

# Minority Rights, Minority Protection, and Diaspora Policy in Hungary, 2010–2018



Lídia Balogh, Iván Halász, and András László Pap

**Abstract** This chapter offers a comprehensive overview of Hungary’s evolving approach to three areas between 2010 and 2018. Firstly, it examines changes in minority rights, particularly through the recodified Minorities Act from 2011. Secondly, it delves into legislative measures aimed at protecting ethnic, racial, and national minorities, encompassing hate crime and hate speech legislation, media content regulation, and antidiscrimination law. Thirdly, the chapter explores Hungary’s diaspora policy, emphasizing the 2010 amendment to the Citizenship Act from 1993. The analysis encompasses key legislative innovations and significant case law, providing insights into the political and societal challenges that drove these developments.

---

Part of is research was supported by the National Research, Development and Innovation Office (grant ID: NKFIH FK 134962 ‘Legal approaches to operationalize nationality and ethnicity’).

---

L. Balogh (✉)

Institute for Legal Studies, HUN-REN Centre for Social Sciences, Budapest, Hungary

e-mail: [balogh.lidia@tk.hun-ren.hu](mailto:balogh.lidia@tk.hun-ren.hu)

I. Halász

Institute for Legal Studies, HUN-REN Centre for Social Sciences, Budapest, Hungary

Faculty of Public Governance and International Studies, Ludovika University of Public Service, Budapest, Hungary

e-mail: [halasz.ivan@tk.hun-ren.hu](mailto:halasz.ivan@tk.hun-ren.hu)

A. L. Pap

Institute for Legal Studies, HUN-REN Centre for Social Sciences, Budapest, Hungary

Faculty of Economics, Eötvös Loránd University, Budapest, Hungary

e-mail: [pap.andras.laszlo@tk.hun-ren.hu](mailto:pap.andras.laszlo@tk.hun-ren.hu)

© The Author(s) 2025

F. Gárdos-Orosz (ed.), *The Resilience of the Hungarian Legal System since 2010*, European Union and its Neighbours in a Globalized World 16,

[https://doi.org/10.1007/978-3-031-70451-2\\_4](https://doi.org/10.1007/978-3-031-70451-2_4)

## 1 Introduction

The chapter presents the most important changes in the fields of minority rights, minority protection, and diaspora policy in Hungary, i.e., in particular, the Minority Law, the anti-discrimination law, and the citizenship law, with reference to social challenges that can be identified behind the legal responses in the period 2010–2018.

The focus of the first part is on minority rights and the new (recodified) Minorities Act—the Act CLXXIX of 2011 on the Rights of National Minorities, as amended by Act XXVI of 2014 and Act CCI of 2017 (the Minorities Act of 2011). The second part focuses on the changes in the legal framework for civil, criminal, administrative, and media law protection of race, nationality, and ethnicity as protected characteristics, emphasizing the legal framework for hate speech and hate crime, and relevant media and anti-discrimination law changes. The third part presents Act LV of 1993 on Hungarian Citizenship (Citizenship Act) and the regulatory changes affecting diaspora policy: the relationship between the Hungarian state and Hungarian natural and legal persons living abroad.

## 2 Minority Rights

The most visible example of the change in minority rights law is the Minorities Act of 2011, although the new legislation has not fundamentally changed the concept, logic, or institutional system of its predecessor Act LXXVII of 1993 on the Rights of National and Ethnic Minorities (Minorities Act of 1993). The law breaks with the term ‘national and ethnic minority’ and introduces the single concept of ‘nationality’ in the definition of the legal subject matter (for reasons of clarity, we still prefer to use the term ‘national minority’ in English throughout the chapter). This is of particular significance in relation to the Roma, making it clear in principle that the legislator identifies the Roma as subjects of political and cultural rights in this context. The former term ‘*cigány*’—which holds similar connotation to the English term ‘Gypsy’, and is a common term also used for self-reference by numerous communities—is replaced by the term ‘Roma’, supposedly because it is considered more neutral or politically more correct. The basic philosophy, legal status and competences of the self-governments, which are called ‘nationality self-governments’ instead of ‘minority self-governments’, have not been changed in principle by the new Minorities Act. The preamble, in line with the spirit of the Minorities Act of 1993, speaks exclusively of the classic minority rights: the preservation of the specific culture of national minorities, the cultivation and development of their mother tongue, the free expression and preservation of their identity, collective participation in public life, the realisation of cultural autonomy, and the right of their real communities [sic!] to autonomy and self-government.

The definition of ‘national minority affairs’ includes ‘the provision of specific public services to persons belonging to a national minority’, and equal opportunities,

social inclusion and social welfare are included among the national minority rights. This is a significant departure from the Minorities Act of 1993, as the promotion of cultural autonomy and identity politics became conflated with social policy and social inclusion objectives—most visibly in the case of the Roma.

A further important element of the new legislation is that citizenship is not a prerequisite for national minority status (contrary to the logic of the Minorities Act of 1993).

