

REPORT ON THE ACTIVITIES OF THE  
COMMISSIONER FOR FUNDAMENTAL RIGHTS  
OF HUNGARY AND HIS DEPUTIES – 2019



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## LECTORI SALUTEM



The year behind us was a most lively and eventful one, consequently, our annual report for 2019 should be dynamic and colourful as well. The report holds a mirror up to us to reflect our achievements, the battles we have fought and others still before us, and naturally, it also exposes our weaknesses and failings. The few months that have passed since I took office have convinced me that the protection of fundamental rights is not only a job to do or an expectation to meet. It is much more than that: it must become an inherent duty, a compulsion for each and every member of society. It is up to the present to pave the way for a better future for the generations to come. The only way to achieve this is by raising children and youth in a spirit where children's rights and obligations are equally honoured, where nationality rights are implemented in everyday life, and where environmental protection is not only a component of a corporate scheme, but a vision and a mentality that strives to secure and improve the life of our descendants and future generations in the long run.

“Iustitia est constans et perpetua voluntas ius suum cuique tribuendi [Justice is the persistent and constant will to give each one his right].” – This quote by Ulpian was uttered by Pope Francis in his speech delivered in 2015 at the UN Headquarters in New York.

The protection of fundamental rights is an activity that demands continuous engagement from the Ombudsman: there is no end to this work, and it must be driven by a constant and unremitting will aimed at ensuring fundamental rights for all. And in these efforts of ours, we must be guided by our firm conviction that “despite the dramatic situation, the world is becoming increasingly conscious of certain spiritual values, and increasingly open to the meaning of those pillars of peace – truth, justice, love, and freedom”. (Message for the 36th International Day of Peace – St. Pope John Paul II, 1 January 2003)

It is in this spirit that this report presents the activities of the Commissioner for Fundamental Rights and his Deputies, as well as the inquiries conducted by the Office of the Commissioner for Fundamental Rights in 2019. The report reflects our accomplishments in the area of the protection of fundamental human rights, presents our results, and gives an account of future challenges and tasks to tackle.

Budapest, January 2020

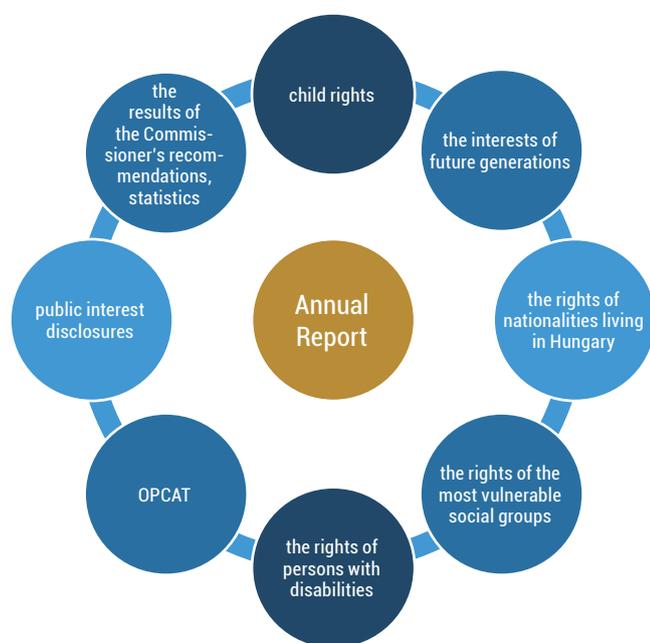
Dr. Ákos Kozma  
Commissioner for Fundamental Rights of Hungary



## WHY DOES THE COMMISSIONER PREPARE AN ANNUAL REPORT?

Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter referred to as the CFR Act) stipulates that the Commissioner for Fundamental Rights shall submit an annual report to Parliament.

Each year the Commissioner informs the National Assembly about his/her activity relating to the protection of fundamental rights, and presents his/her measures taken in the following areas:



The proceedings of the Ombudsman rest on the Hungarian fundamental rights-related practice, especially on the jurisprudence of the Constitutional Court of Hungary. The Commissioner for Fundamental Rights has an authentic role as the interpreter of the Constitution, within which he/she has the possibility to make a fundamental rights-related argumentation in harmony with his/her constitutional function. Moreover, the Commissioner has significant leeway regarding the interpretation of his/her scope of competence, including his/her choice as to which groups he/she considers as the most vulnerable in addition to the areas listed above.

## ACTIVITIES AND ACHIEVEMENTS IN 2019

Following the Ombudsman's foreword, Chapter 1 briefly summarises the Commissioner's activities in 2019, especially the trends detected, figures, achievements, and the key aspects of the Ombudsman's activity pertaining to legislation. Furthermore, it touches upon those decisions made in 2019 that concerned the changes in the Commissioner's scope of competence, and the relocation of the Office of the Commissioner. Chapter 1 also presents a short summary of the most noteworthy cases and inquiries attracting the most attention in 2019.

In this chapter, you can also read about the inquiries performed by the Deputy Commissioners regarding the protection of *the rights of nationalities living in Hungary*, and *the interests of future generations*, as well as their most important conclusions.

## APPEARANCE IN THE NATIONAL AND INTERNATIONAL ARENA

The Commissioner facilitates the enforcement and protection of human rights, in the course of which he/she also performs social awareness-raising and educational activities, and cooperates with civil society organisations and institutions aiming at the promotion of the protection of fundamental rights. It is these areas that Chapter 2 brings into focus.

Nearly the entire operation of the Office of the Commissioner takes place before the public eye of the professionals and society: each and every report, petition and communication by the Commissioner is intended to be *for the public and about the public*. Besides a firm argumentation anchored in fundamental rights and constitutional law, the efficient operation of the Office is guaranteed by the power of public criticism.

It is in this spirit that Chapter 2 discusses the media coverage of the Ombudsman's activities, the outstanding events of the year under review, which seek to raise awareness for fundamental rights, and enhance efficient cooperation with domestic and foreign partners. This chapter also presents the work and efforts of the Deputy Commissioners aimed at rights awareness development and changing mindsets in Hungary as well as in the international arena.



# 1. THE ACTIVITIES AND ACHIEVEMENTS OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS AND HIS DEPUTIES IN 2019

## 1.1. DYNAMIC INTERNATIONAL ENGAGEMENT BY THE OMBUDSMAN

Each of the 15 Commissioners and Deputy Commissioners who have fulfilled this position over the 25-year history of the institution have worked towards extending the international relations of the Office. The Office has signed numerous cooperation agreements, contacted partner institutions involved in human rights and the international protection of rights, and joined many scientific centres and networks. In the same vein, the Commissioner for Fundamental Rights continued to enlarge his international relations network in 2019.

As the first instance of bilateral networking, Commissioner for Fundamental Rights Dr. Ákos Kozma and Secretary General Dr. Réka Varga travelled to Vienna on 2 December 2019, where they were received by President of the Austrian Ombudsman Board and

In addition to pursuing and maintaining the existing bilateral relations, the Commissioner contacted the Commissioner for Administration and Human Rights of Cyprus, the Chief Ombudsmen of Turkey, Thailand and the Russian Federations, as well as the Ombudsman Institution and the National Anti-Corruption Centre of Moldova.



Mr. Werner Amon, Dr. Ákos Kozma and Mr. Walter Rosenkranz at the Austrian Ombudsman Board, 2 December 2019

Secretary General of the International Ombudsman Institute (IOI) Mr. Werner Amon and Member of the Austrian Ombudsman Board Mr. Walter Rosenkranz at the headquarters of the Board.

Regarding multilateral relations – another facet of international cooperation –, contacts were maintained with the Ombudsman networks and other networks operating in the field of legal protection and human rights, created for the handling of common objectives and issues. The Commissioner for Fundamental Rights **joined the newly established international Network of European Integrity and Whistleblowing Authorities (NEIWA), set up at the initiative of the Dutch Ombudsman. For more details on this topic, see Chapter 2.3.**



### European Union:

- FRA - European Union Agency for Fundamental Rights
- ERA - Academy of European Law



### Council of Europe:

- European Court of Human Rights
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
- Commissioner for Human Rights
- Group of Experts on Action against Trafficking in Human Beings (GRETA)
- European Commission against Racism and Intolerance (ECRI)
- Framework Convention for the Protection of National Minorities (FCNM)
- Venice Commission
- GRECO
- Congress of Local and Regional Authorities



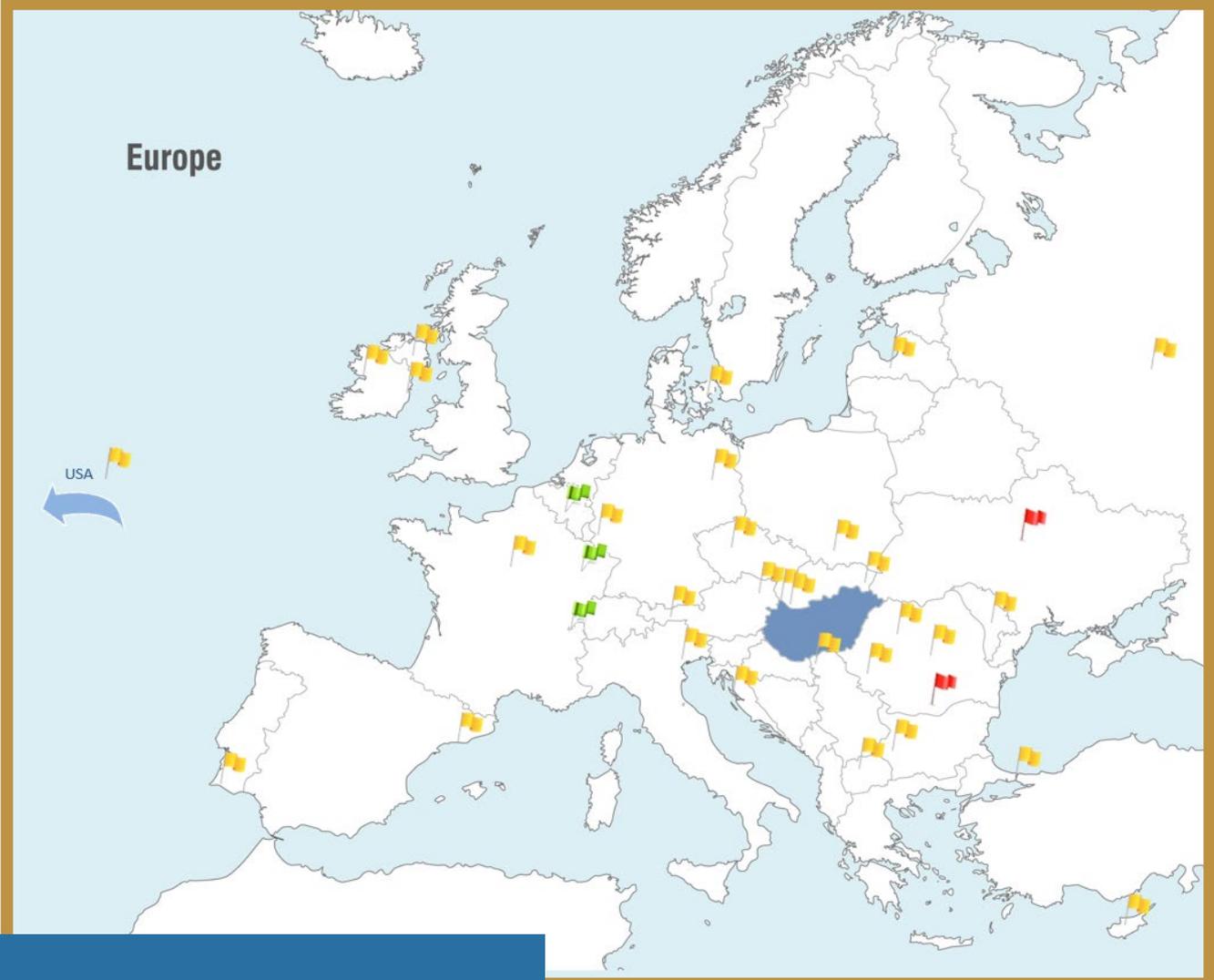
### Organization for Security and Co-operation in Europe:

- High Commissioner on National Minorities
- Office for Democratic Institutions and Human Rights



### United Nations:

- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- Treaty Bodies
- Special Procedures
- Human Rights Council
- UPR
- UNDP, UNHCR, UNICEF, FAO



The visits made by the international partners to the Office played a significant role in the international activity of the OCFR in 2019 as well, of which stand out the meetings and consultations held with diplomatic missions, partner institutions, professional networks, officials and staff members of international organisations. There was an equally strong emphasis on the participation of the Commissioner, his Deputies, and his expert staff members in international events, conferences, seminars, and trainings.

-  Delegations visiting the Office

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-  Visits made by our staff members

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-  Both

## 1.2. ACCREDITATION – THE OMBUDSMAN AS A UN-ACCREDITED NATIONAL HUMAN RIGHTS INSTITUTION

The set of criteria of the Paris Principles, i.e. the basic principles of the operation of National Human Rights Institutions, were adopted by the UN General Assembly in 1993 (including the guarantees of independence and pluralism in their operation, and their responsibility to defend and promote human rights). Despite their general acknowledgement and use as a standard, the Paris Principles are not internationally binding. Yet, it is based on compliance with these principles, through an accreditation process, that a national institution may become a UN-accredited National Human Rights Institution, i.e. an NHRI. There are currently three categories (status A, B, C) available for the classification of the institutions that wish to become NHRIs, depending on the extent to which the institution in question complies with the Paris Principles. If an institution meets all the criteria, it is awarded status “A”, thanks to which it becomes a full-fledged member of GANHRI (Global Alliance of National Human Rights Institutions), and is allowed to participate in the meetings of the most important human rights body of the UN, i.e. of the 47-member Human Rights Council (HRC). As a general rule, there is usually only one national human rights institution per country. The accreditation status of

previously accredited institutions is reviewed every five years, and this procedure is just as comprehensive, serious and complex as the accreditation procedure itself.

**In Hungary the Commissioner for Fundamental Rights with fundamental and human rights protection responsibilities has been a status “A” UN National Human Rights Institution since autumn 2014. In 2019, a cardinal international task for the OCFR was the periodic review procedure of the “A” status as a UN-accredited Human Rights Institution (NHRI) conducted by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), created in 2000.**

With a view to the successful outcome of the review procedure, the Office set up an Accreditation Working Group composed of the experts of the various professional fields under the direction of Dr. Gyula Bándi, Deputy Commissioner for Fundamental Rights, Ombudsman for Future Generations. In the course of the review procedure, the Office maintained a continuous dialogue and information exchange with the SCA, as well as with the ENNHRI, both in writing and by telephone interviews. The Subcommittee requested the opinion of the relevant international and Hungarian institutions, and non-governmental and civil society organisations regarding the operation of the national human rights institution under review. The Subcommittee makes its decision after reviewing the documentation submitted by the institution concerned; this act, however, has been postponed till 2020 in the case of our Office.

Convention: year of entry into force	Signing, ratification/ accession
International Convention on the Elimination of All Forms of Racial Discrimination: 1969	1966, 1967
International Covenant on Civil and Political Rights: 1976	1969, 1974
Optional Protocol to the International Covenant on Civil and Political Rights: 1976	1988
Second Optional Protocol to the International Covenant on Civil and Political Rights: 1991	1994
International Covenant on Economic, Social and Cultural Rights: 1976	1969, 1974
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: 2013	
Convention on the Elimination of All Forms of Discrimination against Women: 1981	1980
Optional Protocol to the International Convention on the Elimination of All Forms of Racial Discrimination: 2000	2000
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987	1986, 1987
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 2006	2012
Convention on the Rights of the Child: 1990	1990, 1991
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: 2002	2002, 2010
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: 2002	2002, 2010
Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure: 2014	
International Convention on the Protection of Migrant Workers and Members of Their Families: 2003	
International Convention for the Protection of All Persons from Enforced Disappearance: 2010	
Convention on the Rights of Persons with Disabilities: 2008	2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities: 2008	2007

Table 1: UN Conventions and Protocols



Sustainable Development Goals: 17 Goals to Transform Our World

### 1.3. THE OMBUDSMAN AND THE SUSTAINABLE DEVELOPMENT GOALS (SDGs)

At a United Nations summit held in September 2015 in New York, the 193 UN member states decided to take joint action in order to eradicate poverty, tackle climate change, and reduce challenges due to inequality by 2030 on a global level. Unanimously approved by the 193 states, the 17 Sustainable Development Goals set a new universal standard for development, and guaranteed to “leave no one behind”.

The 2030 sustainable development framework offers a better future for the entire planet and billions of people all over the world. At the same time, it calls on both developing and developed countries to end poverty, reduce inequalities, and combat the challenges posed by the curbing of climate change by 2030. The 17 SDGs are broken down into altogether 169 tasks and contain nearly 230 indicators, which seek to assess and continuously monitor several aspects of social, economic and environmental sustainable development.

The new period of national programmes and international co-operation obliges all the states to take a series of actions that deal not only with the root causes of poverty, but also the enhancement of economic growth and well-being, as well as with the health, educational and social needs of people, while also concentrating on environmental protection. The Commissioner’s constitutional responsibility is to protect fundamental rights and promote their enforcement, which is in line with the idea that the implementation of the Sustainable Development Goals must be carried out with due respect for fundamental rights. As the Commissioner’s legal protection work focuses on the most disadvantaged groups of society, it is a shared goal that in the course of the national implementation

of the SDGs, the life conditions of the most disadvantaged should be first improved. Due to its close connection with the Sustainable Development Goals, the Ombudsman’s work can contribute to the achievement of direct results in the effective and concrete implementation of these Goals in Hungary.

### 1.4. OMBUDSMAN DR. ÁKOS KOZMA AS A MEMBER OF THE BOARD OF THE EUROPEAN OMBUDSMAN INSTITUTE

The European Ombudsman Institute (EOI) held its Board Meeting and Conference from 3 to 5 November 2019 at the EOI Headquarters in Innsbruck, where Commissioner for Fundamental Rights Dr. Ákos Kozma was elected on the Board. The European Ombudsman Institute was founded in 1988. The aim of this independent, non-profit organisation is to promote the Ombudsman institution and facilitate the exchange of experience on the national, European and international level. Besides the



EOI Board Meeting, Innsbruck – November 2019

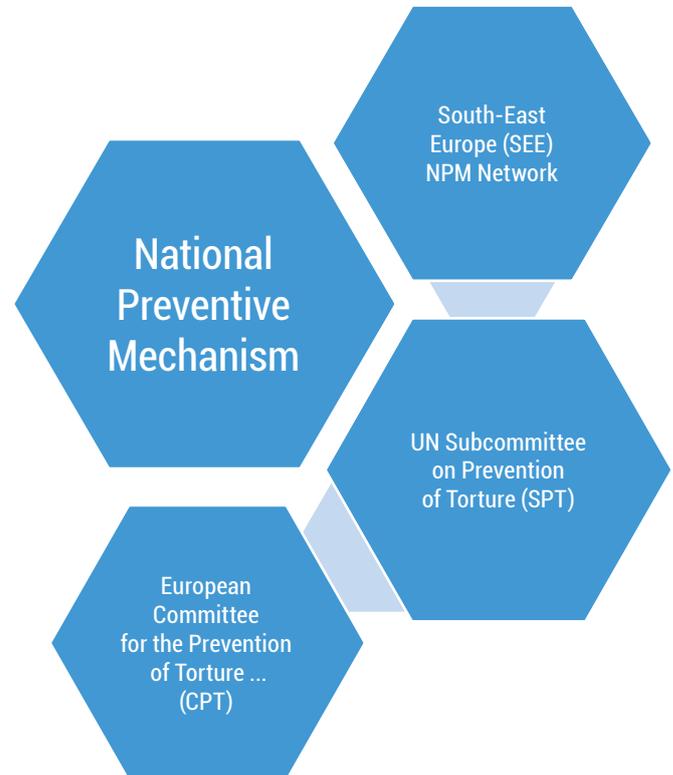
scientific study of issues related to the protection of human rights and civil interests, the Institute plays an active role in the enforcement of social, cultural and economic rights, in providing support for the activities of local, regional, and national Ombudsmen, and in the European cooperation of Ombudsmen.

### 1.5. THE OFFICE OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS MOVES TO NEW HEADQUARTERS

In spring 2020, the Office of the Commissioner for Fundamental Rights will move to a new, state-of-the-art facility satisfying 21st-century standards – a building that will effectively meet the requirements for an environment enabling the performance of the increased quantity of changed tasks that the Office encounters in the domain of the protection of fundamental rights. The listed monument that had been used by the institution ever since its foundation could no longer accommodate for the challenges of the 21st century; this is why the Office moved to temporary premises in June 2019. Until the new facility, refurbished according to the needs formulated by the Office, is completed in May 2020, our Office has temporarily moved to an office complex situated in one of the hotspots of Budapest. The latter can be easily accessed by public transportation as it is located in the proximity of tramway and bus stops, and train stations. Despite the moves, the Office has been able to process citizens' complaints without interruption, and it has continued to perform its tasks in the protection of human rights on the usual professional level and with uncompromised expertise.

### 1.6. THE COMMISSIONER AS AN OPCAT NATIONAL PREVENTIVE MECHANISM

Similarly to the previous years, in 2019, the Commissioner followed a highly dynamic international agenda when acting as the National Preventive Mechanism (NPM). The Commissioner for Fundamental Rights and his staff participated in international conferences, trainings, and research projects of our partner institutions, and they took every opportunity to better acquaint



themselves with the activities of the NPM in the broadest possible international realm. Cooperation has been continuous with the UN's Subcommittee on Prevention of Torture (SPT), the South-East Europe NPM Network (SEE), the European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe, as well as with the other NPMs. The representatives of the Office were also present at the ceremony organised on the occasion of the 30th anniversary of the CPT's existence.

In 2019, the staff members of the OPCAT NPM Department, accompanied by physicians and dietitians acting as external experts, visited **altogether ten places of detention on seven occasions** (see table at the bottom of the page).

