

REPORT ON THE ACTIVITIES
OF THE COMMISSIONER
FOR FUNDAMENTAL RIGHTS OF
HUNGARY AND HIS DEPUTIES – 2021

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1055 Budapest, Falk Miksa u. 9-11.

Phone: +36-1-475-7100; Fax: +36-1-269-1615

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Table of Contents

Lectori salutem	7
1. The focal points of the Ombudsman's rights-protection activities during the pandemic	9
1.1. Petitions and inquiries	9
1.2. Visits to institutions	10
2. International engagement of the Ombudsman	13
2.1. Activities pursued as the National Human Rights Institution accredited by the UN	13
2.2. Cooperation with the Council of Europe	15
2.3. The European Union and European networks	16
2.4. Further key international events	17
2.5. Other forms of cooperation	18
3. Flagship cases, inquiries and reports	21
4. The activities of the Ombudsman as the OPCAT National Preventive Mechanism	23
5. The Commissioner for Fundamental Rights takes over the tasks of the Equal Treatment Authority	25
6. Focal points of the activity of the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities	27
6.1. General tendencies	27
6.2. Individual cases	27
6.3. Key professional documents	29
6.4. Keeping professional relations	29
7. Focal points of the activity of the Deputy Commissioner for Fundamental Rights, Ombudsman for Future Generations	31
7.1. Global tendencies	31
7.2. Our mandate: tools and priorities	31
7.3. International relations	33
8. Data related to the operation of the Office	35

LECTORI SALUTEM

For almost two years we have been living in a pandemic that flared up in waves, in constant temporariness, amidst ordinary extraordinariness. The individual and common losses, the increasing problems have almost eroded the phrase “challenge” into a cliché. If, however, we can see beyond the winter of uncertainties, it might be followed by the spring of confidence and hope, and that is the only way that we should look into the future. The Ombudsman’s Annual Report looking back on the year 2021 shows numerous minute occurrences, results, greater or smaller steps that give reason for hope, which we tend to ignore in the constant noise of the public. Hope, however, is not identical with satisfaction: our Annual Report intends to present those spots where immediate or system-level steps are needed to remedy the established impropriety.

The ombudsman is able to connect people and situations. It is my great pleasure to report on our new initiative, which was to the satisfaction of all the parties concerned, following which by the Christmas of 2021, thanks to the conscientious work of the Hungarian Prison Service Headquarters and detainees, it became possible to renew the premises of several children’s homes and group homes in the country within a short time.

The Ombudsman has competence and possibility to formulate constructive and useful proposals. He usually discloses them to the general public in the form of a report or a policy statement. That is what we did in 2021 when we assessed the fundamental constitutional requirements to be enforced in the application of immunity certificates and formulated proposals to help find a solution for the problems that had emerged.

It is an important confirmation and acknowledgement of our Office’s professional work to see our reports and conclusions reflected in court, Constitutional Court decisions, protocols, or to witness that they help legal practice as educational materials. Public debates and bringing up the problems will advance progress even if there are no immediate results, if the recommendation is not fully implemented but a constitutional dialogue on the merits of the case begins.

The Ombudsman’s mission at any time is to monitor the work and decisions of authorities and public service providers from the aspect of fundamental rights. Dozens of cases imply that where there is a high level of professionalism, where there are meaningful workshops, where there is room for training, further training, where mistakes are faced and where there is appropriate executive support in difficult situations, the infringement of rights will practically disappear. “Good public administration” and the protection of fundamental rights go hand in hand.

Since I took office, as an Ombudsman I have believed that action and personal presence should continuously supplement our human rights messages. My visits to dozens of institutions have proven to me that the rights protection work cannot be



complete without personal experiences, conversations and meetings, frankness, sincerity and trust. The pandemic situation has not prevented me or my staff members from performing these special visits and on-site inspections. With the greatest care we looked for possibilities for collecting experience and conducting reviews from Csáfordjánosfa to Nagybjom, from Salgótarján to Bácsalmás. I and my staff members attended numerous conferences online, and wherever it was possible, also in person; in addition to that, our Office in Falk Miksa Street has hosted several prestigious international meetings.

In 2021, the Ombudsman’s profile was supplemented by a new scope of duties: according to the decision of the National Assembly, we established the Directorate-General for Equal Treatment, which proceeds in administrative proceedings in cases that affect the promotion of equal treatment and equal opportunities.

Simone Weil asserts: “There is something sacred in every man, but it is not his person. Nor yet is it the human personality. It is this man; no more and no less”. The sense of our activity or work lies in seeing the person in the cases to be solved and helping to create security, first of all, legal certainty. And the real challenge is to be fully aware of the fact that we can never be satisfied with the results attained; the need is always greater than the number of tasks that we can fulfil.

István Bibó writes in the last section of *The Political Ten Commandments of the Freedom Loving Man* that the freedom loving man “*trusts in the power of communities, the decency of the majority of people and that with audacity and will this can come to reign public matters*”. I am convinced that faith in trust and faith in honesty are building elements which an Ombudsman’s rights protection work can and must always rely on.

Budapest, January 2022

Dr. Ákos Kozma
Commissioner for Fundamental Rights of Hungary

1. THE FOCAL POINTS OF THE OMBUDSMAN'S RIGHTS-PROTECTION ACTIVITIES DURING THE PANDEMIC

1.1. PETITIONS AND INQUIRIES

In 2021, it was a typical experience that citizens' lives were, with changing intensity, penetrated with the pandemic situation and the measures and restrictions connected with it to such an extent that even in the practices of the Office of the Commissioner for Fundamental Rights, the cases, problems, complaints related to the pandemic and those of a different nature became less and less distinguishable. It was a significant **challenge** for the Office to maintain its continuous technical operation, the reception of the growing number of complaints as well as to be continuously updated; i.e., in this altered situation, the Ombudsman and his staff had to follow the rapid changes in the rules, the complex situation in legal practice and to take a position, take action and provide clear information to the complainants who filed petitions to him, out of turn. At the same time, it was necessary to pay attention to the explanation of justifiable legal restrictions related to the special legal order, and call the authorities' attention to the enforcement of fundamental rights.

Also during the year under review, **petitions** and **signals** were received by the Ombudsman concerning various issues owing to the measures ordered and applied directly in the wake of the pandemic situation and their impacts, consequences. This includes the significant number of petitions in which complainants found the rules of the application of their **immunity certificates** as a restriction of rights both in general terms and in their individual situations. In order to give rapid and informed responses, the Ombudsman issued a **policy statement**, in which he analysed the constitutional requirements to be enforced in the application of immunity certificates and he also formulated proposals. Several complainants filed a petition to the Ombudsman owing to the deficiencies and uncertainties of legal regulation **also in connection with the necessity and self-financing** of PCR and antigen testing, which was compulsory when **making use of elective health services**. The respective law did not require the compulsory performance of either PCR or antigen testing as a precondition for access to rehabilitation services and elective interventions. It was also on the basis of complaint petitions that in another report, the Ombudsman requested the ministry in charge of the specific field to create the possibility **of the exemption of persons unable to wear a mask from this obligation for health reasons, on the basis of individual criteria** in legislation.

The Ombudsman also called the attention previously to the reduction of the per-minute rates of mobile and social media

phone calls, to the improvement of the availability and accessibility of digital communication, on the basis of the **protection of rights of detainees**. These requests were further emphasised by the restrictions of communication necessarily entailed by the pandemic situation.

Also in the year under review, the Ombudsman received numerous petitions from parents concerning the field of education and pandemic measures, which found that the proceedings of the school violated the rights of those concerned, on the basis of which several reports were made. The Ombudsman expounded his position and established improprieties in one individual case in a report, concerning **a student legal status terminated owing to failed participation in digital education**. In another case, he made statements of general nature **regarding the issue of assessing absence from school owing to the pandemic situation**. Numerous further complaints affected the institutional rules related to the **compulsory use of mask at school** and their unclear, inconsistent application and extreme rigour. Complaints related to **social benefits** were typical: the petitioners called the attention to their financial standing impaired by the restrictions and uncertainties owing to the pandemic situation; for example, with regard to enforcement proceedings instituted against them.

Also in the year under review, the Commissioner for Fundamental Rights, on the basis of the Ombudsman Act, instituted several inspections ex officio according to the Act, of which it is possible to highlight the monitoring of the **institutional system for homeless care in the capital city** during the winter crisis period. The Ombudsman's report explored that in possession of the experiences of the first wave of the pandemic, the homeless care institutions properly responded to the altered tasks of the institutions, for which the financial background was basically provided. The Ombudsman also launched a comprehensive ex officio investigation regarding **the fundamental rights implications of the first wave of the pandemic for old age homes**; and in his report he endeavoured to draw conclusions that can promote the improvement of the operation of the residential social care system in terms of human rights. The pandemic situation and the emergency measures ordered on the basis thereof, by nature, exerted a significant impact, in the year under review as well, on the **operation of residential institutions**, on the enforcement of the fundamental rights of the vulnerable persons living there; thus, the Ombudsman's **personal visits to institutions expressly focusing on the pandemic** continued.

1.2. VISITS TO INSTITUTIONS

In the year under review, due to the waves of the pandemic of various intensity, the Ombudsman considered it of key importance to **communicate, maintain a dialogue and gather experience about the current situation in person.** In accordance with this, the series of the Ombudsman's country visits launched in the spring of 2020 continued in 2021. The unchanged purpose of these visits was to enable the Ombudsman to monitor the emergency measures taken in connection with the prevention and handling of the pandemic and its impacts. In 2021, the Ombudsman continued to examine whether the most vulnerable groups of society may exercise their rights. Acting in his powers of the general defender of fundamental rights and the OPCAT National Preventive Mechanism (NPM), during the series of visits, the Commissioner for Fundamental Rights and his staff members conducted meetings with the heads of the institutions, obtained direct information on the circumstances of the persons living there, such as children, patients, persons living with moderate and severe disabilities and detainees, and they also had access to the pandemic strategy of the institutions.

In the period of the state of danger ordered because of the pandemic, in effect from 1 January to 31 December 2021, the Ombudsman paid a visit to a total of **86 locations in Hungary.**



Visit to the Bács-Kiskun County Remand Prison on 14 January 2021

Acting in his basic competence and in his powers of the OPCAT NPM, the Ombudsman may monitor penitentiary facilities and other places of detention, paying particular attention to the enforcement of the rights of the detainees. For this reason, in 2021, within the frameworks of his series of visits, the Ombudsman and his staff members paid a visit to the following **14 penitentiary facilities.**

Central Transdanubian National Prison, Baracska-Annamajor
Bács-Kiskun County Prison
National Prison of Állampuszta
Baranya County Prison
Márianosztra Strict and Medium Regime Prison
Borsod-Abaúj-Zemplén County Prison
Hajdú-Bihar County Prison
Békés County Prison
Szabolcs-Szatmár-Bereg County Prison
Tolna County Prison
Zala County Prison
Somogy County Prison
Szeged Strict and Medium Regime Prison, Algyő-Nagyfa Facility
Győr-Moson-Sopron County Prison

In most of the cases, at these places of detention the Ombudsman was received, in addition to the commander of the relevant institution, by the **National Commander of the Hungarian Prison Service.** In addition to penitentiary facilities, the Ombudsman usually inspected the plants and firms where detainees manufacture personal protective equipment that can also be used for protection against the pandemic and where, in collaboration with the penitentiary facilities, detainees are employed. During the visits, primary significance was attached to the examination of the implementation of the preventive measures introduced due to the pandemic for the **protection of the health** of the detainees and the **staff**, as well as to the inspection of the new wings of buildings opened within the frameworks of the programme of the penitentiary organisation for increasing prison capacity, furthermore, to the presentation of the security system of the institutions. The Ombudsman inspected the information technology systems enabling detainees' **communication** with their relatives in the pandemic situation, and the devices necessary for their operation.

In addition to the above, **on 3 November 2021,** the Ombudsman **conducted professional consultations with the National Commander of the Hungarian Prison Service,** who informed him of measures taken on the merits of cases in connection with the Ombudsman's reports issued in this area earlier.

One of the important tasks of the ombudsman is to protect the rights of persons with disabilities and of especially vulnerable, **endangered social groups.** For this reason, during the series of visits, the Ombudsman and his team visited the following **5 residential social care institutions.**

Szentgotthárd Specialised Nursing Home
Gondviselés Háza (House of Providence) – Home for People with Disabilities in Göd operated by the Hungarian Charity Service of the Order of Malta
Csáfordjánosfa Old Age Home of the Győr-Moson-Sopron County Gondoskodás (Care) Social Welfare Centre
Old Age and Disabled Home of BÉlapátfalva operated by the Directorate-General for Social Affairs and Child Protection
Dáka Unit of the Veszprém County Integrated Institution for People with Disabilities, Psychiatric Patients and Addicts



Fonyód-Alsóbélatelep II. Rákóczi Ferenc Children's Home of Somogy County
Children's Home of the Csongrád-Csanád County Dr. Waltner Károly Care Home
Special Children's Home of the Komárom-Esztergom County Child Protection Centre and Territorial Child Protection Service and Primary School
Fészek (Nest) Children's Home of the Lőrinci Children's Home of the Heves County Child Protection Centre
Group homes of the Children's Home of Bácsalmás maintained by the Szeged-Csanád Diocese Saint Agatha Child Protection Service
Bóbita Special Children's Home of the Győr-Moson-Sopron County Child Protection Centre
Group home of Dr. Foltán József National Church Methodological Children's Home maintained by the Szeged-Csanád Diocese Saint Agatha Child Protection Service

During the visits to institutions, the Ombudsman inspected the implementation of the health measures taken in order to prevent the spread of the pandemic, the work of the employees who attend to the residents and the living conditions of the persons under care, as well as the working conditions.



