Collective redress mechanisms in minority protection: the case of Hungary

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Abstract: During the development of law, it is increasingly acknowledged that the protection of minority rights can be realised effectively if the legislator takes into account those groups of people who, due to their nationality, social disadvantage or other reasons, may suffer prejudice as a whole, which is reflected at the level of individuals, too. Normativity does not only mean the obligation to establish and setup institutions for the protection of minority rights, but also to develop them to guarantee instruments protected by law. An important conclusion of this study: the matter of joint litigation could be extended to the litigations concerning the enforcement of personality rights related to belonging to a community. Such extension would not only facilitate the closing of similar parallel litigations but also access to justice since collective litigations could break down those economic or sociological barriers due to which certain litigations would not even be initiated.

Keywords: Roma; collective redress; national minorities; segregation; social disadvantage; enforcement; protection of minority rights; joint litigation; Hungary.

Reference to this paper should be made as follows: Móré, S. (2023) 'Collective redress mechanisms in minority protection: the case of Hungary', *Int. J. Public Law and Policy*, Vol. 9, No. 4, pp.453–471.

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1 Introduction

In international documents, we can find many soft-norm regulations concerning national minorities.[1] States have simply tried to avoid the establishment of a legally binding, general agreement about minorities due to the difficulties relating to obligatory international conventions, and also because all states want to regulate this important, sovereignty-related issue on their own.[2] Concurrently, it is important to mention that small steps have been taken that could lead to the development of mandatory national minority protection regulation. Of course, in addition to customary law and soft law for

the protection of national minorities, there are some elements that are now certainly an indispensable part of international law: the prohibition of discrimination and genocide, as well as forced displacement being classified as jus cogens.[3]

The Hungarian minority rights protection system is based on three general institutions: the Commissioner of Fundamental Rights, the Constitutional Court and the ordinary courts.[4] These institutions are found in most European countries, although they often have very different rules.[5] Such institutions protecting rights are separated from the institutions of political (party) representations organised along 'diverse' interests (i.e., national minority MP) and representation of the interests of national minorities (minority advocates, minority self-governments, civil organisations, and so on).

Within these theoretical frameworks, we attempt to present the links between the rights protection system of minorities and collective redress, endeavouring to maintain the balance between constitutional and civil procedural law analyses.

Following the introduction, Section 2 deals with the nature of minority rights as a fundamental right and as a specific, independent combination of guarantees, while Section 3 presents minority rights as a set of individual and collective rights and the advantages of collective redress in this context. Section 4 compares and attempts to group minority protection policies in European countries, and finally Section 5 presents the Hungarian legal protection system, highlighting the new collective litigation instrument: joint litigation.[6]

When providing the theoretical basis and elaborating the collective redress mechanisms, we apply the critical analysis system and comparative method, and for the material scope of the joint litigation, we are formulating *de lege ferenda* recommendation. Joint litigation provides an excellent basis for comparison with other forms of collective litigation and offers an opportunity to develop the law on class actions.

2 The issue of minority rights as a fundamental right

It is an interesting question whether national minority rights qualify as fundamental rights. In the legal literature, we may find opinions which state that due to the special situation of the subjects, minority rights do not belong to traditional fundamental rights, similar to the rights of children and other requirements that are certainly important but do not represent general human or civil needs.[7] Actually, the question is rather – as it is indicated by the contents of the regulation – how the equal opportunities of exercising general rights can be granted to groups that, according to a certain interpretation, have unique situations (members of various national minorities, women, children, persons living with disabilities, and so on). Since national minorities did not exist as subjects of law in the legal regulations originally, in our opinion, the legal definition – like the requirements of 100-year-old national minority and citizenship – cannot be considered as a restriction of fundamental rights. However, it is evident that the same rights shall be granted to the members of communities not complying with the legal term of national minorities as to other persons. Based on this approach, we can discuss the issue of national minority rights as a unique, independent combination of guarantees in the traditional sense rather than as a separate fundamental right.

Based on another opinion, the unique character of the abovementioned groups is not a sufficient reason for denying their fundamental nature.[8] Irrespective of the theoretical

considerations, it is a fact that Act CLXXIX of 2011 on the Rights of Nationalities uses the term 'fundamental rights of nationalities', covering certain rights and prohibitions of high importance that can be considered vital, deriving directly from international treaties or from the Fundamental Law of Hungary, as well as linguistic rights. Certain national minority rights are undoubtedly strongly connected to other fundamental rights, and therefore, we can often view them as a special aspect of such rights.

