

---

# STUDIA IURIS

---

JOGTUDOMÁNYI TANULMÁNYOK / JOURNAL OF LEGAL STUDIES

2024 I. ÉVFOLYAM 1. SZÁM



Károli Gáspár Református Egyetem  
Állam- és Jogtudományi Doktori Iskola

A folyóirat a Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskolájának a közleménye. A szerkesztőség célja, hogy fiatal kutatók számára színvonalas tanulmányaik megjelentetése céljából méltó fórumot biztosítson.

A folyóirat közlésre befogad tanulmányokat hazai és külföldi szerzőktől – magyar, angol és német nyelven. A tudományos tanulmányok mellett kritikus, önálló véleményeket is tartalmazó könyvismertetések és beszámolók is helyet kapnak a lapban.

A beérkezett tanulmányokat két bíráló lektorálja szakmailag. Az idegen nyelvű tanulmányokat anyanyelvi lektor is javítja, nyelvtani és stilisztikai szempontból.

A folyóirat online verziója szabadon letölthető (open access).

#### ALAPÍTÓ TAGOK

BODZÁSI BALÁZS, JAKAB ÉVA, TÓTH J. ZOLTÁN, TRÓCSÁNYI LÁSZLÓ

#### FŐSZERKESZTŐ

JAKAB ÉVA ÉS BODZÁSI BALÁZS

#### OLVASÓ SZERKESZTŐ

GIOVANNINI MÁTÉ

#### SZERKESZTŐBIZOTTSÁG TAGJAI

BOÓC ÁDÁM (KRE), FINKENAUER, THOMAS (TÜBINGEN), JAKAB ANDRÁS DSC (SALZBURG), SZABÓ MARCEL (PPKE), MARTENS, SEBASTIAN (PASSAU), THÜR, GERHARD (AKADÉMIKUS, BÉCS), PAPP TEKLA (NKE), TÓTH J. ZOLTÁN (KRE), VERESS EMŐD DSC (KOLOZSVÁR)

Kiadó: Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskola

Székhely: 1042 Budapest, Viola utca 2-4

Felelős Kiadó: TÓTH J. ZOLTÁN

Olvasó szerkesztő: GIOVANNINI MÁTÉ

A tipográfia és a nyomdai előkészítés CSERNÁK KRISZTINA (L'Harmattan) munkája

A nyomdai munkákat a Robinco Kft. végezte, felelős vezető GEMBELA ZSOLT

Honlap: <https://ajk.kre.hu/index.php/kiadvanyok/studia-iuris.html>

E-mail: [doktori.ajk@kre.hu](mailto:doktori.ajk@kre.hu)

ISSN 3057-9058 (Print)

ISSN 3057-9392 (Online)

# THE OMBUDSMAN – AT THE BORDERLINE BETWEEN LAW AND MORALITY

---

EDINA LAJOS<sup>1</sup>

**ABSZTRAKT** ■ Az erkölcs és a jog két különböző, egymástól elkülönülő szabályrendszernek tekinthető, amelyek mindegyike más-más funkcióval és eszközökkel rendelkezik. Ha körülnézünk a világban, egy- és többfejű ombudsmanokat látunk. Az alapjogi biztos nem hozhat olyan döntéseket, amelyeket a hatóság érvényesíthet – ez az ombudsman fogalmi meghatározása. Az ezt a pozíciót betöltő személyek világszerte a legkülönbözőbb titulusokat kapják. A hivatalt először az 1700-as évek elején Svédországban állították fel, bár hasonló állami funkciók már korábban is léteztek. Gabriele Kucsko-Stadlmayer három fő típust különböztet meg a felügyelet tárgya és szabályai, valamint hatásköre alapján: az alap- vagy klasszikus modellt, a jogállami modellt és az emberi jogi modellt. Különösen vizsgálhatja a hatóságokat, a közszolgáltató szerveket, a közigazgatást, például a közjegyzőket és a bírósági végrehajtókat. A jog 4 rétegből áll, a törvény szövegének rétegéből, a jogdogmatika rétegéből, az alkotmányos alapjogok rétegéből és a bírói jog rétegéből. A korábbi ombudsmanok többsége nagy tekintélyű szakember volt, többen közülük professzori fokozattal rendelkeztek. Nagyon kevesen voltak azonban közülük kifejezetten az alapvető jogok védelmére szakosodottak.

**ABSTRACT** ■ Morality and law can be seen as two distinct, separate sets of rules, each with its different functions and tools. Around the world, both single-headed and multi-headed ombudsmen can be found. He or she cannot make decisions that can be enforced by authority – this is the conceptual definition of the Ombudsman. This position is called in multiple titles worldwide. The office was first installed in early 1700s Sweden, though similar state functions had already existed earlier. Gabriele Kucsko-Stadlmayer differentiates three main types based on the subject and rules of supervision, as well as their scopes of authority: the basic or classical model, the rule of law model, and the human rights model. In particular, the Ombudsman can investigate public authorities, public service bodies, and public administration, such as notaries and bailiffs. The law consists of four layers: the layer of the text of law, the layer of legal doctrine, the layer of fundamental constitutional rights and the layer of judicial law. Most of the previous ombudsmen were highly respected professionals, several of them with a professorial degree. However, very few of them had a specific specialisation in the protection of fundamental rights.

**KULCSSZAVAK:** jog és erkölcs, ombudsman, alapvető jogok biztosa, emberi jogok, alapjogok, a jog négy rétege, visszasság, alapjogsértés, alkotmányjogi panasz

<sup>1</sup> LL.M, PhD student, Károli Gáspár University of the Reformed Church, Faculty of Law and Political Sciences.

## 1. PREFACE

This paper studies the relationship between ombudsman protection and morality. As for my methodology, primarily comparative constitutional law shall be applied. Traditionally, morality and law can be seen as two distinct, separate sets of rules, each with its own different functions and tools. However, the objectives are not far apart, so the two sets of norms are closely interlinked.<sup>2</sup> The relationship between law and morality *ad absurdum* has been questioned only in certain dictatorships.<sup>3</sup> It is through fundamental rights that the most basic moral categories are absorbed, that is to say, fused into law, or we could say human rights, which become fundamental constitutional rights from the moment they are incorporated into the constitution of a particular country. The organisation of fundamental rights protection therefore plays an extremely important role in the enforcement of morality.

