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Activities of the Commissioner for Fundamental Rights and his Deputies

The Commissioner for Fundamental Rights is solely responsible to the Parliament. The Ombudsman performs his tasks independently, his activities are exclusively subject to the Fundamental Law and the relevant legal regulations. The Commissioner for Fundamental Rights enjoys the same immunity as Members of Parliament. The Commissioner for Fundamental Rights and his Deputies may not be members of any party and may not engage in political activities. The Ombudsman is elected for six years on the proposal of the President of the Republic, with the support of two-thirds of Members of Parliament. The Ombudsman has to annually submit a report on his activities to the Parliament. The Commissioner for Fundamental Rights may be re-elected once.



László Székely has been performing the duties of the Commissioner for Fundamental Rights since 2013.

In accordance with Act CXI of 2011 on the Commissioner for Fundamental Rights, Parliament shall elect the Deputies of the Commissioner for Fundamental Rights at the proposal of the Commissioner for Fundamental Rights.



Elisabeth Sándor-Szalay as “Ombudsman for the Rights of National Minorities” has been performing the duties of Deputy-Commissioner responsible for the protection of the rights of nationalities living in Hungary since 2013

Deputy Commissioner responsible for the protection of the interests of future generations, “Ombudsman for Future Generations”



till November 30, 2016:
Marcel Szabó



from February 21, 2017:
Gyula Bándi

The five priority investigation areas

Rights of persons with disabilities

In a structure based on the rule of law, the Ombudsman, who—in his activities—may also rely on the UN Convention on the Rights of Persons with Disabilities (CRPD), plays a significant role in redefining the image of persons with disabilities. In 2016, extra attention was paid to various groups of the disabled in connection with the enforcement of the right to human dignity, the difficulties of transport, the conditions in residential institutions, and the difficulties of the early development of children. Children with disabilities and psychiatric patients qualified as persons with psycho-social disabilities constitute a special group among persons with disabilities. The Commissioner also reviewed the everyday problems of persons under guardianship and their guardians.

Most vulnerable groups

Providing assistance and information by the Commissioner on the basis of a logical, consistent set of fundamental-rights-protection criteria, calling attention to fundamental rights-related improprieties, offering solutions are of key importance in the case of the “weak”, i.e., the members of the most vulnerable groups. Whether it is an issue concerning the fundamental rights or the situation of the elderly, the sick, the homeless, the public workers, the asylum seekers, the detainees or LGBTQI people, the Ombudsman, often as a last resort, has to promote the protection of their rights based on the right to equal dignity. The investigations conducted last year show that vulnerability has a thousand faces, inequalities are growing, so finding proper legal and social solutions, responses to the existing problems is still a pressing task. In 2016, our Office participated and represented our country, as a pilot member, in the working group of the project “Enforcement of the human rights of persons in elderly care”, launched on the initiative of the European Network of National Human Rights Institutions and co-financed by the European Commission.



Rights of the child

In the field of protecting the rights of the child, the Commissioner did his best, in 2016 as well, to fulfill his multi-dimensional and complex duties, i.e., to use his traditional investigative powers based on inquiring into complaints, and acting ex officio, using preventive tools of legal protection, to reveal comprehensive, systemic problems giving cause for concern. Each time, the reports issued by the Ombudsman called attention, in addition to the importance of Hungarian fundamental rights guarantees, to international legal requirements as well, in particular to the principle of due process corresponding to the best interest of the child. Acting upon specific cases, signs, the Commissioner inquired, again, into the anomalies of the child protection warning system, reviewed the checklist of the operation of children's homes, paid special attention to the provision of institutional care to children with dual needs, and into the state of media education in the Hungarian school system. In order to tackle the improprieties uncovered in the course of his investigations, the Ombudsman called on legislators, law enforcement bodies, and tried to raise the attention of public opinion, since the vulnerability of children magnifies every omission and infringement, and the consequences may be serious.