Furthermore, it is one of the key questions of the science of constitutional law to differentiate between fundamental rights (rights guaranteed by international conventions, the constitution, and so on) and other rights that do not belong to this category. Fundamental rights are covered by constitutional legal protection, while other rights are not. This does not mean that the non-constitutional rights[9] are left without guarantees, since in their case, ordinary courts grant effective protection. For differentiating between the two groups, guidelines are provided by the decisions of the Constitutional Court and international documents, but it may be doubtful that it is possible to separate them clearly beyond a certain degree. However, there is a very important factor we shall consider for differentiating: certain aspects of fundamental rights, in particular the equality clause of the Fundamental Law, the prohibition of discrimination does not only apply to fundamental rights but to other rights as well. In this case, the Constitutional Court stipulated the violation of human dignity as the condition.[10] By referring to the fundamental right, it prevents the constitutional protection from being abused, and on the other hand, instead of the necessity-proportionality test applied to violations of fundamental rights, it introduced the concept of arbitrary restriction without reasonable grounds,[11] which is a less defined, arguably lower threshold. This latter can be linked to human dignity because this type of regulation violates the consideration of individual aspects with equal seriousness and fairness.[12]

3 The issue of minority rights as collective rights

Pursuant to Article 27 of the International Covenant on Civil and Political Rights, cultural, religious and linguistic rights shall be granted to 'ethnic, religious and linguistic minorities'. Minority, as a group, is not considered by Article 27 as an entity, but it intends to grant the listed rights to 'persons belonging to minorities'. However, the article also contains a group-relevant term: 'in community with the other members of their group', indicating that such rights may be exercised collectively, i.e., by several individuals appearing as a group. This provision is special because the rights that can be exercised collectively can only be enforced and referred to by individuals, but not by the group itself.[13] Consequently, according to the approach developed in international legal literature, if someone's rights are violated on the basis of a group trait, then instead of the collective rights, the individual rights will be protected under the principle of non-discrimination.[14] Consequently, according to the approach developed in international legal literature, if someone's rights are violated on the basis of a group trait, then the principle of non-discrimination will protect their individual rights as opposed to their collective rights.

Collective litigation procedure may be initiated in case of the violation of individual rights in the same or similar manner, but it may be an especially effective mechanism for remedying the breach of collective rights.

The European Charter for Regional or Minority Languages acknowledges the right to language use as a collective right, which may be a notable step for acknowledging other collective rights. The development of international law is a long-term process traditionally, and therefore, the language charter can be viewed as a step representing huge progress and some kind of test before the next stage.[15] Although the Charter cannot be considered as an efficient tool of enforcing minority rights, it undoubtedly serves the interest of those speaking minority languages.

Certain states are reluctant to acknowledge and grant minority rights, especially collective rights as rights in the strict sense of the word; these are rather present as a third-generation norm in the constitutions. In terms of enforceability, the wording of national minority rights in the constitution and the type of regulation both have special importance. These definitely affect the 'accountability' of rights and the extent of the state's commitment.

The nation-state ideology obviously favours individual rights, and although it allows some collective rights (e.g., minority education), it rejects granting the right of self-determination, unlike in Hungary, where collective national minority rights are acknowledged and granted by the constitution. Of course, community rights as collective legal entities cannot serve as a legal basis for the violation of individual rights. Paul Sieghart writes:

> "[…] abstract concepts have in the past only too often presented grave dangers to the enjoyment by individuals of their human rights and fundamental freedoms. Some of the worst violations of those rights have been perpetrated in the service of some inspiring abstraction, such as 'the one true faith', 'the nation', 'the state' (including, as a recent example, 'das Reich') 'the economy' [including 'a strong dollar (or pound)'], and indeed 'the masses'. A 'people' is no less an abstraction than any of these: it cannot in reality consist of anything more than the individuals who compose it. If any of the individual rights and freedoms protected by modern international human rights law ever came to be regarded as subservient to the rights of a 'people' […] there would be a very real risk that legitimacy might yet again be claimed on such a ground for grave violations of the human rights of individuals."[16]

It is indeed true that political abstractions – primarily in states in which the conditions for the legal existence of human rights are lacking – can serve as a basis for such practice.

The individual or collective nature of minority rights does not refer to whether they can be exercised individually or as a community (as in the case of freedom of religion), but whether the person belonging to the national minority, as an individual, or the minority community shall be regarded as the subject of law. Certain national minority rights are granted to the community as a collective subject of law, but the actual subject may be an institution or a legal entity, which raises further difficult questions. Who will exercise the collective rights in the name of the national minority community, if the nationality has several organisations? If, however, the community has only one single organisation, how can democratic decision-making be guaranteed within the organisation? How can it be established who is a member of the community and who is not? The international treaties and documents stipulating the rights of minorities may provide a basis for answering these questions.[17]

In Hungary, judicial protection also covers the rights of minority self-governments: "[t]he lawful exercise of the responsibilities and powers of nationality self-governments comes under Constitutional Court and court protection."[18] For example, Act on the Rights of Nationalities also grants the possibility to turn directly to the court by referring to the

violation of national minority rights when – reviewing the previous redress system – besides contacting the competent government office, it allows the minority self-governments to initiate court proceedings having suspensory effect on the enforcement of the contested decision of the municipality.[19]

In case of the violation of the individual fundamental rights granted to minorities, it is relatively easy to determine who is the victim, and therefore, the control mechanism of human rights can simply be applied to the individuals whose rights have been violated. However, if collective rights have been violated, the community of individuals is the victim, and although this can be seen as evidence, it is rather difficult to prove or check whether all members of the given community have suffered the violation.[20] Undoubtedly, the legislator prefers the individual enforcement of rights in this area despite the fact that group enforcement could increase the efficiency of the judicial system by reducing the number of actions and by concentrating procedures, and at the same time, considering all litigations, it would also result in legal expense savings. Moreover, joint litigation may also facilitate the actual access to justice, as it allows plaintiffs to share the costs whose individual litigation does not seem economical due to the expected legal expenses, or who could not afford individual action.[21]

In our opinion, the protection of national minority rights can be implemented efficiently if the legislator considers those groups of people who, due to their social situation, nationality or historical traditions may suffer prejudice as a whole, which, of course, is reflected at the level of individuals, too. In Hungary, the Roma constitute the largest nationality community. In addition to this community's minority quality, it also forms the majority of the social group living in extreme poverty. It is indisputable that in their case, the difficulties of commencing and conducting proceedings, as well as of paying the related costs are greater. Collective litigation may be an effective legal protection tool in case of the unlawful segregation of Roma children or in case of legal disputes concerning equal opportunities.