The office was first installed in early 1700s Sweden, though similar state functions had already existed earlier.<sup>4</sup> International organisations advocating for human rights (among others) routinely call upon their member states to create such offices. Both the Council of Europe and its handbook dealing with administrative requirements touch upon the topic, with the Council having issued an official recommendation to establish ombudsmen.<sup>5</sup> A 2003 Council resolution, explicitly focusing on ombudsmen, emphasised the importance of such independent officials in protecting human rights and the rule of law alike.<sup>6</sup>

## 2. OMBUDSMAN SYSTEMS IN INTERNATIONAL COMPARISON

Around the world, we can find both single-headed and multi-headed ombudsmen. The single-headedness of the ombudsman means that the office is run by a single chief officer. There may be deputies to the ombudsman, but it is the head who gives the verdict on important matters. A multi-headed ombudsman, on the other hand, implies that some fundamental rights have separate, distinct defenders who are free to decide on matters within their competence. The international legal

<sup>2</sup> PÉTER MISKOLCZI-BODNÁR: Az erkölcs és a jog szoros kapcsolata. *Polgári Szemle*, 4-6/2015, 27–33.

<sup>3</sup> ÉVA JAKAB: Gondolatok Pólay Elemér korai tanulmányaihoz: a nemzeti szocializmus és a római jog. *Forum Acta Juridica et Politica*, 10/2020, 125–145. 127.

<sup>4</sup> ANDRÁS ZS. VARGA: *Ombudsmanok Magyarországon*. Budapest, Rejtjel Kiadó, 2004. 14.

<sup>5</sup> VARGA 2004, 30–31.

<sup>6</sup> GABRIELE KUCSKO-STADLMAYER: *Európai ombudsman-intézmények*. Budapest, ELTE Eötvös Kiadó, 2010. 29.

comparison recognises corporate ombudsmen, where one or other ombudsman has no independent power to act but can only act and decide by a corporate majority decision (for example, Greece or Austria).

It is of cardinal importance that ombudsmen are armed with recommendations and publicity. It cannot make decisions that can be enforced by authority – this is the conceptual definition of the Ombudsman. In the academic literature of constitutional law, the ombudsman has long constituted a widely accepted category. Persons holding this position are given a diverse array of titles worldwide. In Hungary, they are the Commissioner for Fundamental Rights, in the Ukraine the Parliament Commissioner for Human Rights. They are named High Commissioner for Human Rights in the Russian Federation and Azerbaijan, while Spain, Czechia and Slovakia use 'Defender of the People' or 'Public Defender of Rights'. In Albania and Croatia, it is the People's Advocate, and in Macedonia, the People's Attorney. Portugal refers to the post as 'Justice Provider'. France, Belgium and Luxembourg call it Mediator.<sup>7</sup>

The office was first installed in early 1700s Sweden, though similar state functions had already existed earlier.<sup>8</sup> International organisations advocating for human rights (among others) routinely call upon their member states to create such offices. Academic literature remains rather brief on the categorisation of ombudsmen. KUCSKO-STADLMAYER (2010) differentiates three main types based on the subject and rules of supervision, as well as their scopes of authority.

- the basic or classical model
- the human rights model
- the rule of law model

In the first case, „soft” powers, such as recommendations are typical when overseeing administrative organisations. The second category sports a wider array of rights, while the third focuses specifically on human rights.<sup>9</sup>

Such a wide variety of the repertoire of powers worldwide is rather difficult to compress into three categories only. The borders between them would be hard to define and many additional types might arise.<sup>10</sup>

<sup>7</sup> KUCSKO-STADLMAYER 2010, 27.

<sup>8</sup> VARGA 2004, 14.

<sup>9</sup> KUCSKO-STADLMAYER 2010, 96-101. The author also alludes to the dichotomy of „classic” and „hybrid” espoused by Linda Reif, which is even more restrictive and difficult to differentiate. Under her system, the current Hungarian ombudsman would fall mainly under the human rights classification model. It is very interesting to note that in Israel, the ombudsman's tasks are effectively carried out by the state audit office.

<sup>10</sup> An instrument of differentiation could be whether the ombudsman even possesses any powers regarding the human rights in question – and if so, are these rights dominant within the commissioner's scope of authority? The introduction of a „constitutional complaint on

Interestingly, the traditional ombudsman used to be a counterweight against the misdeeds and inequities of the public administration only.<sup>11</sup> These days – at least in the Hungarian public mind – it is a guardian of fundamental and constitutional rights. The extensive study of relevant academic literature supports the conviction that these two approaches are not only consistent with one another but strongly connected, since administrative acts violating fundamental rights are automatically unlawful and almost certainly entail an infringement on human rights.<sup>12</sup>

There are many nuanced theories on this topic. The subject matter for the procedures of the Commissioner for Fundamental Rights – with a general set of powers – is always a contravention (a violation of some legislation or the danger thereof) related to fundamental rights. *Administrative errors*, that is, faulty acts or rulings of the public administration not in violation of these rights, *do not give grounds for an ombudsman procedure*. „Constitutional contraventions” do not equal „maladministration”, especially since it isn’t the commissioner’s task in Hungary to monitor the effective workings of the public administration. In spite of this, there have often been references to the fundamental right of citizens to legal certainty and fair proceedings, justifying such interventions from the ombudsman into administrative matters not strictly constitutional.<sup>13</sup> Once again, this only projects the appearance of a contradiction, since the human right to fair proceedings undoubtedly resembles the original function of the very first ombudsmen: that is, to detect and combat administrative errors.<sup>14</sup> The dilemma could be resolved by allowing the ombudsman to act only in cases where the contravention complained of would not only violate professional but also legal norms and the applicant’s substantive rights. If the error has no consequence

---

grounds of a human right violation” could well serve as an additional power for ombudsmen organised under the aegis of the human rights model. The Hungarian system, for one, does not strictly belong to it.

<sup>11</sup> VARGA 2004, 32.

<sup>12</sup> According to certain views, the right to a fair public administration is a fundamental right on its own. „Critiques of the office of the ombudsman have noted that commissioners have often established the violation of a ‘right to legal certainty’, as a contravention against a constitutional right. Citing Paragraph 1 of Article 2 in the Fundamental Law of Hungary, ombudsmen have interpreted the unlawful and erroneous rulings of the public administration as a breach of legal certainty and elevated them to the level of constitutional contraventions.” And yet, they could not refer to a classical fundamental right in every case in this manner. See: BERNADETTE SOMODY: Hol húzódnak az ombudsman alapjog-értelmezésének határai? *Jogtudományi közlöny*, 59/2004, 317–328. 327.

<sup>13</sup> BERNADETTE SOMODY: A húszéves országgyűlési biztosi intézmény: ki nem használt lehetőség. *Új Magyar Közigazgatás*, 2/2009, 2–11. 10.

