



Permanent Mission of Hungary to the United Nations Office
and Other International Organizations in Geneva

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The Permanent Mission of Hungary to the United Nations Office and other International Organizations in Geneva presents its compliments to the Secretariat of the Optional Protocol to the Convention against Torture (Office of the High Commissioner for Human Rights) and has the honour to inform that the function of the Hungarian national preventive mechanism in accordance with Article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment will be performed by the Commissioner for Fundamental Rights from 1 January 2015 pursuant to Act CXLII of 2011 which promulgated the above mentioned Protocol.

The Permanent Mission of Hungary is pleased to enclose the English translation of the amended text of Act CXI of 2011 on the Commissioner for Fundamental Rights which contains the tasks related to the national preventive mechanism in Section 2 (6).

The Permanent Mission of Hungary avails itself of this opportunity to renew to the Secretariat of the Optional Protocol to the Convention against Torture, Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Secretariat of the Optional Protocol to the
Convention against Torture
Office of the High Commissioner for Human Rights

GENEVA

Act CXI of 2011

on the Commissioner for Fundamental Rights

In the interest of ensuring the effective, coherent and most comprehensive protection of fundamental rights and in order to implement the Basic Law, Parliament hereby adopts the following Act pursuant to paragraph (5) of Article 30 of the Basic Law:

Chapter I

General provisions

1 The tasks and competences of the Commissioner for Fundamental Rights and of his or her Deputies

Section 1 (1) The Commissioner for Fundamental Rights shall – in addition to his or her tasks and competences specified in the Basic Law – perform the tasks and exercise the competences laid down in this Act.

(2) In the course of his or her activities the Commissioner for Fundamental Rights shall pay special attention, especially by conducting proceedings ex officio, to the protection of

a) the rights of children,

b) the values determined in Article P of the Basic Law (hereinafter referred to as 'the interests of future generations'),

c) the rights determined in Article XXIX of the Basic Law (hereinafter referred to as 'the rights of nationalities living in Hungary), and

d) the rights of the most vulnerable social groups.

(3) In the course of his or her activities the Commissioner for Fundamental Rights shall – especially by conducting proceedings ex officio – pay special attention to assisting, protecting and supervising the implementation of the Convention on the Rights of Persons with Disabilities, promulgated by Act XCII of 2007.

Section 2 (1) The Commissioner for Fundamental Rights shall survey and analyse the situation of fundamental rights in Hungary, and shall prepare statistics on those infringements of rights in Hungary which are related to fundamental rights. At the request of the Commissioner for Fundamental Rights the public administration organ monitoring the enforcement of the requirement of equal treatment, the National Authority for Data Protection and Freedom of Information, the Independent Police Complaints Body and the Commissioner for Educational Rights shall supply aggregate data not containing personal data for the purpose of statistical reports.

(2) The Commissioner for Fundamental Rights shall give an opinion on the draft legal rules affecting his or her tasks and competences, on long term development and spatial planning plans and concepts, and on plans and concepts otherwise directly affecting the quality of life of future generations, and may make proposals for the amendment or making of legal rules affecting fundamental rights and/or the expression of consent to be bound by an international treaty.

(3) The Commissioner for Fundamental Rights may initiate at the Constitutional Court the review of legal rules as to their conformity with the Basic Law.

(4) The Commissioner for Fundamental Rights shall participate in the preparation of national reports based on international treaties relating to his or her tasks and competences, and shall monitor and evaluate the enforcement of these treaties under Hungarian jurisdiction.

(5) In the course of his or her activities the Commissioner for Fundamental Rights shall cooperate with organisations aiming at the promotion of the protection of fundamental rights.

[(6) The Commissioner for Fundamental Rights shall perform the tasks related to the national preventive mechanism pursuant to Article 3 of the Optional Protocol of the Convention against Torture and other Inhuman or Degrading Treatment or Punishment, promulgated by Act CXLIII of 2011.]^[1]

Section 3 (1) The Deputy Commissioner for Fundamental Rights responsible for the protection of the interests of future generations shall monitor the enforcement of the interests of future generations, and

- a) shall regularly inform the Commissioner for Fundamental Rights of his or her experience regarding the enforcement of the interests of future generations,
 - b) shall draw the attention of the Commissioner for Fundamental Rights to the danger of infringement of the rights affecting a larger group of natural persons,
 - c) may propose that the Commissioner for Fundamental Rights institute proceedings ex officio,
 - d) shall participate in the inquiries of the Commissioner for Fundamental Rights, and
 - e) may propose that the Commissioner for Fundamental Rights turn to the Constitutional Court.
- (2) The Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary shall monitor the enforcement of the rights of nationalities living in Hungary, and
- a) shall regularly inform the Commissioner for Fundamental Rights of his or her experience regarding the enforcement of the rights of nationalities living in Hungary,
 - b) shall draw the attention of the Commissioner for Fundamental Rights to the danger of infringement rights affecting a larger group of natural persons,
 - c) may propose that the Commissioner for Fundamental Rights institute proceedings ex officio,
 - d) shall participate in the inquiries of the Commissioner for Fundamental Rights, and
 - e) may propose that the Commissioner for Fundamental Rights turn to the Constitutional Court.
- (3) If a Deputy Commissioner for Fundamental Rights makes a proposal within his or her competence pursuant to point a) of subsection (1) or point a) of subsection (2) for the Commissioner for Fundamental Rights to institute proceedings ex officio or to turn to the Constitutional Court, the Commissioner for Fundamental Rights shall be bound to act accordingly or to inform Parliament in the annual report of the reasons for his or her refusal to do so.

Chapter II

The mandate of the Commissioner for Fundamental Rights and of his or her Deputies

2. Election of the Commissioner for Fundamental Rights and of his or her Deputies

Section 4 (1) Parliament shall elect the Deputy of the Commissioner for Fundamental Rights responsible for the protection of the interests of future generations and the Deputy of the Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary at the proposal of the Commissioner for Fundamental Rights.

(2) The employer's rights regarding the Deputies of the Commissioner for Fundamental Rights – with the exception of those pertaining to the coming into existence and the termination of the mandate – shall be exercised by the Commissioner for Fundamental Rights.

Section 5 (1) Any Hungarian citizen may be elected Commissioner for Fundamental Rights or his or her Deputy if he or she has a law degree, has the right to stand as a candidate in elections of Members of Parliament and meets the requirements laid down in this Section.

(2) Parliament shall elect the Commissioner for Fundamental Rights from among those lawyers who have outstanding theoretical knowledge or at least ten years of professional experience, have reached the age of thirty-five years and have considerable experience in conducting or supervising proceedings concerning fundamental rights or in the scientific theory of such proceedings.