4 Main minority protection policies in Europe

In the absence of binding international regulation on minority protection, various solutions have been developed by European countries depending on whom the given country considers to be the addressees of minority rights, and how the country's state structure and public law system are organised. Although all modelling is a simplification, and the elements of the models may be mixed in certain countries, the classification demonstrates the approach of the given state to minority issues.

In the *first* model, the majority nation grants the same rights to national minorities as to itself. The need for equal rights and the prohibition of discrimination are considered as minimum content elements of minority protection. In this way, national minorities are granted formal equality, but instead of minority communities, only the individuals belonging to minorities are recognised as partners, and therefore, only individuals are granted minority rights. The legal regulation is of individual nature even if the given right may only be exercised as a community. The states in this group apply different solutions. For example, the Romanian Constitution only recognises individual rights, but when examining certain fundamental rights, collective rights also appear.[22] France is the state of Western Europe offering the least possible rights to national minorities; in the sense of

egalité, it would be discriminatory for the minorities to be treated with priority.[23] In Europe, this category includes, among others, Bulgaria, Greece, Slovakia and Turkey.

In the *second* model, the majority nation perceives national minorities both as individuals and communities and formulates collective and individual rights for minority communities and their members. For the preservation and development of the group-specific characteristics of national minorities (traditions, culture, religion, and language), the tolerance and support obligations of the state are both fulfilled, and in this sense, the minorities receive 'unequal' treatment. This way is used in most of the European states: Albania, Austria, Finland, Croatia, Hungary, Germany, Norway, Italy, Portugal, Spain and Slovenia. Other states only recognise certain aspects of the collective approach besides granting individual minority rights, including Belgium, the Netherlands, Switzerland and Sweden.[24]

In the *third* model, national minorities appear in the state structure individually, forming an individual institution system. One form of this is when an autonomous territory, a region or a federative unit receives nearly complete autonomy to manage its own affairs. In such case, the given minority is not only a component of the state, but also has its own legislative and executive powers in specific matters. This is the case in the national minority area of Belgium, South Tyrol and the Åland Islands. There are some states that only accept individual rights, but despite this, in legal terms, there are autonomies within their state territory. Such autonomies are not based on human rights or minority philosophies, but rather on territorial or public administration considerations. This situation is prevalent in Denmark, France and the UK.[25]

Some national minority policies in Europe focus their solutions on indigenous minorities, for example in Slovenia. In other states, it is not a decisive factor whether the minorities are indigenous or newcomers to the territory of the state, i.e., with a presence below 100 years, but who have already become key players and participants of the whole society.

In Hungary, the traditional geographic location of the nationalities makes it impossible to implement the model based on territorial autonomy. Among others, the self-government system for minorities, the institution of advocates and the preferential parliamentary representation of minorities ensure cultural autonomy, representation of interests and the possibility of collective participation in political life for minority communities.

Summarising the above comparison, we can say that minority policies vary widely from one European country to another, and we can very often find complex systems which are difficult to describe with the 'antonym' of individual and collective rights. It is not unprecedented that in certain states, there is no national minority policy, only the principle of equal treatment is implemented consistently or less consistently. The model which is applied by the given state depends, among other factors, on the traditions, the relationship between the given country and the minority, the capacity of the national minorities to assert their interests and/or on the economic development of the country.

5 The legal protection system in Hungary

The legal protection system is based on three institutions which are briefly presented below, highlighting the collective redress mechanisms available to national minorities.

Before that, however, it is worthwhile to put the topic into historical context and examine how history has shaped minority legal protection in Hungary.

The Hungarian State has had a long history of regulating minority issues. The Minority Act of 1868 drafted by Ferenc Deák and József Eötvös was a unique set of regulations in this field, one of the first in Europe.[26] However, this modern Act, which was ahead of its time in terms of the concepts of democracy and law, was only partly adhered to by the authorities; therefore, it did not fully manage to meet the needs of minorities. In the first 70 years after the 1920 Treaty of Trianon, no minority Act was passed in Hungary. Still, during the period between the two world wars, this was somewhat made up for by the minority protection system of the League of Nations, incorporated into the Hungarian peace treaty closing the First World War. After the Second World War, the newly established state socialist regime – in line with the practice of other socialist states – did not consider legal regulation to be necessary in this field. However, the changes during the second half of the 1980s raised the issue of drafting a minority Act again. Preparations for passing a new Act started in 1989 and lasted for four years.

