

***Mediation and Partnership – Cooperation with Civil Society
Organizations in the New Type of Practice of the
Commissioner for Fundamental Rights***

by

Tímea Csikós and László Tóth



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1. Introduction

The Commissioner for Fundamental Rights is an old-new institution in the Hungarian constitutional culture; although the ombudsman's system of legal protection has functioned since 1995 in Hungary, the structure has gone through significant changes in the last two decades (the original Ombudsman Act was passed in 1993). Instead of the Parliamentary Commissioner for Civil Rights and the special ombudsmen operating with him, i.e. the Commissioners for Data Protection, Ethnic Rights and the most recently established one for the Protection of Fundamental Rights of Future Generations, as of 1 January 2012 the ombudsman has to fulfil its duty of legal protection in a uniform institutional-organizational framework. The renewal is inconceivable without integration, this integration requires not only the uniformization of the organizational forms but the integration of previously accumulated knowledge as well.

The transformation of the interrelation of the previous general commissioner and the special ombudsmen with civil society organizations into a uniform contact network is of special significance from this perspective since the representatives of this sector are among the most significant inspirers-cum-critics of the "official" activity for fundamental rights protection.

The demand for protecting human rights, universal fundamental freedoms together with and, at the same time, against the state power maintaining and simultaneously constraining them with its legal instruments is inseparable from the democratic function of the rule of law. Members of the political community expect and require that their fundamental rights be guaranteed by the state which, according to Hobbes's theory, protects the members of society from chaos and ensures the conditions of the peaceful human coexistence. In order to avoid overgrown, non-transparent bureaucracy, unreasonable constraints and abuse of power by the state, the state's power mechanisms require the attention, the criticisms and the control of the civil society in their course of operation, since, in the absence of all these aforementioned, the state power would lose the subsequent legitimacy of its mandatory for all decisions and, ultimately, its democratic nature.

This internal demand of society to constrain power could manifest itself, in an institutional form, in the course of the emergence and worldwide spreading of the ombudsman's office as the most humane representative of the self-constraining function of the democratic rule of law, of the professional interpretation of civil, citizens' criticism and of the system of checks and balances among the non-classical branches of government.

The ombudsman's activity of legal protection of fundamental rights is a borderline activity by its nature: its identity has to be determined balancing on the borderline of constitutional and civil legal protection. An indispensable element of this self-determination is feedback, enabling the maintenance of balance. In the course of his activities inquiring into the operation of the state and administrative organs and promoting the enforcement of fundamental rights, the ombudsman acts both as a partner and a competitor vis-à-vis civil society's organizations for legal protection, unconstrained by the operational anomalies of the official-institutional structure and able to transmit their message essentially more freely and radically.

Naturally, feedback is often critical. The civil society's organizations for legal protection often want more efficient actions, more determined stands for fundamental rights

or more radical articulations, which is natural since their actions are less constrained by the dual chain of the institutional procedures set out by the law and the social expectations.

The non-profit civil sphere exists between state and market spheres. Its identity, self-image derives legitimacy from its self-determination based on its relation to these spheres. This is the case in Hungary, as well, where the state, conforming to the processes elsewhere in the world and within the European Union, hands over certain parts of its activity to NGOs, simultaneously ensuring state aid, apparently creating a sort of a dependency between the non-profit organizations and the state power.

It poses a realistic danger that the cooperation of the state and non-profit spheres, accomplished in the course of the performance of public duties, involves the loss of independence, freedom, radical attitude and civil courage. Consequently, it is important for the role concept of the watchdog not to be violated (especially in the field of the protection of human rights).¹

The ombudsman's institutions act as watchdogs, too. Certainly, they are induced to operate more subtly. However, the Commissioner for Fundamental Rights as a medium may articulate, amplify the voice of the civil society, as well as he may act as an echo and a mediator on the borderline of the legal protection of the state and that of civil society's.

The year of 2012 brought on a pivotal change in the legislative and regulatory context for the ombudsman's institution.

The new Non-profit Act repealed the previous legislation on non-profit associations and corporations simultaneously with the termination of the National Civil Society Basic Program; the latter was replaced by the National Cooperation Fund. In the new statute, the legislator, interpreting non-profit activity in a narrow sense, stipulates that the public duties to be performed by civil society organizations and eligible for support shall be specified in their charter with a reference to the statute.

However, the law also provides possibilities to found civil society organizations without an obligation of registration. It extends the bankruptcy and winding-up rules to the civil society organizations, clearly identifies the types of state aids and also provides for the establishment of a uniform, accessible electronic database.²

The law on the reorganization of the ombudsman's institution, the Act CXI of 2011 on the Commissioner for Fundamental Rights, specifies as part of the ombudsman's functions and powers that "In the course of his or her activities the Commissioner for Fundamental Rights shall cooperate with organisations aiming at the promotion of the protection of fundamental rights."

