

## Summary

### **Joint Report by the Commissioner for Fundamental Rights and the Deputy Commissioner for the Protection of the Rights of Nationalities in Hungary on the operation of a cemetery and cooperation between the municipality and the Roma nationality self-government**

**in the case No AJB-553/2021 (AJB-5800/2020)**

The late president of the Érsekvadkert Roma Nationality Self-Government and the president of the Nógrád County Roma Nationality Self-Government submitted a joint petition to the Minority Ombudsman regarding the closing of the main entrance to the cemetery in Érsekvadkert and the ban on vehicle access to the cemetery. The complainants stated that, during a funeral in the summer of 2020, the relatives of the deceased person were unable to drive a hearse into the public cemetery because the main entrance was closed, so the funeral service staff carried the coffin on foot, hand in hand, for several hundred metres to the funeral home. In the view of the presidents of the Roma national minority municipalities, these circumstances violated the relatives' right to respect and they have therefore initiated an investigation.

In addition to the specific complaint, the Commissioner and the Minority Ombudsman also learned from social media about the difficulties in the cooperation between the Roma Nationality Self-Government of Érsekvadkert and the Local Government of Érsekvadkert.

The Commissioner for Fundamental Rights and the Minority Ombudsman launched an investigation into the suspected violation of fundamental rights. In the course of their proceedings, they contacted the Mayor of Érsekvadkert Municipality and requested the head of the Balassagyarmat District Office of the Nógrád County Government Office to conduct an investigation.

The investigation by the Commissioner and the Deputy Commissioner found that the municipality had closed the main entrance to the cemetery to motor traffic because of a specific accident, in order to avoid the risk of an accident, by renovating the road network of the cemetery and, until the final road was completed, allowing only pedestrian traffic at the main entrance and on that section of the road. The inspecting authority recorded that the macadam road outside the cemetery is of adequate quality and provides good and unobstructed vehicle access to the funeral home and parking.

In their report, the Commissioner and the Minority Ombudsman stated that the municipal government's action to close the cemetery road did not result in any abuse of fundamental rights and that the situation had been remedied once the reconstruction of the road had begun.

The Commissioner for Fundamental Rights and the Minority Ombudsman, in the course of reviewing the Decree No. 8/2009 (V. 27.) of the Municipality of Érsekvadkert on the Cemetery and Cemetery Activities, found that it contained regulations contrary to higher-level legislation, which caused an irregularity related to the principle of the rule of law. In this context, the investigation found that section 75 (a) of Municipal Decree No 1/2020 (9. III.) of the Local Government of the Municipality of Érsekvadkert on the Organisational and Operational Rules of the Local Government and its Bodies was contrary to section 80 (1) (a) of the Act on the Rights of Nationalities, since it regulated that the Local Government of Érsekvadkert was to provide the Roma Self-Government of Érsekvadkert with free use of premises equipped with the material and technical equipment necessary for the performance of its functions for at least sixteen hours instead of at least thirty-two hours per month as

provided for in the relevant Act of Parliament. In so doing, the local government caused an infringement of the principle of the rule of law and of the fundamental right to self-government as a national minority.

In their report, the Commissioner and the Minority Ombudsman also drew attention to the special role of the mayor, stating that the mayor has a legal obligation to ensure that the requirement of equal treatment and nationality rights are implemented to the fullest extent possible. In their joint report, they called on the mayor and the body of representatives of the municipality to do their utmost to improve cooperation between the municipality and the Roma nationality self-government and to ensure that nationality rights are implemented as fully as possible at local level. It was also suggested to the representatives of the local government to improve their cooperation with the local electorate, in particular with the Roma inhabitants, and to fulfil their duty to inform them in a clear and comprehensible way in the exercise of their duties and powers.

In order to remedy the identified shortcomings in relation to fundamental rights, the Local Government of Érsekvadkert was asked to amend its municipal regulations to ensure compatibility with higher legislation.