

Dr. Zdenka Čebašek-Travnik, varuhinja človekovih pravic

Spoštovani gospod predsednik republike, spoštovani ministri, kolegi ombudsmani in predstavniki ombudsmanskih institucij iz tujine, visoki gostje, veleposlaniki, župani, načelniki upravnih enot, direktorji s področja državne uprave in nevladnih organizacij, predstavniki civilne družbe, dragi otroci.

Vsi, ki ste se danes zbrali tukaj na Brdu pri Kranju, ste gostje Varuha človekovih pravic Republike Slovenije, da bi skupaj iskali najboljše rešitve na področju sodelovanja javnosti v okoljskih zadevah. Konferenca spada med naša prizadevanja za uresničevanje človekovih pravic na področju okolja. Varuh človekovih pravic letos praznuje 15-letnico delovanja in današnja konferenca je najlepši način, da jo skupaj proslavimo.

Človekove pravice, kot jih razumemo in obravnavamo v Sloveniji, zajemajo vsa področja življenja, na katerih posameznik prihaja v stik z državo, lokalno skupnostjo ali nosilci javnih pooblastil. Varuh človekovih pravic RS je z ustavo in zakonom določena institucija za varovanje človekovih pravic in temeljnih svoboščin v razmerju do državnih organov, organov lokalne samouprave in nosilcev javnih pooblastil. O kršitvah ali ugotovljenih pomanjkljivostih lahko izreka kritike, mnenja, predloge, o njih poroča s svojimi rednimi letnimi in posebnimi poročili Državnemu zboru RS. Ni pa pritožbeni organ, ki bi lahko odpravljal, spreminjal ali sprejemal odločitve namesto pristojnih organov. Varuh človekovih pravic kot oseba, ki vodi to institucijo, potrebuje za izvolitev glasove dveh tretjin vseh poslancev; nobena druga funkcija v državi nima tako visoko postavljene zahteve za izvolitev. Tako visoko zahtevano soglasje za izvolitev daje vsakemu varuhu veliko moralno moč in avtoriteto, saj je njegova oziroma njena naloga predvsem v tem, da morebitne kršitve odkriva, se do njih opredeli in odgovornim predlaga potrebne ukrepe.

Svoj mandat varuhinje sem začela s prioritetami, ki sem jih opredelila kot tri skupine ljudi: otroci, starejši ljudje in invalidi oziroma hendikepirani in tri področja: nasilje, revščina in varovanje okolja. Po več kot polovici mandata prioritete ostajajo enake, še več – dobivajo vedno nove poudarke. Zakaj se Varuh človekovih pravic RS in varuhinja osebno ukvarjata s problematiko varovanja okolja? Kje so tukaj kršene človekove pravice, me večkrat sprašujejo.

Najprej bi želela nakazati povezavo med človekovimi pravicami in varovanjem okolja. Na podlagi prvega in drugega odstavka 72. člena Ustave RS ima skladno z zakonom vsakdo pravico do zdravega življenjskega okolja. Država skrbi za zdravo življenjsko okolje, dana ji je aktivna vloga v zvezi z varstvom okolja in ohranjanjem naravnega ravnovesja. Država mora torej z zakonom urediti vsebino in obseg pravice do zdravega življenjskega okolja, a tudi pogoje in obseg za poravnano škodo, ki jo določena oseba povzroči v življenjskem okolju. Opustitev normativnega urejanja bi bila neustavna.

Onesnaževanje okolja lahko pomeni poseg v posameznikovo zasebno in družinsko življenje. Država mora svoje državljane pred takimi posegi zaščititi z izvajanjem nadzora nad dovoljevanjem, vzpostavljanjem, izvajanjem in varnostjo dejavnosti, zlasti še, če gre za dejavnosti, ki so lahko nevarne za okolje in človekovo zdravje.