In the course of conducting the specific inquiries, the framework of cooperation is given substance by the civil society experts of the relevant fields, the involvement of the non-profit organizations, consultations and workshop discussions, conferences, exhibitions and, in the institutionalized form, by the Civil Advisory Body, created by the ombudsman.

¹ Szabó, Máté: Az állampolgári jogok védelme a globalizált civil társadalomban. [Protection of Fundamental Rights in a Globalized Civil Society] In: Szabó Máté (ed.) *Ki őrzi az őrzőket? Az ombudsmani jogvédelem.* Kairosz, Budapest, 2010

²Móra, Veronika: *Civil Szervezetek Fenntarthatósági Mutatója 2011-ben* [Sustainability Index of NGOs in 2011] – Magyarország, USAID 2012. június

2. The Peculiarities of the Hungarian Ombudsman Model

In Montesquieu's classic system of separation of powers, the ombudsman's institution may not be linked to either of the branches. It can be considered basically as an outsider, owing to its nature and control function. This outsider, external position is inevitable for exercising the ombudsman's powers since it guarantees the impartial inquiry into the legal operation of the administration and the citizen friendly attitude. The guarantee for impartiality is that the ombudsman elected by the Parliament may not be given instructions by any other organs. He makes his decisions in his discretionary power, free of any influence. Consequently, his term of office generally exceeds the term of office of the respective Parliament and government. Typically, the Act confers on the ombudsman such powerful rights for inquiry which provide possibilities for requests to any administrative organs, entering the premises of the authorities and obliging the managers of these organs to respond within a deadline set out in the Act.³

On the basis of legal historical precedents, two major directions of the ombudsman type legal protection can be distinguished: one of them may be called the classic model while the other is the human rights model.

The main difference between the two schools is that the duties of the classic ombudsman institution originating from Sweden involve primarily making recommendations on the operation of the administration following the proceedings conducted on the basis of citizens' complaints of administrative nature, while the human rights type ombudsman implements a legal protection of fundamental rights wider than that of the previous one, based on constitutional and international law.

It is a characteristic of both ombudsman role concepts that the recommendations are generally not binding. The administrative organ concerned is, however, obliged to respond; also a common element is the enforcement of interests by persuasion, based on the power of the report held before the Parliament and that of publicity.

Another difference pointed out in the literature is that the human rights ombudsmen's extra duty is to draw the complainants' attention to the international legal protection mechanisms beyond the ways of the national ones, and in the course of their operation they also have to signal if any state regulation is in conflict with international obligations.⁴

A good example from the practice of the Commissioner for Fundamental Rights is the report on the annulment of the Act on the confinement of juvenile offenders for minor offences and the subsequent petition to the Constitutional Court, in the reasoning of which the ombudsman concluded that the provisions of the Misdemeanour Act, sanctioning juvenile offenders under 18, who are considered by the UN Convention on the Rights of the Child as children, are in conflict, among others, with the Convention.⁵

³ Sziklay, Júlia: Hatalommegosztás és ombudsmani intézmények az európai jogállami kultúrában [Separation of Powers and Ombudsman Systems in the European Culture of Rule of Law], in: Hajas Barnabás - Szabó Máté (szerk.) Az ombudsmani intézmények újraszabályozása a 21. században Magyarországon és Európában, Országgyűlés Hivatala - AJBH, Budapest, 2012

⁴ Haász, Veronika: Hogyan lesz reaktív ombudsmanból proaktív emberi jogi biztos [How the Reactive Ombudsman Becomes a Proactive Commissioner for Human Rights?], in: Közjogi Szemle 2011. 4. szám

⁵ <http://www.ajbh.hu/allam/jelentes/201203298Ai.rtf>

The international commitment of the Hungarian ombudsman institution is also pointed out by the fact that the Office of the Commissioner for Fundamental Rights also functions as a National Human Rights Institution of the UN, however, it has no statutory obligation to do so.

All the circumstances mentioned above support that the new Hungarian ombudsman model in function as of 1 January 2012, institutionally headed by the independent Commissioner for Fundamental Rights replacing the previous model, may be considered as a representative of the human rights ombudsman model based on wider fundamental rights considering its nature, proceedings, recommendations and petitions to the Constitutional Court.

The task of the National Human Rights Institutions, therefore that of the Office of the Commissioner for Fundamental Rights, is, among others, to cooperate with the civil society organizations, non-governmental organizations (NGOs) acting in the field of human rights, enhancing these organizations' activity of legal protection of human rights, fulfilling this way the role, under which a basic characteristic of the ombudsman's activity can be defined as acting as a mediator between the state and the civil society.