(3) Parliament shall elect the Deputy of the Commissioner for Fundamental Rights responsible for the protection of the interests of future generations from among those lawyers who have reached the age of thirty-five years, have outstanding theoretical knowledge or at least ten years of professional experience, and have considerable experience in conducting or supervising proceedings affecting the rights of future generations or in the scientific theory of such proceedings.

(4) Parliament shall elect the Deputy of the Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary from among those lawyers who have reached the age of thirty-five years, have outstanding theoretical knowledge or at least ten years of professional experience, and have considerable experience in conducting or supervising proceedings affecting the rights of nationalities living in Hungary or in the scientific theory of such proceedings.

(5) No one may become Commissioner for Fundamental Rights or his or her Deputy who – in the four years preceding the proposal for his or her election – has been a Member of Parliament, Member of the European Parliament, President of the Republic, Member of the Government, state secretary, permanent state secretary, deputy state secretary, member of a local government body, mayor, deputy mayor, member of a nationality self-government, notary, professional member of the Hungarian Defence Forces, professional member of the law-enforcement organs or of organs performing law-enforcement tasks, or the officer or employee of a political party.

Section 6 (1) The President of the Republic shall make a proposal for the person of the Commissioner for Fundamental Rights between the ninetieth day and the forty-fifth day preceding the expiry of the mandate of the Commissioner for Fundamental Rights.

(2) If the mandate of the Commissioner for Fundamental Rights has terminated for a reason specified in points b) to g) of subsection (1) of Section 16, the President of the Republic shall make a proposal for the person of the Commissioner for Fundamental Rights within thirty days of the termination of the mandate.

(3) If the proposed person is not elected by Parliament, the President of the Republic shall make a new proposal within thirty days at the latest.

(4) The person proposed for Commissioner for Fundamental Rights shall be given a hearing by the committee of Parliament competent according to the tasks of the Commissioner for Fundamental Rights.

(5) The Commissioner for Fundamental Rights may be re-elected once.

Section 7 (1) The Commissioner for Fundamental Rights shall make a proposal for the person of a Deputy Commissioner for Fundamental Rights between the ninetieth day and the forty-fifth day preceding the expiry of the mandate of the Deputy Commissioner for Fundamental Rights.

(2) If the mandate of a Deputy Commissioner for Fundamental Rights has terminated for a reason specified in points b) to g) of subsection (1) of Section 16, the Commissioner for Fundamental Rights shall make a proposal for the person of the Deputy Commissioner for Fundamental Rights within thirty days of the termination of the mandate.

(3) If the person proposed for Deputy Commissioner for Fundamental Rights is not elected by Parliament, the Commissioner for Fundamental Rights shall make a new proposal within thirty days at the latest.

(4) The Commissioner for Fundamental Rights shall – before making his or her proposal for the person of the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of the nationalities living in Hungary – request an opinion from the national nationality self-governments.

(5) The person proposed for Deputy Commissioner for Fundamental Rights shall be given a hearing by the committee of Parliament competent according to the tasks of the Deputy Commissioner for Fundamental Rights.

(6) Deputy Commissioners for Fundamental Rights may be re-elected once.

3. Conflict of interests

Section 8 (1) The mandate of the Commissioner for Fundamental Rights and of his or her Deputies shall be incompatible with any other state, local government, social or political office or mandate.

(2) The Commissioner for Fundamental Rights and his or her Deputies may not pursue any other gainful occupation, nor accept pay for their other activities, with the exception of scientific, educational, artistic activities, activities falling under copyright protection, or proof-reading or editing activities.

(3) The Commissioner for Fundamental Rights and his or her Deputies may not be executive officers of a business undertaking, members of its supervisory board or such members of a business undertaking as have an obligation of personal involvement.

4. Declaration of assets

Section 9 (1) The Commissioner for Fundamental Rights and his or her Deputies shall make a declaration of assets, identical in contents to those of Members of Parliament, within thirty days of their election, then each year till 31 January and within thirty days of the termination of their mandates.

(2) The Commissioner for Fundamental Rights and his or her Deputies shall attach to their own declaration of assets the declaration of assets of their spouse or partner and children living in the same household (hereinafter referred to together as 'family members'), the contents of which shall be identical to those of the Commissioner for Fundamental Rights and his or her Deputies.

(3) In the event of failure to make a declaration of assets – until submission of the declaration of assets – the Commissioner for Fundamental Rights and his or her Deputies may not perform the tasks deriving from their mandate, and may not receive remuneration.

(4) With the exception of the declaration of assets of family members, the declaration of assets shall be public, and an authentic copy thereof – with the exception of the personal data of family members – shall be published without delay by the Secretary General of the Office of the Commissioner for Fundamental Rights (hereinafter referred to as 'the Office') on the website of the Office. The declarations of assets may be removed from the website after a period of one year following the termination of the mandates of the Commissioner for Fundamental Rights or of his or her Deputies.

(5) The declarations of assets shall be processed by the Secretary General of the Office.

(6) Only the members of the Conflict of Interests Committee of Parliament (hereinafter referred to as 'the Conflict of Interests Committee') may have access to the declaration of assets of family members in proceedings related to the declaration of assets of the Commissioner for Fundamental Rights or of his or her Deputies.

(7) Anyone may initiate proceedings related to the declaration of assets of the Commissioner for Fundamental Rights or of his or her Deputies by the chairman of the Conflict of Interests Committee with a statement of facts specifically indicating the contested part and content of the declaration of assets. If such initiative does not meet the requirements contained in this subsection, if it is manifestly unfounded or if a repeatedly submitted initiative does not contain new facts or data, the chairman of the Conflict of Interests Committee shall reject the initiative without conducting proceedings. The veracity of those contained in the declaration of assets shall be checked by the Conflict of Interests Committee.

(8) In the course of the proceedings related to the declaration of assets, at the invitation of the Conflict of Interests Committee, the Commissioner for Fundamental Rights or his or her Deputies shall notify without delay and in writing the supporting data on property, income and interest relations indicated in their own declaration of assets and in that of their family members. Such supporting data may be accessed only by members of the Conflict of Interests Committee. The chairman of the Conflict of Interests Committee shall inform the Speaker of Parliament of the outcome of the check and the latter shall inform Parliament at its next sitting of the facts established by the Conflict of Interests Committee.

(9) The supporting data submitted by the Commissioner for Fundamental Rights or his or her Deputies shall be deleted on the thirtieth day following the termination of the proceedings related to the declaration of assets. The Secretary General of the Office shall keep the declaration of assets of a former Commissioner for Fundamental Rights and of his or her former Deputies, as well as of their family members, for a period of one year following the termination of their mandates.

5. Legal status and remuneration of the Commissioner for Fundamental Rights and of his or her Deputies

Section 10 (1) The Commissioner for Fundamental Rights and his or her Deputies shall take office upon the expiry of the mandate of their predecessors or, if they are elected after the termination of the mandate of their predecessors, upon their election.