Dr. Ákos Kozma visits the Szentgotthárd Specialised Nursing Home on 18 February 2021



The Ombudsman's key mission is to protect children's rights. During the series of visits during the year under review, the Ombudsman and his team visited the following **11 children's homes, special children's homes and group homes** across the country. During his visits, he could obtain personal experience on the enforcement of children's rights, the effects of the pandemic, the current situation and the experience obtained in areas ranging from protective and preventive devices to online education.

Nagybajom Kékmadár (Blue Bird) Children's Home of the Child Protection Centre and Territorial Child Protection Service of Somogy County
Tüzér Street Children's Home in Székesfehérvár of the Child Protection Centre and Territorial Child Protection Service of Fejér County
Eszterházy György Children's Home, Primary School and Special Technical School
Fészek (Nest) Children's Home of Salgótarján of the Child Protection Centre and Territorial Child Protection Service of Nógrád County



On 13 October 2021 Dr. Ákos Kozma paid a visit to the Group Home of the Children's Home of Bácsalmás maintained by the Szeged-Csanád Diocese Saint Agatha Child Protection Service



On 13 October 2021, Dr. Ákos Kozma visits Group Home No. 2 of the Bácsalmás Children's Home

In 2021, the Commissioner for Fundamental Rights also paid a visit to the experts who work in the front line of protection on a daily basis – those who check compliance with the requirements and border-crossing rules ordered in the state of danger. In the year under review, the Ombudsman **visited a total of 14 border-crossing points** where he inspected the implementation of the health measures taken in order to ensure the safe passing of international transit, freight and passenger traffic, to prevent the spread of the pandemic and to provide frontier defence by Hungarian authorities. The Ombudsman asked for specific information on the current status of citizens' complaints that can be filed against the introduced measures and about the process of the measures, as well as the details of providing information on citizens' rights to lodge complaints.

The Ombudsman paid a visit to the **Mórahalom Border Policing and Surveillance Command Centre** on two occasions, inspected the temporary border barrier at **Röszke** and the work of the staff serving there, as well as obtained information on the current police tasks related to the protection of the border and migration. The Ombudsman also paid a visit to the **institutions of the police** and the **National Directorate General for Disaster Management** and the **Hungarian Defence Forces**. In the year under review, the Ombudsman inspected **12 police headquarters, one police department and one police station**, where he was provided with information about the current state of public safety and the crime situation, about the work of school guards in service and about the health measures taken to prevent the spread of the pandemic. The participants of the meetings reviewed the current state of complaints lodged against police measures as well.



The Ombudsman visits the Mórahalom Border Policing Centre on 30 September 2021



Visit to Mórahalom Border Policing Centre on 30 September 2021

The Ombudsman paid a visit to the **Danube Border Crossing Point at Mohács**; he inspected the special Tűzmadár (Firebird) Patrol Boat of the Disaster Management Service, which was in attendance on the Danube and was inaugurated on 30 April 2021, which operates as a mobile chemical and biological laboratory equipped, among others, with radiation detectors and can also be used for controlling the water transport of hazardous goods, technical backup and fire-fighting. In addition to the above, in 2021, the Ombudsman also paid a visit to the Debrecen Headquarters of the North Great Plain Regional Directorate of the National Directorate-General for Aliens Policing, where he was provided with detailed information on the situation of aliens policing in the region and the operation and responsibilities of the Directorate, as well as the measures taken by the institution for the prevention of the pandemic.

During his visit to the **Borsod-Abaúj-Zemplén County Central Police Headquarters**, the Commissioner announced the **commencement of the monitoring activity in connection with the work of the school guards in service in the county**. The professional consultations were attended by the county chief of police, the senior staff members of the National Police Headquarters (ORFK) and the local police headquarters, as well as the district police coordinators controlling the school guards' activity. The Ombudsman was provided with information about the work and training of the school guards in service in the county and the circumstances of the fulfilment of their tasks. In 2021, the Ombudsman **paid a visit to several schools**, where the heads of institutions and the school guards in service gave an account of their experience.

2. INTERNATIONAL ENGAGEMENT OF THE OMBUDSMAN

Despite the difficulties and impediments caused by the pandemic, the Commissioner for Fundamental Rights managed to **maintain close contact with institutions that operate in the field of national and international human rights protection** in 2021 as well. He helped the work of these organisations with his policy statements, professional materials and, if necessary, by holding consultations. The summary of the Ombudsman's international engagement in 2021, in line with the international organisational structure of human rights protection, first describes the relations and cooperation with the institutions and bodies of the UN and then the relations and cooperation with the institutions of the Council of Europe and the European Union.



European Ombudsman Institute members meet at Novi Sad, Serbia on 2-3 September 2021



V4 Ombudsman Summit at Visegrád, Hungary on 20-22 October 2021

2.1. ACTIVITIES PURSUED AS THE NATIONAL HUMAN RIGHTS INSTITUTION ACCREDITED BY THE UN

The Commissioner for Fundamental Rights – as the National Human Rights Institution accredited by the UN – is a member of the Global Alliance of National Human Rights Institutions (GANHRI) that brings together and helps the work of National Human Rights Institutions, and is attached to the Office of the United Nations High Commissioner for Human Rights (UN OHCHR). He takes part in the activity of the European regional organisation of the network, the European Network of National Human Rights Institutions (ENNHRI) established in 2013.

In February 2021, the Department for Equal Opportunities and Children's Rights of the Office contributed to the working group meeting, preparing the 80th session, of the Committee on the Elimination of Discrimination against Women (CEDAW) of the UN. In the working papers they presented the Ombudsman's inquiries into women's rights conducted during 2019–2020 and the related public interest disclosures.

In accordance with the practices that were started in 2020, the ENNHRI made its **Report on the State of Rule of Law in Europe in March 2021**, in which the member institutions of ENNHRI were given the opportunity to review the various aspects of the rule of law in their own country on the basis of a common methodology; for example, the functioning of checks and balances, the situation of human rights defenders and the civil sector, media pluralism and corruption. The Commissioner also joined this project in 2021, and in an almost twenty-page report, he examined the rule of law-related developments in Hungary.

During his activity, the Commissioner should pay special attention to supporting, protecting and controlling the **implementation of CRPD**, i.e. the UN Convention on the Rights of Persons with Disabilities. Hungary ratified the Convention in 2007; in accordance with Article 35 thereof, States Parties accept an obligation to report periodically. The Ombudsman helped the **work of the UN Special Rapporteur on the Rights of Persons with Disabilities**, with a mandate extended by UN Human Rights Council Resolution No. 35/6, and that of the committees and rapporteurs wishing to gather information under the aegis of CRPD monitoring on several occasions, by sending professional materials. In March 2021, the **CRPD Committee** prepared a **new General Comment** on the subject of work and employment (regarding Article 27 of the Convention), to which

the Department for Equal Opportunities and Children's Rights of the Office made a contribution, relying on the Office's former investigations on the subject of labour law.

ENNHRI held its high-level conference on 26-27 April 2021 online, which the ombudsman also attended. The primary subject of the conference was the review of the tasks related to the recommendation of the Committee of Ministers of the Council of Europe on the development and strengthening of efficient, pluralist and independent National Human Rights Institutions. The conference organised jointly by the German Presidency of the Committee of Ministers of the Council of Europe and ENNHRI provided the opportunity for the high-ranking representatives of the member organisations of ENNHRI, European ombudspersons, presidents of human rights institutions and committees, as well as members of the Council of Europe to hold meetings about the possibilities of further cooperation.

The Office undertakes a professional consultation role in several working groups of ENNHRI, specifically in the CRPD Working Group, the Legal Working Group and the UN working group established for attaining the Sustainable Development Goals and for harmonising the activities performed for the enforcement of human rights (SDG Working Group).

On 29 April 2021, ENNHRI and Equinet organised a joint webinar about the strategy on the rights of persons with disabilities, applying to the period from 2021 to 2030. The purpose of the webinar was to sum up the EU's strategy for disabilities, to explain and analyse its aspects. On the part of the Office, the head of the OPCAT Department attended the event.

On 2-3 June 2021, a high-level two-day conference was organised by ENNHRI entitled "Ensuring respect for the human rights of migrants at borders: the role of National Human Rights Institutions". At the event, where the representatives of the UN, the European Commission, the European Parliament, Amnesty International and NATO spoke about the role of NHRIs, an expert of the Department for General Inquiries and Administrative Cases represented the Office. The participants urged the creation of independent, national monitoring mechanisms by the use of which access to the right of asylum can be provided, the violations of rights at borders can be prevented and accountability can be guaranteed.

From 9 to 14 June 2021, the Subcommittee of Accreditation (SCA) of the Office of the United Nations High Commissioner for Human Rights held a session where the re-accreditation of our Office as a National Human Rights Institution of status 'A' of the UN is in progress. The SCA heard the members of the Accreditation Working Group of the Office in an online interview. The Hungarian National Human Rights Institution (NHRI) was granted status 'A' for the first time in October 2014. In October 2019, the SCA decided to postpone its decision-making regarding the re-accreditation of the Hungarian NHRI, and then in June 2021 the SCA proposed status 'B' for the Office. In accor-

dance with Article 18.1 of the GANHRI Statute, the recommendation shall not enter into effect for a period of one year. Thereby, the Hungarian NHRI will keep its status 'A' at least until March 2022. In March 2022, the SCA will make a decision on whether it confirms its recommendation with regard to the status of the institution, or it finds that the Hungarian NHRI operates fully in accordance with the UN Paris Principles.

In May 2021, the UN Committee on the Rights of the Child (CRC) performed a questionnaire-based consultation at those institutions that work with and for children who receive alternative care, which was attended by the Office as well. The results of the consultation were presented at the general debate held about children's rights and alternative care on 16-17 September 2021.

Due to the spreading of the pandemic, in 2020 GANHRI did not hold its usual annual general assembly but postponed it to 2021 without specifying an exact date. **Eventually, from 29 June to 1 July 2021, GANHRI held a large-scale event online**, in the three days of which, in addition to the ordinary meeting of the management and the exchange of good practices, the general assembly of GANHRI was also held and a high-level discussion took place on launching GANHRI's global action plan in relation to the scope of action of human rights defenders and non-governmental organisations. At the event, the Secretary General of the Office represented the institution.

In the joint organisation of the Council of Europe, FRA, ENNHRI and Equinet, on 27 September 2021, an online conference was held on the subject of the rights of the elderly. At the event, an expert staff member of the Department for Equal Opportunities and Children's Rights represented the Office.

The third comprehensive review of Hungary's human rights status was performed on 2 November 2021 before the Geneva-based Human Rights Council at the 39th session of the Universal Periodic Review (UPR). The Office also submitted its report for the review through the Office of the United Nations High Commissioner for Human Rights (OHCHR). Owing to the restricted participation in the review session, a preliminary session was held for non-governmental organisations and National Human Rights Institutions, organised by the NGO named UPR Info, which is involved in collecting information concerning the UPR, on 7 October 2021. At this session, the organisations could present the human rights status of the country in question from their own viewpoint. The session was attended by the Secretary General of the Office, who also sent a video message to the meeting.

During her regular country visit to Hungary, **on 18 November 2021, Irene Khan, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression visited the Office.** Irene Khan and her colleague, Thibaut Guillet, the Human Rights Officer of the Office of the United Nations High Commissioner for Human Rights were received by the Secretary General of the Office. The country visits of the UN Special Rapporteurs are the basic means of getting a direct and in-depth understanding of the country-specific status of human rights, which advance and facilitate intensive

dialogue with the government authorities concerned. In addition to the above, country visits allow the establishment of contact with the representatives of civil society working in the country in question, journalists, as well as with human rights representatives, human rights defenders, national human rights institutions, the academic sphere and the representatives of the UN and the international community, and they also provide opportunity for obtaining information. The purpose of the Special Rapporteur's country visit to Hungary was to assess the status of the right to freedom of expression in Hungary, in the spirit of cooperation and dialogue and in connection with her mandate. The Special Rapporteur should make a report of the visit, which is going to constitute the annex to the thematic report for the 50th session of the Human Rights Council to be held in June 2022.

The annual general assembly of ENNHRI was held on 3 December 2021, which was also organised online this year, owing to the Covid-19 pandemic. At the event, the organisation's plan for strategy from 2022 to 2025 was approved and new officials were elected, who begin their work from March 2022. The participants approved the ENNHRI's 2022 budget and the proposal on financial stability, which, among others, included the wish to increase the membership fee to remedy the organisation's financial problems. The event was attended by the Secretary General of the Office.

The UN Convention on the Rights of the Child (CRC) is not directly specified in the Ombudsman Act; however, it provides for the need to pay special attention to promoting the enforcement of the rights of the child in the ombudsman's work; therefore, the Commissioner takes part in several international organisations on the rights of the child. When entering office, the Ombudsman expounded that he considers the protection of the rights of the child and vulnerable persons as issues of key importance and in these matters he would intend to take action as strongly as possible and that he would use the legal opportunities available to him. The Office continues to cooperate with the **UNICEF National Committee for Hungary**, which is the advocate of the rights of the child and has an important part in controlling the implementation of the CRC.

In 2021, the Office was represented by the Deputy Commissioner for the Rights of National Minorities in preparing the **UN Forum on Minorities Issues**, to which she actively contributed. National Human Rights Institutions pay special attention to compliance with the human rights obligations provided for in the UN human rights conventions and the additional protocols to them. By now, Hungary has ratified 7 of the UN Human Rights Conventions and 9 Additional Protocols. In accordance with the Ombudsman Act, the Commissioner shall fulfil the tasks of the National Preventive Mechanism (OPCAT NPM) according to Article 3 of the Optional Protocol to the Convention against Torture and other Inhuman or Degrading Treatment or Punishment. The Commissioner's activity performed while acting in this capacity is presented in Chapter 5.3.4 of the Annual Report.