It is also of utmost importance from the aspect of the international commitments of the ombudsman institution and, in connection with this, from the aspect of closer cooperation with the civil society that since Hungary joined the Optional Protocol to the Convention of Torture of the UNO, the Ombudsman Act appointed the Office of the Commissioner for Fundamental Rights to perform the duties of the so-called national preventive mechanism to be established until 1 January 2015 in compliance with the above mentioned Protocol.

Pursuant to the Act,⁶ the Commissioner for Fundamental Rights has to authorize at least eleven colleagues to perform the duties of the national preventive mechanism. Experts holding a higher education degree, with outstanding theoretical knowledge or at least 5 years of professional practice in the field of treatment of persons deprived of their freedom can be authorized to such tasks.

Regarding this provision, the Hungarian Helsinki Committee expressed its reservations indicating that certain areas may not be covered by 11 persons (care for the sick and the old, social work, drugs, etc.). In addition, the Helsinki Committee pointed out that it would be useful to involve actors in the national preventive mechanism who belong to an especially vulnerable group from the aspect of detainment and/or have personal experience in the fields covered by the Optional Protocol such as survivors of torture or persons with disabilities, previously treated by an institution.

According to the interpretation of the Ministry of Administration and Justice, the provision at issue is only a minimum rule, it does not mean that other experts could not participate in the work on an ad-hoc basis or permanently. According to this interpretation, "the colleague of the Commissioner for Fundamental Rights" is a general definition; it does not refer to an existence of a public servant legal relationship, civil society organizations may also act as a colleague of the ombudsman.⁷

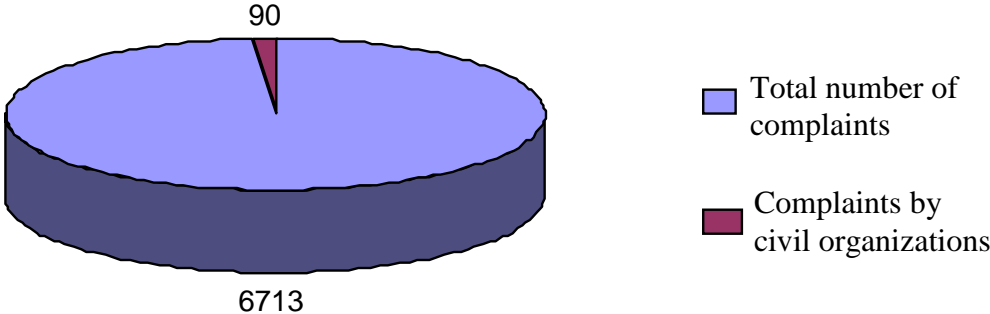
⁶ Act CXI of 2011. Article 39/D. paragraph (3)

⁷ Kádár, András Kristóf: Magyarország csatlakozása az ENSZ Kínzás Elleni Egyezménye Fakultatív Jegyzőkönyvéhez– civil szemmel [Hungary's Accession to the OPCAT – With the Eye of a Civil] http://helsinki.hu/wpcontent/uploads/Kadar_csatlakozas_civil_szemmel.pdf

Provided that all conditions will be met by 2015 for starting the national preventive mechanism within the framework of the ombudsman institution, including the settlement of pending, unclarified technical questions (the entitlements and operating costs of the civil society acting on behalf of the ombudsman, etc.), the cooperation between the Commissioner for Fundamental Rights and the civil society organizations may enter a new level.