**In the selection process of the places to be visited, in addition to the proposal of the Civil Consultative Body** and the types of the places of detention, the geographical location of the institutions and the number of the detainees were also taken into consideration. Moreover, when preparing the annual visit

	Location visited	Date	Number of facilities visited
1.	Bács-Kiskun County Remand Prison	27–28 February 2019	1
2.	Baracska Facility of the Central Transdanubian National Prison	24–25 April 2019	1
3.	EMMI's (Ministry of Human Capacities) Special Children's Home Centre, Primary School and Trade School	4–5 September 2019	1
4.	Custodial premises of the Police Department of Békéscsaba, the Police Department of Békés, the Police Department of Sarkad, and the Police Department of Orosháza	8–10 October 2019	4
5.	Platán Integrated Care Centre of Bács-Kiskun County (follow-up inquiry)	21–22 October 2019	1
6.	Tiszalök National Prison	3–4 December 2019	1
7.	Weekly countrywide transport on the premises of the Budapest Strict and Medium Security Prison	9–10 December 2019	1

Table 2

	Subject matter of the report	Date of the visit	Date of the report
1.	Psychiatric Ward of the Balassa János Hospital of Tolna County	31 May–1 June 2017	25 January 2019
2.	Custodial unit of the Nógrád County Police Headquarters, the custodial unit of the Salgótarján Police Department, and the detention unit of the Balassagyarmat Police Department	30–31 January 2018	4 April 2019
3.	Chronic Aftercare Department of Unit III of Szeged Strict and Medium Regime Prison	13–14 June 2018	15 May 2019
4.	Visegrád Aranykor Foundation Retirement Home	11 December 2018	27 August 2019

Table 3

plan, the Department **also studied the OPCAT-related reports of Hungarian and international entities**. The focus of the visits carried out by the OPCAT NPM in 2019 was **the detention of women**. In accordance with the UN recommendations for NPMs, the Commissioner did not announce the visits in advance. In 2019, the Ombudsman, acting within the powers of the NPM, also carried out a follow-up visit in line with the international requirements, and duly informed his partners about it.

In the course of the seven visits carried out in 2019, the provisions of the OPCAT were fully met: the members of the NPM visiting group were granted unrestricted and unlimited access to the places of detention, persons deprived of their liberty, and documents related to the latter's detention. **The authorities and maintainers were supportive of the NPM's work**. Engaging in a dialogue with the authorities is essential when carrying out NPM functions. There were several occasions when the reports of the Ombudsman, acting as OPCAT NPM, became a matter of public discourse, not only among authorities but also in wider society, so it can be concluded that the reports of the NPM have had a significant general preventive impact.

### Reports issued in 2019 as OPCAT NPM

The reports published on the NPM's website in 2019 are shown in the table at the top of the page.

Following the publication of the reports, the Commissioner held **consultations** with the authorities and the maintainers. By the end of 2019, altogether **four OPCAT NPM reports had been prepared** on the basis of the experience gathered over the previous years. In accordance with the relevant statutory provision, the Commissioner is to prepare a **separate annual report** about his OPCAT NPM activities performed in 2019. The OPCAT annual report is addressed to the National Assembly and the UN Subcommittee on the Prevention of Torture (SPT). The OPCAT NPM's annual report is also made available to other Hungarian authorities and institutions, and international organisations.

It was a general impression during the visits and inspections that providing **stress management and burnout prevention trainings and supervision** for the staff **is not yet an established practice** at the places of detention. The bulletin board of the penitentiary institutions nearly always displayed the OPCAT NPM information brochure, and both the detainees and the staff were more or less familiar with the National Preventive Mechanism, but this was not the case at other places of detention. It was a positive experience that police officials were most helpful when receiving

the NPM visiting group. There has been an improvement in the physical condition of the custodial rooms in police facilities, but the working conditions of the police staff have remained rather poor. The police struggles with **excessive administrative burden** while the staff has to work with an outdated operating system.

Cooperation has improved with the National Commander of the Hungarian Prison Service. By now, the penitentiary institutions are aware of the fact that the staff members of the OPCAT NPM have special entitlements: entry procedures have become less cumbersome, and there is less need to justify the visits. The **appearance of a new psychoactive substance** has produced unfavourable trends in the penitentiary institutions, and it is causing significant problems at other places of detention, too. **The shortage of staff, the stress due to overwork**, and the high staff turnover have led to substantial systemic problems at all places of detention. The narrowing of the possibilities of contacts with the outside world, including the tightening of the rules of receiving parcels, is problematic in penitentiary institutions. Plexiglas contact rooms have been introduced in order to prevent the smuggling of forbidden objects into prisons, but this practice was criticised by the detainees in every detention facility visited.

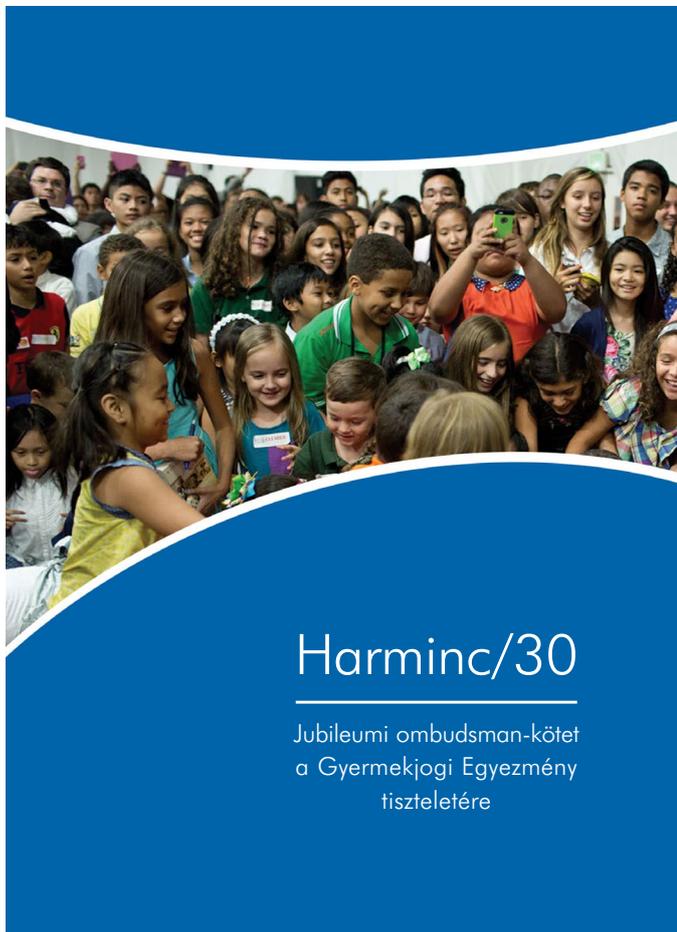
## 1.7. IN FOCUS: THE ENFORCEMENT OF CHILDREN'S RIGHTS

**I**n their communication issued in April 2019, the Commissioner and his Deputies asked organisations nominating candidates, as well as the candidates themselves running for the elections to the European Parliament (regardless of their party affiliation), to refrain from involving children in their campaign events, using pictures taken of and with children for campaign purposes, as well as visiting schools and kindergartens in order to boost their popularity. **The respect for child rights presumes the existence of a political and constitutional culture which does not allow for the use of children as props or means of party politics**. Regardless of their age, children unconditionally have the right to equal human dignity; children must not be objectified. **Using children as campaign tools violates precisely this right, and turns them from legal entities into means of party politics**.

Besides the reports and inquiries detailed further below, it should be highlighted in the area of education that **in December 2019 the Commissioner for Fundamental Rights asked the competent ministry in a statement to postpone the introduction of**

the new rules of procedure pertaining to the establishment of school readiness and of the beginning of compulsory education. In the Ombudsman's view, it is questionable whether the requirements of their introduction are met by all the organs concerned. The present situation increases the likelihood of improprieties related to the requirement of legal certainty and the rights of the child. Furthermore, based on the numerous petitions submitted to him, the Ombudsman launched an inquiry in connection with the new regulation of the Act on National Public Education introduced as of 1 January 2020. The Ombudsman is expected to publish his **inquiry report** with a detailed analysis in the third quarter of 2020.

The work titled *30/Harminc – Jubileumi ombudsmankötet a Gyermekjogi Egyezmény tiszteletére* (Thirty/30 – Anniversary Volume of the Ombudsman in Honour of the Convention on the Rights of the Child) was published by the Office of the Commissioner for Fundamental Rights on the 30th anniversary of the adoption of the UN Convention on the Rights of the Child. In the title of the volume, the second “thirty” refers to the fact that the core of the text is constituted by the presentation of a considerable number – 30 in total – of the Ombudsman's reports published recently in the field of child rights. This volume invites all those interested in children's rights and the Ombudsman's work to read and think about these issues, whether they are professionals working for and with children or laypersons interested in this topic.



Currently, Hungary is not yet party to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. It is thus a significant development that upon the Commissioner's appeal, the Minister of State of the Ministry of Human Capacities has indicated: they have begun to prepare the decision necessary for Hungary's accession to the Optional Protocol. The Ombudsman welcomed the fact in a statement that the competent ministry has started the preparation of the government decision on acceding the Optional Protocol.

## 1.8. HIGHLIGHTED CASES, INQUIRIES AND REPORTS RELATED TO THE RIGHTS PROTECTION ACTIVITY OF THE COMMISSIONER IN 2019

In conformity with the provisions of the CFR Act, the Commissioner for Fundamental Rights, in 2019 as well, paid particular attention to the protection of the rights of the vulnerable, children, persons with disabilities, the elderly, the sick, the homeless and those existentially in need.

One of the inquiries concerned **the problems of the enforcement proceedings related to the child's handover**. Following a complaint, the Commissioner uncovered that under the regulation in force, it is impossible to act promptly and in a child-centred manner if one of the parents retains his/her child unlawfully, and is unwilling to hand the child over to the other parent. In addition to reviewing the regulation, it is necessary to improve cooperation between the police, enforcers, and guardianship authorities, as well as to provide specific crisis management training.

In 2019, the Commissioner once again dedicated special attention to the inspection of the operation and circumstances of children's homes and special children's homes. Children admitted temporarily or permanently into institutional care who have been taken away from their families or those left without a family are especially vulnerable, and the everyday enforcement of their rights is extremely difficult. In 2019, three important institutional inquiries were completed. Regardless of the type and location of the institutions, it was a general observation that essential staff and equipment that could guarantee the enforcement of the best interests of the child are missing, no attention is dedicated to special situations, and the proper education of children is not ensured.

In relation to **the prevention and handling of institutional abuse at kindergarten and school**, two, interrelated inquiries were conducted on the inadequate legal environment and worrisome practices. **Focusing on one particular case respectively, these inquiries called attention to the fact that the institutional abuse of children at kindergarten and school is a serious violation of their rights: the practice which tolerates such behaviour, and procrastinates or closes the investigation of such cases must be fundamentally changed.**

Once again, the inquiries focused on **how fundamental rights are enforced in the area of healthcare**, be it in connection with

the rooming-in system for mother and baby, the child- and parent-friendly functioning of neonatal intensive care units, **the protocol followed in case of a patient leaving a healthcare institution without permission**, or the situation of limb salvage and vascular surgery. In the year under review, several reports discussed the education and development of children with disabilities and special education needs. Reviewing a unique segment at the intersection of education and healthcare, a report was prepared on the enforcement of **the educational rights of hospitalised children**. The latter report revealed that **if a child needs to receive long-term hospital care, but would like to keep up with his/her studies, very few establishments can provide him/her with the necessary education. Therefore the Ombudsman turned to the competent ministry with a recommendation proposing that the ministry review the legal provisions pertaining to the education of hospitalised children, and ensure the staff and facilities necessary for their education.**

For several years now, the Ombudsman has been looking into the anomalies of the operation of residential care homes with a high number of beds. Gradual changes in **legal reasoning** have led to an increasingly intensive preventive mechanism aimed at the protection of the fundamental rights of persons with disabilities (and of the elderly, children, and psychiatric patients), forced by their condition to live in residential institutions. Essentially, the set of arguments of human dignity **questions the hierarchical system of institutionalised life**. The CRPD specifically protects the basic principles of independent life and autonomy, **which is inherently incompatible with the large-scale operation of care homes with a high number of beds**. Consequently, the solutions proposed these days centre around the so-called **de-institutionalisation**. However, in the meantime, all the institutions must operate, while the quality of their operation continues to be rather varied. In this reporting period, several reports were made in the series of inquiries affecting closed institutions, four of which were conducted in institutions looking after persons with disabilities.

**The comprehensive inquiry into the operation of the institution at Mozsgó should be highlighted. The**

**Commissioner's on-site inspection conducted upon a civil complaint could neither confirm, nor deny whether there had been a serious case of abuse in the institution of Mozsgó which takes care of persons living with disabilities. At the same time, the inquiry uncovered problems regarding the operation of the institution with a high number of beds, and its staff and facilities, and due to the high risk of further improprieties, the Commissioner repeatedly called for the acceleration of the process of de-institutionalisation.**

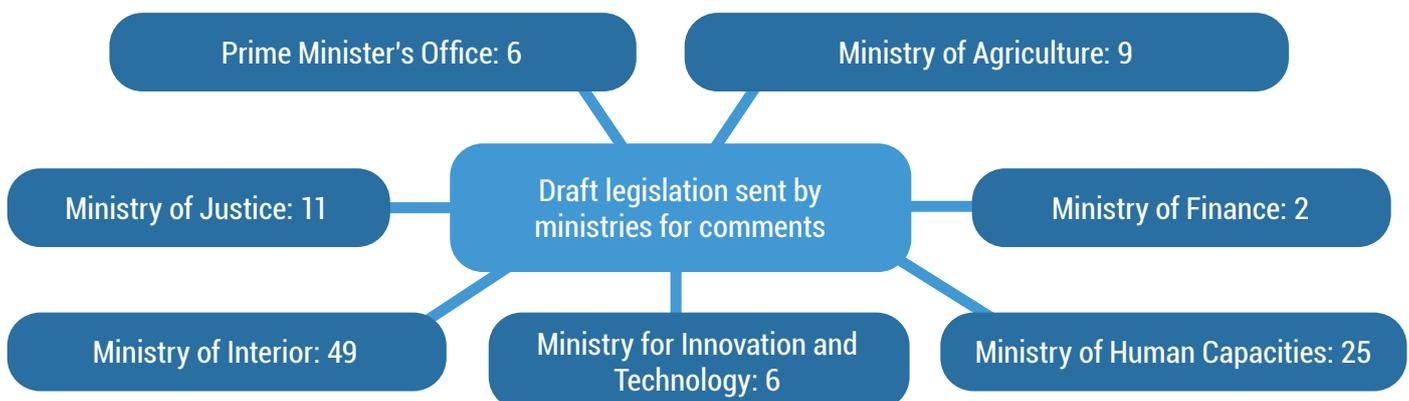
Another important inquiry emphasised that the existing legislation does not permit the use of therapy dogs in health institutions; on the contrary, entrance can be denied to such dogs with reference to the regulation in force. The Ombudsman reviewed the applicable legal provisions, and asked the Minister of Human Capacities to amend the relevant regulation as soon as possible.

## 1.9. THE ACTIVITY OF THE COMMISSIONER AND HIS DEPUTIES RELATED TO LEGISLATION

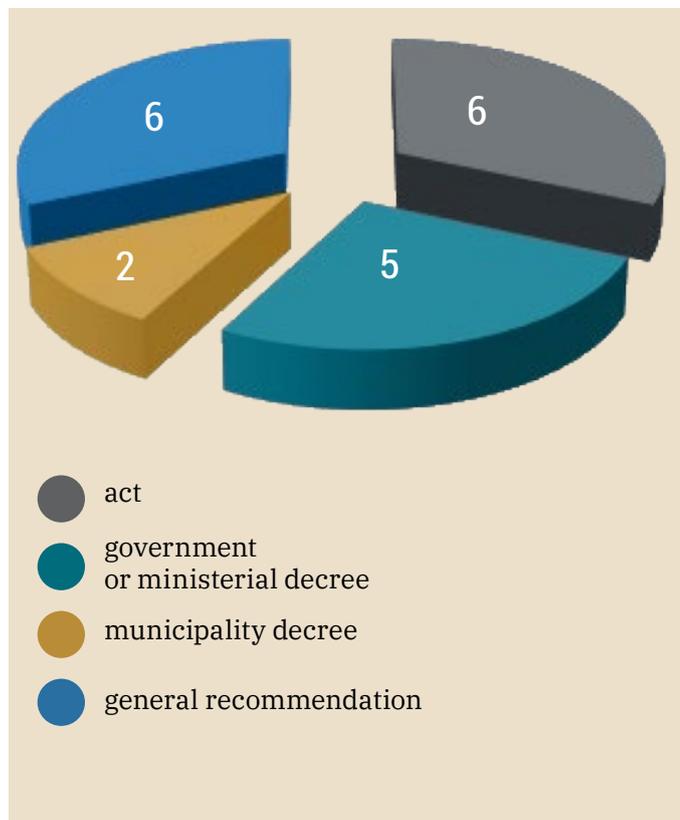
**T**he formulation of a legal norm is of cardinal importance in the legislative process, as the technical content of a legal regulation is determined already at that point. In respect of his/her constitutional function and legal competence, the Commissioner takes part directly in the codification work only exceptionally. However, **by formulating legislative proposals and commenting on draft legislation from the aspect of fundamental rights**, he/she may influence the drafting of legislation on the substance.

### *The Ombudsman's comments on draft legislation*

**In 2019, the Commissioner for Fundamental Rights was asked to comment on 108 bills.** During this time, nearly 900 acts, and government and ministerial decrees were promulgated, which is an indication of the fact that **the presenters did not fully meet their obligation to request the Commissioner's opinion in this reporting period, either.**



In some instances, **the Ombudsman was not consulted even on motions with important fundamental rights-related aspects. To give a few examples**, we could mention the act on the amendment of certain acts with cultural relevance, the act relating to the Family Protection Action Plan, and the amendment of certain acts relating to Hungarian citizenship.



Similarly to the previous years, **in 2019, too, motions were typically sent to the Ombudsman with tight deadlines (of 4.7 workdays on a yearly average)**. It was not uncommon that short deadlines were set precisely in the case of bills demanding a more meticulous analysis from the perspective of fundamental rights. Thus, for instance, the Commissioner had to comment on the motion pertaining to the amendment of certain public education acts within a single workday, and he had two workdays to review the motion on the amendment of the Act on Professional Training.

**Such short deadlines make it difficult for the Commissioner to offer substantive comments** on the motions. This is why, regardless of his position elaborated in his comment, **the Commissioner reserved the right in each case to propose the amendment of the already promulgated law with a subsequent effect**.

**In 2019**, the Commissioner for Fundamental Rights **commented on more than 40% of the bills** (i.e. 46 pieces of draft legislation) **in substance**. On the one hand, he called attention to codification deficiencies and technical legal problems, but in some cases, he recommended the partial or conceptional review of the motion. In several instances, **he requested the intervention of the presenter** so that the bill would be published on the

official website of the ministry, or that it would be sent for comment to the civil society organisations concerned.

When formulating such comments, it is essential to consider **how the given legislation may affect** children's rights enjoying special protection, the interests of future generations, and the rights of national minorities and the most vulnerable groups of society. This particular attention is also reflected by the fact that **in 2019, similarly to last year, more than half of the substantive comments concerned legislation on children's rights, environmental protection, and national minorities**.

### *The Ombudsman's recommendations regarding law-making*

**Ever since the establishment of the institution, Parliamentary Commissioners have had the right to recommend to entities entitled to make law that they issue, amend or repeal legislation** if an impropriety exposed in relation to the activities of an authority could be attributed to a redundant or ambiguous provision of a legal norm, or to the lack of the legal regulation of the given issue. The law in force widens the capacity for intervention of the Commissioner by allowing him/her to put forth legislative recommendations even without exposing an impropriety in the application of the law by an authority, i.e. **solely on the basis of examining the legislation** from the aspect of fundamental rights.

**In 2019, the Ombudsman issued 57 reports, in a third of which (19 cases) he initiated the amendment of certain legal regulations or the review of the legal environment in general**. The distribution of the legislative proposals according to sources of law is illustrated by the pie chart on the left.

A more detailed presentation of the **reports** containing the legislative proposals can be found in the relevant chapters of the report on the topics concerned. On the whole, it can be observed that the subject matters of the legislative proposals cover a broad spectrum of topics such as child rights, family support and enforcement cases; reports issued in the framework of the National Preventive Mechanism; and cases related to expropriation and forest management fines. This demonstrates that **the integrated Ombudsman institution provides efficient protection for each of the constitutional rights**.

Exercising his right to make legislative proposals, the Ombudsman called on the entity entitled to issue the legal regulation, i.e. **the competent ministry** in the case of acts, to draft the necessary legislation or prepare for it in order to remedy the impropriety exposed. Pursuant to the provisions of the CFR Act, **the organ concerned shall inform the Commissioner of its position on merits of the legislative proposal within 60 days of the receipt of the report**. Nevertheless, there were again cases in 2019 when the given ministry failed to reply in due time, or when the minister gave only a reply of general nature, which did not reveal whether he/she was in favour of the proposed legislation. Even if the entities concerned approved the Ombudsman's legislative proposal, they barely ever provided information as to the time limit of the legislation or its preparation.

### *Legislative proposals maintained by the Commissioner for Fundamental Rights and his Deputies*

The CFR Act entitles the Commissioner for Fundamental Rights that if the authority subject to inquiry or its supervisory organ fails to form a position on the merits and to take the appropriate measure, or the Commissioner for Fundamental Rights does not agree with the position or the measure taken, he/she can submit the case to Parliament within the framework of his/her annual report. Exercising this right, **of those legislative proposals formulated by him over the previous years that were not admitted by the ministry concerned, the Ombudsman hereby submits the following ones to Parliament in this annual report.**

In 2016, the Ombudsman **asked the Minister of Human Capacities to determine the size of the minimum hospital space per person in a legal regulation** (similarly to the case of care, educational and penitentiary institutions). The Minister did not agree with the prescription of adequate hospital space per person.

In recent years, several reports issued by the Ombudsman called attention to the fact that although **during enforcement proceedings, the amounts received as certain social benefits determined by the law are exempt from the attachment orders, in practice, these may also be collected for the purpose of debt recovery.** Granting exemption from attachment orders expresses the legislator's intention that the enforcement proceedings must be conducted in respect of the enforcement of social security and the maintenance of the social security of the debtor. While social benefits paid by post are effectively exempt from the enforcement proceedings, social benefits arriving on a bank account may be subject to enforcement. In 2012 and 2016, the Commissioner for Fundamental Rights initiated the review of the legal regulation in order to guarantee the right to social security. Although the Minister of Finance agreed with the above in principle, no legislation has since been drafted to this effect.

The Ombudsman for Future Generations proposed in 2016 in a theoretical opinion that the legislator impose a restriction on the sale of poor-quality, high pollutant lignite with low calorific value to the population with a view to curbing the adverse health effects of air pollution due to domestic heating. This position, consistently advocated by the Ombudsman, supports the use of fuel wood with a calorific value higher than poor-quality lignite in order to reduce energy poverty. The Minister for Environmental Protection agreed with the proposal, but he informed that the draft legislation presented by him required further administrative consultations. Despite the supportive intention and efforts of the legislator, the act necessary for the protection of the air has not been promulgated ever since.