(2) After their election, the Commissioner for Fundamental Rights and his or her Deputies shall take an oath before Parliament.

Section 11 In conducting his or her proceedings, the Commissioner for Fundamental Rights shall be independent, subordinated only to Acts, and may not be given instructions regarding his or her activities.

Section 12 (1) The Commissioner for Fundamental Rights shall be entitled to a salary and allowances identical to those of a Minister; the salary supplement for management duties, however, shall be one and a half times that of a Minister.

(2) The Deputy Commissioners for Fundamental Rights shall be entitled to a salary and allowances identical to those of a state secretary.

(3) The Commissioner for Fundamental Rights and his or her Deputies shall be entitled to forty working days of leave per calendar year.

Section 13 (1) From the point of view of entitlement to social security benefits, the Commissioner for Fundamental Rights and his or her Deputies shall be considered insured persons employed in a public service legal relationship.

(2) The term of office of the Commissioner for Fundamental Rights and of his or her Deputies shall be considered as time served in a public service legal relationship with an organ of public administration.

6. Immunity

Section 14 (1) The Commissioner for Fundamental Rights and his or her Deputies shall enjoy the same immunity as Members of Parliament.

(2) To proceedings related to immunity the rules of procedure applicable to the immunity of Members of Parliament shall apply.

7. Deputising for the Commissioner for Fundamental Rights

Section 15 If the Commissioner for Fundamental Rights is prevented from acting or the office is vacant, the powers of the Commissioner for Fundamental Rights shall be exercised by the Deputy designated by him or her or, in the absence of a designated Deputy, by his or her Deputy who is senior in age.

8. Termination of the mandates of the Commissioner for Fundamental Rights and of his or her Deputies

Section 16 (1) The mandate of the Commissioner for Fundamental Rights shall terminate

- a) upon expiry of the term of his or her mandate,
- b) upon his or her death,
- c) upon his or her resignation,
- d) if the conditions necessary for his or her election no longer exist,
- e) upon the declaration of a conflict of interests,
- f) upon his or her dismissal, or
- g) upon removal from office.

(2) The termination of the mandate of the Commissioner for Fundamental Rights pursuant to points b) and c) of subsection (1) shall be established by the Speaker of Parliament. Termination pursuant to points d) to g) of subsection (1) shall be decided by Parliament.

(3) Resignation from office shall be communicated in writing to the Speaker of Parliament. The mandate of the Commissioner for Fundamental Rights shall terminate on the date indicated in the resignation, or, in the absence

thereof, on the day of communication of the resignation. No statement of acceptance shall be necessary for the validity of the resignation.

(4) If the Commissioner for Fundamental Rights fails to terminate a conflict of interests within thirty days of his or her election or if in the course of the exercise of his or her office a conflict of interests arises, Parliament shall – at the written motion of any Member of Parliament, after obtaining the opinion of the Conflict of Interests Committee – decide on the declaration of a conflict of interests within thirty days of receipt of the motion. No conflict of interests shall be established if, during the conflict of interests proceedings, the Commissioner for Fundamental Rights terminates the reason for the conflict of interests.

(5) The mandate of the Commissioner for Fundamental Rights may be terminated by dismissal if, for reasons not imputable to him or her, the Commissioner for Fundamental Rights is not able to perform the duties deriving from his or her mandate for more than ninety days. A motion for dismissal may be submitted by any Member of Parliament. In the event of dismissal, the Commissioner for Fundamental Rights shall be entitled to three months' additional salary.

(6) The mandate of the Commissioner for Fundamental Rights may be terminated by removal from office if, for reasons imputable to him or her, the Commissioner for Fundamental Rights fails to perform the duties deriving from his or her mandate for more than ninety days, if he or she deliberately fails to comply with his or her obligation to make a declaration of assets, or if he or she deliberately makes a false declaration on important data or facts in his or her declaration of assets. A motion for removal from office may be submitted by the Conflict of Interests Committee after examination of the reasons justifying the removal.

Section 17 (1) The mandate of a Deputy Commissioner for Fundamental Rights shall terminate

- a) upon expiry of his or her mandate,
- b) upon his or her death,
- c) upon his or her resignation,
- d) if the conditions necessary for his or her election no longer exist,
- e) upon the declaration of a conflict of interests,
- f) upon his or her dismissal, or
- g) upon removal from office.

(2) The termination of the mandate of a Deputy Commissioner for Fundamental Rights pursuant to points *b)* and *c)* of subsection (1) shall be established by the Speaker of Parliament. Termination pursuant to points *d)* to *g)* of subsection (1) shall be decided by Parliament.

(3) A Deputy Commissioner for Fundamental Rights shall communicate his or her resignation from office in writing to the Speaker of Parliament through the Commissioner for Fundamental Rights. The mandate of the Deputy Commissioner for Fundamental Rights shall terminate on the date indicated in the resignation, or, in the absence thereof, on the day of communication of the resignation. No statement of acceptance shall be necessary for the validity of the resignation.

(4) If a Deputy Commissioner for Fundamental Rights fails to terminate a conflict of interests within thirty days of his or her election or if in the course of the exercise of his or her office a conflict of interests arises, Parliament shall – at the written motion of any Member of Parliament, after obtaining the opinion of the Commissioner for Fundamental Rights and of the Conflict of Interests Committee – decide on the question of the declaration of a conflict of interests within thirty days of receipt of the motion. No conflict of interests shall be established if, during the conflict of interests proceedings, the Deputy Commissioner for Fundamental Rights terminates the reason for the conflict of interests.

(5) The mandate of a Deputy Commissioner for Fundamental Rights may be terminated by dismissal if, for reasons not imputable to him or her, the Deputy Commissioner for Fundamental Rights is not able to perform the duties deriving from his or her mandate for more than ninety days. A motion for dismissal may be submitted by the Commissioner for Fundamental Rights or any Member of Parliament. In the event of dismissal, the Deputy Commissioner for Fundamental Rights shall be entitled to three months' additional salary.

(6) The mandate of a Deputy Commissioner for Fundamental Rights may be terminated by removal from office if, for reasons imputable to him or her, the Deputy Commissioner for Fundamental Rights fails to perform the duties deriving from his or her mandate for more than ninety days, if he or she deliberately fails to comply with his or her obligation to make a declaration of assets, or if he or she deliberately makes a false declaration on important data or facts in his or her declaration of assets. A motion for removal from office may be submitted by the Commissioner for Fundamental Rights or by the Conflict of Interests Committee after examination of the reasons justifying the removal.