3. Civil Relations in Numbers

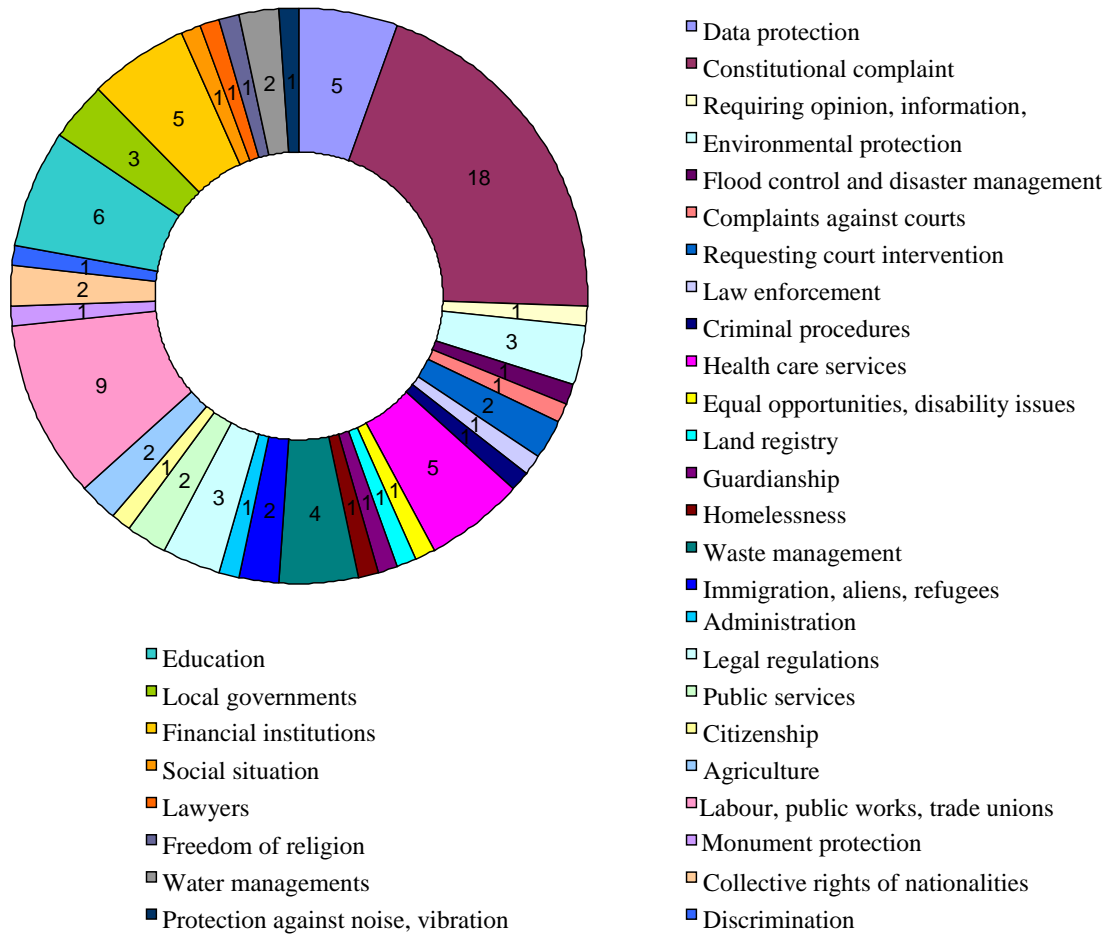
In 2012, the Office of the Commissioner for Fundamental Rights received more than 6700 complaints including 90 submitted by civil organizations. 25 complaints were rejected, consequently there were about 60-70 cases when the Ombudsman initiated an investigation based on a civil request.



Considering the different types of cases initiated by members of the civil society, the number of complaints questioning the constitutionality of legal regulations is strikingly high (18) and the number of complaints submitted by civil organizations concerning labour and education issues was relatively high (9 and 6), as well.

Other common types of complaints received from civil organizations were those about *data protection, health care services, financial institutions, waste management, collective rights of minorities* and local government issues but there were also some civil initiatives concerning protection against noise and vibration, water management, freedom of religion, homelessness, asylum seekers or public services.

Types of complaints submitted by NGOs



In 2012, (almost) each program or event organized in the Ombudsman's Office was, still is, connected on some points to civil society: either because of its subject or agenda, or because of the participants invited, at some level there is always civil society involvement in these programs.

Events organized especially for the civil society included a round table discussion for experts on disability issues (at the end of March), panel discussions on the environmental impact assessment of settlement planning tools (April-May), competition organized by the NGO Civitas Association or the announcement of results of the “Carbon Detectives” program competition; but we can also mention the plant fair and sale in March, the fair of eco-friendly products and the event organized by the NGO Green Office in May. The Office of the Commissioner for Fundamental Rights hosted the meetings of civil environmental and nature conservation associations and, in the course of their work, the ombudsman's staff had also attended several consultations with notable representatives of the civil society.

Strong civic participation characterized the presentation delivered in January on minority education and education of migrants, the several panel discussions and the various minority programs, like the Bulgarian spring festival.

Representatives of professional organizations or associations often attended our project-related events (opening conferences, consultations with professionals) as guests, but

on several occasions they participated the professional events of the ombudsman as lecturers, as well.

Thus, NGOs like the Hungarian National Committee for UNICEF, the Hungarian Civil Liberties Union, (HCLU/TASZ), the Hungarian Helsinki Committee, the Legal Defence Bureau for National and Ethnic Minorities (NEKI), the Eötvös Károly Institute, researchers, teachers and students of the Central European University (CEU); representatives of the social and health sector, (Public Foundation for the Homeless, Shelter Foundation, Hungarian Maltese Charity Service, Hungarian Academic Association of Rural Health, Hungarian Hospital Association, Hungarian Psychiatric Association) are frequent visitors to the Office of the Commissioner for Fundamental Rights.

