



*“With dignity – with difference”*

The special focused project of the Parliamentary Commissioner for Civil Rights  
about the rights of people with disabilities

2009

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## I. About the work of the Parliamentary Commissioner for Civil Rights

The main task of the Parliamentary Commissioner for Civil Rights is to investigate any abuses of constitutional rights he 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 two-thirds majority 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.

*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 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 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

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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.

## **II. Introduction to the project-method of the Ombudsman**

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. Due to this new way of thinking the official slogan (after the winner picture of a children's drawing competition) would be "Human dignity – without barriers".

Within these defined fields, he initiates special projects which have particular focus and consideration within the Ombudsman's office (initiating particular investigations, organizing workshops with participation of various parties in the interest of social dialogue, etc.), in the media and the public presentations of the Commissioner. Since there is no independent parliamentary institution for the protection of the rights of the children, the Commissioner operates during his full mandate as an ombudsperson for children's rights.

The three projects in 2008 were: homelessness, children's rights and freedom of peaceful assembly.

The new projects in 2009 are: rights to free transport (mobility, individual/public transport), rights of the people with disabilities, right to strike, children's rights (especially violence against/amongst children, awareness-raising).

## **III. The special project about the rights of people with disabilities**

***"Nobody shall be injured just because he/she is living with any kind of corporal or mental disability."***

*Basic thesis of the project of the Parliamentary Commissioner for Civil Rights.*

The Parliamentary Commissioner for Civil Rights, Prof. Máté Szabó has started a special project about the rights of the people with disabilities in 2009. He has taken into consideration the special situation of people living with any kind of disabilities not only in Hungary, but in our wider world. The UN has published a report about the data of people with disabilities of the world, where it states that:

- 20% of the poorest people are living with disabilities, estimated by the World Bank;
- 30 % of youth living on the street have disabilities;
- The people with disabilities would be with greater chance victims of corporal, or sexual violence;
- 90% of children with disabilities living in developing countries do not attend school
- 97% of adults with disabilities are illiterate.

All these facts considered, the UN declared that people with disabilities are the largest minority group. After estimation 10% of the world population are living with some kind of disability.

The aim of the project of the Parliamentary Commissioner for Civil Rights is to direct public attention to persons who are living with any kind of disabilities with by special legal means, by trying to define the problems and stimulating to work out the possible solutions. The Commissioner's role is to defend the rights of the citizens. The Commissioner defends the rights of the citizens in general with high attention and responsibilities using the cases of the Constitutional Court almost of the last two decades. He uses clear argumentation based on fundamental rights. The Commissioner realizes his responsibility in his office with some organizational changes, he appointed a leader of the project during this year and called participants among the warm-hearted, and committed colleagues. During the project – staying on the basis mainly of the right to human dignity – the Commissioner will focus on different questions of the rights of persons with disabilities.

#### ***Legal framework of the project***

- **Art 54. of the Hungarian Constitution** (Act XX of 1949) defines at the first place of the catalogue of rights *human dignity as an indispensable, essential right of every human being.*
- **Decision of the Hungarian Constitutional Court 64/1991** (XII. 17.) determines the definition of human dignity, as a dignity which is a quality implied in human life, that is why it is indivisible and can not be restricted. Human life and dignity is untouchable independently of physical and psychological levels.
- **Act XXVI of 1998 about the rights of persons with disabilities**
- **Art 21. of The European Charter of Fundamental Rights** restricted all form of discrimination.
- **Various UN Declarations**
- **UN Convention on the Rights of Persons with Disabilities**, implemented in Hungarian (after first ratification of the signing states) by Act XCII of 2007.

The Ombudsman is a rights defender. He acts with particular attention and responsibility, with an adequate attitude to the special characteristics of the rights of people with disabilities, using the cases of the Constitutional Court of the last two decades. The Commissioner realizes his responsibility in his organizational and administrative work. During the year he determines a problem or a concrete issue and tries to make all efforts to handle the individual complaints, and direct the attention of the wider public to these issues.

The related fundamental rights of the investigations are the following:

- **Right to live:** every person has the right to live, and it goes together with human dignity as a quality, which is indivisible and could not be restricted.
- **Human dignity:** it is untouchable, and it is independent from the physical and mental capacity, or development.
- **Non-discrimination:** it is not a possibility, but an obligation of the state to guarantee everyone living without any form of discrimination.
- **Social participation and inclusion:** we need paradigm change – based on the Madrid Declaration of 2002 – namely people with disabilities do not need charity, but fair and equal chances and equal access to all social sources (e.g. to inclusive education, new technologies, health and social services, consumer goods, and services).

One of the Ombudsman's aims is to draw public attention to people living with disabilities. He tries to raise a problem and outline the possible solutions, and with all these efforts promotes the enforcement and aggregation of the interest of people with disabilities.

