

2021/3.

NEWSLETTER

QUARTERLY INFORMATION BULLETIN OF THE DEPUTY COMMISSIONER
FOR THE PROTECTION OF THE RIGHTS OF NATIONAL MINORITIES IN HUNGARY



TO THE READER

This is the third issue of the first year of our newsletter – and although the summer is usually called "silly season", we have continued to work with our usual dedication after the third wave of the epidemic and in the shadow of the fourth wave. After the quieter, preparatory activities of July and August, the early autumn was intense, with a series of outreach events providing insights into the human rights and nationality rights system. I also took particular care to finalise a general comment affecting a well-known municipality and concerning the right to nationality education.

Prof. Elisabeth Sándor-Szalay

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STATISTICS

third quarter of 2021 2021 in total

petitions and ex officio proceedings:	36	332
correspondence:	148	1.395
legislative opinions:	8	28
professional meetings:	37	106

CASE-LOAD TENDENCIES

The dynamics of the third quarter, which includes the summer months, are fundamentally different from the rest of the year. The number of professional meetings and cultural events is higher, while the number of cases is lower: during this period, the institutions and authorities complained about (e.g. kindergartens, schools, municipalities, nationality self-governments), as well as some bodies of the Parliament and the Government, are less active, social burdens are lighter (e.g. no heating is forced, casual work is available) and the epidemiological situation is more favourable. This also provides an opportunity to close ongoing investigations and prepare new ones.

The Minority Ombudsman issued one general comment in this quarter and has conducted priority investigations in ten cases. She has also carried out preparatory works on several general comments and a joint report to be completed and presented subsequently.

As for the complainants, preparing for the fourth wave of the coronavirus epidemic has been a challenge for staff, too: the limited opportunities for meetings in the coming quarter and the recurrence of health and social problems experienced in the past require considerable professional preparation.

TOPICS FOLLOWED UP IN PARTICULAR



- the emergency situation due to the **pandemic** and the impact of the emerging **fourth wave** on national communities
- **water supply**, access to **public wells**
- official practice of **removal from the family** in some regions
- making documents issued under international law and domestic legislation **available in nationality languages**
- war-care for persons of German nationality deported on **“malenkij robot”**
- **online hate speech and racist content** in the provision of digital content for children
- investigation of **ordering a local referendum** affecting a primary school providing nationality education
- enforcement of the **freedom of information** in the case of nationality communities and nationality self-governments

Professional forums

- Visit by Kairat Abdrakhmanov OSCE High Commissioner
- Justice Committee of the Parliament
- Ministry of Justice Working Group on Human Rights, Thematic Working Group on Nationality Issues
- Ministry of Justice Human Rights Working Group, Thematic Working Group on Roma Issues
- International conference on the role of NGOs and research institutions in promoting Council of Europe national minority standards
- Nationality school year opening ceremony and conference
- Professional conference: Today's work – tomorrow's success
- Hungarian Legal Book Salon

Personal meetings

- Francesco Palermo Prof. (EURAC, AC FCNM)
- Gilbert Gornig Prof. (Philipps Universität, Marburg)
- Elise Cornu (AC FCNM Secretariat)
- Parl. Committee of the Nationalities in Hungary (NEB)
- Imre Ritter (president, NEB)
- Ibolya Englenderné Hock (president, LdU)
- Erzsébet Hollerné Racskó (president, OSZÖ, ONÖSZ)
- János Agócs (president, National Roma Self-Government)

MAIN DOMESTIC EVENTS

COMMEMORATION ON THE ROMA HOLOCAUST MEMORIAL DAY

On the occasion of the International Roma Holocaust Remembrance Day, the National Roma Self-Government held a commemoration on 2 August.

In her speech, the Minority Ombudsman, who was the main patron of the event, stressed that "those who can live their lives without anxiety in Europe today have a responsibility for those who continue to be despised, excluded and persecuted because of their ethnic origin, poverty, physical characteristics or identity." The first step is to recognise and act against exclusionary and hateful intentions. "Working together, thinking together and at the same time respecting the freedom of the individual is the only way to true freedom and the protection of human dignity," said the Minority Ombudsman. [Details here.](#)



"TODAY'S WORK - TOMORROW'S SUCCESS" CONFERENCE

The aim of the conference, organised by the National Roma Cultural and Media Centre, was to analyse the educational, training and employment situation of Roma communities and to outline the way forward.