The ombudsman has a strong professional relationship with the most important disability advocacy organizations, just to mention some major ones: National Federation of Disabled Persons' Associations (MEOSZ), Hungarian Association of the Deaf and Hard of Hearing (SINOSZ), National Organization of Autistics (AOSZ), National Federation of Hungarian Federation of the Blind and Partially Sighted (MVGYOSZ), Hungarian Association for Persons with Intellectual Disability (ÉFOÉSZ).

The relationship is almost the same with associations concerned about environmental protection (Humusz Waste Prevention Alliance, Védegylet - Protect the Future, Hungarian Ornithological and Nature Conservation Association, Clean Air Action Group, WWF, Greenpeace), and with civil groups and organizations concerned about national and ethnic minorities' rights (Equinet, Chance for Children Foundation, European Roma Rights Centre).

As the institution of *actio popularis* has been abolished, citizens may no longer submit a petition to the Constitutional Court for ex post review, therefore the ombudsman's competences in this regard have gained major importance.

This was reflected in numbers, as well: in 2012, the Commissioner for Fundamental Rights received 683 proposals to file a petition to the Constitutional Court; on their basis (and considering the consolidated petitions and petitions submitted ex officio, as well) the commissioner for fundamental rights appealed to the Constitutional Court more than 20 times.

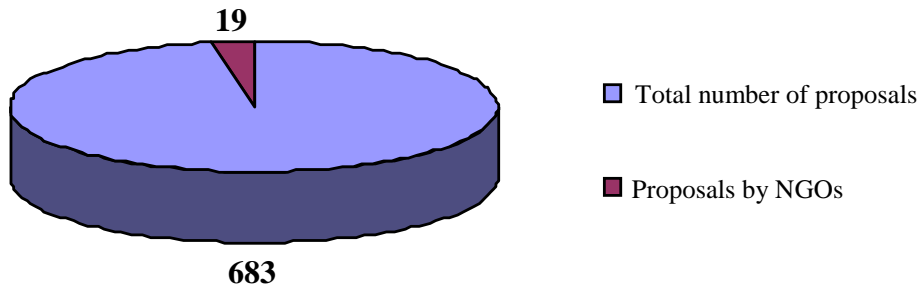
In 19 cases the proposals were submitted to the ombudsman by civil organizations, two of which, the National Conference of Student Self Governments' proposal concerning the Act on Higher Education and the National Federation of Disabled Persons' Associations' proposal concerning social services and assistance for disabled persons, were of outstanding importance.

The importance of these proposals is well illustrated by the fact that the Constitutional Court annulled the contested regulations as a result of the petitions submitted by the ombudsman.

Furthermore, the ombudsman submitted petitions to the Constitutional Court based on the proposals of the Network for Freedom of Education, the Hungarian Gambling Federation and the Hungarian Civil Liberties Union (TASZ), and there are three pending procedures before the Constitutional Court started upon the proposals of the Association of Hungarian Journalists and the One-Step-Ahead Non-profit Association (Lépéselőny Közhasznú Egyesület).

In addition to the above mentioned organizations, the commissioner for fundamental rights received proposals to file a constitutional complaint from the Association of Family Representatives, the Hungarian Medical Chamber, the National Federation of Agricultural Co-operators and Producers, the Human Chain for Hungary, the Nebáncsvirág Association or the Felis Hungarica (Macskások Egyesülete).

Proposals to file a petition to the Constitutional Court



4. Versatility

The traditional ombudsman type activities (handling complaints, carrying out inquiries) were supplemented with several project-activities focusing on different fundamental rights related topics. In order to achieve success in the comprehensive investigations carried out in the framework of these projects, it is essential to consult civil experts with practical experience in the relevant fields and to cooperate with representatives of advocacy organizations. Consequently, consultation and cooperation with civil representatives of the relevant fields is an important element of the ombudsman’s inquiries carried out as part of the projects, and especially of the Project on Child Friendly Justice, the Project on Dignity of Labour and the Project on Losers of the Crisis.

Cooperation is especially effective with civil organizations representing those fields where civil activity is intensive and civil advocacy organizations have major importance (children’s rights, community employment, persons with disabilities, care for homeless people, education and nationalities, environmental protection or the economic crisis and victims of financial institutions).

Furthermore, it can be stated that cooperation mechanisms between civil organizations and the previously independent commissioners (now deputy-commissioners) have been integrated into the unified ombudsman institutional system set up from 1 January 2012, to further enforce the effectiveness of the new institutional structure.

