

2021/2.

# NEWSLETTER

QUARTERLY INFORMATION BULLETIN OF THE DEPUTY COMMISSIONER  
FOR THE PROTECTION OF THE RIGHTS OF NATIONAL MINORITIES IN HUNGARY



## WELCOMING THOUGHTS

It is my pleasure to share with you the second quarterly edition in English and Hungarian of my online Newsletter launched in 2021. It highlights the main elements of the Minority Ombudsman's work in the field of nationality law in the months of April-May-June this year.

I encourage the readers to take the time to learn more about each case by accessing the detailed documents available on my website. There you will find a perspective of society from below – most of the individual and systemic irregularities that I have monitored and investigated point to long-standing uncertainties in the interpretation of the law as well as misapplications and new emerging errors in the application of the law. Together with my colleagues, I seek to these challenges solutions that meet the highest professional standards and focus on human dignity.

*Prof. Elisabeth Sándor-Szalay*

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# STATISTICS

	2 <sup>nd</sup> quarter of 2021	2021 in total
petitions and ex officio proceedings:	<b>87</b>	<b>296</b>
correspondence:	<b>354</b>	<b>1247</b>
legislative opinions:	<b>6</b>	<b>20</b>
professional meetings:	<b>35</b>	<b>69</b>

## TOPICS FOLLOWED UP IN PARTICULAR



- the educational situation of **Roma children in Gyöngyöspata**
- ensuring the availability of international legal documents and domestic legislation in **national minority languages**
- enforcement of the language rights of the Hungarian national minority communities in the use of **community names**
- funding difficulties affecting **nationality minority university specialisations** with a low number of students and their teaching staff
- war care for persons of German nationality deported to the **Malenkij robot**
- the impact of the **pandemic emergency** on nationality communities
- criminal proceedings for the **use of totalitarian symbols**
- settlement rehabilitation programme and evictions in the **Nyíregyháza segregates**
- **trends** and current issues **in the management of ethnic data**

In addition to the above, the investigation of individual complaints and the overall irregularities detected on the basis of these complaints and ex officio is ongoing.

### **Professional cooperation in the preparation of the comprehensive amendment of the Act on the Rights of the Nationalities**

On 15 June, the Parliament adopted Act XCVII of 2021 amending the Act on the Rights of the Nationalities (Njtv.).

The Minority Ombudsman was involved in the drafting of the legislative text, which took nearly two months, and shared her professional views in writing and orally with the leaders of the NEB and the ONÖSZ on several occasions.

The amendments mainly define the rules for setting nationality election lists and the possibilities for legal remedies.

### **Professional forums**

- Ministry of Justice Working Group on Human Rights, Thematic Working Group on Nationality Issues
- Ministry of Justice Human Rights Working Group, Thematic Working Group on Roma Issues
- Ministry of Justice Expert consultations on the amendment of the Njtv.
- Presentation of the Pro Cultura Minoritatum Hungariae Award

### **Personal meetings**

- The Parliament's Committee of the Nationalities in Hungary
- János Agócs (president, National Roma Self-Government)
- Katalin Langerné Victor (deputy secretary of state, Ministry of the Interior)
- Attila Péterffy (major, City of Pécs)
- Jean-François Paroz (ambassador, Swiss Federation) *(picture below)*



## MAIN DOMESTIC EVENTS

### On-site investigation in Gyöngyöspata

Between 31 May and 1 June, the Minority Ombudsman and her staff conducted an on-site inspection in Gyöngyöspata, where they met personally with local kindergarten and primary school children, and held professional discussions with the heads and staff of the educational institutions operating in the settlement, the mayor of the settlement, the president of the Roma nationality self-government and the director of the Hatvan School District Centre.

[Details here.](#)



### ADOPTING THE REPORT FOR THE YEAR 2020

On 11 May 2021, the **Parliament's Committee of the Nationalities in Hungary** (NEB) discussed the report of the Commissioner for Fundamental Rights and his deputies on the activities of the year 2020, submitted to the Parliament under number B/15278. The body unanimously adopted the document, while expressing its appreciation for the rights protection activities in the field of national minority rights in 2020.