In 2018, the Commissioner established in connection with the **outstanding student debts in higher education** that full or partial exemption from the obligation to repay the outstanding amount of the debt, related to childbearing, only extends to the mother and not to the other parent raising the child together with the mother. In his report, the Commissioner pointed out that in

the case of parents who raise their children together, the total budget of the family is made up of the income and possible debts of the parents, so mothers who have student debts are in a situation comparable to that of fathers who have student debts. The requirement of equal treatment could be satisfied by the following: if the mother does not have a student debt any more, or she did not have one previously, either, but the father, who raises the child together with the mother, has one, secondarily, the preferential treatment should also be available with regard to the father's debt. The Commissioner also indicated that the prevailing regulations raised concerns with regard to the requirement of equal treatment concerning single fathers and single adoptive fathers. The Ombudsman asked the Minister of Human Capacities to amend the legal regulation, but the latter did not agree with the fundamental rights-related arguments formulated in the report.

**The Commissioner continues to maintain the above recommendations formulated over the previous years,** and asks Parliament to facilitate law-making necessary for their implementation.

### *The right of the Commissioner for Fundamental Rights to initiate the review of legal norms*

Pursuant to the Fundamental Law of Hungary, the Constitutional Court reviews the harmony of the laws with the Fundamental Law at the initiative of the Commissioner for Fundamental Rights. The CFR Act also allows the Commissioner to initiate the interpretation of the Fundamental Law of Hungary.

**In 2019, special mention should be made of the motion submitted by the Commissioner in connection with the comprehensive amendment of the Forest Act,** which was drafted on the basis of the motion submitted by several national nature conservation organisations, and at the initiative and with the professional assistance of the Deputy Commissioner, Ombudsman for Future Generations. The motion referring to the **violation of the non-regression principle and of the requirement of legal certainty** pointed out the lack of several guarantees due to which the level of protection by law of the **common heritage of the nation** identified in the Fundamental Law of Hungary **as well as of the right to a healthy environment** decreased. The **theoretical starting point of the motion** is that all those changes in legislation that end protection, or do not provide for the same efficiency in comparison with the efficiency of the earlier protection, and replace the legal instruments of the enforcement of the precautionary principle and the principle of prevention with ex post sanctioning, or relegate the interests of nature protection behind economic interests, **are in breach of the non-regression principle.**

The main finding of the Ombudsman's motion is that the amendment of the Forest Act **reduces – in both quantitative and qualitative terms – the restrictions aimed at nature protection, applicable to protected forests situated in NATURA 2000 areas.** The challenged legal provisions – against the interests of forest managers, among others – **relegate nature conservation aims to the background:** while giving apparent priority to nature conservation,

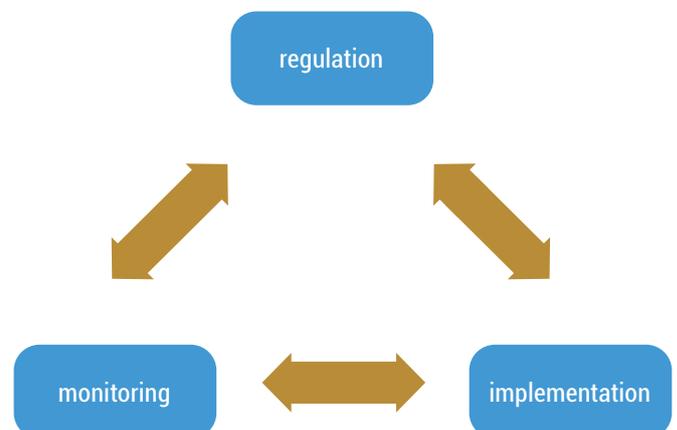
they permit the actual enforcement of economic interests, reduce the level of protection of locally protected natural areas, and fundamentally change the procedural guarantees of protection. The motion underlines that by way of derogation from the NATURA 2000 concept defined in EU law, the provisions narrow down the protection of forests belonging to this network, and they restrict the possibility of enforcing nature protection requirements aimed at the protection of natural values in a way unjustifiable by the necessity-proportionality test.

**1.10. THE FOCAL POINTS OF THE ACTIVITY OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES IN 2019**



**Roma communities** have followed a different **development curve** than other national minorities, **with an additional, distinctive dimension**. As members of a national minority, Roma people are entitled to the special rights provided by cultural autonomy. However, in practice, they are able to enforce them only to a limited extent, due to the poverty, vulnerability and negative discrimination affecting the members of this community more than other groups of the society. There are **five areas that pose a particularly serious challenge** in their case: education, employment, housing, healthcare, and the unique situation of Roma women, leading to multiple discrimination. Consequently, in the case of the Roma, besides the enforcement of nationality rights, ensuring equal treatment and the implementation of special equal opportunity programmes are key priorities even today.

With a view to monitoring the efficient operation of the area of nationality rights, and to remedying potential regulatory and implementation anomalies, the existence of **special monitoring mechanisms** – having the appropriate means, expertise and intervention potential – is indispensable.



*Prof. Dr. Elisabeth Sándor-Szalay, Ombudsman for the Rights of National Minorities*

**1.10.1. GENERAL OBSERVATIONS ABOUT THE AREA OF THE RIGHTS OF NATIONAL MINORITIES AND THE PROFESSIONAL ACTIVITIES OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES**

The area of nationality rights is one of the most complex segments of the Hungarian legal system. The specificities of the national minority communities living in Hungary, their lack of geographical concentration in particular, have led to the prevalence of the **concept of personal autonomy based on the system of nationality self-governments**, and the **network of the cultural and educational institutions** maintained by them. The solid historical and broad social foundations of this area of law, as well as the generous funding and infrastructural environment, are coupled with a continuous and dynamic ability for renewal. **It is a sensitive and strong regulatory environment at the same time, which serves as a cornerstone for the unobstructed enforcement of the rights and interests of nearly one million individuals belonging to a national minority.**

**Act LIX of 1993** on Parliamentary Commissioners provided for four Ombudsman positions, including that of the **Parliamentary Commissioner for the Rights of National and Ethnic Minorities**. After nearly twenty years of efficient and successful cooperation, due to a conceptual change in policy and parallel to the abolishment of a separate commissioner's post, the position of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of Nationalities Living in Hungary – commonly known as the **Minority Ombudsman** – was created **as of 1 January 2012**.

#### Key responsibilities of the Deputy Commissioner at the Office of the Commissioner for Fundamental Rights:

regularly **inform** the Commissioner for Fundamental Rights, the institutions concerned and the public of his/her **experience** regarding the enforcement of the rights of nationalities living in Hungary,

**draw** the attention of the Commissioner for Fundamental Rights, the institutions concerned and the public to the **danger of infringement** of rights affecting nationalities living in Hungary,

**propose** that the Commissioner for Fundamental Rights **institute proceedings ex officio**,

**participate in the inquiries** of the Commissioner for Fundamental Rights,

**propose** that the Commissioner for Fundamental Rights **turn to the Constitutional Court**,

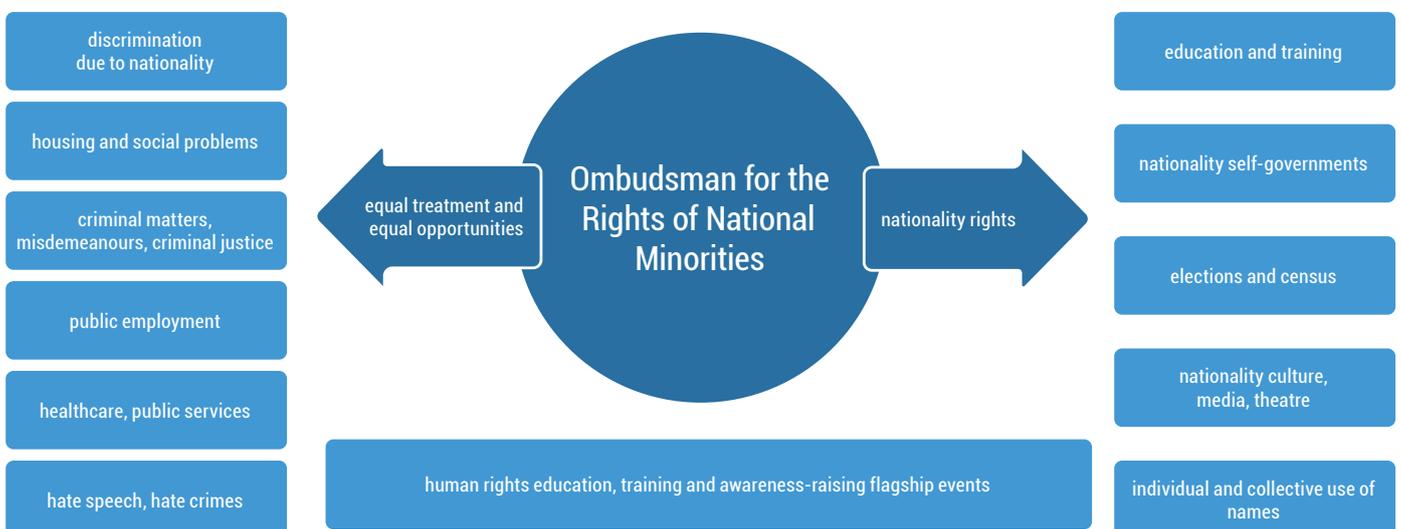
**comment** on the Government's social inclusion **strategy** and monitor the implementation of objectives thereof concerning nationalities living in Hungary,

**propose the adoption and amendment of legislation** on the rights of nationalities living in Hungary, and

**promote, through his/her international activities**, the presentation of the merits of domestic institutions related to the interests of nationalities living in Hungary.

In the first six-year term of her mandate, between 2013 and 2019, the Deputy Commissioner handled 1,966 complaints, of which she had closed 1,866 cases by 1 January 2020. In 1,515 cases, she took substantive actions, and in half of the latter, in addition to investigating the problem and taking legal measures, she also played a **role as a mediator** with a view to resolving and handling the matters concerned.

In general, it can be affirmed that based on the Deputy Commissioner's practice, **both the dogmatic background and the text of the fundamental regulation relating to the rights of national minorities and equal treatment are properly elaborated**.



**They ensure high-level protection**, thus correspond to the national specificities and meet the requirements deriving from our international commitments. **At the same time, anomalies of law application are frequent** in connection with the detailed rules, and in certain areas such as the administration of nationality self-governments, education, funding, and the exercise of cultural and linguistic rights, **some structural problems can also be noted**.

Due to the above, **the portfolio** of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities **comprises classical nationality rights cases which demand complex, comprehensive, and substantial legal abstraction and broad professional expertise, as well as complex petitions related to equal treatment and equal opportunities, which uncover the anomalies of jurisprudence in the first place, and require an interdisciplinary knowledge in law, sociology, social work and mental hygiene**.

The core activities of the Deputy Commissioner are constituted by the practical examination of the enforcement of legislation relating to nationalities and equal treatment, the conclusions of which are briefly presented below for the year 2019. Her other main field of activity, i.e. broad-ranging national and international liaising, will be presented in detail in Chapter 2.6 **The Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities in the national and international arena**.

#### 1.10.2. THE RECENT PROFESSIONAL TASKS OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES REGARDING INDIVIDUAL AND COMPREHENSIVE CASES

With respect to the area of nationality rights, the year 2019 was **a period of stocktaking and (re)planning**, thus it was primarily about strategic decisions and the accompanying processes. Our attention was focused on changes affecting three different areas, which are, however, fundamental for the rights enforcement

system: legal protection provided by the Ombudsman, the system of nationality self-governments, and statutory regulation.

1. The six-year mandate of Dr. Elisabeth Sándor-Szalay expired on 21 October 2019, which meant that in accordance with the Fundamental Law of Hungary and the CFR Act, the Commissioner had to nominate a new candidate for the position. During the obligatory consultation procedure, the Association of National Self-Governments of the Nationalities and the Standing Committee on National Minorities in Hungary of the Parliament assured the outgoing Deputy Commissioner of their unanimous support, thus she was nominated for the position again, in concert, by the outgoing and incoming Commissioners. **On 4 November 2019, with the support of nearly 80% of the MPs, the National Assembly re-elected Dr. Elisabeth Sándor-Szalay** as Deputy Commissioner for Fundamental Rights, Ombudsman for the Protection of the Rights of National Minorities in Hungary. Her mandate lasts for six years, i.e. till 3 November 2025.
2. **The general elections of nationality self-governments were held on 13 October 2019**, which meant a simultaneous renewal of representation on the settlement, regional and national levels. As a result of the elections, nearly 2,200 settlement-level and 62 regional national self-governments were formed, and all thirteen nationalities recognised in Hungary set up their respective national self-governments as well.
3. The third outstanding professional challenge of last year was **the preparation of the comprehensive amendment of the Act on the Rights of Nationalities**. Based on her jurisprudence-related experience and specific professional materials accumulated over the previous years, the Deputy Commissioner contributed to the joint efforts by making 27 technical and 31 substantive overarching proposals aimed at the elimination of the anomalies encountered in practice and at the necessary improvement of the legislation.

## The number of petitions in 2019

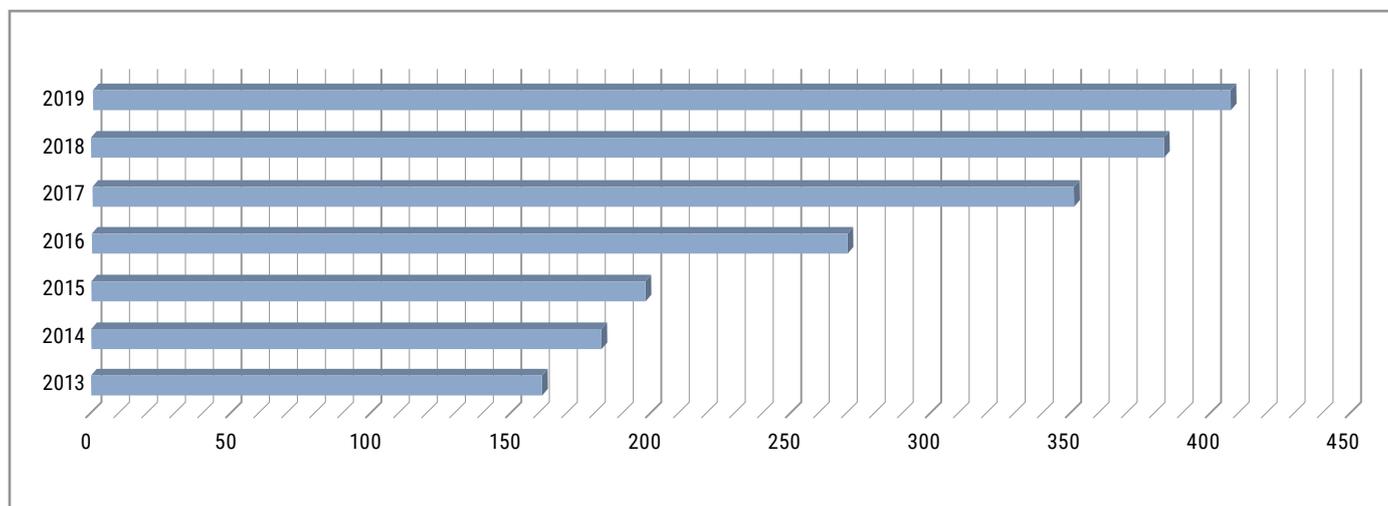
In 2019, the number of nationality cases (complaints and improprieties examined ex officio) rose to 409, which was a 6% increase over the figures of 2018. During the first term of Deputy Commissioner Dr. Elisabeth Sándor-Szalay, the annual number of cases grew by two and a half times, which is a significant increase and is a clear indication of the fact that after the transformation of the Ombudsman system, the institution of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities has become, over the past years, increasingly well-known and recognised among the members and representatives of the nationality communities.

## The nationality of the petitioners

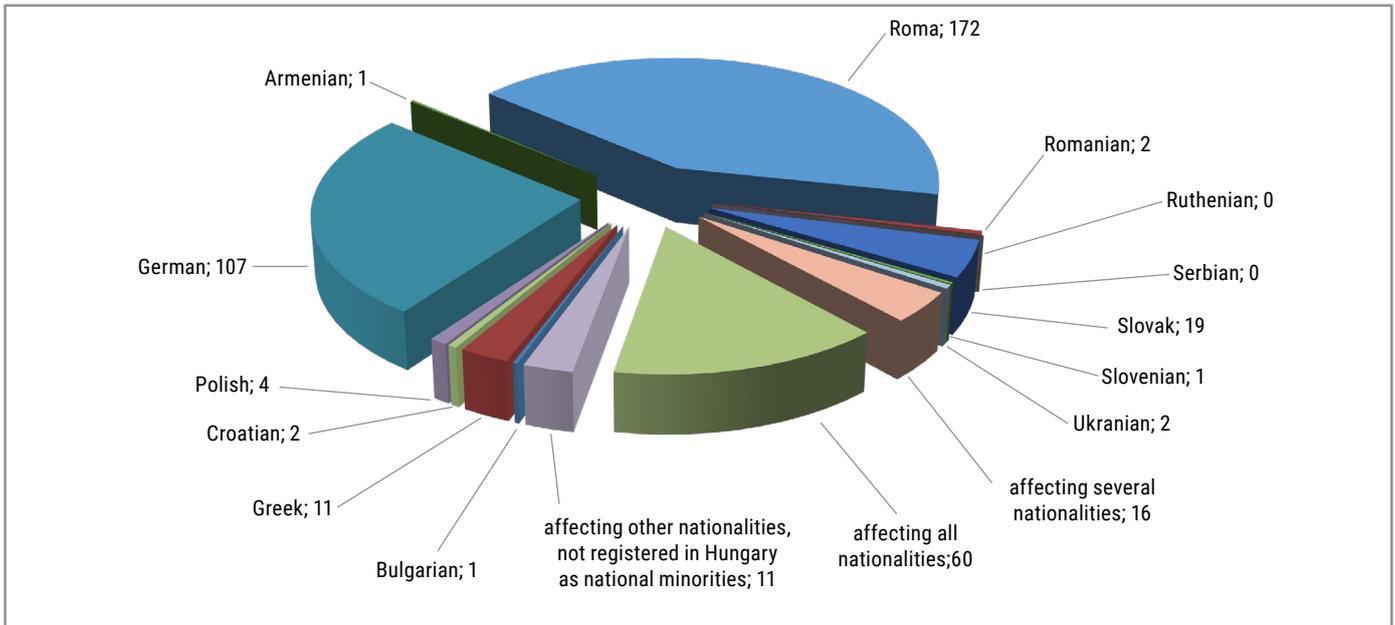
Similarly to the previous years, the highest number of cases concerned citizens of Roma nationality in 2019 which is evidence of the fact that many citizens of Roma nationality struggle with livelihood and housing difficulties, as well as with the practical implementation of the requirement of equal treatment. The number of **German** and **Slovak** petitions was especially high: the bulk of these complaints were related to individual and collective nationality rights, nationality self-governments, and nationality institutions maintained by the latter. The number of cases pertaining to several or all of the nationality communities continued to rise, and they were mostly connected to education, cultural rights, the operation and financing of nationality self-governments, and comments on legislation.

## The types and subject matters of the petitions in 2019

In 2019, the subject matters and their distribution were similar to last year, and clearly, there is still a classical **polarisation** of petitions between cases concerning nationality and Roma equal opportunities, and cases related to equal treatment, as indicated several times above. This also determined the **methodology of complaints processing**. The green fields of the diagram typically represent petitions belonging to the former category, whereas the blue ones stand for petitions in connection with the latter.



Number of petitions and ex officio inquiries, 2013–2019



Distribution of the types and subject matters of the petitions and ex officio inquiries in 2019 according to nationalities

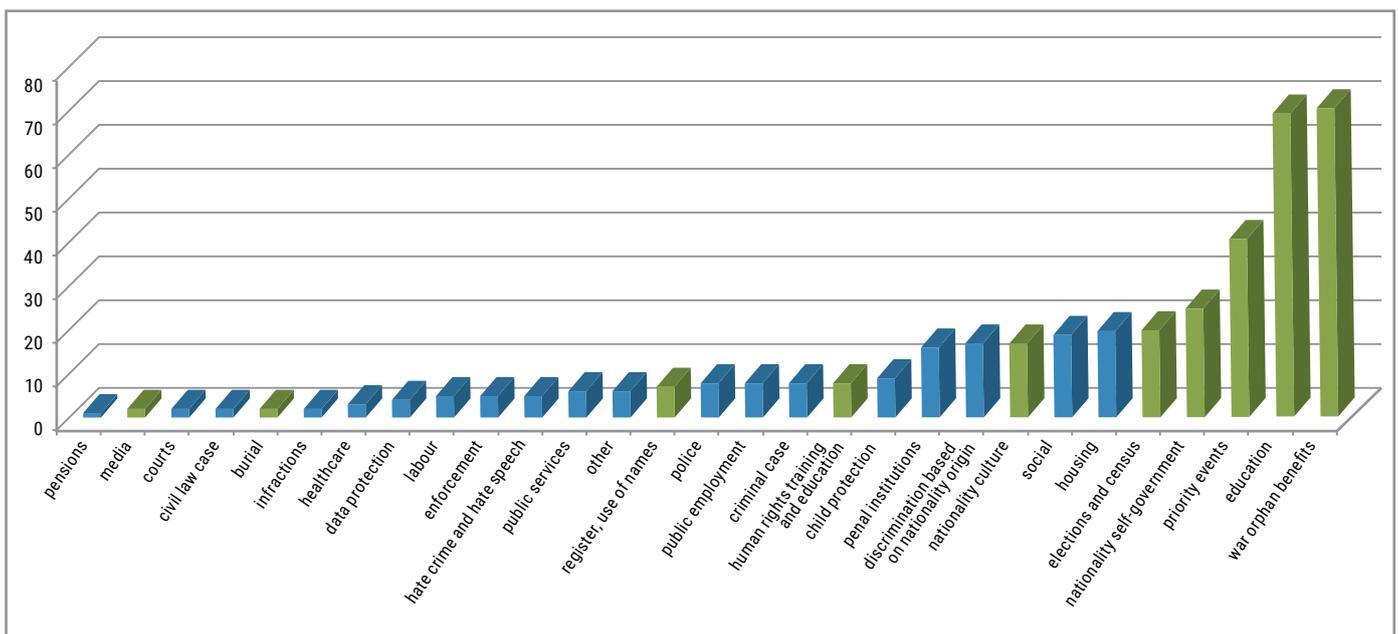
### Priority topics of inquiry in the area of nationality rights

The Deputy Commissioner examines all cases submitted to her on the highest professional standard and with impartiality, after which she initiates the necessary actions, and monitors their implementation. Most of these cases affect **only the person concerned or a small number of persons**, that is, the complainant and his/her immediate environment. Nevertheless, these cases – apparently isolated, yet similar in their topics – can help us learn more about the trends of the individual fields of expertise and explore them: comprehensive **inquiries** were launched in numerous cases, which **exposed** the details of the individual professional fields. Such topics were the following in 2019:

- Education of the national minorities
- National minority self-governments and elections
- Individual and collective name use

- Preparation for the 2021 census
- Social living conditions and housing
- Public employment
- Criminal offence and misdemeanour cases
- Public utility providers and services
- Enforcement
- Burial
- Activity related to the amendment of the Act on the Rights of National Minorities

Information about the details of the individual priority areas and specific cases is continuously available on our website [www.nemzetisegijogok.hu](http://www.nemzetisegijogok.hu), also accessible in English, where in addition to case summaries, professional background materials are also provided.