Sprašujemo se, ali ima posameznik na voljo učinkovita pravna sredstva za uresničevanje pravice do zdravega življenjskega okolja. Kako mu bo na primer uspelo dokazati, da velika gospodarska družba s svojim ravnanjem povzroča čezmerno obremenitev okolja in neposredno ogroža življenje ali zdravje ljudi? Da gre torej za poseg v pravico do zdravega življenjskega okolja, za enega od izrecno prepovedanih posegov po Zakonu o varstvu okolja.

Ministrstvo za okolje in prostor (MOP) je v zamudi z izdajo integralnih okoljskih dovoljenj (IPPC) za obstoječe naprave (rok: 31. 10. 2007). Zavezanci za IPPC, ki jim zaradi razlogov, ki so na strani MOP, dovoljenja še niso bila izdana oziroma o njihovih vlogah še ni bilo odločeno, torej »s privolitvijo države« obratujejo brez teh dovoljenj. To jim dopušča naša zakonska ureditev. V javnem interesu je oziroma bi moralo biti, da se upravljavcem IPPC naprav čim prej izda IPPC-dovoljenja, seveda ob izpolnjevanju pogojev, vendar ne na račun okolja in zdravja.

Ob tem kaže opozoriti tudi na zakonsko ureditev na področju monitoringov izpustov, po kateri je izbira pooblaščenca, ki izvaja meritve, prepuščena upravljavcu. Ali je tako od države lahko vzpostavljen učinkovit nadzor nad kakovostjo monitoringov? Ali država sploh želi imeti takšen nadzor? Ali bomo kdaj dočakali, da bodo po vsej državi nameščeni semaforji zračnega onesnaževanja?

Kot varuhinja vedno znova ugotavljam, da Slovenija ni država, ki zgledno skrbi za varovanje okolja, še posebej problematične se zdijo možnosti za sodelovanje javnosti. Premislimo še enkrat o tem, kako je država zagotovila dostop do okoljskih podatkov, kako je uredila inšpekcijske postopke, kako vstopanje v postopke za pridobivanje raznih dovoljenj. Kako se loteva problematike onesnaževanja podtalnice ali odstranitve težkih kovin v bivalnem okolju? Kako s temi težavami in uspehi seznanja javnost?

Današnja mednarodna konferenca je namenjena predvsem temu segmentu varovanja okolja. Prisluhnili bomo izkušnjam iz tujine, pregledali razmere v Sloveniji, poskušali rešiti nekatere nejasnosti in ob koncu konference pripravili sklepe. Konferenca pa svojega poslanstva ne bo končala s tem, saj pripravljamo tudi publikacijo, ki bo poleg na konferenci predstavljenih referatov vsebovala tudi sklepe in priporočila, ki jih bomo sprejeli udeleženci konference. Ti sklepi bodo hkrati del Letnega poročila Varuha človekovih pravic RS za leto 2010 in gradivo, ki ga bo morala oceniti tudi Vlada RS in o njem razpravljati Državni zbor.

Narava je bila in ostaja moja velika ljubezen, glas gozda in šum voda moje najljubša glasba, temno nebo z milijardami zvezd pa najlepša slika. Za vse to si bom prizadevala še naprej.

Dr Zdenka Čebašek-Travnik, Human Rights Ombudsman of the Republic of Slovenia

Dear Mr President, respected ministers, fellow ombudsmen and representatives of foreign ombudsmen's institutions, respected guests, ambassadors, mayors, heads of administrative units, directors in the field of state administration and non-government organisations, representatives of civil society, dear children:

All of you who have come to Brdo pri Kranju today as guests of the Human Rights Ombudsman of the Republic of Slovenia have come to search for new solutions in the field of public participation in environmental matters. This conference is part of our efforts to implement human rights in the environmental field. The office of the Human Rights Ombudsman in Slovenia is celebrating its 15th anniversary this year, and today's conference is the best way to celebrate it together.

