

Press release:

Petition of the Ombudsman to the Constitutional Court concerning certain provisions of the Act on Nationalities

Certain provisions of the Act on Nationalities, which entered into force on 1 January 2012, are contrary to the Fundamental Law and restrict the fundamental rights of nationalities – the Commissioner for Fundamental Rights has requested the Constitutional Court to establish this and to annul the text parts indicated in his petition.

Based on the submission of the nationality self-government of a municipality, Máté Szabó has summarised his objections in several points. One of them is that the requirement of equal treatment is not observed in the Act: it allows only those nationality organisations to have candidates at nationality self-government elections which are legally qualified as of 'public benefit'.

The Act on Nationalities makes the holding of elections dependent on population census data, but according to the Ombudsman several social and political factors exert an influence on the number of those who are ready to voluntarily confess their national identity at the population census. What is more, at the time of the 2011 population census it was not yet known what kind of role these data would play in respect of election rights. So there is a danger that it will not be possible to hold elections for national self-governments even in settlements where there is a significant number of nationality population. Considering the above, the regulation laid down in the Act unnecessarily and disproportionately restricts the right of nationality communities to set up their self-governments.

It is a restriction of the right to use one's mother tongue that nationality self-governments must draw up minutes of their sittings in Hungarian even if the language of the sitting is the mother tongue of the given nationality; this also infringes the obligations undertaken by the State and laid down in the European Charter for Regional or Minority Languages – says the Commissioner for Fundamental Rights in his petition to the Constitutional Court.

Another problem is that the assets of nationality self-governments which cannot continue their activities after the 2014 general elections will be taken over by the settlement local governments. These assets may only be used later for nationality related purposes. But how can assets be used for nationality related purposes if there is no nationality community? According to the Ombudsman this regulation, on the one hand, takes away the right to dispose of the assets from the bodies elected by the nationalities, and, on the other hand, it is contrary to the provision that certain powers of terminated nationality self-governments of settlements are taken over by the national nationality self-governments.

Another provision of the Act is contrary to the presumption of innocence: it holds those representatives who have not taken part in the decision making responsible for any unlawful utilisation of nationality self-government assets.

The resources in staff and equipment necessary for the functioning of nationality self-governments must be ensured by the local governments. Nationality representatives living with disabilities, however, may request a sign-interpreter for example only from the nationality self-government, which has a significantly lower budget. In the opinion of Máté Szabó this constitutes an unconstitutional discrimination and is also contrary to the international obligations undertaken by Hungary.