2.2. COOPERATION WITH THE COUNCIL OF EUROPE

With respect to the protection of human rights, the Council of Europe is a key partner for European defenders of fundamental rights. One of the most significant achievements of the organisation is the European Convention on Human Rights. In the event of the violation of the rights provided for in the Convention, a petition may be filed to the European Court of Human Rights: its judicial practices are closely followed by our Office. The Council of Europe has established numerous conventions that are significant for human rights defenders, as well as monitoring mechanisms to facilitate compliance with the conventions.

To monitor the implementation of the Framework Convention on the Protection of National Minorities, the **Committee of Ministers of the Council of Europe** set up an **Advisory Committee**, which helps the work of the Council of Europe in the field of protection of minorities by country visits and preparing reports. The members of the Advisory Committee are recognised experts in the protection of national minorities. The Committee of Ministers of the Council of Europe elected the Deputy Commissioner for the Rights of National Minorities a permanent member of the Advisory Committee of the Framework Convention on the Protection of National Minorities. Her mandate was valid from 1 June 2016 for 4 years, and she was elected an alternate member until the next active mandate.

The Office regularly cooperates with the key bodies, committees, rapporteurs of the CoE, among others, with the Congress of Local and Regional Authorities in Europe, the Commissioner for Human Rights and the Venice Commission.

On 1 February 2021, the Hungarian Ombudsman pursued an online discussion with Ms. **Dunja Mijatović, Council of Europe Commissioner for Human Rights**. During the consultations, the Ombudsman informed the Council of Europe Commissioner for Human Rights about the key tasks of the Office, the extension of its powers and they jointly reviewed the current state of the enforcement of fundamental rights. At the end of the discussion, Ms. Dunja Mijatović and the Commissioner expressed their hope for a future cooperation. The institution of the Council of Europe Commissioner for Human Rights was created in 1999 for the purpose of facilitating awareness-raising and respect for human rights in the member states of the Council of Europe. The Commissioner for Human Rights is independent and impartial; his/her role is to give advice; he/she helps the member states in eliminating their deficiencies in legislation by providing analyses and recommendations and by giving practical guides for preventing the violation of human rights. It is a part of the tasks of the Commissioner for Human Rights to support National Human Rights Institutions and cooperate with other international organisations. The Commissioner for Human Rights may take measures on the basis of essential information received from governments, national parliaments,

ombudspersons and similar institutions, persons and organisations, and in special cases may submit reports, recommendations or opinions to the Committee of Ministers and the Parliamentary Assembly of the Council of Europe.

On 14 September 2021, the Commissioner for Fundamental Rights and the Deputy Commissioner for the Rights of National Minorities Living in Hungary **pursued online consultations with the representatives of the Venice Commission (the European Commission for Democracy through Law, Venice Commission)**. During the consultations, the Commissioner and Deputy Commissioner expounded their position concerning the questions of the representatives of the Advisory Body of the Council of Europe consisting of independent constitutional lawyers regarding the Office and provided information on the operation of the Office.

The fight against xenophobia, antisemitism and intolerance is governed by the **European Commission Against Racism and Intolerance (ECRI)**. The Vienna Action Plan was adopted at the first Summit of Heads of State and Government of the Council of Europe on 9 October 1993, which established the European Commission against Racism and Intolerance. On 11 October 1997, at the second Summit, they resolved to strengthen the activities of ECRI, and then on 13 October 2000, the member state governments obliged themselves to pursue negotiations for the purposes of strengthening ECRI again. The statute of the organisation was approved by the Committee of Ministers of the Council of Europe on 13 June 2002. ECRI performs its activity on the basis of the European Convention on Human Rights and its Additional Protocols and the case law of the European Court of Human Rights. Its goal is to combat racism, racial discrimination, xenophobia, antisemitism and intolerance. It takes actions against these phenomena in various ways; for example, it examines the relevant state party legislation, policies and other measures and their efficiency; makes proposals on the local, state and European levels; compiles country reports; takes positions regarding current political and social events; formulates general guidelines for the member states and follows changes in international law.

ECRI makes a report on all states parties every five years. So far, it published a report on Hungary in 1997, 2000, 2004, 2009, 2015 and 2021. The fulfilment of the expectations explained in the conclusions drawn in the sixth country report made on Hungary and the conditions in Hungary were **examined by ECRI experts from 15 to 19 November 2021 within the frameworks of a professional visit**: Johan Friestedt, Executive Secretary of ECRI from Sweden, Maria Daniella Marouda from Greece, Sarunas Liekis from Lithuania and Zeynep Usal Kanzler from the ECRI Secretariat. The members of the delegation paid a visit to the Office on 16 November, where they were received by the Deputy Commissioner for the Rights of National Minorities and the head of her secretariat.

2.3. THE EUROPEAN UNION AND EUROPEAN NETWORKS

The Office has long well-established ties with the European Union Agency for Fundamental Rights (FRA), which was set up on 1 March 2007 in accordance with Council Regulation (EC) No. 168/2007. The European Charter of Human Rights determines the personal, civil, political, economic and social rights of persons living in the European Union. The Agency for Fundamental Rights is an independent body of the EU specialising in this field; its mandate covers the complete scope of the rights defined in the Charter. During the year under review, the Office helped the work of FRA by a contribution; the questionnaire-based consultation was aimed at selecting the topics to be treated as a priority in the future.

In 2019, the Office joined the Network of European Integrity and Whistleblowing Authorities (NEIWA), which is a newly established international anti-corruption network for the protection of whistleblowers. The expert staff members of the Office attended the meeting of national organisations that provide protection for persons making public interest disclosures and that joined the network in Paris after the inaugural session held in the Hague.

On 12 March 2021, the next extraordinary meeting of NEIWA was conducted online. The Office was represented by an expert team member of the Client Service and Department for the Protection of Whistleblowers. The participants, among others, were provided with information on the meeting of the EU Expert Committee that took place a few days before, where every state party represented itself according to the report. At the meeting of the Committee, they raised the issue of setting up a special reporting channel that could be applied in the event of the violation of EU laws. According to the position taken by the Dutch member Wilbert Tomesen, who was the chairman of the meeting, the activity and performance of NEIWA had reached a point where it can introduce itself before the EU Expert Committee, similarly to EQUINET, the European organisation that monitors the enforcement of the requirements of equal treatment, and also, to request its financial support. The relevant measures have been started.

The **extraordinary meeting was held on 4 June 2021**, online again, due to the pandemic situation. On this occasion, the Office was again represented by the expert team member of the Client Service and Department for the Protection of Whistleblowers.

The international relationship of the Office going back to the earliest times is its cooperation with the European Network of Equality Bodies (EQUINET). The cooperation forum founded in 2002 became an international organisation constituting an independent legal entity in 2007 and at present it takes actions against various forms of discrimination. The 48 member organisations operating in 36 European countries combat various forms of discrimination, with different authorisations, powers and means at the different places.

EQUINET is one of the most important international partners of the Office, and the staff members of the Office actively and regularly take part in several working groups, professional consultations and conferences of the organisation.

On 31 March 2021, EQUINET held its first roundtable discussion in 2021 online, where the Office was represented by an expert staff member of the Department for Equal Treatment. The topic of the event was the execution of the European Commission's first LMBTQI Equality Strategy (2020–2025). The European Commission adopted this strategy in November 2020, which is the Commission's first formal political document on the subject. Its purpose is to create a safe environment for LMBTQI persons in the European Union, which is free from discrimination, where they may fully take part in social life. The strategy determines tasks both for the European Commission and the member states. It specifically names the equality bodies of the member states as important players, which are of different legal status in each member state but play a key part in the investigation of specific complaints on discrimination suffered by LMBTQI persons.

On 29 April 2021, the discussion of the European Commission Strategy on the Rights of Persons with Disabilities applying to the period of 2021-2030 was held online. On the part of the Office, an expert staff member of the OPCAT NPM Department attended the event. The purpose of the webinar was to summarise the EU's Disabilities Strategy, to present and analyse its aspects. EQUINET and the organisations responsible for equal treatment are partners of key importance in the execution of the strategy. The development of the strategy is rooted in the UN CRPD; it reflects the values formulated in the Treaty on European Union and in the Charter; it contributes to the implementation of the principles provided for in the European Pillar of Social Rights. The Strategy is in line with all articles of the CRPD; they are reflected in the action goals. As a consequence of the pandemic, it was more difficult for persons with disabilities to have access to health services. The Strategy focuses on the gaps between persons with disabilities and the rest of society, which further widened during the COVID period.

On 12 May 2021, the meeting of the EQUINET Gender Equality Working Group was held, where the Office was represented by an expert staff member of the Department for Equal Treatment. At the event, three items of the agenda were discussed: the impact of the draft directive on the transparency of salaries produced on the work of equality bodies, the role of equality bodies in the treatment of gender-based violence and the preparation of the working group report on home workers. The draft directive requires that monitoring bodies be established, which are different from equality bodies. However, member states may delegate the monitoring body tasks to an existing organisation, e.g. to the equality body. The task of monitoring bodies is related to collecting, analysing and distributing data. It is a special feature of the draft directive that the term of "intersectionality" appears in it. Within the working group, the Sub-Working Group on Salary Transparency was established.

EQUINET held its annual general assembly on 21 November 2021 online, where the leaders of European equal opportunities organisations made decisions on the operation of the organisation and elected the members of the Executive Board of EQUINET and its president Laurence Bond, Chair of the Irish Human Rights and Equality Commission.

The main task of the European Network of Ombudspersons for Children (ENOC) established in 1997 is to promote the protection of the rights of the child defined under the CRC.

ENOC held its annual conference on 17 March 2021 in the form of a webinar. The Office was represented by an expert staff member of the OPCAT NPM Department at the event. The online seminar was organised under the title of "The implementation of the recommendations of the UN Global Study on Children Deprived of their Liberty at national level and in European context: possible roles, actions and impacts with the involvement of independent children's rights institutions". The goal of the conference was for the member organisations of ENOC to harmonise the measures taken in order to implement the recommendations of the UN Global Study on Children Deprived of Liberty. The ENOC member organisations include numerous organisations with powers to monitor the relevant institutions, to investigate into individual complaints and influence the process of related lawmaking. The purpose of the event was to start a dialogue about the challenges and possibilities connected with the implementation of the recommendations and to provide a basis for sharing information with, and transferring knowledge among the member organisations, for national and regional level cooperation, as well as the development of possible strategies.

On 1 June 2021, ENOC held its online seminar entitled "COVID-19 and the Rights of the Child: Learning for the Future". Of the staff of the Office, an expert staff member of the Department for Equal Opportunities and Children's Rights took part in the event. The participants of the seminar arrived at the conclusion that the rights of the child were not adequately kept in mind when taking the emergency measures at the time of the pandemic. Listening to the opinion of children, providing information to them according to their age, adopting child-focused decisions are of critical importance. As a result of shared efforts and thinking together, the participants highlighted several problems that are present in most of the countries of Europe. The policy statement in progress will help to enforce the rights of the child in a pandemic situation as well.

The umbrella organisation bringing together approximately 200 children's rights member organisations in 35 European countries, Eurochild, which was established in 2004 from the European Forum for Child Welfare (EFCW), intends to assign a key role to taking action against the starvation and ill-treatment of children.

At the **general assembly of Eurochild held on 17-18 June 2021**, the Office was represented by an expert staff member of the Department for Equal Opportunities and

Children's Rights. Due to the pandemic, the general assembly and the seminars running simultaneously were organised online. The general assembly constituted a quorum; the members approved the amended statute of the organisation, the internal rules of Eurochild, as well as the first Code of Ethics of the network. During the event, four different webinars were conducted simultaneously. The seminar entitled "Life after Covid" was led by young people, children, the Children's Council of Eurochild. At the seminar, the impacts of the pandemic were analysed from the viewpoint of young people and the society as a whole.

2.4. FURTHER KEY INTERNATIONAL EVENTS

On 8 September 2021, in Poland, within the frameworks of the two-day **Economic Forum of Karpacz**, the Commissioner for Fundamental Rights participated as a lecturer in the roundtable discussion organised under the title "Civil Society – Support or Problem for the Authorities". At the forum, the Hungarian Ombudsman stressed that one cannot and should not look at the activity of non-governmental organisations as an impediment; treating the organisations of civil society as partners is absolutely necessary in searching for responses to the increasingly complex problems of our days because it is only together that can we find the answers. He emphasised that the Commissioner established a Civil Consultative Body (CCB) in the spring of 2021, whose mandate is for three years. The members of the Civil Consultative Body may make proposals on the content of the annual visit plan of the OPCAT National Preventive Mechanism, on inspection priorities and may propose visits to specific places of detention.

The series of conferences going back to a past of more than thirty years provided an opportunity for experts on the protection of fundamental rights, players of the social welfare sector, the business and civil sectors arriving from all over the world to share their good practices with each other and to provide professional assistance to their foreign colleagues who perform work in similar areas, by presenting their activities, scope of duties and the operation of their respective institutions.

On 30 September 2021, the Commissioner for Fundamental Rights received the delegation of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE). The 68-member committee proceeds in cooperation with the European Commission, the European Council and the national parliaments. The seven-member delegation inquired about the enforcement of the norms of rule of law in Hungary; as part of which they paid a visit to our Office.