Human rights as we understand them in Slovenia include all aspects of life in which individuals come into contact with the state, the local community or holders of public authorisations. The Human Rights Ombudsman of the Republic of Slovenia is a constitutionally and legally defined institution charged with the protection of human rights and fundamental freedoms with respect to state authorities, local government authorities and holders of public authorisations. It issues criticisms, opinions and proposals on violations or established deficiencies, and it reports on them in its regular annual and special reports to the National Assembly of the Republic of Slovenia. It is not however an appeals body that can rescind, amend or adopt decisions in place of the competent authorities. The Human Rights Ombudsman as the person who heads this institution requires a two-thirds majority of all deputies to be elected; no other function in the country has such a high requirement for election. Being elected by such a majority gives each ombudsman a great deal of moral power and authority, as his or her duty is primarily to discover violations, work to eliminate them and propose the necessary measures to the responsible authorities.

I began my term as ombudsman with priorities which I defined as three groups of people: children, the elderly and disabled people, and three areas: violence, poverty and environmental protection. After more than half my term my priorities remain the same, and in fact they constantly receive new emphases. Why are the office of the Human Rights Ombudsman of the Republic of Slovenia and the ombudswoman herself personally involved in the problems of environmental protection? How are human rights violated here, they often ask me.

I would like to begin by showing the connection between human rights and environmental protection. Pursuant to the first and second paragraphs of Article 72 of the Constitution of the Republic of Slovenia, every citizen has the legal right to a healthy living environment. The state is responsible for a healthy living environment, and it is given an active role in connection with environmental protection and maintaining a natural equilibrium. The state is therefore required by law to regulate the content and scope of the right to a healthy living environment, as well as the conditions and amount of reimbursement for damages caused by persons to the living environment. The omission of normative regulation would therefore be unconstitutional.

Environmental pollution can represent an infringement on a person's private and family life. The state is obliged to protect its citizens against such infringements by monitoring the permission,

establishment, implementation and safety of activities, particularly activities that can be dangerous to the environment and human health.

We must ask ourselves do individuals have effective legal means at their disposal to exercise their right to a healthy living environment? How for example would they be able to prove that a large company is causing excessive environmental stress and directly threatening human life or health? How could they prove that it represents an infringement of their right to a healthy living environment, one of the infringements that is explicitly forbidden by the Environment Protection Act?

The Ministry of the Environment and Spatial Planning is late in issuing integrated pollution protection and control (IPPC) permits for the existing plants (the deadline was 31 October 2007). The parties subject to IPPC legislation, who for reasons residing at the Ministry of the Environment and Spatial Planning has not been issued permits, or their roles have not yet been determined, are therefore working without these permits "with state consent". Our legal regulations allow them to do this. It is or should therefore be in the public interest for the operators of IPPC plants to receive IPPC permits as soon as possible, of course on the condition that they satisfy the conditions, but not at the expense of the environment or health.

Here it is also worth mentioning our legal regulations in the field of emissions monitoring, where the selection of the person authorised to perform the measurements is left to the plant operators. Has the state established effective supervision of the quality of the monitoring? Does the state even want such supervision? Are we going to wait until air pollution warning lights are installed all over the country?

As the ombudsman I am continually confronted with the realisation that Slovenia is not a country that carefully provides for the protection of the environment, and the opportunities for public participation seem particularly problematic. Let's think again about how the state provides access to environmental data, how it regulates inspection procedures, how to initiate procedures for obtaining various permits. How do we deal with the problems of groundwater pollution or removal of heavy metals from the living environment? How is the public informed about these difficulties and successes?

Today's international conference is dedicated primarily to this aspect of environmental protection. We will hear about experiences from abroad, look at the current situation in Slovenia, try to clear up some confusion and at the end of the conference draw some conclusions. However, the conference will not end there, as we are also planning to publish proceedings which in addition to the papers presented at the conference will also include the conclusions and recommendations adopted by the conference participants. These conclusions will also be a part of the Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2010 and materials that the Government of the Republic of Slovenia will have to evaluate and the National Assembly will have to discuss.

Nature has always been and will remain my great love, the sound of the forest and the water my favourite music, and the dark sky with its billions of stars my favourite painting. I will continue to work for that. Thank you.