The Act CLXXIX of 2011 on the Rights of Nationalities replaces the Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, which was already at the time of its adoption regarded as an ambitious law making it possible for the 13 recognised minorities to participate in decision-making processes and was guaranteeing both individual and collective minority rights to these minorities.[27] The 13 legally recognised nationalities in Hungary are: Armenian, Bulgarian, Greek, Croatian, Polish, German, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian. In line with its own request the Jewish community is a religious category, not a national minority.

5.1 Legal protection by the Commissioner for Fundamental Rights

The institution of the Commissioner for Fundamental Rights plays a very important role in the protection of minority rights: the nearly 30-year professional experience and system-level legal knowledge gathered by the office of the Commissioner for Fundamental Rights in minority law can be represented by the deputy Commissioner, i.e., *Ombudsman for the Rights of Nationalities* towards national minorities. Contrary to the institution of the constitutional court and the ordinary courts, the Commissioner for Fundamental Rights basically acts in possession of a non-binding, non-enforceable decision-making competence, which is usually considered a weakness. The widespread investigative competence of the Commissioner is balanced by the fact that the measure or the initiation of measures arise as recommendations.

5.1.1 Changing priorities of the functions of the Commissioner

The Fundamental Law – unlike the previous Constitution – contains the clear definition of the fundamental rights protection function: "the Commissioner for Fundamental Rights shall perform fundamental rights protection activities"; and his deputies "shall protect the interests of future generations and the rights of nationalities living in Hungary." The independent competence of the deputies is reflected in the fact that the Fundamental Law identifies the deputies as well, and they have the same legitimacy as the Commissioner for Fundamental Rights; all three officials are elected by the National Assembly with qualified majority. The Commissioner is nominated by the President of the Republic,

while the deputies are nominated by the Commissioner himself, and therefore, the person of the Commissioner depends on the President, while the deputies depend on the Commissioner.

Nowadays, the function of the Commissioner in protecting rights plays a key role, while at the turn of the Millennium, the fight against maladministration was given priority, and the modern instruments of controlling public administration were considered to be defective.[28]

Following the termination of *actio popularis*, the competence of initiating posterior norm control arose as a key function of the Commissioner for Fundamental Rights. Today, in Hungary, it mainly depends on the Commissioner whether the Constitutional Court can exercise the posterior norm control of the legal regulations, since the majority of legal regulations are filed to the Constitutional Court in this way. With this function of the Commissioner for Fundamental Rights, primarily the system-level violations are remedied, and collective protection of rights is performed. It largely depends on the approach of the Commissioner whether he places the emphasis of his activities on the investigation of individual complaints or on the system-level, collective enforcement of fundamental rights.

The 'representation of interests' of people in vulnerable positions can also be related to the particularities of the activity of the Commissioner for Fundamental Rights. The actions of the Commissioner revealed current social deficiencies, although this undertaking does not fit into the activities of controlling public administration or into the protection of fundamental rights.[29] Additionally, the Commissioner pays special attention to the enforcement of the rights of the most vulnerable groups due to his statutory obligations.

The deputy Commissioner for the rights of national minorities continuously cooperates in the revision and formulation of the legal regulations. In this regard, he participates in the work groups organised according to various functional aspects, mainly belonging to ministries, and maintains intensive professional relationships with the organisations representing the interests and bodies national minorities. This reflects the given social relations, formulates *de lege ferenda* recommendations.

Although the Fundamental Law talks about the protection of the rights of nationalities, in practice it is difficult to separate the interest representation and legal protection functions of the deputy Commissioner. Among the duties of the deputy Commissioner of Future Generations, the representation activity will be even more emphasised, because the future generation is not able to stand up for the protection of its own interests at all.[30] Here, the Fundamental Law is also more fine-tuned: the deputy Commissioner protects 'the interests of the future generations'.

5.1.2 Public interest litigation

Before 1 January 2021, the issue of why the Commissioner for Fundamental Rights was left out from those entitled to exercise the right of initiating public interest litigation has been raised on several occasions in the literature, since the Commissioner's institution possesses all capacities, making it suitable for being a more efficient institution for protecting the rights of non-discrimination to a broader extent compared to the effective regulations, with the competence of public interest litigation.

The legislator accepted this professional recommendation in an interesting manner: it 'merged' the Equal Treatment Authority entitled to file litigation of public interest into

the institution of the Commissioner for Fundamental Rights, and the duties and competences of the authority were taken over by the Commissioner. This means that the Commissioner acts as a public administration authority, and the investigation of the relationships and situations between private individuals has also become his competence in cases promoting equal treatment and equal opportunities.[31]

Although the legal environment of sharing the cases between the Ombudsman for the Rights of Nationalities and the Directorate-General for Equal Treatment is clear, it shall be assessed on a case by case basis whether the procedure shall be conducted according to Act CXI of 2011 on the Commissioner for Fundamental Rights or Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities.

5.2 Protection of rights by the Constitutional Court

In fundamental rights adjudication, the role of the Constitutional Court is primarily determined by the fact that in the centralised constitutional court model dominating in Europe, the norm control is reserved for constitutional courts.[32]

Basically, norm control has two types: abstract and specific. The first means that – at the request of the entitled person – the Constitutional Court investigates the compliance of a given regulation with the Fundamental Law in general, independently from a specific case or procedure, while in the second case there is a given case, in which the unconstitutionality of a given legal regulation or provision arises.[33]

5.2.1 Abstract norm control as 'collective redress'

Abstract norm control has two forms: preliminary and posterior. Preliminary norm control is performed before the publication of the given legal regulation, which is initiated by the National Assembly, or, if it has not exercised such rights, by the President of the Republic; the posterior abstract norm control can be initiated after the publication of the legal regulation.