As an example, cooperation with civil societies presented in the 2011 annual report of the commissioner for the interest of future generations was still going on in 2012 as an active, continuous professional cooperation.

Going over the major events of 2012, we must highlight the seminar on the “Perspectives of waste management in the economic crisis” held on 1 June, attended by, among others, the Humusz Waste Prevention Alliance and representatives of several organizations concerned about waste management.

On the basis of reciprocity, the Office has also attended several events of civil organizations like the International Public Sanitary Forum and Exposition, the Annual Meeting of Nature Conservation Associations organized by the National Society of Conservationists – Friends of the Earth Hungary, and the ombudsman inaugurated the temporary photo exhibition entitled “The past, the present and the future of Verespatak” at the Office Building of the Members of Parliament.

In the field of environmental protection we maintain permanent personal and professional relationship with civil partners including the Hungarian National Council on the Environment or other civil organizations participating in the activities of the National Council for Sustainable Development: the Hungarian Ornithological and Nature Conservation Association, Environmental Management and Law Association, Ecology Institute for Sustainable Development, Clean Air Action Group, WWF Hungary, Seedling Nature and Environmental Protection Association, GATE Green Club Association, Nettle Nature and Environmental Protection Association, E-mission Association.

The ombudsman's colleagues are also involved in the work of the so called *Aarhus roundtable* (which aims to contribute to helping civil participation and access to information concerning nuclear energy use), they cooperate with the Environmental Management and Law Association, the Energiaklub Climate Policy Institute and Methodological Centre, and they conduct regular consultations with Greenpeace Hungary concerning the re-cultivation of the red sludge reservoirs in Almásfüzitő.

Within the framework of professional relationship maintained with civil organizations of environmental protection we should mention the sessions of the Coordinating Board of Environmental Protection Civil Organizations held at the Office of the Commissioner for Fundamental Rights with the participation of the ombudsman's staff. We must also highlight the ombudsman's contribution to the publication of the Hungarian Ecovillage Network's Bulletin as part of our long term cooperation with local communities striving for sustainable development.

Following the previous consultation practices of the former commissioner for national and ethnic minorities, in the new unified ombudsman institutional system our colleagues maintained strong relationship with representatives of civil advocacy groups and legal defence organizations in 2012.

Accordingly, the commissioner's staff attended several training seminars and conferences of EQUINET Antidiscrimination Network and the European Union Agency for Fundamental Rights (FRA); held litigation consultations on Roma education and segregation issues with representatives of the Chance for Children Foundation. There is also an informal platform for exchange of information between the ombudsman and the European Roma Rights Centre, the Tom Lantos Foundation and the Kurt Lewin Foundation.

Within the framework of the project entitled ‘Losers of the Crisis’, several comprehensive inquiries were conducted with special emphasis on – among others – the increase of ethnic and social prejudice and on forms of discriminative behaviour. The ombudsman paid special attention to the problem of hate-crimes. A round-table discussion was held to discuss the subject on 13 June 2012 where civil organizations played an important role: presentations were delivered by the president of the Federation of Hungarian Jewish Communities, the president of the Hungarian Helsinki Committee, the director of the Athena Institute and the Support Society for Gays and Lesbians in Hungary.

In addition to the participation of NGOs in the professional events of the ombudsman's Office, we should also mention the large number of invitations received from representatives of the civil society requesting the participation or intervention of the ombudsman or his staff. The ombudsman is invited on a regular basis to the events and programs of nationalities' self-governments and several NGOs (the Transylvanian Armenian Roots Cultural Association, the Association Védegylet - Protect the Future, the National Society of Conservationists – Friends of the Earth Hungary, National Federation of Disabled Persons' Associations (MEOSZ), Hungarian Association of the Deaf and Hard of Hearing (SINOSZ), Public Foundation for the Homeless, Shelter Foundation etc.

Highlighting the most significant events among the numerous civil-related programmes of 2012 attended by the Commissioner for Fundamental rights, we have to touch upon the two-day professional conference “Paradigm Shift in Homeless Care”, organized by the Hungarian Academic Association of Rural Health under the patronage of the Commissioner, with several of his colleagues among the conference's speakers. The Ombudsman also participated, both as a patron and a speaker, in the large-scale programme organized by the Hungarian Association of the Deaf and Hard of Hearing (SINOSZ) on the occasion of the International Day of the Deaf; his colleagues, having their own stand, were at the disposal of the children and their parents interested in the sphere of fundamental rights the entire day.

In this context, we should also mention the three-part series of conferences within the frameworks of the long-term cooperation with Blue Line Child Crisis Foundation. Under the title “Missing Children – Professional Day”, there were two conferences held in the countryside (Kecskemét, Miskolc) and one in Budapest; the colleagues of the Ombudsman were among the speakers at all three venues.

