

Introduction of the 2012 Ombudsman Report

by Dr. Attila Péterfalvi

First of all let me thank you for the honour of having been asked to speak about the English version of the ombudsman's report. 2012 was a very important year from many aspects:

- First of all, the constitutional changes completely changed the institution of the ombudsman and thus had a serious effect on the system of human rights protection in Hungary. I have been personally involved in these changes: in 2011 I worked in my beautiful office on the first floor of this building as Head of the Common Office of the Ombudsmen and from 1 of January 2012 I am heading the National Authority for Data Protection and Freedom of Information, which – to tell you the truth – means a much more troublesome work.
- The other aspect is that Prof. Szabó was elected as ombudsman by the Parliament in 2007 for a 6 year term, so 2012 was the last whole year of his mandate. So, if I may, I would also like to take the opportunity to give a kind of evaluation of his achievements. I have to mention, of course, the precious work of the deputy ombudsmen who concentrate on single but outstanding fundamental rights such as the rights of national and ethnical minorities, protected by Dr. Ernő Kállay, and the rights of future generations, protected by Dr. Sándor Fülöp and, following his resignation, by Dr. Marcel Szabó.
- The third aspect is that the Hungarian ombudsman was successfully accredited as the National Human Rights Institution of Hungary by the United Nations Organisation in 2011 – in 2012 the new NHRI also had to prove its effectiveness in the field of human rights protection in front of the world.

I am convinced that the Fundamental Rights Commissioner and his colleagues proved in 2012 that they are very much dedicated to the serious mission of protecting human rights in Hungary. The period of the establishment of the old-new institution and the rather new organisation based upon a new Ombudsman Act was not an easy one for anybody, including myself. Reading this report carefully one cannot help being astonished at the seriousness of the subjects and the huge amount of work behind them.

I have always been a great admirer of Prof. Szabó's proactive project method which he started in 2008. (*By the way, there are some critics saying, from a pure, theoretical point of view, that an ombudsman shall act exclusively on citizens' complaints and shall not initiate projects on his own but I don't agree with this view.*) Prof. Szabó examines every year topics that are especially

important for the society and the enforcement of the rule of law and have a particular significance from the point of view of rights and freedoms.

PROJECTS IN 2012 WERE:

- CHILD FRIENDLY JUSTICE
- PENITENTIARY SYSTEM WITH A HUMAN FACE
- SITUATION OF LAWYERS
- DIGNITY OF LABOUR
- LOSERS OF THE CRISIS

I would like to highlight that the Fundamental Rights Commissioner also fulfils the role of children rights' protector and every year gives priority to a special children-related topic. We can find very sorrowful data in the report because, according to statistical data on Hungary, in 2012

- more than 200,000 children were registered as “at risk”
- more than 10,000 children were in the criminal justice system
- about 6,000 children/year become victim of a violent crime
- 30 children/year die as a victim of physical abuse.

In 2012, following the agendas of the European Union, the Council of Europe and the European Network of Ombudspersons for Children (ENOC), the Hungarian Ombudsman launched a Project on Child-Friendly Justice with special focus on child victims, mediation, juvenile justice and youth crime prevention. Choosing this topic was very reasonable since thousands of children may get involved with justice systems, whether as victims, defendants, witnesses or asylum-seekers, or when their parents get a divorce and disagree over custody.

(I would like to call your attention to the fact that in 2013 the Fundamental Rights Commissioner and the National Data Protection Authority started a joint long term investigation on the Internet related rights of children which will be concluded with a serious 80 page report on mapping the problems and trying to offer some advices around September this year.)

But back to the ombudsman report of 2012: Being personally involved (*before 2001 I had been a lawyer myself*), I found the Project on the questions of practising the legal profession extremely interesting. The project summarized the complaints received from citizens and prepared special reports, for example, on changing the text of the oath of lawyers; on the practice of appointed counsel; on the necessity of fundamental rights training of lawyers; or on the liability insurance of lawyers.