With the termination of the *actio popularis* nature of the control of abstract posterior norms, it became evident that the range of the applicants is also significantly narrower, which resulted in the reduction of the decisions made in this competence. The persons indicating the unconstitutionality of a legal regulation or a provision of a legal regulation without certifying their own legal interest cannot turn to the Constitutional Court anymore; they can only indicate the suspicion of unconstitutionality to the Commissioner for Fundamental Rights, who – if agrees with this – may initiate the annulment of the given provision in his own name.

When performing the statistical analysis of the submitted petitions, it can be established that the petitioner competence of the Commissioner for Fundamental Rights has become dominant. However, since 2013, the number of posterior norm control procedures initiated by the Commissioner has decreased notably, reflecting the role-dependence to the control of abstract norms.[34]

Acting in this competence, the Constitutional Court has adopted several decisions expressly affecting the collective rights of national minorities (e.g., the decisions affecting the self-government and national assembly representation of minorities,[35] or the abstract norm control related to various provisions of the Act on the Rights of Nationalities and review of conformity with international treaties[36]).

5.2.2 Specific norm control as individual remedy

As of 1 January 2012, Hungary offers not only collective but also individual fundamental rights protection: in addition to norm control, the Constitutional Court was granted authorisation for reviewing the constitutionality of judicial decisions. This means that within the frameworks of individual rights protection, the Constitutional Court also assesses constitutional complaints filed against the judicial interpretation of law (Art.27 of Act CLI of 2011 on the Constitutional Court). The German regulations of the *Urteilsverfassungsbeschwerde* served as a reference model.

The narrow image of constitutional control over legislative acts may be widened by the fact that the constitutionality review of the legal regulations is performed both in the case of old-type and direct constitutional complaints and in the case of judicial initiative as well.

The constitutional complaint serves as a special function of norm control, and it also offers a remedy at the same time. This latter comes, on the one hand, from the fact that the law calls this legal instrument a complaint, and on the other hand, from the fact that after exhausting the 'other legal remedies' or 'in the absence of other legal remedies' conditions, the law grants it as the final legal remedy to the applicant.[37]

The majority of the actual constitutional law complaints filed against court decisions may be successful if the court violates an objective institutional protection obligation, for example if it fails to properly grant the right to a fair procedure. Analysing the practice of the Constitutional Court so far, we may establish that in these decisions the Constitutional Court does not declare that the relationships of the concerned persons (organisations) breach the Fundamental Law, but it rather formulated a constitutional requirement in relation to the application of a given procedural legal regulation or a substantive legal regulation.

We can hardly find any constitutional law complaint expressly concerning national minority rights. The search function of the Constitutional Court's website only resulted in three matches when searching for 'national minority' and the related keywords, or the procedure pursuant to Article 27 of the Act on the Constitutional Court (viewed 25 November 2022).[38]

5.3 Protection of rights by ordinary courts

In the American-type system, the judge does not apply the unconstitutional act. There is no need for a separate constitutive action for 'removing' the unconstitutional act from the legal system, just like the annulment in the European system. The establishment of unconstitutionality is declarative, the court is not entitled to repeal the product of another branch, but it makes a decision for its own and for the whole judicial system not to apply the unconstitutional act. Therefore, this is an inevitable obstacle for politics, contrary to the European systems, where the politics, in other aspects though, may re-formulate the unconstitutional regulation.

In Hungary, ordinary courts are not entitled to refrain from applying unconstitutional legal regulations applicable to the given case. If, in a case in progress, the court cannot ensure the interpretation of a norm in accordance with the Fundamental Law with the available interpretative tools, then it is obliged to initiate the constitutional court review of the norm.

5.3.1 The dual institutional framework of fundamental rights adjudication

Until 2012, the remedying of individual fundamental rights violations could only be achieved with constitutional court procedures indirectly, and only if the fundamental right was not violated by the individual decision but by the legal regulation supporting such decision. In this manner, the result of the constitutional complaint procedure and the specific procedure for posterior norm control initiated by the judge could have a rebound effect on the individual case. The violations of individual rights were basically remedied by ordinary courts and the parliamentary Commissioners.