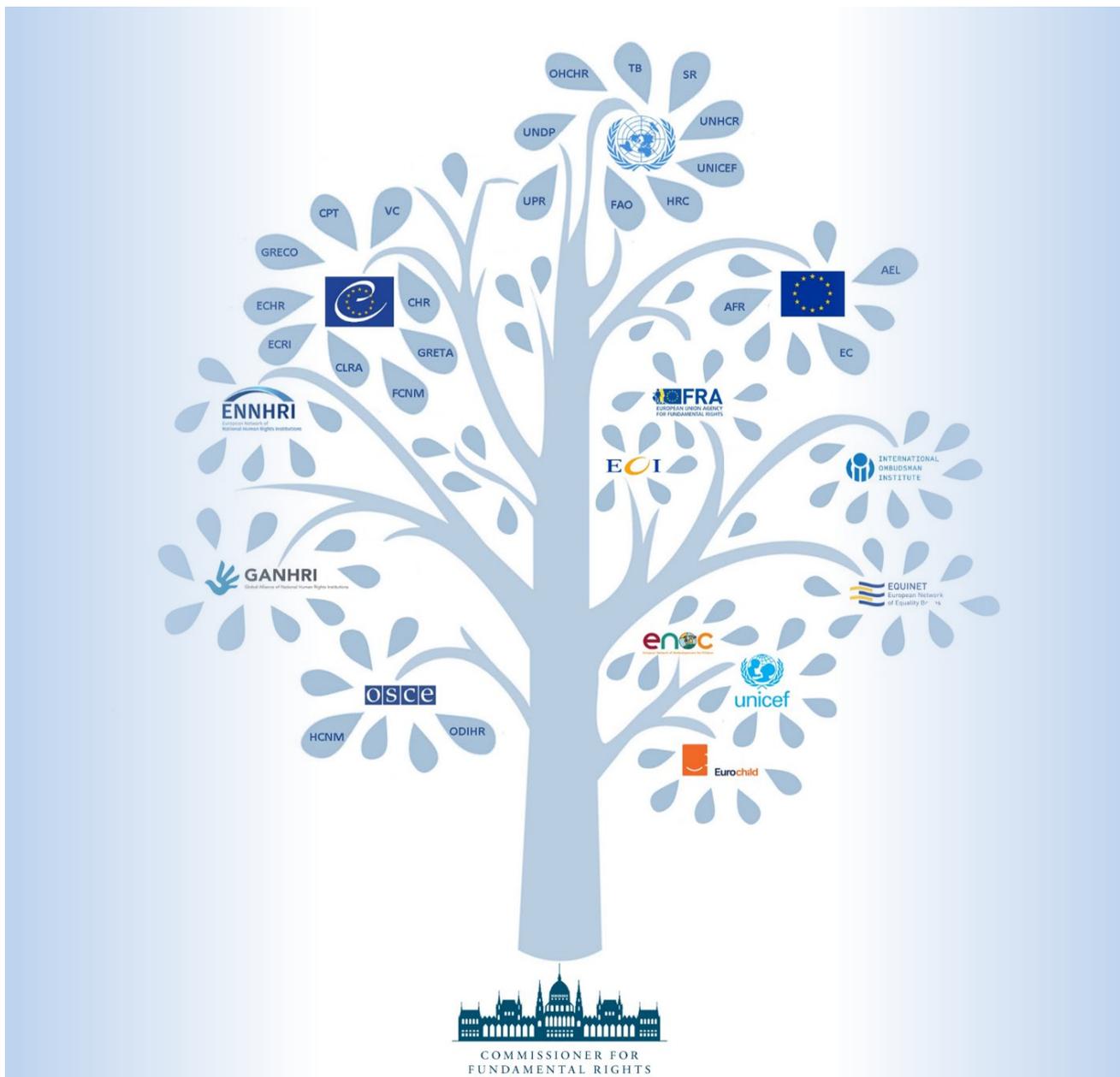
The European Federation of National Organisations Working with the Homeless (FEANTSA) established in 1989 is the only European non-governmental organisation that focuses exclusively on combating homelessness. Their ultimate goal is to terminate homelessness in Europe. They have more than 120 member organisations from 30 countries, including 27 European Union member states. Our Office has been working in close cooperation with them since 2008.

FEANTSA organised an online press event on 26 March 2021 in order to explain the organisation's strategy for homeless women and the related position taken by the European Women's Lobby. At the online event, our Office was represented by an expert of the Department for Equal Opportunities and Children's Rights. In the development of homeless strategies focusing on women, creating flexible accommodation options can be a successful solution and it is also expedient to adapt the already working, so-called Housing First complex forms of support to the needs of female clients. All these require the collaboration of not only the social welfare experts but also, of the representatives of several special fields.

On 6 May 2021, the Foundation Abbé Pierre and FEANTSA organised, for the sixth time, this time, in an online form because of the pandemic situation – **their assessment consultations on care for the homeless**, which was attended, on the part of the Office, by an expert of the Department for Equal Opportunities and Children's Rights. The event was opened by the President of FEANTSA Kjell Larsson and then Ana Mendes Godinho, the Minister responsible for Social Welfare and Labour Issues of Portugal welcomed the experts who were virtually present.

On 14 September 2021, the Academy of European Law (ERA) held a professional webinar entitled "The safety of children and the Internet: raising awareness and reduction of risks". The Office was represented by an expert of the Department for Equal Opportunities and Children's Rights at the event. At the discussion, they emphasised the role of children, the school and parents in preventing the ill-treatment of children. They underlined that whatever happens online will not remain online; the consequences will exert their impacts offline as well. As offences are reported more bravely on emergency lines than directly to the police, in addition to prevention, the key role of emergency lines was stressed as well. The participants agreed that children are exposed to numerous dangers while being online. For this reason, prevention and awareness-raising are of primary importance. Each country needs to take numerous efforts in this field.

On 11 October 2021, the delegation arriving from the Frontex Fundamental Rights Office (FRO) was received by the Office. The FRO delegation paid a visit to Hungary in order to explore changes in the status of fundamental rights in the country with regard to the period passed since the judgment of the European Court of Justice issued on 17 December 2020 (case C-808/18), in particular with regard to the situation in connection with the treatment of frontier defence and immigration. The purpose of the meeting was for the members of the delegation to inspect the current state of fundamental rights in connection with the treatment of frontier defence and immigration (taking account of legal and practical aspects). As part of the visit to Hungary, the delegation pursued discussions, in addition to the staff members of the Office, with the staff of the Ministry of the Interior, the border management officers of the Police, the Ministry of Justice and international and Hungarian social organisations.



2.5. OTHER FORMS OF COOPERATION

During his activity, the Commissioner for Fundamental Rights endeavours **to maintain relations as extensively as possible with institutions that operate in the field of international human rights protection** both within and outside Europe. The Ombudsman helps the work of international organisations, institutions, ombudsman institutions of other countries, non-governmental organisations with his policy statements, professional materials and by attending conferences, seminars, webinars, workshops, and if necessary, by holding consultations and training programmes.

At the request of our cooperating partners, our experts regularly send professional contributions or complete professional questionnaires. The extension of the **possibilities for bilateral and multilateral cooperation** with the ombudsman institutions of other countries and international organisations includes the reception of these organisations at the Office and participa-

tion at the conferences organised by them, as well as the Office's joining the implementation of the projects launched by these organisations.

From the data supplies provided by the Office in 2021, the following were typical: the questionnaires examining the fundamental rights aspects of the measures taken in relation to the pandemic situation, the questionnaires aimed at the inquiries and mapping the good practices of our main umbrella organisations (EQUINET, GANHRI, ENOC data collections) and our main partners (the Office of the United Nations High Commissioner for Human Rights; Special Rapporteurs), with which we helped the work of such organisations.

The Office responded to IOI's questionnaire on "Giving Voice to Mental Health Patients" and the request for preparing the conference held on the support of the rights of the elderly. With our contribution, we helped the FRA's consultation in the selection of topics to be treated as priorities by the organisation in the future, and in ODIHR's questionnaire, we gave answers about

National Human Rights Institutions exposed to attacks. The Office also contributed to the document serving as the basis for the defence of Hungary's 9th periodic CEDAW report. We sent content elements to the discussions of the professional day organised by the Committee of the UN Convention on the Rights of the Child on the rights of the child and children in alternative care.

In 2021, the Office contributed to the **rule of law report** made by the European Commission via two channels. On the one hand, it provided information directly to the Commission, and, on the other hand, ENNHRI made a joint comprehensive report on the enforcement of the rule of law in its member states.

On 12 July 2021, the commissioner **attended the conference** organised by the **Association des Ombudsmans et des Médiateurs de la Francophonie (AOMF)** and the ombudsman institution of the Principality of Monaco held in Monaco **in an online form**. The two-day discussion examined how the protection of fundamental rights was implemented during the Covid-19 pandemic. In his lecture, the Commissioner devoted special attention to the presentation of the organisational structure and the operation of the Office, to the explanation of Hungarian Ombudsman's practices related to the measures introduced during the pandemic and to activities of the Hungarian ombudsman institution related to the protection of the interests of future generations.

On 29-30 September 2021, the **OPCAT South-East Europe National Preventive Mechanism Network** held its meeting in

the Office. The participants of the two-day event were welcomed by the Commissioner for Fundamental Rights, who underlined that the supervision of closed institutions presents serious challenges in each country and each culture of the world. With this activity, we protect the rights of the most vulnerable people; therefore, this work can only be performed with full devotion. In accordance with the Act on the Promulgation of the Optional Protocol of the Convention against Torture and other Inhuman or Degrading Treatment or Punishment (OPCAT), in Hungary, the Commissioner shall act as National Preventive Mechanism (NPM) in person or with the collaboration of his staff. Within the framework of the NPM, the Ombudsman shall inspect penitentiary institutions, lock-up facilities, homes for persons with disabilities, children's and old age homes.

During the year, **within the frameworks of bilateral meetings**, the Commissioner for Fundamental Rights received Norwegian Ambassador Trine Skymoene and German Ambassador Johannes Haindl in his Office. During these discussions, the Ombudsman provided information on the tasks of the Office, mostly about its activity performed concerning the protection of the rights of the most endangered social groups and presented the challenges of the past period and the good practices developed in connection with the pandemic situation.

3. FLAGSHIP CASES, INQUIRIES AND REPORTS

In accordance with the requirements of the Ombudsman Act, the Commissioner **paid primary attention** to the protection of the rights of **vulnerable people**, children, persons with disabilities, elderly people, medical patients, the homeless in the year under review as well. In 2021, several comprehensive reports causing a great stir were compiled, which were expressly related to the **focus on the protection of fundamental rights**.

In the first quarter of the year under review, a comprehensive investigation of critical significance was concluded, in which the Commissioner examined the issues related to the **new rules of procedure** connected with **requesting the postponement of starting school** and to the practical application thereof, on the basis of parents' complaints. In the **issued report**, the Ombudsman exposed the improprieties in connection with the way of introducing the rules of procedure, its indirect and direct effects, uncertainties of legal regulation and the proceedings of the Education Authority and expert committees, and formulated recommendations to the ministry responsible for the relevant field. A part of the constitutionality- and fundamental rights-related statements made in the report subsequently also appeared in the Constitutional Court decision issued on this subject. Based on all the above, the provisions of the rules of procedure for establishing first-grade readiness were transformed. In the year under review, in addition to the above, the Commissioner issued numerous reports affecting education and school operation.

In connection with the **application of immunity certificates**, a significant number of complaints (almost 800) was received by the Commissioner in a few days, which raised individual and general constitutional and practical questions. **In his position issued out of turn, the Ombudsman assessed the constitutional requirements to be enforced in the application of immunity certificates and based on them**, he made **proposals to contribute to solving the problems** to the Minister of the Interior leading the Coronavirus Operational Group and the Minister of Human Capacities.

In his report concluding the investigation of a complaint in the summer of 2021, the Commissioner for Fundamental Rights established that as a precondition of **rehabilitation services and elective interventions**, the compulsory performance of either the PCR or the antigen testing **were required** not by legal regulations but by **circulars** and/or **individual ministerial instructions**; accordingly, for reasons of an improper level of regulation and further uncertainties in content, the principle of rule of law was breached. In response to the report, the Government remedied the situation that gave cause

for concern within a short time: the **Government Decree** on the rules of plannable dental services, rehabilitation services and plannable invasive interventions in the state of emergency was promulgated, which also provided for the settlement of the issues examined in the report.

In 2021, the Commissioner for Fundamental Rights paid primary attention to the on-site examination of the circumstances of the operation of residential institutions, i.e. children's homes, old age homes and institutions for persons with disabilities again, which inspections were of a comprehensive nature as compared to the former visits of a narrower focus conducted at the time of the pandemic, where he acted on the basis of the complaints or signals received by him, or ex officio. In the year under review, of the on-site inspections of children's homes, the greatest press response was prompted by the report that monitored the operation of the Children's Home of the Ministry of Human Capacities in Kalocsa. As compared to the earlier investigation, progress has been made in terms of the staff headcount, the rate of qualified employees of the Children's Home, as well as the reduction of turnover. However, at the same time, with respect to the physical conditions of the institution, the operation of the member school and some further issues, the Commissioner formulated recommendations for remedying serious, specific and system-level problems.

The Ombudsman's Office has been addressing the **anomalies of the operation of residential social care institutions with a high number of beds** for a long time. CRPD specifically protects the principles of independent living and autonomy, and the large-scale operation of homes with a high number of beds is absolutely inconsistent with that. In accordance with all the above, in terms of fundamental rights, **the replacement of beds at social care institutions with de-institutionalisation** and their implementation are in the focus of solutions. However, institutions must operate even until then, while the quality of the services continues to be highly changeable, institutions are fighting with a lot of acute problems, and the Covid-19 pandemic only made the situation more difficult. In the reporting period, the Commissioner issued several **reports** that focused on the operation of institutions for persons with disabilities, or of the system itself.

We should highlight the Commissioner's inspection performed at the **Home for Persons with Disabilities** of the Heves County Harmónia (**Harmony**) **Unified Social Care Institution**. In his report, the Commissioner established that the practices of the institution, the circumstances of caring for the children

with autism spectrum disorder gave cause for concern. In order to properly investigate into the specific problems and deficiencies at the system-level, the care provided to the children with autism spectrum disorder and cases of death, to remedy the shortage of experts at residential institutions, the Ombudsman requested the ministry in charge to take measures. During his inspections at other institutions in the year under review, the Commissioner also emphasised that the reason for the existence of institutions with a high number of beds was a thing of the past: it is the fundamental right of persons with disabilities to have an independent way of life, to actively socialise; the **process of de-institutionalisation** is an urgent task, as this is the only chance for the residents to live a dignified life that means independence. According to the Commissioner, in addition to the above, it is imperative to appropriately devel-

op **community-based supporting services for persons with psycho-social disabilities** under guardianship.

