act on the Public Defender of Rights does not state any deadlines in which the motion should be settled. The Office from the mentioned reason for the purpose of the unification of the procedure and conditions of the motion settling adopted internal deadlines. We are working on the presumption that by the keeping of the conditions of the quality and correctness the processor is obliged to settle the motion in as short time as possible.

The motion is processed in the deadlines determined for its settling, and that

- a) within one week from its submission of the motion the Secretariat of the Office sends an announcement about the submission of the motion to the submitter of the motion,
- b) up to two months from the allocation of the motion the processor after the approval by the Director
- c) of the Department submits to the Public Defender of Rights for signature an announcement about he adoption
- d) of the motion for the settling or a notification about the postponement of the motion or an announcement
- e) or a release to the Authorities active in the criminal act,
- f) up to four moths from the allocation of the motion the processor of the motion after the approval by the Director of the Department submits to the Public Defender of Rights for the signature a notification about the violation of none basic rights or freedoms to the submitter of the motion and to the Public Administration Authority.

The deadlines determined in the preceding paragraph are also relating to the cases in which the submitter of the motion is called upon in the period of 10 days, however the determined period can not be shorter as 7 days, so that he could supplement or specify the motion.

The terms can modify only the Public Defender of Rights. The processor submits the substantiated request to the Public Defender of Rights after the foregoing approval directly by the superordinated Director of the Department at least 7 workdays before the lapse of the determined period. The Director confirms the approval with the application for the extension of the period by his signature on the application addressed to the Public Defender of Rights.

The control of the settling term observance of the motion is ensured by the Head of the Office. To the first day of the quarter the Directors of the Departments submit a list of unsettled motions for the ruled organizational department together with the substantiation of inobservance of the determined periods for the settling to the Head of the Office. If the Director of the Department, the Public Defender of Rights or the Head of the Office requires it, the processor draws up and submits a list of the unsettled files without a delay.

4. THE VIEW INTO THE FILES AND BORROWING OF THE FILES

- a) The employees of the Office are viewing into the files in an automated system in the extent needed for the fulfilment of their working tasks without an especial permission.
- b) The employees of the Office are borrowing the files placed in the hand file cabinet of the Organizational Department with the approval of the Director of the relevant Organizational Department. The employees of the Office are borrowing the files placed in the file centre of the Office with the approval of the Director of the relevant Organizational Department or of the Head of the Office or of the Public Defender of Rights.
- c) The Director of the relevant Organizational Department, the Public Defender of Rights or the Head of the Office are allowing to view into the file and are providing the information about its content to third persons in the compliance with the generally binding rules.
- d) The borrowing of the files and viewing into the files is further ruled by the especial internal directive of the Office.

6. ADMINISTRATIVE – TECHNICAL PROVISION OF THE SETTLING

The settling of motions and of the standard correspondence of the Office from the administrative-technical aspect is a subject of the internal rule modification – Registration Order of the Office. In the intent of the mentioned rule the activity of the Office is provided except of the physical form also in the electronic form by a special system adapted for the needs of the Office. In the system the separate records (e.g. submitted, sent) in the same matter are placed into files.

The system distinguishes following types of files:

- a) file type **motion** – determined for the settling of the motion according to the Act No. 564/2001 Coll. on the Public Defender of Rights in later amendments,
- b) **standard file** – determined for the settling of the submissions, other as motions,
- c) **collecting file** – determined for the collective placement of the documents which does not demand a separate file, e.g. invoices etc.

1. SETTLING OF THE FILES

- a) Settling of the file type motion is realized in the compliance with the Act on the Public Defender of Rights in later amendments. The urgency and the term for the settling can determine the Public Defender of Rights, the Head of the Public Defender of Rights' Office, the Director of the Department of Primary Legal Analyses of the Public Defender of Rights' Office or directly the superordinated employee.
- b) Files other as motion are settled in periods determined by generally binding legal rules, otherwise the Head of the Organizational Department can determine the period depending on the urgency and demandingness of the matter settling. The determined period is marked in the automated system of the file settling.
- c) If it is not possible to settle the matter in the determined or fixed period or if the Office of the Public Defender of Rights releases the matter to the other Authority or organization for settling, it is necessary to inform the sender about that fact with the stating of reasons.