The instrument of actual constitutional law complaint introduced as of 2012 makes it clear that the courts are obliged to apply the Fundamental Law directly. In order to enforce the fundamental rights properly in the activities of courts, the courts are required to base their judgments directly and substantially on the regulations of the Fundamental Law, even if the lower-level legal provisions do not reflect the contents of the norm granted by the Fundamental Law. This means that these rules can be used not only for revealing the constitutional contents of the applicable legal regulations or decrees, but also independently, as a legal requirement, just like civil law, public administration law, labour law or criminal law provisions. In the period prior to the 'real' or 'individual' constitutional law complaint, the violation of the fundamental rights granted by the constitution did not allow enforcement of the right before the court in itself, directly, without being reflected in a fundamental law or specialist law acts.[39]

Within the frameworks of the constitutional complaint procedure, a remedy forum – the Constitutional Court – compares the decision of the ordinary court to the Fundamental Law, and even enforces it by annulling the decision contrary to the fundamental law. However, for the realisation of the remedial nature of the actual complaint, the specific intervention and involvement of the Constitutional Court is not necessarily needed. The pure existence of the procedure creates a preliminary legal remedy nature irrespective of its nature as a posterior legal remedy. It is the result of the latent potential inherent in the complaint that the fundamental law approach shall be involved on an *ex ante* basis in ordinary court proceedings.[40]

5.3.2 Forms of collective litigation

Collective litigation mechanisms are very different in each legal culture. Basically, we can talk about three forms:

1 procedures initiated by the state, municipality or other organisation/person exercising state authority

2 litigation filed by civil organisations pursuing activities in the public interest

3 privately initiated collective litigation procedures.[41]

This last instrument has become widespread traditionally in *common law* states, while the first two forms are rather typical in the states of the continental legal system.[42]

In European states, the subject matter of group litigations is the joint assessment of actual financial damage arising from a specific service or legal relationship, but basically, the determination of the scope of litigation is undoubtedly a legislative issue. Therefore, the potential subjects of litigation are limited in the regulations and legal practices of the different countries.

While in the UK – due to the general nature of the regulation – the scope of group litigation is not limited, which can also pose dangers,[43] in the countries of the continental legal system, the sectoral approach is more typical (it can be applied to specified types of cases).[44] This tradition has started to change recently: the new regulations often break the mentioned limitations.[45]

The Act CXXX of 2016 on the Civil Procedure contain two kinds of mass litigation tools: *public interest litigation* and *joint litigation*.[46]

1 *Public interest litigation* is about litigation by a person or organisation authorised by law for the public interest – besides or instead of the person primarily entitled to initiate the action – without being the beneficiary or obligor of the litigation in terms of substantive law. However, collective litigation cannot result in the individual being prevented from turning to the courts for the protection of his rights in his own name, and it shall not result in separate rights being granted to the individual and to the collective, and the institution representing it. Public interest litigation is a collective litigation with an *opt-out* system because the possibility to initiate action in the individual's own right is reserved if the beneficiary declares that he intends to reserve such rights. However, in order to make this statement, he shall be notified of the final decision.[47]

   In a public interest action, besides the establishment of unlawfulness, specific legal remedy may also be requested; however, it is clear that the legal effect only covers the members of the group.

   The rules applicable to public interest litigation are present in various sectoral acts.[48] Chapter XLII of the Code of Civil Procedure actually supplements the sectoral legal regulations by laying down the procedural frameworks of this litigation (filing litigation, contents of the decision, *res iudicata*, limitation period, and so on). These rules are applied as general rules, compared to which various sectoral public interest litigation may deviate in separate rules. It is important to highlight though that the rules of the litigation types are only enforced if the substantive law expressly requires so.[49]

   According to the ministerial explanation of Article 571 of the Code of Civil Procedure, "[s]ome of the public interest actions are initiated by the prosecutor, others by public administration bodies, and in certain cases, other (for example civil) organisations may also be entitled to initiate litigation. Some public interest actions aim at having declaration or law amendment type legal consequences, while others – based on statutory authorisation – are also suitable for enforcing financial claims."

   The public interest action regulated by the Act on Equal Treatment and the Promotion of Equal Opportunities can mostly be related to national minorities.[50] This provision refers to the essential trait of an individual's personality, including, among others, the national minority, religious beliefs, or gender. It is completely obvious that the prejudice affecting a whole national minority or part of it – directly or indirectly its members – due to unlawful discrimination, may have long-term effects on the social image of the given minority, and may cause serious fears and identity crises in various members of the community.

   The Equal Treatment Authority[51] filed only one single public interest action due to the violation of the requirement of equal treatment, which did not have any minority

relevance,[52] but civil organisations have commenced several public interest litigations, for example due to the unlawful separation of Roma and highly disadvantaged children.[53]

2 As of 2018, in addition to the procedural rules of public interest actions, the Code of Civil Procedure introduced the instrument of *joint litigation*, where the possibility of initiating litigation lies with the private parties whose consent is required for commencing the litigation. The solution, allowing only the authorised organisations to file joint litigation, excludes the individual incentives from the system, limiting the number of these actions. In this regard, however, the balance between supporting and limiting such actions shall be achieved carefully. The possibility to initiate the action by anyone would not make this instrument attractive until the legal expenses are regulated by the *loser pays* principle according to European traditions.[54]

It is the essence of the joint litigation that the plaintiffs do not initiate individual proceedings separately, but instead file a joint action; the plaintiffs with identical claims are represented by the representative plaintiff. This is a so-called *opt-in* type collective litigation instrument,[55] which can be used in cases with specific topics and allows several persons within the same litigation (not by combining and not according to the rules of the joinder of parties) to enforce their representative rights (claims supported by joint legal and factual basis). The two most important effects of the joint litigation are on the one hand, that the law is applied to the participating plaintiffs uniformly, i.e., they cannot take different steps, and on the other hand, that the action results in a matter adjudicated to them (*res iudicata*) – legally only to the group members.[56]