The Ombudsman's active participation in the meetings and activities of the Hungarian Disability Caucus as a form of long-term civil cooperation of major importance and his following, as a strategic partner, of the activities of the Platform of European Social NGOs are also to be mentioned. Cooperation, exchange of experiences and information add several useful elements to the activities of both the Ombudsman and the civil partners, contributing to the success of their work.

Under the Ombudsman's Project on Children's Rights, cooperation with the International Children's Safety Service was continued in 2012, too. It is of utmost importance from the point of view of the assertion of children's rights that the Commissioner for Fundamental Rights, as a partner of the Family, Child, Youth Association, contributed to the preparation of the alternative (civil) report to be submitted to the UN's Committee on the Rights of the Child. On 9-10 June, 2012, just as in previous years, the colleagues of the Ombudsman, this time jointly with UNICEF Hungary, participated in the events of the Telekom Children's Island with right awareness games, colouring books, ethnic minority puzzles and family games promoting environmental protection.

In 2012 the Commissioner for Fundamental Rights, as special ombudsman for children's rights, delivered speeches on the topics of children's right to health and education, protection of the fetus's life, child-friendly justice, child protection at various conferences organized by the József Fodor School Health Society, Bloc of Hungarian Women, Hungarian Society of Criminology and the Hungarian Association of Police Science.

In connection with the Ombudsman's Report on Child Prostitution, in November 2012 the Commissioner attended the Humana Film Club's round table conference under the title "Victim or perpetrator?"

In 2012 in Sofia, at the annual conference of Eurochild, an umbrella organization of NGOs' for child protection and children's rights, of which the Ombudsman is a member since 2009, one of the Commissioner's colleagues delivered a speech on the Ombudsman's inquiries into children's homes, and intensive working relations were set up with the Children's Rights International Network, as well.

On 10 December 2012, International Day of Human Rights, in a large-scale international ceremony, the Commissioner for Fundamental Rights and his guests of honour dedicated the new Event Hall (former Complaints Bureau) of his Office to the memory of Janusz Korczak, Polish children's rights activist and martyr, together with the inhabitants of the orphanage under his patronage, of the persecution of Jews in Nazi occupied Poland. Although its civil aspect were of lesser importance, this event is worth mentioning since it was the result, without any doubt, of a cooperation between the Office of the Commissioner for Fundamental Rights, the Polish Institute and the Hungarian–Polish Friendship Association.

5. Civil Consultative Body, Prizes and Recognitions

Back in 2010, the Parliamentary Commissioner for Civil Rights established the Civil Consultative Body (CCB), a standing advisory group for the utilization of the skills of specialists, who are also public figures, with considerable experience and/or high-level theoretical knowledge in order to facilitate the assertion of constitutional fundamental rights.

The CCB is not a legal entity, its membership is not limited, membership is established upon accepting a request made by the Commissioner for Fundamental Rights in recognition of the candidate's professional and public work.

The activities of the CCB require, in the first place, the joint work of a professional body, consisting of the prominent theoretical and/or practical representatives of social sciences, during which the members give their opinion on the reports, project summaries, other publications and the publishing activities of the Commissioner for Fundamental Rights, discuss the annual plans for inquiries, event and projects, and, upon availability, participate in events, conferences, workshops, exhibitions and ceremonies organized by the Ombudsman.

The CCB is not a public body, its members-only meetings are convened by the Commissioner for Fundamental Rights as needed, but at least twice a year.

During the last meeting of the CCB, on 3 October 2012, the Civil Contacts Coordinator of the Commissioner for Fundamental Rights and two new members of the CCB were introduced, and the group discussed professional issues like the transparency and drafting methods of motions to be submitted to the Constitutional Court and the Ombudsman's reviews on legal regulations. Members also discussed the practices of handling complaints under the new structure of the Office, the necessity of possible civil contribution to the publishing of the annual reports, and the possibility of introducing the practice of filing complaints through a uniform complaint form was also raised.

Awarding prizes and rewards is an elegant way, most adequately stressing the importance of civil relations, to publicly recognize and support the contribution of those who initiated highly successful forms of cooperation and actively participated in their implementation, in the joint efforts.

In this respect it should be stressed that the awardees of the prize *Iustitia Regnorum Fundamentum* in 2012 all came from among the prominent representatives of the civil sphere. The awarding ceremony was held on 15 June 2012, in the ground floor exhibition hall of the Office together with the opening of a poster exhibition organized by the United Nations Association of Hungary.