- d) If the Head of the Organizational Department requires it, the Administrator of the Records draws up monthly a list of the unsettled files.
- e) The processor is obliged to assign the registration number to the file, to mark the process of its settling, to give instructions for the sending of the settling and to determine the further movement of the file. The processor marks these data into automated system; the value sign and the period of the placement are marked automatically in the file diary with the allocation of the registration sign. The processor of the data prints the file covering after the allocation of the registration sign.
- f) The processor is choosing the most suitable method of the file settling. If he only acknowledges the submission, he will write under the imprint of the representative stamp "He/she took into account", date and encloses his/her signature. If he/she settles the matter verbally (personnel or telephonically), he makes a record about it on the file covering or he/she will draw up an official record. The record must contain data about time, results and exact marking of that with whom was the matter settled.
- g) If the processor chooses the written form of the settling, he/she is writing always only in one matter.
- h) The data of the settling, concluding and placing of the file the processor of files marks them also in the diary before the placement in the file cabinet. The record must contain data how was the matter settled and where is the file placed. The processor can have by himself/herself only the unsettled files or files which are necessary in a long term for the fulfilment of his/her working tasks.
- i) The view into the settled file allows and information about his content gives the Head of the relevant Organizational Department, the Public Defender of Rights or the Head of the Public Defender of Rights' Office.

2. PROCESSING OF THE RECORD

The processor marks all necessary data in the automated system, in particular: exact address of the recipient, file number under which is the record settling, number of the record on which he/she is answering, brief designation of the matter.

The Head of the Organizational Department or his deputy will control the settling of the motion by the processor; he/she is responsible for the examination of the settling from the factual, professional and formal point of view, as well as from the point of view of the fulfilling of legal and other rules.

The processor is responsible also for the editing of the record creating according to the valid technical norms.

7. PUBLIC RELATIONS

With the Act No. 564/2001 Coll. on the Public Defender of Rights, as amended by later regulations, the Office of the Public Defender of Rights was established with the seat in Bratislava which in the intent of the provision of § 27 carries out duties connected with the professional, organizational and technical assigning of the Public Defender of Rights' activity. The Public Defender of Rights of his own initiative established in cooperation with the representatives of the Local State Administration or Municipal Government the acceptance of the submitters also in several regions of Slovakia, where in the predetermined period the employees of the Public Defender of Rights' Office one day in the month ensure a personnel adoption of the submissions. Up to now nine regional places of the Public Defender of Rights are working so. By the sending of the employees into the regions the Public Defender of Rights' Office prefers such employees who are speaking the language of the minority living in the given region. In case of a request of the submitter of the motion for the interpretation by the personnel acceptance the request has been satisfied.

The Public Defender of Rights and the employees as well have prepared several requested lectures connected with the issue of basic rights and freedoms and these performances and reports have been later on published in collections and special magazines. We cooperate with several non-governmental organizations by the preparation of educational activities oriented towards the public education and increase of the legal knowledge of the public, for example by the education of the long unemployed, handicapped, we promised cooperation by the education of the Romany minority etc. The realization of the cooperation with the non-governmental organizations is on the basis of mutual agreements, but also without this formal-legal institute. As positive results of this cooperation can be mentioned in particular joint organization of the international conferences, increase of the legal knowledge with the providing of lectures by skilled employees of the Public Defender of Rights' Office to the general public on formal and informal meetings organized by non-governmental organizations.

The Office regularly cooperates also with several media in which he not only familiarizes the listeners and readers with the legal modification of the selected life areas, but also with their rights and duties. For the contribution to the increase of the legal knowledge in the field of rights and freedoms protection the Public Defender of Rights bestows an award to the cooperating media.

The Public Defender of Rights' Office realizes educational activities not only in the frame of meetings of the Public Defender of Rights with the citizens of each region, but also in particular towards the young generation. We continue with the cycle of meetings of the Public Defender of Rights with students from high schools and universities under the title "Public Defender of Rights towards the children and youth" and with the monitoring of the position of children in orphanages as well.