In her speech, the Minority Ombudsman called for facilitating steps towards learning and career choices, the strengthening of perseverance of those already on the path and the importance of creating a supportive environment, including mental, spiritual and infrastructural tools, as well as the development of IT and language skills. She also stressed the responsibility of teachers, employers and staff in creating a non-discriminatory environment based on competence and human relations. [Details here.](#)



NATIONALITY SCHOOL YEAR OPENING CEREMONY AND CONFERENCE

As in previous years, the Nationality Pedagogy Education Centre (POK) of the Education Office invited the heads of nationality educational institutions, their staff and the leaders of nationality communities to attend professional conference.

At the event, which presented the main changes for the 2021/2022 school year, the planned developments in the field of nationality education and new professional materials, representatives of educational management, education policy and the background institutions presented the changes and the expected directions of development.



ELTE ÁJK ORIENTATION DAYS

After 2019, the Minority Ombudsman once again participated in the Orientation Days 2021 of the Eötvös Loránd University, Faculty of Law (ELTE ÁJK), the primary aim of which is to give first-hand insights into the university community and professional experiences to first-year students of law, criminology and political science before they start their studies. During the "Legal Professions" roundtable discussion, the Minority Ombudsman talked about the personal aspects of her career choice, her experiences as a university lecturer, Minority Ombudsman and international expert,



the human and professional convictions in her work, the situation of minority groups in society, especially nationalities, and the importance of openness and dialogue.

Another invited guest was Zoltán Marosi, lawyer and partner at Oppenheim Law Office.



PROFESSIONAL EVENING AT THE JESUIT ROMA COLLEGE

On 16 September, the Jesuit Roma College for Advanced Studies in Budapest held its next professional evening, with the Minority Ombudsman as a guest, who spoke about the life and vocation of the students of the institution, as well as the domestic and international situation, challenges and future of national minority rights. She also highlighted legislative and enforcement concerns and opportunities for equal treatment and equal opportunities. Following the presentation, the audience also asked the Minority Ombudsman about the fight against hate speech and hate crime and the future of the international system for the protection of minorities.

A COMMENTARY OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS IS PUBLISHED

In the framework of the Hungarian Legal Book Salon, Tamás Sulyok, President of the Constitutional Court and Pál Sonnevend, Dean of the ELTE Faculty of Law presented the complex commentary of the European Convention on Human Rights, having the Minority Ombudsman as the author of the chapters on the prohibition of discrimination and the right to marry. In his introduction, Péter Paczolay says: "The most commendable feature of the book for me is its striving for completeness, objectivity and professionalism (...) it objectively presents the case-law of the European Court of Human Rights in its entirety."



GENERAL COMMENT NO. 5/2021 ON THE SPECIFIC AND GENERAL PROBLEMS IDENTIFIED IN RELATION TO THE EDUCATIONAL SITUATION OF ROMA CHILDREN IN GYÖNGYÖSPATA

General Comment No. 5/2021 is the final document of a complex and interdisciplinary follow-up study, in which the Minority Ombudsman summarised and presented how the situation of Roma children in educational institutions in Gyöngyöspata, especially in the Nekcsei Demeter Primary School, has changed in the decade since the comprehensive investigation of the Minority Ombudsman in 2011.

In the document, she summarised the shortcomings identified by her predecessor, briefly described the relevant court procedures and professional and legal standards, and attempted to show how the demographic, sociological, infrastructural, personnel, staffing and pedagogical changes of the decade covered by the follow-up study had affected the community of children attending the school, particularly Roma children. In the course of her investigation, she considered it particularly important to identify the general and specific circumstances which, despite the integration measures initiated earlier, have led to the institution becoming a school for children of Roma ethnicity only: the practice of conscious segregation in primary schools has gradually been replaced by spontaneous segregation. Unfortunately, in 2011 and recently, Gyöngyöspata has become the scene of an external communication battle that has fundamentally undermined the framework



and possibilities of peaceful co-existence in the settlement, and whose negative effects will continue to determine the daily lives of the people living there for a long time to come.

It is clearly not the duty of the Minority Ombudsman to make categorical statements on political issues, nor is she in a position to do so; she can only use the tools of professional reasoning and persuasion to resolve the anomalies that have been identified. She has expressed her professional views on social and political phenomena of concern to members of the Roma community in several communications and general comments in recent years.



Therefore, General Comment No. 5/2021 focuses specifically on issues related to the implementation of the fundamental right to equal treatment of members of the Roma community living in Gyöngyöspata in the field of education, including proposals for the municipality and its institutions.