In 2016, just as in previous years, the Commissioner for Fundamental Rights availed himself of the opportunity to recommend reviews of norms both to the Constitutional Court and the Curia. Acting upon the Ombudsman's petition, the Constitutional Court annulled, on the grounds of being in breach of the Fundamental Law, a discriminatory local government decree (considered to be homophobic and islamophobic by many critics) infringing upon several fundamental rights. Accommodating the Commissioner's initiative, the Curia annulled a local government decree which designated certain areas where the habitual residence of the homeless was prohibited in a way that violated a higher-ranking legal regulation.

The Ombudsman may select, in accordance with the provisions of the act regulating his competence, any measure he deems expedient:

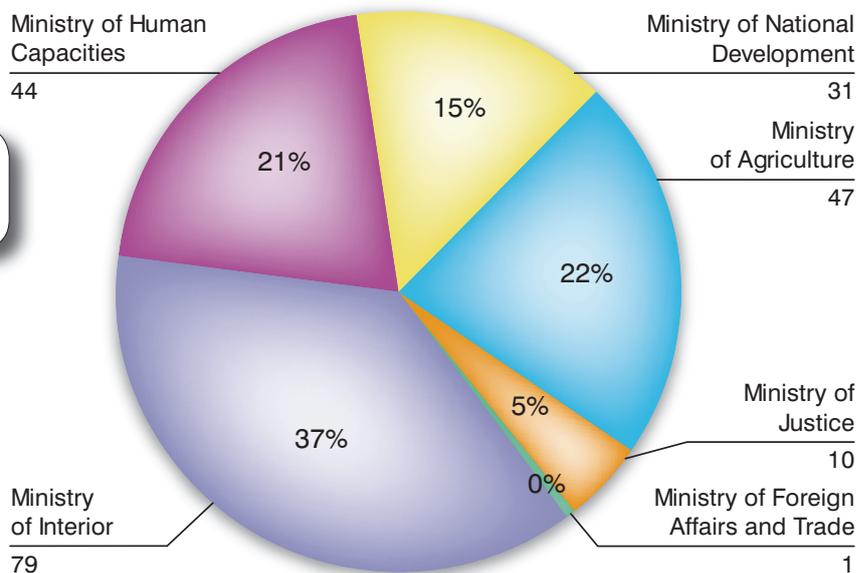
- he may initiate the proceedings of the Constitutional Court
- he may request the Curia to review whether a local government's decree is in accordance with a legal regulation
- as a final measure, he may submit a case to the Parliament within the frameworks of his annual report
- he may initiate proceedings by the competent prosecutor through the Prosecutor General
- he may turn to the National Authority for Data Protection and Freedom of Information
- he may request the head of the body concerned to remedy a perceived impropriety

- he may propose the legislator to amend, repeal or issue the legal rule or the public law instrument for the regulation of organizations
- in order to redress an impropriety, he may address a recommendation to the supervisory organ of the authority causing the impropriety
- if there is reasonable suspicion that a regulatory or disciplinary offense has been committed, he may initiate regulatory offense proceedings or disciplinary proceedings with the organ authorized to conduct such proceedings; if a crime has been committed, he shall initiate criminal proceedings with the organ authorized to start such proceedings

Legislation-related activities:

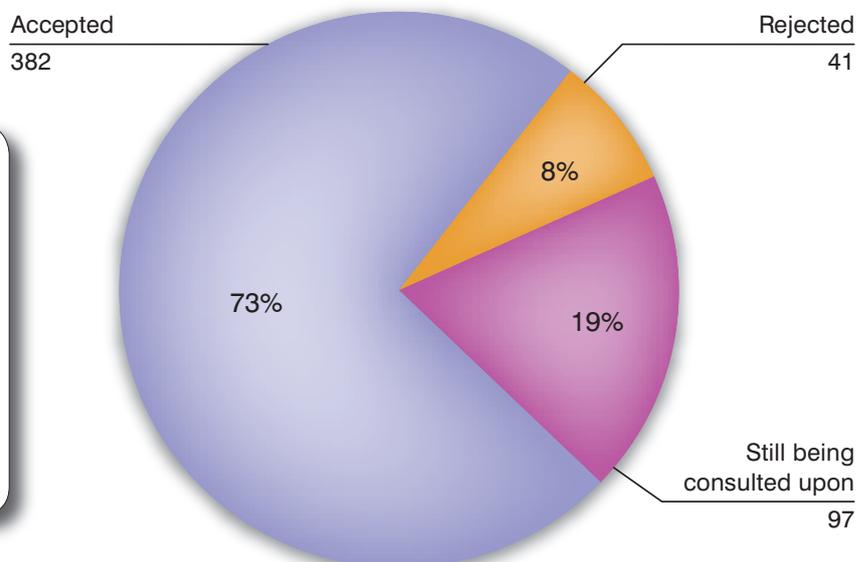
The Commissioner reviewed 212 draft bills in 2016.

Draft bills received for review, by the submitter



The Commissioner expressed his opinion on the merits of more than 40% of the drafts. He drew attention mainly to the deficiencies of codification and to legal technical issues. Besides the specific comments, he occasionally suggested the withdrawal or the conceptual revision of some drafts as well. In 40% of the reports issued in 2016, in 59 cases, the Ombudsman initiated the amendment of a certain legal regulation or, in general, the review of the relevant legal provisions. Grouping by the source of law, and taking into account that the Commissioner may simultaneously recommend the amendment of several legal regulations and legal provisions, the Ombudsman initiated the amendment of an act on 25, government or ministry regulation on 23, local government decree on 4 occasions, and proposed the comprehensive review of a given regulation in 21 reports.

Recommendations by the addressees' response (as of January 1, 2017)



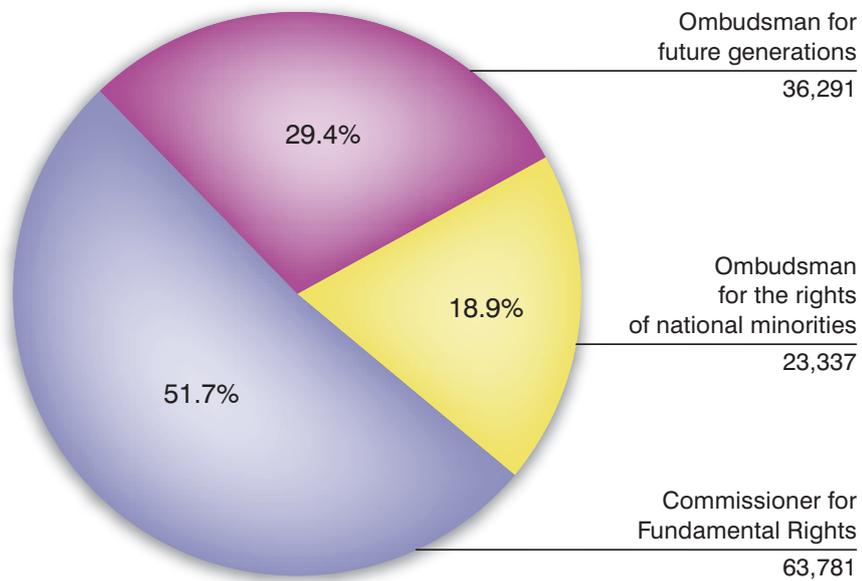
In the 140 reports, prepared on the basis of 320 individual complaints, the Ombudsman made 520 recommendations. In 382 cases the addressees accepted, and in 41 cases rejected his recommendations.

At the end of the year, professional consultations were still under way in 97 cases.