Another significant innovation is the use of census data in national minority voting and in determining the volume of state subsidies. The operating budget subsidy for a settlement-level national minority self-government depends on the local number of persons belonging to that national minority, and in cases of regional national minority self-governments, on the number of national minority self-governments operating in the region. As the Fundamental Rights Ombudsman highlighted in a submission to the Hungarian Constitutional Court (HCC), which was subsequently rejected, it is troubling that at the time of the last census in 2011, it was not known yet whether there would be electoral consequences for declaring membership in a national minority. Although the number of citizens belonging to national and ethnic minorities increased from 313,832 to 555,507 between 2001 and 2011, according to census data,<sup>1</sup> and this represents more than 5% of the total population, given that 1.5 million people did not declare their nationality or ethnicity, it cannot be considered a definitive figure. According to estimates, the Roma minority may account for 5 to 10% of the total population.<sup>2</sup>

A key innovation of the new law concerns the representation and participation of nationalities in the Hungarian National Assembly (Parliament). In recent decades, a number of recommendations and reports by international organisations and the HCC have found constitutional violations by omission regarding the lack of representation of minorities in parliament. In the 199-seat Parliament, nationalities can secure seats on preferential terms from the 93 seats on the national list. When a nationality list secures a preferential seat, the number of seats available for party lists is reduced. National minority self-governments are the exclusive entities allowed to establish nationality lists, meaning that representation in Parliament is derived from municipal representation. Other actors, such as national minority associations or parties, cannot influence the composition of the list or propose candidates. Only one preferential mandate per nationality can be obtained, and nationality lists can compete for the remaining seats according to the general rules, subject to the 5% threshold. Under this model, voters have the option to vote either for party lists following general rules or, if they are on the nationality register, for their own nationality lists. According to the Act XXXVI of 2013 on Electoral Procedure, the rules for inclusion in the national minority register are no different from those for elections to the national

---

<sup>1</sup>Hungarian Central Statistical Office, Population Census 2011.

<sup>2</sup>The European Commission (EC) refers to the corresponding estimation (7.05%) of the Council of Europe (CoE). <https://bitly.ws/3beW9>.

minority self-government, i.e. the principle of free, unrestricted self-declaration essentially applies.

The solution chosen by the legislator also restricts the right to freely nominate candidates and lists. In addition to the clause on self-representation and the problematic restriction on multiple identities, the legislation also contains a problematic restriction on the right to vote. Moreover, the required number of votes without electoral abuses only applies to the Roma and German nationalities, since according to the 2011 census, only these groups are numerous enough: 315,583 Roma, 185,696 Germans, 6272 Bulgarians, 4642 Greeks, 26,774 Croats, 7001 Poles, 3571 Armenians, 35,641 Romanians, 3882 Rusyns, 10,038 Serbs, 35,208 Slovaks, 2820 Slovenes, and 7396 Ukrainians live in Hungary. However, the legislator has also devised a solution for the other 11 nationalities (apart from the Roma and Germans): according to Art. 18 of the Act CCIII of 2011 on the Election of Members of Parliament, ‘a nationality that has submitted a nationality list but has not won a seat on it shall be represented in Parliament by a nationality spokesperson. The nationality spokesperson shall be the candidate who is ranked first on the nationality list.’ In addition, the Parliament shall establish a committee representing nationalities, which shall initiate, make proposals, express opinions and participate in the monitoring of the work of the Government, for representatives of nationalities in their capacity as Members of Parliament and as national minority advocates. The spokesperson shall participate with voting rights only in the committee representing nationalities. In all other respects, his legal status is the same as that of other Members of Parliament—with regard to immunity, honoraria, reimbursement of expenses, etc.

An overall criticism of the regulation is that, on the one hand, it is unjustified from both a doctrinal and a practical point of view to restrict the right to become a candidate to individuals belonging to the nationality group and to restrict the right of multiple affiliation. On the other hand, there is still no guidance on the questions of when the 100 years of residence required for recognition as a nationality should be counted, and who should decide on this; many of the minorities listed currently do not meet this legal requirement.<sup>3</sup> At the same time, the regulations<sup>4</sup> on group membership and on the exercise of rights, which create opportunities for abuse, remain in place. The most serious problem with Hungarian minority law, known as ‘ethnocorruption’, arose not in relation to group-recognition, but in the lack of

---

<sup>3</sup>Pursuant to Art. 1 of the Minorities Act from 2011, a nationality is any ethnic group that has been resident on the territory of Hungary for at least one century, is a numerical minority among the population of the state, is distinguished from the rest of the population by its own language, culture, and traditions, and at the same time demonstrates a sense of belonging aimed at preserving all these, and at expressing and protecting the interests of the historically established community. Art. 148(3) of the Minorities Act from 2011 provides for the recognition procedure: one thousand signatures must be collected, then the Parliament, following consultation with the Hungarian Academy of Sciences, will verify the claim, and, if the conditions are met, will recognize the ethnic group as a nationality.