<sup>14</sup> See: SOMODY 2004, 328.

towards the individual, then an appeal within the internal framework of the public administration should suffice; be it addressed to the actor's immediate superior authority, the Government Control Office, the State Audit Office or, as a last resort, a prosecutor. If the applicant's personal freedom is infringed, but in a way that cannot be traced back to the violation of any single legal norm, then commissioners might still employ their „soft law” arsenal and request the amendment of current legislation to eliminate legal vacuums.<sup>15</sup>

The functions mentioned above are further complicated by the fact that aside from their task to protect fundamental rights. Some also consider ombudsmen to be the general-purpose guardians of the constitution itself,<sup>16</sup> while others firmly deny this position.<sup>17</sup>

A common denominator of all offices denoted as ombudsmen is the supervision of public administration in its broadest sense. Their main instruments are recommendations, which means they only employ „soft law” that cannot be enforced. This „weakness” of theirs is offset by their authority, their deep professional knowledge and their great manoeuvring space. The latter means that ombudsmen may sometimes put aside the rigid text of the law and make overtures to the world of *de lege ferenda* and ideal law. They can place a lot of things under scrutiny, but they often aren't mandated to, thus gaining even more room to assess and evaluate.

Independence can be considered another common trait of fundamental rights commissioners, which encompasses both organisational autonomy (including, preferably, an immunity to being recalled) and an election process by the parliament, although alternatives to the latter can certainly be found in practice. The European Union also opted to create such an office. Below, we shall analyse the systems of several especially influential ombudsmen.

<sup>15</sup> In other words, when it's „only” the applicant's freedoms under violation, but without the compulsion to take any action on the applicant's part, then the commissioner may step up. On the further differentiation of these two categories, see: BÉLA POKOL: *Autentikus jogelmélet*. Budapest-Pécs, Dialóg-Campus Kiadó, 2010. 188-196.

<sup>16</sup> BERNADETTE SOMODY: Ombudsmanok a magyar alkotmányos rendszerben. *Jogi tanulmányok*, 2001/7, 143-167. The author implies that – at least the first – general commissioner crossed the line from guardian of individual fundamental rights into that of the constitution itself.

<sup>17</sup> VARGA 2004, 176. This also has to do with the author's notion that the ombudsman is no general supervisor; as a rule of thumb, the commissioner only acts upon citizen's complaints. See: VARGA 2004, 81. And yet, when it comes to the applicants, individual provisions of the constitution have, by now, practically fallen under the same regard as constitutional rights.

The adoption of the Charter of Fundamental Rights has strengthened the position of the European Ombudsman, since the Charter contains an article specifically dedicated to the Ombudsman. At the same time, the Ombudsman, through her/his practice, contributes to the implementation in the everyday life of the provisions of the Charter and their further development. The consolidation and development of the provisions of the Charter by the European Ombudsman have proceeded especially rapidly since the Charter of Fundamental Rights received the status of a binding act.<sup>18</sup> Because the right to “good administration” contained in the Charter of Fundamental Rights has become one of the basic human rights in the EU since the Charter became legally binding, the competence of the European Ombudsman has acquired a new substantive and factual (functional) content, expanding her/his ability to positively influence the EU administration in the field of governance and respect for fundamental rights.<sup>19</sup>

### 3. FUNDAMENTAL LAW OF HUNGARY

The work and the mandate of the Commissioner for Fundamental Rights and his Office are determined by the Article 30 of the Fundamental Law of Hungary adopted in 2011 and based on the Act CXI of 2011 on the Commissioner for Fundamental Rights, both of which entered into force on 1<sup>st</sup> January 2012. Following the relevant regulations, the Commissioner for Fundamental Rights is the legal successor of the Parliamentary Commissioner for Civil Rights, who ensures the effective, coherent, and most comprehensive protection of fundamental rights and to implement the Fundamental Law of Hungary.

The Commissioner for Fundamental Rights pays special attention to the protection of

- the rights of children,
- the rights of nationalities living in Hungary,
- the rights of the most vulnerable social groups,
- the values determined as ‘the interests of future generations’.

The Commissioner for Fundamental Rights gives an opinion on the draft rules of law affecting his/her tasks and competences; on long-term development and land management plans and concepts, and plans and concepts otherwise directly affecting the quality of life of future generations; and he/she may make

<sup>18</sup> ALEXEI AVTONOMOV: Activities of the European Ombudsman under the Charter of Fundamental Rights: Promoting Good Administration through Human Rights Compliance. *Laws*, 10/2021, Iss. 3. 1-2.

<sup>19</sup> Ibid.



proposals for the amendment or making of rules of law affecting fundamental rights and/or the recognition of the binding nature of an international treaty.<sup>20</sup>

The Commissioner surveys and analyses the situation of fundamental rights in Hungary and prepares statistics on those infringements of rights which are related to fundamental rights. Therefore, the Commissioner submits his/her *annual report to the Parliament*, in which he/she gives information on his/her fundamental rights activities and gives recommendations and proposals for regulations or any amendments. The Parliament shall debate the report during the year of its submission. During his/her activities, the Commissioner cooperates with organisations aiming at the promotion of the protection of fundamental rights.

As a new mandate, the Commissioner for Fundamental Rights may initiate the review of rules of law at the Constitutional Court as to their conformity with the Fundamental Law. Furthermore, the Commissioner participates in the preparation of national reports based on international treaties relating to his/her tasks and competences, and monitors and evaluates the enforcement of these treaties under Hungarian jurisdiction.<sup>21</sup>

The history of the ombudsman-like institutions in Hungary is rather short. The institution of ombudsmen in Hungary is based on the political consensus of the National Roundtable (1989). The institution has been incorporated into the Constitution 2 since 1989 and an Act was adopted on the rules concerning the activities of the parliamentary commissioners in 1993. The first commissioners were elected in 1995. Tracing the role of ombudsmen and the efficiency of their actions in the context of the provisions of the Constitution and political reality should be based on the overview of legal rules, the decisions of the Constitutional Court, and the analysis of the abstract characteristics of the institution.<sup>22</sup> The basic legal background for the Hungarian parliamentary commissioners is the 5th chapter of the Constitution (Article 32/B), which mentions two commissioners: the Parliamentary Commissioner for Citizens' Rights and the Parliamentary Commissioner for the National and Ethnic Minorities Rights. The two commissioners should be elected by the majority of at least two-thirds of the votes of the Members of the Parliament, and the Parliament may also elect special ombudsmen for the protection of individual constitutional rights.<sup>23</sup>

<sup>20</sup> Act CXI of 2011 on the Commissioner for Fundamental Rights.

<sup>21</sup> Ibid.

<sup>22</sup> ANDRÁS ZS. VARGA – ANDRÁS PATYI – BALÁZS SCHANDA (eds.): *The Basic (Fundamental) Law of Hungary. A Commentary of the New Hungarian Constitution*, Dublin, Clarus Press, 2015. 365.

<sup>23</sup> Ibid.