Chapter III

Proceedings and measures of the Commissioner for Fundamental Rights

9. Proceedings of the Commissioner for Fundamental Rights

Section 18 (1) Anyone may turn to the Commissioner for Fundamental Rights, if in his or her judgement the activity or omission of

- a) a public administration organ,
- b) a local government,
- c) a nationality self-government,
- d) a public body with mandatory membership,
- e) the Hungarian Defence Forces,
- f) a law-enforcement organ,
- g) any other organ acting in its public administration competence, in this competence,
- h) an investigation authority or an investigation organ of the Prosecution Service,
- i) a notary public,
- j) a bailiff at a county court,
- k) an independent bailiff, or
- l) an organ performing public services

(hereinafter referred to together as 'authority') infringes a fundamental right of the person submitting the petition or presents an imminent danger thereto (hereinafter referred to together as 'impropriety'), provided that this person has exhausted the available administrative legal remedies, not including the judicial review of an administrative decision, or that no legal remedy is available to him or her.

(2) Regardless of their form of organisation, organs performing public services shall be the following:

- a) organs performing state or local government tasks and/or participating in the performance thereof,
- b) public utility providers,
- c) universal providers,
- d) organisations participating in the granting or intermediation of state or European Union subsidies,
- e) organisations performing activities described in a legal rule as public service, and
- f) organisations performing a public service which is prescribed in a legal rule and to be mandatorily availed of.

Inquiries into an organ performing public services may be carried out only in connection with its public service activities.

(3) The Commissioner for Fundamental Rights may not conduct inquiries into the activities of

- a) Parliament,
- b) the President of the Republic,
- c) the Constitutional Court,
- d) the State Audit Office,
- e) the courts, or
- f) the Prosecution Service, with the exception of the investigation organs of the Prosecution Service.

(4) The Commissioner for Fundamental Rights may conduct ex officio proceedings in order to have such improprieties terminated as are related to fundamental rights and which have arisen in the course of the activities of the authorities. Ex officio proceedings may be aimed at conducting an inquiry into improprieties affecting not precisely identifiable larger groups of natural persons or at conducting a comprehensive inquiry into the enforcement of a fundamental right.

(5) If a final administrative decision has been taken in the case, a petition may be filed with the Commissioner for Fundamental Rights within one year from the notification of the decision.

(6) The Commissioner for Fundamental Rights may only inquire into proceedings that started after 23 October 1989.

(7) The Commissioner for Fundamental Rights may not proceed in cases where court proceedings have been started for the review of the decision or where a final court decision has been rendered.

(8) The identity of the person who has filed the petition may only be revealed by the Commissioner for Fundamental Rights if the inquiry could not be conducted otherwise. If the person filing the petition requests it, the Commissioner for Fundamental Rights may not reveal his or her identity. No one shall suffer a disadvantage for turning to the Commissioner for Fundamental Rights.

Section 19 The proceedings of the Commissioner for Fundamental Rights shall be free of charge; the costs of inquiries shall be advanced and borne by the Office.

Section 20 (1) The Commissioner for Fundamental Rights shall – with the exceptions specified in subsections (2) and (3) – conduct an inquiry on the basis of the petition submitted to him or her, and shall take the measure specified in this Act.

(2) The Commissioner for Fundamental Rights shall reject the petition if

- a) it does not meet the requirements specified in subsections (1), (3) or (5) to (7) of Section 18,
- b) it is manifestly unfounded,
- c) a repeatedly submitted petition does not contain new facts or data on the substance, or
- d) the person submitting the petition has requested that his or her identity not be revealed and without this the inquiry cannot be conducted.

(3) The Commissioner for Fundamental Rights may reject the petition if

- a) it has been submitted anonymously, or
- b) in his or her judgement the impropriety referred to in the petition is of minor importance.

(4) Reasons shall be given in every case when petitions are rejected. The Commissioner for Fundamental Rights shall notify the petitioner of the rejection of his or her petition.

(5) If the competent organ can be identified on the basis of the available data, the Commissioner for Fundamental Rights shall transfer petitions relating to matters not falling within his or her competence to the competent organ and simultaneously inform the petitioners thereof. If the Commissioner for Fundamental Rights establishes that on the basis of a petition not falling within his or her competence there is a possibility to institute court proceedings, he or she shall inform the petitioner thereof.

10. Inquiries of the Commissioner for Fundamental Rights

Section 21 (1) In the course of his or her inquiries the Commissioner for Fundamental Rights

a) may request data and information from the authority subject to inquiry on the proceedings it has conducted or failed to conduct, and may request copies of the relevant documents,

b) may invite the head of the authority, the head of its supervisory authority or the head of the organ otherwise authorized to do so to conduct an inquiry,

c) may participate in a public hearing, and

d) may conduct on-site inspections.

(2) The request of the Commissioner for Fundamental Rights pursuant to points a) and b) of subsection (1) shall be complied with within the time-limit set by the Commissioner. The time-limit may not be shorter than 15 days.

Section 22 (1) In the course of an on-site inspection the Commissioner for Fundamental Rights or members of his or her staff authorised to conduct the inquiry

a) may enter the premises of the authority subject to inquiry, unless a provision of a legal rule provides otherwise,

b) may inspect all documents which may have any relevance to the case under inquiry, and may make copies or extracts thereof, and

c) may conduct a hearing of any employee of the authority subject to inquiry.

(2) In the course of an on-site inspection of the Commissioner for Fundamental Rights or of members of his or her staff authorised to conduct the inquiry, the rules of entry into, stay in and exit from the zones serving the operation of the Hungarian Defence Forces, the military national security services, the law-enforcement organs, the organs of the National Tax and Customs Administration performing customs authority tasks, the Directorate General of Criminal Affairs of the National Tax and Customs Administration and its lower and middle level organs shall be regulated by the Minister responsible for national defence, the Minister responsible for directing the law-enforcement organ or the Minister designated to supervise the National Tax and Customs Administration.

(3) No legal rule regulating entry into the premises of the authority subject to inquiry may obstruct on-site inspection in substance.

(4) Any employee of the authority subject to inquiry may refuse to answer the questions during the hearing if

a) the person who is affected by the petition forming the basis of the inquiry conducted by the Commissioner for Fundamental Rights is his or her relative within the meaning of the Code of Civil Procedure, or

b) by giving an answer he or she would accuse himself or herself or his or her relative within the meaning of the Code of Civil Procedure of the perpetration of a criminal offence, concerning the questions relating thereto.