<sup>4</sup>Arts. 53(1), 54 of the Minorities Act from 2011.

regulation of the subjective conditions of minority affiliation. The phenomenon of ethnocorruption and the abuses experienced in domestic minority elections should also have warned against the introduction of the institution of a preferential parliamentary mandate, especially since neither minorities nor the majority of the political elite support a significant degree of regulation with regards to the freedom of identity-choice. There is a particular concern that majority politicians, by acting as representatives of recognized minorities, might abuse the framework of additional minority rights to gain access to parliament. In a 199-member parliament, an additional 13-member pseudo-minority faction could fundamentally redraw the electoral results.

A notable development is the abolition of the specialised position of parliamentary commissioner in charge of ethnic and national minority issues (Minority Ombudsman), which was considered an exportable ‘Hungarian specialty’. The Fundamental Law<sup>5</sup> has introduced a curious hybrid system, breaking with the system of specialised ombudsmen: in the new arrangement, there is the general commissioner for fundamental rights (Fundamental Rights Ombudsman) and there are deputy commissioners,<sup>6</sup> including one for protecting the rights of national minorities living in Hungary (Minority Rights Deputy Ombudsman). The deputies are elected by the Parliament, while the Fundamental Rights Ombudsman is only nominated by the President of the Republic. The latter reports annually to Parliament and only MPs can put questions to him, i.e. the public responsibility is clearly linked to this status. It would follow from this constitutional logic that the Fundamental Rights Ombudsman is in all respects superior to his deputies, while the latter, as subordinate officials, have no independent powers. At the same time, however, by virtue of the election by a two-thirds majority in Parliament, the Fundamental Law equips the deputy institution with strong public and political legitimacy, which creates a specific contradiction. At the end of the day, however, the abolition of the independent minority ombudsman can be viewed a major step backwards in the protection of minority rights in Hungary.

### **3 Protection of National, Racial, and Ethnic Minorities**

#### **3.1 *Hate Crimes***

The recodification of the Act C of 2012 on the Criminal Code (Criminal Code) in 2012 included the following provisions: ‘Any person who displays an apparently anti-social behaviour against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual

---

<sup>5</sup>The Fundamental Law of Hungary; i.e., Hungary’s constitution.

<sup>6</sup>Cf. Forgács (2021).

orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years’;<sup>7</sup> ‘Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to 5 years.’<sup>8</sup> In terms of application, the key question is whether these provisions extend to attacks against persons belonging to a majority group, or, by definition, only to attacks against persons belonging to a minority or at least not belonging to a majority.<sup>9</sup> In international practice, the majority nation, is generally not a protected subject in hate crime legislation. In Hungary, judicial practice in the field of hate crimes is rather inconsistent. According to Hungary’s Supreme Court (Curia), ‘The offence protects human dignity and; moreover, or involving [sic!], the various minorities; it prohibits, in particular, acts of violence against national, ethnic, racial, religious or other groups.’<sup>10</sup> However, one of the Curia’s decisions in principle pointed out that ‘[the] victims of the crime of violence against a member of the community may also be persons belonging to the majority society’.<sup>11</sup>

Besides the problem of minority-majority vulnerability, there is the question of how to assess membership of social groups based on political views or subcultural identity. However, due to the open-ended list in the provision, essentially any member of a group can be considered a victim of a hate crime, even members of radical, far-right organisations. On the latter issue, the Curia already ruled in 2011 on an assault committed against members of the Hungarian Guard (an extremist paramilitary organization). According to the Curia’s assessment, ‘Members of an organisation which has been set up for the purpose of opposing a national, ethnic, racial, religious or other group of the population and which is manifestly contrary to the law—particularly if the organisation has already been dissolved by a final court decision [which was the case with the Hungarian Guard]—cannot, by definition, be afforded any greater protection under criminal law, since in this case the principle of the unity of the legal order is seriously undermined.’<sup>12</sup>

In 2015, the President of the Curia set up a working group to analyse the judicial practice regarding hate crimes; its concluding report highlighted the shortcomings of jurisprudence, in particular in the investigative phase, as well as problems with data collection.<sup>13</sup>

<sup>7</sup> Art. 216(1) of the Criminal Code.

<sup>8</sup> Art. 216(2) of the Criminal Code.

<sup>9</sup> Jovánovics and Pap (2013); Balogh et al. (2012).

<sup>10</sup> Bfv. II. 590/2012/18.

<sup>11</sup> Fkhar. II. 248/2014.

<sup>12</sup> Bfv. III. 87/2011/5.

<sup>13</sup> Available in Hungarian at: <https://bitly.ws/3bfp8>.

A report from 2018 by an independent expert initiative, the Working Group against Hate Crimes (Gyűlölet-bűncselekmények Elleni Munkacsoport, GYEM) points out that in Hungary the authorities tend to ignore the hate motivation, due to an inefficient training of officers involved; moreover, the need to achieve statistical objectives may discourage the authorities from dealing with more complex cases; consequently, the number of recorded hate crimes (violence against community members) is extremely low.<sup>14</sup> Notably, the Criminal Code includes a special offence to address paramilitary-vigilant actions by extremist groups;<sup>15</sup> however, in 2015, only one investigation was launched in connection with illegal patrols by extremist groups on Hungary's southern border during the European refugee crisis.