In the context of the Constitution the role of the parliamentary commissioners is to investigate or to have investigated infringements of constitutional rights (in general or in conformity with their special competence) if they know about them, and to initiate special or general measures for their remedy.<sup>24</sup> The role of the informal procedure of the parliamentary commissioners to protect human rights is different from the role of the Constitutional Court in controlling legal acts, thus the primary character of the procedure of the parliamentary commissioners is not the formal protection of the Constitution. Since the duty of protecting the fundamental rights prescribed in the Constitution is primary for every institution of the state, the role of the parliamentary commissioners is to complete and control the activity – including protection of rights – of other institutions.<sup>25</sup>

However, there was a hidden form of “reception” of the institution, which is not unknown in the legal literature of the countries of Central-Eastern Europe. The Russian Federation had explained the existence of the non-penal role of Russian prosecutors with this hidden reception. Its prosecution system – the “sovereign’s eye” – can be traced back to Peter I. Also, it is a generally known fact that Peter I performed a reform of the state institutions after his study tour in other European countries. Among these countries, we find Sweden and its institution of the *Iustitiekansler* (Chancellor of Justice) – a “predecessor” of the *Iustitieombudsman* – set up in 1713. It is conceivable that the Soviet regime received the prosecution service of Peter I, and this model was “exported” after World War II to the countries in the sphere of interest of the USSR.<sup>26</sup>

*If we look at the domestic status of the officeholder, we can observe that after the regime change, there were two other fully equivalent ombudsmen in addition to the parliamentary commissioner for citizens’ rights. There was also a Minority Affairs Commissioner and a Data Protection Commissioner. On 1 January 2012, the system was made single-headed because of management uncertainty. Instead of the Parliamentary Commissioner for Civil Liberties, the title was changed to Commissioner for Fundamental Rights. He or she has 2 deputies: the Deputy Commissioner for Fundamental Rights, who protects the rights of nationalities living in Hungary, and the Deputy Commissioner for Fundamental Rights, who protects the interests of future generations. The Data Protection Commissioner is replaced by an autonomous state administration body, the National Authority for Data Protection and Freedom of Information. The Chief Ombudsman is a Minister, and the Deputy Chief Ombudsman is a State Secretary. Let us turn*

<sup>24</sup> VARGA 2015, 366.

<sup>25</sup> Ibid.

<sup>26</sup> VARGA 2015, 367.

to what exactly the Ombudsman can do, what he or she can investigate, what his or her powers are. Generally, the Ombudsman can make recommendations, approach the body or supervisory body under investigation, initiate legislation in the event of a legal vacuum, file a criminal complaint, and request ex-post control of the law by the Constitutional Court. In particular, the Ombudsman can investigate public authorities, public service bodies (BKK, BKV), and public administration, such as notaries and bailiffs. It may not investigate the Parliament, the President of the Republic, the Constitutional Court, the State Audit Office, courts and prosecutors' offices, except for the investigating prosecutor's office.

Our main question is what the rights of the Ombudsman are? Our starting point is the theory of the layers by BÉLA POKOL. According to this theory, the law consists of four layers: the layer of the text of law, the layer of legal doctrine, the layer of fundamental constitutional rights and the layer of judicial law.<sup>27</sup> In relation to the sources of law, we can distinguish between external and internal sources of law. According to CSERVÁK's (2013) distinctions, we can also distinguish between the layers of formal and substantive law, or external and internal layers of law. The questions are: where does the layer come from, and from what can we read what it contains? In concrete terms, obviously, the text layer of law comes from parliament, the layer of judicial law comes from the courts, and the layer of legal doctrine comes from the representatives of jurisprudence from universities and academia. The main question in my essay is what the inner layer of fundamental constitutional rights is, that is, what is the origin of fundamental constitutional rights.

As a rule, since the Basic Law only briefly explains them, their concrete content is left to the Constitutional Court to interpret. In addition to the Constitutional Court, several other bodies defend and interpret this layer of fundamental rights, including of course the Ombudsman.<sup>28</sup> The Ombudsman's interpretation of the law and his recommendations belong to the layer of constitutional fundamental rights, which is one of the four layers of law. What is the relationship between the two layers, the Constitutional Court and the Ombudsman's legal material? Since the Constitutional Court has the power of annulment and the decisions of the Ombudsman are binding on the decisions of the Constitutional Court, the Constitutional Court clearly has primacy in the relationship between the two bodies. The importance of the Ombudsman's right has been increased by

<sup>27</sup> BÉLA POKOL: *Jogelmélet*. Budapest, Századvég, 2005. 19-37.

<sup>28</sup> CSABA CSERVÁK: *Az ombudsmantól az Alkotmánybíróságig – az alapvető jogok védelmének rendszere*. Debrecen, Lícium-Art Könyvkiadó, 2013. 22, 75.

the fact that there was previously no genuine constitutional complaint.<sup>29</sup> It was only possible to appeal to the Constitutional Court if the legislation applied was itself unconstitutional. The new Basic Law and the Constitutional Court Act have changed this. It is very important that, since a genuine constitutional complaint already has an impact on the Constitutional Court in terms of the application of the law, the gap in the interpretation of fundamental rights that was previously only filled by the Ombudsman could be filled. It, therefore, somewhat diminishes the role of the Ombudsman. Adding that the authority and knowledge of the specific holder of the office may also contribute to this. Obviously, the word of such an authoritative official, such a professor, carries more weight.

A minor official may not be able to express such a strong opinion. Not even for the following reasons. How is the law different from any other norm? It can be enforced by the state. I pointed out at the beginning of my presentation that the Ombudsman lacks coercion, and in this sense, the Ombudsman's acts are norms that are not enforceable, but by classical definition do not belong to the world of law, but almost to the world of morality. Of course, if there is voluntary compliance with the law, in whatever relationship, between a citizen and the administration, we can still say that it is impossible to know, because there is no enforcement, whether the citizen has obeyed morality or complied with the letter of the law if he has engaged in norm-control behaviour. This is particularly the case for the Ombudsman. I would like to highlight one other interesting point that we must make in this connection. If we start from the four layers of law and say that the Ombudsman's recommendations are to some extent of a jurisprudential, legal-dogmatic nature, but that they are made by a public official and not by a representative of science, then we could say, as several professors have done in their publications, that the Ombudsman's law is legal dogmatics elevated to the status of an official state. In this connection, I would like to point out that in the practice of the Constitutional Court, there is either a violation of fundamental rights or there is not.

The practice of the Independent Police Complaints Board, which has now been merged into the Ombudsman, was a serious or slight violation of fundamental rights.<sup>30</sup> Most importantly, the concept of maladministration arises in relation to the Ombudsman. It is important to stress that the Fundamental Rights

<sup>29</sup> About the constitutional complaint see GYÖRGY TAMÁS FARKAS: Az alkotmányjogi panaszok befogadása központi problémaköréről. *KRE-Dlt*, 2/2021, 1–8., DÁNIEL CSABA LUKÁCSI: A „közvetlen” alkotmányjogi panasz. *KRE-Dlt*, 1/2020, 1–6., ANDRÁS TÉGLÁSI: Az Alkotmánybíróság alapjogvédelmi gyakorlata az Alaptörvény hatálybalépése után. *Közjogi Szemle*, 2/2015, 17–23.