Section 23 (1) In the course of his or her inquiry affecting the Hungarian Defence Forces, the Commissioner for Fundamental Rights may not inspect

a) such documents related to inventions, products or defence investments of outstanding importance for the national defence of Hungary, or such documents on the development of national defence capabilities, as contain essential information thereon,

b) documents containing a battle order extract of the Hungarian Defence Forces up to the level of divisions, or documents containing aggregate data on the formation, maintenance and deployment of stocks of strategic material,

c) documents containing the plans on the use of the Hungarian Defence Forces under a special legal order,

d) documents on the protected command system of the higher state and military leaders,

e) documents concerning the military preparedness, alert and sales system of the Hungarian Defence Forces, compiled documents on mobilisation readiness and the level of combat readiness of the Hungarian Defence Forces, aggregate military preparedness plans of the military districts and of military organisations of the same or of a higher level or related documents on the whole organisation,

f) aggregate plans of the organisation of communications of the Ministry directed by the Minister responsible for national defence and of the Hungarian Defence Forces, key and other documentation of the special information protection devices introduced or used,

g) the detailed budget, calculations or development materials of the Hungarian Defence Forces,

h) international cooperation agreements and plans, or such data of military hardware as are classified by common accord as 'top secret' data by the parties to the international cooperation, or

i) documents relating to devices of strategic reconnaissance and to the functioning thereof, or documents containing aggregate data on the protection of the Hungarian Defence Forces against reconnaissance.

(2) In the course of his or her inquiry affecting the national security services, the Commissioner for Fundamental Rights may not inspect

a) registers for the identification of individuals cooperating with the national security services,

b) documents containing the technical data of devices and methods used by the national security services for intelligence information gathering, or documents making it possible to identify the persons using them,

c) documents relating to encryption activities and encoding,

d) security documents relating to the installations and staff of the national security services,

e) documents related to security documents and technological control,

f) documents access to which would make possible the identification of the source of the information, or

g) documents access to which would infringe the obligations undertaken by the national security services towards foreign partner services.

(3) In the course of his or her inquiry affecting the police, the Commissioner for Fundamental Rights may not inspect

a) international cooperation agreements and plans concluded with police organs of other countries or with international organisations, joint measures taken in the course of international cooperation, or data and information originating from the cooperation and put at the disposal of an organ of the police, if the contracting parties have requested their protection as classified data,

b) such classified agreements related to international relations as contain specific commitments for the detection and prevention of international organised crime (including drug trafficking, money laundering and acts of terrorism),

c) any document containing data specified in subsection (2) relating to, originating from or pertaining to the cooperation of the national security services with the police,

d) safeguarding plans of installations and persons guarded by the police, documents and descriptions pertaining to security equipments, guards and posts,

e) documents enabling the identification of a private person covertly cooperating with the police, except when that person has suffered the infringement of rights and he himself or she herself requests the inquiry thereof,

f) documents containing technical data relating to the functioning and operation of equipment and methods used by the police for intelligence information gathering or documents enabling the identification of persons using such equipment and methods,

g) documents of the police relating to encoded communications of the police or documents containing aggregate data relating to frequency records for government purposes,

h) personal data of witnesses, if the closed processing thereof has been ordered on the basis of the Act on Criminal Procedure, or

i) such cooperation agreements concluded with the Hungarian Defence Forces or the national security services as are classified 'Top secret' data by the parties to the agreement.

(4) In the course of his or her inquiry affecting the organs of the National Tax and Customs Administration performing customs authority tasks or the National Tax and Customs Administration Directorate General of Criminal Affairs, the Commissioner for Fundamental Rights may not inspect

a) international cooperation agreements and plans concluded with the customs organs of other countries or international organisations, joint measures taken in the course of international cooperation, or data and information originating from the cooperation and put at the disposal of the relevant organ of the National Tax and Customs Administration, if the contracting parties have requested their protection as classified data,

b) such classified agreements related to international relations as contain specific commitments for the detection and prevention of international organised crime (including drug trafficking, money laundering and acts of terrorism),

c) any document containing data specified in subsection (2) relating to, originating from or pertaining to the cooperation of the national security services with the relevant organ of the National Tax and Customs Administration,

d) safeguarding plans of installations and persons guarded by the National Tax and Customs Administration, documents and descriptions pertaining to security equipments, guards and posts,

e) documents relating to encoded communications or containing aggregate data relating to frequency records for government purposes,

f) documents enabling the identification of a private person covertly cooperating with the relevant organ of the National Tax and Customs Administration, except when that person has suffered the infringement of rights and he himself or she herself requests the inquiry thereof,

g) documents containing technical data relating to the functioning and operation of equipment and methods used by the National Tax and Customs Administration for intelligence information gathering or documents enabling the identification of persons using such equipment and methods,

h) documents containing aggregate data relating to the equipment used for intelligence activities by the relevant organ of the National Tax and Customs Administration and to the functioning of such equipment, or

i) data of methods used by the relevant organ of the National Tax and Customs Administration in connection with the protection of tax stamps, or documents containing data relating to the traffic of internationally controlled products and technologies, to control plans, to observations and the issuing of search warrants, or to military matters.

(5) In the course of his or her inquiries affecting the investigation organ of the Prosecution Service, the Commissioner for Fundamental Rights may not inspect

a) personal data of witnesses, if the closed processing thereof has been ordered on the basis of the Act on Criminal Procedure,

b) documents of the investigation organ of the Prosecution Service originating from intelligence information gathering,

c) any document specified in subsection (2) to (4), in relation to organs gathering intelligence information, relating to, originating from or pertaining to the cooperation of the investigation organ of the Prosecution Service with organs gathering intelligence information, or

d) documents enabling the identification of private persons covertly cooperating with the police, except if that person suffered the infringement of rights and he or she requests the inquiry thereof.

(6) In the course of his or her inquiry affecting the tasks of the National Security Authority, specified in the Act on the Protection of Classified Information, the Commissioner for Fundamental Rights may not inspect documents relating to the professional direction, authorisation or supervision of encoding activities.

(7) If, in order to ensure the complete clarification of a case, the Commissioner for Fundamental Rights considers it necessary that the documents specified in subsections (1) to (6) also be inspected, he or she may request the competent Minister to have those documents inspected. The competent Minister shall make the inquiry or shall have it made and inform the Commissioner for Fundamental Rights on the outcome of the inquiry within the time-limit set by the Commissioner. Such time-limit may not be shorter than thirty days.

Section 24 (1) If there are substantiated grounds to believe that if the measure of the Commissioner for Fundamental Rights is delayed, the fundamental rights of a larger group of natural persons will be seriously infringed, the person conducting the inquiry on the basis of the authorisation of the Commissioner for Fundamental Rights may draw the attention of the head of the authority subject to inquiry to the danger of infringement and shall simultaneously initiate a measure of the Commissioner for Fundamental Rights. Such indication of danger shall be recorded in the case file.

(2) If, in the course of his or her inquiry, certain circumstances come to the attention of the Commissioner for Fundamental Rights from which circumstances one may conclude that a coercive measure has been unlawfully ordered, he or she shall immediately inform the competent prosecutor through the Prosecutor General. If the coercive measure has been ordered by the Prosecution Service, the Commissioner for Fundamental Rights shall inform the court as well.