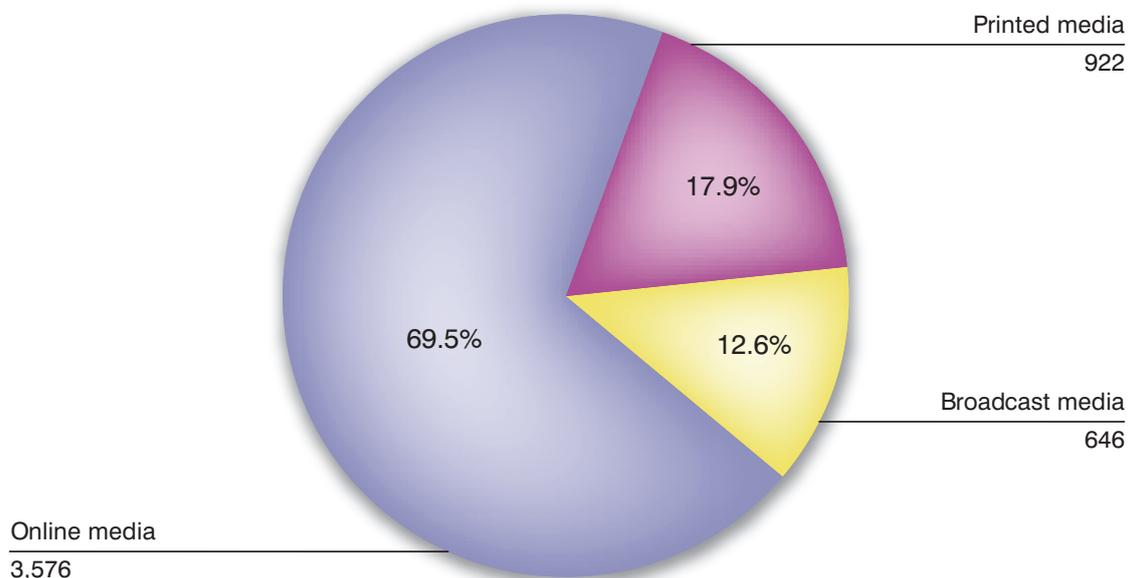
Media

In 2016, some 125 thousand news items were published on topics falling under the competence of the Commissioner for Fundamental Rights and his two deputies – most of them, just like in previous years, in the online media. The full texts of the investigation reports could be found at ajbh.hu; the socially most relevant reports were summarized in special press releases which could also be found on the Commissioner's homepage and the Office's social media pages – they reached the editorial offices via the national news agency. In some cases the reports and press releases had significant resonance in the media and in public opinion, which, on several occasions, lasted for weeks. Those reports and press releases dealt with, among others, the local problems of enforcing the rights of the child, the conclusions of various inspections conducted in institutions dealing with children, the fight against the discrimination of the Roma, the promotion of national minority education, the health effects of air pollution, or the preservation of natural bodies of water.

Ombudsman-related topics in the media



Number of occasions when the ombudsman and his deputies were mentioned in the media



National minority rights

In Hungary, the rights of the 13 recognized nationalities, all constituent elements of the State, are guaranteed and regulated by the Fundamental Law and Act CLXXIX of 2011 on the Rights of Nationalities. The total number of persons belonging to those national minorities amounts to 10% of the country's population. All national minorities do have their own self-governments of public law status at local, regional and state levels as well. Cultural autonomy, ensuring the preservation of ethnic identity, plays an important role among nationality rights. In 2016, the Ombudsman for the Rights of National Minorities conducted around 300 proceedings in her field of responsibility; on some of them she issued, together with the Commissioner, joint reports or policy statements. Educational issues, as well as individual and community issues of the national minorities were highly represented among the submissions; furthermore, problems related to social and living conditions, employment and discrimination in connection with the use of public services were in the core of a significant number of complaints, lodged mainly by Roma complainants.

A significant part of the Deputy Commissioner's activities was aimed at liaising internationally, in particular with the representatives of the individual national minorities' home countries and various minority rights organizations.



