

# THE ROMA AND PUBLIC ADMINISTRATION IN HUNGARY

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Edited by *Ádám Rixer*

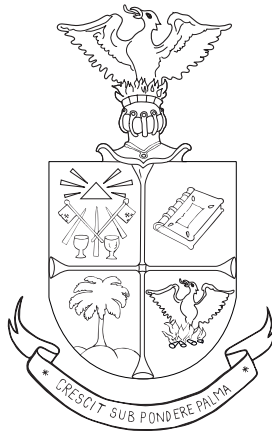


LAJOS LŐRINCZ RESEARCH CENTRE FOR PUBLIC LAW

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# THE ROMA AND PUBLIC ADMINISTRATION IN HUNGARY

Edited by  
Ádám Rixer



Károli Gáspár University of the Reformed Church in Hungary  
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## PREFACE

The major social and structural upheavals in Hungarian society since the collapse of communism, coupled with increasingly open discrimination, have had a disproportionately large and negative impact on Roma, whose low social status, higher unemployment rate, lack of access to proper education, and isolation make them relatively unable to defend themselves and their interests.<sup>1</sup> These facts – almost unchanged in the last decades – underline the growing responsibility of actors of different social spheres, so thus representatives of social sciences are also addressed.

The science of public administration is rather a whole collection of sub-disciplines dealing with public administration using distinct methods. Nevertheless, some disciplines do have a major role, as they consider the study of the main aspects of public administration their key task. These are the science of administrative law, political science and management sciences. Related to our topic – the Roma and public administration in Hungary – it's an intrinsic question that scientific researches must show this 'inner multidisciplinary', because of the fact that there are huge gaps between the content of political statements, the content of legal instruments and the facts of everyday life in many aspects. Accordingly, this volume tries to give a complex analysis revealing facts and connections concerning the relationship between Roma organisations and governmental entities.

During the presentation of the structured connection of the Hungarian public administration and the Roma and their organisations, the consideration of at least two examination aspects is necessary: first the approach sketching the main features of the law system, the broader legal system and those of law enforcement practice is reasonable, second – almost as importantly – the examination which describes and assesses 'reality' in a wider social scientific framework and through (public) policy features and processes. At the same time, it makes it possible to compare the given phenomena with the similar phenomena of other countries, which, on the

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1 Rights denied. The Roma of Hungary. Human Rights Watch/Helsinki, 1996. <http://www.hrw.org/reports/1996/Hungary.htm> (20. 04. 2015)

one hand, gives the opportunity to broaden the research involving further scientific actors, and on the other hand, may provide more objective results.<sup>2</sup>

Among both the general features of the legal system reflected in administrative law and in its broader public policy features there are some which are relatively stable – providing a high level of stability and permanency even in case of certain political and legal changes. This is why we are able to detect several broader contexts of the given issue, by which the authors were led to further conclusions, as well.

The current publication was realised by the members of the Lajos Lőrincz Research Centre for Public Law of the Károli Gáspár University of the Reformed Church in Hungary. Fortunately, since 2009, the Roma ministry has been the main mission focus of the Reformed Church in Hungary (RCH), and so RCH – as maintainer of the Károli Gáspár University, Budapest – consciously and generously supports a wide range of scientific researches concerning the Roma in Hungary.

We have to add that the given project doesn't have serious scientific antecedents, so the results may serve as a base (starting point) for further analyses. The lack of accessible scientific results also comes from the fact that even if there are publications based on investigations concerning the administrative aspects of the Roma issue in Hungary (Roma self-regulation, minority self-governments, discriminative practices of Hungarian public administration against Roma people, the social relations of public administration in general, the various consultation mechanisms), these publications are usually not reachable in English.

This volume makes an attempt to introduce all the most important aspects of the relationship in question. The scientific analysis of the whole of Hungarian public administration, or its particular authoritative or functional fields, is traditionally presented from three aspects – the *task*, the *organisation* and the *staff*.<sup>3</sup> In the era after 1990 new emphasis was laid on

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2 See e.g. Martina Künnecke, *Tradition and Change in Administrative Law: An Anglo – German Comparison*. Springer, 2010. 266.

3 Public administration is at the same time an activity, a specific organisational structure and a 'mass' of people (staff). See: Lőrincz Lajos: *A közigazgatás alapintézményei*. HVG-ORAC, Budapest, 2005. 19.; Ficzer Lajos (ed.): *Magyar államigazgatási jog. Általános rész*. [Hungarian administrative law. General Part.] Nemzeti Tankönyvkiadó, Budapest, 1998. 7–8.; Fábrián Adrián: *Közigazgatás-elmélet [Theory of public administration]* Dialóg Campus, Pécs-Budapest, 2011. 21.



constitutional and (public) policy issues and their (more) extensive analysis.  
So, we tried to introduce our topic along these four 'traditional' aspects.

20 April 2015

Ádám Rixer



István Stipta

# THE CONNECTION BETWEEN THE ROMA AND THE PUBLIC ADMINISTRATION IN HUNGARY.<sup>1</sup>

## A HISTORICAL OVERVIEW

### I.

1. There have been sporadic attempts to disclose the history of the issue scientifically. Scientists who knew the history of public administration and also used archive sources to their opuses were indeed concerned with the history of the Hungarian Gypsies. Among those researchers Barna Mezey<sup>2</sup> and László Pomogyi should be mentioned, thanks to whom the basic sources concerning Hungarian Romas became known and a monography<sup>3</sup> was written which extensively analysed the provisions of the Hungarian state in the 19th century and the organizing activity of the public administration related to Gypsies.

Following that, papers related mainly to jurisdiction were written in this topic.<sup>4</sup> From the aspect of the history of public administration, however,

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1 (Translated by: Zsuzsa Stipta)

2 Mezey Barna (szerk.): A magyarországi cigánykérdés dokumentumokban: 1422-1985. [The issue of Hungarian Gypsies in documents.] Kossuth Könyvkiadó. Budapest, 1986. 323 p.; Pomogyi László: Mezey Barna (szerk.): Állam és jogtörténeti bibliográfiák 5. A magyarországi cigányság történetének válogatott bibliográfiája. [Bibliographies on Jurisprudence and political sciences 5. Selection of the history of the Gypsies in Hungary.] Budapest, 1983. 16 p.

3 Pomogyi László: Cigánykérdés és cigányügyi igazgatás a polgári Magyarországon. [The issue of Gypsies and the administration of Gipsy-issues in the civil era in Hungary.] Osiris-Századvég, (Jogtörténeti értekezések). Budapest, 1995. 298 p. This overview follows the conclusions of this work.

4 Frey Dóra: A konfliktuskezelés sajátos eszközei a magyarországi cigányság körében. [The specific instruments of the conflict handling of the Hungarian Gypsies.] In: Mezey B, Nagy Janka Teodóra (szerk.). Jogi néprajz - jogi kultúrtörténet; Tanul-

researches on Romas are still not elaborated in numerous regards. The analysis of the Horthy and the so called socialist eras are especially lacking. That has been also encumbered by the fact that no trustworthy scientific summary has been prepared on the history of public administration of these eras.<sup>5</sup> In the Collection of Hungarian Scientific Opuses (Magyar Tudományos Művek Tára) there are 1587 bibliographic items that refer to papers in connection with the situation of the Gipsies. Out of those only 15 were related to the topic of the history of public administration. Thus, it can be established that historical researches on the relationship between the public administration and the Gipsies have stagnated in the field of jurisprudence and public sciences and they are waiting for further inspiration.<sup>6</sup>

2. The potential direction of the research is to analyse the demographic relations of the Roma more extensively and from historical aspects. The great neglect of domestic historical statistics is the elaboration of the data available in accordance with the proper methodology.<sup>7</sup>

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mányok a jogtudományok, a néprajztudományok és a történettudományok köréből. ELTE Eötvös Kiadó. Budapest, 2009. 370-382. p.

5 Among the few exceptions are: Majtényi Balázs, Majtényi György: Cigánykérdés Magyarországon 1945-től 2010-ig. [The issue of Gipsies in Hungary from 1945 to 2010] Libri Kiadó. Budapest, 2012. 224 p.; Pomogyi László: A század elejétől 1945-ig. [From the beginning of the century to 1945] In: Kemény István (szerk.) A magyarországi romák. Tanulmányok a magyarországi cigányságról. [The Hungarian Romas. Essays on the Hungarian Gipsies.] 128 p. (Változó világ; 31.) Útmutató Kiadó. Budapest, 2000. 12-16. p.

6 Cf: Binder Mátyás: „A cigányok” vagy a „cigánykérdés” története? Áttekintés a magyarországi cigányok történeti kutatásairól. [The history of the „Gipsies” or the „issue of Gipsies”? Overview on the historic researches of the Hungarian Gipsies.] REGIO 20:(4) pp. 35-59. (2009); Dupcsik Csaba: A magyarországi cigányság története. Történelem a cigánykutatások tükrében, 1890-2008. [The history of the Hungarian Gipsies. History in the light of researches on Gipsies, 1890-2008.] Budapest: Osiris Kiadó, 2009. 362 p.

7 Hoóz István: A cigányokkal foglalkozó statisztika továbbfejlesztésének és megújításának lehetőségei. [The possibilities of the development and reformation of the statistics concerning Gipsies.] In: Kovacsics József (szerk.) Magyarország nemzetiségeinek és a szomszédos államok magyarságának statisztikája (1910-

## The connection between the Roma and the public ...

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From this deficiency numerous stereotypes can be deduced even from nowadays concerning the exaggerated rate of Gipsy criminality. Oddly, namely, the Gipsies were registered by the numbers of the census of population taking place decennially in accordance with the ones who qualified themselves as Gipsy native speakers. This number meant the fragment of the population sociologically considered to be Romas by the environment. The statistics of the jurisdiction, however, registered the perpetrators of Gipsy origin based on their 'look'. Thus, much more people concerned were registered. During the assessment of the criminal rates, however, this item was screened onto the (lower) number of population with Gipsy as mother tongue. Therefore, a much higher rate of criminality appeared in the statistics than the reality. The data of the national census of population are available.<sup>8</sup> Their more thorough interpretation, the correction of the methodical deficiencies and the interpretation of the inaccuracies, however, are still missing.

The national data concerning the number of Gipsies conceal, indeed, the specific problems that the local organs of public administration had to be concerned with. There belongs, for instance, the settlement situation of the contemporary Gipsy population or the rate of the wandering Gipsies within the population. Thus, the extension of national statistics data, further local data collection and the analysis of sources in archives would be needed.<sup>9</sup> In this regard, the annual reports of the committees of public administration organised until 1876 and operating until 1945 are a great opportunity to complete the national data. The extensive data line of the census by the ministry for home affairs offers a unique research possibility. It would also be an important task for historians to analyse the distribution of the number of Gipsy population in the capital city and their division based on lifestyle. Budapest, namely, was not covered by the

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1990). [The statistics of the Hungarians living in the neighbouring countries and of the nations of Hungary. (1910-1990)] KSH. Budapest, 1994. 339-348. p.

8 Kertesi Gábor, Kézdi Gábor: A cigány népesség Magyarországon. Dokumentáció és adattár. [The Gipsy population in Hungary. Documentation and data base.] Socio-typo. Budapest, 1998. 467 p.

9 Keményfi Róbert: Etnikai besorolás és statisztika. Elvi alapvetés a gömöri cigányok három évszázados jelenlétének vizsgálatához. [Ethnic classification and statistics. Theoretical foundation to the examination of the presence of the Gipsies from Gömör for three centuries. Régió. 10:(1) 137-155. p. (1999)

contemporary census. From the aspect of the examination of the relationship between public administration and the Gipsy population, the more thorough analysis of the data collection ordered by the national inspector of public health in 1943 would serve useful data. It would be an important task to disclose and synthesize historiographic essays that are concerned with certain specific areas of the contemporary issue of the Roma.<sup>10</sup>

3. Also from the aspect of the history of public administration it would be reasonable to examine the sociological situation of the Gipsy population.<sup>11</sup> It has already been attempted by applying the central data from 1893. That could be continued with the disclosure of the sources in local archives. These analyses could be extended to the Horthy era as well. In general, it would be necessary to reveal the public administration of Hungary and the situation of the Gipsies in the inter-war period more thoroughly. In this subject hardly any useful scientific work has been written. Regarding the methodology and the fact finding, the examination of the Gipsy-policy of the historical period after 1949 is an independent research task. In that regard, the archived materials of the local counsel organs and the directing party organs should be revealed. It cannot be forgotten that the historical researches must be relevant and – from the aspect of the current problems – usable. Thus, it is an important task to summarize the historical experiences and to create the connection between the works prepared based on the actual situation, in general, to bring the results of historical researches closer to the current problems.<sup>12</sup>

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10 Tóth Péter. Az 1768. évi cigányösszeírás a Jászságban. [The census of Gipsies in 1768 in the Region of Jászság.] In: Fülöp Tamás (szerk.). Zounuk: A Jász-Nagykun-Szolnok megyei Levéltár évkönyve, 26. Jász-Nagykun-Szolnok megyei Levéltár. Szolnok, 2011. 443-464. p.

11 Tóth Péter: A magyarországi cigánység története a feudalizmus korában. [The history of the Hungarian Gipsies in the era of feudalism.] ELTE Bölcsész Konzorcium. Budapest, 2006. 151 p.

12 Rixer Ádám: A roma érdekek megjelenítése a jogalkotásban. [The appearance of Roma interests in the legislation.] Patrocinium Kiadó. Budapest, 2013. 236 p. (Lőrincz Lajos Közjogi Kutatóműhely Vitasorozat; III.); id: Roma Civil Society in Hungary. *De iurisprudentia et iure publico*. VII.:(1) pp. 142-170. (2013); id: Roma civil Society in Hungary. *Journal of Constitutionalism and Human Rights*. 3: pp. 1-29. (2013).

### II.

1. During the historical overview of the attempts made by the state to solve the 'Gipsy issue', the contemporary drafts, suggestions and interpellations submitted to the Hungarian legislation organs still need to be analysed. Lately, there has been unlimited opportunity to process them since the whole material of the Parliament is available in the digitalised scientific collection of the legislation. By analysing it, we could have an image on the Gipsy policy of the contemporary political elite and also what role the representatives wanted to give to the public administration in order to ameliorate the situation of the Gipsies. The argument would also be revealed based upon which the legislation declined the extensive settlement of the integration of the Roma population.

2. It would also be an important research task in the field of the history of public administration to reveal and analyse the suggestions of the contemporary organs of public administration concerning the solution of the situation.<sup>13</sup> Regarding that, especially the suggestions of the contemporary municipals should be systemized. In the civil era, namely, these organs could submit proposals to regulate national issues. It could also be an independent research field to elaborate the archive material of the symposium on Roma issues convoked by Prime Minister Kálmán Széll in 1902 and to elaborate the response of the press concerning this action. We know about this forum very little. Although that was the only attempt of the government to analyse the Gipsy issue with a real intention.

3. In the field of the departmental public administration there was an official attempt that aimed at the more thorough cognition of the situation of the Roma. That happened in 1909 when the ministry for foreign affairs ordered a survey consisting of 57 questions. This attempt was not successful, its reasons should be examined. Even more importantly, it would be an inevitable task to examine the Order Nr. 15.000/1916 of the Ministry for Home Affairs on forced relocation. This norm was prepared during World

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13 Bánkiné Molnár Erzsébet: Helyzetkép a Jászkun Kerület cigányságáról. [Situation of the Gipsies in the District Jászkun.] ETHNICA IV.:(4.) 163-173. p. (2002)

War I and it arranged the planned integration of the Gypsies (in connection with the liability for military service). Within that, the ministry ordered to prepare a mandatory record. These data concerned mainly the warfare ability and willingness of the Roma population. Sándor Wekerle had the data collection repeated in 1918 but we do not know anything of its result. In the inter-war period Order Nr. 257.000/1928 of the Ministry for Home Affairs made the police record obligatory that already contained sanctions against stray Gypsies. That order of the ministry has not been analysed and evaluated by the historical literature with adequate thoroughness, either.

4. The only attempt of Gypsy settlement of our history still needs to be revealed. During World War I, Minister for Home Affairs János Sándor adopted measures on that. The reason of the government was that the violation within the country enormously increased because of extraordinary incidences. The order concerned the stray Gypsies (with tents). It contained numerous measures that were problematic from a legal aspect as well and were not in conformity with the formula of extraordinary acts. The order prohibited the wandering of Gypsies without a proper residence. Every Gypsy without a residence had to be recorded, examined by doctors and forced into a residence that was chosen by the organs for them. The realisation of the measures could only be traced with the help of local archive sources.