General comment, as a legal form, also provided an opportunity for the Minority Ombudsman to identify the systemic background of the specific problems and opportunities identified, and thus to point out what general experiences the example of the settlement and the school district concerned can provide for experts and national policy-makers in the field of segregation and integration.

The summary of the general comment is available [here](#), and you can [access the full text in Hungarian here](#).

MAIN INTERNATIONAL EVENTS

VI. TRANSYLVANIAN LAWYERS' MEETING, TÂRGU MUREŞ

The 6th Transylvanian Lawyers' Meeting was held in September, jointly organised by the Law Institute of Sapientia Hungarian University of Transylvania Cluj-Napoca Faculty and the Hungarian Lawyers' Association of Transylvania. The event featured presentations analysing current issues and challenges of legislation and law enforcement in Europe, Romania and Hungary. The program included a joint presentation by the Minority Ombudsman and the Head of the Secretariat entitled "Practical experience with hate speech and hate-motivated acts – an ombudsman perspective", which summarised the possibilities and results of the ombudsman's tools and procedures, after providing a historical context of hate crime atrocities. Details here. [Details here.](#)



INTERNATIONAL CONFERENCE ON NON-TERRITORIAL MINORITY AUTONOMY



The two-day conference entitled "Non-Territorial Autonomy as an Instrument for Effective Participation of Minorities", organised by the ENTAN research network, the Institute for Minority Studies of the ELKH Social Sciences Research Centre and the National University of Public Service, started with the opening address of the Minority Ombudsman. Presentations on the issue of the autonomy of national minorities in political, sociological and legal terms, in addition to theoretical issues, also demonstrated the functioning of non-territorial models through practical examples. [Details here.](#)

"INTERVIEWING TECHNIQUES WITH VULNERABLE GROUPS" - OPCAT SOUTH-EAST EUROPE NATIONAL PREVENTIVE MECHANISM NETWORK MEETING



The Office of the Commissioner for Fundamental Rights hosted the second meeting of the OPCAT South East Europe National Preventive Mechanism Network this year. During the two days of panel discussions, participants explored aspects of interviewing vulnerable people – people of national minority origin, people from LGBTQ communities, refugees, minors – discussing the problems they face and possible solutions, as well as different interview techniques, sharing their own experiences. [Details here.](#)

CASE LAW MOSAIC

The complainant complained about the police measures taken against him and his son and the use of handcuffs. The Minority Ombudsman drew attention to the shortcomings in the investigation carried out by the commander, with which the head of the police station agreed. With regard to the police action in a private home, the Minority Ombudsman drew attention to the constitutional provision granting the privacy of the home.

[Details here.](#)

The Minority Ombudsman is following closely the case of an internet cartoon series with thousands of viewers, which has been the subject of protests by several NGOs and individuals against a series of episodes with prejudicial content involving Roma. The racist episode has not yet been removed by the authors of the cartoon, despite the objections.

[Details here.](#)

In 2020, the local government of a municipality in Pest County appointed the former deputy head of a kindergarten with the tasks of the head of kindergarten without the consent of the local German nationality self-government, which was contested by both the local and the national nationality self-government. In the course of her investigation, the Minority Ombudsman contacted the Pest County Government Office, which found that the municipal government had acted in breach of the law.

[Details here.](#)

A family of Roma/German nationality moved to another municipality because of discrimination based on their origin, and their application for re-registration was rejected by the GP in their new place of residence. The Minority Ombudsman replied to the petitioner with detailed information on the legal background to the choice of general practitioner and the procedure to be followed in the event of a refusal.

[Details here.](#)

The Roma complainant complained that the police officer had spoken rudely to her 12-year-old daughter and even threatened her, as evidenced by an audio recording. The Minority Ombudsman contacted the Prosecutor General and drew the attention of the National Police Commissioner to the need to investigate complaints properly and to comply with the law, in particular the special provisions applicable to children.

[Details here.](#)

Roma residents of a town in Eastern Hungary reported abuses in the distribution of food donations and in the organisation of a public employment programme in their municipality. In the context of a case involving a large number of complainants, the Deputy Commissioner requested full information from the notary and the president of the Roma nationality self-government, but found no irregularities.

[Details here.](#)

The president of a Roma nationality self-government complained about the termination of a police investigation. The Minority Ombudsman noticed that the decision to terminate the proceedings did not contain a warning of the right to appeal in the holdings of the decision, but only at the end of the reasoning, and therefore drew the attention of the head of the police station to the need to comply with the relevant rules of criminal procedure. [Details here.](#)