Section 25 (1) In the interest of conducting and planning the inquiries of the Commissioner for Fundamental Rights, the authority subject to inquiry, the head of the authority subject to inquiry, the head of the supervisory organ of the authority subject to inquiry, the head of the organ otherwise authorised by a legal rule to conduct inquiries and the employees of the authority subject to inquiry shall cooperate with the Commissioner for Fundamental Rights in the cases determined in subsection (1) of Section 21.

(2) If the authority subject to inquiry, without a well-founded reason, fails to comply or complies only belatedly with its obligation to cooperate, the Commissioner for Fundamental Rights shall mention this fact in his or her report, and make special mention thereof in his or her annual report.

Section 26 (1) In the inquiries conducted by the Commissioner for Fundamental Rights, the persons or organisations not qualifying as authority pursuant to this Act as well as the authorities not affected by the inquiry shall be obliged to cooperate.

(2) In a case under inquiry, the Commissioner for Fundamental Rights may request a written explanation, declaration, information or opinion from the organisation, person or employee of the organisation having the obligation to cooperate.

(3) If the organisation or person having the obligation to cooperate, without a well-founded reason, fails to comply or complies only belatedly with its obligation to cooperate, the Commissioner for Fundamental Rights shall mention this fact in his or her report, and make special mention thereof in his or her annual report.

Section 27 (1) In the course of his or her proceedings the Commissioner for Fundamental Rights may process – to the extent necessary for those proceedings – all those personal data and data qualifying as secrets protected by an Act or as secrets restricted to the exercise of a profession which are related to the inquiry or the processing of which is necessary for the successful conduct of the proceedings.

(2) In the course of his or her proceedings the Commissioner for Fundamental Rights may become acquainted with the classified data necessary for the conduct of the inquiry, may prepare extracts or make copies thereof, and may keep the classified data in his or her possession.

(3) The documents and material evidence obtained in the course of the proceedings of the Commissioner for Fundamental Rights shall not be public.

(4) Contacts between the Commissioner for Fundamental Rights and the authority, the organisation or person with an obligation to cooperate, as well as the organisation affected by an exceptional inquiry may also be maintained by electronic documents signed electronically.

Section 28 (1) The Commissioner for Fundamental Rights shall make a report on the inquiry he or she has conducted; it shall contain the uncovered facts, and the findings and conclusions based on the facts.

(2) The reports of the Commissioner for Fundamental Rights shall be public. Published reports may not contain personal data, classified data, secrets protected by an Act or secrets restricted to the exercise of a profession.

(3) The report of the Commissioner for Fundamental Rights relating to the activities of organs authorised to use covert operative means and methods may not contain any data from which one could draw conclusions on intelligence information gathering activities in the given case.

(4) There shall be no legal remedy against decisions of the Commissioner for Fundamental Rights rejecting a petition or against the reports of the Commissioner.

Section 29 The Commissioner for Fundamental Rights shall inform the petitioner about the outcome of the inquiry and about any measure taken.

Section 30 The Commissioner for Fundamental Rights shall determine the rules and methods of his or her inquiries in normative instructions.

11. Measures of the Commissioner for Fundamental Rights

Section 31 (1) If, on the basis of an inquiry conducted, the Commissioner for Fundamental Rights comes to the conclusion that the impropriety in relation to a fundamental right does exist, in order to redress it he or she may – by simultaneously informing the authority subject to inquiry – address a recommendation to the supervisory organ of the authority subject to inquiry. Within thirty days of receipt of the recommendation the supervisory organ shall inform the Commissioner for Fundamental Rights of its position on the merits of the recommendation and on the measures taken.

(2) If the supervisory organ does not agree with those contained in the recommendation, within fifteen days of receipt of the communication thereof the Commissioner for Fundamental Rights shall inform the supervisory organ of the maintenance, amendment or withdrawal of his or her recommendation.

(3) If the Commissioner for Fundamental Rights modifies the recommendation, it shall be considered as a new recommendation from the point of view of the measures to be taken.

(4) If the authority subject to inquiry has no supervisory organ, the Commissioner for Fundamental Rights shall address the recommendation to the authority subject to inquiry.

Section 32 (1) If, according to the available data, the authority subject to inquiry is able to terminate the impropriety related to fundamental rights within its competence, the Commissioner for Fundamental Rights may initiate redress of the impropriety by the head of the authority subject to inquiry. Such initiative may be made directly by phone, orally or by e-mail; in such cases the date, manner and substance of the initiative shall be recorded in the case file.

(2) Within thirty days of receipt of the initiative the authority subject to inquiry shall inform the Commissioner for Fundamental Rights of its position on the merits of the initiative and on the measures taken; if the initiative concerns an activity which is harmful for the environment, the authority subject to inquiry shall immediately inform the Commissioner for Fundamental Rights.

(3) If the authority subject to inquiry – with the exception of the authority specified in paragraph (4) of Section 31 – does not agree with the initiative, it shall, within thirty days of receipt of the initiative, submit the initiative to its supervisory organ together with its opinion thereon. Within thirty days of receipt of the submission, the supervisory organ shall inform the Commissioner for Fundamental Rights of its position and on the measures taken.

(4) For any further proceedings of the supervisory organ and the Commissioner for Fundamental Rights those contained in subsections (1) to (3) of Section 31 shall be applicable, as appropriate, subject to the modification that the Commissioner for Fundamental Rights shall inform the supervisory organ of whether he or she maintains the initiative in an unchanged or modified form as a recommendation.

Section 33 (1) In order to redress the uncovered impropriety related to a fundamental right, the Commissioner for Fundamental Rights may initiate proceedings for the supervision of legality by the competent prosecutor through the Prosecutor General. Within sixty days the competent prosecutor shall inform the Commissioner for Fundamental Rights of his or her position on the initiation of proceedings for the supervision of legality and his or her measure, if any.

(2) If the Commissioner for Fundamental Rights, in the course of his or her proceedings, establishes no impropriety related to a fundamental right but nevertheless becomes aware of a circumstance pointing to an infringement of a legal rule, he or she may forward the petition to the competent prosecutor through the Prosecutor General.

(3) In the course of the judicial review of an administrative decision relating to the state of the environment, the Commissioner for Fundamental Rights may participate in the proceedings as an intervener.

Section 34 The Commissioner for Fundamental Rights may turn to the Constitutional Court in accordance with those laid down in the Act on the Constitutional Court.

Section 35 (1) If, in the course of his or her inquiry, the Commissioner for Fundamental Rights considers that there is a well-founded suspicion that a crime has been committed, he or she shall initiate criminal proceedings with the organ authorised to start such proceedings. If, in the course of his or her inquiry, the Commissioner for Fundamental Rights considers that there is a well-founded suspicion that a regulatory offence or a disciplinary offence has been committed, he or she shall initiate regulatory offence proceedings or disciplinary proceedings with the organ authorised to conduct such proceedings.