<sup>30</sup> DÁNIEL CSABA LUKÁCSI: Az Országgyűlés ellenőrző szervei. *KRE-Dlt*, 1/2019, 11–14.

Ombudsman must investigate and take initiatives concerning cases of the abuse of fundamental rights that come to his attention. An abuse is an improper, abnormal, inconvenient situation, a violation of fundamental rights or an imminent threat of such a violation. In other words, the Ombudsman may investigate a violation of a fundamental right that has not yet occurred. This also puts the officeholder somewhat on the borderline between law and morality. The soft legal instrument is the recommendation. The Ombudsman can act even where no specific breach of fundamental rights has occurred. In that case, the world of norms is not clearly the world of law, but some kind of borderline between law and morality. It is a curiosity that in Poland the moral values and social sensitivity of the candidate are also expected. In Slovakia, the ombudsman may be a person of integrity, which is also closely linked to morality. We might add that in our country professional standards are high. The Ombudsman must have ten years of explicitly outstanding experience in defending fundamental rights.

From an international perspective, I think it is adequate and somewhere in the middle. In the Swedish model, and in Portugal and Spain, which also have a strong ombudsman, there is no qualification criterion. In Romania, the Ombudsman is expected to have 18 years of adequate legal practice. There are some very interesting cases concerning the Ombudsman. The most striking is the series of infringements by the Budapest Transport Company (BKV). If a person does not buy a ticket for a vehicle, he is essentially entering into an implied contract to board the means of transport, but he is not fulfilling the main contractual obligation. In this respect, BKV and other transport companies tend to impose extremely severe penalties, even though this is not a matter of tort law but of civil law. It is a very strange diffusion relationship between civil and criminal law. Although the conditions for exemption under criminal law are not met, it is for this reason that it feels very exaggerated to say that the surcharge is a multiple of the ticket price. Moreover, if students can buy a season ticket and travel with it, and the inspectors find that their season ticket is not valid for some reason, or even that their student card is not valid, they will be deemed to have committed an offence. Very often, they act as authorities and restrain travellers. It is an interesting complex legal relationship with a small financial stake, yet it is an activity that causes moral damage to many people. It was precisely in this mediating role that the Ombudsman was shown to be in the transitional sphere between law and morality. It is no coincidence that in France, Belgium and Luxembourg this function is called mediator.

#### 4. MONOCRATIC OR A „MULTI-HEADED” SYSTEM?

The question of whether a monocratic or a „multi-headed” system is preferable is most likely the greatest matter of contention in our topic. The latter model, that is, the one operating with multiple commissioners has been gradually transformed into a single-ombudsman configuration due primarily to concerns arising from perceptions of command structure confusion. Yet, these reforms were also followed by professional criticism. „The deputy system possesses an inherent contradiction: on the one hand, this structure creates (deputy) commissioner offices with the expectation that they fulfil their mandates with the authority provided by them personally acting, but on the other hand, they receive no independence in doing so. A deputy commissioner would be hard-pressed to apply the force of personal persuasion to an argument that he or she only represents due to an agreement or an order coming from the higher echelons of the ombudsman system. In such a case, specialisation could provide a worthy alternative to the singular, general authority ombudsman, enabling us to bypass the disadvantages outlined above and enjoy the numerous benefits of a college of independent, specialised and differentiated professionals.”<sup>31</sup> On the other hand, as ANDRÁS Zs. VARGA expertly points out, a system of multiple and equal commissioners also carries further hazards. „It is incontestable that a commissioner elected to safeguard a certain constitutional right must first and foremost keep this specific right in sight. At first glance, this should not pose a problem, not even when every such right is allocated to a different individual commissioner: one constitutional right for one ombudsman, ergo, full-scale protection. *But we are falling into error if we consider fundamental rights nothing more than a set of independent legal values.* These rights are inseparable from the entities carrying them: that is, natural persons. As such, the rights natural persons are entitled to also cannot be separated from each other, for their proper interpretation requires joint scrutiny.”<sup>32</sup> A further problem of the „multi-headed” system is that by establishing which fundamental rights are entitled to a commissioner of their own, legislators unwittingly begin to rank these rights in an order of importance. Only those they deem important enough will receive their own ombudsman, effectively sweeping the rest under the purview of the general commissioner.

<sup>31</sup> SOMODY 2009, 7. citing László Majtényi, Somody argues against the hierarchical model, considering it vulnerable to criticism and noting that any potential influence on the main commissioner’s person would affect the whole office.

<sup>32</sup> ANDRÁS Zs. VARGA : A magyar ombudsmani intézményrendszer továbbfejlesztéséről. In: Nóra Chronowski – József Petréttei (eds.): *Tanulmányok Ádám Antal professor emeritus születésének 80. évfordulójára*. Pécs, PTE Állam- és Jogtudományi Kar, 2010. 427–439. 433.

The most difficult dilemma tends to be when two fundamental rights collide. For instance, upon the conflict of the right to human dignity and the right to free expression, the question is whose ombudsman would get to act, out of the two. According to ANDRÁS JAKAB, a singular ombudsman also works better with the media, able to utilise publicity with effectiveness, whereupon multiple commissioners would not only be needless, but outright counterproductive. This is also why, out of the 49 ombudsman systems currently operating in Europe, 40 can be classified as monocratic.<sup>33</sup> „It comes without a doubt, however, that the true counterpart to the singular ombudsman model is the collective ombudsman body, working as a panel.”<sup>34</sup>

Under such a constellation, the various duties of an ombudsman are not distributed between multiple commissioners, be they independent or cooperative, hierarchical, or equal in standing. In a collective body, one single ombudsman office is held by multiple persons who cannot normally act independently; only in certain cases specified by the entire panel.”<sup>35</sup> Instead of multiple specialists on an equal standing concerning themselves with one fundamental right each, members of the collective ombudsman also are each other's equivalents, but their scope of authority is general and all-encompassing. While a multi-commissioner ombudsman can turn out chaotic, a monocratic office threatens to diminish the significance of deputy commissioners who, under the shadow of their superiors' charisma, with limited authority, cannot effectively protect of rights. In the author's view, the current Hungarian system succeeds in at least partially remedying these problems. The command structure is stable and coherent, and in addition, the fact that the deputies cannot be replaced prevents them from becoming the soulless enforcers of their boss. *De lege ferenda*, it might be beneficial to empower them even further<sup>36</sup>, at least providing them with a larger staff and department. Another matter that would benefit from greater emphasis is that the current deputies are not only the ombudsmen of the specific human rights area allocated to them but also secondary general commissioners with proper interpretation. This is quite evident from the very text of the law. Collective ombudsmen certainly carry numerous advantages. Two heads are indeed better than one, and if singular ombudsmen have their authority to rely

<sup>33</sup> ANDRÁS JAKAB: *Az új Alaptörvény keletkezése és gyakorlati következményei*. HVGORAC, Budapest, 2011. 138.