The Ombudsman reported on his activities in 2020 with his deputies at the **plenary session of the Parliament on 8 June 2021**, after the committee debates had been concluded. The NEB's position was presented by Romanian nationality advocate Traján Kreszta during the debate on the document. [Details here.](#)

### A new community space opened in Pécs for the nationality self-governments and nationality culture

The Minority Ombudsman attended the opening ceremony of the **Office of Nationality Self-governments and Civil Organisations in Pécs**. The office was established with the aim of providing appropriate environment for the operation of the nationality self-governments and civil organisations in Pécs. After the opening ceremony, she held a personal meeting with the Mayor of Pécs.

Since the beginning of her mandate, the Minority Ombudsman has been following closely the efforts of cities with rich and living national minority traditions to protect their local communities and develop their national minority culture.

[Details here.](#)



# JOINT REPORTS AND GENERAL COMMENTS

- **Joint Report** of the Commissioner for Fundamental Rights and the Deputy Commissioner for the Protection of the Rights of Nationalities in Hungary in **Case AJB-553/2021** in connection with the **breach of the duty of cooperation of the requested body**
- **Joint Report** by the Commissioner for Fundamental Rights and the Deputy Commissioner for the Protection of the Rights of Nationalities in Hungary **Cases AJB-729/2021 and AJB-730/2021** concerning the **investigation of police measures taken against a person of Roma nationality in the context of increased control**
- **General Comment 1/2021** on the specific and systemic shortcomings identified in the **investigation into the educational and child protection problems of a Roma pupil**
- **General Comment 2/2021** on the current situation of the accessibility of **nationality public service radio broadcasts**
- **General Comment 3/2021** on the **use of individual names in nationality languages**

## Police measures taken in the context of increased control

One Roma petitioner complained about the **specific police measures** taken against him (stop, search of his clothing, check of his mobile phone) and also expressed concerns about the increased control on which the measure was based. He also objected to the fact that his personal data were recorded despite the fact that no further action followed the stop.

The joint report on the case concluded that the decisions of the national police captain ordering a nationwide increased control on the basis of which the complainant was stopped and his clothing searched violated the principle of legal certainty, both in form and in substance.



In view of this, it has been **proposed** that the Minister of the Interior should consider reviewing the rules on increased control and initiate a change in the regulations.

The national police captain was also **requested** to review the practice of ordering increased controls.

The summary of the report is available [here](#).

## Breach of the obligation of cooperation

The presidents of the Roma nationality self-governments of Nógrád County submitted a joint petition to the Minority Ombudsman concerning the closing of the main entrance to a cemetery and the prohibition of access by car. The Minority Ombudsman also learned from social media about serious problems of cooperation between the Roma nationality self-government and the municipal self-government of the settlement

in question. The Commissioner and the Minority Ombudsman opened an investigation into the matter. In the course of their investigation, they contacted the mayor of the municipality, the president of the Roma nationality self-government concerned and asked the head of the relevant district office to conduct an investigation. **Despite repeated notices, the local government failed to respond to the official requests**, therefore a joint report was issued, stating that there had been a breach of legal

certainty and calling on it to comply with its obligations by taking immediate action.

They also **called on** the Government Commissioner to use the means at his disposal to ensure that future requests from the Commissioner and his deputies are fully complied with in a timely manner by the local authorities under investigation and by all local authorities in the county.

A summary of the report is available [here](#).

## General Comment 1/2021 on the specific and systemic shortcomings of the educational and child protection systems

The Minority Ombudsman issued her general comment on the basis of an investigation of a specific complaint, aiming to draw attention to the developmental difficulties, educational and integration problems of a Roma pupil with BMD difficulties, the serious conflicts between parents and teachers, and to highlight systemic problems.

The investigation concluded that the primary schools concerned, despite their formal due process, **did not do everything possible to ensure the proper development of the pupil with integration, learning and behaviour difficulties**, and their failure to do so violated the principle of best interests of the child.

The **proposals for amendments** to the relevant law and EMMI regulations sent by the Minority Ombudsman to the Secretary of State for Public Education for consideration were adopted. The proposed amendments could



facilitate and improve the flow of information on the progress of children, pupils with special educational needs and those with difficulties in integration, learning and behaviour.

A summary of the general comment is available [here](#).