### III.

1. In the case of the issue of state maintenance of administration concerning patrol service and the issue of the Roma, the relevant regulation from 1867 should be followed and analysed. A promising part of the research could be the comparison with the dispositions of similar issues in the neighbouring countries. In general it is to be established that the Gypsy issue was considered to be a problem belonging to the police in the era of dualism. The instruments of the solution were various e.g. deportation of the foreign Gypsies without any profession, systematization of the identity card, patrol and Gypsy raids, relocation, internment, relocation camp, and finally, in 1944 deportation.<sup>14</sup>

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<sup>14</sup> Karsai László: Cigány katonai munkaszázadok Magyarországon 1944-45-ben



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2. The activity of the administration concerning industry and trade would have been extremely important in this field. Despite that, the contemporary public administration did few activities to be appreciated in this field. The fundamental aim of the dispositions was settlement and to encumber the wandering. The vast majority of dispositions concerning professions was prohibitory and restrictive. These dispositions of the ministry continued in the inter-war period with the orders from 1931. It would be useful to analyse what kind of politics the countries in Central Europe followed.

3. Similarly, there are few positive dispositions on the part of the governing organs of the administration concerning labour affairs, too. It caused difficulties for the ministry that there was no legal regulation concerning that issue in Hungary. The ministry aimed at encumbering the wandering of Gipsies or at least restricting it. Thus, cohesive rules were composed concerning labour law. A good example of the spirit of the age is the disposition according to which only those could be considered official Gipsy musicians in the Horthy era who stroke a patriotic attitude.

4. In the relation of the administration of national defense and the Gipsies, the intention of the state was to the effect that this population group should also participate in the national defense in proportion to its capita (number). The defaults of the administration concerning education, the negligent control of compulsory education and the deficiency of the proper census also contributed to the deterioration of the situation of Roma population. Public health care was forced to be active in this issue and it made numerous provisions. There are similarly numerous norms of vet health care concerning Gipsies between 1867 and 1945.

5. It would need a thorough scientific examination to what extent the local organs took advantage of their opportunity to make rules. László Pomogyi established that thirty Hungarian statutes were composed that aimed at changing the lifestyle of Gipsies. These orders need to be analysed more thoroughly just like what was accomplished from them in practice.

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[Gipsy Military Labour-service Companies in Hungary in 1944-1945] *Hadtörténelmi Közlemények* 1991. június. 157-166. p. (1991).

Generally, it is to be established that these rules did not contain any positive discrimination and did not offer the local Romas any advantages.<sup>15</sup>

### IV.

1. Based on the researches of László Pomogyi and Barna Mezey it could be further investigated why there was no legal regulation on the amelioration of the social situation of Gypsies in that period. It should be analyzed what role the contemporary approach of equality of rights played in that. It can be established that in this period the regulation based on the level of orders dominated; its reasons could be also the subject of an examination. The local regulation was of little extent and in the administration of Gypsy communities the segment provisions of the local administration dominated. Collecting and analysing these provisions could be a useful subject of researches of local history.

2. Within the frame of a summarising examination, the relations of the Gypsy population concerning public law, the nature of the discrimination affecting Gypsies could be defined. In accordance with the theses of László Pomogyi, the discrimination in the regulation was of racial nature, the discrimination by the state was not individual but institutional. It can be established that the detrimental practice was consolidated not by central regulation but local provisions. The new researches mentioned above could modulate these establishments too.

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15 Kállai Ernő: Helyi cigány kisebbségi önkormányzatok elméleti modellje és működési gyakorlata Magyarországon. [The theoretical model and operation practice of Gypsy minority local governments in Hungary.] 356 p. PhD értekezés. Miskolc, 2008.; id: Helyi cigány kisebbségi önkormányzatok Magyarországon. [Gypsy minority local governments in Hungary.] Gondolat-MTA Etnikai-Nemzeti Kisebbségkutató Intézet. Budapest, 2005. 204 p.

### Further reading:

Rácz Sándor Romano: Historical consciousness among the roma. Hungarian Review 2011. (Vol. 2.) No. 1. [www.hungarianreview.com/archive](http://www.hungarianreview.com/archive) (26. 04. 2015)

Tóth Csaba: A cigányok története és a magyarországi roma etnikumhoz köthető konfliktusok eredete. [The story of the gipsys' and the roots of the hungarian roma's ethnic conflicts.]

Hadtudományi Szemle 2014. (Vol. 7.) No. 4.

Vekerdi József: The Gypsies and the Gypsy Problem in Hungary. Hungarian Studies Review 1988. (Vol. 15) No. 2, 13-26.

**Annamária Eszter Szabó**

## **CONSTITUTIONAL FRAMEWORK WITH SPECIAL REGARD TO DISCRIMINATION**

### **1. Introduction**

According to the title of the current conference, and according to the titles of other lectures, the main focus is on how ‘equal chance’ can come into force in the Hungarian law enforcement. First of all, the constitutional background — which binds public authorities — must be examined.

### **2. The relevant provisions of the Constitution of the Republic of Hungary (Act XX of 1949)**

Article 70/A.

*“(1) The Republic of Hungary shall respect the human rights and civil rights of all persons in the country without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds whatsoever.*

*(2) The law shall provide for strict punishment of discrimination on the basis of Paragraph (1).*

*(3) The Republic of Hungary shall endeavour to implement equal rights for everyone through measures that create fair opportunities for all.”*

Article 54.

*“(1) In the Republic of Hungary everyone has the inherent right to life and to human dignity. No one shall be arbitrarily denied of these rights.*

*(2) No one shall be subject to torture or to cruel, inhuman or humiliating treatment or punishment. Under no circumstances shall anyone be subjected to medical or scientific experiments without his prior consent.”*

## **Constitutional framework with special regard to discrimination**

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### **3. The relevant provision of the Fundamental Law**

Article XV

*“(1) Everyone shall be equal before the law. Every human being shall have legal capacity.*

*(2) Hungary shall guarantee the fundamental rights to everyone without any discrimination, in particular on grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status.*

*(3) Women and men shall have equal rights.*

*(4) Hungary shall promote the achievement of equality of opportunity and social inclusion by means of separate measures.*

*(5) Hungary shall take special measures to protect families, children, women, the elderly and persons living with disabilities.”*

### **4. The basis of comparison of the above quoted words**

According to the fourth amendment of the Hungarian Fundamental Law (since 2013) the Closing and Miscellaneous Provisions were changed. *“Constitutional Court rulings given prior to the entry into force of the Fundamental Law are hereby repealed. This provision is without prejudice to the legal effect produced by those rulings.”*

The Hungarian Constitutional Court had to lay down a monitoring system according to which the CC in each case can decide if in new cases the earlier decisions can be adopted. The Decision 22/2012 (V. 11.) AB on the interpretation of Paras (2) and (4) of Article E) of the Fundamental Law underlined the following: “[t]he previous Constitution was put out of force as from 1 January 2012 by Article 31 para. (3) of the »transitory provisions of the Fundamental Law of Hungary”. The previous Constitution is replaced by the Fundamental Law. The Parliament adopted the Fundamental Law – as stated in point 2 of its closing provisions – according to Section 19 para. (3) item a) and Section 24 para. (3) of Act XX of 1949. In line with Article 8 of the transitory provisions of the Fundamental Law of Hungary, putting the Fundamental Law into effect has not affected – with the specified exceptions – the mandate of the Parliament, the

Government, the assemblies of the representatives of local governments, and of the persons appointed or elected before the Fundamental Law was put into force. The Constitutional Court's duty is the protection of the Fundamental Law. The Constitutional Court can apply in the new cases the arguments connected to the questions of constitutional law judged upon in the past and contained in its decisions adopted before the Fundamental Law was put into force, provided that it is possible on the basis of the concrete provisions – having the same or similar content as that of the previous Constitution – and of the rules of interpretation of the Fundamental Law. Performing its specific competences, the Constitutional Court interprets the constitution, even if it is not an abstract one as in the competence under Section 38 para. (1) of ACC, and it is related to the examination of a statute or a judicial decision. The Constitutional Court's interpretation of certain institutions, principles and provisions can be found in its decisions. The Constitutional Court's statements made on the fundamental values, human rights and freedoms and on the constitutional institutions that have not been changed fundamentally by the Fundamental Law remain valid. The principal statements expressed in the Constitutional Court's decisions based on the previous Constitution shall remain applicable as appropriate also in the decisions interpreting the Fundamental Law. However, the statements made in the decisions based on the previous Constitution cannot be taken over automatically without any examination; the provisions of the previous Constitution and of the Fundamental Law have to be compared and carefully weighed. If the comparison results in establishing that the constitutional regulation has not been changed or it is essentially similar to the previous one, then the interpretation can be transposed. On the other hand, when the contents of the provisions of the previous Constitution and of the Fundamental Law are the same, the reasoning is required for not taking into account the legal principles presented in the former decisions of the Constitutional Court, and not in the case of applying them.”(Reasoning [38]-[41])

## **Constitutional framework with special regard to discrimination**

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### **5. Decision 42/2012 (XII. 20.) AB on the interpretation of Article XV of Fundamental law**

The Commissioner for Fundamental Rights (petitioner) filed a petition to the Hungarian Constitutional Court on the basis of Section 24 para. (2) of Act CLI of 2011 on the Constitutional Court, asking for a review of Section 3 para. (3) point *c*) of Act LXXX of 2003 on legal assistance (Act2003). The petitioner holds that the Act of 2003 is contrary to Article XV para. (1)-(2) of the Fundamental Law, so the petitioner initiated the annulment of the mentioned provision. According to the opinion of the petitioner, the Act of 2003 differentiates the people according their financial status, because those who have bad financial conditions are not able to finance a lawyer in a case at the Constitutional Court. According to Act CLI of 2011 on the Constitutional Court, the participation of a lawyer during the process of the Constitutional Court was obligatory.

Article XV para. (1) of the Fundamental Law states the general equality rule, and Article XV para. (2) states the equality of fundamental rights, in other words the prohibition of discrimination. According to the former decisions of the Hungarian Constitutional Court, the general equality rule did not exist in the Constitution (Act XX of 1949). That is why the Constitutional Court had to define according to (the above mentioned) Article 70/A. and Article 534 para. (1) of the Constitution. The right to human dignity includes the requirement for equal behavior. This statement must prevail in each legal act. The Fundamental Law changed this situation because it includes the general equality rule. At the same time according to the Constitutional Court, the relation between the right to human dignity (Article II) and the general equality rule still exists. That is why the former practice of the Hungarian Constitutional Court in this sphere is still applicable.

Article XV para. (2) of the Fundamental Law includes listing qualities (*grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status*) which are integral part of a given person. These qualities cannot be chosen, they are given from the birth. The mentioned listing of qualities is not full, because 'other status' is also declared. According to the decision of the

Constitutional Court, the discrimination based on Article XV para (2) is prohibited, and the examination of the Constitutional Court must be strict, the application of Article I para. (3) of the Fundamental Law is not enough [*“The rules relating to fundamental rights and obligations shall be laid down in Acts. A fundamental right may only be restricted in order to allow the exercise of another fundamental right or to protect a constitutional value, to the extent that is absolutely necessary, proportionately to the objective pursued, and respecting the essential content of such fundamental right.”*].

In this case the petition was well found, so the Constitutional Court annulled the mentioned para. of the Act of 2003, because it was contrary to the Fundamental Law of Hungary.

## **6. Decision 3206/2014 (VII. 21.) AB on Statutory Rule 11 of 1979 on the enforcement of criminal punishments**

The petitioner filed a petition to the Hungarian Constitutional Court on the basis of Section 26 para. (1) of Act CLI of 2011 on the Constitutional Court, asking for a review of Section 28/A para. (3) point *c*) of Statutory Rule 11 of 1979 on the enforcement of criminal punishments (Tvr.). The petitioner holds that the mentioned point of the Statutory Rule is contrary to Article B) para. (1); Article IV para (1); Article XV para (1) and Article XV para (2) of the Fundamental Law of Hungary. According to the petition, the Statutory Rule includes discrimination because it restricts the opportunity of the petitioner to change the grade of the enforcement because the detention was not continuous.

This decision of the Constitutional Court is based on decision 42/2012 (XII. 20.) with regard to Article XV para. (1). In connection to Article XV para (2), the Constitutional Court put the focus on the interpretation of ‘other status’. According to this decision, based on this part of Article XV para (2), the Constitutional Court can always answer for current social changes. At the same time using ‘other status’ does not mean that it can be extended without any limit. It can refer to those problems which are in connection with the identity of a person. The decision added that this phrase can protect against latent discrimination, for example if an act is general, neutral on the surface, but the effect of it can be discrimination.



## Constitutional framework with special regard to discrimination

### **Further reading:**

- Csink, Lóránt – Schanda, Balázs – Varga, Zs. András (Eds.): *The Basic law of Hungary The first commentary*. Clarus Press, Dublin, 2012.
- Danka, Anita: OSCE Commitments on Combating Intolerance against Roma. *Ügyészek lapja* 2011. (Vol. 18.) No. 4. 61-72.
- Hajas Barnabás, Szabó Máté (Eds.): *Pajzsuk a törvény Rászoruló csoportok az ombudsmani jogvédelemben*. Alapvető Jogok Biztosának Hivatala, Budapest, 2013.
- Jakab András (ed.): *Az Alkotmány Kommentárja I.* [Commentary on the Constitution I.] Századvég, Budapest, 2009.
- Pavone, Ilja Richard: *The Italian Legislation on Roma and Sinti and its Compliance with European and International Standards*. *Acta Juridica Hungarica* 2011. (Vol. 52.) No. 4. 325-334.
- Tóth, Gábor Attila: *Unequal protection: Historical churches and Roma people in the Hungarian constitutional jurisprudence*. *Acta Juridica Hungarica*, 2010. (Vol. 51.) No. 2. 122-135.

Ádám Rixer

## THE ROMA AND CENTRAL PUBLIC ADMINISTRATION IN HUNGARY

### **1. Introduction. The idea of Hungarian public administration as being directed by certain facts of objective reality.**

If we should determine what the core characteristic of the ‘good state’ is, we could say that it is the ability to reflect on real social problems. It is a pre-question in the examination of public administration, positive law, the performance of public administration and the effectiveness of law enforcement that at what degree the state and society will provide answers for the urging questions of the coming years and decades. Regarding Hungary, such questions are demography problems, the Roma issue<sup>1</sup> and the possible effects of climate change<sup>2</sup>.

It is indubitable that in Hungary the Roma issue is one of the most urgent and in practice least handled problems. The latter is true also because in public spheres – including the state/public administration sectors of the public – it is still not well-settled which are the legitimate and constructive forms, frameworks and wordings of raising the issue.

From the aspect of our topic it is another important context that the change of paradigms mentioned so often in relation with Roma policy shall not mean simply the numeric strengthening of the institutions of representative democracy today: in order to allow the Roma minority to become an active, initiative part of the legal community in Hungary, it is obvious that the democracy concept of legal-procedural stability must be overstepped, broadening its scope and content with value-based aspects.

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1 See e.g. Rixer Ádám: A roma érdekek megjelenítése a jogalkotásban. [Incorporation of Roma interests into legislation] Patrocinium, Budapest, 2013.

2 See e.g. <<http://www.inhungary.com/budapest/desert-in-hungary.html>> accessed 5 September 2013.

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The protection of the interests of future generations – thus of the newer generation of Hungarian Roma people with growing significance and, based upon the demographic trend, with growing numbers – would require us to ‘restrict the emergence of the will of the empiric majority by referring to an as yet non-existing population, eventually leading us to a principle which is contrary to the opinion of the current majority – expressed at political elections or through the market game of supply and demand.’<sup>3</sup> However, in order to operate them smoothly, the traditional principles of democratic representation and decision-making shall be supplemented, these new institutionalised changes are/will be necessary.<sup>4</sup> The constitutional ground of this concept may be that the new Fundamental Law stands in front of us as an ‘upward open’ constitution. This upward openness means that during the validity of the new Fundamental Law one of the state’s (and its organisations’) main tasks is to proceed during the enactment of any normative or individual regulation or during the interpretation of Hungary’s Fundamental Law by keeping in mind the interests of future generations.<sup>5</sup> It will be an eminent task of science – at least partly – to elaborate these *supplementary* principles.

There’s a total unity within scientific literature that the strategic public policy-making must concentrate mainly on comprehensive advantages, instead of the sectoral ones; moreover these collective benefits must be sustainable, which means that any particular policy has to offer permanently more utilities than disadvantages.<sup>6</sup> These are those principles in which there’s a wide agreement among authors within the given field.

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3 Lányi András: Az ökológia, mint politikai filozófia. [Ecology as political philosophy] (2012) *Politikatudományi Szemle* 21(1) 118.

4 *Ibid.*

5 See e.g. Article P) of the *Fundamental Law of Hungary*: ‘All natural resources, especially agricultural land, forests and drinking water supplies, biodiversity – in particular native plant and animal species – and cultural assets shall form part of the nation’s common heritage, and the State and every person shall be obliged to protect, sustain and preserve them for future generations.’

6 See e.g.: Martin Brusis – Katarina Staronová – Radoslaw Zubek: Introduction. The Challenge of Strategic Policy Making. In: Martin Brusis – Katarina Staronová – Radoslaw Zubek (Eds.): *Strategic Policy Making in Central and Eastern Europe*. NISPACee, Bratislava, 2007. 9.