Several lower-level legal sources have also been adopted. In May 2019, the Prosecutor General's Office prepared a protocol,<sup>16</sup> and later, the National Police issued an instruction on police tasks relating to hate crimes.<sup>17</sup> The need for such a protocol has been continuously highlighted by human rights defenders since 2008–2009 (when a series of violent and fatal attacks were carried out against Roma in rural regions in Hungary) and several international organisations, such as the United Nation (UN) Committee on the Elimination of Racial Discrimination or the European Commission against Racism and Intolerance (ECRI), under the aegis of the Council of Europe, have expressed concerns about the lack of effective action.

In four cases, the European Court of Human Rights (ECtHR) condemned Hungary and ruled that the fundamental rights of Roma victims had been violated as a result of procedural errors by the investigating authorities. The ECtHR found in *Balázs v. Hungary* that the Hungarian authorities had failed to establish a prejudicial motive behind the attack against the Roma victim<sup>18</sup>; in *R.B. v. Hungary*, that the authorities failed to conduct an effective investigation and thus failed to protect the applicant from a racist threat in the context of a series of openly anti-Roma events;<sup>19</sup> in *Király and Dömötör v. Hungary*, that the applicants' right to physical and psychological protection was violated due to a series of errors in the criminal procedure;<sup>20</sup> and in *M.F. v. Hungary*, the state authorities failed to detect a possible racist motive behind a violent crime committed by police officers on duty against a Hungarian citizen of Roma origin.<sup>21</sup>

The data processing system has been also been improved: since July 2018, it is possible to indicate the bias motive in the statistical system for all offences and to indicate the group against which the offence was committed; this is in line with the

---

<sup>14</sup>GYEM: Shadow report to the sixth periodic report of Hungary to the International Covenant On Civil and Political Rights to the United Nations Human Rights Committee, February 2018.

<sup>15</sup>Art. 352 of the Criminal Code.

<sup>16</sup>Memorandum No. NF/1621/2015/3 of the Prosecutor General's Office.

<sup>17</sup>Instruction No. No. 30/2019 of the National Police.

<sup>18</sup>*Balázs v. Hungary*, Judgement of 20 October 2015, no. 15529/12.

<sup>19</sup>*R.B. v. Hungary*, Judgement of 12 April 2016, no. 64602/12.

<sup>20</sup>*Király and Dömötör v. Hungary*, Judgement of 17 January 2017, no. 10851/13.

<sup>21</sup>*M.F. v. Hungary*, Judgement of 31 October 2017, no. 45855/12.

Act XC of 2017 on Criminal Procedure which introduced the concept of a ‘victim requiring special treatment’ (who should be provided with the opportunity to be accompanied by a support person during interrogations), and strengthened the role of non-governmental organizations (NGO) representing victims. However, in the case of failures by the investigating authority, complaints can only be lodged in the framework of administrative proceedings, not in the framework of criminal justice, and NGOs are not allowed to act as victim representatives in crimes involving unidentifiable victims.

### 3.2 *Hate Speech*

The Fundamental Law places particular emphasis on the protection of the dignity of different communities, especially the majority community. This principle is codified in the Act V of 2011 on the Civil Code (new Civil Code) and the Criminal Code (both were adopted after the adoption of the Fundamental Law in 2011). Following many fruitless attempts to regulate hate speech in past decades, which failed numerous constitutional court reviews, the Parliament inserted a provision on the sanctioning of hate speech in Art. 2:54 of the new Civil Code: ‘Any member of the community may enforce his personality rights within a thirty-day term of preclusion from the occurrence of a legal injury that was committed with great publicity in relation to some essential trait of his personality, his belonging to the Hungarian nation or some national, ethnic, racial or religious community, and is grossly offensive to the community or unduly insulting in its manner of expression. With the exception of relinquishing the material gain obtained through the violation of rights, any member of the community may enforce any sanctions of the violation of personality rights.’ To dispel constitutional concerns raised, the governing party coalition, which has a two-thirds majority in the Parliament, inserted a provision allowing the sanctioning of hate speech into the Fundamental Law,<sup>22</sup> shortly after the adoption of the new Civil Code.

Notably, the new Civil Code allows for action in the event of harm to the community. However, under the general rules of civil law, the community is not a legal entity and therefore does not have personality and cannot be protected by civil law. A civil legal relationship is always (conceptually) a relationship between two individuals, so the concept of hate speech does not fit into civil law logic, neither in substantive nor procedural terms. Moreover, it is not in line with classical constitutional doctrine, since the right to human dignity<sup>23</sup> can only be understood in relation to human beings as individuals.

---

<sup>22</sup>See, for example, Koltay (2013), Gárdos-Orosz and Pap (2014), Hanák (2013).

<sup>23</sup>See, for example, McCrudden (2008), Mahlmann (2012), Dupre (2012), Jones (2012).