## General Comment 2/2021 on the current situation of the accessibility of nationality public service radio broadcasts

As a follow-up to the Minority Ombudsman's General Comment 3/2018, and in view of the discontinuation of digital radio broadcasting in September 2020, **she reviewed the current situation of the accessibility of public service nationality radio programmes**. In her general comment, which concluded a comprehensive investigation, the Minority Ombudsman **recommended** that, in order to achieve accessibility equivalent to that of radio broadcasts for the majority of the population, the management of the public service media should take steps to substantially improve the technical conditions and reception opportunities for public service nationality radio broadcasts on the terrestrial platform, on the basis of a strategy to be developed together with the elected representatives of the nationalities.

A summary of the general comment is available [here](#).

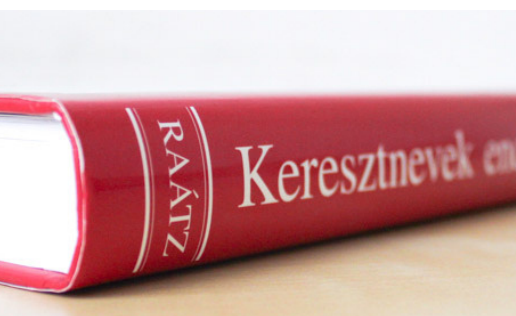


## General Comment 3/2021 on the use of individual names in nationality languages

procedures, in particular the issuing of official certificates. She has not identified any structural problems in the course of the investigation, nevertheless she made professional recommendations, in particular in the areas of promoting the legal awareness of persons belonging to a nationality and of officials involved in the registration of births, partial amendments to the rules on registration

in nationality languages and the online availability of nationality surname registers. The Minority Ombudsman also called for closer cooperation between the NEB, the ONÖSZ and the Minister of the Prime Minister's Office.

A summary of the general comment is available [here](#).



In her general comment, the Minority Ombudsman describes **the complex situation of the individual use of names in nationality languages**, the registration of births and deaths in accordance with the rules of nationality languages and other related official

# MAIN INTERNATIONAL EVENTS



## The Pandemic and the Law A pandémia és a jog

Online international conference  
University of Pécs Faculty of Law

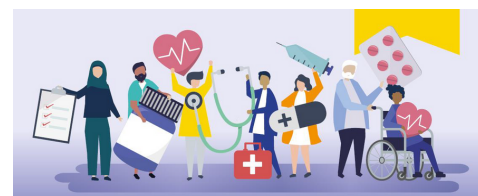
08 April 2021

The Minority Ombudsman gave a presentation entitled **"Enforcement of minority rights in times of a pandemic - Hungary 2020"** at the international conference "The Pandemic and the Law" organised by the University of Pécs, which analysed the legal effects and structural consequences of the pandemic in different areas of law, with the help of international legal perspectives.

After outlining the changing social and legal circumstances, her presentation included a reference to her [General Comment 4/2020](#) on the effects of the pandemic on nationality communities, which provides a unique summary of the specific irregularities experienced in the exercising of individual and community rights and of the additional factors that threaten fundamental nationality rights. [Details here.](#)

Fanni Makkai, chief officer, represented the Minority Ombudsman at the EQUINET webinar **"Addressing systemic inequalities for more equal access to health care"**, which provided a unique forum for sharing experiences and good practices from equality bodies.

The aim of the training was to improve the protection of people who suffer discrimination and to promote equal and universal access to health care. [Details here.](#)



## "Nation, Community, Minority, Identity: the role and the activism of national constitutional courts in the protection of constitutional identity"

The Minority Ombudsman also participated in the international conference organised by the Institute of International and Regional Studies of the Faculty of Humanities of the University of Szeged, held online and aimed at a complex analysis of the constitutional situation of persons belonging to national minorities and communities, as well as the analysis of domestic and international policies and trends in legal development.