Otherwise, from a scientific aspect, the connection between Roma organisations and central public administration is a poorly discovered field of research. Not only management sciences, legal science or political science are 'failing' concerning the given issue, but it may be also stated in general that several other sciences do begin to handle this topic surprisingly lately.<sup>7</sup>

### **2. General features of public policy that determinate the relation of the Roma and public administration in Hungary**

A starting point of this subchapter is that new Central-Eastern-European democracies established after 1989 did not build the political system on layered, sophisticated consultation procedures and institutional systems based on wide scale social participation, but – almost exclusively – on the Parliament-centred formation of political structures based on the principle of representation. Many believe that one of the great problems of societies getting out of the control of a dictatorship is that due to the lack of civil society filling in the space between individuals and the state during their socialisation, the members of these societies could never naturally learn to incorporate the identification of problems, formulation of their interests, exchange their thoughts, the harmonisation of different opinions, without which the various problem-handling methods would not have been developed, either. From the public policy side it may be stated that in Hungary the legal and institutional requirements of representative democracy were fulfilled after 1990, but since then no material change has happened towards participative democracy; this means that Hungarian democracy "has frozen into" the level of representative democracy.<sup>8</sup>

A father tendency, a feature which may be hardly separated from the one mentioned earlier is that the all-time state – formed after the transition – imitates, reconstructs and replaces the civil sector through its

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7 See e.g. Prónai Csaba: A kulturális antropológiai cigánykutatások történetének összefoglaló vázlat (1951-1987). In: Kézdi Nagy Géza (ed.): A magyar kulturális antropológia története. Nyitott Könyvműhely, Budapest, 2008. 483.

8 Dr. Jenei György: Adalékok az állami szerepvállalás közpolitika-elméleti hátteréről. [Supplements to the public policy – theoretical background of state participation] In: Hosszú Hortenzia – Gellén Márton (Eds.): Államszerep válság idején [State role in crisis] COMPLEX Kiadó, Budapest, 2010. 95.

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conscious efforts, by this making it weaker. During the analysis of this, it must not be forgotten that in the economic and sociological literature of the past one or two decades the state, by undertaking the ‘replacement’ and ‘simulation’ of the organisation of market and self-regulating social mechanisms and the political organisation of society, it eventually hampers the connection between political decision-making mechanisms and the actual fragmentation of the interests of society.

It’s important because – in an ideal situation – a civil-type organisation creates an institutional channel between the society and the state, mediating and transmitting the needs and interests of the society towards the state, and also forces the state to permanently legitimize itself, strengthening the openness and transparency of its public operation.<sup>9</sup>

Until the middle or the end of the 2000s severe criticism hit the state, saying that ‘the effectiveness of the organisation of the state and within this, of governmental control is low due to the prolificacy of “background organisations” and because of the permanent intention to establish para-state pseudo-civil organisations (public foundations, public bodies, public utility organisations)’.<sup>10</sup> There were extremely many critiques related to the *Foundation for the Hungarian Gypsies* (Magyarországi Cigányokért Közalapítvány) in this context.<sup>11</sup>

While in the 90’s and the beginning of the 2000s the vast majority of the authors has been blaming the negative effects of the ‘mesosphere’ dominated by the state, saying that this influence makes the civil society weaker, nowadays most of the critiques mention the direct expansion of the state that takes over several public duties from other actors.

Based on the main features of public policy/administrative environment it must be stated about Hungary that

- a) public policy has balance problems; the weight and coordination of the relevant players is disproportionate and incalculable due to the extreme politicisation, and political predominance characterises the

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9 Jagasics Béla: A nonprofit szféra elmélete. [Theory of the nonprofit sphere] Landorhegy Alapítvány, Zalaegerszeg, 2001. 5.

10 Sárközy Tamás: Kormányzás, civil társadalom, jog. [Governing, civil society, law] Kossuth Kiadó, Budapest, 2004. 5.

11 Government Resolution 1071/2011. (III.23.) on the elimination of the Foundation for the Hungarian Gypsies.

- relationship of the political-administrative system and society, regardless;
- b) the traditional features of Hungarian political culture are paternalism, intolerance and the transformation of personal relations into political ones,<sup>12</sup> and last, but not least the presence of corruption phenomena, which may be observed at a degree exceeding the average of the surrounding area.<sup>13</sup>
  - c) the final phase of public policy is missing; public policy processes begin but they often do not get to the end. There is no evaluation phase and closure.<sup>14</sup> Moreover, legislative impact studies – either preliminary or subsequent (posterior) analyses (law-reviews) – are very rarely added to the detailed legal provisions. However, it is also a fact that by the time anyone could start such a subsequent impact study, the given legal instrument is not in effect any more...<sup>15</sup>

It is also important that in Hungary ‘[the] all-time present seems to be outstanding because of the strong delegitimization of the all-time past, making it seem worthless, instead of focusing on its own achievements’.<sup>16</sup> In this field of force even the changes of the government are of the significance of ‘catastrophe history’.<sup>17</sup>

*Moreover, there are almost no programs that span over political courses: the very first deed of the new Government related to each and every sectoral policy*

12 Kulcsár Kálmán: Politika és jogszociológia. [Politics and legal sociology] Akadémiai Kiadó, Budapest, 1987. 336.

13 [http://www.ey.com/HU/hu/Newsroom/News-releases/global\\_fraud\\_survey\\_2010\\_pr](http://www.ey.com/HU/hu/Newsroom/News-releases/global_fraud_survey_2010_pr) > accessed 11 July 2013.

14 Pesti Sándor: Közpolitika szöveggyűjtemény. [Public Policy Reader] Rejtjel, Budapest, 2001. 206.

15 Fazekas Marianna: A közigazgatás tudományos vizsgálata egykor és ma. In: Fazekas Marianna (ed.): A közigazgatás tudományos vizsgálata egykor és ma. 80 éve jött létre a budapesti jogi karon a Magyar Közigazgatástudományi Intézet. [The scientific analysis of public administration in the past and today. The Institute of Hungarian Public Administration was established 80 years ago at the law faculty of Budapest] Gondolat Kiadó, Budapest, 2011. 38.

16 Szigeti Péter: A magyar köztársaság jogrendszerének állapota 1989 – 2006. [State of the legal system of the Hungarian republic 1989–2006] Akadémiai Kiadó, Budapest, 2008. 17.

17 Ibid.

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*is emphasizing that all efforts of the previous Government ended in failure in the last 4 or 8 years. We – in Hungary – take this fact as if it was normal, but it is not at all.*

Related to the presentation of roma interests within governmental decision making processes we must declare in advance that the most important question regarding different strategies and institutional systems is not necessarily the content of them (beyond some democratic requirements), but how the policies, the given regulations and developing – and mainly good – practices could be retained, could be saved. As has been mentioned earlier, the shift of the government has features of a 'catastrophy' in Hungary; it is well predictable that the roma-strategy of the current government will be one of the main targets of strong attacks after the next election, trying to delegitimize the previous course (if the governing party or coalition changes). So, because of that the most important question today is how the achieved results could be preserved. The main chance, coming from the two third majority, is to put the substantial provisions in acts passed by a qualified majority, hardening the deregulation of those regulations.

### 3. Levels and forums of the connection

#### 3.1. Levels of central public administration – in general

Central state administrative organisations are determinative participants of public administration. Their significance is that their competence covers the whole country, the administrative strategic and operative decision-making tasks and competences are focused in their hands, and – partly due to the mentioned features – their activity significantly exceeds the frameworks of public administration, by this significantly influencing the operations of the state and society, as well as governing activities.<sup>18</sup>

Decision-making on the structure of state administration – and within this central state administration – as well as about the establishment, transformation, abolition and management of certain organisations belong

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18 Fábrián Adrián: Közigazgatás-elmélet. [Theory of public administration] Dialóg Campus, Pécs-Budapest, 2011. 105.

partly to the Parliament, exercising its constitution-making<sup>19</sup> and legislative powers, and partly to the Government in its executive function (in governing competence).<sup>20</sup>

It is very important to keep in mind that earlier there was no law characterising central state administrative organisations based on their type or listing them one by one. In this respect Act LVII of 2006 on central state administrative organisations, and on the legal status of the members of Government and the state secretaries (herein after referred to as: Játv. 1) has been extremely significant, as well as Act XLIII of 2010 (herein after referred to as Játv. 2) – replacing the former one under a similar name – which performed this task for the first time in Hungarian legal history. According to Article 1 paragraph (2) of the Játv. 2 the types of central state administration organisations in Hungary are the following:

- a) the Government,
- b) governmental committees,
- c) the ministries,
- d) the autonomous state administration bodies,
- e) the government agencies,<sup>21</sup>
- f) the central offices,
- g) law enforcement agencies and Military National Security Service
- h) the independent (autonomous) regulatory bodies.

It is important that from the itemised listing of the types of central state administrative bodies several (body-type) organisations are missing which

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19 In the Fundamental Law of Hungary regulations directly related to central state administrative bodies may be found primarily in Articles 1, 15–23, 34, 45–46, 48–54, and in section 4 of the Closing and Miscellaneous provisions.

20 Patyi András – Varga Zs. András: Általános közigazgatási jog (az Alaptörvény rendszerében). [General administrative law (in the system of the Fundamental Law)] Dialóg Campus, Pécs-Budapest, 2012. 279-280.

21 Unfortunately, the word *kormányhivatal* – as a legal term – has two different meanings in today's substantial law in Hungary: one the one hand it appears as a type of central state administration organisations (translated as government agency) with nationwide competence, and, on the other hand, it is the territorial (county and metropolitan) state administration organisation of the government with general competence (translated as metropolitan and county government offices).



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may also be part of the activities of central state administration: for example certain types (without the right to make decisions) are mentioned separately in the presently valid Játv. 2.<sup>22</sup>

*The most efficient categorization covering all types of organisations of central public administration is the level-based grouping.*<sup>23</sup> In this approach, the following may be separated well: *a)* the level of administration, where classic, daily performance of authority tasks happens (in practice the majority of central state administrative organisations – except for the Government and government committees – belong here)<sup>24</sup>; *b)* the first level of coordination, in which the harmony of the activities of administrative bodies acting in specific cases is ensured, as well as the primary registration of external, social needs (among others, government committees belong here, as well as cabinets and other proposing, opinion-making and advisory bodies viewed as bodies of the Government<sup>25</sup>); *c)* and the second level of coordination, at which its exclusive member, the Government, ensures the ‘coordination of coordination’<sup>26</sup>, and decides about the most important political and the most specific administrative issues.

This paper highlights exclusively those stages and actors that undertake the presentation and representation of Roma interests (or they should have done it). Accordingly, I’m not going to introduce the forums and participants of general consultative processes within the central adminis-

22 See Articles 28–30 of the valid Játv.

23 Lőrincz Lajos: A közigazgatás alapintézményei. [Basic institutions of public administration] HVG-ORAC, Budapest, 2005. 100-106.

24 The Office of the Prime Minister is in a very special legal and practical situation and it is closely related to all three aforementioned central levels: Article 36 paragraph (1) of the valid Játv.: ‘The Office of the Prime Minister is a working organisation of the prime minister. Unless law regulates otherwise the Office of the Prime Minister shall be managed upon rules relevant for ministries. (...) paragraph (5) The Office of the Prime Minister shall support the work of the prime minister and shall cooperate in defining the general policy of the Government.’

25 Before the Government makes a complicated decision, one of these bodies may examine the particular issue and take a proposal to the Government. See more: János Fazekas: Central Administration. In: András Patyi – Ádám Rixer (Eds.): Hungarian Public Administration and Administrative Law. Schenk Verlag, Passau, 2014. 293-294.

26 Lőrincz 105.

tration [e.g. Council of the Ministers of State (államtitkári értekezlet) or Minister responsible for coordination of the operations of the Government (a kormányzati tevékenység összehangolásáért felelős miniszter<sup>27</sup>).<sup>28</sup>

### 3.2. The level of administration

First of all, this level contains the ministries, the most important of which is the „human” top-ministry, named Ministry of Human Capacities (former Ministry of National Resources). Within the superstructure of it, the Deputy Minister of State responsible for social inclusion – belonging to the State Secretariat for Social Affairs and Inclusion – is the representative of the Government who permanently and indirectly tries to reveal the interests of the Roma in Hungary, transmitting them to central public administration and to law-making processes. Questions and tasks related to the Roma (Gypsies) in Hungary evolve – directly or indirectly – also in other ministries, and mainly the coordinative (and partly consultative) bodies manage to interleave the unsettled efforts of different ministries connected with Roma. The plan for having roma rapporteurs within some of the ministries has come up several times, but it has not come to fruition yet, there are still no public employees exclusively responsible for the mentioned field according to their official scope of activities.

Among the organisations – beyond ministries – belonging to the central public administration in Hungary we can find many of those which – according to their names, scope of duties and scope of authorities – do not primarily deal with revealing and presentation of Roma interests, but a huge part of their activities is directly connected or should be connected to that. Such are some central offices [e.g. National Office for Rehabilitation and Social Affairs (Nemzeti Rehabilitációs és Szociális Hivatal) or National Center for Patients’s Rights, Beneficiaries’ Rights, Children’s Rights and Documentation (Országos Betegjogi, Ellátottjogi, Gyermekjogi és Doku-

<sup>27</sup> See Government Decree 52/2014. (VI. 6.) on the tasks of the Members of the Government.

<sup>28</sup> For details see: Fazekas János: A központi közigazgatási szervek. [Organs of central administration] In: Fazekas Marianna (ed.): Közigazgatási jog. Általános rész I. [Administrative Law. General Part I.] ELTE Eötvös Kiadó, Budapest, 2014. 162-163.

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mentációs Központ] and an autonomous state administration body, named Equal Treatment Authority (Egyenlő Bánásmód Hatóság).

There are some further state organisations that do not belong to the executive, but the similarity of their activities and – acting within the scope of their activity – the high number of cases concerning Roma the Commissioner for Fundamental Rights (Alapvető Jogok Biztosa) and his Deputy Commissioner Responsible for the rights of National Minorities must be mentioned. Moreover, Hungary does have an Independent Police Complaints Commission (Rendészeti Panasztástület), as well.

### 3.3. The first level of coordination

#### 3.3.1. The main characteristics of consultation in Hungary

*One of the most important pre-questions is how far civil society may go in participation in (political) decision making.* According to the general (majority) opinion, its presence is reasonable and desired only in the preparation phase of decision making that manifests both informal and institutionalised forms.<sup>29</sup>

*Within the analysis of regulations related to legislation, it may be observed that the regulation – both in general and with regard to the Roma issue – is still very much diverse.*<sup>30</sup> Before 1 January 2011, there was no comprehensive act which could have attempted to provide unified regulation for the possibilities and procedures of the enforcement of social interests in governmental decision-making mechanisms.<sup>31</sup> A unified set of regulations about social participation is still missing; even though Act CXXXI of 2010 on social participation in the preparation of laws ‘implies in its title that we are facing a unified regulation, but this is not the case. In addition to this, sets of acts and government decrees contain relevant regulations regarding this

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29 Sebestyén István: Civil dilemmák, civil kételyek a civil szervezetek (köz)életében. [Civil dilemmas, civil doubts in the (public) life of civil organisations] (2004) *Civil Szemle* 1(1) 36.

30 Vadál Ildikó: A kormányzati döntések konzultációs mechanizmusai. [Consultative mechanisms of governmental decisions] Wolters Kluwer, Budapest, 2012. 170.

31 Ibid.

issue.<sup>32</sup> However, social participation in governmental decision-making mechanisms should be legally settled, just like the hierarchy of laws (the system of legal sources).

It must also be added that ‘By today a complex system of governmental consultative bodies has been established in all modern public administrative systems’.<sup>33</sup> However, despite their significance and quantity, the social sciences pay relatively little attention to these institutions, having a role in the shaping of governmental decisions, ‘[even though] a new sector has emerged, the operation of which is essential for the quality of governmental activities and is also important for their transparency.’<sup>34</sup>

It should be noted that there is no good name for this system of organisations in Hungarian law. The expressions ‘background institutions’, ‘auxiliary organisations’, or ‘consultative organisations’, ‘institutions of social dialogue’, as well as ‘proposer-review organisations’ are (may be) imprecise and deceptive, especially because in some cases these – very diverse – organisations possess public power-like competences in addition to the narrowly interpreted consultative rights. It is necessary to scientifically define the various types and set up a *grouping* of these organisations and clarify – in a comparative manner – their role in decision making (in the preparation of laws). And due to the lack of consistent legal regulation it would be important to regulate their participation in the governmental decision-making system (in a more detailed form), with regard to their importance.

Based on the scope of participating organisations Vadál distinguishes between *internal* consultative bodies of governmental operation and *external* consultative bodies of governmental operation. Among the internal ones, she lists those institutions (e.g. government committees, cabinets and inter-ministerial committees), in which only state bodies participate and the representatives of civil society (non-state bodies) are usually not present among the members. Among the external ones she lists those bodies within which, in addition to the representatives of governmental bodies, the institutions of the widest range of civil society are present:

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32 Ibid.