In relation to freedom of expression and community-based protection of dignity,<sup>24</sup> Art. IX (5) of the Fundamental Law provides that: ‘The right to freedom of expression may not be exercised with the aim of violating the dignity of the Hungarian nation or of any national, ethnic, racial or religious community. Persons belonging to such communities shall be entitled to enforce their claims in court against the expression of an opinion which violates their community, invoking the violation of their human dignity, as provided for by an Act.’

Following a peculiar codification logic, the hate speech provision of the Fundamental Law states, on the one hand, that the exercise of freedom of expression<sup>25</sup> may not be directed at violating the dignity of the Hungarian nation, and of the national, ethnic, racial or religious communities, while in the next sentence it seeks to allow the restriction of the right to freedom of expression, not in order to safeguard the dignity of communities as a value or state objective, but in order to safeguard the human dignity of individuals belonging to the community.

The main question regarding the applicability of the rules is therefore whether, in the case of ‘harm to the community’, it is possible to establish that an individual has suffered any harm at all. According to the doctrine of ‘transference’, which is known from German constitutional court (Bundesverfassungsgericht, BVerfG) practice, ‘[t]his can occur particularly in the case of statements relating to ethnic, racial, physical or mental characteristics, if the inferiority of a whole group of persons and of each individual member of that group can be inferred by the statement’.<sup>26</sup> In the case of belonging to the Hungarian nation, however, this theory will obviously not apply, since in the case of a hateful statement it is not realistic to conclude that the Hungarian nation is so vulnerable that the attack against the group could be transmitted to all the individual members.

Hate speech against minority and majority communities is also prohibited by criminal law. According to the Art. 332 of the Criminal Code, anyone who incites hatred in public against the Hungarian nation or against a national, ethnic, racial or religious group, or against certain groups of the population—in particular with regard to disability, gender identity or sexual orientation—commits the crime of incitement to hatred against the community.

### 3.3 *Media Law*

After the political change in 1989–1990, a comprehensive media law was a long time coming. Finally, the Act I of 1996 on Radio and Television Broadcasting (Media Act from 1996) was adopted in 1996 (which was in force until January 2011). The most relevant provisions of this legislation were as follows: ‘Broadcasters shall respect the

<sup>24</sup>For an earlier version of the analysis (in Hungarian), see Pap (2015).

<sup>25</sup>Cf. Stajanko et al. (2023).

<sup>26</sup>BVerfGE 93, 266.

constitutional order of the Republic of Hungary. Their activities may not violate human rights and may not be suitable for inciting hatred against individuals, genders, peoples, nations, or national, ethnic, linguistic and other minorities, or any church or religious groups';<sup>27</sup> 'Broadcasting may not aim, openly or covertly, at insulting or excluding any minority or majority group, or at presenting and discriminating against such on the basis of racial considerations';<sup>28</sup> 'Public service broadcasters, and public broadcasters in particular, shall respect the dignity and essential interests of the nation and of national, ethnic, linguistic and other minorities, and may not offend the dignity of other nations.'<sup>29</sup>

The changes in the Hungarian legal system around 2010–2011, including the new 'media constitution'—Act CIV of 2010 on the Freedom of the Press and Fundamental Rules Governing Media Content (Act on Media Content) and Act CLXXXV of 2010 on Media Services and Mass Media (Act on Media Services)—have triggered heated debates both at domestic and international level. The conflict between media freedom and the protection of the 'dignity of communities' has been one of the most controversial issues from the outset.

The following parts of the Act on Media Content are of particular relevance: 'The media content may not incite hatred against any nation, community, national, ethnic, linguistic or other minority or any majority as well as any church or religious group.'<sup>30</sup> 'The media content may not exclude any nation, community, national, ethnic, linguistic and other minority or any majority as well as any church or religious group.'<sup>31</sup> The original version of the latter provision also included the phrase 'overt or implicit insult', but this was soon removed by an amendment in the same year of entry into force.<sup>32</sup>

The above provisions of the Act on Media Content raise the same concern that has already been raised in relation to hate speech: whether the majority/dominant community is entitled to the same level of protection as minority/vulnerable communities. According to Judit Bayer's analysis published in 2011, 'the prohibition of hate speech against national-ethnic-religious minorities is commonplace in Europe, the prohibition of hate speech or exclusion against the 'majority' can obviously only be used against a minority'.<sup>33</sup>

Two of the relevant cases related to this media legislation received particular attention.

<sup>27</sup> Art. 3(2) of the Media Act from 1996.

<sup>28</sup> Art. 3(3) of the Media Act from 1996.

<sup>29</sup> Art. 23(1) of the Media Act from 1996.

<sup>30</sup> Art. 17(1) of the Act on Media Content.

<sup>31</sup> Art. 17(2) of the Act on Media Content.

<sup>32</sup> Art. 11(3) of Act XIX of 2011 on the amendment of Act CIV of 2010 on the freedom of the press and fundamental rules governing media content and the Act CLXXXV of 2010 on media services and mass media.

<sup>33</sup> Bayer (2011).