For the purpose of obtaining a feedback from the submitters of the motions we have realized an inquiry in the seat area of the Office focusing on the examination of the satisfaction of submitters with the personnel admitting by skilled employees, and also on the ascertaining of the informational level of the submitters about the activities of the Public Defender of Rights.

To a not negligible activity of the Office belongs also the publishing and promotional sphere of activity. For the purpose that the Public Defender of Rights is a historically first representative of this institution in the Slovak Republic we can say, that the awareness of the potential submitters of motions about the competences and activities of the Public Defender of Rights in the field of basic rights and freedoms protection is not on the demanded level.

One of our biggest priorities except of the motion settling is the effort to increase the legal knowledge of citizens. In the effort to increase the awareness and also the legal knowledge as well, we prepare informational brochures and publications containing basic information about the activities of the Public Defender of Rights as well as thematically oriented materials, for example to the delays in the pursuance, about the material poverty, about types and admission of maintenance.

The Act on the Public Defender of Rights states that submitters of appeals are entitled to utilize their native language in contact with ombudsman .In order to simplify and accelerate the inspection of inducements by the Public Defender of Rights, the Office of ombudsman elaborated an inducement submittance form, containing the factual requirements as anticipated by law. The form was subsequently translated into all the languages of national minorities on the territory of the Slovak Republic in relation to which the provisions of the Chart are applied: Bulgarian, Czech, Croatian, Hungarian, German, Polish, Romany, Ruthenian and Ukrainian. The Office is in charge of distribution of forms, as part of its activities, within the territory of Slovakia, as well as during foreign receptions and visits. In the meantime the forms are also publicly accessible on the official website of the Public Defender of Rights www.vop.sk where loggers on may fill the form in and subsequently send it via electronic mail. Except for this form the Office of the Public Defender of Rights also elaborated another material of informative nature, that contains the description of the roles, privileges, competences and functions of ombudsman, alongside with the most frequently asked and answered questions, contact addresses, office hours in regions, means of placing order with the Public Defender of Rights. As we have already mentioned once, also this document was translated into all the languages of national minorities and is fully publicly accessible on the official website of the Public Defender of Rights. By this means we create conditions for preservation of equality for individual national minorities and their languages in relation to the Public Defender of Rights.

In this year we are planning in our own expenditure the beginning with the publishing of a quarterly magazine about the activities of the Public Defender of Rights, the content of which will dealing with regular topical problems from the field of abidance and protection of rights and freedoms, experiences with the motion settling – generalization of the advices in given cases, planned activities, reactions on the current social events etc. We will distribute these quarterly magazines to state institutions, non-governmental organizations, schools and media and at the same time they will be available in the Office and on the web site of the Public Defender of Rights.

The Public Defender of Rights as well as the Office inform about their activities also through the exercising of the Act on the Free Access to the Information, which was issued in the Slovak Republic in 2000. In practice often happens that the submitters of motions use the application for the accessibility of information in the relationship to the Public Defender of Rights according to the mentioned Act incorrectly, because the obligation to make information available by the state authorities resonates in the society in the last period of time. In the mentioned way are often turning to the Office these ones, who are not sure if their issue falls into the field of the Public Defender of Rights' activity, or they will not submit the motion against the exact Public Administration Authority, only verify, if the pursuance of the Authority was correct, or as a supervision to their further proceeding they want also a supporting opinion of the Public Defender of Rights, for example in the matter of the legal norm explanation etc. If the application for the access of information according to the Act on Free Access to the information does not fulfill the terms for the accessibility of the information according to this Act, the Public Defender of Rights' Office, who is in the given case the liable person, is obliged in the legal 8-day period to publish the resolution about the inaccessibility of information, but at the same time he hands the application over as a motion to the Public Defender of Rights. Also in cases, when the motion is not falling into the field of the Public Defender of Rights' activity, a legal guidance to the matter will be provided to the applicant in connection with its settling.