33 Vadál 17.

34 Ibid.

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such as social organisations, representatives of interest (advocacy) groups, professional and expert organisations, representatives of science, professional chambers, etc.<sup>35</sup> Within this grouping it is important that through these bodies, the interconnection between governmental activities and the activities of organisations interested in and concerned about decisions may be established. Through these bodies, the presentation of interests, their collision, striving for consensus, and the professional and scientific grounding of *more transparent* decisions may be realised.<sup>36</sup>

The significance of consultation is also stressed by the European Commission, which published an announcement about consultation, supporting the notion that during consultation each of those concerned should be allowed to properly express their opinion.<sup>37</sup> In most member states of the European Union, separate, permanent forums have been established for macro-level consultation which facilitate the continuous relationship between the government and social partners and other representatives of interests – without the burden of immediate agreements – and within this they get the chance to familiarise themselves with each other's opinion.<sup>38</sup> Beyond the narrow focus of issues related to the world of labour, this covers also specific policy issues. In member states, macro level consultations aiming at shaping the economy and social policy globally are usually hosted within the institutional frameworks of prestigious, dominant forums.<sup>39</sup> Naturally, governmental-civil discussion should also be part of social discussion. In addition to social partners, the representatives of civil organisations 'shall also be present in the work of the consultative bodies of macrolevel negotiation of interests'<sup>40</sup>

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35 Vadál 61.

36 Ibid.

37 Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission. Communication for the Commission, COM(2002) 704 final.

38 Ladó Mária – Tóth Ferenc: A konzultáció és intézményei az Európai Unióban, tagállamaiban és Magyarországon. [Consultation and its institutions in the European Union, in its member states and in Hungary] OFA, Budapest, 2002. 192.

39 Ibid.

40 Bódi György, Jung Adrienn and Lakovits Elvira, Civil partnerség [Civil partnership] (KJK-KERSZÖV 2003) 190.

Nevertheless ‘it may be stated that the prestige of consultation is much lower in Hungary than in other member states’<sup>41</sup> In Hungary the consultative role is often interpreted as of lower value, failure – also in the self-evaluation, self-assessment of the players; as a synonym of *slow marginalisation in substantial* – macro level – *policy-making*. This same fact lies in the background of the fact that in Hungary consultation, negotiation, cooperation is basically agreement-centred, bargain-oriented.<sup>42</sup> We should also add that today in Hungary ‘consultation is [often] not the indicator or instrument of values, but of relatively quickly changing interests’. A closely related phenomenon (fact) is that while in most of the old member states consultation is substantial (ensured by legal guarantees) and constant, in Hungary – traditionally – a lower level of regulation and ‘ad hoc’ character is dominant<sup>43</sup>, *a situation intensified by the exceptionally infrequent convening of certain forums*.

According to Article 30 paragraph (1) of the valid act, the Government may establish other – thus in addition to government commissions and cabinets further – proposer, review and advisory bodies. According to paragraph (2) of the mentioned article, the members of bodies described in paragraph (1), as well as the scope of people permanently invited to the meetings of such bodies are appointed by the normative government decision establishing the body. Among – public power-like – rights which go beyond traditional consultative rights (the right to information, the right to negotiate, the right to make recommendations, the right to give an opinion) those shall be mentioned through which decision making power is divided between the public administrative body (typically the Government) and the consultative body.<sup>44</sup>

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41 Ladó and Tóth 193.

42 Ibid.

43 Ladó – Tóth 194.

44 Vadál 61. and 86. In such cases the original possessor of the decision making right, who is responsible for decision making, cannot deliver the decision on its own, because the converting right (co-decision making right) of the mentioned body limits this. Naturally, in such cases the original possessor of the decision-making right cannot fully delegate the right to decision making or its responsibility for the decision (and the liability for its possible consequences), but with the self-regulating ‘delegation’ of certain elements of decision making it may ensure substantial participation and unavoidable control-possibility for the representatives of the targeted groups.

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3.3.2. Consultative bodies whose central task is the presentation of Roma interests

### A) *Internal consultative bodies of governmental operation*

#### 1. **Inter-ministerial Committee for Social Inclusion and Roma Affairs** (Társadalmi Felzárkózási és Cigányügyi Tárcaközi Bizottság)

The Government has set up the Inter-ministerial Committee for Social Inclusion and Roma Affairs for the improvement of the social situation of Roma and other people living in poverty, and also for the coordination of the governmental operations fostering social integration. The main task of it – according to Point 2. of the Government Resolution 1199/2010. (IX. 29.) on the Inter-ministerial Committee for Social Inclusion and Roma Affairs – is the harmonization of the activities connected with social inclusion, and also proposal-making on the related Government planning for the financial sources and for the control of the usage of those sources, and supporting the coordination and evaluation of the execution of tasks related to the social inclusion of Roma and people living in poverty.

#### 2. **Roma Affairs Council** (Cigányügyi Egyeztető Tanács)

Roma Affairs Council is to be mentioned, too. Practically, it operates as a quasi-cabinet because the members are the prime minister, four ministers and the ministerial commissioner in charge of roma affairs. The given council serves as an opinion- and proposal-making body; it was set up to coordinate and to monitor the execution of the policies of social inclusion and roma affairs.<sup>45</sup>

The Roma Affairs Council owns the right to take objection to the distribution and use of financial sources gained by Roma programs (*kifogásolási jog*).

### B) *External consultative bodies of governmental operation*

#### 1. **Roma Coordination Council** (ROK-T)

The Roma Coordination Council was established by the Government Resolution 1102/2011. (IV. 15.) and it's main goal is to work out measures

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<sup>45</sup> Government Resolution 1048/2013. (II. 12.) on Roma Affairs Council.

servicing the social inclusion of Roma based on social partnership with several actors of Hungarian society, and also to take part in the fulfillment of these goals and in monitoring the results. The Roma Coordination Council is an advisory, proposal-making and consultative body, which is a forum for channelling information on interests of Roma population into the governmental activities.

Under the g) subparagraph of the 4. point of the Government Resolution mentioned above, the ROK-T consists of 27 members, 6 of which are chosen by a distinct 'invitation to tender procedure'.

It's obvious that the two types of consultative organisations introduced above [under A) and B)] are not 'homogeneous', while the latter one – formally – has to reveal, aggregate and transmit interests towards the decision-makers, the previous ones have to settle those interests in practice, inserting them into drafts of different programs or laws.

### 3.3.3. Consultative bodies whose central task is not the presentation of Roma interests

According to the legal sources that established various proposal-making, consultative and coordinative organisations, such as Council of Demography and Family Policy (Család- és Népesedéspolitikai Tanács), Council on Drug Affairs (Kábítószerügyi Tanács), National Disability Council (Országos Fogyatékosügyi Tanács), Caritative Council (Karitatív Tanács), Council for Women's and Men's Social Equality (Nők és Férfiak Társadalmi Egyenlősége Tanács), Council on the Affairs of the Elderly (Idősügyi Tanács), Vocational and Adult Education Council (Nemzeti Szakképzési és Felnőttképzési Tanács), National Council for Public Education Policy (Közoktatás-politikai Tanács), National Council for Public Education (Köznevelési Érdekegyeztető Tanács), National Textbook Council (Nemzeti Tankönyv Tanács) or Higher Education Planning Council (Felsőoktatás-tervezési Tanács), it must be stated that – though these bodies are closely connected with various aspects of the Roma issue – the *institutionalised and direct* mechanisms for revealing the interests of the Roma are completely missing from the legal regulation and from the operation of them.

*We must underline that forums of macro-level social consultation – at*



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*least formally – independent from the Government also exist in Hungary.* The best example of the latter is the National Economic and Social Committee [*Nemzeti Gazdasági és Társadalmi Tanács*] established by Act CXIII of 2011 on the *National Economic and Social Committee*, which was created with the aim of discussing comprehensive ideas related to economic and societal development and national strategies existing through governmental cycles, and facilitating the elaboration and realisation of harmonised and balanced economic growth and the related social models. The Committee was established as a *consultative, proposer and advisory body independent from the Parliament and the Government*, and as a *complex and most diverse consultative forum of social dialogue between organisations* representing employers' and employees' interests, economic chambers, civil organisations operating in the field of national policy, national and foreign representatives of science, and churches defined in a separate act.<sup>46</sup> It is worth noting that the solution is not unique in Hungarian legal development.<sup>47</sup> It is important that independence from the Government does not mean that during the activities of the forums, opinions of the Government and civil organisations cannot be directly in conflict or that the Government cannot be substantially 'influenced' in some ways. It's a surprise – compared to the monumental goals – that organisations revealing or representing Roma interests are out of the taxation of the members of the National Economic and Social Committee.

To sum up, according to the organisations mentioned above (within point 3.4.3.), search on the content of the legal instruments establishing them shows that provisions prescribing (ordering) selection and participation of entities directly undertaking representation of Roma interests are almost completely missing or are rather indirect and shallow. Point 2. of Government Resolution 1136/2011. (V. 2.) on measures taken to strengthen social inclusion ordered to review the regulation on interministerial bodies, other consultative and coordinative bodies on behalf of the

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46 Article 2 paragraph (1) of Act XCIII of 2011 on the National Economic and Social Council.

47 E.g. the former Economic and Social Council – which has always operated in an unstructured way and without substantial rights – was established 24 August 2004.

National Roma Self-government's (Országos Roma Önkormányzat, ORÖ) involvement in decision-making and monitoring operations related to the measures, mentioned. *Unfortunately, those specific rules, legal provisions hasn't been elaborated, yet.*

### 3.4. The second level of coordination

#### 3.4.1. General questions

In relation to the Government it is necessary to make reference to the situation and significance of the prime minister. In the opinion of György Müller, viewing the Hungarian system from the aspect of the situation of the Prime Minister it may be characterised as a chancellor-type of governing, because the present German system and the Basic Law for the Federal Republic of Germany (Bonn, 1949) served as examples in 1990 and later, too.<sup>48</sup> However, it should also be added that even though the Fundamental Law was the first to expressly state the dominant role of the Prime Minister within the government,<sup>49</sup> the *primus inter pares* role which may be observed in the previous Constitution, which trusted the Prime Minister almost exclusively with leading the body, did not reflect the actual situation, practical solutions in the 20 years preceding 2011,<sup>50</sup> which means – with some simplification – that the respective provisions

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48 Müller György: Állandóság és változás a magyar kormányzati viszonyokban (1990–2011). [Stability and changes in Hungarian governmental structures (1990–2011)] In: Fazekas Marianna (ed.): A közigazgatás tudományos vizsgálata egykor és ma. 80 éve jött létre a budapesti jogi karon a Magyar Közigazgatástudományi Intézet. [Scientific review of public administration in the past and today. The Hungarian Institute of the Science of Public Administration was established at the law faculty of Budapest 80 years ago] Gondolat Kiadó, Budapest, 2011. 140.

49 Article 18 of the Fundamental Law:

(1) The Prime Minister shall determine the Government's general policy.  
(2) Ministers shall have autonomous control of the sectors of public administration and the subordinated organs within their competence in line with the Government's general policy, and shall perform the responsibilities determined by the Government or the Prime Minister.

50 Müller 141.

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of the Fundamental Law only expressed the situation which had existed for a long time.

The majority of the decisions of the Government is not law-making type, related to the preparation and enactment of laws, but defines tasks or makes control over particular sectoral operations. The latter are prepared by ministries which are responsible for the written proposals.<sup>51</sup> Actually, participation of the Government and ministries within the law-making process is a special and twofold phenomenon because preparation of laws extends also to legal instruments of other governmental entities – beyond their own legal sources.

### 3.4.2. Tools for coordination

1. In June 2007, the Parliament approved a resolution on the Decade of Roma Inclusion Programme Strategic Plan (*Roma Integráció Évtizede Program Stratégiai Terve*), setting a framework for action in a series of fields where Roma experience discrimination and disadvantage in daily life. This resolution complemented a large number of measures that may serve to improve the situation of Roma in fields such as education and employment,<sup>52</sup> and that have been only partly taken in the last few years. On 30 November 2011 the new Hungarian Government adopted a *National Social Inclusion Strategy – extreme poverty, child poverty, the Roma - 2011-2020* (Nemzeti Társadalmi Felzárkózási Stratégia 2011-2020), which was sent to the European Commission by the Minister of State for Social Inclusion (Ministry of Public Administration and Justice). Hungary was therefore the first Member State to submit such a strategy. In doing so, Hungary has fulfilled the commitment made by all member states when they endorsed the European Framework for National Roma Integration Strategies. For the execution of the Strategy 1430/2011. (XII. 13.) Government Resolution was adopted, ordering certain specific measures. The newest strategy is the Hungarian National Social Inclusion Strategy II. which was adopted in the very end of 2014 by 1603/2014. (XI. 4.) Government Resolution.

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51 Fazekas Marianna – Ficzer Lajos (Eds.): Magyar közigazgatási jog. Általános rész. [Hungarian Administrative Law. General Part] OSIRIS, Budapest, 2006. 153.

52 <http://www.minorityrights.org/5800/hungary/roma.html>>accessed 24. 03. 2015.

2. The execution of the plans and strategies mentioned above – at least partly – depends on the involvement of social partners, on long-distance relationships. A *good* – though as yet mainly theoretical – example is the *Framework Agreement* established between the Government of Hungary and the *National Roma Self-Government* [ORÖ], based on which ‘Within their cooperation the Government and the ORÖ establish a draft government decree, in which they define the certain fields of intervention and the participants of the co-decision agreement and together with the bodies appointed for codecision-making define the co-decision-making mechanism relevant for the given field, by taking into consideration, and keeping in line with, the valid EU and national procedural regulations’. In an exemplificative manner, the Framework Agreement defines those fields in which it wants to give to the ORÖ effective and substantial rights for the enforcement of interests: ‘The Government establishes the co-decision system primarily in the fields of programs aiming at the expansion of employment, increasing standards of education and improving standards of living, as well as of scholarship programs, investment and employment supports.’ It is clear, therefore, that the decision-making and *co-decision-making* rights may primarily contain partial rights related to tenders, funds, or personal issues, sometimes not in a substantial manner, but ‘only’ in form of veto<sup>53</sup> or ‘quasi veto’, the latter one covering the elements which, for example, allow for the postponement of decision-making or the suspension of the execution of the delivered decisions.<sup>54</sup> It’s obvious that substantive implementation of these tools (instruments) really requires political courage of the Government, as organisations obtaining rights become partly ‘independent’ and most powerful actors. Besides co-decision another notion is to be mentioned: *co-regulation*. Regarding the notion of co-regulation, it shall be mentioned that it is a rather new ‘set of legal institutions’. It is important that the White Paper on European Governance published by the European Commission

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53 The exclusive right to recommendation and the right to initiative, as well as the right to consent and the decision bound to a certain voting rate may be considered as such.

54 For details see: Rixer 158-160.

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mentions co-regulation as an example of better and faster regulation.<sup>55</sup> Co-regulation – regardless of its field – builds on the cooperation of state, market and other players and contains a mix of legal and non-legal elements, focusing on the previous ones only if the latter ones alone cannot achieve the set target: co-regulating systems are usually based on self-regulation, the results of which are continuously supervised, and if necessary corrected by the state.<sup>56</sup> The main aim of co-regulation is to channel the activities of self-regulating organisations – usually beyond substantive law – into public power procedures. During co-regulation public power – normatively – sets achievable targets and self-regulation fills these with content. Co-regulation makes it possible to transfer the goals set by the legislator to *interest representative organisations* acknowledged at the given field ('regulated self-regulation'), by this facilitating the channelling of self-regulatory initiatives.<sup>57</sup>

This way of regulation is common mainly regarding different industries and service areas, but it may also be possible to introduce and use its set of tools in other areas. *For example, in Hungary it is extremely important to establish cooperation partly (co-regulation) with cultural, educational, social and other service provider organisations, as well as with those cooperating in the identification, presentation and representation of Roma (Gypsy) interests.*<sup>58</sup> However, the differentiation of the notions of co-regulation and co-decision seems to be unavoidable in this area.

3. Within the given field a *prime ministerial commissioner* in charge of Roma affairs (*cigányügyi kormánybiztos*) was appointed in 2014.<sup>59</sup> His main task is the evaluation of the results of the implementation of the Framework Agreement signed by the Government and ORÖ in 2011, and also to make preparations and pre-arrangements for the renewal of that agreement, to make proposals for new goals and ways to fulfil

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55 Csink Lóránt – Mayer Annamária: Variációk a szabályozásra. [Alternatives to regulation] Médiatudományi Intézet, Budapest, 2012. 62.

56 Ibid. 63.

57 Ibid 62.

58 Rixer 155–159.

59 Flórián Farkas, former head of the National Roma Self-Government (ORÖ). Order of the Prime Minister 4/2014. (XII. 5.) on the appointment of the Prime Ministerial Commissioner.

the recommended targets concerning *mainly* housing, employment and education.

### 4. Conclusion

1. The more comprehensive regulation of consultative bodies is reasonable because the broadly interpreted governmental consultation goes beyond consultative bodies operating beside the government or ministries, and includes macro level forums independent from the governments, as well as territorial level mechanisms and specific bodies.