On the basis of a detainee's complaint, the Commissioner established in his report that the prevailing regulation of **prison detainees' communication by phone**, in particular the definition of the applicable fees violated the right to private and family life. For this reason, in order to settle the situation, the Ombudsman sent his recommendations to the National Commander of the Hungarian Prison Service. **It is a significant achievement** that the National Commander of the Hungarian Prison Service informed the Commissioner that after having had consultations with the service provider, he had taken measures for reducing the minute rates, and in addition to that, the applicable rules of procedures had been favourably modified for the rights of detainees.

4. THE ACTIVITIES OF THE OMBUDSMAN AS THE OPCAT NATIONAL PREVENTIVE MECHANISM

In accordance with Act CXLIII of 2011 on the Promulgation of the Optional Protocol to the Convention against Torture (OPCAT), from 1 January 2015, the Commissioner for Fundamental Rights shall proceed as National Preventive Mechanism (NPM) in person or in collaboration with his staff members in Hungary. In 2021, the NPM, **in addition to inspecting places of detention based on the former criteria, considered it its task to check to what extent** the measures applied in order to prevent the spread of the pandemic **affected the fundamental rights of detainees**. It was a further aspect of the inspection of the NPM how places of detention provided conditions for preventing infection and those for the prevention of the spread of a possible infection. The NPM applied its visiting methods developed in 2020 for the pandemic situation in 2021 as well. The Commissioner for Fundamental Rights typically took part in the visits in person. In accordance with the 'do no harm' principle, the members of the visiting group entered the premises of detention, in protective equipment after assessing the risks.

Due to the pandemic situation, **during the visits the NPM paid special attention to**

- changes caused with respect to the treatment of detainees by the pandemic situation;
- information provided on pandemic-related measures;
- measures taken in order to prevent infection, in particular during admission;
- the daily schedule of the detainees, in particular to ensuring education, work, spending free time, staying in the open air;
- providing health services in the pandemic situation, the possibilities of isolation;
- the possibilities of communication;
- the measures taken to compensate for the restrictions imposed to reduce the risk of infection (e.g. restriction of communication, free time activities).

In 2021, the NPM paid a visit to a total of **23 places of detention, every time applying the special methodology developed for the pandemic situation**.

The Hungarian NPM, as an observer from 2014 and a full member from 21 April 2016, has been taking part in the work of the South-East Europe National Preventive Mechanism Network (hereinafter referred to as "the South-East Network"), whose members mutually help each other by sharing professional experience, and thus, they can successfully fulfil the tasks of preventing ill-treatment. The task of the presidency of the South-East Network was fulfilled by the Hungarian NPM in 2021, as part of which it organised **two events**, one online

workshop and one hybrid conference held with both personal attendance and online.

On 20 July 2021, three staff members of the NPM, the President of CPT, a member of SPT, an advisor of APT and the representatives of the members of the South-East Network took part in an online workshop organised under the title "**The impact of Covid-19 on the activity of the NPMs – challenges and primary visitation criteria**". Most of the participants reported that from March 2020, on-site visits had to be suspended. They changed their work methods: they contacted detainees and the employees of places of detention by video calls or on the phone. The Hungarian NPM reported that from April 2020, the Commissioner continued his on-site visits, during which he endeavoured to inspect various locations: he inspected penitentiary institutions, police facilities, social welfare and child protection institutions, and refugee reception centres too. The COVID-focused visits were shorter and the members of the visiting group wore protective equipment.

The NPM, with partial financing from the Special Fund provided for in Article 2 of the OPCAT, organised the international workshop entitled "**Interviewing techniques for special groups of detainees**" on **29-30 September 2021**, which at the same time hosted the second meeting of the South-East Network in that year. Participants could attend the workshop in person and online as well. The purpose of the professional event was the further training of the members of the NPM in order to implement its recommendations formulated after the 2017 visit of the SPT. The purpose of the workshop was to strengthen cooperation with the NPMs of other states, with non-governmental organisations, to increase the efficiency of work methods through the exchange of experience. The workshop discussed the special features of the interviews to be made with detainees who are particularly vulnerable due to their specific features. The talks given focused on four different vulnerable groups: children, persons with psycho-social disabilities, foreigners, members of national and ethnic minorities and LGBTIQI persons.

The event was attended by some experts requested to participate, members of the South-East Network and the Civil Consultative Body, the team members of the NPM and some other staff members of the Office who were interested in these topics. On the first day of the workshop, the special techniques of interviewing the four especially vulnerable groups of detainees were discussed in four panel discussions. The first panel discussed the techniques of interviews conducted with foreigners and persons belonging to national or ethnic minorities.



*The international workshop on
"Interview techniques with vulnerable groups"*

The second panel covered the techniques of interviews with persons with psycho-social disabilities. The third panel addressed the techniques of interviewing children. The fourth panel discussed the techniques of interviews made with LGBTIQI persons. On the second day of the workshop, the leaders of panel discussions summed up the results of the sessions at a plenary session.

Based on the exchange of experience about the NPM's visits to these vulnerable groups, the participants made joint statements. Visits are to be profoundly prepared and experts by experience are to be involved in the visits. It is a common fea-

ture of interviewing techniques that interviewees are to be approached with empathy; and an adequate amount of time is to be assigned to these conversations. The information received during the interview is to be handled confidentially; generalisations and prejudices are to be avoided. Information is to be checked from various sources. Interviewees shall not suffer any disadvantage from having spoken with the members of the NPM. It is important to ensure continuous training for the members of the NPM and also, an exchange of experience among the NPMs.

5. THE COMMISSIONER FOR FUNDAMENTAL RIGHTS TAKES OVER THE TASKS OF THE EQUAL TREATMENT AUTHORITY

In accordance with the legislative amendment approved by the Parliament, from 1 January 2021, the Authority for Equal Treatment (AET) ceased to exist; its tasks were taken over by the Commissioner for Fundamental Rights: from 1 January 2021, these tasks are fulfilled by a special organisational unit of the Office, the **Directorate General for Equal Treatment**. The **Ombudsman shall proceed within the framework of administrative proceedings in matters affecting equal treatment and the promotion of equal opportunities, in accordance with the applicable rules of procedure. Regarding these matters, clients may file petitions to the Commissioner for Fundamental Rights in the previously applied manner**; in their petitions they shall indicate if they do not want the Commissioner to examine their cases involving the violation of equal treatment within his basic powers but, with the collaboration of the experts working at the Directorate General for Equal Treatment, in the form of administrative proceedings.

In the event of the violation of the requirement of equal treatment, the Ombudsman, proceeding in these powers, in his proceedings conducted on the basis of the Act on Equal Treatment, may not only make a proposal on remedying the violation of law but may adopt an administrative decision with binding force as well, in which he may also impose sanctions. More specifically, he may order the termination of the conduct that violates the law, may prohibit such conduct in the future, may order the disclosure of the decision establishing such violation of the law, or may impose a fine. By taking over the tasks of the Authority for Equal Treatment, the Commissioner has wider than ever powers to conduct investigations and take measures for taking action for the enforcement of fundamental rights, in particular, the requirements of equal treatment.

In 2021, the Directorate General for Equal Treatment **addressed a total of 462 cases**. From them, **265 were authority cases**, including, among others, the authority cases carried over from previous years, and cases in the phase of judicial review and execution. Furthermore, there were **197 non-authority cases**, in which the Commissioner informed the clients who filed petitions to him in individual cases via the Directorate General about the option of the enforcement of rights in the event of the violation of the requirement of equal treatment without any authority proceedings having been conducted in the case.

In 2021, **169 decisions concluding the proceedings were adopted** at the Directorate General: 76 rulings dismissing the petition or terminating the proceedings, 85 decisions adopted on the merits of the case and 8 decisions approving settlement. Regarding the decisions on the merits of the case, 59 decisions dismissing the petition and 26 decisions establishing the violation of law were made. As a sanction, a fine was imposed in 5 instances.

From **the decisions establishing the violation of law**, 11 covered the use of services, 5 covered employment, 3 concerned education and training, 1 affected social security and health, and 6 referred to other areas. Also with respect to decisions establishing infringement, the Commissioner established infringement in 18 instances in connection with disabilities, in 3 instances, related to maternity (pregnancy), and in 1 instance each, in connection with the protected attributes of gender, belonging to a nationality, age, sexual identity and sexual orientation. In 2021, with regard to the pandemic situation, hearings were held in the framework of administrative proceedings in merely 9 instances.

6. FOCAL POINTS OF THE ACTIVITY OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR THE RIGHTS OF NATIONAL MINORITIES



*Dr. Elisabeth Sándor-Szalay
Professor, Deputy Commissioner for Fundamental Rights,
Ombudsman for the Rights of National Minorities*

6.1. GENERAL TENDENCIES

The **pandemic** and the **state of danger** ordered on the basis thereof were present all over the world in 2021 as well; they continued to make the operation of authorities, institutions and public service providers and the everyday living conditions, the employment of citizens difficult, and they seriously affected the life of the nationality communities of Hungary as well. However, the **gradual revival of economic and social life** provided an **opportunity to restart** public life for the nationalities and for most of the nationality communities. **However, the situation of the Roma community was an exception**, since the economic problems arising as a consequence of the pandemic were more seriously present in this disadvantaged stratum of the population; their economic and social exclusion narrowed their possibilities for restarting their lives.

The above processes produced an effect on the **work of the Deputy Commissioner for the Rights of National Minorities**; they **posed a significant challenge** and influenced the number and type of petitions as well. Since the beginning of her public law mandate, i.e., **from 2013 to 2021**, Dr. Elisabeth Sándor-Szalay proceeded in as many as **3,163 complaints**, while **the annual number of cases grew almost two and a half times**, which is a significant change. Based on the tendencies so far, usually **an annual 400 petitions** are received by the

Deputy Commissioner, which constitutes approximately 7-8% of the Office's total case turnover. In 2021, the number of **cases affecting nationalities** showed a **11% growth** as compared to the 2020 data. This was only a return to the case turnover trend of the years preceding the pandemic, which, however, can be considered one of the most important indicators of the process of revival.

In **classical nationality rights cases**, instead of petitions contesting individual infringements, less **petitions of a greater theoretical significance were received** from the members of nationalities, while in the case of **problems related to equal treatment and equal opportunities**, the overwhelming majority of the complainants of almost exclusively Roma origin filed **petitions that complained of individual situations** to the Deputy Commissioner for the Rights of National Minorities. Similarly to past years, the number of cases affecting citizens of Roma nationality, amounting to almost half of the total case turnover, was the highest in 2021 as well: the Deputy Commissioner addressed **the petitions of the Roma community in 193 cases**.

6.2. INDIVIDUAL CASES

Concerning the enforcement of "**classical**" **rights of nationalities** ensured in the Act on the Rights of Nationalities of Hungary, structural improprieties primarily arose in the following areas.

Similarly to the previous years, the issues affecting the operation of **local and nationality self-governments** were of key significance in terms of the enforcement of nationality rights in 2021 as well. The state of danger declared and extended in connection with the pandemic prevented the operation of nationality self-governments to a great extent, and has posed numerous new challenges to their presidents and the members of their representative bodies. Following the introduction of the state of danger, the Deputy Commissioner endeavoured to clarify the statutory requirements applying to nationality self-governments. In 2021, the most typical complaints received by the Deputy Commissioner were related to the **cooperation difficulties** between the local municipalities and the nationality self-governments of the settlements. Petitions on the **application of the right of agreement** of nationality self-governments related to nationality education continued to be typical.

Numerous petitions concerning the **use of individual and community names in the languages of nationalities** were received, based on which the Deputy Commissioner reviewed the current situation, features and development possibilities of these areas. She summed up her experience in her general comments number 3/2021 and 4/2021.

Concerning one of the outstanding areas of the **cultural autonomy of national minorities**, the representatives of nationality communities in Hungary have submitted similar complaints for decades in connection with the conditions of the reception of **radio programmes of nationalities**. The Deputy Commissioner presented the current situation of access to public service media services in the mother tongues of nationalities in detail in her general comment number 3/2018. As a follow-up investigation thereof, the investigation exploring the effects of the termination of digital ground radio broadcasting in Hungary in 2020 was closed in 2021 with the issuance of general comment number 2/2021 on the **current state of accessibility of public service radio broadcasting of nationalities**. Based on the experience of several years and the current situation, the investigation found that unfortunately, **the technical conditions of the reception of public service radio programmes in the language of nationalities could be accessed by the members of nationality communities at a different, lower standard**.

The case groups **mainly affecting the members of the Roma community** were related to the obstacles of the enforcement of the requirement of equal treatment, the consequences of the declining parts of society, discrimination, unequal opportunities that are apparently irreversible and the pandemic situation. The high number of cases and the content of the cases indicated that the previously existing complex difficulties of the members of the Roma community became more serious as consequence of the pandemic.

The Deputy Commissioner paid special attention to the **effects of the third and fourth waves of the Covid-19 pandemic on nationality communities** in 2021 as well, in particular to the **health, social and housing situation of disadvantaged Roma families living in segregation**. As part of this, in the spring of 2021, the Deputy Commissioner ordered a comprehensive collection of data and information and maintained continuous contact with the government, civil society and church organisations concerned.

