

INTRODUCTION

*THE OFFICE OF THE PARLIAMENTARY COMMISSIONER FOR
CIVIL RIGHTS IN HUNGARY*



2009

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I. INTRODUCTION TO THE INSTITUTION OF THE PARLIAMENTARY COMMISSIONER FOR CIVIL RIGHTS IN HUNGARY

The main task of the Parliamentary Commissioner for Civil Rights is to investigate any abuses of constitutional rights he/she has become aware of and to initiate general or particular measures for their redress. The Parliamentary Commissioner for Civil Rights is solely accountable to Parliament. As for the legal status of the Ombudsman, in the course of proceedings he has to be independent and may take measures exclusively on the basis of the Constitution and law.

The Ombudsman is elected for a six-year term by a majority of two-thirds of the votes of the Members of Parliament. The election is based on a proposal by the President of the Republic. The Ombudsman may be re-elected for a second term.

The *Act LIX of 1993, on the Parliamentary Commissioner for Civil Rights*, states that **anybody may apply to the Ombudsman**, if they have suffered injury as a result of action of any authority or body performing a public service, or a decision taken in the course of action, or omission by an authority that has resulted in the infringement of their fundamental rights, or if a risk thereof exists.

The Act on the Ombudsman gives an exhaustive list of authorities. These are:

- ❖ Bodies or organisations fulfilling state administration (e.g. town clerks, the Construction Authority, guardianship authorities, customs and excise);
- ❖ Any other body acting as state administrative authority (e.g. the Land Registry , the Hungarian Energy Office);
- ❖ The police, the armed forces and security services;
- ❖ Local government, minority self-government, the office of the mayor;
- ❖ Notaries public;
- ❖ Court bailiffs;
- ❖ Bodies performing a public service (e.g. water, gas and electricity suppliers, social services and health care, educational institutions, parking companies, public service media);

The fundamental rights may be infringed by:

- ❖ unreasonably long procedures
- ❖ discrimination
- ❖ provision of inaccurate or wrong information
- ❖ unfair treatment
- ❖ refusal to disseminate information on unreasonable grounds
- ❖ unlawful decision

A very important aspect of the Commissioner's role is that a complaint may be filed even if the complainant has already exhausted the available administrative remedies – except for judicial review of administrative decisions -, or where no legal remedies are ensured.

Cases where the Ombudsman can not help:

- ❖ If the procedure has begun before 23rd October 1989
- ❖ If the non-appealable decision was made more than 1 year ago
- ❖ If the legal proceeding is pending or is already *res judicata*
- ❖ With regard to acts of Parliament, the President of the Republic, the Constitutional Court, the State Audit Office or the public prosecutor's office (except for the investigation office of the public prosecutor),
- ❖ If the plaintiff seeks legal counsel

The Ombudsman selects him/herself the course of action that is deemed to be more appropriate. Key measures are:

1. To make a request for remedy to the supervisory institution of the body that has infringed constitutional rights.
2. To initiate a remedy request at top management level.
3. To make a motion to the Constitutional Court for the examination of the unconstitutionality of a legal act.
4. To initiate (at the public prosecutor office) the lodging of a public prosecutor's protest.
5. To propose that the Law Commission amends or repeals an existing legislative act or that a new legislative act is enacted.
6. To submit the case to Parliament and request to be investigated by the Parliament.

II. INTRODUCTION TO THE PROJECTS OF THE PARLIAMENTARY COMMISSIONER FOR CIVIL RIGHTS IN HUNGARY

The Commissioner **Dr. Máté Szabó** launched a new working method and a way of thinking after his election in September 2007. **He determines every year what topics are especially important for the society and the enforcement of rule of law and have a particular significance from the point of rights and freedoms.**

Within these defined fields, he initiates special projects which have particular focus and consideration within the Ombudsman office (initiating particular investigations, etc), in the media and the public presentation of the Commissioner. Since there is no independent parliamentary institution for the protection of the rights of the children, the Commissioner operates during his mandate as an ombudsperson for children rights.

The three projects in 2008 are:

- **HOMELESSNESS**
- **CHILDREN'S RIGHTS**
- **FREEDOM OF PEACEFUL ASSEMBLY**

1. HOMELESSNESS

The Ombudsman office has organised several workshops with various actors ranging from social workers to representatives of the Ministry of Social Affairs, having taken into consideration „Best practices” employed in other EU Member States. It also sought avenues of possible cooperation at international level. Debated topics appeared in Hungarian scientific journals.

