

General Comment No. 4/2020 of the Minority Ombudsman on the effects of the coronavirus pandemic on nationality communities

From March 2020, the Minority Ombudsman has been continuously monitoring and analysing the impact of the circumstances caused by the coronavirus pandemic on the nationality communities living in Hungary, their members, in particular the Roma population. Epidemiological emergencies and preparedness have not only transformed everyday life and the social rules of living together, but also changed the legal environment.

By issuing the general comment, the Minority Ombudsman's primary goal was to examine how the coronavirus state of emergency declared by the Government of Hungary for the whole territory of Hungary on 11 March 2020, lifted on 18 June 2020, and re-declared on 4 November 2020 has affected the operation of nationality self-governments and public educational institutions performing nationality education tasks. In addition, she considered it important to present how the circumstances caused by the coronavirus pandemic and the restrictions introduced within the framework of the special legal order affected the Roma community as the largest and the most disadvantaged nationality community in Hungary. The Minority Ombudsman holds it important to underline that Roma citizens face special difficulties due to the state of emergency. In this context, she also provided an overview of the measures taken by the state and by NGOs aimed at mitigating the consequences, as well as of the possible shortcomings and difficulties experienced in this regard.

After the declaration of the state of emergency and during its existence, the Minority Ombudsman encountered several problems that affected the members of the Hungarian nationality communities, as well as the operation of their self-governments and institutions. These problems basically covered four major areas:

- the functioning of nationality self-governments in the special legal order,
- the possibilities of using state aid for nationality self-governments,
- the operation of public educational institutions performing nationality education tasks,
- and the issue of the increased vulnerability of the cumulatively disadvantaged Roma population.

In the course of her proceedings, the Minority Ombudsman requested information from the Prime Minister's Office, the Ministry of Human Capacities, the Ministry of the Interior, the Klebelsberg Center and the National Roma Self-Government.

The Minority Ombudsman found that the rules applicable at the time of the state of emergency affected the operation of nationality self-governments and public educational institutions performing nationality education tasks in many areas. The fact that the president exercised the duties and powers of the representative body and the general assembly of the nationality self-governments, the performance of the duties of nationality self-governments has become uncertain, and the president has not been able to exercise rights of commenting and consenting that the nationality self-governments are entitled to, among others, in cases of public education.

In view of all the above, in the general comment, the Minority Ombudsman proposed to the Parliamentary Committee of Hungarian Nationalities to provide an overview – in cooperation with the nationality self-governments of national level – of the applicable provisions

of the Act on the Rights of Nationalities and the Act on Disaster Management, and to consider initiating an amendment to the law that will allow nationality self-governments to effectively exercise their rights of providing opinion and consent, even in a state of emergency or during times of serious epidemiological preparedness, by providing for the possibility to hold a documented online meeting or general assembly.

Under current legislation, state aid provided to nationality self-governments cannot be used for any other purpose, therefore it is not possible during the state of emergency to use state resources for the purpose of providing social support to persons belonging to the nationality community. However, due to the extended epidemiological situation, the Minority Ombudsman still considers it worthwhile and recommends the creation of the possibility of using for other purposes the state support already obtained by the nationality self-governments for a specific purpose, along with providing for the appropriate legislative environment.

With the professional proposals formulated in the general comment, the Minority Ombudsman's aim was to present a uniform interpretation of the applicable regulations, which can contribute to ensuring the continuous and predictable operation of nationality self-governments as well as the undisturbed operation of public education institutions performing nationality education tasks.

The coronavirus pandemic and the consequently applied restrictive measures have severely and negatively affected – both in Hungary and abroad – Roma communities, which are already lagging behind and marginalized in society. They have widened the gap in education, employment, and access to health services, while Roma communities have occasionally had to cope with anti-gypsyism that exists in the society, as well as with intermittent flare-ups of hate speech.

Therefore, the Minority Ombudsman pointed out that in the second wave of the coronavirus pandemic, in the context of a re-declared state of emergency, it may be necessary to give priority to the management by the Government of the most disadvantaged groups, including the serious situation of the Roma population.