The protection of the interest of future generations

Economic development, meeting social needs can be reached exclusively within the frameworks of sustainable development, manifested in the UN Sustainable Development Goals (SDGs), in parallel with ensuring the living conditions of both present and future generations. The exploitation of finite natural resources has launched irreversible processes that jeopardize these conditions. The reports on inquiries into specific cases prompt measures going far beyond those individual cases, serving the interests of the entire community.

The Fundamental Law stipulates the protection of the nation's common natural and cultural heritage. Our Office's active engagement in various fields of life, including the preservation of urban landscape, highlighting the role of forests, efforts made at saving endangered species, etc. serve this purpose.

The Ombudsman's other tasks

Pursuant to Act CLXV of 2013 on Complaints and Public Interest Disclosures, public interest disclosures can be submitted personally and through a secure electronic system operated by the Commissioner for Fundamental Rights, using the interface on the OCFR's homepage (www.ajbh.hu).

Whistleblowers may request anonymity. In 2016, the OCFR received 314 public interest disclosures, 56% of which turned out to be well grounded. Anonymity was requested by 90% of the whistleblowers. In addition to the above, based on the whistleblowers' submissions, the Commissioner for Fundamental Rights inquires into the proper processing of public interest disclosures, and he may ex officio investigate the handling of such submissions by the competent organs. In 2016, the Office received 73 review requests – violations of legal regulations were established in 12 cases.

The Ombudsman's activities aimed at operating the OPCAT National Preventive Mechanism rely on the fact that, through Law-decree 3 of 1988, the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) has become part of the domestic legal system. As of January 1, 2015, the Commissioner for Fundamental Rights proceeds as National Preventive Mechanism either personally or with the cooperation of his colleagues.

Performing this task, staff members of the Office, in cooperation with outside experts, visited 10 places of detention in 2016, and the Office published 10 reports. In those reports the Commissioner made 239 recommendations. In 2016, OPCAT activities were covered in the press on 246 occasions.

Pursuant to the provisions of Act CXXV of 1995 on the National Security Services, the Commissioner for Fundamental Rights may investigate the ordering and the conduct of the review process of national security checks. The person under review may request the Ombudsman to conduct an investigation within six months after he/she became aware of the review process. Furthermore, the Commissioner for Fundamental Rights may also conduct an ex officio inquiry into the national security services' reviewing practices. In 2016, the OCFR received three complaints from citizens in this field.

Client relations are taken care of by two organizational units of the Office. Our Information Service received 12,087 phone calls from citizens in 2016. Our Complaint Office conducted 1,973 pre-arranged interviews with clients who had requested advice or personal meetings in connection with their specific complaints. In 2016, clients visited our client relations units on 14,060 occasions. Of those, 256 visits were related to various data protection issues, although, as of January 2012, such issues fall within the competence of the National Authority for Data Protection and Freedom of Information. 168 visitors reported infringements on minority rights, and 107 people turned to our Office in connection with the right to a healthy environment.

Complaints may be submitted in the following ways:

- Citizens may lodge a complaint personally, either in writing or orally.
- Electronically, using the form on the webpage under the menu item “Lodging a Complaint”.
- In an e-mail sent to **panasz@ajbh.hu**, reserved exclusively for this purpose.
- By mail sent to the following address: **Office of the Commissioner for Fundamental Rights, 1387 Budapest Pf. 40.**
- In person at the **Office of the Commissioner for Fundamental Rights, located at 1051 Budapest, Nádor utca 22.**

Number of cases in 2016

Complaints registered: 8,399
 Cases deferred from 2015: 3,686
 Cases completed: 7,426
 Cases still under investigation at the end of the year: 973

In 2016, asylum-related complaints submitted abroad accounted for the most part of the petitions received by our Office. Complaints related to civil law issues, financial institutions, public services and social issues also constituted a significant part of the petitions received.

The number of cases related, in any form, to the protection of the environment amounted to **307** in the year in question, while there were **200** minority rights-related complaints submitted to the Commissioner or to the Ombudsman for the Rights of National Minorities.

Types of submissions