In a rule of law state social participation in legislative procedures is not an optional process depending on the attitude and discretion of the power holder. Moreover, in a democracy, especially in one of the participative type, the institutionalised system of proposing and opinion making shall not only go through quantity changes (*'more forums, better regulation'*), but also quality ones, which means that regarding these, normativity does not only mean the obligation to establish and create these institutions, but also 'making them unavoidable', thus ensuring their development through tools protected by law.

A more comprehensive, deeper and well-founded regulation of consultative entities and mechanisms is required. We have to admit that governmental consultation is – in the broadest sense – a phenomenon that covers at the same time forums operating besides the Government or ministries, forums of macro-level social consultation – independent from the Government and also the direct and broad consultation with the People (in Hungary it's called 'national consultation').

Substantive regulation on the participation within consultative processes is fairly reasonable concerning the interests of Roma. Moreover, the regulation of the latter needs a form of a Governmental Decree (which is a fairly high level within the hierarchy of legal norms in Hungary), as it was decided (agreed) by the Framework Agreement established between the Government of Hungary and ORÖ.

Creation of a complex system of co-regulation and co-decision implies several additional (subsidiary) social advantages, and this fact also strengthens the need for separate act regulating such questions.

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In the last two decades a plenty of coordinative bodies have been set up to harmonize distinct sectoral policies concerning the Roma (e.g. earlier Council of Roma Integration was established by 1129/2006. (XII. 25.) Government Resolution, working as a proposal- and opinion-making body. At the same time an internal consultative body, named Coordination Council for Roma Affairs, was created. Then Inter-ministerial Committee for Roma Affairs was set up in 1999, and Council for Roma affairs in 2002... *Unfortunately, neither these forums,<sup>60</sup> nor other forums existing in the last few years have managed to become a substantial and stable forum for decision-making or even primary coordination.*

These bodies mainly look like the settings that were built up for the visitors' centre of Korda Studio (Etyek, Hungary): they look pretty, but there's nothing behind the walls...

2. Related to the three (or four, if we take the ministerial commissioner into account) organs dealing with Roma issues within the scope of Hungarian governmental bodies several questions have arisen on the scope of their duties, on their membership and their relations to each other, etc.:

- The relationship among the two Councils (Roma Affairs Council, Roma Coordination Council) and the Committee (Inter-ministerial Committee for Social Inclusion and Roma Affairs) is not stable enough, is hardly deducible according to the Governmental Resolutions, mainly because of the overlapping memberships.
- The structure and the memberships do lack stability: the composition of all of them has changed since their establishment, which is an misadventurous practice, prolonged by the given Government. This practice is a fairly bad one, because concerning these coordinative organisations the stability of the operation mainly comes from substantive cooperation that requires unchanged list of members who really know one another.
- The lack of separate attention given to the Roma in Hungary as a conscious public policy. Though the EU Framework for National Roma Integration Strategies 2011-2020 warns the member states to

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60 Majtényi Balázs – Majtényi György: Cigánykérdés Magyarországon 1945-2010. [The Gypsy Issue in Hungary between 1945-2010] Libri, Budapest, 2012. 110.

„focus on Roma in a clear and specific way”, the Hungarian strategy tries to solve the problems of the pauperization, child poverty, etc. and the situation of the Roma: the lack of a clear focus endangers the success of the measures taken. *This statement is verified by the opinion of the European Economic and Social Committee, issued in 2013.* „The findings of the study commissioned by the EESC and carried out in 27 Member States are consistent with those carried out by the European Roma Policy Coalition (ERPC) and other civil society organisations, and show that apart from a lack of information and general dissatisfaction, there is also widespread frustration and distrust among spokespersons for the Roma community, civil society organisations and their representatives. It seems that the NRISs have not met the growing expectations of the Roma or their sincere hope that the strategies could really help improve social integration.”<sup>61</sup>

- Concerning the Roma Coordination Council (ROK-T) one of the most frequent critiques is that it's too large. A body which consists of 27 members must establish sub-committees, to become able to operate efficiently. Without sub-committees it can easily happen that the exclusive task of such a body is reduced to politically legitimating decisions made earlier and outside the body.

3. There are enormously huge further opportunities in the cooperation among non-ministerial organisations within central administration and also between the latter and other non-executive state organisations. From the side of possible Roma clients and other stakeholders, we must express that the ‚visibility’ of each of these state organisations, which directly or indirectly undertake to protect the rights of the Roma in Hungary, is quite low. As such, the common appearance could substantially strengthen the visibility. We may detect the very same weakness concerning the scientific researches that should be managed by the same actors – together.

There are multiple reasons behind the lack of common actions, one of which is that in Hungary ‚any governmental body can be closed up with an other one’, so the strengthening of their independence, their own

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61 Opinion of the European Economic and Social Committee on the ‘Societal empowerment and integration of Roma citizens in Europe’ (additional opinion) (2013/C 11/05) 1.4.



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image, their dissimilarity may become a more important angle than the interests of the clients...

#### 4. Transformation of the attitudes of the central administration in Hungary

The picture wouldn't be correct without mentioning the wrong attitudes and the role of the staff of public administration towards the Roma. These negative attitudes are often responsible for the low efficiency of several institutions and mechanisms presenting/representing Roma interests. In public administration, one often thinks that performance measurement, monitoring and evaluations can solve problems like negative attitudes among professionals.<sup>62</sup> This approach has proven to have serious negative side effects and discipline of social psychology offers alternatives to this approach. This discipline sees human behaviour as the result of the interaction of mental states and immediate social situations, and public administration can learn from theories in social psychology and the application thereof to organisational behaviour in the public sector.<sup>63</sup>

Social psychology offers an alternative to the neo-institutional approach of reducing information asymmetry, using incentives and reorganisations to improve professionalism in complex organisations<sup>64</sup> Social psychology tries to restore the values, to change the attitudes for better.<sup>65</sup> Several researches pointed especially to the importance of the sequential, formal, serial, and investiture nature of socialisation i. e. socialisation through structured career progression and institutionalised training programmes, as well as the provision of role models and support from experienced organisational members.<sup>66</sup> As to the contents of such socialisation, understood in terms of 'mental programming', the number of topics to be included and the relative importance of each of them varies.<sup>67</sup> Such socialisation results in

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62 Iwona Sobis – Michiel S. de Vries: Restoring Professionalism: What Can Public Administration Learn from Social Psychology? In: Juraj Nemec – B. Guy Peters (Eds.): State and Administration in a Changing World. NISPACee, Bratislava, 2010. 95.

63 Ibid.

64 Ibid. 97.

65 Ibid. 98.

66 Ibid. 105. See also: Rixer 178-182.

67 Sobis – de Vries 105.

clarity and congruence about what the (new) employee and the organisation he or she is working for can reasonably expect from one another.<sup>68</sup>

So, the changes depend also on those programs, that do not influence directly the Roma population but qualify the employees (and members of certain bodies, not employed by the state) for an altered stance.

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68 Ibid. 106.

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**Sándor Móre**

## **THE RENEWAL OF THE OPPORTUNITIES OF MINORITY SELF-GOVERNMENTS**

### **1. Introduction**

It is evident and known for all of us that since 1993 minorities may have enforced their cultural and linguistic rights in Hungary, thus this catalogue has steadily expanded over the past two decades. However, it still could not fully compensate for the fact that Hungarian minority policy has constantly been criticized for both these issues in the recent period. One persistent criticism was related to the lack of parliamentary representation of the minorities, but the country reports regularly mentioned electoral abuses too, which threatens the legitimacy of the minority self-governmental system. Will the Constitution and the legal acts based on it manage to remedy these deficiencies? It must be emphasized of course that there were minority members in the Parliament in the previous cycle as well; however, they obtained their mandates while being candidates of political parties. This political representation, however, cannot be obviously considered to be identical to the institutionalized appearance of specific minority interests in legislature.

By establishing minority self-governments, an important institution has been created for each national minority living in Hungary. This system has to be developed further in line with the needs of minorities. In this study we would like to analyse the deficient and neuralgic points of this regulation.

### **2. Definition of minority self-government**

According to the Act on the Rights of Minorities, '[minority] government: an organisation established on the basis of this Act by way of democratic elections that operates as a legal entity, in the form of a body, fulfils minority public service duties as defined by law, and is established for the enforcement of the rights of minority communities, the protection and

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representation of the interests of minorities and the independent administration of the minority public affairs falling into its scope of responsibilities and competence at a local, regional or national level.<sup>1</sup>

Appendix No. 1 of the Act on the Rights of Minorities lists those minorities which are entitled to establish local and national MSG: Bulgarian, Greek, Croatian, Polish, German, Armenian, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian.

The list is relative; the need to give preference to other groups may be raised. For example, due to our shared historical traditions and common features, it may be asked why Italians are different from the thirteen minorities on the list. Within some communities the need for the inclusion of the Turks has been raised.<sup>2</sup> In line with their own request the Jewish community is a religious category, not a minority.<sup>3</sup>

If a minority other than those listed in Appendix No. 1 wishes to verify that they meet the relevant conditions, at least one thousand electors forming part of that minority may start an initiative that the minority be declared an ethnic group native to Hungary. The relevant signature collection forms shall be submitted to the Chair of the National Election Committee. The procedure shall be governed by the provisions of the Act relating to the initiation of national referenda.<sup>4</sup> The above initiative may be organised by electors who may be elected at the minority government elections. In the course of its procedure, the National Election Committee shall seek the position of the President of the Hungarian Academy of Sciences with respect to the existence of the statutory conditions. A repeated application may not be submitted within one year of the refusal of Parliament.

In the past few years several initiatives have aimed at the recognition of certain communities as minorities. However, these were not successful, because in the opinion of the Parliament they did not comply with the minority definition of the Act.<sup>5</sup>

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1 Article 2 (2) of the Act CLXXIX of 2011 on the Rights of Minorities

2 Cservák, Csaba: *Népek, nemzetiségek, kisebbségek*. [Nations, nationalities, minorities] 2014. *Jogelméleti Szemle* (Vol. 18) No. 3. 55

3 See Decision of the Constitutional Court 2/2006 (I. 30.) ABH

4 See Chapter II of the Act CCXXXVIII of 2013

5 See Sándor Mór: *Minority Self-Governments in Hungary*. In: András Patyi – Ádám Rixer (Eds.: *Hungarian Public Administration and Administrative Law*.

	1994/1995	1998	2002	2006	2010
Armenians	16	25	30	31	39
Bulgarians	4	14	30	38	41
Croats	57	73	107	115	127
Germans	162	268	335	378	424
Greeks	6	18	30	34	37
Polish	7	32	50	47	49
Roma	477	771	1004	1113	1245
Romanians	11	32	44	46	71
Rusyns	1	9	31	52	75
Serbians	19	34	43	40	48
Slovakians	51	73	112	116	122
Slovenians	6	10	13	11	11
Ukrainians		4	12	19	23
Total	817	1363	1841	2040	2312

*Minority self-governments established in Hungary between 1994 and 2010*<sup>6</sup>

Nationwide data show significant growth in each election cycle regarding the number of established local minority self-governments and the number of settlements initiating minority elections. This growth in the minority self-government system has taken place despite critique of the system by many Romani activists: some candidates may be motivated to create an MSG to gain influence within the community and benefit from the privileges that it could provide.<sup>7</sup>

### 3. Some features of the system of minority self-governments

We are facing a real administrative and constitutional law rarity; we have a phenomenon, like minority self-governments, which does not exist anywhere else. Although this is a sub-optimal, highly problematic system – Ernő Kállai has given voice several times about this issue<sup>8</sup> – it is still undoubtedly

Schenk Verlag, Passau, 2014. 350-363.

6 Bindorffer Györgyi: Kisebbség, politika, kisebbségpolitika. Nemzeti és etnikai közösségek kisebbségi *önkormányzati* autonómiája Magyarországon. [Minority, politics, minority policy. Minority self-governmental autonomy of national and ethnic minorities in Hungary] Gondolat Kiadó – MTA, Budapest, 2011. 126

7 The Hungarian Minority Self-Government System as a Means of Increasing Romani Political Participation. OSCE/ODIHR, 2006. 10.

8 See Kállai, Ernő: Vélemény a készülő nemzetiségi törvény tervezetéről [Opinion

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a functioning system. It would have been a backward step in the legal protection of minorities if the Fundamental Law or the Act on the Rights of National Minorities had cancelled the system of minority self-governments.

Otherwise, we are talking about an operational system, the ethno-corruption bomb has not exploded; thus we had scandals within the local and the national Roma Self-governments, luckily this situation did not end up as a wide broad tragi-comedy, but still, the possibility is encoded.

This legal institution is not only functional, but also capable of exporting. Only a few people represent the view that minority policy is serving the efforts of a diaspora. Experience has shown that this issue will remain unanswered for a part of the neighbouring state leaders lack the ability to realize the importance of comparative minority law. They shall not share the so called 'this world is the best of all possible worlds' glorious attitude.<sup>9</sup>

In a country where we tell the minority communities that persistence is a value, we have to provide them with resources, and it has a role beyond law: *(i)* lack of modern life means a lot of problems in Hungary and *(ii)* the amazing numerical difference between the 13 minorities. We think that the real obstacle of the establishment of effective institutions is that there are really big differences between minority communities. We also have to add that the most populous minority community beyond social medium lives in deep poverty and they make up the largest part of them in proportion. And the kind of representation they would really need does not necessarily correlate with the case of other minorities.

### **4. Relationship with the local government**

The Act on the Rights of Minorities clearly defines the guarantee of the operating conditions of a minority self-government and the performance of executive tasks related to the operation as tasks of the local government.

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about the draft of the act on minorities] NEKJOB, 2011. <<http://www.kisebbszejiombudsman.hu/hir-706-velemenye-keszulo-nemzetisegi-torveny.html>> accessed 21 November 2014; Kállai, Ernő: 'Some Experience about the Operation of Local Roma Self-governments in Hungary' In: Ernő Kállai - Erika Törzsök (Eds.): Stagnation. A Roma's life in Hungary EOKIK, Budapest, 2005.

9 Kovács Péter: Nemzetközi jog és kisebbségvédelem. [International law and the protection of minorities] Osiris, Budapest, 1996. 201.

In the interest of the fulfilment of its obligation, the local municipality shall, within thirty days, make premises available for use according to their designated purpose and shall enter into an agreement with the local minority government with respect to the use of the premises, the availability of further conditions and the performance of tasks.<sup>10</sup>

The provision of support, its rate, its formal or informal conditions, and its withdrawal for different – sometimes personal – reasons may make the local minority self-government inferior, even though it shall enjoy equal public law status. While the Act on the Rights of Minorities clearly states that minority self-governments are not subordinate to municipal governments, in many settlements the minority self-government is dependent on the local government. This is due to the fact that minority self-governments do not have an independent administrative infrastructure and rely on the local government to provide for their operational needs.<sup>11</sup>

Within its obligation to provide support, the local government shall ensure for the minority self-government: the use of an office at the seat of the head office of the minority self-government suitable for the performance of its tasks monthly as necessary but at least for sixteen hours, as well as the occasional use of other premises for the purpose of minority events. However, the request for a permanent office may be primarily justified if the minority self-government exercises its rights to maintain minority educational, public cultural and interest protection institutions requiring continuous maintenance, or provides other minority public services which require the everyday use of an office. The right of the minority self-government to use the office therefore may vary from occasional to permanent use, but the law does not oblige the local government to ensure exclusive use of such premises.<sup>12</sup>

The Act on the Rights of Minorities unnecessarily limits the rights of minority self-governments because – in contrast to the previous regulation – they are not allowed to exercise consenting rights in the decision

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10 See Art. 80 of the Act CLXXIX of 2011 on the Rights of Minorities.

11 The Hungarian Minority Self-Government System as a Means of Increasing Romani Political Participation. OSCE/ODIHR, 2006. 16.

12 See Fórika László: A nemzetiségi jogok védelme [Protection of minority rights] Alapvető Jogok Biztosának Hivatala, Budapest, 2013. 143.



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making of the local government with regard to fostering tradition and culture, equal opportunity, social inclusion and welfare services, concerning minority population as such.

According to the new regulation, a local government may declare itself a transformed minority self-government: '[a] local government may declare itself a transformed minority government at its founding meeting held after the general or by-elections if, on the day of the elections, (a) more than one half of the citizens recorded in the register of franchised citizens in the locality are recorded in the given minority's electoral register, and (b) more than one half of the elected members ran as the given minority's candidates at the local municipality elections.'<sup>13</sup>

Even though it is not stressed enough, in broad view this institution is the domestic example of the principle of regional autonomy. Some experts believe that the traditional geographic location of Hungarian minorities and the migration processes of previous years make it almost impossible to realise the model of the representation of minority rights based upon territorial autonomy.<sup>14</sup>

### **5. Preferential mandates for minorities in the local government**

Before the local governmental elections of 2006 the minority candidates were helped with preferential mandates, so they could participate in the decision making procedures of municipalities. We would like to add a few numbers: in 2002, a total number of 1296 minority candidates were elected as representative members to a local government, which means a total of 541 people. So exactly 40% of the candidates were elected by preferential mandates to the body of representatives of the local government.<sup>15</sup>

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13 Art. 71 (2) of the Act CLXXIX of 2011 on the Rights of Minorities

14 Váradi M. Mónika: A kisebbségi önkormányzatok működésének jellemzői, tapasztalatai. [Features and experiences of local minority governments] In: Szigeti Ernő (ed.): Az önkormányzati közigazgatás az EU-csatlakozás tükrében. [Local governmental public administration in reflection to joining the EU] Magyar Közigazgatási Intézet, Budapest, 2004. 347.