Upon the recommendation of the Deputy Commissioner responsible for the protection of the interests of future generations, the Commissioner for Fundamental Rights bestowed the *Iustitia Regnum Fundamentum* Prize upon Dr. György Kalas, legal counsel of Reflex Association, for his exemplary and successful professional activities, commendable integrity and as a recognition of his entire professional career.

Upon the recommendation of the Deputy-Commissioner responsible for the rights of national minorities, the *Iustitia Regnum Fundamentum* Prize was bestowed upon Ms. Judit Berki, an equal opportunity professional, for her professionalism, humanity and her exemplary work in the interest of the assertion of children's rights and the implementation of equal opportunity.

On his own behalf, the Commissioner for Fundamental Rights awarded the *Iustitia Regnum Fundamentum* Prize to Dr. Csilla Kollonay Lehoczkyné, Head of Department of Labour and Social Law of Eötvös Loránd University, for her unflagging work of the highest professional level and her prominent activities in the field of labour law, spanning several decades.

6. Summary, Perspectives

The strategy aimed at strengthening the protection of rights, close intellectual and professional cooperation with civil organizations, establishing partnership through thinking together and combining resources is justified by numbers, statistical data and result.

Civil initiatives, the civil society's ever growing activity are indispensable for the proper functioning of representative democracy based on social justice and the respect for fundamental rights, and for the balanced operation of democratic institutions ensuring the assertion of fundamental rights. Civil participation in making public policy decisions defining the future of society may become an instrument for expanding democratization, and civil criticism exercising control over public administration may contribute to making public service more efficient.

Civil initiatives make the deficiencies of administrative decisions perceivable, relying on the norms of the rule of law they force the political and administrative organs to be more prudent; civil proficiency counterbalances official technocratic tendencies.⁸

⁸ Sontheimer, Kurt: Polgári kezdeményezések – kísérlet a fogalom meghatározására [Civil Initiatives – An Attempt to Definition], in: Felkai Gábor (szerk.) Új társadalmi mozgalmak és politikai tiltakozás, Rejtjel Kiadó, Budapest 2003

Civil protection of rights is colourful, loud and becoming stronger in today's Hungary; however, its ability to enforce its interests and influence society is falling behind the expectable optimum, provided we may speak thereof in a continuously moving, whirling environment.

Jürgen Habermas called civil disobedience the touchstone of a democratic society and he considered it justified in those cases when this form of protest is directed against a well-defined case of grave injustice, when the hopeful means of legal influencing are exhausted – under such circumstances disobedience cannot pose a threat to the constitutional exercise of power.⁹

This thought should immediately induce an analogy between the possibility to apply to the Ombudsman for the protection of one's rights and the cases of justified civil disobedience, since the Ombudsman may accept a citizen's petitions if the activity or omission of an authority infringes a fundamental right (is "unjust") and all available administrative legal remedies have been exhausted by the petitioner; at the same time, the fixed frameworks of legality provide an opportunity to remedy a violation of a fundamental right and to avoid such violations in the future.

The civil protector of rights, the disobedient citizen, the activist fighting for social justice and fundamental rights, and the Ombudsman empowered with a professional institutional infrastructure and statutory competences are tightly connected. This connection is based on the amateur's conviction and the professional's obligation, "prompting them to act against any situation, condition or process infringing on human rights, in the interests of restoring righteousness."¹⁰

The institutions of the rule of law are maintained by society, preserving them is the responsibility of the community of citizens and civil organizations authentically representing their interests; the Commissioner for Fundamental Rights, on the other hand, can fulfil his obligation to protect fundamental rights in a framework defined by bureaucratic rules, relying on a possibly widest cooperation.

In the Ombudsman's activities aimed at protecting fundamental rights, the widening of civil participation is not a completed task but a task to be continuously strengthened that will strongly rely on the assistance of the newly appointed civil contacts coordinator and the cooperation of the Civil Consultative Body.

⁹ Habermas, Jürgen: Polgári engedetlenség - a demokratikus társadalom próbaköve [Civil Non-Compliance – A Criterion of a Democratic Society], in: Felkai Gábor (szerk.) Új társadalmi mozgalmak és politikai tiltakozás, Rejtjel Kiadó, Budapest 2003

¹⁰ Szabó, Máté: Polgári engedetlenség és civil kultúra, Az ombudsmáni intézmény és az emberi jogok kelet-európai forradalmának szellemisége [Civil Non-Compliance and the Philosophy of the Eastern European Revolution of Human Rights] in: Civil Szemle VI/3

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Office of the Commissioner for Fundamental Rights

H-1051 Budapest, Nádor u. 22.

☒ 1387 Budapest, Pf.: 40

☎ (06-1) 475 7100

☎ (06-1) 269 1615

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