<sup>34</sup> Such as the Austrian and Greek systems.

<sup>35</sup> BERNADETTE SOMODY: Az ombudsman-intézmények jogállási jellemzői. In: MÁRTA DEZSŐ – ISTVÁN KUKORELLI (eds.): *Ünnepi kötet Sári János egyetemi tanár 70. születésnapja tiszteletére*. Budapest, Rejtjel Kiadó, 2008. 303–310. 303.

<sup>36</sup> Bernadette Somody considers the Swedish model to partially fall under this classification. See: SOMODY 2008, 304.



on, this power is only multiplied when there is an entire panel of them. On the other hand, the efficiency of this system is not guaranteed. One of the main tasks of an ombudsman is to provide fast and informal assistance against the unlawful actions of state actors, as opposed to a regular, usually far slower, appeal system. Traditionally, morality and law can be seen as two distinct, separate sets of rules, each with its different function.

## 5. THE OFFICE OF THE OMBUDSMAN

The Office is responsible for the administration and preparation of the work of the Commissioner for Fundamental Rights. The Office shall be headed by the Commissioner for Fundamental Rights and managed by the Secretary-General.

The Rules of Procedure of the Office shall be laid down by the Commissioner for Fundamental Rights in a standard order.

The Office shall be a separate chapter in the structure of the central budget and the powers of the head of the body managing the chapter shall be exercised by the Secretary-General.

In Hungary, therefore, there is a guaranteed share of the State budget, similar to that in the Czech Republic, Spain, Lithuania, Ireland and Belgium. An even stronger model would be for the Ombudsman himself to propose his budget directly to the Parliament (Denmark, Slovenia, Israel, Kyrgyzstan, Ukraine), the President of the State (Bosnia and Herzegovina) or at least the Minister of Finance (Austria, Latvia).<sup>37</sup> (In my view, it is very peculiar that the so-called chapter holder is not the Ombudsman himself but his Secretary General. In this way, at most, dignitaries such as, say, the President of the Republic should be independent. However, it could also be argued that the legislation frees the Ombudsman from administrative burdens to facilitate the main substantive tasks.)

The Commissioner for Fundamental Rights may delegate the power to issue documents to deputies in the Rules of Procedure or, in the case of documents not containing measures, to the Secretary-General or the head of the autonomous department either on an ad hoc or permanent basis.

A Commission Secretariat shall be set up to facilitate the work and tasks of the Commissioner for Fundamental Rights.

The Commissioner for Fundamental Rights shall direct

- a) the Secretary-General;
- b) the Deputy Commissioners, and

<sup>37</sup> KUCSKO-STADLMAYER 2010, 40.



- (c) the Secretariat of the Commission  
the activities of the Secretariat of the Commissioner.

The Commissioner for Fundamental Rights shall exercise the powers of the employer over the Secretary-General. The Secretary-General shall be entitled to the salary and allowances of a Permanent Secretary and to 40 working days' leave per calendar year. The new Obt. therefore, gives the Head of the Office a higher rank, as the previous legislation granted him the status of Deputy State Secretary.

The Commissioner for Fundamental Rights may delegate the power to issue documents to deputies in the Rules of Procedure or, in the case of documents not containing measures, to the Secretary-General or the head of the autonomous department on an ad hoc or permanent basis.

The Commissioner for Fundamental Rights shall direct

- a) the Secretary-General;
- b) the Deputy Commissioners, and
- (c) the Secretariat of the Commission  
the activities of the Secretariat of the Commissioner.

The Commissioner for Fundamental Rights shall exercise the powers of the employer over the Secretary-General. The Secretary-General shall be entitled to the salary and allowances of a Permanent Secretary and to 40 working days' leave per calendar year. The new Obt. therefore gives the Head of the Office a higher rank, as the previous legislation granted him the status of Deputy State Secretary. It is interesting to note, in relation to the above-mentioned question by the chapter holder, that the civil servants employed in the Office are appointed and dismissed by the Commissioner for Fundamental Rights himself, and that the Secretary-General exercises the other rights of an employer over them.

The organisational and operational rules should specify the number of civil servants who are under the authority of the Deputy Commissioner for Fundamental Rights (appointed and dismissed by the competent Deputy, of course).

## 6. AN INTERESTING CASE FROM THE OMBUDSMAN'S PRACTICE

The Commissioner for Fundamental Rights has made many recommendations against Budapest Transport Company (BKV). He recommends that passengers boarding the vehicle should be checked for tickets before entering the metro area and not afterwards. Inspectors are not allowed to touch passengers; they can

only ask them to show their passes and tickets.<sup>38</sup> In my view, this is extremely important. This was one of the positive roles played by the Ombudsman, alongside the many legendary legal cases. Here we are clearly showing that the Commissioner for Fundamental Rights in Hungary, although a high-ranking legal official, is operating on the borderline between law and morality.

## 7. INTERNATIONAL EXAMPLES

*In Germany*, there is no national ombudsman-like body comparable to Germany's, alongside a constitutional court with strong powers.

The Bundestag has a special Committee on Petitions, whose function is comparable to that of the institution in question. Its members are explicitly members of parliament, but it is of guaranteed importance that they may not hold any other office.<sup>39</sup> Citizens may approach the body with written complaints, and the courts and administrative bodies have a duty of cooperation. The body can make its recommendations public; naturally, the most effective way of acting is to initiate legislation, as the body is in fact part of the Parliament.

Looking at the system as a whole, is there a definite lack of an ombudsman-type body with national powers and jurisdiction? It would make the institutional system of legal protection more effective, but not necessarily irreplaceable.

Commissioners with a "de lege ferenda" mindset can have little more influence on future legislation than an explicit parliamentary committee.

In addition, the huge role of German jurisprudence should be underlined. This is why it is important to examine the effectiveness of the various models in context, and whether there is a 'vacuum' in the overall system of legal protection. German jurisprudence is notoriously intertwined with the organisation of the judiciary. Many judges teach at universities, and many jurists are appointed to higher courts. The prevalence of an excessively rigid, textualist interpretation of the law would lead to a pressing need for a national ombudsman. However, the traditional culture and practical impact of legal doctrine, by infiltrating the judiciary, softens the bureaucratic mindset and citizens, protected by the ultimate remedy of individual constitutional complaint, are not vulnerable to 'formally correct but deeply unconstitutional' decisions.