15 A Nemzeti és Etnikai Kisebbségi Jogok Országgyűlési Biztosának beszámolója a 2004-es évről. [Report about the activities of the Parliamentary Commissioner for National and Ethnic Minority Rights in 2004] NEKJOB, Budapest, 2015. <

The Constitutional Court has reached the decision (809/B/1998) on the issue of the minorities' referential institution; they claimed that it is not unconstitutional; it does not violate the principle of equality of suffrage, thus maintaining the possibility for local governments to ensure that the minorities may gain referential mandates during the local governmental elections. However, a minority referential mandate could have been claimed by any candidate who made a declaration to undertake the representation of any minority. The news of abuses on amazing scales spread during this period. In 2006 this possibility was eliminated.

However, from 2014 the minority preferential candidates could take part in the municipal elections again. The list of candidates per individual mandate was made up of the least amount of validly cast votes reaching the two-thirds threshold, which could have gained a mandate. These would have been allocated in municipalities by the time of the announcement of the elections. The voters' names on the electoral list should reach at least 50% of a given minority on the nationality electoral list as well.<sup>16</sup> However, minority communities have not been able to meet these conditions, for example, even in Vas County, where the population is low; nor have they managed to do so in small villages where the Slovenian population makes up almost the entire population or a big proportion of it such as in Alsószölnök or Felsőszölnök. So the question remains whether it is rational to maintain referential mandates during the local governmental elections with these impossible conditions, which itself could be a referential correction towards the minorities because of the principle 'the winner takes all'. But only if the minority representatives could access the municipalities under not so strict conditions.

### **6. Some related aspects of electoral law**

In our opinion, it is professionally incomprehensible to make any difference between active and passive suffrage in local minority elections; since there is no reason why the representatives should have the same attribute

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[http://www.kisebbsegimbudsman.hu/word/04-29-2008\\_11\\_12\\_05/besz\\_2004.html](http://www.kisebbsegimbudsman.hu/word/04-29-2008_11_12_05/besz_2004.html) accessed 27 April 2015

<sup>16</sup> See Articles 21/A and 21/B of the Act L of 2010 on the Election of Local Municipal Government Representatives and Mayors.

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as the people who they will represent. Obviously, we have here a couple of years of ethno-corruption practice, but the point is that the citizens may decide who they place their trust in. Why couldn't we imagine that there could be a non-racist local doctor who sympathizes with the affairs of the Roma minorities, who could be elected as a representative of the local minority self-government and who is willing to take the responsibility of being a representative without confessing a Roma origin. We do not think that there is any practical or theoretical reason that could be mentioned.

The novelty of the new regulation is that the Act on the Rights of Minorities connects the date of local minority elections to the census data and to the specific number of people. The problem with the census is that the legislation refers to the previous census data retrospectively. This means that the census was carried out when people belonging to a minority were not aware of how their responses will have an impact on their minority self-governmental institutions. We all know the striking argumentation of the Constitutional Court that even before the implementation of the census in 2010, the Government indicated that all census data will play a much greater role in the elections than in the past.<sup>17</sup>

During my scientific researches, I could not find even a country where – similarly to the Hungarian legislation – practicing certain rights is based on a specific number of people, and not on a threshold based on percentage. Of course this does not necessarily mean that the Hungarian legislation is wrong, however, it definitely raises some issues in terms of democratic legitimacy. There are huge differences between populations of certain settlements, but the Act on the Rights of Minorities uniformly connects the date of the local governmental representatives' elections to a census data of twenty-five people.<sup>18</sup>

The legislative body probably wants to set an example for the legislatures of the neighbouring countries as a pattern to follow. In Romania, for example, they have limited the practice of certain minority rights in many settlements (use of bilingual place names, language rights in public institutions, etc.) because the number of Hungarians living in the settle-

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17 See Decision of the Constitutional Court 41/2012 (XII. 6.) ABH.

18 See Móre Sándor: Új irányok a nemzetiségi önkormányzatok létrehozásában. [New Directions for the establishment of minority self-government] 2014. Jogtudományi Közlöny (Vol. 69.) No. 9. 429-434.

ment fell below the 20% threshold set out in the legislation. Considering the fact that reduction in the number of Hungarians living in the diaspora is considerable compared to the trend in the proportion of the total population; it would be advisable for the neighbouring countries – rather than using the percentage specified threshold – to connect the practice of minority rights to a specific number of people.

### 7. Summary

We wish to draw attention to the lack of sanctions. The loose formulation of regulations – originating from soft law – related to the way of living of minorities (e.g. the right to participate in local politics) does not provide for the enforcement of specific interests. The rights of minority self-governments have been severely limited by the cooperation agreements with the local governments. The local minority self-governments are both functionally and professionally and politically dependent on the goodwill of the local municipal government.

In our opinion, the legislature has constitutional options for the treatment of ethno-corruption: if it comes to exercise additional rights in any case, it would be necessary to establish objective criteria, and if the distinction between active and passive suffrage cannot be justified in any way, we would propose to change this as well.

The uncertainty related to the register and the uncertain use of the census data remaining in the register and the continuous maintenance of it still remains a suspicious thing in many communities. This, however, discourages any person who would seriously consider voting for a minority list.

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**Felícia Laura Balogh**

# **THE ROLE OF LOCAL SELF-GOVERNMENTS IN THE HUNGARIAN CHILD PROTECTION SYSTEM**

## **1. Introduction**

Child protection is part of society's culture transfer activity which is performed by the state through public administration.<sup>1</sup>

Act CLXXXIX of 2011 on the Local Self-Governments of Hungary says:

10. § (1) „Local self-governments perform compulsory functions and also have voluntarily-accepted powers defined by law.”

In our theme of child protection the following items are relevant:

13. § (1) „Local public affairs, and to be performed within the site to ensure public tasks of local government functions especially problems of urban development, town planning, child welfare services and benefits, social services and benefits, local support that framework be established, and the nationality affairs.”

Accordingly, the maintenance of the institutional system of child protection on a local level is up to local self-governments, for example the function of a notary, the guardian's offices and the child welfare services' maintenance, and most related official decisions concerning children are made on this level.

From the 1st of March 2015, considerable changes happened in the aid system, because unlike the previous centrally-controlled financing, the local self-governments have to support from their own resources those who are in dire need, which can be claimed as municipal aid and self-governmental aid, which includes death benefits, transitional aid and extraordinary child protection support. From the 1st of September 2015,

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1 Dr. Veczkó József: *A gyermekvédelem pszichológiai és pedagógia alapjai*. [The Psychological and Educationial Foundations of Child Protection] Tankönyvkiadó, Budapest, 1990. 121.

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support for attendance in kindergarten ceases, since going to kindergarten will be obligatory.

WHO's interpretation distinguishes the preventive form of child protection from the special form.<sup>2</sup> Preventive child protection includes primary care and assistance, which means the problem is to be solved inside the family. On the other hand, we may talk about special child protection, which means the care of children who are already taken away from their families.

Thus, the offices take part actively in both areas of child protection, and during their procedure the fundamental principle is that the child's interests above all. At the same time removal from the family must take place only as a last resort, the main goal must be the child's upbringing in the family, so this study is more concerned with the possibilities of prevention.

Based on the current child protection law (Act XXXI. of 1997.), the forms of upbringing are the extemporal (up to thirty days), the temporary, which has to be re-examined intermittently, and finally the permanent form, which means that the child shall be adoptable and then he or she would not return to their natural family. The number of children under state custody fluctuates between 15,000 and 18,000 and 70% of them fail to integrate regardless of the form of upbringing (foster parents or children's homes) or their educational level.<sup>3</sup> It's important to note about the child protection provided that 70-80 % of the protected are of Roma origin, so the system of child protection - and like this, the state care system - and the integration of Roma people are in an interaction, in as much as one works efficiently, it would cause a positive effect on the other area as well.

### **2. Main findings**

According to the practical specialists, the reasons for inefficiency on the offices' level are low payment and the workload of social workers and other employees. While from the families' part among the reasons one can find the deficiency of socialisation, the so called extreme poverty, the

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2 [http://www.jgypk.u-szeged.hu/tamopb/download/tananyag/Gyermekvedelmi\\_prevenzio.pdf](http://www.jgypk.u-szeged.hu/tamopb/download/tananyag/Gyermekvedelmi_prevenzio.pdf) (02. 04. 2015)

3 <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/allamigondoskodas.pdf> (02. 04. 2015)

lack of a suitable lifestyle which can be passed on - like the deficiency of regular work, washing, a daily schedule - and domestic violence including the parents' alcohol and psychic problems, to which a comprehensive provision system is missing. To make the system more efficient it would be necessary to spend more money on complete families' closing the gap, and furthermore it would be achievable from the expenses devoted to children currently (the state spends 90 000 HUF on a state tended child monthly for example), which could produce more favourable results.<sup>4</sup>

On the whole it can be stated that the root of the problem (and in connection with it the risk factors of removal from the family) is mainly delinquency – for making a living, and underage offence crimes, prostitution and drug trafficking. Although it is not admissible to remove the child because of material reasons only, exclusively extreme poverty allows that after a time when families are unable to fulfil the children's fundamental needs as a result of serious material deprivation.

According to the report of the Commissioner of the Fundamental Rights, in Hungary in 2011 3.05 million people lived in poverty or in social exclusion, and within this the Roma population's majority, around 500-600 thousand people.”<sup>5</sup>

In the Charter of the United Nations it is written down: „If one household spends more than 30% of its income on housing, then its living is already in danger, because it won't have enough money for the rest of the expenses.” As Habitat for Humanity published in 2013: „In Hungary there is no water installed in 145 thousand flats and 1.1 million flats are not connected to the sewage network. 475 thousand people do not have toilet in their flat, and 386 thousand do not have a shower or a bath-tub yet. For a quarter of the country's population have daily problems: the roof leaks, the walls are moulded and many people live in a dark flat. All this strikes the families with children even more: 170 thousand children live in a flat where there is no toilet.”<sup>6</sup>

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4 <http://www.abcug.hu/a-beijedt-gyamugyesek-inkabb-intezetbe-kuldik-a-szegeny-gyerekeket/> (02. 04. 2015)

5 <http://www.ajbh.hu/documents/10180/1210223/AJBH+Besz%C3%A1mol%C3%B3+2013/ef587a6b-5ae4-43ec-83d2-e3f335e6c4d1?version=1.0.1> (02. 04. 2015)

6 <http://www.abcug.hu/a-kad-sokat-jelent-nekunk/> (02. 04. 2015)



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According to TÁRKI Social Research Institute's 2015 observation, 34 % of people who live in poverty are children.<sup>7</sup>

Based on all of these the claims posed to the system and the opportunities of local self-governments can be summarized in the following table:

Claims	Possibilities
To encourage cooperation between agencies	Organizing professional roundtables and conferences
Social Worker career model	Wage increases
Increasing the prestige of professionals	Rewards
Preventing boost	The involvement of civil society initiatives
The entire family empowerment, socialization	Community support for raising, plant eradication and educational programs
Reducing criminality	Reintegration-and lifestyle programs

The local self-governments outside their own resources may also use fundings from the European Union and also allowances of tenders which are targeting to finance these activities.

### 3. Good examples in Hungary

In the following some 'good practices' will be presented, which have been operating in Hungary and can be considered successful because of their example of value.

To motivate the educational programs in the villages of Attala<sup>8</sup> and Miske<sup>9</sup>, the school books and the catering are complimentary, and also there is a big emphasis on the organization of the informal recreation of the children.

By adapting the English Sure Start governmental programme<sup>10</sup> there are already 43 villages throughout the country (with mainly Roma majority) where 'Sure Start Children Houses'<sup>11</sup> can be found. The main goal of

7 <http://www.tarki.hu/en/research/childpoverty/index.html> (02. 04. 2015)

8 <http://attala.hu/eselyegyenloseg.html> (02. 04. 2015)

9 [http://miske.hu/Helyi\\_Eselyegyenlosegi\\_Program.pdf](http://miske.hu/Helyi_Eselyegyenlosegi_Program.pdf) (02. 04. 2015)

10 <http://www.nidirect.gov.uk/sure-start-services> (02. 04. 2015)

11 Dió Zoltán – Eszik Zoltán et al.: Biztos Kezdet Füzetek 1. [Sure Start Handbooks] Jász-Nagykun-Szolnok megye Esély Szociális Közalapítványa Regionális

these houses is to make the children of the age group from 0 to 3 years to reach a suitable condition for nursery with the involvement of their parents, who are to learn how to raise their children.

Since 2004 in the village of Biri the ‚Pista Dankó’ Unified Kindergarden, Day Nurseries, Primary School, Vocational School, Grammar School and College have been providing services for about 1,400 children per year (with 80% of Roma origin), and with extensive recreational activities (such as sports, dancing, music) and various grants and subsidies (which the local government also contributes to) encourages the students to study.<sup>12</sup>

To improve living conditions, the Habitat for Hungary ‚Volunteerism in exchange for building material’ programme helps families who help each other in house renovation by giving 70% discount from the cost of building materials which would be used for the renovation of their own houses. The programme has been running for 2 years and during this time 100 families have taken part in it across the country and 63 families’ homes have been renovated.<sup>13</sup>

In the surrounding villages around Nyírbátor there is a program called, „Ébresztő! Kopogtat a jövőd!” („Wake up’ Your Future Is Knocking!”), which puts social mentors for the children and their families to increase the students’ chances to catch up. This program maintains a Settlement House and organizes workshops for the local child protection workers with the purpose of evolving a unified sub-regional control.<sup>14</sup>

A village called Szakácsi took advantage of their regional characteristics and tourism. They recognized that ‚poverty is not only social, but primarily an economic problem and it can be solved by development’. They succeeded in improving both living conditions and public security by creating jobs.<sup>15</sup>

Progress was made in the field of public employment in a village called Nyírpilis. In 2002 the unemployment rate has reached 20 %. This increase was stopped by a public employment programme valued to 9 million HUF,

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Szellemi Forrásközpont, Budapest, 2012.

12 <http://www.biri.hu/files/Biri%20H%C3%ADrmond%C3%B3/XI.%20%C3%A9vfolyam%202012.%20sz%C3%A1m%202011.%20j%C3%BAlius.pdf> (02. 04. 2015)

13 <http://www.habitat.hu/en/> (02. 04. 2015)

14 <http://www.kozterhalo.hu/> (02. 04. 2015)

15 <http://www.kopogtatajovo.hu/> (02. 04. 2015)

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which generated 2000 newly established jobs on the principle of work offer instead of benefits and the unemployment rate has started to decrease.<sup>16</sup>

More remedial elements are applied beyond the promoting of alley employment and agriculture in Cserdi, and there they managed to overcome the delinquency and the extreme poverty in the past few years. Rewards are given to students who perform well at school, and community-forming programs are organized for the local population which includes teaching lifestyle – and daily routine. That also contributes to overcoming the disadvantages.<sup>17</sup>

Finally the Zugló model should also be mentioned. The district council made a plan for the district in response to the new support system and to the suggestion of the Unconditional Basic Income. According to this, being in need entitles everyone to financial aid, so the local self-government does not consider what kind of situation the needy are in. Even if they are retired, unemployed or have children, Zugló citizens in need are entitled to a minimum income that is complemented apiece of 26 000 HUF of the households' income. Housing benefit and debt management assistance is also combined with this, and in terms of children the birth support has been increased and the school start support has been extended for the children in pre-schools.<sup>18</sup>

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16 Elisabeth van Aerde was the founder of the tourism business. <http://index.hu/belfold/2013/10/25/szakacsi/> index.hu/belfold/2013/10/25/szakacsi/ (02. 04. 2015)

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**Viktória Linder**

# **ROMA IN THE HUNGARIAN PUBLIC SERVICE SOME THOUGHTS ON HANDLING ETHNICAL DIVERSITY QUESTIONS IN THE PUBLIC AND CIVIL SERVICE**

## **1. Introduction**

For decades countries in the developed world face the need of enhancing trust in governments and in this context also improving the image of the State as an employer. Trying to achieve this goal governments deal equality questions among many other measures and implement diversity and inclusion policies in the public sector in order to offer examples for employers of the other parts of the labour market.

Due to their number in Hungary the social inclusion of Roma population is an alarming question. Their integration in the labour market by increasing their employment rate – including their number in civil and public service positions – would be an important element of this endeavour. But despite the communicated long term strategic documents and sporadic governmental efforts no significant results have been reached yet in any of the areas. The paper aims to give a short insight into the background of the problem of enhancing the participation of the Roma in public and civil service positions.