In the case of the documentary film entitled ‘Gypsy-Hungarian coexistence’,<sup>34</sup> broadcast by a public television channel in 2012, the Media Council (MC) decided not to initiate proceedings for violation of human rights, human dignity and the provisions on the prohibition of exclusion and incitement to hatred, as the programme did not present the Roma minority in Hungary as a homogeneous community with exclusively negative characteristics.<sup>35</sup>

The other case occurred in 2013 when the MC imposed<sup>36</sup> a fine on a daily newspaper for an article published, both in print and online, on 5 January 2013, by Zsolt Bayer.<sup>37</sup> (The reason the case was investigated by the MC—whose jurisdiction would not normally extend to the written/print press in similar cases—was that the newspaper in question was not a member of any co-regulatory organisation.) Bayer’s article included the following statements: ‘A significant part of the Gypsy [*cigány*] population is not fit to live among people. This part of the Gypsy community is an animal and behaves like an animal [...] Animals should not exist. Not in any way. This must be solved – immediately and by any means!’

### 3.4 *Anti-Discrimination Law*

Several attempts have been made to capture legally the phenomenon of ‘ethnic profiling’ with regard to the stop and search practices of the police in Hungary. In 2012, in a case involving the Hungarian Helsinki Committee (HHC) and the Nógrád County Police Headquarters, the court found that the cumulative effect of individual police measures, which were lawful and professional in themselves, could lead to disproportionality with regards to ethnicity. In 2016, the court approved a settlement between the HHC and the Budapest Police, according to which the latter party agreed to issue a circular on respecting the right to equal treatment of socially disadvantaged people and to emphasise that the ‘generalised stop and search’ measures against homeless or otherwise socially disadvantaged people are discriminatory.

In another lawsuit brought by the Hungarian Civil Liberties Union (HCLU), a violation of the right to equal treatment (in the form of harassment and direct discrimination) was established in 2011, in a case where the police in the town of Gyöngyöspata ‘targeted’ the local Roma community by control measures, while extremists raiding nearby were rarely stopped and even less frequently subjected to misdemeanour proceedings.

<sup>34</sup> See Pesty Fekete Doboz: A cigány–magyar együttélés [Gypsy–Hungarian Coexistence], 7 March 2012, <https://bitly.ws/3bfrF>.

<sup>35</sup> MC decision 925/2012. (V. 23.).

<sup>36</sup> MC decision 802/2013. (V. 8.).

<sup>37</sup> Bayer Zs: Ki ne legyen? [Who should not exist?] Magyar Hírlap, 5 January 2013.

In 2013, following a petition submitted by NGOs, the Fundamental Rights Ombudsman and the Minority Rights Deputy Ombudsman conducted a joint, comprehensive investigation into the Miskolc Municipal Police's control practices affecting Roma families. The report concluded that municipal bodies in Miskolc carried out raid-like, sometimes mass-scale inspections in segregated housing areas of the town, without any express legal authorisation to do so. This case was also investigated by the Organisation for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) contact point for Roma and Sinti issues by an on-site investigation that was followed by a report recommending that the authorities put an end to this practice of control.<sup>38</sup>

## 4 Diaspora Policy

This section outlines the amendment of the citizenship law and the changes affecting diaspora policy, the relationship between the Hungarian state and Hungarian natural and legal persons living/operating abroad. The naturalisation of ethnic Hungarians (i.e. providing them with Hungarian citizenship) who are non-residents of the country, was one of the few concrete issues mentioned in the election programme of the Fidesz—Hungarian Civic Alliance (Fidesz) and the Christian Democratic People's Party (KDNP) coalition that won in 2010. It is therefore not surprising that the amendment of the Citizenship Act was among the first steps taken by the new parliamentary majority. The 2010 amendment introduced the opportunity for so-called 'simplified naturalisation'. From then on, Hungarian-speaking applicants whose ancestors were Hungarian citizens could apply for naturalisation without having to reside in or move to Hungary. This was in a way a continuation of a trend, that had been evolving since the mid-2000s, of making it easier for Hungarians living abroad to become Hungarian citizens. However, as the pre-2010 legislation strictly insisted on the element of residence in Hungary, the amendment is rather to be considered a paradigm shift. Notably, this change is not unique in post-millennium Europe, as several states have relaxed their citizenship policies and allowed certain well-defined groups to acquire or regain citizenship without residence requirements.<sup>39</sup>

The amendment to the Hungarian citizenship law has caused some tensions in bilateral relations, especially with Slovakia: the latter made restrictive changes to its own citizenship legislation in response, intended to prevent large-scale naturalisation of ethnic Hungarians living in Slovakia. So far, very few ethnic Hungarians living in Slovakia have applied for Hungarian citizenship. The situation was less dramatic

---

<sup>38</sup>OSCE/ODIHR Contact Point for Roma and Sinti Issues: The Housing Rights of Roma in Miskolc. Report on the ODIHR Field Assessment Visit to Hungary, 29 June—1 July 2015. Warsaw, 27 April 2016.

<sup>39</sup>Croatia, Italy, Armenia, Romania, Serbia, and to some extent Spain.

regarding the relations with the other neighbouring countries, although Ukraine, for example, does not recognise multiple citizenship. Most of the newly naturalised Hungarians are from Romania, followed by Serbia and Ukraine. Acquiring Hungarian citizenship may be considered a major—one could say, humanitarian—form of assistance,<sup>40</sup> especially for Ukrainian citizens of Hungarian nationality, considering the country's situation since 2014.