Types and subject matters of the petitions and ex officio inquiries in 2019



## 1.11. THE FOCAL POINTS OF THE ACTIVITY OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR FUTURE GENERATIONS IN 2019

### Introduction

In his work, the Ombudsman for Future Generations, the Deputy Commissioner for Fundamental Rights responsible for protecting the interests of future generations, primarily **focuses on the fundamental rights-related questions concerning the enforcement of three articles of the Fundamental Law of Hungary**. The first article in question is Article P), which **is about** the common national heritage, – including natural and cultural resources, and in relation to this, **the protection of future generations**. The second one is Article XX, which **demonstrates the protection of**

**the environment as a means of protecting human health**, while the third one is Article XXI, which specifically defines **the right to a healthy environment**. The year 2019 saw the global strengthening of the need for **policy-makers to pay increased attention to the interests of future generations** and the preservation of **their life conditions**, which require decisions that are duly considered, which take into account the principles of precaution and prevention, and point beyond short-term economic interests.

### Protection of nature and natural capital

The traditional **financial indices** for measuring economic efficiency **are not suitable for** showing the actual status of **natural resources**, the ensuing quantitative and qualitative changes, i.e. **the effectiveness of protection**. The economic value of the common natural heritage of the nation only becomes visible when it is damaged. Thus, **the Commissioner and his Deputy** contacted the President of the **State Audit Office**, and proposed the elaboration of a set of criteria by which **it becomes possible to assess** how **the interests of future generations** are protected in **the management of natural capital**.

In order to ensure adequate protection, the principles of **precaution** and **prevention** should be enforced, in addition to applying the **polluter (user) pays** principle. The Deputy Commissioner has emphasized several times that the preservation of services provided by nature is also the economic interest of future generations, as the loss of seemingly “free of charge” **ecosystem services** in some cases **cannot be replaced** even by costly **technological** solutions. In order to ensure efficient protection, the changes of our **natural** resources should also be illustrated in the form of an **inventory of assets**.

### Environmental liability

One of the fundamental elements of the Deputy Commissioner’s **legislative** initiative on **environmental liability** is how the **actors of the economy** become interested in **the prevention of environmental damages** and how they take **financial responsibility** for the environmental **damages** that they have caused. It is a major goal, in addition to the elimination of the existing environmental damages, to reduce the possibilities for and the consequences of future environmental pollutions.

It is the common interest of the present and future generations to achieve that the users of the environment avoid and prevent endangering and deteriorating the condition of the environment in order to ensure that the means required **for averting** or reducing damage **are available**, including **the funds for the expenses** necessary for such intervention. **The state is responsible for** making the **relevant laws**, ensuring the necessary conditions, monitoring the behaviour of those who use the environment, including the detection of instances of illegal use of the environment, as well as **enforcing commitments**, even by taking over performance. The earmarking of **funds** set up from the already available **payments of the users of the environment** and/or chapter-managed extra-budgetary funds create the financial coverage for this.



Prof. Dr. Gyula Bándi, Ombudsman for Future Generations

It is vital that in **liquidation** proceedings, **the victims of environmental damages** should be specifically listed among the **creditors' claims**, and also, that **the authority** should be allowed to launch a **liquidation** procedure against the users of the environment. Through predictable means of **economic regulation** that **encourage prevention**, it can be achieved that users of the environment consider the preservation of the condition of the environment as a natural part of their activities.

### Implementation of official decisions

The Deputy Commissioner inquired into the difficulties posed by the **implementation** of official decisions and **obligations** on environmental protection. As a general rule, it is the tax authority that orders enforcement, whereas the environmental authority orders implementation in official environmental procedures. These are burdened by providing advance amounts for the – often irrecoverable – costs, so implementation **may** sometimes **depend on whether there is financial coverage for it**. As a result, the implementation of the resolutions adopted by environmental authorities often **does not materialise** in practice, due to the lack of funds, although the enforcement of the lawful condition is of key importance.

### Organisational and procedural guarantees in environmental protection

The **Constitutional Court's** decision adopted in 2019 **reaffirmed** the criteria brought up by the **Deputy Commissioner** in his “**amicus curiae**” submission regarding these guarantees. It is a constitutional requirement that the holder of the **official environmental and nature protection competence** **should not subordinate** environmental and **nature protection criteria to any other** considerations in his/her decision-making. The Deputy Commissioner strongly emphasised the **financial, organisational and procedural law constitutional requirements** that ensure the protection of the environment and nature, which the legislator should also assess from the perspective of **the non-regression principle**.

During the administrative reform, with a view to speeding up administration and reducing the administrative burdens of the clients, several **licensing and reporting obligations were cancelled without their guarantee roles having been taken over by any other legal institution**, or without having considered and **assessed** this circumstance **in substance** in legislation. However, these obligations cannot only be regarded as an “administrative burden” but they are the procedural guarantees for the harmony between the interests, as well as a fair distribution of the natural resources between the generations. The level of protection ensured by the laws cannot decrease, and the means of **prevention** **should not be replaced by subsequent sanctions** purely to make the **procedure faster** and cheaper.

Furthermore, the **legislator would** also **reduce the number and frequency of controls**. As a result of the administrative reform, however, the responsibilities of the state will not decrease, as **enforcing the requirements** of substantive law requires **stronger**

**control**, the conditions for which are the operability of the **monitoring** systems, presence on the site, as well as regular inspections.

### Public participation

The protection of the common heritage of the nation is everyone's duty; this is why the opinions of the stakeholders are of key importance in the process of law-making. This is supported by the procedures of **public consultation**, a substantial criterion of which is to become familiar with **the actual contents of the impact assessment**. In all the official procedures concerning the common heritage of the nation, the **civil society organisations** involved in the protection of the environment are entitled to **the legal status of a client**.

### Constitutional Court motion regarding the act on national landscape planning concerning Lake Balaton

The new National Spatial Plan defines the condition of our environment in the long run, as well as the limits of its capacity, ultimately the protection of the elements ensuring the sustainability of human life and the guarantees thereof, which is especially relevant for Lake Balaton. If all this is not treated as a priority, this will, in many cases, cause **an irreversible deterioration of the environment**, and will involve harmful consequences that affect human health and well-being. This is why the Deputy Commissioner submitted a Constitutional Court motion to the Commissioner in autumn 2019.

### Curia petition regarding the Balatonföldvár settlement planning regulation

The Commissioner, following the proposal made by the Deputy Commissioner, requested the Curia **to review the** respective **building regulation**. The **municipality decrees** should **also be adjusted** to the regional and **national plans** that reflect public interest and are established in higher ranking laws. The Deputy Commissioner urged government offices to initiate the amendment of those municipality decrees that do not comply with these requirements.

### Plans and strategies in climate and air protection

In the **long-term planning** processes, the requirement of sustainable development is more and more strongly emphasised. The strategic programmes **are** closely **built on each other**, their elaboration and **implementation** require a wide social and professional **consensus**. This is why the Deputy Commissioner took an active share in the elaboration of the new Hungarian **energy and climate strategies**. He drew attention to the fact that it is **not sufficient to** merely **summarise the impacts of the existing programmes**, plans and processes; **a substantial reduction of harmful emissions** should be achieved, for example, by developing public transport.

As regards climate change, the interests of the present and future generations are best served by endeavouring **to reduce emissions** as much as possible, as part of which increasing the energy efficiency and energy saving of the population should receive more focus, as they are simple and efficient ways to achieve climate-related goals.



Lake Balaton

## Water protection

In the framework of a workshop discussion, we examined the sources of conflicts related to the building of **residential wells**, proposing the elaboration and implementation of a specific **action plan** for the **comprehensive assessment** of these wells, **with a view to protecting** these indispensable residential **drinking water sources**. The **development of irrigation** cannot be viewed separately from the other types of water needs, either, including the water need of the natural environment; also, **soil conservation** should be given high priority. This is why, in the case of irrigation communities, procedural rules that allow **the consideration of different interests** are necessary.

## Protection of the built environment and heritage

The cancellation or **weakening** of the existing **procedural guarantees** has emerged as a problem in this area as well. In 2019, the protection of the cultural heritage came to the foreground primarily in the context of **the conservation of historical (listed) monuments**, typically related to the complaints concerning the cancellation of the protection of monuments, or priority investments affecting the values of monuments.

The Deputy Commissioner drew attention to the phenomenon that in the case of **investments** that have been declared to be of **key importance** for the national economy, the procedural guarantees have changed in such a way that the simultaneous **preservation of the protection level of constitutional values** and rights is not ensured. It may be a legitimate interest to simplify the procedure, but

this should be balanced with the set of criteria for environmental protection and nature conservation, as well as with the protection of cultural heritage.

## Waste and waste management

The Deputy Commissioner monitored **waste management** in Hungary, for by the reduction of waste production and the appropriate utilisation of waste, we can decrease the burdens of future generations and preserve the natural resources, while we can also improve the quality of life of our own generation. The source of the problems, among others, is in **the wrong incentive system**. The Deputy Commissioner emphasised that, based on the waste hierarchy, the **utilisation of the material** of the waste has **priority over incineration**. In the case of incineration that may become necessary, the **emission limit values** of the power plants to be involved in waste burning, as well as the technical parameters of combustion devices should be assessed.

## Human rights and sustainable development

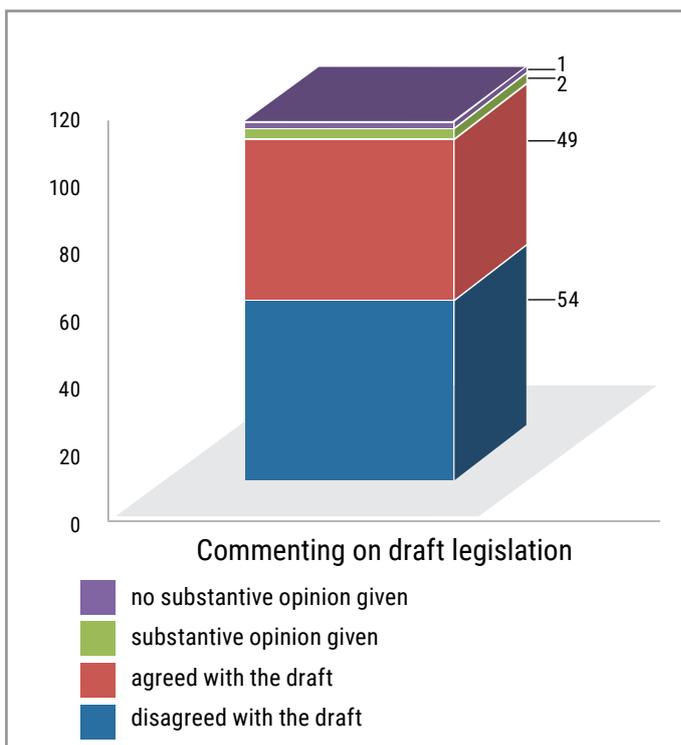
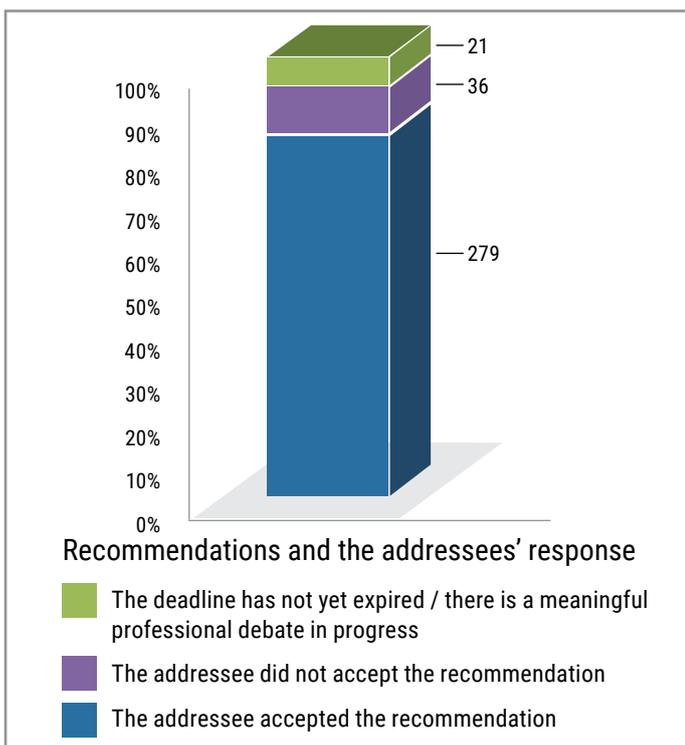
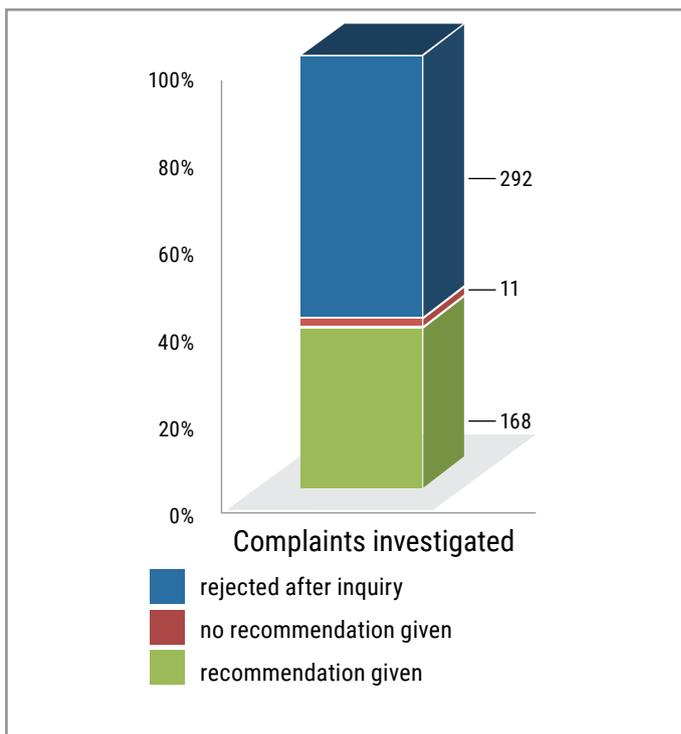
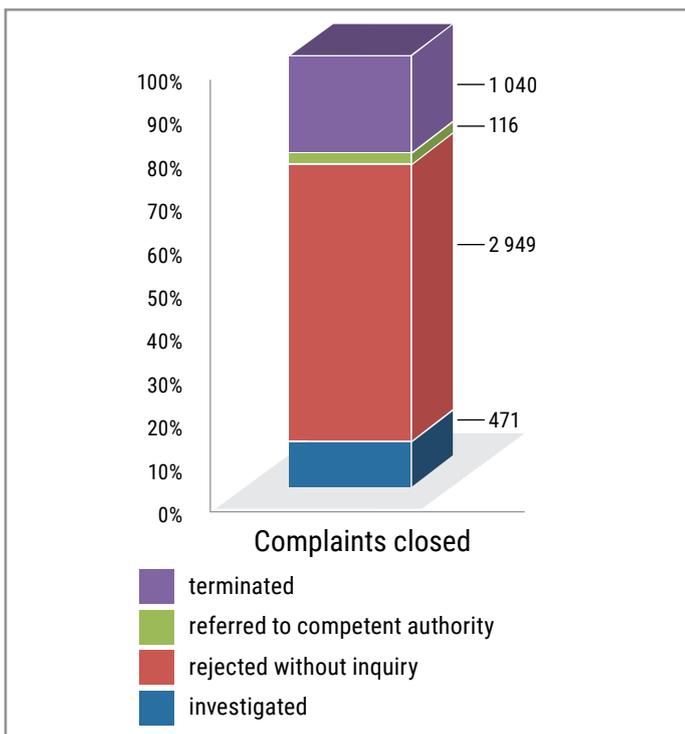
The Deputy Commissioner consistently advocates the close connection between human rights and sustainable development both in Hungary and abroad. The **Sustainable Development Goals of the UN** can only be understood and achieved **in conjunction with** ensuring the enforcement of **human rights**. The respective activities of the Deputy Commissioner will be discussed in Chapter 2.7.

## 1.12. THE ACTIVITIES OF THE OFFICE REFLECTED BY FIGURES

Year of receipt	2019
Number of cases received*	5693
Number of cases closed*	4665
Number of cases pending*	1128
Total number of cases closed	4622

\* Only taking into account cases received in 2019

Cases received and closed



Summary diagrams

Type of recommendation / Year of receipt	2014	2018	2019	total
Recommendation for a supervisory organ		1	73	74
Recommendation for the organ under review			186	186
Initiating the remedy of a constitutional impropriety at the organ concerned	2		3	5
Proposal for the elaboration of a government decree			1	1
Proposal for the amendment of a government decree			7	7
Proposal for the creation of regulatory means for a public law organisation			2	2
Proposal for the elaboration of a ministerial decree			9	9
Proposal for the amendment of a ministerial decree	2		15	17
Proposal for the amendment of a decree issued by the head of an independent regulatory agency			1	1
Proposal for the amendment of a municipality decree			4	4
Proposal for the amendment of an act	1		18	19
Initiating the correct future interpretation and application of the law	1		20	21
Not specified			12	12
<b>Grand total</b>	<b>6</b>	<b>1</b>	<b>351</b>	<b>358</b>

## Recommendations closed according to types

Filing period: 1/1/2012 – 31/12/2019 / Completion period: 1/1/2019 – 31/12/2019

Type of recommendation / Addressee's response / Year of receipt	2014	2018	2019	total	
Recommendation for the supervisory organ	the deadline for response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)			5	5
	the recommendation was accepted by the addressee by the deadline		1	50	51
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			4	4
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			1	1
	the recommendation was partly accepted/partly implemented by the addressee			12	12
	not specified			1	1
	<b>total</b>		<b>1</b>	<b>73</b>	<b>74</b>
Recommendation for the organ under review	the deadline for the response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)			10	10
	the recommendation was accepted by the addressee by the deadline			140	140
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			7	7
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			7	7
	the recommendation was not accepted by the addressee by the delayed deadline, or no substantive response was given			2	2
	the recommendation was partly accepted/partly implemented by the addressee			16	16
	despite receiving multiple warnings, the addressee of the first recommendation did not respond, and did not implement the recommendation			1	1
	not specified			3	3
	<b>total</b>			<b>186</b>	<b>186</b>
Initiating the remedy of a constitutional impropriety at the organ concerned	the recommendation was accepted by the addressee by the deadline	1		3	4
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given	1			1
	<b>total</b>	<b>2</b>		<b>3</b>	<b>5</b>



Type of recommendation / Addressee's response / Year of receipt		2014	2018	2019	total
Proposal for the elaboration of a government decree	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			1	1
	total			1	1
Proposal for the amendment of a government decree	the recommendation was accepted by the addressee by the deadline			3	3
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			1	1
	the recommendation was partly accepted/partly implemented by the addressee			2	2
	not specified			1	1
total			7	7	
Proposal for the creation of regulatory means for a public law organisation	the recommendation was accepted by the addressee by the deadline			2	2
	total			2	2
Proposal for the elaboration of a ministerial decree	the deadline for the response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)			1	1
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			5	5
	the recommendation was partly accepted/partly implemented by the addressee			3	3
	total			9	9
Proposal for the amendment of a ministerial decree	the deadline for the addressee's response has been prolonged, or there is a meaningful debate in progress			1	1
	the deadline for the response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)	2			2
	the recommendation was accepted by the addressee by the deadline			4	4
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given			4	4
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			4	4
	the recommendation was not accepted by the addressee by the delayed deadline, or no substantive response was given			1	1
	the recommendation was partly accepted/partly implemented by the addressee			1	1
total	2		15	17	
Proposal for the amendment of a decree issued by the head of an independent regulatory agency	the recommendation was accepted by the addressee by the deadline			1	1
	total			1	1
Proposal for the amendment of a municipality decree	the recommendation was accepted by the addressee by the deadline			2	2
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			1	1
	the recommendation was not accepted by the addressee by the prolonged deadline, or no substantive response was given			1	1
	total			4	4



Type of recommendation / Addressee's response / Year of receipt		2014	2018	2019	total
Proposal for the amendment of an act	the deadline for response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)			1	1
	the recommendation was accepted by the addressee by the deadline			6	6
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given	1		3	4
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			2	2
	the recommendation was partly accepted/partly implemented by the addressee			5	5
	not specified			1	1
<b>total</b>		<b>1</b>		<b>18</b>	<b>19</b>
Initiating the correct future interpretation and application of the law	the deadline for response has not yet expired (e.g. the deadline of the initiative submitted to the superior organ has not expired)			1	1
	the recommendation was accepted by the addressee by the deadline			7	7
	the recommendation was not accepted by the addressee by the deadline, or no substantive response was given	1		3	4
	the recommendation was partly accepted/partly implemented by the addressee			2	2
	not specified			7	7
<b>total</b>		<b>1</b>		<b>20</b>	<b>21</b>
Not specified	the recommendation was accepted by the addressee by the deadline			1	1
	the recommendation was accepted by the addressee with delay (e.g. no response was given, but the recommendation was implemented)			1	1
	the recommendation was partly accepted/partly implemented by the addressee			1	1
	not specified			9	9
<b>total</b>				<b>12</b>	<b>12</b>
<b>Grand total</b>		<b>6</b>	<b>1</b>	<b>351</b>	<b>358</b>

Recommendations closed according to types and the addressees' response

Filing period: 1/1/2012 – 31/12/2019 / Completion period: 1/1/2019 – 31/12/2019



## 2. THE COMMISSIONER FOR FUNDAMENTAL RIGHTS AND HIS DEPUTIES IN HUNGARY AND ABROAD

### 2.1. PUBLIC RELATIONS: KEY EVENTS OF THE YEAR

In 2019, the Commissioner for Fundamental Rights paid special attention to the protection of the rights of the most vulnerable social groups, such as children, the elderly, persons living with disabilities, the homeless, detainees, as well as to the protection of rights within the competence of the Deputy Commissioners, such as the right to a healthy environment and the rights of national minorities living in Hungary. The Commissioner for Fundamental Rights has always acted in defense of the rights of disadvantaged persons and those in a difficult situation with due responsibility and by relying on an approach and means that are adjusted to the specific features of the rights of vulnerable persons and persons in need.