It is a **common feature** of the cases connected with the **disadvantaged and continuously marginalising situation of Roma children in the school system** that the children concerned did not have access to education which makes further education impossible in identical quality and quite often they studied and were raised in an environment where they suffered ill-treatment and their human dignity was violated due to their origins. In 2021 again, several complaints were received in which parents of Roma nationality contested the behaviour and approach of heads of institutions, teachers or nursery school teachers

and the biased and discriminating procedures of some educational institutions. Concerning the school situation of children of Roma origins, the lack of social mobility continues to be a serious problem, which is closely linked to the high rate of school dropouts. The available data show that more than half of the students of Roma origin study in segregation and their separation at school goes hand in hand with their receiving education of a lower standard in most cases. The Deputy Commissioner summed her experience in her general comments No. 1/2021 and 5/2021, in which she explored and analysed, in addition to the above cases, the above-mentioned structural problems in a complex way.

In 2021, the number of petitions contesting the **social situation, the lack of housing conditions** and the organisation of **public employment** grew and the extent of the problems indicated in them became larger. Most of the petitions related to difficult living conditions, poor housing conditions were about the **rent agreements between the settlement municipality and the tenant**; among others, they complained about the accumulated rental debts, the termination of the rent agreements before the deadline, or the failure to extend them; complaints about problems with house swaps and the conditions of flats were also received. Although actual eviction was not possible owing to the pandemic situation, disadvantaged people were afraid of eventually losing their social security.

Complaints of the granting and distribution of **food packages or social firewood aid** by the settlement municipality or the nationality self-government were received in the past year too.

Several petitions were received by the Deputy Commissioner in connection with the **TOP tenders regarding the rehabilitation of deteriorated urban areas**; in them the petitioners contested the eviction of the families living there, their removal without providing them with any accommodation and the use of the awarded tender funds without the assistance of the Roma self-government and without properly informing the local inhabitants of Roma nationality. Regarding the TOP tenders, the Deputy Commissioner requested information from the mayors of the settlements and from the deputy state secretary responsible for regional development programmes. The analysis of the incoming responses and the processing of the data of the documents are still in progress; the closing of the cases is expected in 2022.

It was an alarming sign that the number of **complaints concerning hate speech and hate crimes** continued to rise. Experience shows that **these days, atrocities may be suffered not only by the Roma community but also by other national or ethnic minorities and any other vulnerable communities**. Taking action against them, in addition to the responsibility of the state and other bodies, is in the common interests and is the joint task of every citizen who considers the protection of human dignity important.

In 2021, **the intensified controlling practices of the police** were a key area of investigation, which had been performed

by the authority for years without any restrictions in time and space, quite often in a way that bore the characteristics of ethnic profiling. The joint reports made on the case of numbers 729/2021 and 730/2021, in addition to remedying the individual impropriety, stated that the applied form of decision was not appropriate for ordering increased control, as this might only be performed to achieve the purposes provided for in the law and within the restrictions of time and space, and only the measures defined by the law might be taken.

In 2021, numerous cases affecting **criminal proceedings** were received by the Deputy Commissioner, in which the complainants typically complained of the ordering and maintenance of coercive measures restricting personal liberty and the protraction of the investigation, as well as the biased attitudes of proceeding bodies. Last year, several complaints concerning **misdemeanour proceedings** that found the proceedings of the police improper were received by the Deputy Commissioner. Complaints received from **detainees** primarily covered their separation after admission and the changed rules applying to communication and the placement of detainees, as well as poor public health conditions.

6.3. KEY PROFESSIONAL DOCUMENTS

In addition to administering individual complaints, the Deputy Commissioner for the Rights of National Minorities has the option to **issue general professional materials** of legal nature.

A **joint report** issued together with the Commissioner provides detailed information on the data of the investigation conducted in the relevant case, on the facts established and the actual violation of the law and provides for the application of “ombudsman-type” solutions offered by the Ombudsman Act.

The purpose of the **general comment** is that the Deputy Commissioner call the attention of the lawmakers and the general public to the importance of the actions to be performed in protecting the individual and collective rights of the members of nationality communities in Hungary, to the situation that jeopardises the fundamental rights of nationalities and the principle of equal treatment and the practices that give cause for concern, and that she show good practices that may serve the successful enforcement of nationality rights.

In addition to the above, the Deputy Commissioner may send **a closing letter containing a proposal on legal practice** to the body under review, which presents the facts explored in details in the relevant case, analyses the legal situation and calls the attention to the lack of coherence detected in legal practice, and requests the head of the body to correct it in his own powers.

In 2021, in the field of nationality law, **sixteen professional documents of strategic significance** were published: **four joint reports** and **five general comments** were prepared, and **in seven cases, a closing letter containing a proposal on legal practice** was issued by the Deputy Commissioner.

The **joint reports** were made in connection with funerals and the **right to piety, the breach of the obligation to cooperate, the examination of police measures** implemented with intensified control and **ordering a local referendum** affecting a primary school that ensures the education of nationalities. General comments of key significance were made with regard to the **use of individual and community names in the language of nationalities**, the current state of accessibility of **public service radio broadcasting of nationalities** and the individual and general problems explored in connection with the **situation of the education of the children of Gyöngyöspata**. For lack of space, the summary of the documents in English and the related professional background materials can be accessed by using the QR code below.



Scan the code
and click on the link!

6.4. KEEPING PROFESSIONAL RELATIONS

In 2021, the Deputy Commissioner **kept continuous professional relations** with **Hungarian and international research institutions** and **with the representatives of non-governmental and church organisations** performing activities for the enforcement of the cultural autonomy of communities of nationalities and to ensure their rights to equal treatment and equal opportunities. In addition to the above, **as a key partner** she regularly consulted the **elected bodies** of the nationalities living in Hungary, other **organisations protecting fundamental rights, government and administrative bodies** and **conciliation boards** expressly examining the enforcement of the rights of nationalities. The Deputy Commissioner developed close working relationships with the Member of Parliament of nationalities, nationality advocates and the presidents of the nationality self-governments, which greatly contributed to the efficiency of her activity in protecting fundamental rights.

The new channels of keeping contact were the **digitally accessible and regularly updated online publications** developed in the year of the report, which are at the same time parts of the strategy of the Deputy Commissioner for the Rights of National Minorities for renewing digital communication.

To ensure wide and continuous access to professional materials, the Deputy Commissioner uses two online platforms. On the website **www.nemzetisegijogok.hu**, those interested may find a continuously extended and updated knowledge base that presents the field of law concerning nationalities and the Deputy Commissioner’s professional documents in detail; while on the site **www.facebook.com/ombudsmanhelyettes**, primarily daily events, statements and messages, as well as recently

published professional documents can be accessed. **INFO.sheets** are brief digital educational and professional information publications, from which the reader can have a comprehensive and clear understanding of the structure of the legal system of the protection of rights of nationalities, its permanent elements of regulation and its guarantee institutions. The materials serve the gathering of general information and they may be a starting point for those who are more seriously interested in the rights of nationalities to a more in-depth knowledge of the field.



Scan the code
and click on the link!



*"Interview techniques with vulnerable groups"
international workshop – Budapest*



*"Council of Europe norms and standards on national minority rights:
achievements and challenges" high-level conference – Strasbourg*

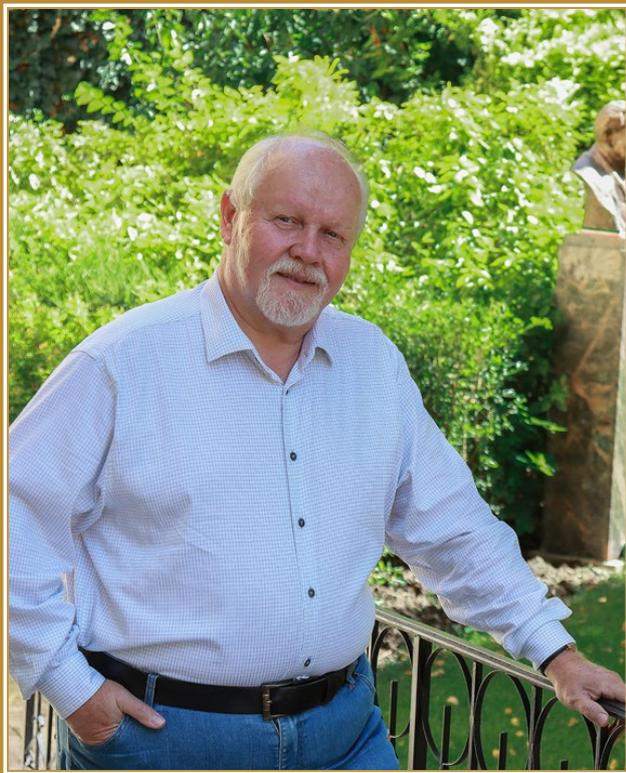
It was of primary importance to join the **reviving international professional dialogue**. In addition to the usual forms of keeping contact in the previous years, for example, receiving experts and professional delegations, roundtable discussions, participation in conferences, there was a special occasion in 2021. From 21 May to 17 November, Hungary took over the **Presidency of the Committee of Ministers of the Council of Europe**. During the half-year period, the analysis and promo-

tion of the efficient protection of national minorities was treated as a priority and the Deputy Commissioner, as a key partner, was present at all the related events and shared her theoretical and practical proposals. In 2021, the Deputy Commissioner also received a special **invitation from the UN Special Rapporteur on Minority Issues**: she was a professional facilitator chairing the thematic session of the European Regional Forum preparing the annual Minority Forum of the UN Human Rights Council and the Special Rapporteur's report on the state of global minority rights. The goals of the event included the discussion of the legal, institutional and political challenges of the acknowledgement and implementation of the human rights of minorities in order to address the long existing grievances and strengthen the partnerships between the various stakeholders, to build capacity for handling the causes of conflicts and ensuring a more efficient prevention of conflicts.



*Meeting with Francesco Palermo after the ENTAN research
network conference on European minority autonomies – Budapest*

7. FOCAL POINTS OF THE ACTIVITY OF THE DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS, OMBUDSMAN FOR FUTURE GENERATIONS



*Dr. Gyula Bándi D.Sc.
Ombudsman for Future Generations,
Deputy Commissioner for Fundamental Rights*

7.1. GLOBAL TENDENCIES

The ombudsman-type legal protection of the interests of future generations is exceptional even on the international level; the Hungarian institution was designated by the UN Secretary General as a model institution in his 2013 report entitled “Intergenerational Solidarity and the Needs of Future Generations”. Fresh global tendencies need to be briefly outlined, as they clearly show the growing need for institutionalised long-term thinking resting on ecological sustainability and ensuring intergenerational justice. In his report entitled “Our Common Agenda” submitted to the General Assembly in September 2021, the UN Secretary General outlined his long-term concepts on global goals and cooperation. He emphasised that in addition to the institutionalised national forms of protection of future generations, he considers it necessary to develop a multilateral institutional structure, amongst others, by drawing up a Declaration for Future Generations and by establishing the position of a UN Special Envoy for Future Generations. In accordance with this process, in October 2021 the UN Human Rights Council adopted a resolution of historical significance recognising the human right to a “clean, healthy, and sustainable environment”.

7.2. OUR MANDATE: TOOLS AND PRIORITIES

Three constitutional provisions substantiate the Deputy Commissioner’s scope of duties: in accordance with Article P) of the Fundamental Law, natural resources (particularly arable land, forests and water resources) as well as biological diversity (in particular native plant and animal species) and cultural assets shall comprise the nation’s common heritage; responsibility to protect and preserve them for future generations lies with the State and every individual. Article XX of the Fundamental Law provides for the right to physical and mental health and Article XXI provides for the fundamental right to a healthy environment.

In accordance with the Ombudsman Act, the Deputy Commissioner, together with the Commissioner, shall perform investigation of the complaints received on topics in his mandate and furthermore shall generally follow the enforcement of the interests of future generations, as a kind of “watchdog”, using a wide range of legal tools. In addition to publishing joint reports together with the Commissioner for Fundamental Rights, he has the option to issue opinions on legal regulations, initiate ex officio inspections, to prepare petitions to the Constitutional Court or the Curia. On subjects affecting the interest of future generations, he may publish announcements, public statements and ombudsman’s opinions and may make legislative proposals. During his research/analysis work substantiating this professional activity, he relies on a wide base of society. His cooperation extends to the representatives of science, professional organisations, economic operators, the Government and non-governmental organisations.

The complaints received cover a wide range of topics; the highest number of complaints relates to the protection of clean air, protection against noise and vibration, nature conservation, waste management, protection of animals, the built environment but other fields of environmental sustainability are also affected.

Sixteen strategic documents were published in 2021:

- **8 joint reports** (remediation of a dangerous waste dump site, forestry related authority procedure, waste management, protection of clean air, keeping of livestock, noise complaint and cultural heritage protection)
- **2 ombudsman opinions** and **6 public statements** in certain systemic complex environmental matters.

In his watchdog role, he has also issued **11 announcements** relating to certain areas of environmental sustainability.

The Deputy Commissioner devoted special attention to the paramount issues of **nature conservation**. One of its basic

pillars is the evaluation of ecosystem services; in 2021, he organised two workshops, where the practices of the monetary evaluation of ecosystem services and the possibility to create the necessary legislative environment were discussed.

He organised a conference together with the Ministry of Agriculture and the Hungarian Friends of the Earth to assess and discuss the draft *National Biodiversity Strategy* (NBS) covering the period until 2030.

The Deputy Commissioner issued a public statement on the importance of the *assessment of natural capital*, more specifically of trees, in which he emphasised that the presence of urban green areas, trees and their management according to their real value was of fundamental importance in terms of quality of life. In order to *protect pollinating insects* that play a critical role in preserving biological diversity and food supply, he held a conference on the necessity of *urban green areas* with the involvement of local governments and scientific experts and he organised a roundtable discussion with the representatives of science on the possibilities and challenges of the alternatives of the chemical reduction of mosquitoes.

To resolve the conflicts occasionally arising between the right to a healthy environment and the right to property, he issued an *ombudsman position*, giving a detailed analysis of the rules of indemnification owing to *nature conservation restrictions in connection with the use of forests*.