The legal regulation stipulates several preconditions concerning the joint litigation:

- It can be initiated by a maximum of ten plaintiffs.
- They have suffered the same or at least similar prejudice, due to which they have the same claims.
- The joint litigation form shall be permitted by the court. The granting of permission depends principally on the certification of the representativity of the supporting circumstances, on whether the claims of the plaintiffs are actually the same. If the court does not permit group litigation, the plaintiffs are not prevented from the litigation, but in this case, they shall initiate the action individually.
- The plaintiffs are required to conclude a contract before initiating the procedure. In this contract, they shall agree, for example, on the representative plaintiff and the deputy, on whether the approval of the other plaintiffs is necessary for the statements of the representative plaintiff and the deputy, and on the ratio of the advance payment and settlement of the legal expenses by the plaintiffs.

When the Code of Civil Procedure transposed the new collective legal remedy mechanism developed in other legal system(s), the possibility of abuses had to be eliminated to the greatest extent. The legislator was therefore careful not to develop an *opt-out* system in accordance with the European conditions, or a *mandatory* type of group litigation procedure, but an *opt-in* system, and within this, it established a

so-called *litigation contract* for the internal relations of the group, with the help of which the parties can settle their legal relationships.

The legislator also strived to eliminate such risks partially by limiting the material scope of joint litigation. This tool may only be initiated in labour litigation,[57] for legal disputes related to consumer agreements and in case of damages arising under the scope of environmental protection.[58] The question was already raised at the meeting of the Civil Procedure Codification Committee of whether the potential subjects of the litigation are required to be 'narrowed' or if there is no need for such limitation. The Committee – considering the prevention of abuses – accepted the argument that it would be appropriate to introduce the instrument for a reduced number of matters, not excluding the possibility of future expansion.

In the future, the material scope may be extended, and therefore, we examine the possibility of the enforcement of personality rights related to being part of a specific community as specified in Article 2:54 (5) of the Civil Code:

> "[A]ny member of a community shall be entitled to enforce his personality rights in the event of any false and malicious statement made in public at large for being part of the Hungarian nation or of a national, ethnic, racial or religious group, which is recognized as an essential part of his personality, manifested in a conduct constituting a serious violation in an attempt to damage that community's reputation, by bringing action within a thirty-day preclusive period. All members of the community shall be entitled to invoke all sanctions for violations of personality rights, with the exception of laying claim to the financial advantage achieved."

The institutional basis of this legal protection instrument is found in Article IX (4) and (5) of the Fundamental Law, introduced by the fourth amendment of the Fundamental Law (25 March 2013). This amendment extended a legal concept basically developed for the protection of minorities to the protection of the dignity of the Hungarian nation, which, however, may raise constitutionality concerns as well: it may have freezing effects on political speeches and urges self-censorship in relation to the negotiation of public matters (Tóta case[59]). In the context of protecting the 'majority', i.e., the Hungarian nation, the key terms and concepts of non-discrimination and the protection of minority rights cannot be interpreted. It would be more appropriate if, for the protection of the dignity of the Hungarian nation, the norm text itself contained exceptions for political critics and the freedom of science and arts.[60]

In relation to the interpretation of the aforesaid text of the Fundamental Law, Decision 6/2021 (II 19) AB of the Constitutional Court established:

> "[I]n order to protect the dignity of the Hungarian nation, national, ethnic, racial and religious communities, freedom of expression and thus speech on public affairs may be constitutionally restricted. Freedom of expression does not extend as far as protecting arbitrary communications about communities that fall outside the scope of public debate and are intended to incite mere hatred, degrade the human dignity of members of the community, use seriously offensive or abusive language or otherwise cause the injury of rights. Exercise of the freedom of expression may not be directed to such an end. Nor should the expression of an opinion in a public debate involve a violation of the inalienable core of human dignity, and thus a manifest and serious deprecation of the human status of the persons belonging to the community."[61]

We can also find opinions according to which the regulation mentioned above is discriminative, because it only grants the ability to bring action to people believing their rights were violated for being part of the Hungarian nation, or national, ethnic, racial or religious communities, but not for their sexual identity or orientation. Although this problem originates in the regulations of substantive law, it also arises in relation to procedural law issues, since these two exist in close cooperation.

Considering whether the regulation can be applied, it is an important question if in the case of the violation of rights of a community, can the violation of individual rights be established. The violation of the personality right can only happen if the belonging to the given community is so closely related to the individual's identity and integrity that the discrimination of the group is 'associated' to the members of the group, too. For this to occur, the violating behaviour shall address the essential trait of the personality, and the concerned community shall be a sufficiently defined community. The meaning of seriously offensive or unjustifiably hurtful violations and the limitations of 'association' shall be defined by the legal practice uniformly and accurately, considering the arguments concerning the protection of national minorities and the true nature of hate speech.[62]

As regards practice, it seemed to be difficult for the courts to handle the multitude of actions filed separately due to hate speech. The Code of Civil Procedure transposed the previous regulation, trying to resolve this problem by the joint handling of cases and by apportioning the sanctions.