By 2018, more than one million ethnic Hungarians, or individuals with Hungarian ancestors, had already applied for simplified naturalisation. The significance of this new feature is best illustrated by the figure that between 2011 and 2015 around 650,000 people obtained Hungarian citizenship under the simplified procedure and around 65,000 under the ordinary procedure. Of those naturalised under the simplified procedure, around 50,000 have also moved to Hungary; obviously, citizenship status always has a strong dimension of encouraging migration.

The above-mentioned paradigm shift in citizenship policy and the related complex paradigm shift in national policy affected several areas, including constitutional law (mainly through changes to electoral rules) and administrative law; and Act LXII of 2001 on Hungarians Living in Neighbouring Countries (Status Law) was also amended during the 2010s. The latter applied originally only to those living in any of the neighbouring countries, excluding Austria, who are not Hungarian citizens and who reside permanently in their country of citizenship; the objective of the Status Law used to be to promote the situation of ethnic Hungarians living in neighbouring countries. Then came the amendment of the Citizenship Act, with more complex and complicated objectives. Eventually, the legislator amended the provisions of the Status Law, and removed the stipulation that Hungarian citizens cannot be beneficiaries of the scheme governed by this act; however, they are supposed to maintain a permanent residence in one of the neighbouring countries, excluding Austria.

This paradigm shift affected the functioning of the Hungarian public administration, including the institutional framework of supporting ethnic Hungarians living beyond the border. In the first election cycle after 2010, the Ministry of Public Administration and Justice was charged with national policy making; later this task was transferred to the Prime Minister's Office. The State Secretariat for National Policy (SSNP) is supervised, however, by the Deputy Prime Minister, who represents national policy within the government. Since 2011, the Bethlen Gábor Fund (established by Act CCXXXII of 2010 on the Bethlen Gábor Fund) has disbursed a significant amount of financial support targeting ethnic Hungarians living abroad. Moreover, new entities have been established: the Research Institute for Hungarian Communities Abroad (established in 2011, subordinated to the SSNP) and the Research Institute for National Strategy (an autonomous budgetary body, established in 2012). As for foreign affairs administration, new consulates and consular offices have been opened in neighbouring countries (for example in Osijek, Croatia).

---

<sup>40</sup>Halász (2005), pp. 80–81.

In recent years, national policy has become a key component of public administration training. At the Ludovika University of Public Service, national policy as a mandatory subject is part of the curriculum for future civil servants, whether they are aiming for roles in national administration or careers in foreign affairs.

Several bodies have been established to coordinate national policy, including the Inter-Party Committee on National Policy, the Hungarian Standing Conference (resumed post-2010), and the Hungarian Diaspora Council, formed in 2011. The latter focuses not only on Hungarians in neighbouring countries but also on those scattered globally.

The revised national policy and citizenship regulation significantly impacted the boundaries of the Hungarian political community. Changes to electoral legislation in 2011 and 2014 allowed hundreds of thousands of newly naturalised citizens to participate in Hungary's political life. This move, however, sparked considerable public debates and political tensions. Three parliamentary elections (2014, 2018, 2022) in which Hungarian citizens living abroad without a Hungarian address were allowed to vote, revealed a relatively homogenous and clear voter preference. The ongoing discussions on rules for voting abroad, referred to the HCC, underscore the issue's continued importance and evolution.

## 5 Conclusion

As regards the field of minority rights, the Minorities Act in Hungary introduces several changes, such as altering terminology, or eliminating the citizenship criteria. However, the legislative developments have not remedied the most important shortcomings of the old legislation in connection with national minority elections, nor with regards to abuses of the system, including ethnocorruption, and have even extended the danger of such shortcomings with the new system of minority representation in Parliament, which is problematic from both a dogmatic and a practical point of view. While the cut-off date of the present analysis is 2018, the 2022 parliamentary elections should be mentioned, for the sake of follow-up. These elections somewhat confirmed concerns about the adequacy of the regulation of political representation for national minorities, as the largest national minority in Hungary, the Roma, did not gain any form of representation in the Parliament due to the failure to set up a nationality list.<sup>41</sup>

Regarding the protection of national, racial, and ethnic minorities, first, legal action against hate crimes was discussed, pointing out the problems of law enforcement and the role of the authorities. During the review of hate speech laws and relevant media regulations, a similar issue arose; namely, that the majority society theoretically receives similar levels of protection as ethnic (and other) minorities. As for the effectiveness of the anti-discrimination legal framework, an institutional

---

<sup>41</sup>Dobos (2024).

change needs to be mentioned as a follow-up: in 2021, the Equal Treatment Directorate of the Office of the Ombudsman for Fundamental Rights took over the tasks and competences of the Equal Treatment Authority (the former body charged with dealing with discrimination complaints). This change caused concerns from the Council of Europe's Venice Commission,<sup>42</sup> and others, regarding the adequacy of the financial, technical, and human resources of this new arrangement.