The Office organised an exhibition with the paintings of homeless people which was open to the public. We invited to our **first workshop, entitled „Being homeless”**, several experts dealing with homelessness, social workers working on a daily basis with homeless persons, representatives of the emergency service, the police, etc.. A **second workshop** was organised, called **„Becoming homeless”**. In September, the Commissioner and the participants signed a document called **Social Charta** within inaugural frames, which stated the most relevant problems and the solutions, according to the Commissioner. The **final conference**, themed **“The alternatives and solutions of homelessness”**, was very successful as many participants committed to our project.

Finally, the **Commissioner issued reports** that have resulted from his investigations conducted in the framework of this project and are as follows:

- parapeted benches
- attitude of the security guards/Budapest Public Transport Ltd.
- dept spiral
- procedures of court bailiffs
- begler's mafia
- accessibilty of ID/cards
- personal bankruptcy
- eviction

2. CHILDREN'S RIGHTS

The Parliamentary Commissioner for Civil Rights has a special responsibility based on the *Act XXI of 1997 on Child Protection*, hence, he acts as an ombudsperson for children.

In the first phase of the work, priority was given to the **awareness-raising of children about their rights**. This project involves both internal (in office) and international cooperation. **A new website on children's rights** was presented to the public and professionals, attracting high media interest. The site (www.gyermekjogok.obh.hu) is also accessible from the Office's main website. The content of the site is based on the *UN Convention of the Right of the Child* and the *Hungarian Constitution* in "children's language" with colourful cartoons. News, programmes, information about the projects, a complaint box and useful addresses can also be found on the website. The **children's drawing competition about human dignity** was organised with a nice ceremony and the participation of children from all over the country. Within the context of this project, several **conferences and workshops were organised**.

The Office announced a drawing/photo/essay competition about the human dignity and fundamental rights and **took part in some music and other youth festivals**.

The Commissioner is an associate member of ENOC (European Network of Ombudsman for Children) and the Office is also represented at conferences, training courses of the Council of Europe, UNICEF Hungary and Eurochild.

Pursuant to the general competence of the Ombudsman, the following **investigations were completed in the field of children's rights**:

- Child welfare basic provision and services
- Children's rights in the media
- Children's rights in the education system
- Employment of children
- Conditions of young persons in detention centres

3. FREEDOM OF ASSEMBLY

In the context of this project, processes in the Ministry of Justice, the Police, etc, were investigated. Applying a new working method, **the colleagues attended several public demonstrations on the spot** in order to observe and analyse the action of the police.

The Ombudsman proposed to Parliament the enactment of rules to regulate parallel/rival assemblies and that would also determine the first date of the notification of an assembly. He also urged for further normative control of the Act of Freedom of Assembly and Government regulations of the offences.

Pursuant to the general competence of the Ombudsman, the following **investigations were completed in the field of freedom of assembly:**

- Enforcement of the right of freedom of assembly at the Gay Pride March on 5th July 2008.
- Enforcement of the right of freedom of assembly at various protest and public demonstrations (National Day 7-16 March/23 October; various left/right wing protests 6,15, 17, 20 September)
- Execution of dispersion of the crowd on the 20th September 2008 protest.

4. OUR PROGRAMMES ON HUMAN DIGNITY

The right to human dignity is the source of the human rights. In 2008, the Parliamentary Commissioner for Civil Rights of Hungary paid special attention to the emergence of human dignity and the ensuing fundamental rights, with special regard to children's rights, the right to assembly and issues related to homeless people.

In the course of his work, the Parliamentary Commissioner intended to focus not only on the investigation of cases, but he also considered equally important that problems and improprieties that came to light during this work be made known as widely as possible and that the widest possible sections of society felt the responsibility for addressing such issues.

In order to achieve this target, the Parliamentary Commissioner for Civil Rights of Hungary announced a **scientific essay competition, photo and children's drawing competition.**

With the support of the Office of the Hungarian Parliament, a book will be published with the title: "Human dignity without barriers" in 2009 consisting of the best essays, drawings and photos of the competition as well as relevant Hungarian and international publications. It will be a crucial part of the awareness-raising work of the Ombudsman and the Office of the Hungarian Parliament.

5. PROJECTS IN 2009

New subjects are called in the same project system, which are:

- ❖ Right to strike
- ❖ Children's rights:
 - participation
 - awareness-raising
 - child welfare
 - violence to/among children
- ❖ Rights of people with disabilities
- ❖ Right to the freedom of movement facilitated by transportation systems.

*Introduction to the Office of the Parliamentary Commissioner for Civil Rights in
Hungary*

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