(2) Unless a provision of an Act provides otherwise, the organ specified in subsection (1) shall, within thirty days, inform the Commissioner for Fundamental Rights of its position on the starting of proceedings; where proceedings have been started, the organ shall, within thirty days of the termination of the proceedings, inform the Commissioner for Fundamental Rights of the outcome thereof.

Section 36 If, in the course of his or her inquiry, the Commissioner for Fundamental Rights notices an impropriety related to the protection of personal data, to the right of access to data of public interest or to data public on grounds of public interest, he or she shall report it to the National Authority for Data Protection and Freedom of Information.

Section 37 If, according to the Commissioner for Fundamental Rights, the impropriety can be attributed to a superfluous, ambiguous or inappropriate provision of a legal rule or public law instrument for the regulation of organisations, or to the lack or deficiency of the legal regulation of the given matter, in order to avoid such impropriety in the future he or she may propose that the organ authorised to make law or to issue a public law instrument for the regulation of organisations modify, repeal or issue the legal rule or the public law instrument for the regulation of organisations, or propose that the organ in charge of preparing legal rules prepare a legal rule. Within sixty days the requested organ shall inform the Commissioner for Fundamental Rights of its position and of any measure taken.

Section 38 (1) If the authority subject to inquiry or its supervisory organ fails to form a position on the merits and to take the appropriate measure, or the Commissioner for Fundamental Rights does not agree with the position or the measure taken, he or she shall submit the case to Parliament within the framework of his or her annual report, and may – with the exception of those contained in subsection (2) – ask Parliament to inquire into the matter. If, according to his or her findings, the impropriety is of a flagrant gravity or affects a larger group of natural persons, the Commissioner may propose that Parliament debate the matter before the annual report is put on its agenda. Parliament shall decide on whether to put the matter on the agenda.

(2) In the case referred to in subsection (1), if the Commissioner for Fundamental Rights has taken the measure specified in Section 34, or if in the case specified in Section 37 he or she has requested Parliament, the Commissioner for Fundamental Rights shall report on his or her measure and on the measure of the requested organ or the failure of the latter to take any measure in his or her annual report.

(3) In the case referred to in subsection (1), if the uncovering of the impropriety would affect classified data, the Commissioner for Fundamental Rights shall – simultaneously with his or her annual report, or if the impropriety is of a flagrant gravity or affects a larger group of natural persons, prior to the submission of the annual report – submit the case to the competent committee of Parliament in a report of a level of classification determined in the Act on the Protection of Classified Information. The committee shall decide on whether to put the matter on the agenda at a sitting *in camera*.

12. Exceptional inquiry

Section 39 (1) If, on the basis of the petition, it may be presumed that – with the exception of the organs indicated in subsection (3) of Section 18 – the activity or omission of the organisation not qualifying as authority gravely infringes the fundamental rights of a larger group of natural persons, the Commissioner for Fundamental Rights may proceed exceptionally (hereinafter referred to as 'exceptional inquiry').

(2) To exceptional inquiries subsections (5) to (8) of Section 18, Section 19, Section 20, subsections (1), (3) and (4) of Section 27, Sections 28 to 30 and Sections 34 to 37 shall be applied.

(3) For the conduct of exceptional inquiries the organisations not qualifying as authority shall be obliged to cooperate.

(4) In order to conduct an exceptional inquiry, the Commissioner for Fundamental Rights may request a written explanation, declaration, information or opinion from the organisation not qualifying as authority. In case of an activity which is harmful for the environment, the Commissioner for Fundamental Rights may carry out an on-site inspection.

(5) On the basis of the outcome of an exceptional inquiry, the Commissioner for Fundamental Rights may initiate proceedings with the competent authority. On the basis of the above initiative, the authority shall start proceedings without delay.

[CHAPTER III/A

THE PROCEEDINGS AND MEASURES OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS WITHIN THE FRAMEWORK OF THE NATIONAL PREVENTIVE MECHANISM²¹

Section 39/A If the Commissioner for Fundamental Rights conducts proceedings in the performance of his or her tasks related to the national preventive mechanism pursuant to Article 3 (hereinafter referred to as 'national preventive mechanism') of the Optional Protocol of the Convention against Torture and other Inhuman or Degrading Treatment or Punishment (hereinafter referred to as 'the Protocol') promulgated by Act CXLIII of 2011, the provisions of chapter III shall apply to his or her proceedings with the derogations laid down in this chapter.

Section 39/B (1) In order to perform his or her tasks related to the national preventive mechanism, the Commissioner for Fundamental Rights shall regularly examine the treatment of persons deprived of their liberty and held at a place of detention specified in Article 4 of the Protocol – regardless of subsections (1) to (7) of Section 18 – also in the absence of any petition or alleged impropriety.

(2) In the course of his or her examination the Commissioner for Fundamental Rights may, in addition to those contained in subsection (1) of Section 21, request data, information and copies of documents from the authority under inquiry on the number and geographical location of places of detention and on the number of persons deprived of their liberty who are held there, on the treatment of these persons and on the conditions of their detention.

(3) In the course of on-site inspections the Commissioner of Fundamental Rights may

a) enter without any restriction the places of detention and other premises of the authority under inquiry,

b) inspect without any restriction all documents concerning the number and geographical location of places of detention, the number of persons deprived of their liberty who are held there, on the treatment of these persons and on the conditions of their detention, and make extracts from or copies of these documents,

c) hear any member of the personnel of the authority under inquiry, and

d) hear any person deprived of his or her liberty.

(4) In the hearing pursuant to points c) and d) of subsection (3), apart from the Commissioner for Fundamental Rights and the person who is given a hearing, no other person may participate, unless the Commissioner for Fundamental Rights authorised his or her participation.

Section 39/C The Commissioner for Fundamental Rights shall each year prepare a comprehensive report on the performance of his or her tasks related to the national preventive mechanism which report shall be published on the website of the Office.

Section 39/D In the performance of his or her tasks related to the national mechanism, the Commissioner for Fundamental Rights may act in person or by way of the members of his or her staff authorised by him or her to perform the tasks related to the national preventive mechanism. Staff members of the Commissioner for Fundamental Rights authorised by him or her to act shall have the rights pursuant to Sections 21, 22 and 26, as well as to subsection (1) of Section 27, and to Section 39/B, and the obligation for cooperation pursuant to Section 25 shall be complied with also in their respect.

(2) Staff members of the Commissioner for Fundamental Rights authorised by him or her to perform the tasks related to the national preventive mechanism may, if they have the personal security clearance certificate of the required level, obtain access to classified data also without the user permission specified in the Act on the Protection of Classified Information.