The main development in the field of diaspora policy was that the 2010 amendment of the Citizenship Act, allowing simplified naturalization for ethnic Hungarians abroad, has caused tensions with neighbouring countries. Nevertheless, as mentioned earlier, citizenship can also be relevant in the context of humanitarian assistance. As a follow-up, we can recall developments from 2022 when this theoretical opportunity became a reality after the Russian Federation's full-scale invasion of Ukraine. By that time, the majority of ethnic Hungarians in Ukraine, along with many Hungarian-speaking people of Slavic ethnicity, had acquired Hungarian citizenship, making it much easier for them to flee to Hungary and the European Union. However, this situation raised specific questions in Hungary regarding asylum policies, as it is uncommon that a country provides support to its own citizens fleeing from another country. This controversial situation was addressed by a government decree, providing that 'all benefits and advantages granted to asylum seekers who are permanent residents of Ukraine and arrive from Ukraine on or after 24 February 2022 shall be provided to Hungarian citizens if they do not enjoy more favourable treatment due to their Hungarian citizenship.'<sup>43</sup> The Ukrainian national minority self-government took a role in monitoring the humanitarian developments, and distributing asylum-related information in four languages on its website, including Russian, considering the many Russophone refugees.

## References

- Balogh L, Dinók H, Pap AL (2012) A jog által láthatatlan? A gyűlölet-bűncselekmények szabályozási kérdései és gyakorlati problémái [Invisible through law? Regulation questions and practical problems relating to hate crimes]. *Fundamentum* 16(4):91–98
- Bayer J (2011) Az új médiatörvény sajtószabadságot korlátozó rendelkezései [The new media Law's provisions restricting press freedom]. *Médiakutató* 12(1):11–20
- Dobos B (2024) The parliamentary representation of minorities in Hungary: recent developments. *European Yearbook of Minority Issues* [forthcoming]
- Dupre C (2012) Dignity, democracy, civilisation. *Liverpool Law Rev* 33:263–280

---

<sup>42</sup>Opinion on the amendments to the Act on Equal Treatment and Promotion of Equal Opportunities and to the Act on the Commissioner for Fundamental Rights as adopted by the Hungarian parliament in December 2020, adopted by the Venice Commission at its 128th Plenary Session, 15–16 October 2021. CDL-AD(2021)034-e.

<sup>43</sup>Art. 8(1) of Government Decree No. 86/2022 of 7 March 2022.

- Forgács N (2021) Az adatvédelmi ombudsman intézménye Magyarországon. A kezdet és a vég. 1995–2011 [The Institution of the Data Protection Ombudsman in Hungary. The Beginning and the End. 1995–2011]. L' Harmattan, Budapest
- Gárdos-Orosz F, Pap AL (2014) Gondolatok a gyűlöletbeszéd polgári jogi szabályozásának jogi és jogpolitikai környezetéről [Thoughts on the legal and legal-political context of the civil law regulation of hate speech]. *Állam- és Jogtudomány* 55(2):3–26
- Halász I (2005) Dual citizenship as an Instupent of Hungarian policy towards the nation. *REGIO: Minor Polit Soc* 8:73–86
- Hanák A (2013) Sötétség délben: az alkotmányosság alkonya Magyarországon [Darkness at Noon: The Twilight of Constitutionalism in Hungary]. *Fundamentum* 17(1):63–75
- Jones J (2012) Human dignity in the EU charter of fundamental rights and its interpretation before the European court of justice. *Liverpool Law Rev* 33(3):281–300
- Jovánovics E, Pap AL (2013) Kollektív bűnösség a 21. század Magyarországn: magyarellenesség vádja cigányokkal szemben két emblemikus perben [Collective Guilt in 21st Century Hungary: Accusations of anti-Hungarianism Against Gypsies in Two Emblematic Trials]. *Fundamentum* 17(4):153–157
- Koltay A (2013) A gyűlöletbeszéd korlátozása a magyar jogrendszerben [Limiting hate speech in the Hungarian legal system]. In: Koltay A (ed) *A gyűlöletbeszéd szabályozása Magyarországon* [Regulating hate speech in Hungary]. Complex, Budapest, pp 17–172
- Mahlmann M (2012) Human dignity and autonomy in modern constitutional orders. In: Rosenfeld M, Sajó A (eds) *The Oxford handbook of comparative constitutional law*. Oxford University Press, Oxford, pp 370–396
- McCrudden C (2008) Human dignity and judicial interpretation of human rights. *Eur J Int Law* 19(4):655–724
- Pap AL (2015) Személyiségkép és alkotmányos identitás a Nemzeti Együttműködés Rendszerében [Personality and constitutional identity in the system of national cooperation] part II. *Közjogi Szemle* 8(1):1–11
- Stajanko J, Siter D, Tomažič LM (2023) Discrimination, freedom of expression and two concepts of liberty: assessing European legislation criminalizing hate speech. *Hung J Legal Stud* 64(2): 288–307. <https://doi.org/10.1556/2052.2023.00444>

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