Although there is no ombudsman in the *French Constitution*, a specific law provides the basis for the body's operation. The institution operates on a single-

<sup>38</sup> BALÁZS ARATÓ – CSABA CSERVÁK: Részvénytársaság – egy hatóság képében. *Jogelméleti Szemle*, 2/2003.

<sup>39</sup> KUCSKO-STADLMAYER 2010, 207.

headed model, but in a specific way, the Ombudsman appoints delegates for the whole administrative territory of France (including overseas territories) to investigate and carry out tasks on his behalf. Interestingly, the above-mentioned delegates carry out their activities on a social basis, for which they are paid. The mediator is appointed by the Head of State by decree of the Council of Ministers. It is noteworthy that there is no educational criterion. The post is usually filled by former senior politicians. However, it is impossible to perform the task alone, but only by a special body. The latter is composed of the President of the Republic, the Vice-President of the Council of State, the President and First Vice-President of the Court of Cassation and the President of the Court of Audit.<sup>40</sup> The Ombudsman acts not only against the public administration in the strict sense of the term, but also against public bodies in general, based on breaches of the principles of good administration and fairness. It cannot investigate the activities of the courts.

The complainant does not have to exhaust the available remedies, but only take the necessary steps in advance to the body concerned. Consequently, there is no time-limit for referring the matter to the Commissioner.<sup>41</sup>

The traditional duty of cooperation remains in relation to the bodies contacted: provision of information, provision of files, and obligation to answer questions. Specifically, each ministry has a contact person for the Ombudsman to facilitate any inquiries.

The Commissioner's tool is, as usual, the recommendation. He has no formal power to initiate the drafting of specific rules, but he has the power to make recommendations. He publishes his experience in his annual report, so this is his main method of exerting pressure.

It should be mentioned that a special law has created a special institution of the Children's Rights Commissioner.

It should be noted that the Constitutional Council, which is a quasi-constitutional court, used to have only a preliminary review function, so the role of the Ombudsman was even more important. Following an amendment to the law, it now also has the means of ex post control. The highly textualist practice of the French courts and their lack of connection with academic life and legal doctrine should be highlighted. For this reason, in my opinion, the existence of an ombudsman institution is particularly important, whose authority could be enhanced by some strict qualification criteria.

<sup>40</sup> KUCSKO-STADLMAYER 2010, 161-162.

<sup>41</sup> KUCSKO-STADLMAYER 2010, 164.

*Cyprus* was also relatively late (compared to the AB) in establishing a significant ombudsman body. Its role was mainly to monitor maladministration based on complaints from citizens. The relevant norm was that the area to be investigated was “improper attitudes” towards the client”. The Cypriot Ombudsman’s approach attaches equal importance to general compliance with the law and individual fairness. The institution’s scope has been extended over time to include the examination of the application of human rights and fundamental freedoms. In its context, paper law has provided a reassuring model. The question is how the states of emergency and armed conflicts affecting the country will allow the written norms to prevail in the long term.<sup>42</sup>

*Italy* does not have a national ombudsman. There are institutions at the regional level. The legal basis for their activities is mainly legislation adopted by regional parliaments. Interestingly, some provinces (e.g. Tuscany) have several ombudsmen, while Valle d’Aosta has none. In general, they cannot act in matters of justice and public security. The Commissioners have a national umbrella organisation, the National Conference of Ombudsmen, which is a non-governmental organisation. Despite the existence of a relatively strong Constitutional Court, the fragmented ombudsman model is unlikely to provide a coherent approach to fundamental rights protection.<sup>43</sup>

The Ombudsman is one of the independent institutions established relatively late in *Malta* to deal with citizens’ complaints and to adjudicate infringements in the public administration.

It is a rare exception among relatively recent institutions in that, generally, it does not protect human rights but checks maladministration (it protects against irrational, unfair, oppressive, and discriminatory behaviour). It has several strong powers, such as setting its time limits for the requested body’s obligation to reply. Specific criminal sanctions are imposed on persons who do not cooperate. All in all, all the necessary means of legal protection are available, to some extent. The Ombudsman, although not classically a human rights body, can exercise considerable powers, while the very specific constitutional court structure (a hybrid system mixed with ordinary courts) also offers the possibility in principle to protect human rights.<sup>44</sup>

*The Austrian Ombudsman* is a three-person body, with the chairmanship rotating between them. The members are elected by a simple majority in parliament, with the largest parliamentary parties nominating one member each. The term of office is 6 years, renewable once.

<sup>42</sup> KUCSKO-STADLMAYER 2010, 63-69.

<sup>43</sup> KUCSKO-STADLMAYER 2010, 222.

<sup>44</sup> KUCSKO-STADLMAYER 2010, 75-79.

Commissioners do not enjoy parliamentary immunity, but their salary is 160% of the parliamentary allowance.

The ombudsmen supervise not only the administration of justice, but also the observance of judicial deadlines and even administrative activities in the field of private law. The ombudsmen have the special power to apply to the Supreme Court for a time limit to be set for a court that is delaying proceedings. This control covers not only the specific legality but also the fairness of the proceedings. Preliminary remedies must be exhausted by the petitioner unless he is claiming undue delay in the proceedings. There are no other formal criteria, no procedural time limits and no fees.<sup>45</sup>

The powers of investigation and recommendation are broadly in line with international practice. The supervisory body of the investigated authority must respond to the Ombudsman's allegations within 8 weeks.

Legislative proposals can be made in the framework of the annual parliamentary report, but this is not binding. The Commissioners have powers to initiate proceedings and bring criminal charges. They have the power to refer federal regulations to the Constitutional Court. However, it should be noted that they do not have this power concerning laws.

In addition to the above, it should be mentioned that there are also regional ombudsmen in Austria, such as the regional commissioners in Vorarlberg and Tyrol.

Overall, the Austrian system of fundamental rights protection appears to be adequate. What is lacking is a requirement that ombudsmen be qualified and the possibility of monitoring the law. It also depends on the specific individuals to what extent the special rotating body can develop a consistent practice.<sup>46</sup>

## 8. PREVIOUS OMBUDSMEN

My personal view is that a lot depends on the personality, authority and expertise of the Ombudsman. Following the entry into force of the relevant law, it was very difficult to agree on the persons to be nominated. One of the reasons for the difficulties was that neither side had two-thirds support in Parliament. In 1995, KATALIN GÖNCZÖL, a professor of criminology, was elected Ombudsman for the first time. She solved many important cases. Her candidacy was left-wing,

<sup>45</sup> KUCSKO-STADLMAYER 2010, 108-110.

<sup>46</sup> CSABA CSERVÁK: Ombudsmanok a közérdek védelmében. *Glossa Iuridica*, 1-2/2017, 51-71. 61.

but her activism earned her the respect of many, as she also took up politically neutral cases of citizens. (Later, she was considered as a candidate for the MSZP.)