(3) The Commissioner for Fundamental Rights shall authorise at least eleven members of his or her staff to perform the tasks related to the national preventive mechanism. The authorised staff members shall be experts with a higher education degree and have an outstanding knowledge in the field of the treatment of persons deprived of their liberty or have at least five years of professional experience.

(4) Among the staff members authorised to perform the tasks related to the national preventive mechanism there shall be at least one person who has been proposed by the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary and at least two persons each having the professional qualifications of a lawyer, physician and psychologist. Among the authorised staff members the number of the representatives of one sex may exceed that of the other sex by only one.

Section 39/E No one shall suffer any disadvantage for providing information to the Commissioner for Fundamental Rights or to his or her staff members authorised to perform the tasks related to the national preventive mechanism.

Chapter IV

The annual report of the Commissioner for Fundamental Rights

Section 40 (1) The Commissioner for Fundamental Rights shall submit his or her annual report to Parliament until 31 March of the calendar year following the reporting year.

(2) In his or her annual report the Commissioner for Fundamental Rights shall

a) give information on his or her fundamental rights protection activities, presenting in separate chapters his or her activities pursuant to those laid down in subsections (2) and (3) of Section 1 [and subsection (6) of Section 2],^[3]

b) give information on the reception and outcomes of his initiatives and recommendations, and

c) evaluate the situation of fundamental rights on the basis of statistics compiled on the infringements related to fundamental rights.

(3) Parliament shall debate the report during the year of its submission.

(4) The report of the Commissioner for Fundamental Rights shall be published on the website of the Office after Parliament has passed a resolution on it.

Chapter V

The Office of the Commissioner for Fundamental Rights

Section 41 (1) The administration and preparation related to the tasks of the Commissioner for Fundamental Rights shall be performed by the Office.

(2) The Office shall be directed by the Commissioner for Fundamental Rights and it shall be managed by the Secretary General.

(3) The organizational and operational rules of the Office shall be established in normative instructions by the Commissioner for Fundamental Rights.

(4) The Office shall have a separate chapter in the central budget and the powers of the head of organ directing the chapter shall be exercised by the Secretary General.

(5) The Commissioner for Fundamental Rights may, in the organizational and operational rules, transfer the right to issue an official copy to the Deputies and, in case of documents not containing any measures to the Secretary General or a public servant of the Office in an executive position.

Section 42 (1) The employer's rights over the Secretary General shall be exercised by the Commissioner for Fundamental Rights.

(2) The Secretary General shall be entitled to a salary and allowances identical to those of a state secretary and to forty working days of leave per calendar year.

(3) Public servants employed by the Office shall be appointed and dismissed by the Commissioner for Fundamental Rights, or in the case of public servants referred to in subsection (4), by either Deputy Commissioner for Fundamental Rights; in other respects the employer's rights over these public servants shall be exercised by the Secretary General.

(4) The authorised number of posts of public servants placed under the direction of the Deputy Commissioners for Fundamental Rights shall be determined in the organizational and operational rules.

Chapter VI

Final provisions

13. Authorizing provisions

Section 43 (1) The Minister responsible for national defence shall be authorised to determine in a decree the rules governing the entry, stay and exit of the Commissioner for Fundamental Rights into, in and from the zones serving the operation of the Hungarian Defence Forces and of the military national security services.

(2) The Minister responsible for directing the law-enforcement organ shall be authorised to determine in a decree the rules governing the entry, stay and exit of the Commissioner for Fundamental Rights into, in and from the zones serving the operation of the law-enforcement organ.

(3) The Minister designated to supervise the National Tax and Customs Administration shall be authorised to determine in a decree the rules governing the entry, stay and exit of the Commissioner for Fundamental Rights into, in and from the zones serving the operation of the organs of the National Tax and Customs Administration performing customs authority tasks, the Directorate General of Criminal Affairs of the National Tax and Customs Administration and its lower and middle level organs.

14. Provision on entry into force

Section 44 This Act shall enter into force on 1 January 2012.

15. Transitional provisions

Section 45 (1) The Commissioner for Fundamental Rights shall be the legal successor of the Parliamentary Commissioner for Civil Rights, the Parliamentary Commissioner for National and Ethnic Minority Rights and the Parliamentary Commissioner for Future Generations.

(2) This Act shall not affect the mandate of the Parliamentary Commissioner for Civil Rights who is in office at its entry into force, with the proviso that

- a) the designation of his or her office shall be Commissioner for Fundamental Rights,
- b) the provisions contained in Section 8, Section 9, and Sections 11 to 16 shall be applicable to his or her mandate, and
- c) after the expiry of his or her mandate, he or she may be elected once Commissioner for Fundamental Rights.

(3) As of the entry into force of this Act, the Parliamentary Commissioner for National and Ethnic Minority Rights in office shall become the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary; the Parliamentary Commissioner for Future Generations in office shall become the Deputy Commissioner for Fundamental Rights responsible for the protection of the interests of future generations; the provisions of this Act relating to the Deputy Commissioners for Fundamental Rights shall be applicable to their mandate, with the proviso that

- a) their mandate may terminate pursuant to points *b) to g)* of subsection (1) of Section 17 or upon termination of the mandate of the Commissioner for Fundamental Rights, and
- b) after the termination of their mandates, they may be elected once Deputy Commissioner for Fundamental Rights.

(4) The Office shall be the legal successor of the Office of the Parliamentary Commissioner.

(5) As of the entry into force of this Act, the designation of the head of the Office of the Parliamentary Commissioner shall be Secretary General.

(6) From the point of view of the application of point *c)* of subsection (1) of Section 14 of Act XXIII of 1992 on the Legal Status of Public Servants, the Office shall be considered the legal successor of the Office of the Parliamentary Commissioner.

16. Compliance with the requirement of the Basic Law on cardinality

Section 46 Sections 47 and 49 of this Act shall qualify as cardinal pursuant to paragraph (6) of Article 46 of the Basic Law.

17. Amending provisions

Section 47 Ceased to have effect.

Section 48 Ceased to have effect.

18. Repealing provisions

Section 49 Ceased to have effect.

Section 50 Ceased to have effect.

^[1] In accordance with Article 24 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Hungary declared the postponement for three years of the implementation of the obligations under Part IV of the Optional Protocol, concerning national preventive mechanisms. Consequently, the provision in square brackets will enter into force on 1 January 2015.

^[2] In accordance with Article 24 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Hungary declared the postponement for three years of the implementation of the obligations under Part IV of the Optional Protocol, concerning national preventive mechanisms. Consequently, the provisions laid down in this Chapter, in square brackets, will enter into force on 1 January 2015. (This is a non-official translation of Chapter III/A.)

^[3] In accordance with Article 24 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Hungary declared the postponement for three years of the implementation of the obligations under Part IV of the Optional Protocol, concerning national preventive mechanisms. Consequently, the modification in square brackets will enter into force on 1 January 2015.