The Commissioner cooperates with civil organizations, local authorities, ministries (especially with the Ministry of Social Affairs, Ministry of Education and Culture, Ministry of Economy), different committees of the Parliament, who deal with rights and interest of people with disabilities. He initiates dialogue among the various parties aiming at an active network. He tries to mainstream the public discussions about the rights of persons with disabilities, and promotes the necessary paradigm change.

***Fields of investigations during the project***

- non-discrimination
- women, children living with disabilities
- accessibility
- equality before and under the law – circumstances of guardianship
- freedom and security of person
- own choices and inclusion in the community

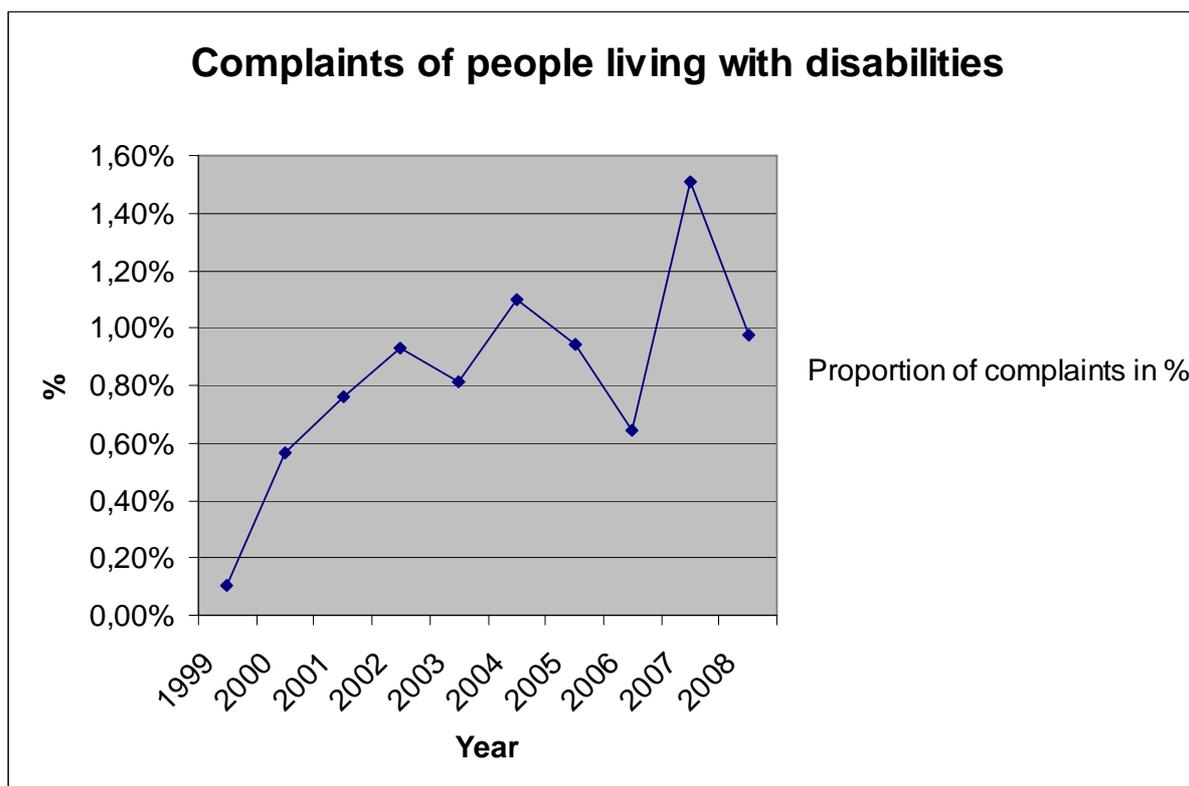
- freedom of opinion, access to information
- right to privacy, respect for family and home
- education
- health
- rehabilitation and employment
- social protection
- culture and sports
- participation in political and public life
- people with disabilities in law-enforcement institutions

As a conclusion, the Commissioner uses his traditional legal means (complaints handling, ex officio investigations, etc.) to promote the enforcement of the rights of people living with disabilities, and tries to direct attention of the wider public to these very important questions and the existing problems in order to improve the possibility of inclusion and to make better the quality of living with dignity.

*Attachment 1.*

**Summary of all complaints and of the people with disabilities in the Office of the Parliamentary Commissioner for Civil Rights (1999–2008)**

<i>Year</i>	No. of complaints	No. of cases of the people with disabilities	%
1999	5 617	6	0.11%
2000	6 002	34	0.57%
2001	5 264	40	0.76%
2002	3 860	36	0.93%
2003	4 540	37	0.81%
2004	4 992	55	1.10%
2005	4 769	45	0.94%
2006	4 038	26	0.64%
2007	3 981	60	1.51%
2008	3 800	37	0.97%
<b>Summary</b>	<b>46 863</b>	<b>376</b>	<b>0.80%</b>



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