The Minority Ombudsman, as a participant in the panel on "Participatory Rights - Balancing Equality of Rights and Minority Specific Rights", shared her thoughts mainly on the rights of representation and petition of national minority communities in Hungary, as well as on the relevant practice of the Council of Europe. Other participants of the panel discussion were Balázs Vizi (NKE), Norbert Tóth (NKE), János Fiala-Butora (MTA) and László András Pap (NKE), the event was moderated by Anikó Szalai (SZTE). [Details here.](#)



# CONFERENCE IN STRASBOURG ON THE PROTECTION OF THE RIGHTS OF NATIONAL MINORITIES



Hungary is holding the presidency of the Committee of Ministers of the Council of Europe from 21 May to 17 November 2021. The promotion of the effective protection of national minorities is a priority in the Hungarian Presidency's draft programme, and a high-level conference on **"Council of Europe norms and standards on national minority rights: results and challenges"** was jointly organised by the Council of Europe and Hungary on **29 June**, where the Minority Ombudsman participated as a key expert. The event focused on a complex discussion of professional experiences related to the **Framework Convention for the Protection of National Minorities** and the **European Charter for Regional or Minority Languages**.

The professional participants and speakers shared their thoughts with the audience and the online audience in **three panel discussions**.

The **first panel** discussion focused on the functioning of the Council of Europe's monitoring mechanisms for the protection of minorities, with speakers who are acknowledged European experts on the difficulties and challenges encountered in their work and the results achieved.

The **second panel** focused on the functioning of the EU minority protection mechanisms, in particular the role of the Parliamentary Assembly and the European Court of Human Rights.



Zsuzsanna Rutai, Independent Expert on the Rights of the Child of the Council of Europe, Elisabeth Sándor-Szalay, Minority Ombudsman and Gergő Kocsis, diplomat in residence, Permanent Representation of Hungary to the Council of Europe.

The **third panel** discussed the experiences and achievements of the new Council of Europe monitoring mechanisms for national minorities.

The event was also attended by **Marija Pejčinović Burić**, Secretary General of the Council of Europe and **Dunja Mijatović**, Commissioner for Human Rights of the Council of Europe.

**Ferenc Kalmár**, the chair of the event, announced at the end of the conference that the second conference on this topic will take place in Budapest on **7 September 2021**, entitled **"The role of NGOs and research institutions in promoting Council of Europe norms and standards on the rights of national minorities"**.



*Yesna Crnić-Grotić*, Chairperson of the Committee of Experts on the Language Charter (COMEX), *Marie B. Hagsgård*, Chairperson of the Advisory Committee of the Framework Convention on National Minorities (AC FCNM), *Elisabeth Sándor-Szalay*, Minority Ombudsman, former member of the AC FCNM and *Antonija Petričušić*, member of the AC FCNM.

You can **watch the full conference** on this [website](#).

The **Minority Ombudsman's thoughts** in English and Hungarian can be found [here](#).

## CASE LAW MOSAIC

The Minority Ombudsman was informed ex officio about a **stone wall** built near a densely Roma-populated part of a village in eastern Hungary, which had been built to close off almost an entire section of a road, **on top of which the owner had recently installed electricity.**

[Details here.](#)

The Minority Ombudsman, while continuously monitoring the impact of the pandemic on national minorities, in particular the Roma community, and following reports from NGOs, became aware of a **local mass coronavirus infection** in a settlement in Eastern Hungary, mainly affecting Roma.

In the light of the circumstances of the case, she immediately contacted the mayor of the settlement and the Deputy State Secretary for Social Inclusion.

[Details here.](#)

In a town in Eastern Hungary, during the implementation of a **project aimed at the rehabilitation of run-down urban areas**, the local government called on several Roma families to leave their rented social housing owned by the municipality, which was being renovated as part of the project, but no other housing or accommodation was provided or guaranteed for them.

[Details here.](#)

On the occasion of the **10<sup>th</sup> anniversary of the Network of Christian Colleges for Advanced Studies for the Roma (KRSZH)**, the Minority Ombudsman welcomed the achievements of the colleges and the movement, and offered further professional and partnership cooperation to the heads of the institutions.

[Details here.](#)

The head of an international Roma rights NGO complained in a petition that a political party and two far-right organisations are organising a **marching rally** in a Pest county municipality under the slogan "Enough of Gypsy Crime!". The Minority Ombudsman ordered an investigation and, as a professional observer, also visited the demonstration to learn about the circumstances.

[Details here.](#)

A complainant of Roma nationality referred a **housing case** to the Minority Ombudsman. In his complaint, he indicated that he had been applying to the municipality for housing for several years without success. Together with his partner, the complainant has two minor children with whom he currently lives in a small room with his parents. He also complained that his family had not received the **aid package donated by the national government** during the emergency.

[Details here.](#)

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