The project was intended to hold a mirror to the state, the legal profession and the society so that those in need and their legal representatives could exercise their fundamental rights at the highest possible level. Special attention was paid to the lawyers' ability to operate without fear and unwarranted outside influence and to the equality of procedural right's instruments.

In 2012, as part of the project entitled "Losers of the Crisis – in the Captivity of Legal Provisions," several ex officio inquiries on the subject of environment were launched. Dr. Sándor Fülöp called the attention of the current government to recognizing the importance of environmental protection and accordingly forming a system of institutions from the level of Ministries to the territorial authorities, and to not regarding this field as an obstacle to economic development, a sector to be reduced and overshadowed. Concerning the application of renewable energy sources, he intended to examine the legal conditions of their applicability. An inquiry into the issue of the illegal private waste incineration was also launched in the framework of the project. Dr. Sándor Fülöp pointed out that there are often social problems in the background of the illegal waste incineration which is now playing an increasing role in air pollution countrywide.

We were happy to hear that, pursuant to the decision of the Austrian Administrative Court and the Environment Senate, the inquiry launched in relation to the cross-border environmental impacts of the waste incineration plant planned in the directly neighbouring business park in Heiligenkreuz became void. On the basis of the available data, however, the Commissioner considered the inquiry into the cross-border connections of the institutional protection obligations and the air pollution necessary.

Concerning the Red Sludge inquiry and disaster management, Dr. Marcel Szabó proposed the amendment of the relevant rules of law, finding that the disaster management authority and the environmental protection inspectorate do not participate in each other's proceedings; they make their decisions in isolation, unaware of the activity of the other authority. The current cooperation system of the specialised authorities does not adequately take into consideration difficult licensing cases of a complex nature which require the joint decision of several authorities.

I have to remind you that, due to the constitutional changes, now it is the ombudsman who knocks on the door of the Constitutional Court instead of the citizens. The Office received 758 such requests in 2012. The commissioner for fundamental rights decided to uphold twelve of his motions submitted during the previous years, and he appealed to the Constitutional Court 19 times on the basis of the complaints received and 4 times ex officio on very serious matters

including the provisions of the new Basic Law. The Constitutional Court has already made its decision in 11 cases, including the Family Protection Act.

Speaking of the situation of minority rights in Hungary, the most important sectoral regulation of national minority rights is in the new Act on Public Education. The Ombudsman brought to the Constitutional Court's attention that it should be investigated whether the Act fully contains all the guarantees for the proper development and protection for children since the nationality communities are not adequately involved in the decision making processes.

To be able to make a final conclusion, I call the help of statistical data:

The number of complaints filed to the Ombudsman Office increased by 25% during the first year of the transformed, reorganized ombudsman system. The Office managed to accomplish its legally defined, partly new tasks in 2012 with a uniform approach, flexible organization of work and considerable surplus labour. The interests of national minorities and future generations are protected by deputy commissioners. Its information service was accessed by almost 13 thousand people, against nine and a half thousand a year earlier. On the basis of the complaints and the – partly on-the-spot – investigations initiated ex officio, there were 231 Ombudsman's Reports prepared, containing 331 dispositions and recommendations. 61% of the Ombudsman's recommendations were accepted.

On the other hand, the Szonda Ipsos survey from the end of 2012 shows that this institution has become the most popular among the population and the highest ranking on the list of public trust, owing to both the new regulation and the devoted, dedicated work of the entire organization. Its popularity exceeded that of both the Constitutional Court and the political parties. Congratulations!

Last but not least, I very much appreciate that I found on the pages of the report the pictures and short CVs of many colleagues working in the office and, as a reader, I also liked the colourful pictures, logos and diagrams.

Finally, I would like to express my gratitude to the translators who have made an excellent job creating an easy to read and understand but high professional English text.

Thank you for your attention!

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