## **2. General features**

According to estimates, out of the 8 million European Roma people around 70 per cent lives in Central and Eastern Europe. Concerning the number of Gypsies resident in 38 European countries, Hungary is in the fourth

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place. (Ministry of Foreign Affairs, 2004) The Gypsy population forms the largest ethnic minority in Hungary.<sup>1</sup>

Demographic tendencies in Hungary are characterised by an ageing, diminishing population due to the fact that most of the families in the overall population have only one or two children. Conversely the number of Roma is rising as the number of children in Gypsy families is multiplied.

This is why the age composition of the Gypsy population is much younger than that of the overall population. These facts also reinforce the urgent need for the social inclusion of Roma population in all areas of their life; such as the access to elementary public services, education, health care, housing, and as a base for all that and in connection with our topic the amelioration of employment tendencies among them. Because employment data among Roma are alarming ones. According to the data from the year 2010 the employment rate of Roma population in Hungary barely reached the 20% and among Roma women only the 10%.<sup>2</sup> (Ministry of Public Administration and Justice, 2011)

Before the change of the regime in Hungary the employment rate of the Roma exceeded the 80%. Many of them were employed in state-owned mines, factories, or large industrial concerns that after the collapse of the Communist regime in 1990 were sold off or shut down. Due to these process their employment rate began to reduce and parallel their social situation started to decline rapidly. In the 90's the problems of Gypsies worsened by the fact that the economic situation of the country increased the rate of unemployment

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1 Estimates put their number at between 400,000 and 800,000. The official census register from the year 2011 counted 315 583 people who declared themselves Gypsy origin in Hungary although this number is probably still below the estimated actual size of the Gypsy population. According to the declaration of the ombudsman responsible for ethnic minority rights in 2010 Roma population in Hungary numbered about 800,000. It means the 7-8% of the whole population. (In 1990 only 142,683 people claimed to be Gypsy while a decade later this figure reached 189,984. The significant raise in numbers is partly due to the fact that during the latest census - in 2011 – citizens had the possibility to declare “double identity” for the first time; it means for example Hungarian and Gypsy origin.) According to the Convergence Program “Széll Kálmán” of the Government in 2012, the number of Roma population reached 750.000.

2 The employment rate at the same period among the whole population aged between 15 and 64 was 55.5% (also low in comparison with the European average).

among the whole population of the lower middle class too. As a consequence the members of these social groups slid down to the layers of the lower class where before the Roma had been in majority. From that period Roma people lacking advanced education and employment skills often remained marginalised and sank into long term unemployment. Especially those over the age of 45. In reality it means that they are long term unemployed or may be employed illegally or in the last few years may have chosen public work.<sup>3</sup>

### **3. Employment in the public sector – is the State an exemplary employer?**

For decades countries in developed world face the need of enhancing trust in governments and in this context also of improving the image of the State and of the public sector as an employer. In order to achieve this goal among many other measures governments try to deal the different aspects of equality questions and implement diversity and inclusion policies in the public and civil service in order to offer examples for employers of the rest part of the labour market especially for the business sector.

Beside other equality fields – e.g. the gender equality concerning especially equal remuneration, the rate of women in higher positions, or the inclusion of employees with disabilities in the offices of public service, etc. – the questions of racial issues are of primary importance.<sup>4</sup>

In Hungary these questions has also been on the continuous agenda of the current governments. But despite the communicated long term strategic documents and sporadic efforts in none of these area sustainability and in consequence significant results had been reached yet.

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3 In the system of public works certain types of socially useful jobs are periodically offered by the state or local governments to unemployed people in order to assure them the opportunity to get a certain level of income for work (about 150 €, the half of the minimum wage) instead of paying them unemployment benefit. The public work assures social security provisions and pension rights and – according to governmental communication – helps the unemployed to go back to the “primary” labour market. In general people may get public work after having unemployment benefit. According to estimations 90% of public workers are of Roma origin.

4 According to Demmke and Moilanen in the 27 Member States of the European Union equality questions in the civil service are regulated centrally i.e. in general by law or other nation-wide regulations. (Demmke-Moilanen, 2010)



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There is no doubt that in solving such complex problems decades are needed. The composition of the problems is versatile far beyond the limits of this paper. That is why we may mention only point out some of them.

The first obstacle we may mention is connected to the regulation and practice of the Hungarian civil service system. In fact the civil service law in Hungary doesn't give real guaranties for the job security of civil servants. It means that employment in the civil service isn't safer than the employment in the business sector. Due to the ever-growing spoil system governments see the jobs in civil service as a tool for strengthening their power. As the law and the personnel policy have been changed constantly since the change of the regime the staff of the civil service has been "renewed" from time to time.<sup>5</sup> But when the human resources management doesn't work as a strategy long running inclusion policies and equality programmes are not to be implemented.

The following elements of the problem of integrating Roma people in public employment are even more complex and it would require comprehensive thinking and cooperation of the whole society; it means Roma and non-Roma as well as decision makers.

According to the Hungarian Basic Law "Every Hungarian citizen shall have the right to hold public office according to his or her aptitude, qualifications and professional competence."<sup>6</sup>

Relying on this constitutional regulation we can't ignore the elementary problems of qualifications and professional competence mentioned in the constitution as the most important obstacle in the employment of Roma in the public administration (or public sector and even on the whole labour market). It means that the majority of Roma people has very low qualification indicators in comparison with the other parts of the whole population.

We rely here on some data in order to illustrate the situation of Roma in education.

Among the Member States of the European Union the rate of Roma pupils finishing the basic school (8 classes) is the highest. But the higher

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<sup>5</sup> Despite of the strong desire after the downfall of the communist regime of being able to get rid from the past of the spoil system when the communist party had occupied all public positions.

<sup>6</sup> The Basic Law of Hungary [Fundamental Law of Hungary] Article XXIII. (8)

we look at the education system the weaker the participation of Roma students is. While the rate of young non-Roma school leavers doesn't reach the 10 % this number is 50% among Roma. 75% of non-Roma graduate in the high school while the rate of Roma reaches only the 24%. 35% of non-Roma begin the university studies contrary to the 5% of Roma students and only 0,5-1 % of young Roma follow the university studies and even for the graduated young entrants it is not easy to find a right job.

The ethnic differences present in the middle and higher education stem in an important part from the lags accumulated by Roma children already before the secondary and tertiary education. Their early school leaving is mainly due to these accumulated knowledge gaps and also their social exclusion. It means that in the close environment of Roma youngsters there are only a few well performing schoolmates because in general they are befriended among themselves and of course the lack of pulling power and the presence of the casual examples don't stimulate them for better performance.

The statement that Roma graduates have difficulties to find jobs is also true in the public sector. The causes may be the discrimination but also the education level and the type of profession in contrast with the selection criteria in the civil service employment.

In Hungary according to the regulation the minimum selection criteria in civil service is generally high school graduation but in a number of jobs (especially in the central administration) the law requires university degree and foreign language exam.

#### **4. Examples for governments' programs in order to raise the representation of Roma in civil service**

In the following we present some examples in the hope to give a short insight into governmental programs with the aim of raising the rate of Roma people in civil service and public employment. These programs have mainly been financed from the European Union and other internationally supported funds.

- The Government in 2009 launched a program to help Roma graduates to enter the civil service. During the very short two weeks application period a fairly high interest was achieved and almost 500 university

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graduates applied. 287 applicants met all the application criteria.<sup>7</sup> The enrolled applicants took part in a 4-week long on-line preparation in order to be prepared to the competitive examination which was mandatory at that time in the civil service. Approximately 130 applicants passed the exam successfully and had the chance to be selected through a further multi-step selection procedure for the available jobs in public administration.<sup>8</sup> These jobs were also financed from EU sources for one year. The initiative was welcomed in the public sphere but struggled with regulatory and organizational difficulties. That is why the current ombudsman responsible for minority rights made several recommendations about it. According to his statement governments have to enhance the efforts elaborating programs which would be able to ameliorate the opportunities for Roma in finding jobs as the unemployment rate of Roma people is 7-8 times higher than in other segments of the society. The distinction is even higher when we examine the data that very few Roma study in higher education and the Roma with degrees have a lot of difficulties in finding jobs. According to him the involvement of people of Gypsy origin into the decision making of the public administration and into the work of justice would be a tool in trying to create a Roma middle class in Hungary.

- In the years 2009-2010 thirty-five young educated Roma trainees (from eighty-five applicants) won the competition for a half-year scholarship program in the City Hall of Budapest in the framework of the “Starting” scholarship program” financed by the European Economic Area, the Norwegian Financial Mechanism and the Municipality of the Capital. The aim of the program was to help the start of the career of educated young Roma. But the sustainability of this program had also been questioned because by in applying for jobs in the public administration the trainees struggled with difficulties.

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<sup>7</sup> It is to be mentioned that two middle level foreign language exam had been required from the applicants in the program. It was a quite incomprehensible measure as the legal requirement otherwise prescribed only one.

<sup>8</sup> The name of the process was ‘competitive examination’ but in the reality it only opened the possibility to be selected but the score achieved didn’t guarantee to get a job in public administration.

- From July 2013 after a two day training ninety-five Roma people began to work as Roma rapporteurs in the local offices of the newly established districts of Hungary. The purpose of employing Roma in the governmental offices is twofold. On the one hand to facilitate Roma citizens in dealing with public administration and creating a sort of mediation among the Roma and the offices. From the other hand the second goal is to increase the representativeness of Roma in the public sector. The aim is to enable the rapporteurs to become important players in governmental offices enhancing the equal access to public services.
- In the framework of another program Roma women have the possibility to be trained in social works. The EU-funded project helps them finding a job and supports financially their employers during one year. The initiative is all the more significant as we have seen that the employment rate of Roma women is unbelievable low. This is mainly due to their educational indicators but in a very high percentage also to cultural factors and namely to fact that Roma women in general have a lot of children.
- Among other public service works we may also mention the support that young Roma applicants may get when applying for jobs in the police forces or fire and rescue services.

### **5. The strategic document of the current government**

In the first half of 2011 the Government during Hungary's presidency of the Council of the European launched a continent-wide Roma strategy. According to the declaration of the Government the Roma minority in Hungary is regarded as a valuable human resource, and not as a problem to be solved. The Roma must be educated, integrated and employed so they can contribute to society. The document named 'National Social Inclusion Strategy – Extreme Poverty, Child Poverty, the Roma'– (2011–2020) among other burning problems deals with the questions of involving the Roma in public life.<sup>9</sup>

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<sup>9</sup> The document itself admits that research programs analyzing the situation of the Roma are missing in Hungary. Taking it into consideration it is a little paradoxical that despite of that fact, related public policies and long running inclusion strategies are elaborated.

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According to the document the Government thinks that fundamental change may be achieved if Roma are employed in areas from where public opinion may be influenced concerning problems of exclusion for sociological reasons. It means for example in education, health care, the defence forces, the police, public administration, social services and the media. It is underlined that the program of Roma civil servants should be extended to a wider spectrum of areas because individuals forming part of the minority are able to represent new criteria in the institutions and organisations concerned and are, by virtue of their presence, able to influence the attitudes of those surrounding them, whether or not they are Roma. (Ministry of Public Administration and Justice, 2011)

Since the declaration of the Strategy in 2011 four years have passed. Some initiatives have been taken as presented above but no noticeable changes have been implemented yet.

### 6. Conclusion

Despite the sporadic attempts and governmental intention to enhance the participation of Roma people in the Hungarian public and civil service their participation remained fairly low. However as also declared in the strategic governmental document launched in 2011 substantial changes may be achieved if Roma are employed in public positions.

The reasons of the weak representation of the biggest ethnical group in public offices are manifold and very complex. The origins of the problem are rooted in the fact that the Roma population is strongly underrepresented in the second and tertiary education and the civil service recruitment requires at least high school but in many jobs university graduation. Probably decades are needed for the fundamental changes. But if the State does have real intention to solve the problem the process could be speeded up by legal instruments. So we have quite a few examples in the international practice when countries use temporary affirmative action in order to facilitate the entering of the underrepresented groups in the civil service or they establish some quotas in order to raise the rate of them.<sup>10</sup> However

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<sup>10</sup> The Hungarian regulation allows to use affirmative action in order to support underrepresented groups. But at the same time concerning the quotas the rules of

parallel to the civil service which means in Hungary exclusively the staff of the offices of the public administration such programs should be extended to other areas of the public service where Roma public servants may work close to the other part of the Roma citizens as e.g. in the education and health sector. But another context should also be mentioned that all these endeavours couldn't succeed without strengthening the job security in the civil and public service. Such measures could also contribute to the sustainability of these programs.

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data protection should also be amended in order to allow collect sensitive data on ethnicity legally.

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**Kinga Szabados**

# **ROMA PERSONNEL AS POLICE STAFFS POLICE SCHOLARSHIP PROGRAMME FOR SUPPORTING ROMA YOUTH TO BECOME POLICE STAFFS IN BORSOD-ABAÚJ-ZEMPLÉN COUNTY**

## **1. Introduction**

The Borsod- Abaúj- Zemplén County Police Headquarters has been publishing its annual application called 'Vision' since 1996 with the purpose of helping the Roma youth to become police officers.

The programme sets out strict conditions, and what makes it special is that it aims at young Roma people who are studying in secondary public educational institutions, especially who are in their first, second or third class. Those who take advantage of the opportunity may gain a lot of support during their studies.

The application criteria among others contain the following: the student cannot be obliged for grade retention; in the year of the submission their year-end average result should be at least 3.00; having a clean sheet; impeccable lifestyles and good reputation, the lifestyle of his/her relatives should not endanger the lawful and interference-free performance of the service; and last, but not least a written statement of his/her Roma origin.

During the application all health, physical and mental requirements should be met, and the student must assume that after the completion of secondary education she/he shall apply for National Public Service University on Police Science Faculty or Law Enforcement College. If the applicant meets all of these requirements, the County Police Headquarters shall draw up a 'supporting contract' with the applicant.

The various funds are provided by the County Police Headquarters own budget, and lasts until the completion of secondary education. Under the

contract financial support with invoice is available for covering the expenses of student dormitories, canteen meals, annual clothing up to a value of 25,000 HUF; 4,500 HUF for teaching tools and full reimbursement of the cost of textbooks. Regarding the results of a semester, 2000-5000 HUF of monthly scholarship is granted for the students after their average grades. In case of excellent semester grades, it is possible to spend a professional day in a territorially competent Law Enforcement College.

During the programme, from 1996 to 2014, all in all 51 'supporting contracts' were drawn up, 17 young students were effectively enrolled to the Law Enforcement College of Miskolc and 16 of them became professional staff. The number of contracts made per year are usually estimated between 1-3; when the programme started there were only 8 people; in 2010, the number of people outstandingly reached 13 who made a contract with the Headquarters. Currently (January, 2015) there are 5 contracts existing, 3 of these people should apply successfully to the Law Enforcement College of Miskolc.

## 2. Methods and findings

I have interviewed two young men who completed the programme successfully; both of them are master sergeants now. *József* was a student of the Law Enforcement College of Miskolc, later he became student of the Police Academy, now he is a detective; *Ferenc* is still a student of Law Enforcement College of Miskolc, he is currently an accompanying police guard at the Police Station of Miskolc.

The Police entered into contract with them during their third year of secondary education, both of them were informed about the programme by the employed teachers of the institutions. *József* – a student of the public security department – attended self-defense courses, where a retired policeman was a great help to him by informing him about the programme itself. *Ferenc*, on the other hand, was largely motivated by the fact that he could provide better financial background for his family in the future, regarding the difficulties of physical labor; so he took the opportunity and became the first, who achieved scholarship and stepped on the road towards the profession of a policeman.

## **Roma personnel as police staffs Police scholarship programme ...**

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Both of them used the financial aids mentioned above and I posed them the question as to how the extent of these subsidies affected the completion of their secondary education? József explained that without the subsidies, many of the students would have difficulties or would not even be able to finish their studies in secondary education. Many of them are in such poor financial situation that they could not even afford the expenses of a secondary school. As an orphan brought up by foster parents, he had a sound financial background, and he would have been able to become a policeman without the beneficial help of the police; but there are many people who are in need of this financial support because it is just the only way for them.

I was interested in my respondents' opinion concerning the reason why the police only enter into contract with just a few the applicants, or just few of them are able to finish effectively the post-secondary education. They said that being merely determined is not enough; it must also be finished, as the physical and psychological preparation programmes have to be taken seriously also. In addition, many of them are simply disappointed with the system, they have to face a lot of atrocities because of their Roma origin; and there are some who had to give up his/her studies because of financial troubles.

I also wanted to know whether either of them had to face negative impulses because of their origin during their studies or in the performance of their profession. During the studies, Ferenc had a very good class community; he said he is very adoptive, so he didn't have any problems during his student years in Law Enforcement College. During the work, his colleagues did not insult him, however, while on duty he had to face atrocities, but with appropriate handling of these situations, he was able to resolve these soon. While József performed secondary school, he often found that the teacher says examples, that 'when a Gypsy ...' and 'Gypsy ...'. As a result of this, many of the students thought that they don't have to be polite when they have to take action against people of Roma origin. 'I understand that among the Roma population criminality is relatively high, but unfortunately these had all impacts on my life as well. My own view is that if an infringement was not committed by me, so why should they behave like during a police process?' – said Ferenc. He says, however

surprising it is, seven years had to pass, till he felt like being treated as full-fledged colleague. He had to fight for recognition, he had to professionally prove himself; and he had to tolerate a lot, for example, during his internship he found that the police patrol was ashamed to go into the store with him.