The enforcement of the fundamental rights of psychiatric patients has for long been one of the focal points of the inquiries conducted by the Ombudsman. In 2017, the Ombudsman investigated into the functioning of the judicial inspection related to psychiatric care as one of the key elements of the guarantee system serving the enforcement of fundamental rights. Continuing this practice, **in 2019**, the Commissioner reviewed **the operation of the practice of the judicial inspection related to active in-patient child and adolescent psychiatric care**. In 2018, the Commissioner contacted all the in-patient child and adolescent psychiatry departments of the Hungarian hospitals in order to learn about their practices related to the above-mentioned statutory requirements. With a view to reviewing the regulation of the judicial inspection related to active in-patient child and adolescent psychiatric care as a fundamental rights-related guarantee, the Office hosted a **roundtable discussion on 25 April 2019**.

The 30th anniversary of the United Nations Convention on the Rights of the Child is celebrated all over the world on 20 November, and at the same time, this is the Universal Children's Day. On this occasion, UNICEF Hungary organised its Voices of Children campaign for the third time, as part of which the Youth Ambassadors of UNICEF visited the Office on 20 November 2019. During the visit, they were given the opportunity to meet the Commissioner for Fundamental Rights in person and to submit three complaints that they formulated, which they could then discuss with the staff members of the Office. After this, the Commissioner held an opening speech at the Aquarium Club, before the roundtable discussion titled "How old? 30! For the anniversary of the Hungarian Ombudsman institution and the UN Convention on the Rights of the Child".



*Dr. Ákos Kozma receives the UNICEF Youth Ambassadors at the Office – 20 November 2019*

### 2.2. CULTURAL, LEGAL DEVELOPMENT AND INFORMATION EVENTS AT THE OFFICE

Ever since its foundation, the Office of the Commissioner for Fundamental Rights has considered it a priority to conduct human rights-related scientific, educational and awareness-raising activities, to promote and popularise the Ombudsman's efforts as widely as possible, as well as to ensure the further professional training of students, professionals and researchers especially receptive to human rights.

#### *Trainee programme*

In 2019, for the tenth occasion already, the Office – under a co-operation agreement – provided an opportunity to the students of the faculties of law of several universities to participate in a professional traineeship. The **six-week**, two-part **traineeship programme** lasted from 4 February to 14 March 2019. In the first two weeks, the operation of the institution was presented at a theoretical training session held by the staff members of the Office. This was followed by a four-week practice when the trainees had an opportunity to get involved in the work of the Office, and mentored by the experts of the individual departments, they took their share in exploring, analysing and preparing the backgrounds of the individual cases. The students had the chance to acquire important competences at a workplace and in a position that were in synch with their studies, by linking their theoretical and practical knowledge.



Reception of trainees at the Office – 14 March 2019

### Training sessions

Climate researcher Dr. Diána Üрге-Vorsatz, the Hungarian member of the UN's Intergovernmental Panel on Climate Change (IPCC), Professor of Central European University held an internal training at the Office on 1 March 2019. Dr. Diána Üрге-Vorsatz has taken part in the scientific activity of IPCC for a long time, an organisation awarded the Nobel Peace Prize in 2007. She is currently the chair of IPCC's working group that is responsible for the reduction of carbon-dioxide emission. In her talk, Dr. Diána Üрге-Vorsatz discussed, among others, whether global warming can be halted at 1.5 degrees Celsius and if so, how. She also touched upon the most common misbeliefs related to climate change and their factual refutation, then she described the tasks to be performed on the international and Hungarian levels, and what we can do as private individuals to mitigate the effects.

### Legal development and information programmes, book premiere events

The journal "Barátság" ("Friendship") celebrated the 25th anniversary of its foundation on 15 March 2019. On this occasion, the editorial staff of the journal organised an anniversary event jointly with our Office. The periodical was founded by Ms. Éva Mayer, who had been distinguished with the Justitia Regnorum Fundamentum Award of our Office, with her colleague Ms. Mária Ember, with a view to promoting understanding and acceptance between the various ethnic groups in our multi-ethnic country by sharing knowledge on the history, traditions and culture of the individual ethnic communities.

At the Generali Children's Island programme series organised on Hajógyári Island, the staff members of the Office were present on 8-9 June 2019. This event was an excellent opportunity for the staff members to become familiar with the opinions and problems of the children and their parents, to listen to their questions and help the development of rights awareness in a playful form, as well as to achieve that everyone become aware of the operation and responsibilities of the Ombudsman institution, and the methods and options for lodging complaints.



The Ombudsman's tent at the Generali Children's Island – 8 June 2019

In 2019, the National Election Office organised the secondary school competition titled "Beyond the First X – Create Your Future, Make a Choice" for the third time, which began in September 2018 and ended on 28 February 2019. The goal of the contest was to familiarise young people with the significance of Hungarian and European democratic institutions, with special regard to elections. In 2019, there were not only municipal but also European Parliamentary elections in Hungary, so the topics of this year's contest were grouped around the knowledge on the operation of international organisations and EU institutions, mainly that of the European Parliament. At the initiative of the Chairman of the National Election Office, as the closing of the event, the students visited our Office on 1 March 2019, and they listened to the presentation given by the Commissioner for Fundamental Rights about the operation of the Office.



Closing event of the contest organised by the National Election Office at the Office – 1 March 2019

## Visits to the Office

Following the traditions of the previous years, **children supported by the Csányi Foundation** (from Pécs, Kaposvár and Jászberény) paid a visit to our Office on 26 April 2019. In the framework of the visit, the students had the opportunity to get acquainted with the operation of the Office, the activities and tasks of the Ombudsman, the rights of the child and the institutions that safeguard these rights in an interactive way, through discussions and solving fun tasks.

**In the academic year 2018/2019, the Speaker of the Hungarian Parliament announced a parliamentary scholarship programme for the 17th time, in which as many as 17 university students participated in 2019.** The aim of this scholarship programme is to allow participants to acquire a more profound understanding of the details of the legislative processes and the system of checks and balances. Accordingly, in the autumn period of the programme, the students familiarised themselves with the activities of the National Assembly both in theory and practice. In the spring period, they visited the Office of the Prime Minister, the Office of the President of the Republic, the Constitutional Court, the State Audit Office, as well as **our Office on 5 March 2019 in order to learn about the responsibilities, operation and organisation of our institution.**

Within the framework of the cooperation between the National Authority for Data Protection and Freedom of Information (NAIH) and the Kiev University of Law, a seven-member delegation arrived in Hungary between 16 and 18 September 2019. The Authority announced a competition for the students of the University on the subject of data protection. The authors of the best entries were awarded a trip to Hungary and could get an insight into the life of the National Assembly, the National Accreditation Authority, as well as NAIH, and they also paid a visit to the Parliament. In the framework of their visit on 17 September 2019, they had a chance to familiarise themselves with the operation of the Office of the Commissioner for Fundamental Rights.

## Exhibitions

In the academic year 2018/2019, the National Minority Centre of Education of the Educational Authority announced the National Ethnic Minority Drawing Contest for nursery school and junior primary school students who participate in national minority education in Hungary, for the third time, as well as the National Ethnic Minority Photo Contest for primary and secondary school students for the first time. The goal of these contests is to present the history, geography, cultural heritage, folk traditions and local traditions of the national minorities living in Hungary by means of fine arts and photography, as well as to develop the creativity of the national minority students. At the event organised jointly by our Office, the Authority of Education, and the Centre of Education for National Minorities Living in Hungary, the winners of the competition were awarded prizes, and the exhibition of the winning entries was opened ceremonially. The exhibited drawings were displayed at the Office until 30 April 2019.

## Prizes and awards

In 2019, the Commissioner for Fundamental Rights granted the *Justitia Regnorum Fundamentum* Award to three persons. This award was



Children supported by the Csányi Foundation visiting the Office – 26 April 2019



Visit paid to the Office by the participants of the parliamentary scholarship programme – 5 March 2019



Students of the Kiev University of Law at the Office – 17 September 2019



The choir of the Nikola Tesla Serbian Primary School, High School and Students' Home at the announcement of the winners of the National Ethnic Minority Drawing Contest – 26 March 2019

founded in 2007 and is granted for outstanding accomplishment, professional activities or career to those who have achieved or contributed to the achievement of extraordinary, exemplary results in the field of protecting human rights, in particular the rights of the child and other vulnerable groups, the rights of national minorities and the environment. The award can be granted to Hungarian and foreign nationals, religious and social organisations, or other communities. In 2019, the award was granted to **Dr. Albin Juhász-Laczik OSB, Headmaster of the Benedictine High School of Pannonhalma, Head of the Child Protection Programme of Pannonhalma, to Dr. István Farkas, Co-Chair of the Association of Hungarian Nature Defenders, as well as to the Association of National Self-Governments of the Nationalities.**



*The 2019 winners of the *Justitia Regnorum* Fundamentum Award with the Commissioner and his Deputies, 9 December 2019*

### 2.3. INTERNATIONAL RELATIONS

During his activities, the Commissioner for Fundamental Rights keeps close contact with the Hungarian and international institutions involved in human rights protection, and he supports their efforts with policy statements, professional materials, and by holding consultation sessions if necessary. The summary of the Commissioner's international relations in 2019 first deals with the relations and cooperation with the UN institutions and bodies, then the institutions of the Council of Europe and last, those of the European Union, following the structure of the international organisations involved in the protection of human rights.

#### *Activities pursued as a UN-accredited National Human Rights Institution*

The Commissioner for Fundamental Rights, as a UN-accredited National Human Rights Institution, is a member of the Global Alliance of National Human Rights Institutions (GANHRI), which works with the United Nations Office of the High Commissioner for Human Rights (the UN OHCHR), and which comprises and supports the National Human Rights Institutions. Furthermore, he takes part in the work of the European regional organisation of the network, i.e. the European Network of National Human Rights Institutions (ENNHRI).



*ENNHRI General Assembly and Conference in Brussels – 13 November 2019*

At the annual General Assembly of GANHRI in Geneva, Deputy Commissioner Dr. Gyula Bándi represented the Hungarian NHRI, accompanied by his expert staff. The Deputy Commissioner held discussions about the status “A” re-accreditation process. Furthermore, he presented and promoted the role and responsibilities of the “green ombudsman”, and he also introduced the Network of Institutions for Future Generations established by his predecessor, the coordination tasks of which are performed by the Secretariat of the Deputy Commissioner.

Commissioner Dr. Ákos Kozma and Secretary General Dr. Réka Varga, accompanied by their expert staff, attended in November the **General Assembly of the European Network of National Human Rights Institutions (ENNHRI)**, as well as their annual conference in Brussels. The Commissioner held a discussion with the Secretary General of ENNHRI, as well as with the observer appointed to the ENNHRI Accreditation Committee, about the re-accreditation of the Hungarian National Human Rights Institution. The conference gave the newly elected Hungarian Ombudsman the opportunity to introduce himself, as well as to initiate several bilateral relations. Commissioner Dr. Ákos Kozma was also received by European Ombudsman Ms. Emily O'Reilly in her Brussels office.

The Office undertakes professional consultation roles in several working groups of ENNHRI; including, for instance, the CRPD Working Group dealing with the Convention on the Rights of Persons with Disabilities, i.e. CRPD, the Legal Working Group, as well as the SDG Working Group, which was established for the harmonisation of the activities performed for the achievement of the UN Sustainable Development Goals and the enforcement of human rights.

In 2019, the work performed in ENNHRI's Legal Working Group focused on the monitoring of the practices of the European Court of Human Rights, the national-level implementation of judicial decisions, the possibilities of intervention with the court proceedings as a third party, as well as the effects of the prevention of terrorism on human rights.

In ENNHRI's CRPD Working Group, the inquiry methodology of the compendium interpreting Article 12 of CRPD was elaborated.

In the development of the compendium collecting the European best practices of decision-making, the Hungarian NHRI undertook a leading role, in joint efforts with the Czech NHRI partner. At the meeting, in addition to the main future goals of ENNHRI, international experts outlined the difficulties and challenges that affect the whole of Europe on the subject of inclusive education; furthermore, they presented the best practices of the individual member states.

Representing the Office of the Commissioner for Fundamental Rights as a National Human Rights Institution, an expert staff member of the Deputy Commissioner, Ombudsman for Future Generations attended the Geneva-based regional forum of the United Nations Economic Commission for Europe (ECE). The goal of this forum was to allow for a direct, personal sharing of experience and best practices related to the implementation of the UN's SDG – Sustainable Development Goals, as well as for presenting the challenges. For more details, see Chapter 2.7.3.

The Office is regularly represented at the UN Forum on Minority Issues by the Deputy Commissioner for the Rights of National Minorities.

The National Human Rights Institutions pay special attention to the observation of human rights obligations set out in the UN Human Rights Treaties and the related additional protocols. From among the UN's human rights legal documents, Hungary has by now ratified as many as 7 treaties and 9 additional protocols. From these, the CFR Act specifies two: since 1 January 2015, the Commissioner has performed the tasks of the National Preventive Mechanism of the Optional Protocol of the Convention against Torture and other Inhuman or Degrading Treatment or Punishment (OPCAT NPM). The activities performed by the Commissioner in this capacity of his in Hungary are described in more detail in Chapter 1.6.

During his activity, the Commissioner for Fundamental Rights has to pay special attention to supporting, protecting and controlling the implementation of the UN Convention on the Rights of Persons with Disabilities. Hungary ratified the Convention in 2007, according to which the states parties have a periodic reporting obligation. The Commissioner helped the work of the UN Special Rapporteur on the rights of persons living with disabilities with a mandate prolonged by resolution No. 35/6 of the United Nations Human Rights Council by sending them professional material several times. Furthermore, he supported the work of the committees and rapporteurs who wished to find out information under the aegis of CRPD monitoring.

The delegation of CRPD conducting inquiries in the framework of a special procedure arrived in Hungary in January 2019, in order to gather information on the statutory environment and decision-making mechanisms that ensure the enforcement of the rights and practising the capacity of persons living with disabilities, furthermore, to assess how the rights of persons living with disabilities to independent living and acceptance into a community are enforced, with special regard to the progress of the de-institutionalisation strategy. During the country visit, the experts of the Committee also visited our Office and held detailed coordination talks with our expert colleagues.



Visit paid to the Office by the CRPD delegation – 30 January 2019

In the CFR Act, the United Nations Convention on the Rights of the Child is not specifically mentioned, but it stipulates that supporting the enforcement of the rights of the child should receive special attention in the Ombudsman's activity. Therefore the Commissioner for Fundamental Rights participates in the work of several international organisations involved in the rights of the child. Upon entering into office, Commissioner Dr. Ákos Kozma pointed out that he regards the protection of the rights of children and other vulnerable persons as issues of key importance and that he intends to take stronger action in such cases, using the available legal means.

The Office regularly cooperates with the UNICEF (United Nations International Children's Emergency Fund) National Committee Hungary as well. This organisation is the advocate of children's rights, and plays an important role in controlling the implementation of the UN Convention on the Rights of the Child, which was adopted in 1989.

The publication titled *30/Thirty – Anniversary Volume of the Ombudsman in Honour of the Convention on the Rights of the Child* was compiled and issued by the Office on the occasion of the 30th anniversary of the adoption of the UN Convention on the Rights of the Child. In the title of the volume, the second "thirty" refers to the fact that the core of the text is constituted by the presentation of a considerable number – 30 in total – of the Ombudsman's reports published recently in the field of child rights. The thematic chapters present the summaries of the reports by linking them to the individual articles of the Convention on the Rights of the Child. These extracts avoid the legal jargon normally used in the reports, and aim for a reader-friendly and easily understandable style instead. The individual chapters show the main points of the reports, the steps taken, the results achieved and the follow-up of the cases. Moreover, they indicate the possible points of connection, i.e. subsequent or follow-up inquiries, thus boosting further studies and research. The volume on the rights of the child invites all those interested in children's rights and the Ombudsman's activities to read on and think about the topic, whether they are professionals working with or for children, or interested laymen.



The Commissioner for Fundamental Rights and his Deputy responsible for national minorities living in Hungary take all the opportunities available to the Ombudsman to step up against all forms of racism and discrimination. In the spring of 2019, the Office took an active role as an independent speaker in the session of the 98th session of the committee monitoring the operation of the International Convention on the Elimination of All Forms of Racial Discrimination, where Hungary's periodic report was discussed. For more details on that, see Chapter 2.6.2.

**The United Nations Development Programme, i.e. UNDP is the global development network of the UN. The United Nations Development Programme provides support to the promotion of social development and the development of democratic institutions. In the framework of the United Nations Development Programme, the Hungarian Ombudsman was pleased to share the ten-year experience gained in the area of the protection of future generations, as well as the five-year experience obtained in the protection of the interests of whistleblowers with the Moldavian Ombudsman's Office, i.e. the People's Advocate Office of Moldova and the Moldavian National Anti-corruption Centre.**

In the framework of the training cooperation between the Hungarian and Moldavian Ombudsman Offices on the protection of whistleblowers, our expert colleagues held presentations, as well as theory- and practice-oriented training sessions in Chisinau in May.

### *Cooperation with the Council of Europe*

**The Council of Europe is a key partner for European defenders of fundamental rights. One of the major achievements of the organisation is the European Convention on Human Rights: in the case of a violation of the rights included herein, an action may be brought before the European Court of Human Rights, the judicial practices of which are closely followed by our Office. The Council of Europe has put in place a high number of conventions that are significant for human rights defenders, as well as mechanisms that support and monitor the observance of these conventions.**

With a view to monitoring the implementation of the Framework Convention for the Protection of National Minorities, the Committee of Ministers of the Council of Europe set up an Advisory Committee, which supports the activities of the Council of Europe in the area of minority protection by country visits and the preparation of reports. The members of the Advisory Committee are recognised experts in the area of the protection of national minorities. The Committee of Ministers of the Council of Europe elected Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities Dr. Elisabeth Sándor-Szalay as a permanent member to the Advisory Committee of the Framework Convention for the Protection of National Minorities. Her mandate runs for four years, and it began on 1 June 2016.

CPT (the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) was established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, which took effect in 1989. Head of OPCAT NPM Department Mr. Gergely Fliegauf was elected the Hungarian member of CPT by the Committee of Ministers of the Council of Europe at its meeting on 15 March 2017. His mandate runs from 20 December 2017 until 19 December 2021.

The fight against xenophobia, anti-Semitism and intolerance is headed by the European Commission against Racism and Intolerance (ECRI). One of the first Hungarian Ombudsmen was an ECRI member for seventeen years, before becoming Deputy Chair and eventually, Chair of the organisation.

**The Office regularly cooperates with the main bodies, committees and rapporteurs of the Council of Europe, among others, with the Congress Local and Regional Authorities, the Commissioner for Human Rights and the Venice Commission.**

On 19 March 2019, the Commissioner received in his Office the delegation of the Congress of Local and Regional Authorities of the Council of Europe on its monitoring visit to Hungary. Such visits – generally repeated every five years – are a regular routine in the practice of the Congress, and involve the visiting of several local municipalities, authorities, ministries and other institutions. This time the aim of the monitoring visit was to assess the current situation of local and regional democracy in Hungary, as well as to verify whether the provisions of the European Charter of Local Self-Government, ratified by Hungary in 1994, are properly implemented. The delegation's focus of interest was Congress Resolution 296 (2010) REV on the role of local authorities in the implementation of human rights at local and regional level. During the meeting, the Ombudsman, his staff, and the members of the delegation discussed the role of the Ombudsman with regard to local and regional authorities, and the most common types of complaints submitted to the Office regarding local affairs, as well as the involvement of the national minority communities living in Hungary in local politics and public affairs.

**In 1999, the institution of the Commissioner for Human Rights was established by the Council of Europe. The role of the Commissioner is to help the individual member states**

with recommendations and advice, and he/she also supports the National Human Rights Institutions. Similarly to her predecessors, the new Human Rights Commissioner of the Council of Europe, Ms. Dunja Mijatović received a warm welcome from our Office. During her visit to Hungary in February 2019, she focused her attention on the envisaged establishment of administrative courts. During their meeting, Ms. Dunja Mijatović and the Commissioner exchanged ideas on human rights and migration, human rights defenders and the civil society, gender equality, and the enforcement of women's rights.

The consulting body of the Council of Europe, consisting of prestigious lawyers, academics, constitutional and international law experts, the Venice Commission elaborated the so-called Venice Principles, aimed at the strengthening and protection of Ombudsman institutions. In May 2019, the Venice Principles consisting of 25 points were also approved by the Committee of Ministers of the Council of Europe. Related to this topic, **on the International Human Rights Day (10 December 2019)**, an international conference was organised, to which the Hungarian Ombudsman was also invited. Dr. Ákos Kozma was pleased to attend the conference titled **“The Role of the Venice Principles in Strengthening Ombudsman Institutions”**, which was organised by the Association of Mediterranean Ombudsmen (AOM) and the Ombudsman institution of Cyprus. During the conference, the participants reviewed the role of the Venice Principles in strengthening the independence of Ombudsman institutions, as well as the challenges that the world's Ombudsmen are facing at present and in the future. Before and after the conference, the Commissioner for Fundamental Rights established contacts with a high number of national and regional Ombudsmen, among others, with the President of the International Ombudsman Institute (IOI) Mr. Peter Tyndall, the Secretary General of the organisation Mr. Werner Amon, as well as the President of AOM Mr. Andreas Pottakis. During these exchanges of ideas, the Ombudsmen also reviewed possibilities of future cooperation.