He was succeeded in 2001 by BARNABÁS LENKOVICS, a professor at the Department of Civil Law at ELTE. Generations have grown up on his textbook on the law of law. He was nominated by his former professor, President FERENC MÁDL. Lenkovics is also highly respected. President LÁSZLÓ SÓLYOM, however, did not support the civil lawyer and did not re-nominate him for the post. (It is a matter of satisfaction that Barnabás Lenkovics almost immediately became a constitutional judge and later became President of the Constitutional Court.)

In 2007, László Sólyom nominated MÁTÉ SZABÓ as Ombudsman. In that term, it was particularly difficult to reach a consensus in Parliament, so it took a long time to find a suitable candidate. Máté Szabó was a highly respected professor. However, his area of expertise had previously been political science, not fundamental rights. In comparison, he was considered by the professional public to have acquired the necessary skills for the post. His extraordinary activity earned him the respect of almost everyone. He also took on many 'unpleasant' cases. It was during his mandate that the Ombudsman structure was restructured. In 2012, when the new Fundamental Law came into force, the Parliamentary Commissioner for Citizens' Rights became the Commissioner for Fundamental Rights. In 2013, the two-thirds majority of the government did not re-nominate the professor, and LÁSZLÓ SZÉKELY, an adjunct professor at ELTE, was elected to the post. He was also a civil lawyer. In addition to his university work, he had previously worked as a lawyer. He holds a PhD in the field of personal rights. He has also been confronted by the right-wing which supports him on several issues (for example, the Józsefváros needle exchange programme on drugs).

Székely's replacement, ÁKOS KOZMA, was elected ombudsman in 2019. He was previously an adjunct professor at Pázmány Péter Catholic University. His main field of expertise is constitutional law, but he holds an academic degree. In the years preceding his nomination, he was a member of the Independent Law Enforcement Complaints Board. (The Independent Law Enforcement Complaints Board was merged into the Ombudsman's Office shortly afterwards.) International organisations have criticised Kozma's inactive activities. How much of this is political opinion and how much objective criticism will be determined by the professional lessons of the years to come. Later, he went to the field several times on the reception and care of war refugees at the borders. In conclusion, most of the previous ombudsmen were highly respected professionals, several of them with a professorial degree. However, very few of them had a specific specialisation in the protection of fundamental rights.

## 9. SUMMARY

In summary, we can conclude the following. In principle, there can be immoral but lawful actions and moral but unlawful actions. If law and morality go together in lawmaking and law enforcement, there is no legal concern. The same applies to the other extreme. If both lawmaking and law enforcement are immoral, then we are faced with an almost irremediable legal problem. If the legislation is moral, but the application of the law is immoral, then a remedy system can eliminate the problem. If a moral problem arises in the course of lawmaking, the constitutional complaint procedure may be the solution. If there are legal gaps in a country, the Ombudsman can remedy the problem.

## LITERATURE

- ALEXEI AVTONOMOV: Activities of the European Ombudsman under the Charter of Fundamental Rights: Promoting Good Administration through Human Rights Compliance. *Laws*, 10/2021, Iss. 3.
- BALÁZS ARATÓ – CSABA CSERVÁK: Részvénytársaság – egy hatóság képében. *Jogelméleti Szemle*, 2/2003.
- CSABA CSERVÁK: *Az ombudsmantól az Alkotmánybírósáig – az alapvető jogok védelmének rendszere*. Debrecen, Lícium-Art Könyvkiadó, 2013.
- CSABA CSERVÁK: Ombudsmanok a közérdek védelmében. *Glossa Iuridica*, 1-2/2017, 51–71.
- FARKAS GYÖRGY TAMÁS: Az alkotmányjogi panaszok befogadása központi problémaköréről. *KRE-DIt*, 2/2021, 1–8.
- ANDRÁS JAKAB: *Az új Alaptörvény keletkezése és gyakorlati következményei*. HVGORAC, Budapest, 2011.
- ÉVA JAKAB: Gondolatok Pólay Elemér korai tanulmányaihoz: a nemzeti szocializmus és a római jog. *Forum Acta Iuridica et Politica*, 10/2020, 125–145.
- DÁNIEL CSABA LUKÁCSI: A „közvetlen” alkotmányjogi panasz. *KRE-DIt*, 1/2020, 1–6.
- DÁNIEL CSABA LUKÁCSI: Az Országgyűlés ellenőrző szervei. *KRE-DIt*, 1/2019, 11–14.
- PÉTER MISKOLCZI-BODNÁR: Az erkölcs és a jog szoros kapcsolata, *Polgári Szemle*, 4-6/2015, 27–33.
- BÉLA POKOL: *Autentikus jogelmélet*. Budapest-Pécs, Dialóg-Campus Kiadó, 2010.
- BÉLA POKOL: *Jogelmélet*. Budapest, Századvég, 2005.
- BERNADETTE SOMODY: A húszéves országgyűlési biztosi intézmény: ki nem használt lehetőség. *Új Magyar Közigazgatás*, 2/2009, 2–11.

- BERNADETTE SOMODY: Az ombudsman-intézmények jogállási jellemzői. In: MÁRTA DEZSŐ – ISTVÁN KUKORELLI (eds.): Ünnepi kötet Sári János egyetemi tanár 70. születésnapja tiszteletére. Budapest, Rejtjel Kiadó, 2008.
- BERNADETTE SOMODY: Hol húzódnak az ombudsman alapjog-értelmezésének határai? *Jogtudományi közlöny*, 59/2004, 317–328.
- BERNADETTE SOMODY: Ombudsmanok a magyar alkotmányos rendszerben. *Jogi tanulmányok*, 7/2001, 143–167.
- GABRIELE KUCSKO-STADLMAYER: *Európai ombudsman-intézmények*. Budapest, ELTE Eötvös Kiadó, 2010.
- ANDRÁS TÉGLÁSI: Az Alkotmánybíróság alapjogvédelmi gyakorlata az Alaptörvény hatálybalépése után. *Közjogi Szemle*, 2/2015, 17–23.
- ANDRÁS Zs. VARGA: A magyar ombudsmani intézményrendszer továbbfejlesztéséről. In: Nóra Chronowski – József Petrétei (eds.): *Tanulmányok Ádám Antal professor emeritus születésének 80. évfordulójára*. Pécs, PTE Állam- és Jogtudományi Kar, 2010. 427–439.
- ANDRÁS Zs. VARGA: *Ombudsmanok Magyarországon*. Budapest, Rejtjel Kiadó, 2004.
- ANDRÁS Zs. VARGA – ANDRÁS PATYI – BALÁZS SCHANDA (eds.): *The Basic (Fundamental) Law of Hungary. A Commentary of the New Hungarian Constitution*, Dublin, Clarus Press, 2015.