I was wondering what is their general opinion on the situation of the Roma. Ferenc says that every coin has two sides. On the one hand, many Roma don't even do anything to get into a better position; on the other hand, to make a living is very hard, especially in Borsod-Abaúj-Zemplén County. There are few job opportunities, the region is quite underdeveloped, and the completion of each course is often just a wishful thought, sadly, thereafter they are not going to be employed for the promised job by the employer, nor at the work place. In addition to objective reasons if we take a look on the subjective side, the situation is more complicated, because: 'there are people who think in just a certain way about all Roma, and it does not matter what kind of work they do for a living' - he says.

József also mentioned the prejudices in the first place. He brings pros and cons of reasons, but he feels that no one is doing anything in order to dispel these prejudices, and the question of the Roma remains still unanswered. And what does he think about the relationship between the Roma people and the administration? He responds with a simple example: when he is interrogating a Roma offender for committing vandalism, it turns out that all of this was because the administrator behaved disrespectfully. But he also finds that if you do not have enough information and you would like to ask for help from an administrative body, they make you feel like 'you are just dumb'.

We could discuss the last issue in full length for hours, so my last question to both gentlemen was: Who would you recommend this so called 'Vision' programme to? Ferenc says for those who want to break out and gain appreciation and achieve financial security. According to József, a lifelong career can be built in this profession, which provides a safe workplace. The programme is new, and probably it is the only chance for many people, and we have to fight against the negative impulses, because they may occur in any other areas in our life as well.

### **3. Conclusion**

Similar scholarship programmes are also announced by the National Police Headquarters to help young Roma people in the successful completion of their education; and offering them a police career. If the students meet certain criteria, they may apply for courses in higher education institutions for legal, administrative, economic science, engineering, information technology or medical training. I would also like to mention a similar tender by the National Directorate General for Disaster Management, which encourages a disaster management career, or the Semmelweis University of Roma Doctors – which is a medical education programme. Within this framework, the talented young Roma students are prepared in a course of one or two years, which helps to prepare for application to the medical university.

As we can see, the scholarships supporting the Roma youth can be found in all areas of training, these are becoming increasingly popular, and have a long-standing tradition in Hungary. There are many Roma people living in homes in underdeveloped regions of the country where the bad economic situation makes it more difficult to break out; this leads to further social prejudices against them. These programmes produce results which provide a worthy example against the discrimination of Roma people. We hope that the level of discrimination will decrease, and in the future, regardless of their origin, they may perform the same quality of work and serve the interests of our society in the same way as we do.

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**Nándor Birher**

# **THE EFFECTS OF EU SOURCES ON CLOSE UP POLITICS**

## **1. Introduction**

The research that is purposed to discover all the specialities of Roma target audience's working progress at tenders was conducted from 10.15.2013 to 01.15.2014. The data collection was done by a self-report questionnaire, then during the analysis, we compared them with data from the Standard Monitoring Information System. We had 76 respondents, most of them were leaders of township level self-governments. According to their calculations, the number of Roma people in their townships is around 86 318.

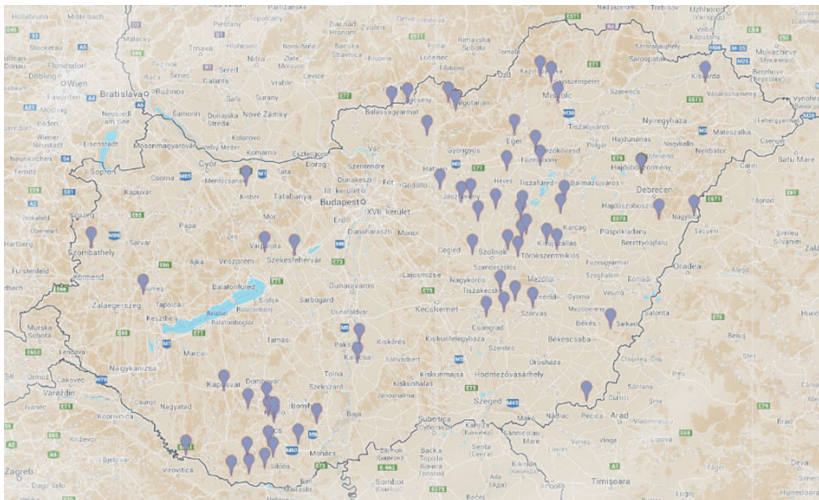


Fig. 1 Location of the 76 respondents in Hungary

2. Research findings

The majority of the respondents think that the transcripts of tenders and their realization do not motivate Roma people to apply for tenders. The respondents' experiences are similar in this respect that most of the times Roma people can only get involved in the constructing methods although the project aims at Roma target audiences. They rarely take part in the transcription, in the planning, in the appraisal or in the follow-up checking.

Most of the respondents believe that in the given situation they could make a useful tender in the interests of Roma people. If they needed any help they went to the local self-government but the local regional Roma minority self-governments and the National Roma Self-Government are also in good places of the list.

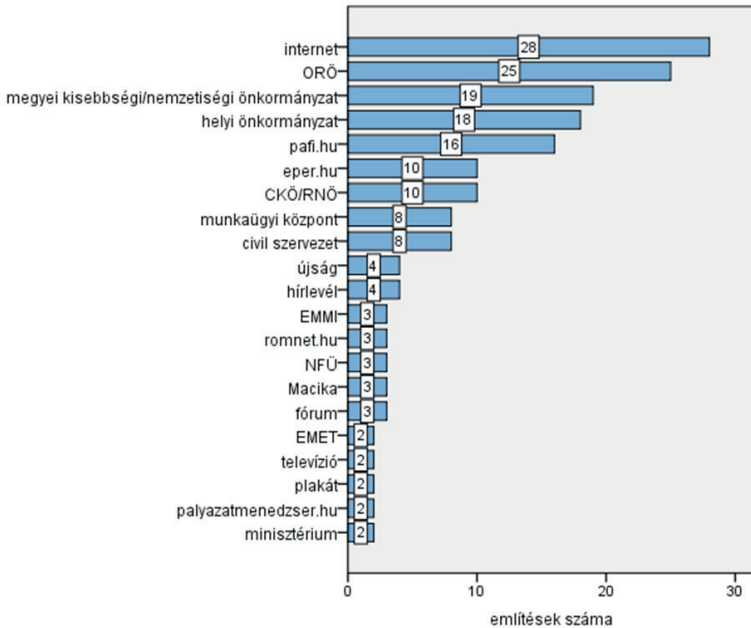


Fig. 2 The sources of information (ORÖ – National Roma Self-Government; megyei kisebbségi/nemzetiségi önkormányzat - Roma minority / Roma national county self-governments; helyi önkormányzat – local self-government; CKÖ/RNÖ - Roma minority / Roma national self-governments; munkaügyi



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központ – Labour Office; civil szervezet – civil organisation; újság – newspaper; hírlevél – newsletter; EMMI – Ministry of Human Capacities; NFÜ – National Development Agency; Macika – Public Foundation for Hungarian Gypsies; fórum – forum; EMET - Human Resource Support Office (Emberi Erőforrás Támogatáskezelő); televízió – television; plakát – bill, poster; minisztérium – ministry; említések száma – number of mentions)

During the research, we tried to identify those factors that may have increased the activity of Roma self-governments. For the effective participation, it has to be supported by a better infrastructure, an organization development has to be done, better tender transcripts with a more intensive and more precise coverage are needed; courses have to be set up to teach how to make competitive plans and for their realization processes. The projects that aim at Roma target-audiences have to involve the Roma cooperators and participants. Moreover, it would be necessary to create long term, well going processes because in lack of them, the ongoing initiatives may become counterproductive.

Based on our research findings, we analysed the Roma minority / Roma national self-governments, and the National Roma Self-Government<sup>1</sup> as the centers of the Roma information system in connection with competitive activity. The majority of our respondents used to get information on tenders monthly from the internet ([www.eper.hu](http://www.eper.hu); [www.pafi.hu](http://www.pafi.hu)). Based on the association with the data of EMIR, we can say that the intensity of getting information is in connection with the number of projects.

The research findings concerning developing areas show that the summary of developing each area is in unison but it depends on the realized development and service projects only to a limited extent. The factor of summing up the subject seems more powerful: a project with reflections on a more serious problem can impress the target-audience easier despite its less effectiveness.

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<sup>1</sup> The collection of data was coordinated by ORÖ, and the self-governments in connection with ORÖ had a greater chance to take part in it.

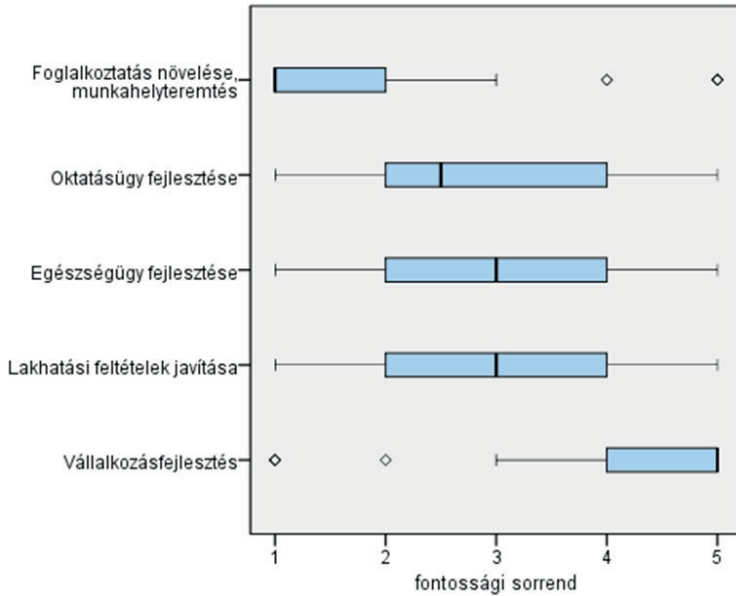


Fig. 3 The most important areas of development (foglalkoztatás növelése – to increase employment; oktatás fejlesztése – education development; egészségügy fejlesztése – development of health care/health services; lakhatási feltételek javítása – improvement of housing facilities; vállalkozásfejlesztés – business development; fontossági sorrend – rank importance)

### 3. Conclusion

It would be very useful to create an information system that would enable to realize the progress of the purposed data-collections to define the distribution of the sources more properly, and to recognize the necessities of development. The trustees of minority politics should have a key position in the process of making an effective territorial Roma information system.

The next point of views have to be calculated with in the source planning of Roma politics:

- the close-up programmes have to be checked and schemed on an interdepartmental level because only those projects can give solutions

## The effects of EU sources on close up politics

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that involve a bigger territory. This task can be done effectively by the Roma Affairs Council.

- The effectiveness of the support has to be measured during the planning of the programme. For this reason, a vocational organization (Monitoring Center) has to be established that cooperates with the Deputy Minister of State responsible for social inclusion. The adequate communication of the results is part of the tasks of the Monitoring Center.
- Roma organizations have to be involved in the realizations of programmes (not only in the target-audiences). Without the Roma project-activity there cannot be any effective Roma programmes. We must consider starting Global Grant type programmes involving Roma people to realise them. In these cases the establishment of powerful management-supporting and checking systems is very important because of those who are less-experienced.
- During the program-planning methods, the disadvantaged regions have to be calculated with. In these regions the number of target-audiences can be high.
- The close-up programmes have to take notice of those Roma people who can convey the values in society in multiple ways, who have already reached the general or higher standards. The supporting of Roma contractors or civilians is of outstanding importance.
- During the legislation, it has to be measured and evaluated that the purposes of legislation and those of the programme scheme are in correlation.
- The properly defined sources have to be related to each programme during the planning period.

To sum up, we can say that every element is given to make close up politics effective. To these system- elements a

- real
  - effective (supported by sources)
  - one purpose
  - time-limited
  - checked
- coordination is necessary.

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## INCLUSION AND E-GOVERNMENT

### 1. Introduction

We would like to give you a snapshot of the e-Government initiatives related to the Roma programmes. Some projects in the last EU budgeting period (2007-2014) tried to decrease the social deprivation of the Roma. The effects of these programmes are different. One of the main tasks at the designing of the next programming period is to make social programmes more effective. In the next financing period (2014-2020) there are some differences in the planning of the Human Resources Operational Programs. In the next few sentences there is a summary of the main goals of these programmes.

On 03/03/2015 the European Commission adopted the Hungarian programme for employment and social cohesion. The programme will increase the human capital and improve the social environment in Hungary. Representing over 11% of all EU financial support for Hungary in 2014-2020, the Human Resource Development Operational Programme (OP) will implement 2.6 billion euros of EU funding, 65.4 % from the European Social Fund (ESF) and 34.6 % from the European Regional Development Fund (ERDF).

In the field of human capital, Hungary faces one of the biggest backlogs regarding the long-term effects of structural development factors. This OP has therefore been designed to address social and demographic challenges. The main interventions cover social inclusion, strengthening social cohesion and the role of the family, health promotion and prevention, improving the quality of public education, increasing the number of people who have tertiary education and strengthening the staff of social institutions.

The various instruments of this programme will help to create social cohesion related to economic growth and to achieve Hungary's goals concerning employment development. *Involving disadvantaged groups, Roma,*

*and other socially deprived groups living in segregation*, this programme can set off fundamental changes in the social environment of Hungary. Through public education and health promotion programmes it can also contribute to a *better quality of life*. 7,000 migrants and minorities (*including Roma*) will be involved in social development programmes.<sup>1</sup>

## **2. e-Government programs**

The Digital Agenda in the Europe 2020 strategy marks the main pillars of the ICT development of the next few years. Related to our theme, there are two pillars in the strategy – Pillar VI: Enhancing digital literacy, skills and inclusion and Pillar VII: ICT-enabled benefits for EU society.

There are interesting data about internet usage in the European Union. It is astonishing but 20% of the EU population has still never used the internet. The rate of non-internet users in the EU fell marginally in 2013, to 20% from 22% a year earlier. All Member States made some improvement in reducing rates of non-users. The biggest barriers to internet access at home in the EU are lack of need, insufficient skills and cost barriers. For families with children and low income households costs are particularly important. The three most important reasons for households not having internet access are that it is not needed(49%), due to a lack of skills (37%) and because the costs of the equipment (30%) and access (26%) are too high. All three reasons have become increasingly important over time. Looking at different household types, cost factors are substantially more important reasons for not having internet access at home amongst households with children and those on low incomes.<sup>2</sup>

The following Actions can be effective in the Roma „digital inclusion”:  
Action 57: Prioritize digital literacy and competences for the European Social Fund; Action 59: digital literacy and skills in the ‘New skills for jobs’ flagship; Action 64: Ensure the accessibility of public sector websites;

1 See detailed: <http://ec.europa.eu/esf/main.jsp?catId=67&langId=en&newsId=8575>; download Date: 16/04/2015

2 Scoreboard 2014 - Digital inclusion and skills in the EU 2014; Published by Newsroom Editor on 28/05/2014; See detailed: [http://ec.europa.eu/information\\_society/newsroom/cf/dae/document.cfm?doc\\_id=5809](http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?doc_id=5809); download Date: 16/04/2015

Action 68: Member States to mainstream eLearning in national policies;  
Action 126: Grand Coalition for Digital Jobs and Skills.

E-Government actions are important parts of Pillar VII: ICT-enabled benefits for EU society. Digital technologies have enormous potential to benefit our everyday lives and tackle social challenges. The Digital Agenda focuses on ICTs capability to reduce energy consumption, support ageing citizens' lives, revolutionizes health services and deliver better public services. ICTs can also drive forward the digitisation of Europe's cultural heritage providing online access for all.

Internet-savvy citizens often use the Internet to contact public administrations, but less so to conclude more complex interactions. Users of e-Government services are in general satisfied, while the main reason for non-use is a lack of trust. It comes in several forms: a preference for personal contact (41%), higher trust for paper submissions (30%), concern about personal data (19%), and a lack of immediate feedback (16%). Other main factors of non-use are a lack of skills and an incomplete digitalization of government services.<sup>3</sup>

### 3. Summary

There are no specialized developing programs for the Roma people in Hungary or in the EU. The problem management encompasses a larger target group, and focuses on social cohesion. E-government programs can be effective in this area, if the Member States' projects and proposals are suitable to achieve the expected results. In our opinion the following Actions could be effective in the next few years in Hungary: increasing digital literacy, increasing digital skills to reach the labour market efficiently, and ensure the accessibility of public sector websites to secure enough information for people who are living in social backwardness.

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<sup>3</sup> ICT-enabled benefits for EU society - analysis and data, <https://ec.europa.eu/digital-agenda/news-redirect/16548>; download Date: (16. 04. 2015)

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