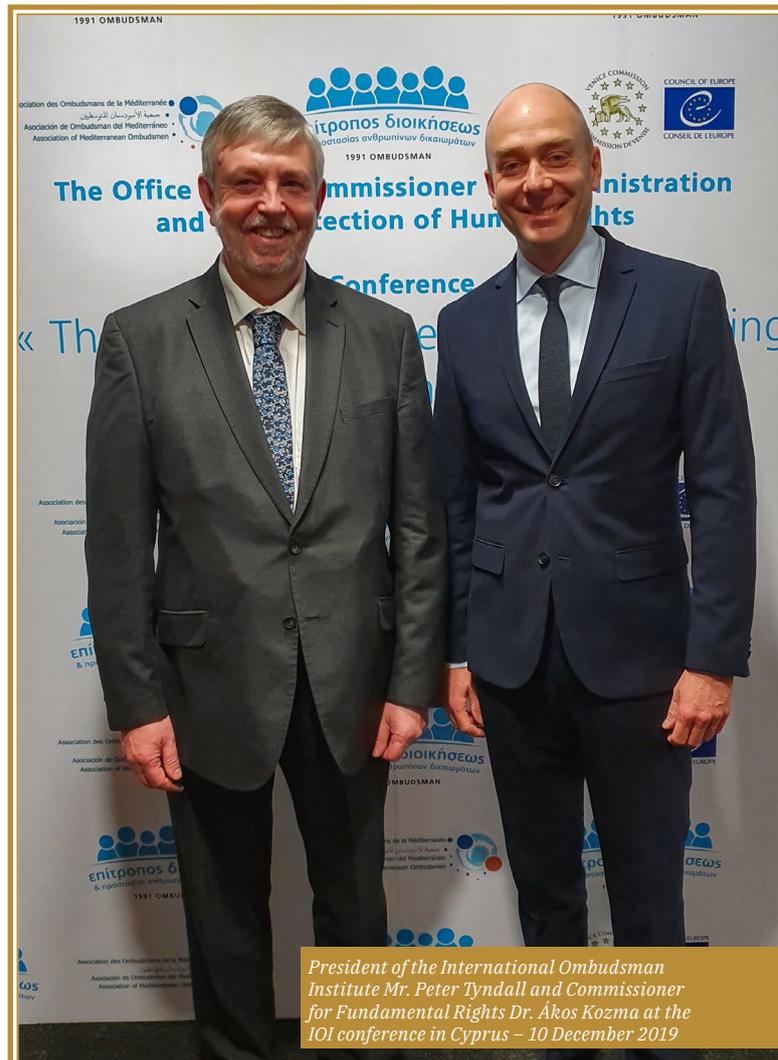
On behalf of the Council of Europe, the expert staff members of the department responsible for the supervision of the implementation of the decisions adopted by the Strasbourg-based European Court of Human Rights, focusing on Hungarian cases, came to Budapest between 28 and 30 October 2019 primarily to hold coordination talks with the Government representatives and those of the competent ministries and authorities regarding a few specific cases. With regard to the fact that National Human Rights Institutions play a distinguished role in the system of the Convention and the implementation of the decisions of the Court, the primary objective of the visit to the Office was to establish personal contact and explore possibilities of future cooperation, on account of the taking office of the newly elected Ombudsman Dr. Ákos Kozma in September.



*Visit of the delegation of the Congress of Local and Regional Authorities of the Council of Europe at the Office, 19 March 2019*



*Human Rights Commissioner of the Council of Europe Ms. Dunja Mijatović at the Office – 5 February 2019*



*President of the International Ombudsman Institute Mr. Peter Tyndall and Commissioner for Fundamental Rights Dr. Ákos Kozma at the IOI conference in Cyprus – 10 December 2019*

## ***The organisations of the European Union and European networks***

After their personal meeting in Brussels, Ombudsman Dr. Ákos Kozma sent a letter of congratulation to European Ombudsman Ms. Emily O'Reilly, who was re-elected by the European Parliament (newly set up after the European elections) for a five-year term after her mandate expired in 2019.

### ***The European Union Agency for Fundamental Rights – FRA***

The Office has well-established and long-standing relations with the European Union Agency for Fundamental Rights (FRA), which was formed on 1 March 2007 under Council Directive No. 168/2007/EC (15 February 2007). The Charter of Fundamental Rights of the European Union defines the personal, civil, political, economic and social rights of the persons living in the European Union. The European Union Agency for Fundamental Rights is an independent body of the EU specialising in this field, whose mandate covers the full scope of the rights defined in the Charter.

In 2019, the Agency organised several thematic workshops, launched EFRIS, i.e. the EU Fundamental Rights Information System, which is a database for the monitoring of human rights control mechanisms by the member states, organised joint training sessions with the member state (Finnish, Croatian and Polish) NHRIs for civil society organisations and policy-makers, as well as the staff members of the NHRIs. 2019 also saw the implementation of a research project as a result of which a detailed and comprehensive analysis of the NHRIs operating in the member states will be offered, by reviewing the current situation of the institutions, their respective achievements, challenges, and so on. Our Office also took an active part in this research effort, by providing detailed information on the work performed by the institution and its situation. The report summarising the findings of the research programme is expected to come out in May 2020.

**The Commissioner for Fundamental Rights further extended his international relations in 2019 as well, by joining a newly established international anti-corruption and whistleblower protection network called the Network of European Integrity and Whistleblowing Authorities (NEIWA).** After the inaugural session held in the Hague, Netherlands, our expert colleagues attended the next meeting of the national organisations joining the network and protecting whistleblowers, which was convened in Paris. The organisations of the states joining the network, within the frameworks of the national legal systems and authorisations of the individual countries, undertake an obligation for the protection of persons reporting breaches of EU law, for the transposition of the mechanisms for whistleblower protection in compliance with the legislative position of the European Parliament of 16 April 2019, as well as the fundamental principles set out in the directive of the European Parliament and the Council of Europe of 23 October 2019. With regard to the fact that the Complaints

Act contains comprehensive protection rules for the whistleblowers and this fact had already been known before the adoption of the Directive, the Commissioner signed the declaration of intent.

The staff members of the Office have regularly participated in **training programmes held by the Academy of European Law (ERA) in Trier, Germany** for several years. ERA was established at the initiative of the European Parliament in 1992. Since then, as many as 25 of the 28 member states joined the foundation that operates the Academy. ERA was elected to the Steering Committee of the European Judicial Training Network (EJTN), which had been set up with ERA's participation. It maintains close relations with many national institutions involved in the training of lawyers, with a view to the joint organisation of training programmes for judges and public prosecutors. The Office regularly receives groups that visit Hungary in the framework of the EJTN and wish to get acquainted with the Hungarian Ombudsman's rights protection activity. In 2019, our staff members attended ERA seminars related to the following topics: gender equality; rights of persons living with disabilities; the special aspects of the UN Convention on the Rights of Persons with Disabilities and the European Charter of Fundamental Rights, and the relations between the UN Convention on the Rights of Persons with Disabilities and the national laws; the EU framework laws on equal treatment, with special regard to the European Charter of Fundamental Rights, the international treaties, and the respective EU directives.

### ***European Network of Equality Bodies (EQUINET)***

The European Network of Equality Bodies (EQUINET) is the organisation with which our Office has had the longest standing relations. The cooperation forum established in 2002 became an international organisation with independent legal personality in 2007, and it continues to take action against the various forms of discrimination. The 49 member organisations operating in as many as 36 European countries fight against the various forms of discrimination with different authorisations, competences and means. Hungary is represented in Equinet both by our Office and the Equal Treatment Authority of Hungary. Equinet is one of the key international partners of the Office in several working groups, professional consultation sessions and conferences of which the staff members of the Office are regular and active participants.

In 2019, the experts of the Office participated in the meetings of several working groups of Equinet organised outside Hungary. The meetings of the communication working group of Equinet, as well as the related training sessions, were organised in Sofia, Bulgaria, then in Riga, Latvia. During the meetings of the working group, the participants could get an insight into Equinet's strategic and action plans on communication, and they also had the opportunity to get acquainted with the best practices of the various equal opportunity organisations.

In Berlin, at the meeting of Equinet's working group on ageing, the participants exchanged their views on the forms of age-based discrimination, and the activities performed by the equal opportunity bodies in order to prevent discrimination.

The meetings of Equinet's working group on gender equality were organised in Lisbon, then Copenhagen, where the participants assessed the process of the European and national ratification and implementation of the Istanbul Convention (the Council of Europe's Convention on preventing and combating violence against women and domestic violence), finalised the Equinet information leaflet on the situation and rights of transsexual and intersexual persons, as well as the policy analysis publication on combating violence against women. Furthermore, the participants discussed the possible topics of the roundtable meeting on the situation of women living in poverty to be organised in 2020, as well as the political priorities of the new gender equality strategy of the EU, and they defined specific regulatory objectives in numerous topics for the new Commission.

The annual General Assembly of Equinet, as well as the conference on combating sexual harassment were held in Brussels between 22 and 24 October 2019. The General Assembly elected the new Executive Board, and approved Equinet's new homepage and communication strategy, along with the 2020 work plan of the organisation. The representatives of the member organisations took part in the panel discussions presenting the findings of research projects on the effects of artificial intelligence and digitalisation on equal opportunities, and attended further workshop discussions on the topic of equal opportunities organisations. The day was closed by a public roundtable discussion on the post-#MeToo era in Europe, which attracted more than two hundred participants.

**The main task of the European Network of Ombudspersons for Children (ENOC), established in 1997, is to promote the protection of the rights of the child stipulated in the UN Convention on the Rights of the Child.**

The Office was represented at the European Forum on the Rights of the Child in Brussels in 2019 as well. This event is organised each year by the European Commission, while now it was organised on the occasion of the thirtieth anniversary of the adoption of the UN Convention on the Rights of the Child, as well as the tenth anniversary of the entering into force of the Charter of Fundamental Rights of the European Union. At the forum, all the achievements made in the EU with regard to children's rights, and in the priority areas for the protection of the rights of the child were discussed, and the future direction of the work was also identified. The forum held discussions on three parallel topics, which have priority in the work of the European Commission. These are the following: 1) protection of migrant children, 2) the rights of the child in an ever-changing digital world, and 3) the participation of children and young people in the political and democratic life of the EU. It was in relation to this that the 23rd annual conference of ENOC was held in the autumn, which focused on the topic of digital child protection.

**EUROCHILD, which is a European umbrella organisation founded in 2003 from the European Forum for Child Welfare (EFCW) and which comprises some 100 children's rights member organisations, assigns a key role to action against child starvation and the ill-treatment of children.** The Office was represented at the annual conference of Eurochild held in Brussels, where the organisation identified the following key priorities for 2019: participation in the new European legislative processes, strategic cooperation with the European Commission, fight against child poverty, and the promotion of the involvement of children in democratic decision-making processes.

**The Office takes part in the work of the Innsbruck-based European Ombudsman Institute (EOI), and the European Network of Ombudsmen (ENO), which was established in 1996.**

**ENO is a network comprising more than 95 Ombudsman Offices of 36 European countries, which was created with a view to promoting the exchange of experience on human rights between the member states of the EU, candidate countries, members of the European Economic Community, as well as the European Ombudsman and the Petitions Committee of the European Parliament.** At the annual Brussels-based conference of ENO, our Office was represented by Deputy Commissioner Dr. Gyula Bándi. At the plenary sessions of the conference, the strengthening of European democracy and public participation were discussed. During the workshop titled *Developing soft power*, some of the best practices of the Hungarian Ombudsman were presented, which sparked great interest: namely, the county visits of the Commissioner as a practice established to balance our centralised systems, and help reach those strata of society that have limited access to justice, regular cooperation with civil society organisations, joint events, as well as the annual handover of the *Justitia Regnorum Fundamentum* Award.

Ombudsman institutions take turns in organising **the annual meetings of the Ombudsmen of the Visegrad Group (V4) countries, which have by now become a tradition.** The experience of the previous years has shown that the independent Ombudsman institutions have to face similar legal and social challenges in the East Central European region; for which the sharing of professional experience and best practices is an excellent source of support. The Office was represented by Deputy Commissioners Dr. Elisabeth Sándor-Szalay and Dr. Gyula Bándi, along with expert staff members at the professional meeting of the Ombudsmen of Hungary, the Slovak Republic, the Czech Republic and Poland, which was organised **in Bratislava.** The **key topics of this year** included the trends of educational segregation and the possible ways to achieve desegregation; the child protection systems and challenges and opportunities related to the status of foster parents; homelessness and the right to housing; damages incurred in administrative competence.

## *Other forms of cooperation*

During his activity, the Commissioner strives to maintain relations with both European and non-European institutions involved in international human rights protection in as wide a range as possible.

The Ombudsman supports the efforts of the international organisations, institutions, the Ombudsman institutions of other countries, and NGOs by giving policy statements, providing professional materials, participating in conferences, seminars and workshops, furthermore, by holding consultation and training sessions if necessary. At the request of our cooperation partners, our expert staff members send out professional materials and fill in questionnaires on a regular basis.

**Of the data provided by the Office** in 2019, the following should be highlighted:

The Chairman of the UN's Open-ended Working Group on Ageing asked our Office to officially take part in the preparation of the work of the 10th session in its capacity as a status 'A' National Human Rights Institution. Thus, the Office supported the preparatory work of the Working Group on Ageing by giving expert answers to the questionnaires based on the discussions of the 8th session, specifically, on the topics of long-term and palliative care, as well as autonomy and independence.

Related to the 11th session, the regular annual questionnaires of the UN's Open-ended Working Group on Ageing were about the right to work and access to the labour market, and access to justice. The Office supported the Working Group by giving answers related to the normative framework of the topics of the previous session, on the subjects of education, training, life-long learning, capacity-building, as well as social protection and social security, and minimum social protection floors.

At the request of the special rapporteur on the rights of persons with disabilities, whose mandate was prolonged by resolution No. 35/6 of the United Nations Human Rights Council, the Department for Equal Opportunities and Children's Rights of the Office answered several questionnaires in 2019. Among others, the questionnaires dealt with questions of bioethics and the rights of the elderly with disabilities.

The Special Rapporteur of the UN on the Sale and Sexual Exploitation of Children Ms. Maud de Boer-Buquicchio requested and received support for her report for the 43rd session of the UN Human Rights Council, through the completion of a questionnaire.

The Office also sent answers to the questionnaire of the Office of the United Nations High Commissioner for Human Rights, which they received on the subject of the enforcement of the rights of the child through access to a healthy environment.

The Special Rapporteur of the UN on Violence against Women Ms. Dubravka Šimonović also turned to the National Human Rights Institutions with an information request, related to a report to be compiled on the ill-treatment and violence against women during the provision of reproductive healthcare services (with special regard to obstetric healthcare services). Our Office also took part in the information supply by presenting the related cases that our institution has become aware of.

Related to Sustainable Development Goal 16 (peace, justice and strong institutions), the Office of the United Nations High Commissioner for Human Rights requested our Office, among others, to share our best practices and experience gained as an NHRI, in support of the compilation of a report to be prepared for the 41st session of the Human Rights Council.

The International Organisations Department of the Ministry of Foreign Affairs forwarded the register of the Secretariat of the Advisory Committee of the UN Human Rights Council. This document draws attention to resolution No. 41/11 of the UN Human Rights Council of 11 July 2019, accepted by consensus, titled "New and Emerging Digital Technologies and Human Rights", in which the Advisory Committee was asked to prepare a report on the human rights aspects of these techniques (effects, opportunities, challenges) and to submit it to the 47th session of the UN Human Rights Council. Our Office provided expert support for this.

In compliance with the provisions set out in resolution No. 36/16 of the UN Human Rights Council titled "Human Rights in Justice, including Juvenile Justice", the Office of the UN High Commissioner for Human Rights prepared a report on the situation of human rights in justice, with special regard to the violent incidents, cases of death and serious injuries that occurred in situations involving deprivation of liberty. In accordance with its OPCAT NPM mandate, our Office also took its share from the data gathering preceding the report.

At the request of the European Network of Ombudsmen for Children (ENOC), the staff members of the Office completed several questionnaires (Mental health of children and young people under 18; Intercountry adoption). Our Office was also contacted by the French Ombudsman for Children through the ENOC network, who asked our staff to provide them with a general description of the Hungarian child protection system.

The Office provided professional support to Japanese university researcher Mr. Mahito Shindo, whose area of research is the relations between the Compliance Committee of the Aarhus Convention and the Ombudsmen, mainly those pertaining to environmental issues.

## *Other international cooperations*

Expanding the scope of bilateral and multilateral cooperation with other Ombudsman institutions and international organisations involves the reception of the representatives of these organisations at our Office, as well as participation in the conferences organised by them, and it compels the Office of the Commissioner for Fundamental Rights (OCFR) to join in the implementation of the projects launched by these organisations.

**The Commissioner for Fundamental Rights is a member of the International Ombudsman Institute (IOI) established in 1978, which comprises as many as 188 national and regional Ombudsman institutions from 90 countries of the world.**



*Visit of Ukrainian Ombudsman for Children Mr. Nikolai Kuleba and his colleagues at the Office, 6 September 2019*



*Visit of Commissioner for Fundamental Rights Dr. Ákos Kozma at Commissioner for Human Rights of the Russian Federation Ms. Tatyana Nikolayevna Moskalkova – 18 December 2019*

In addition to the above-mentioned Moldavian training cooperation, during which the Commissioner for Fundamental Rights built in-depth professional relations with the Moldavian Ombudsman's Office and the Moldavian National Anti-corruption Centre, the Ukrainian Ombudsman for Children and the students of the Kiev University of Law also paid a visit to our Office.

The expert staff members of the Ukrainian Ombudsman for Children Mr. Nikolai Kuleba, Presidential Deputy for the protection of the rights of the child, as well as the delegation of social workers of Ukrainian civil society organisations held a meeting at the Office of the Commissioner for Fundamental Rights on 6 September 2019. The purpose of the visit was to gain first-hand experience about the Hungarian programmes called “Biztos Kezdet” (Sure Start) and “Tanoda” (Second Chance School), the possibilities of young adults living with disabilities to start their lives independently or with support, and to gather all the best practices that they could successfully apply in Ukraine. The professional meeting held in the Office of the Commissioner for Fundamental Rights was attended by Dr. Elisabeth Sándor-Szalay, Deputy Commissioner, Ombudsman for the Rights of National Minorities, as well as the staff members of the Department for Equal Opportunities and Children's Rights of the Office.

Upon the invitation of Commissioner for Human Rights of the Russian Federation Ms. Tatyana Nikolayevna Moskalkova, Ombudsman

Dr. Ákos Kozma travelled to Moscow in December 2019, where he attended an international conference titled “Issues of the Protection of Human Rights in the Eurasian Region: Sharing the Best Practices of Ombudsmen”. The participants exchanged their views concerning the effect of the integration processes of the Eurasian region on the protection of human and civil rights, as well as freedoms, the application of the monitoring mechanisms of National Human Rights Institutions, and the protection of the rights of migrants, refugees and stateless persons. The Commissioner for Fundamental Rights conducted bilateral talks with Ms. Tatyana Nikolayevna Moskalkova and Chief Ombudsman of the Republic of Turkey Mr. Şeref Malkoç.

## 2.4. OPCAT NPM INTERNATIONAL ACTIVITIES

Similarly to the previous years, the National Preventive Mechanism (NPM) carried out intensive international work in 2019 as well. In addition to participating in international conferences and further trainings, the NPM staff pursued consultations on a number of issues with relevant partners on several occasions, provided information about the operation of the Hungarian NPM, or requested assistance from the NPMs of other countries. Moreover, the Commissioner for Fundamental Rights and his colleagues regularly participated in research projects of partner institutions, and took every opportunity to disseminate information on the activities of the NPM as widely as possible also at the international level.

**Our main international partners in 2019 were as follows: the United Nations (Subcommittee on Prevention of Torture – SPT, Office of the High Commissioner for Human Rights – OHCHR), South-East Europe NPM Network (SEE), European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe, as well as other NPMs, and various other organisations.**

### Cooperation with the United Nations

In late 2018, as a consequence of the publication of the SPT report, it became possible for the NPM to apply for the fund specified in Article 26 of OPCAT. On 15 February 2019, after extensive consultations with the member organisations of the Civil Consultative Body and the heads of the specialist fields of the Office, the NPM submitted its application to the Office of the United Nations High Commissioner for Human Rights, and simultaneously informed the Permanent Mission of Hungary to the United Nations about the application. The SPT admitted the application on 25 February 2019. The title of the application was “Interview Techniques, South-East Europe OPCAT NPM Workshop 2020 – Office of the Commissioner for Fundamental Rights”. The Office’s own contribution to the application was 5,519 USD, while the amount of grant applied for was 10,249 USD. The four key focuses of the workshop are as follows: 1. Interviewing with children, 2. Interviewing with people living with psycho-social disabilities, 3. Interviewing with foreigners and/or members of national or ethnic minorities, 4. Interviewing with LGBTQ people. At the end of December 2019, the SPT published on its website that the grant was awarded to the NPM.

### Cooperation with the SEE

On 11–12 June 2019, the experts of the OPCAT NPM Department participated in the SEE conference (NPM Policy on Reprisals), which was organised in Skopje, North Macedonia. The participants of the conference shared practices used in case of reprisals already experienced by the NPMs in the course of their operation, the possible forms of reprisal, as well as the possible ways of the effective management thereof.

On 2–3 October 2019, again in Skopje, the SEE held its second annual conference. This conference was attended by the Head of the OPCAT Department. The theme of the conference was the detention of children. The participants of the conference issued a statement according to which the primary objective of the NPMs belonging to the Network is to formulate recommendations which enforce the best interests of children through child-friendly justice. The representative of the Hungarian NPM noted that thanks to the OPCAT special fund, the Office of the Commissioner for Fundamental Rights would organise – presumably – a conference for the Member States of the SEE in 2020.



Participants of the SEE conference held in October 2019

### Cooperation with the CPT

Dr. Gergely Fliegau, Head of the OPCAT Department attended the plenary sessions of the CPT on 4–8 March, 1–5 July and 4–8 November 2019; he participated in the delegation meeting held between 30 January and 1 February 2019 on the country visits of the Committee to Georgia and the Russian Federation; he took part in the country visit to Denmark between 2–12 April 2019, and attended the delegation meeting of this visit on 23–24 September 2019.

From 4 to 6 November 2019, the Deputy Head of the OPCAT NPM Department attended the high-level festive conference organised on the occasion of the 30th anniversary of the CPT and its accompanying NPM events and meetings in Strasbourg. The subject of the conference of 4 November 2019 was the implementation of safeguards in the first hours of police custody. The Deputy Head of Department gave a detailed presentation about the working methods used by the Hungarian NPM. On the consultation organised by the Association for the Prevention of Torture (APT, Switzerland) on 5 November 2019, she noted that the NPM seeks to exercise its powers as widely as possible. In line with the expectations of the SPT, the NPM regularly visits non-traditional places of detention (centres for the elderly, children’s homes, places of house arrest, psychiatric institutions, etc.) as well.

### Other international activities

On 12–13 February 2019, the Head of OPCAT NPM Department and his colleague attended a workshop organised in Budapest within the framework of the project titled “Strengthening the rights of persons suspected or accused in criminal proceedings – the role of National Human Rights Institutions” led by the Ludwig Boltzmann Institute of Human Rights (LBI, Austria) in cooperation with the Hungarian Helsinki Committee, the Helsinki Foundation for Human Rights (Poland) and the Peace Institute (Slovenia). In the first phase of the project, interviews were conducted with the participation of human rights institutions (NHRIs, NPMs) from 15 states and other experts. Furthermore, an online survey was completed on the enforcement of the rights of suspected or accused persons, and the effective assurance thereof. On 24 October 2019, an expert of the OPCAT NPM Department participated in the closing conference of the project titled “Developing Guidance for NHRIs to Strengthen Procedural Safeguards”.