In a *public statement on the land use reform*, he emphasised that the legislation on the formation and development of the built environment was of prime importance for the protection of the interests of future generations. Regarding the licensing of investment projects and mining activities endangering natural resources, he stated that in any licensing procedure, it was nature conservation that was to be protected as public interest and not the economic goal serving private interests.

In his ombudsman position issued on the occasion of the *International Landscape Day*, he pointed out that the role of the landscape was significant not only for the right to a healthy environment but also for other human rights and constitutional values; specifically, with respect to the right to education, culture or information, social participation, the prohibition of discrimination or the principle of non-regression.

In Hungary, owing to its exclusively state-owned status, *water supply* is under strong legal protection. The purpose of the management and protection of the water supply is to serve public interests, which can be implemented by means of water law licensing. The Deputy Commissioner emphasised, at numerous professional events that the protection of under-surface water was of prime importance in our country, since 95% of our drinking water supply came from under-surface water. He underlined that irrigation farming was to be substantially altered to focus on water-saving alternative irrigation techniques, by changing to crops and soil cultivation adjusted to local conditions and that more attention needs to be paid to alternative sources of water.

The purpose of *circular economy* is to ensure that products stay in business cycles for an extended period and in as high quality as possible. Stemming from the obligation to preserve natural resources, consumers are to use limited natural resources economically. The Deputy Commissioner attaches primary importance to this topic, therefore he launched a series of workshops on various aspects of circular economy (reformation of waste management system, extended producer responsibility, sustainable consumption).

The Deputy Commissioner participated in the UN Food Systems Summit National Dialogue on *achieving sustainable food production and consumption*. He underlined that providing consumers with proper information was important for enabling them to make informed decisions, therefore sharing environmental information on the durability, reparability of products and on waste management was a fundamental requirement. In order to develop short supply chains, directly connecting small-scale producers to consumers was to be supported.

2021 saw the formation of the *Hungarian Scientific Panel on Climate Change* (HuPCC). In its first conference, the Deputy Commissioner delivered a presentation at the plenary session emphasising the inextricable link between climate change and human rights. His colleagues also presented their findings in the section on “Economic and legal attributes, costs of non-action, financing”. Regarding *climate protection and energy efficiency*, the Deputy Commissioner also issued a public statement later in the year on the installation of solar power plants and the protection of arable land, stating that while the extension of renewing energy capacities was of fundamental interest, efforts should be maximised in order to protect arable land as well. For this reason, arable land should be only used for solar cells investment projects if no other suitable territory is available or agricultural production is not possible on the relevant territory and the quantity of good quality lands should even be protected in this event.



Prof. Bánda and Csaba Nemes at the first HuPCC conference

In recent years, we have experienced a shift in focus regarding *financing preferences turning towards sustainability*. The Deputy Commissioner and his colleagues took part in the assessment of the actions of the Hungarian National Bank facilitating sustainability and green finances and of the 2020 Sustainability Report of the OTP Group. As part of the cooperation with the Self-Regulating Advertising Body, the Deputy Commissioner made a proposal on updating the Hungarian Code of Ethics

of Advertising and indicated that since changes in consumer practices play an important part in the development of a more sustainable way of life, consumers should be helped to take such efforts and should be provided with real, accurate information on specific products.

It is an important element of the Deputy Commissioner's activity to strengthen *professional and civil society relations*. His partners include the representatives of the Government, science, non-governmental organisations and economic operators. As part of reinforcing the existing system of relations, the Deputy Commissioner held talks with the experts of the Office of the Attorney General and the National Institute for Criminology, as well as with the Senior Landscape Architect of the Capital City and his colleagues. In addition to the above, field

trips are an essential part of the Deputy Commissioner's work; he regularly visits national parks together with the Commissioner for Fundamental Rights, to discuss challenges and good practices, and he regards the outstanding experts of national parks as important professional collaborating partners.

7.3. INTERNATIONAL RELATIONS

Arising from its unique position, the Hungarian institution protecting the interests of future generations often draws international attention in terms of its mandate.

The table below shows the key events of our international activities in 2021.

Organiser	Subject
The Committee for Future Generations of the British Parliament	interview on the history and experience of the Deputy Commissioner's mandate
Norwegian Human Rights Institution	interview on experiences concerning connections between climate change and human rights
ENNHRI	video message regarding the Deputy Commissioner's mandate and SDG-related activity
GANHRI	webinar lecture on Deputy Commissioner's activity regarding the SDG Voluntary National Review and national indicators
GANHRI + Danish Human Rights Institution	the Deputy Commissioner's activity is referred to as good practices in two publications: <i>"Engaging with the voluntary National Review of 2030 Agenda progress to promote human rights – a Guide for National Human Rights Institutions"</i> <i>"Indicators and data for human rights and sustainable development – a Guide for National Human Rights Institutions"</i>
UN Intergovernmental Working Group on the Right to Development	submitting proposed amendment to the draft convention
UN Special Rapporteur on the Environment and Human Rights	providing input to a thematic UN report on toxic-free places to live, work, study and play
France, Normandy Chair of Excellence for Peace	high-level round table discussion on the experience of the Deputy Commissioner and on cooperating with the Constitutional Court in future generations-related matters
Organisers of the "No Planet B" International Project	lecture at the online closing conference of the International Project "No Planet B"
ENNHRI	Sustainable Recovery from the Covid-19 Pandemic: Based on the 2030 Agenda and Human Rights – SDG Forum
European Environment and Sustainable Development Advisory Councils (EEAC) Network	Exchange & cooperation on biodiversity - workshop
United Nations Economic Commission for Europe (UNECE); French Ministry of Solidarity and Health; National Public Health Centre	6th meeting of the expert group on equitable access to water and sanitation under the Protocol on Water and Health
United Nations Economic Commission for Europe (UNECE)	12th meeting of the working group on Water and Health
ENNHRI	Online work conference on experience concerning the national performance of the UN Sustainable Development Goals, Voluntary National Reviews
United Nations Development Programme (UNDP), GANHRI, OHCHR, UN Environment Programme UNEP	National Human Rights Institutions in the front lines of the UN Call to Action on Human Rights – Climate Action and the Right to a Healthy Environment

8. DATA RELATED TO THE OPERATION OF THE OFFICE

In 2021, complainants filed **7,354 petitions** to the Commissioner for Fundamental Rights. From these, the Office **completed 5,995 cases**. At the end of the year under review, 1,887 pending cases were included in the records.

Cases received	
Cases registered as petitions	7354
Completed cases	5995
Cases in progress at closure of the year	1887

With the exception of the Equal Treatment Authority and whistleblower protection activities, petitioners are **not obliged to comply with any formal requirements** when filing petitions to the Ombudsman; therefore, **in order to interpret data properly**, the following criteria are to be taken into account. Petitions shall be examined every time from the aspect whether the petitioner intends to submit a new complaint or intends to supplement his former complaint, or possibly intends to supplement it against a new authority or by making reference to new circumstances. Accordingly, a petition can be one complaint – one case, but can be several complaints and several cases as well.

In one petition, usually one complaint is formulated, which basically raises the suspicion of one impropriety but several complaints of one petitioner or the petition of several complainants raising the suspicion of an identical impropriety can be handled as one or several cases, depending on whether they can presumably be administered under one Ombudsman proceeding or several proceedings.

Consequently, **the number of petitions, complaints and/or cases shall not be regarded as identical**; they can only be compared to themselves in each case. It should be noted here that the number of reports, the number of cases concluded with a report and the number of recommendations formulated in them shall be distinguished from each other as well.

In accordance with the tendencies of former years, the **use of electronic communication systems** is applied by complainants more and more often. Year by year, there is a growing number of those who choose one of the electronic “contact points” of the ombudsman for transmitting their petitions. In 2021, a total of **5,229 petitions** were sent via e-mail, on our portal or in the whistleblowing system, through the electronic system of the Parliament or by means of the office’s customer gateway. Due to the state of danger ordered owing to the pandemic situation and to the Office moving to new premises, the Complaints Office has ensured **registering complaints by phone** for a long time rather than hearing the complainants in person. Such petitions may only be accepted if the respective records have been sent back to the address of the Office by the

clients in a signed form, by means of electronic channels or by post. This took place in 2021 in **340 instances**.

Mode of the generation of cases*	
postal submission	1292
electronic public interest disclosure	563
e-mail	2792
e-Paper petition	232
launched ex officio	363
received via the official gateway	122
submission coming in through the ParLex system	18
submission sent via the portal	1502
public interest disclosure	4
oral complaint	126
telephone complaint	340
Total	7354

**these data refer merely to the first submission related to a case*

Regarding the complaints submitted by means of electronic channels, it often cannot be determined from what type of settlement they were sent, or if they were sent from abroad; so the difference between the activity of the population in villages and cities cannot be measured. The difference of activity between counties can only be examined by taking account of the above.

Territorial distribution of cases	
Budapest	1448
Bács-Kiskun	208
Baranya	155
Békés	169
Borsod-Abaúj-Zemplén	272
Csongrád-Csanád	197
Fejér	186
Győr-Moson-Sopron	224
Hajdú-Bihar	217
Heves	167
Jász-Nagykun-Szolnok	105
Komárom-Esztergom	133
Nógrád	59
Pest	717
Somogy	105
Szabolcs-Szatmár-Bereg	164
Tolna	86
Vas	97
Veszprém	157
Zala	106
Location cannot be identified (email)	2382
Total	7354

5,995 cases completed in 2021 **had to be classified into 122 case types**, but for the purposes of clarity, we have indicated them in groups below. Cases are **classified** into appropriate **case groups** when they are received, but it is also possible to select the appropriate case type during the proceedings: to re-qualify them on the basis of new information received; therefore, the table below shows the classification of already completed cases into specific case types:

Completed cases per case types	
Comments on laws; criticism on laws from a constitutionality aspect	917
Law enforcement and OPCAT cases	778
Social welfare, labour, health and education-related cases	761
Municipality and authority cases	571
Civil law cases; pension and health insurance, foreclosure	558
Whistleblowing	546
Cases affecting the interests of future generations	449
National minority rights cases	391
Child and family law cases; guardianship, guardian authority	331
Equal treatment authority cases	324
Public services-related cases	278
Financial institution, taxation and duties-related cases	101
Other cases	986
Total	5995

In the year under review, a significant part of the cases, i.e. **917** were about the **criticism of laws from a constitutionality aspect**. The **Police Complaints Directorate** handling petitions concern-

ing criminal proceedings, law enforcement and the proceedings of the police, as well as the **OPCAT NPM Department** for preventing torture and other inhuman or degrading treatment or punishment administered a total of **778 cases**. The number of **social welfare, labour, health and education-related complaints** affecting the activity of the Ministry of Human Capacities was **761**.

Within the frameworks of municipality and authority cases (571), we basically administered complaints about municipality proceedings and the administration of the district office. We administered civil law types of cases in 558 instances; among which we specifically examined contract-based pension and health insurance cases and court- and foreclosure-related complaints.

The next large group contained 546 **whistleblowing**-related cases. The **Ombudsman for Future Generations** proceeded in 449 environmental protection-related cases; the Deputy Commissioner **for the protection of the rights of national minorities** living in Hungary took care of 381 cases.

We concluded the examination of child law and family law-related or guardianship complaints in 331 petitions.

The Directorate General for Equal Treatment integrated into the Office from 1 January 2021 concluded 324 cases. We examined complaints about public services in 278 cases. Complaints about financial institutions, taxation and duties were filed to the Commissioner in 99 instances. We put the 996 cases that cannot be classified into the case type called 'other'. We arranged the petitions addressed to the Ombudsman according to the method of closing them.

Method of completion			
		Number of cases	Total
1	a case older than 23 October 1989	1	
	the report does not qualify as a public interest disclosure	156	
	the violation affects no constitutional right, or is obviously unfounded	1131	
	repeated petition with no new data	73	
	more than one year has elapsed since taking effect	42	
	missed legal remedy (prohibition of encroachment of power)	664	
	judicial proceedings launched	215	
	not an authority, complaint against a procedure conducted in this quality	598	
	petition from a non-eligible entity	28	
	complaints that cannot be investigated into in proceedings according to the Police Act	2	
	complaints not confirmed by the petitioner with his signature (in proceedings according to the Police Act)	31	
	petition from a non-eligible party (in proceedings according to the Police Act)	1	
	unsuccessful identification	55	
Total			2997
2	transfer to the competent organ, in lack of competence	75	
	forwarding of a petition for the consideration of a procedure	1	
	forwarding of a petition by calling attention	4	
	KBV (Department of Public Interest Disclosures) transfer	20	
	Total		

3	rejection of the instigation of a Constitutional Court motion	109	
	by adding a policy statement	223	
	complaint resolved during the proceedings	78	
	rejection of an application for the review of a legal rule	19	
	KBV (Department of Public Interest Disclosures) with sending the response of the acting body	272	
	implications of a completed case if no new case is generated	20	
	a petition that cannot be assessed	98	
	anonymous petitions (incl. via e-mails, or lack of access to full name or postal address)	39	
	due to the complainant's death (knowledge of this fact from return receipt or as disclosed by authority or relative)	1	
	at the complainant's request (missing documents are not submitted, this may include request for confidential processing of data)	99	
	at the complainant's request by adding written information	231	
	following the oral information provided to the complainant (at the Complaints Office, on the phone or by direct e-mail)	47	
	complainant withdrew his complaint (in proceedings according to the Police Act)	1	
	the police measure complained of cannot be identified (in proceedings according to the Police Act)	1	
	the statutory representative did not request an inquiry (in proceedings according to the Police Act)	1	
	information on the decision adopted by the Constitutional Court	15	
	complaint repeated several times despite providing information	5	
	technical closing (e.g. merging cases, closing cases instituted ex officio)	307	
Total		1566	
4	establishing the lack of a constitutional impropriety	716	
	due to minor significance	16	
	closed by a report on another case	68	
	rejection after the start of an inquiry (based on the response from the requested body)	160	
	Total		960
5	report on the resolved complaint, without a recommendation with regard to the measure taken	1	
	report with calling attention	25	
	report without establishing an impropriety (e.g. in the case of a post-inquiry)	33	
	report with a measure or a recommendation	147	
	rejection on the merits of the case (in proceedings according to the Police Act)	47	
	report with a measure (in proceedings according to the Police Act)	14	
	report without establishing an impropriety with calling attention (in proceedings according to the Police Act)	2	
Total		269	
6	instigation of a Constitutional Court motion	1	
	Total		1
7	For commenting on a law – we made no comment on the merits of the case	7	
	For commenting on a law – we made a comment on the merits of the case	21	
	We agreed with the comments on the law	1	
	Total		29
8	ETD (Equal Treatment Directorate) information	73	
	Total		73
Grand total			5995

The largest part of the complaints, i.e. **2,997 petitions had to be rejected by the Commissioner** – these completion categories are marked with 1 – because in these cases, the option of investigation was excluded or limited by law. The **most frequent reasons for rejection** were the following: in the case of 1,131 complaints – in addition to further options for possible legal remedy – the Commissioner informed the client filing a petition to him on that his problem did not affect any constitutional fundamental rights. 664 clients did not exhaust the available legal remedy; 598 complainants did not object to the proceedings of an authority; and in 215 cases, the initiated court proceedings excluded the possibility of an inquiry by the Ombudsman.

