

Enforcement of Decisions of Ombudsmen and the South African Public Protector: Muzzling the Watchdogs

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Abstract : Ombudsmen often face the challenge of a lack of authority to have their decisions and recommendations enforced. This lack of authority may be seen as one of the major obstacles in the way of the effectiveness of the institutions of Ombudsman and also the South African Public Protector. The paper will address the current legal position in South Africa with regard to the status of the decisions and recommendations of the South African Public Protector and the enforcement thereof. In addition, the paper will compare the South African position with the experiences of other jurisdictions, including Scandinavian countries like Sweden, Denmark and Norway, but also New Zealand and Northern Ireland, with regard to the enforcement of the decisions of Ombudsmen. Finally, the paper will make recommendations with regard to the enhancement of the power and authority of Ombudsmen in order to effectively enforce their decisions. It is submitted that the creation of the office of Ombudsman, and the Public Protector in the South African system, is an essential tool to ensure the protection of society against governmental abuse of power and it is therefore imperative to ensure that these watchdogs of democracy are not muzzled by a lack of powers of enforcement.

Keywords : enforcement of decisions of ombudsmen, governmental control, ombudsman, South African public protector

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