## 2.5. ANALYSIS OF MEDIA PRESENCE

In autumn 2019, the six-year mandate of the Commissioner for Fundamental Rights and that of his Deputy Commissioner responsible for the protection of the rights of nationalities living in Hungary expired. Following the decision of the National Assembly, **Commissioner for Fundamental Rights Dr. László Székely was replaced by Dr. Ákos Kozma in September, while Deputy Commissioner Dr. Elisabeth Sándor-Szalay was re-elected in November.** As the statistics on topics demonstrate, besides the reports and statements issued by the Commissioner and his Deputies, the selection and transition process also attracted significant media attention.

According to the summary made by the Observer Budapest Médiafigyelő Kft., which covered the media appearances from 1 January to 31 December 2019 and analysed them on a quantitative basis, 2,448 media appearances concerned the Office during the reporting year. These included **1,957 online, 327 print and 164 radio and television appearances**. The outstanding proportion of the online media appearances has followed the trend of recent years: **the online platforms** – in conjunction with the web contents – **have been continuously increasing in number**, while the classical forms of media have been steadily losing their importance.

According to **the statistics on the monthly breakdown of media appearances**, the activities carried out by the Office gained the widest media coverage in February 2019: this month was characterised by 251 online, 48 print and 8 radio and television publications. This was mainly attributable to one of the Commissioner's statements issued that month. In December of the preceding year, the Ombudsman completed a report which concerned the payment obligation of parents staying in the hospital with their sick child. **In February 2019**, the topic got wider publicity again, as the Office had previously issued a statement according to which the ministry agreed with the recommendations of the Commissioner and planned to take actions in the case. The media's considerable interest was understandable, given that it was a topic the majority of the society could relate to, and it stirred up a lot of emotions.

The statistics brought **December 2019** to the second place with impressive numbers again (240 online, 38 print and 13 radio and television appearances), which could be put down – in addition to the Commissioner's considerable activity – to a topic that affected the majority of the society and aroused media interest: Ombudsman Dr. Ákos Kozma requested the relevant ministry to postpone the introduction of the new rules of procedure pertaining to the establishment of school-readiness and the commencement of compulsory education.

The number of media appearances was below the average in August (60 online, 9 print and 3 radio and television), in September (104 online, 8 print and 12 radio and television) and in October (79 online, 14 print and 1 radio and television). Regarding the last month of summer, this was a typically less eventful period, which was also true for part of September. Furthermore, the beginning of autumn **was marked by the transition period** (due to the taking of office by Ombudsman Dr. Ákos Kozma), which resulted in a temporary decrease in the number of the Commissioner's statements, i.e. the generators of media appearances.

As regards the statistics on media appearances by topics, **Dr. Ákos Kozma's nomination and election to the position of the Commissioner for Fundamental Rights** was the event that received the biggest media attention in 2019. In terms of figures, this translated into 237 (176 online, 33 print and 28 radio and television) media appearances. This was followed by **the re-election of Dr. Elisabeth Sándor-Szalay to the position of Deputy Commissioner, Ombudsman for the Rights of National Minorities**, which generated 172 (108 online, 43 print and 21 radio and television) publications. The popularity of the election of the Ombudsman

and his Deputy, and the filling of these positions as a topic, is understandable, since this information of public interest affects the society as a whole. In light of this, the above-average activity of the press is understandable.

Regarding media appearances, the third and fourth places were taken by **topics concerning children and their fundamental rights** reported on by various press organs. These include the Commissioner's recommendation on the regulation governing the hospital stays of those parents who accompany sick children (93 online, 29 print and 2 radio and television, altogether 124 appearances), as well as the joint statement of the Commissioner and his Deputies against the involvement of children in campaigns for party political purposes (92 online, 3 print and 10 radio and television, altogether 105 media appearances). In both cases, the Commissioner and his Deputies made statements related to issues that, being of great interest to the civil society, generated a significant number of media appearances.

As regards **the number of media appearances of the Commissioner and his Deputies**, in 2019, the largest number of news was published in connection with the name and activities of the outgoing Ombudsman, Dr. László Székely, which meant altogether 832 (703 online, 106 printed and 23 radio and television) media appearances. He was followed by his successor Dr. Ákos Kozma with 410 (321 online, 56 print and 33 radio and television) appearances in the press. Dr. Elisabeth Sándor-Szalay, Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities was the subject of 237 (155 online, 55 print and 27 radio and television) media appearances, while 146 (133 online, 11 print and 2 radio and television) appearances concerned Dr. Gyula Bándi, Deputy Commissioner for Fundamental Rights, Ombudsman for Future Generations.

The above-presented media advantage of the outgoing and incoming Commissioners derives from the fact that their professional activities cover a broader area in terms of fundamental rights, therefore they issue more statements that can form the basis of communications. **Dr. Ákos Kozma took office on 26 September 2019**, thus **the aggregate number of media appearances** on his activities **reached 410 within three months**, including the transition period, while his predecessor, Dr. László Székely generated 832 media appearances within nine months.

**The statistical summary of Observer Budapest Médiafigyelő Kft.** also outlines which specific press organs of a given media category dealt most frequently with the professional activities of the Commissioner, the Deputy Commissioners and the Office. According to the summary, among the online platforms, the National Press Service of the Hungarian National News Agency provided the platform for the publication of news relating to the Office in the largest number, with 146 media appearances. When interpreting this piece of data, it is important to know that the National Press Service is a service provided by the Hungarian National News Agency through which the Office can publish its own press releases.

With respect to the above, nepszava.hu (with 98 appearances), hvg.hu (with 96 appearances), webradio.hu (with 63 appearances), index.hu (with 62 appearances) and 24.hu (with 58 appearances) were the

most active platforms within the category of “classic” online press organs in 2019. Regarding the print media, Népszava with its print version was the press organ that published the largest number of news (46) relating to the activities of the Office. In this regard, Népszava was followed by Magyar Nemzet (26 appearances), Magyar Hírlap (20 appearances), HVG (18 appearances) and Somogy Hírlap (12 appearances). According to the statistics, among the radios and televisions, the topics relating to the activities of the Office were discussed on Kossuth Rádió 27 times, ATV 26 times, Klubrádió 23 times, RTL Klub 22 times and Hír TV 16 times.

## 2.6. THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES IN THE NATIONAL AND INTERNATIONAL ARENA

### 2.6.1. ACTIVITIES IN THE NATIONAL ARENA

Continuous **liaising** with professional forums, as well as **obtaining and processing information** are the responsibilities of the Deputy Commissioner stipulated by law – and also her priority tasks, which serve as the basis for all the other activities, especially the efficient and effective conduct of individual and comprehensive inquiries. Accordingly, in 2019, the Deputy Commissioner endeavoured to **be present in the everyday lives of the nationality communities**, and to **monitor, collect and systematise** the information on the enforcement of their rights, and in parallel, the current situation and the public life of these communities.

Since the establishment of the institution of the Deputy Commissioner, **from 2012 to 2018**, the number of events **had steadily increased**, but it slightly dipped in the year under review due to the relocation of the Ombudsman’s Office and the expiry of the Deputy Commissioner’s mandate. However, it is important to emphasise that the data relating to **active presence (professional contact, continuous presence, representation) and to passive presence (accessibility, renown, availability)** are separate: although the Deputy Commissioner did not temporarily have the opportunity to participate in the life of the communities, she remained an authentic public institution for the nationalities concerned, so they continued to turn to her with their complaints with confidence. In 2019, **the number of complaints even rose by 6 percent**.

You can find detailed information about the professional experience gained between 2013 and 2019, as well as the specificities of the caseload of 2019 in **Chapter 1.10** of this report titled “**The focal points of the activity of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities in 2019**”.

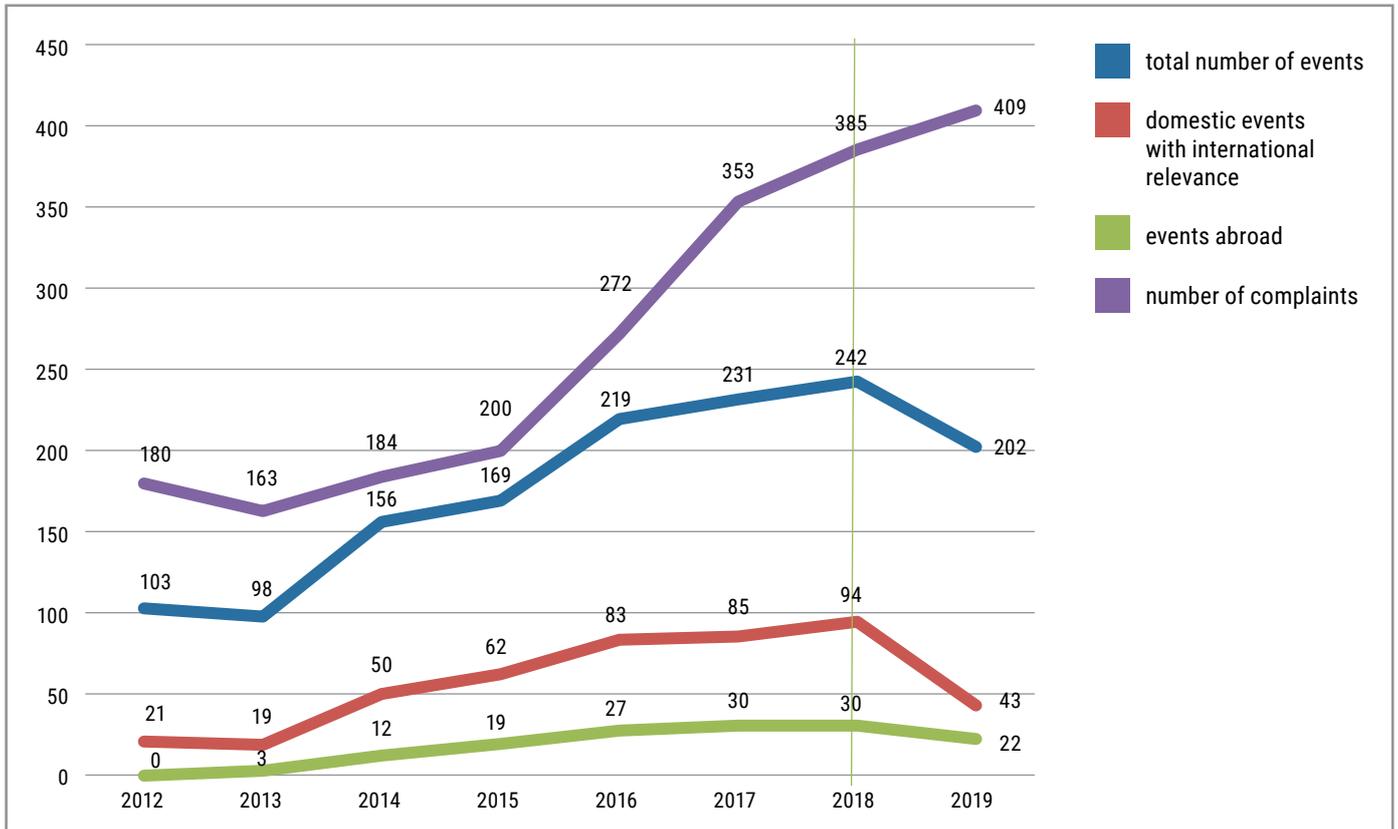
Although 2019 was a special year in many respects, it is worth looking at **the breakdown of events by types**, as well as the trends that emerge from it.

In the reporting year, <b>the key cooperation partners</b> of the Deputy Commissioner for the Rights of National Minorities were the following:	
<b>Elected bodies</b>	<ul style="list-style-type: none"> <li>• Association of National Self-Governments of the Nationalities</li> <li>• Nationality self-governments at local, regional and national level</li> <li>• Parliamentary Committee Representing the Nationalities in Hungary</li> <li>• Parliamentary Committees</li> <li>• Constitutional Court</li> </ul>
<b>Other organisations protecting fundamental rights</b>	<ul style="list-style-type: none"> <li>• Equal Treatment Authority</li> <li>• National Authority for Data Protection and Freedom of Information</li> <li>• National Media and Infocommunications Authority</li> </ul>
<b>Governmental and public administration bodies</b>	<ul style="list-style-type: none"> <li>• State Secretariat for Church and Nationality Relations of the Prime Minister’s Office</li> <li>• Deputy State Secretariat for Social Inclusion, Ministry of Interior</li> <li>• Centre of Education for National Minorities Living in Hungary, Educational Authority</li> <li>• National Election Commission</li> <li>• National Election Office</li> <li>• Miklós Vecsei, appointee of the Prime Minister</li> </ul>
<b>Consultative bodies</b>	<ul style="list-style-type: none"> <li>• Working Group Against Hate Crimes</li> <li>• Thematic Working Group for Nationality Issues, Human Rights Working Group, Ministry of Justice</li> <li>• Human Rights Working Group, Ministry of Justice</li> <li>• Thematic Working Group for Roma Issues</li> <li>• Anti-segregation Roundtable</li> <li>• Roma Coordination Council</li> <li>• Hungarian Charity Service of the Order of Malta</li> </ul>

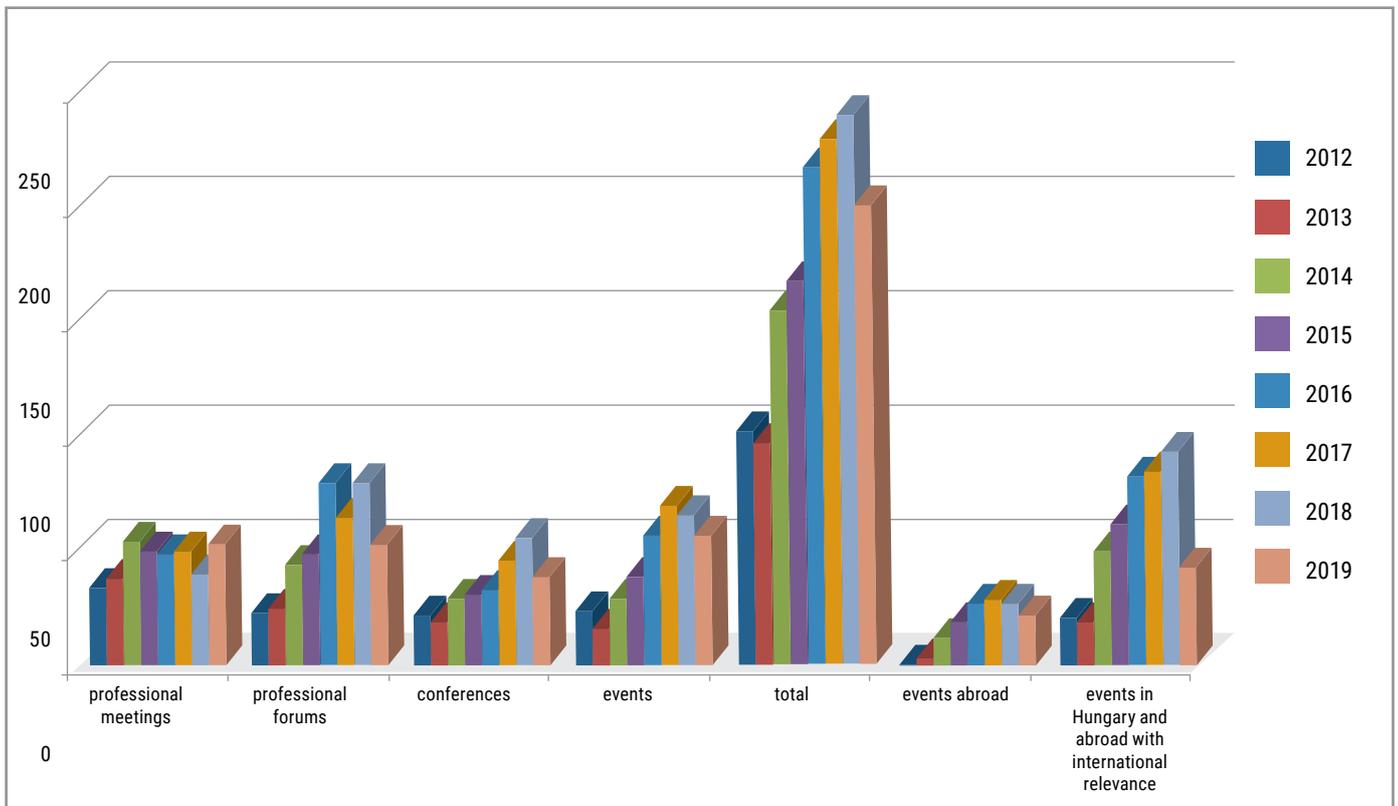
In addition to the above, the Deputy Commissioner kept continuous professional contact with those national and international **research institutions, church and civil society organisations** which are active in the enforcement of the cultural autonomy of nationality communities and the promotion of their rights to equal treatment and equal opportunity.

While planning her calendar of events for 2019, the Deputy Commissioner sought to devote sufficient time and attention to each and every national minority: **the distribution of events by nationalities reflects the demographic situation of the communities in Hungary**.

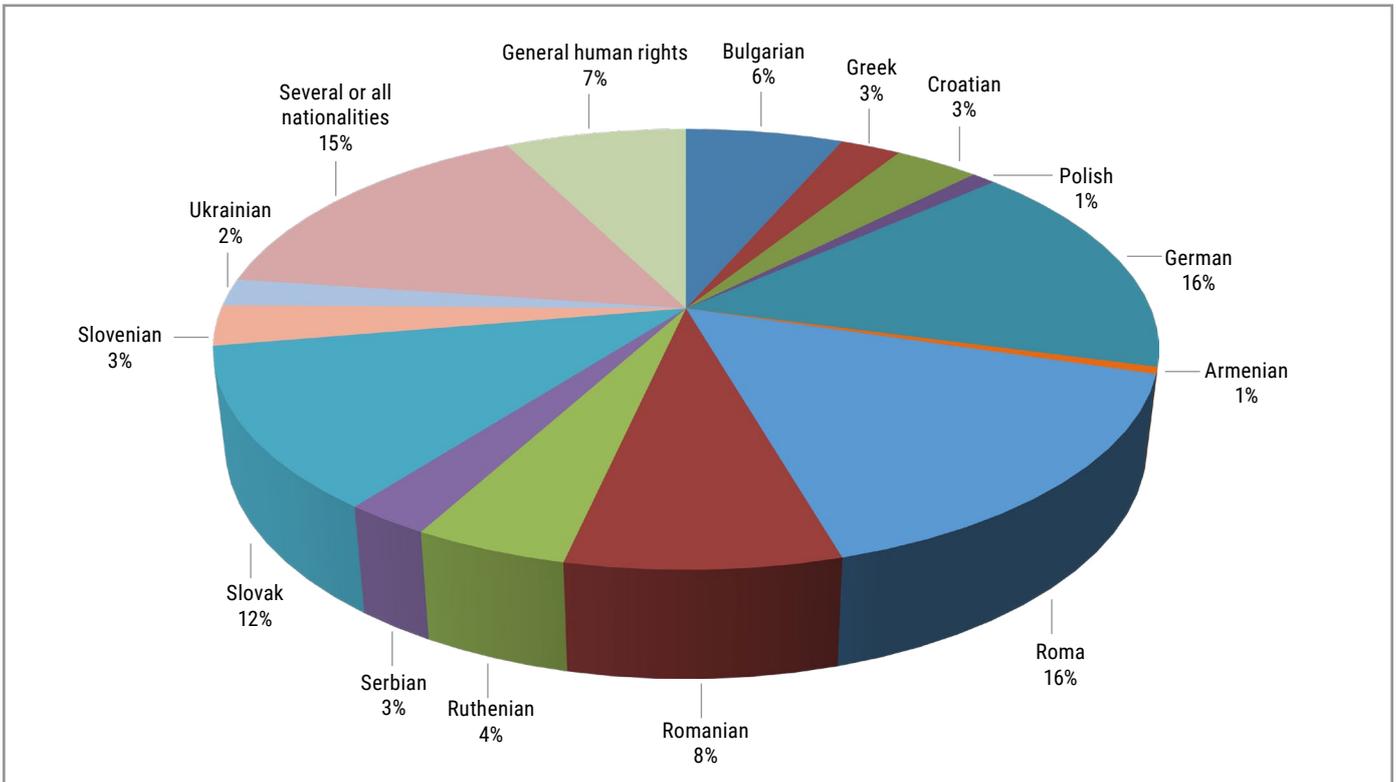
The Ombudsman for the Rights of National Minorities also wished to contribute to boosting awareness of child rights and their practices among children and young people from national minorities through her activities. With that in mind, she supported the implementation of several children’s rights projects of the Council of Europe in Hungary already in the previous years. **Special awareness-raising classes have been organised** by the Secretariat of the Deputy Commissioner for the Rights of National Minorities for students of nationality schools from 2018. During the informal, 45- and 90-minute classes, the staff members focus on discussing the topics of **nationality rights and the use of nationality language** with secondary school students.



Number and basic types of events at the Secretariat, and the number of complaints (2012–2019)



Number of events at the Secretariat, and their types and changes (2012–2019)



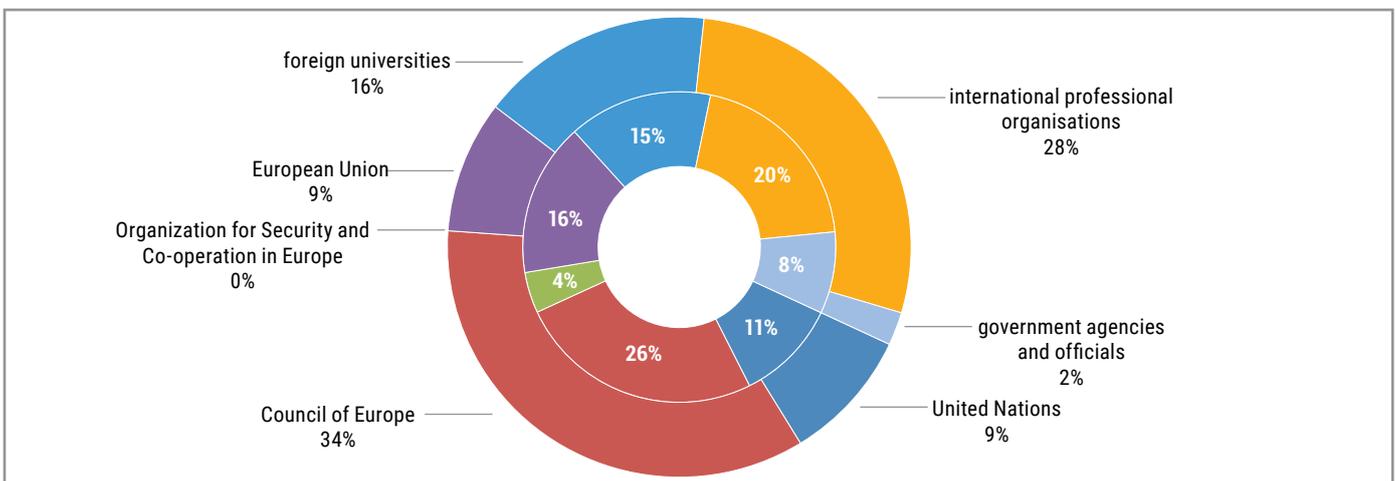
Distribution of Secretariat events according to nationalities (2019)

### 2.6.2. INTERNATIONAL INVOLVEMENT

In 2019, the field of national minorities' rights offered a number of opportunities for the Deputy Commissioner to act at the international level, working together with various **regional and international organisations**, liaising with **the governmental and civil society organisations of the mother countries of the nationalities**, and cooperating with the Ombudsmen of the **Visegrad Group (V4) countries**. These relations are mutually beneficial, as the domestic rights protection activities often go hand in hand with the international legal development activities: in many cases, the best practices and achievements of other countries or their bodies can be directly applied in the work of the Deputy Commissioner.