8. FOREIGN ACTIVITIES OF THE PUBLIC DEFENDER OF RIGHTS

We consider for very important from the very beginning of the activity of the Public Defender of Rights' institute in the Slovak Republic the entrenching in the international space – the ombudsmen group of the V4 countries (Czech Republic, Poland, Hungary and Slovak Republic), the ombudsmen group and group of people dealing with the issue of human rights by the institute of the EU Ombudsman, as well as the supranational ombudsman institution grouping ombudsmen of all around the world IOI (International Ombudsman Institution).

In the short period it has succeeded us to create a professional cooperation at a very good level with the partnership ombudsman institutions and relationships with other international or supranational institutions and foreign partners from the field of the protection of human rights and basic freedoms as well. The content of the discussions were in particular questions concerning the cooperation possibilities, mutual aid by the solving of problems by the protection of basic rights and freedoms, such as questions about: mutual exchange scholarships, international seminars, conferences to social as well as to legal matters.

In the frame of the Public Defender of Rights' entrenchment in the international space we can not forget the participation of the Office representatives on international events and round tables and on the ombudsmen meetings. In July 2005 the Public Defender of Rights asked for induce into the International Ombudsman Institution (I.O.I.), which focuses its activities on the issues concerning the protection of human rights and freedoms.

We have the closest cooperation with the countries of the so called Visegrad Four, because of the geographical placement, but also historical evolution and current events in the international space. Two years before we were the initiators of the cycle of regular ombudsmen meetings of these countries and the first "Ombudsmen Summit of the V4 countries" took place on 20. – 22. of October 2004 in the High Tatras in Slovakia. In 2005 the meeting of ombudsmen took place in Hungary and this year the meeting will take place in Czech Republic. Through the meetings we can provide mutual support and aid by the protection of rights and freedoms of the natural entities and legal entities in these countries as well as to take united stands in cases of international events.

CONCLUSION

Setting up of the Office of the Public Defender of Rights was one of the preconditions, which the Slovak Republic had to fulfil, in order to join the European Union.

The Public Defender of Rights institute and construction of its office was a challenge for the Slovak Republic, especially owing to its importance **in contest of new Europe**, where protection of fundamental rights and freedoms is considered to be one of the most important priorities.

The Public Defender of Rights forms an integral part **of bodies of the protection of fundamental rights and freedoms** in the Slovak Republic. In the system of protection, the Public Defender of Rights has its exact place, competences, manners and forms of appeal to public administration bodies.

During the short existence of the Public Defender of Rights in the Slovak Republic, the Public Defender of Rights **successfully joined the system of extra-judicial legal protection.**

We **consider** the operation of the Public Defender of Rights **as successful**, based on many thanks letters, tens of **settled court delays**, removal of **inactivity of public administration bodies**, thanks to accelerated decisions on awarding social benefits, unemployment benefits, adequate pension security, every and each **legal advice, personal contact** with more than 2 thou. Natural persons, including foreign recognition. The Public Defender of Rights contributed to the improvement of legal regulations, e.g. School Act and recording of unemployed persons. The Public Defender of Rights endeavours to enforce the adoption of the Act on Free Legal Assistance, tries to enforce the amendment of the Penal Code with regard to the length of imprisonment, even the Public Defender of Rights does not enjoy any legislative initiative.

In my opinion, the greatest **purpose of operation of a Public Defender of Rights** is rendering services and assistance to citizens, their direction with regard to their rights, i.e. time and manner of their enforcement. However, we also remind citizens of their obligations. We, a body established for the purpose of protection of law, shall provide protection to **fundamental rights and freedoms** by means of our sole and only instrument – appeal to the responsible body, namely to avoid inactivity and to decide and act in accordance with the legal order and principles of a democratic and constitutional state. Further, to endeavour to remove ignorance of legal principles by means of propaganda and public education.

We also put stress on improvement of communication between the following parties: state, citizen, society, their bodies and other institutions, i.e. the whole public administration. We pay attention to each citizen, a natural person, and provide guidance. However, we must stress the fact that it is our obligation to explain the proceeding of public administration bodies to an applicant for motion if public administration bodies proceeded legally.

At carrying out our activities, we would like to represent both of the Office of the Public Defender of Rights and our knowledge, in order to create **trust in public administration bodies and institutions**.