As long as it can be clearly established that a petition falls within the powers of a certain authority and the petitioner did not request that his name be treated in camera, we transferred the case in question to the authority entitled to conduct proceedings – these are the completion categories marked with 2. This took place in 100 instances in the year under review. The completion category marked with 3 comprised the 1,566 terminated petitions. Type 4 completions contain 960 petitions, where we rejected complaints

after the investigation – for example, because the answers from the organs contacted suggested the suspicion of an impropriety.

The Commissioner completed 269 cases with a report; in 147 instances, the report was concluded by measures, recommendations or decisions; and he concluded 14 further cases by taking action according to the Act on Police. A report can be made by combining several cases. From the cases concluded with a report, the Commissioner completed the inquiry without any recommendations or measures in 108 instances.

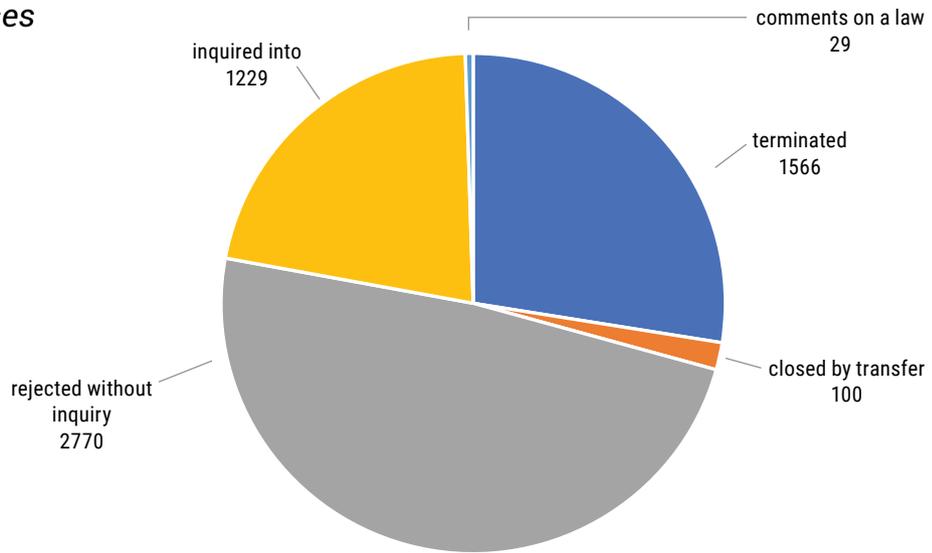
In the year under review, the Commissioner for Fundamental Rights was requested **to comment on laws in 29 instances**.

On the matter of **269 complaints completed with a report, 147 reports including recommendations were made**, in which the Ombudsman formulated a total of **260 recommendations**, in some cases even to several addressees. Of these, in 183 instances, the addressees of the recommendation accepted the initiatives, and in 17 instances they refused them. At the time of closing the data of the Annual Report, professional consultations and/or exchanges of opinions were in progress in 60 cases.

Recommendations by the response of the addressee			
Type of recommendation	Response given by addressee	Total	
Recommendation to the supervisory organ	deadline has not yet expired	5	
	recommendation accepted by the addressee	50	
	the addressee did not accept the recommendation	4	
	Total		59
Recommendation to the body under investigation	deadline has not yet expired	33	
	recommendation accepted by the addressee	86	
	the addressee did not accept the recommendation	5	
	Total		124
Proposal for the elaboration of a government decree	recommendation accepted by the addressee	2	
	Total		2
Proposal for amendment to a government decree	deadline has not yet expired	3	
	recommendation accepted by the addressee	4	
	Total		7
Proposal for amendment to public law organisation regulatory tools	recommendation accepted by the addressee	2	
	Total		2
Proposal for the elaboration of a ministerial decree	deadline has not yet expired	5	
	recommendation accepted by the addressee	6	
	the addressee did not accept the recommendation	3	
	Total		14
Proposal for the elaboration of a settlement municipality decree	recommendation accepted by the addressee	5	
	the addressee did not accept the recommendation	1	
	Total		6
Proposal for a legislative amendment	deadline has not yet expired	4	
	recommendation accepted by the addressee	10	
	the addressee did not accept the recommendation	1	
	Total		15
Initiative for the right legal interpretation and legal practice in the future	deadline has not yet expired	8	
	recommendation accepted by the addressee	19	
	the addressee did not accept the recommendation	3	
	Total		30
Instigation of public prosecutor's protest	recommendation accepted by the addressee	1	
	Total		1
Grand total			260

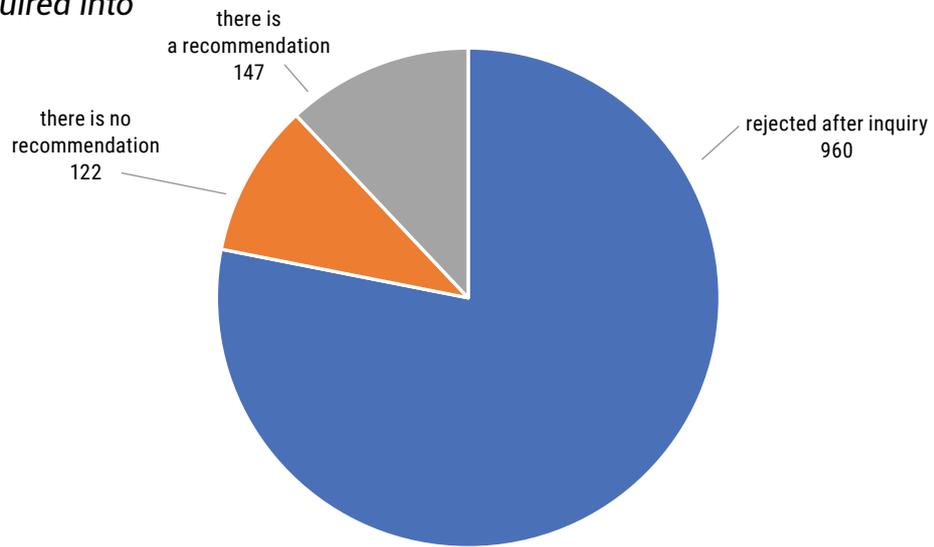
Completed cases

total: 5665



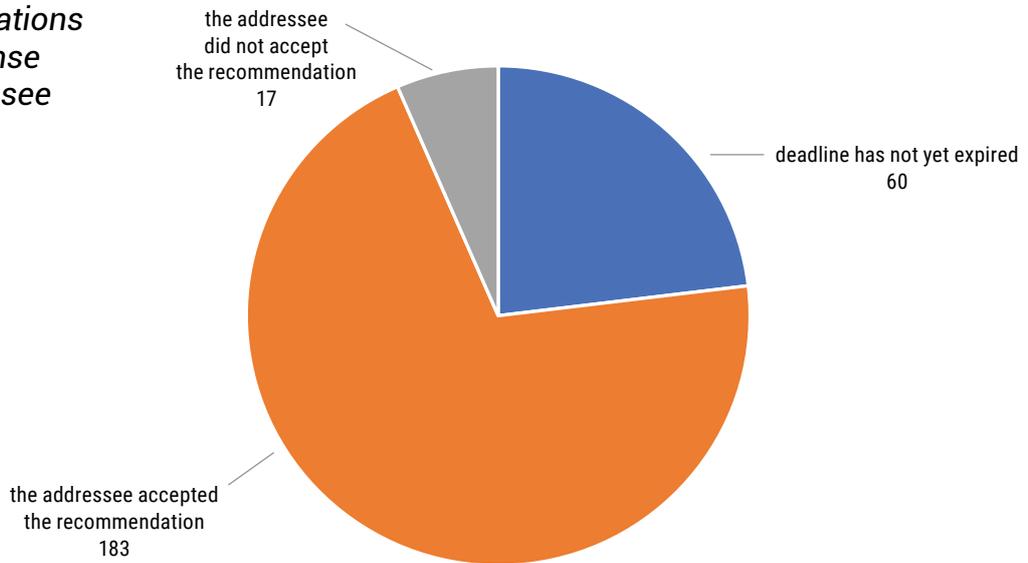
Complaints inquired into

total: 1229



Recommendations by the response of the addressee

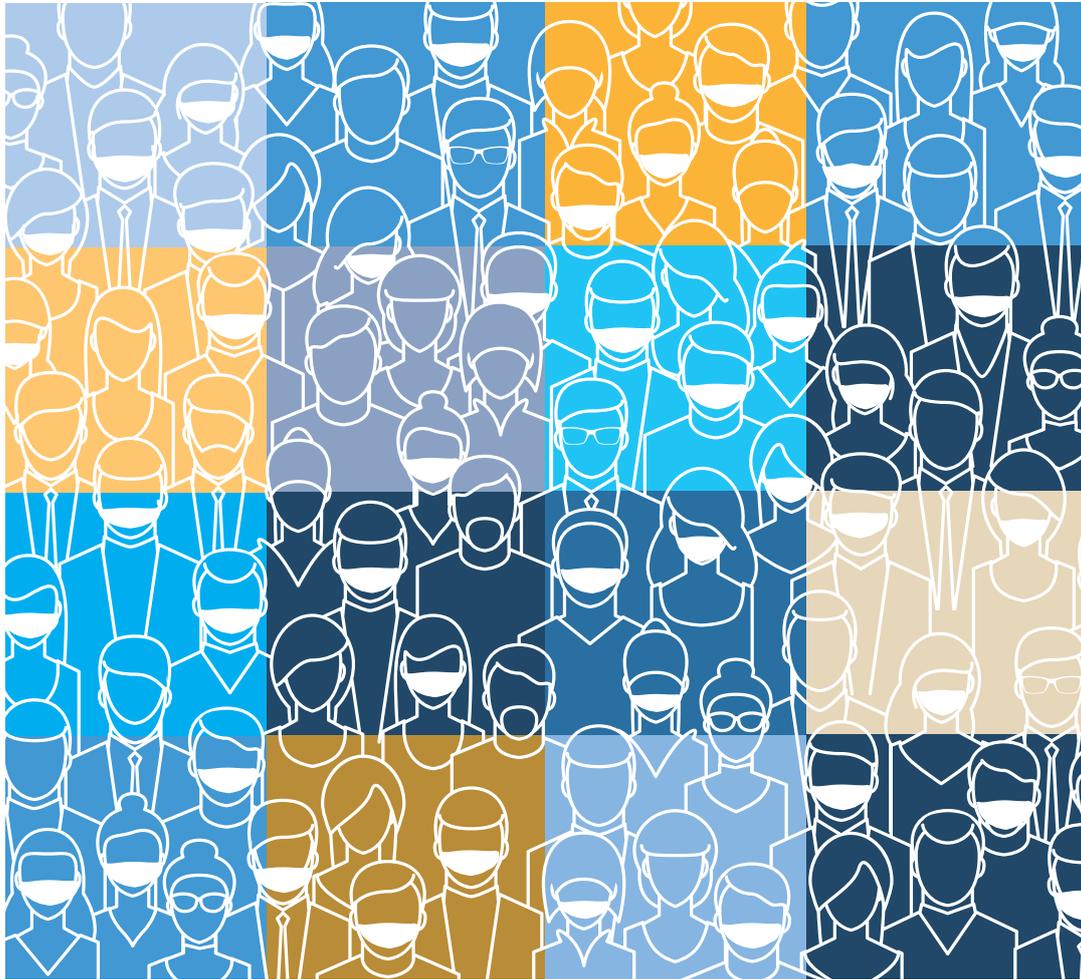
total: 260



Client service statistics

In 2021, the Office received **10,289** citizen's inquiries by phone; and at the Complaints Office, **406** clients who requested to be heard in person on the basis of an appointment were interviewed.

Phone			Personal				Total
Request for appointment or information	Submission-related	Records taken on the phone	Interview at the Complaints Office	Submission-related	Submission of documents, review of documents	Request for appointment or for information	
General fundamental rights-related complaints							
4283	4980	306	171	66	29	103	9938
Nationalities' rights-related complaints							
73		3	2				78
Complaints on the right to a healthy environment							
52							52
Law enforcement complaints							
267		45	15				327
ETD requests							
265		15	20				300



“The freedom loving man [...] never loses sight of the fact that human liberty and human dignity is one and the same, and any wrongdoing against anyone based on their social position, origin, gender or age endangers everyone else’s freedom and dignity: therefore he stands up either collectively, or if that is not immediately possible individually against any infringement on the human freedom, arbitrary arresting, detention, private or official harassment.”

(István Bibó: The Political Ten Commandments of the Freedom Loving Man)