Professional representation at international level has been strengthened via two important avenues:

- Upon Hungary's nomination, the Committee of Ministers of the Council of Europe elected Dr. Elisabeth Sándor-Szalay as a permanent member of the Advisory Committee on the **Framework Convention for the Protection of National Minorities** at its session of 25 May 2016. Thereby, she has the opportunity to assess the actual enforcement of the rights of national minorities in a number of European states and the achievements of the different minority protection models, as well as to play an active role in establishing the European-level minority protection standards.
- Convinced that specialized education and the sensitisation of the next generation of experts are particularly important, the Deputy Commissioner is also a permanent lecturer in Hungarian, English and Romanian languages at **the University of Pécs, the Babeş-Bolyai University** of Cluj-Napoca and **the West University of Timișoara**.



Distribution of international relations according to partners (inner ring: 2018, outer ring: 2019)

In 2019, the Deputy Commissioner pursued **activities mainly relating to the work of international organisations**, typically within the framework of **expert-level cooperation and negotiation processes** related to the operation of the control mechanisms of the bodies and developing strategies. Based on her mandate, the rest of her networking activities was made up of **providing information** and **presenting the values of the Hungarian system of institutions**. This typically meant a series of personal meetings, as well as conference talks and university lectures.

### High-profile events and major tasks:

- On 30 April 2019, the **Head of Secretariat of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities** attended the **Geneva session of the United Nations' Committee on the Elimination of Racial Discrimination (CERD)** and delivered a **10-minute exposé** on behalf of the Office. The Committee held its 98th session between 23 April and 10 May 2019 where one of the priority themes was the discussion of the periodical report submitted by Hungary. The Head of Secretariat called attention to several priority issues concerning the **Roma integration process** in which some progress has been made over the past years; however, longer-term actions are also necessary to ensure the complex handling of the situation.
- Upon the personal invitation of the President of the **Federal Union of European Nationalities (FUEN)** and Member of the European Parliament Mr. Lóránt Vincze, the Ombudsman for the Rights of National Minorities participated in the **70 Year Anniversary Congress** of the organisation, which took place in **Bratislava and Dunaszerdahely (Dunajská Streda)**. The 70 Year Anniversary Congress of the FUEN was an excellent opportunity for the Deputy Commissioner to conduct professional consultations with her international and Hungarian partners.
- On 29 November 2019, the **United Nations** organised the twelfth session of its **Forum on Minority Issues** which brought together 600 national and international experts on minority issues from all over the world, who reviewed the situation of the minority education as well as the linguistic rights of minorities during the three-day event. The participants of the event pursued small-group regional professional discussions on the role of inclusive education, the promotion of civil society's participation, the role of the media and communication, as well as the role and tasks of children in the promotion of peace and security.
- **The 2019 annual meeting of the Ombudsmen of the Visegrad Group (V4) countries** took place on 29–31 May in Bratislava upon the invitation of Mária Patakyová, the Public Defender of Rights of the Slovak Republic. The key topics of this year were the trends of educational segregation and the possible ways to achieve desegregation, the child protection systems and the foster parent



*Session of the United Nations' Committee on the Elimination of Racial Discrimination – Geneva*



*The 70 Year Anniversary Congress of the Federal Union of European Nationalities – Bratislava*



*Press conference after the annual meeting of the Ombudsmen of the Visegrad Group (V4) countries, Bratislava*

scheme, homelessness and the right to housing, as well as the damage caused in administrative authority. After the three-day intensive consultation, the participating Czech, Polish and Slovak Ombudsmen and the Hungarian Deputy Commissioners issued a memorandum on **the enforcement of the rights of the child**.

## 2.6.3. MEDIA RELATIONS AND SOCIAL MEDIA PLATFORMS



Interview for the Unser Bildschirm magazine – Budapest



Press conference after the annual meeting of the Ombudsmen of the V4 countries - Bratislava

In 2019, similarly to the previous years, the domestic nationality media regularly covered the activities of the Deputy Commissioner, especially in those matters and professional events organised by the Deputy Commissioner which affected a specific national minority. It is a positive experience that the news published by the domestic forums **are often taken over by the media of the respective mother countries**, thus the activities of the Deputy Commissioner receive **international publicity** as well.

In 2019, the Deputy Commissioner received numerous interview requests, usually in connection with topical nationality-related issues, including the nationality self-government elections, the census, the situation of nationality education and training, the topic of segregation and integration, and the issues relating to the nationality elections.

In the year under review, the Deputy Commissioner's communication portfolio, which had been gradually elaborated over the previous years, became fully available, including her homepage ([nemzetisegijogok.hu](http://nemzetisegijogok.hu)), her Facebook page ([/ombudsmanhelyettes](https://www.facebook.com/ombudsmanhelyettes)), and her Twitter account ([@MinorityOmbud](https://twitter.com/MinorityOmbud)), where the most important news and invitations concerning the nationalities, as well as the reports of the events that have already taken place, along with the civil society projects of the nationalities, are collected and communicated to the relevant communities and the members of the mainstream society.

The key professional activities of the Deputy Commissioner can be continuously followed on her homepage ([www.nemzetisegijogok.hu](http://www.nemzetisegijogok.hu)), also available in English, and her Facebook page ([www.facebook.com/ombudsmanhelyettes](https://www.facebook.com/ombudsmanhelyettes)), detailed information is provided about the major individual and comprehensive cases concerning the nationalities.

## 2.7. THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR FUTURE GENERATIONS IN THE NATIONAL AND INTERNATIONAL ARENA

### 2.7.1. ACTIVITIES IN THE NATIONAL ARENA

The focal points of the activities of the Ombudsman for Future Generations in 2019 are described in detail in Chapter 1.11 of this report. Furthermore, in addition to interpreting legislation and jurisprudence, the Commissioner for Future Generations and his staff members participate in expert meetings, workshops, conferences and working committees, where they gain information directly on conflicts of interest between present and future generations, as well as the reasons thereof, while strengthening their social and professional relations, and continuously collecting information on the processes and issues concerning the interests of future generations. Based on this information, the Ombudsman for Future Generations is able to decide which of the tools at his disposal he should employ.

The following summary presents the tools used by the Ombudsman for Future Generations in 2019 under his statutory mandate.

The Parliament and its specific committees having competence in environmental issues, the National Council for Sustainable Development and the National Environmental Council, as well as the Directorate for Environmental Sustainability of the Office of the President of the Republic play a prominent role among the professional partners of the Commissioner for Future Generations. Working contact is regular with the ministerial, administrative and statutory bodies dealing with the relevant issues. The Deputy Commissioner maintains continuous working relations with the Constitutional Court, the Curia and the State Audit Office. There is a close cooperation with the law faculties of universities, the institutes and committees of the Hungarian Academy of Sciences, and economic and professional advocacy groups. The non-governmental organisations involved in environmental protection and nature conservation issues are among the key partners of the Commissioner for Future Generations, and they have elaborated several joint programmes together.

A. Providing assistance to, or preparing petitions to be submitted to the Constitutional Court/the Curia	3
B. Giving opinion on draft legislation, making proposals for the drafting or amendment of legislation	64
C. Preparing and conducting comprehensive ex officio inquiries	4
D. Attending and giving presentations at professional and scientific conferences, workshops	60
E. Consulting with experts, attending working committees and parliamentary committees	111
F. International networking, answering queries, collecting and providing information	27
G. Providing secretarial services to the Network of Institutions for Future Generations	Continuous
H. Press events, awareness-raising and follow-up activities on issues concerning future generations	112
I. Contributing to the inquiries conducted by the Commissioner for Fundamental Rights and the drafting of joint reports	399
J. On-the-spot presence, professional training programmes	4
K. News shared on the official Facebook page of the Ombudsman for Future Generations	258

### 2.7.2. THE OMBUDSMAN'S INQUIRIES

According to the CFR Act, **the Ombudsman for Future Generations participates in the inquiries of the Commissioner for Fundamental Rights in matters falling within his/her competence.** The joint reports are of particular importance; their constitutional background is outlined in Chapter 1.11 of this report. The diagram below illustrates the thematic diversity and the proportion of complaints received in 2019. In the following, we highlight some of the typical environmental cases and inquiries of the year under

review.

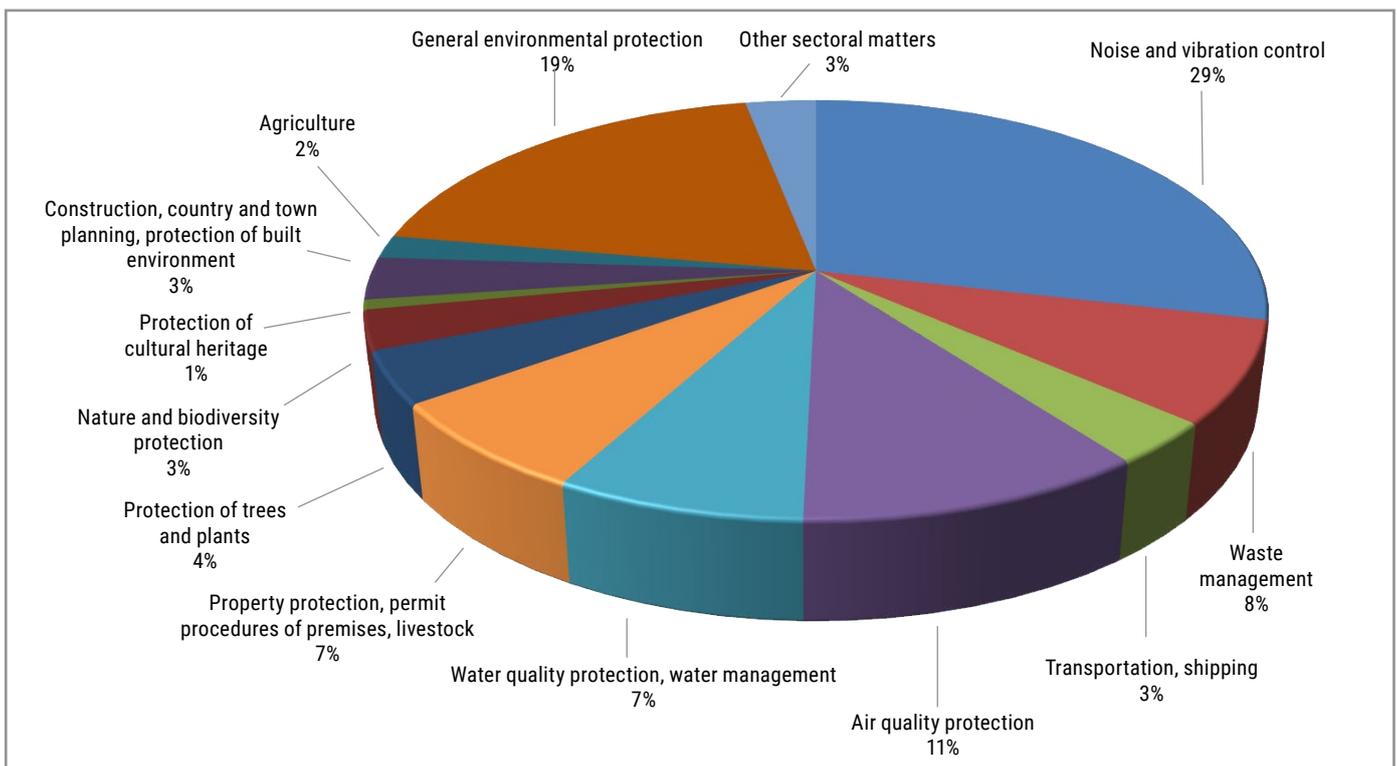
Most complaints submitted this year were related to the issue of noise pollution, and the majority of them concerned the operation of the Budapest Liszt Ferenc International Airport. Although **the operation of the airport undoubtedly serves the interests of the national economy and the community, the extent and necessity of disturbance must not be disregarded from the aspect of the enforcement of the fundamental rights of those people who live in the impact area.**

With regard to the question of exploration drilling carried out in a protected natural area around the boundaries of a residential area, the Deputy Commissioner established in his report that **all those activities that may affect the nature conservation objectives of a protected natural area are subject to an environmental permit,** taking into consideration the breeding season of bird species as well.

Several inquiries dealt with the situation of **the public service of waste management.** One of the main findings of these inquiries was that **real estate users cannot be subject to any damage caused by the operational difficulties occurring during the provision of public services,** and the eventual anomalies of the system cannot be used as an excuse. **The accumulation of large quantities of waste on a property is unlawful conduct per se,** and it is reasonable to expect the authorities to enforce the law.

It is a basic requirement that the area of operation of **enterprises involved in production or industrial activities** should be selected in line with the objectives and rules of settlement planning, environmental standards, and the interests of those living in the area. This must be continuously monitored, the facts of the case must be clarified, and the persons concerned must be duly informed.

**The importance of trees from the aspects of environmental protection and health** had already been highlighted in several



Types and topics of complaints, petitions and ex officio inquiries in 2019 related to the rights of Future Generations

earlier reports. For example, regarding the safe operation of an electricity supplier, the pruning of trees in a way that goes beyond what is necessary and causes damage is an unacceptable practice, having regard to the vegetative state of trees, as well as to the breeding and nesting period of animals.

It is not uncommon that drivers of off-road vehicles destroy protected plants by “drifting”. When activities endangering the natural values are reported to the authorities, **their primary responsibility is to clarify whether the area concerned is a protected natural area**. Accordingly, the activities might constitute a criminal offence or an environmental misdemeanour.

Modern community transportation with a well-connected network is one of the main pillars of **sustainable urban transport**. If buses wait at the terminal with a running engine (even though this disturbance occurs in connection with a public service implying an increased obligation of tolerance), the unjustified motor-running falls within the category of unnecessary disturbance, which no one is obliged to tolerate.

In a case concerning **the environmental licensing of a public power line**, the environmental authorities did not sufficiently clarify the facts of the case, and they did not detect the anomaly of the power line route segment. Consequently, they referred to the original route in their positions and did not raise objections against the modified route. The Commissioner and his Deputy concluded that **the environmental legislation on the licensing of route facilities is not sufficiently detailed**.

### 2.7.3. INTERNATIONAL INVOLVEMENT

In his engagement with **the United Nations Sustainable Development Goals (SDGs)**, the Ombudsman for Future Generations consistently emphasises that **the implementation of these goals can solely be interpreted together with fundamental human rights**, and broad public consultations are essential for their achievement. This was outlined by the Ombudsman on numerous occasions. This idea was also emphasised in a speech delivered by a staff member of the Ombudsman for Future Generations at the panel discussion of the **Regional Forum on Sustainable Development for the United Nations Economic Commission for Europe**, which was incorporated into the summary prepared for the United Nations High-level Political Forum.

Upon the joint request of the United Nations High Commissioner for Human Rights and the Global Alliance of National Human Rights Institutions, the Secretariat of the Commissioner for Future Generations **prepared a summary of the SDG-related activities of the Office**, emphasising the challenges faced by the Office as a National Human Rights Institution, as well as the possible solutions and best practices that may be shared.

The Commissioner for Future Generations gave his opinion on **the documents concerning the SDGs** prepared by the **Organisation for Economic Co-operation and Development (OECD)**.

The educational material package of the **Food and Agriculture Organization of the United Nations (FAO)** entitled “Do Good:

**Save Food!” on food waste reduction** targets four different age groups. In Hungary, the Secretariat of the Commissioner for Future Generations was contacted in order to carry out the translation, publication and promotion of the material.

The **European Economic and Social Committee** initiated an evaluation and review process on the **Environmental Crime Directive** in close cooperation with the Commissioner for Future Generations and his staff. The summary results of the review are expected to be published in 2020.

In October, the United Nations High Commissioner for Human Rights turned to the National Human Rights Institutions and requested them to share their opinion and experience on **children’s exposure to adverse environmental effects and the assessment of the measures employed**. In his response, the Commissioner for Future Generations outlined certain practices that involve harm to the environment, the lack of adequate measurement and monitoring, and presented some exemplary best practices that may promote the enforcement of children’s right to a healthy environment.

In April, the Ombudsman for Future Generations was the patron of a **legal forum entitled “Sustainable Development & Human Rights – Legal Perspectives and Beyond”** held in Krakow, where he also gave a presentation with one of his staff members.

In November, the Ombudsman for Future Generations travelled to **Malta**, where he met the President of the Republic of Malta and the Maltese Ombudsman, and in a panel discussion gave a speech on the rights of future generations and the possibilities for their enforcement.

In May, the Ombudsman for Future Generations participated in a panel discussion **in London**, where he presented **the experience gained by our organisation acting for the protection of the interests of future generations** that could be used for tackling the situation after Brexit.

The **Network of Institutions for Future Generations (NIFG)** was created in 2014 on the basis of the report titled “*Intergenerational Solidarity and the Needs of the Future Generations*” issued by the UN Secretary General, bringing together national organisations that **represent the interests of future generations**, hence serve as model institutions. The Network aims to facilitate the exchange of information and experience, and **its main objective** is to foster long-term strategic thinking, paying particular attention to future generations, and support the establishment of similar national institutions. The secretarial functions of the Network are performed by the Secretariat of the Ombudsman for Future Generations.

During the year under review, **the Network published two documents which are available electronically** (see picture below).



# ACTING TODAY FOR A BETTER TOMORROW

Network of Institutions for Future Generations  
2018 Report



NIFG Annual Report

# LOOKING TO 2030 AND BEYOND

HOW INSTITUTIONS FOR FUTURE  
GENERATIONS CAN ASSIST  
IN SDG IMPLEMENTATION



Discussion paper of the Network  
of Institutions for Future Generations (NIFG)

June 2019

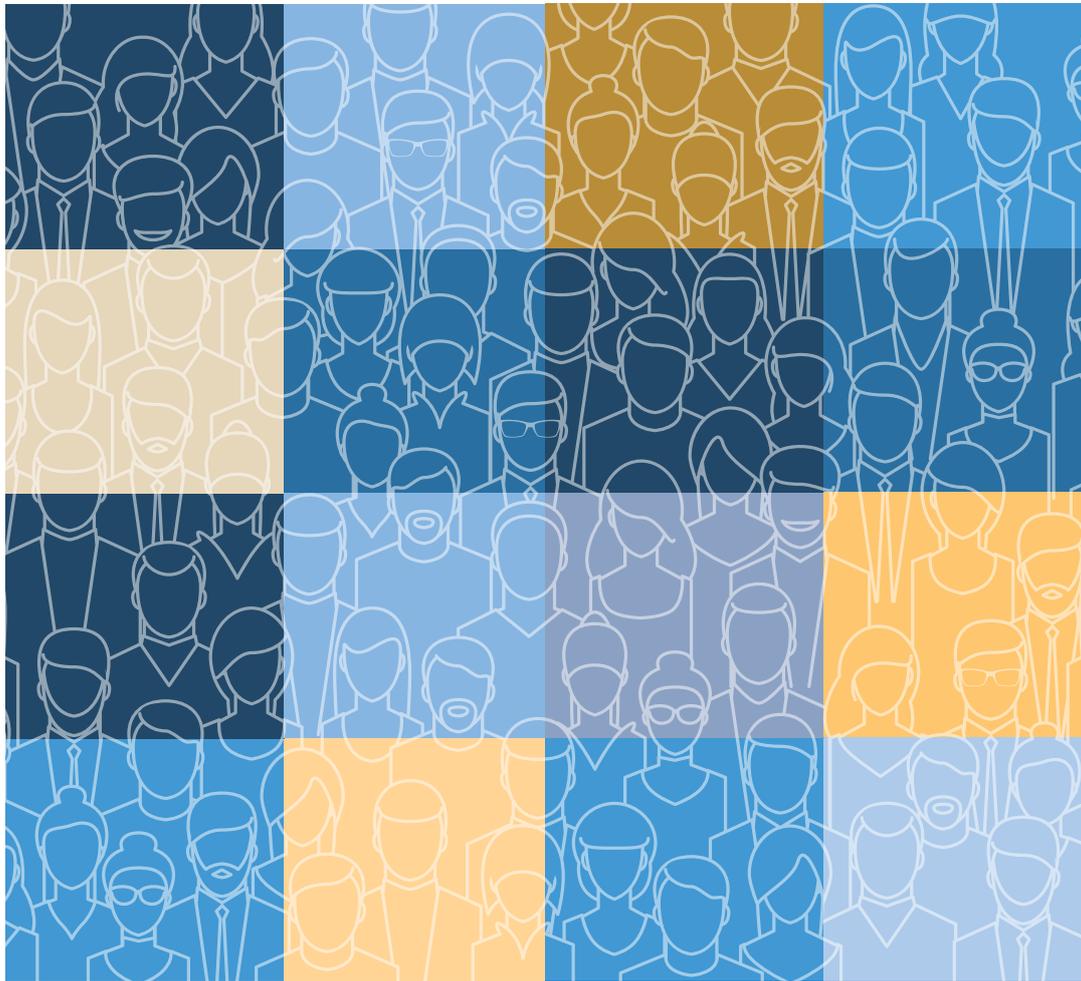
NIFG SDG Position Paper

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“The freedom loving man [...] never loses sight of the fact that human liberty and human dignity is one and the same, and any wrongdoing against anyone based on their social position, origin, gender or age endangers everyone else’s freedom and dignity: therefore he stands up either collectively, or if that is not immediately possible individually against any infringement on the human freedom, arbitrary arresting, detention, private or official harassment.”

(István Bibó: The Political Ten Commandments of the Freedom Loving Man)