Of course, it is of key importance that socially disadvantaged persons receive legal assistance and the group in need of support defined by law could even be extended in order to provide professional legal consultation and legal representation to more people for enforcing their rights. It is likely that in the case of collective litigation, legal assistance can be operated more efficiently and smoothly.

6 Conclusions

In international legal literature, the issues of national minorities are considered sensitive and difficult matters: the countries of Europe have very different minority policies, often with complex systems and interconnected institutional networks.

As we have seen, the development of the minority policy of a state depends on a great variety of factors, such as geography, the historical background, the geopolitical situation, the number of national minorities living in the state and their proportion in society, and so on. Often the states are reluctant to acknowledge national minority rights, especially collective rights as rights in the strict sense of the word; this is rather included in the constitutions as the state's objective.

In Hungary, both individual and collective minority rights are normatively protected. Normativity, however, means not only the obligation to establish and setup rights protection institutions, but also to make these inevitable, and to develop them to guarantee instruments protected by law.[63]

With the termination of *actio popularis* in Hungary, the range of applicants initiating posterior norm control procedures became significantly narrower, and simultaneously, the number of decisions on collective redress also decreased. As of 2012, it mainly

depends on the Commissioner for Fundamental Rights whether the Constitutional Court can exercise this competence.

The legislator accepted the professional recommendation in a unique manner, according to which the Commissioner for Fundamental Rights shall possess the instrument of public interest litigation: the Equal Treatment Authority holding the same power was abolished, and its duties and competences were assigned to the Commissioner for Fundamental Rights.

As the instrument of joint litigation matures, it becomes possible to use this tool to protect the rights of minorities, especially in cases of damage to the reputation of a community. The expansion of the material scope of joint litigation can *de lege ferenda* be suggested for actions concerning the enforcement of personality rights related to being part of a community, too.

Notes

1 In this article, the terms 'national minorities' and 'nationalities' are used interchangeably. All translations from Hungarian to English are done by the author of the present work except for passages quoted from legislation. The English translation of the laws was provided by the Government.

2 Móré, S. (2016) 'Issues of the parliamentary representation of national minorities in Hungary', *Int. J. Public Law and Policy*, Vol. 5, No. 4, pp.317–332.

3 Szalayné Sándor, E. (2003) *A Kisebbségvédelem Nemzetközi Jogi Intézményrendszere A 20 Században (The International Legal Institutional System of Minority Protection in the 20th Century)*, Gondolat, Budapest.

4 Other institutions and bodies can also cooperate in the protection of minority rights: one such organisation was the Equal Treatment Authority abolished as of 1 January 2021.

5 In international protection of rights, the European Court of Human Rights plays a key role, as well as the UN Human Rights Committee.

6 This article does not examine the joinder of parties. Although this instrument offers the possibility of collective action, the modern Hungarian legal system grants a wider opportunity for multiple, mass litigation. During the codification process, it was important to leave the efficiently operating institutions unchanged and to avoid disruptions.

7 Szikinger, I. (2005) 'Alapvető jogok a hatályos magyar szabályozásban (fundamental rights in the applicable hungarian legislation)', in Bólyai, J. (Ed.): *Emberi Jogok (Human Rights)*, pp.46–137, Rejtjel, Budapest.

8 Halász, I. and Horváth, A. (2018) 'Politikai közösség (political community)', in Halász, I. (Ed.): *Alkotmányjog (Constitutional Law)*, pp.143–157, Dialóg Campus, Budapest.

9 There is an approach according to which not all constitutional rights are fundamental rights, e.g., the right of the MPs to ask questions. Erdős, C. (2022) 'Parlamenti képviselő (member of parliament)', in Jakab, A. et al (Eds.): *Internetes Jogtudományi Enciklopédia (Internet Encyclopaedia of Law)*, ijoten blog [online] https://ijoten.hu/szocikk/parlamenti-kepviselo (accessed 2 May 2023).

10 Decision 61/1992 (IX 20) AB.

11 Sári, J. and Somody, B. (2008) *Alapjogok, Alkotmánytan II (Fundamental Rights. Constitutional Theory II)*, Osiris, Budapest.

12 Sólyom, L. (2001) *Az Alkotmánybíráskodás Kezdetei Magyarországon (The Beginnings of Constitutional Adjudication in Hungary)*, Osiris, Budapest.

13 General Comment adopted by the Human Rights Committee under Article 40, Para 4 of the International Covenant on Civil and Political Rights 1994.

14 Lerner, N. (1990) *Group Rights and Discrimination in International Law*, Martinus Nijhoff Publishers, Dordrecht, Boston, London.

15 Szalayné (No. 3)

16 Sieghart, P. (1983) *The International Law of Human Rights*, p.368, Clarendon Press, Oxford.

17 Kardos, G. (1996) 'Egyéni vagy kollektív kisebbségi jogok? (individual or collective minority rights?)', *Magyar Kisebbség*, Vol. 2, Nos. 3–4, p.1 [online] https://epa.oszk.hu/02100/02169/00003/m960116.html.

18 Act CLXXIX of 2011 on the Rights of Nationalities Art. 10 (2).

19 See Móré, S. (2014) 'Minority self-governments in hungary', in Patyi, A. and Rixer, Á. (Eds.): *Hungarian Public Administration and Administrative Law*, pp.350–363, Schenk Verlag, Passau.

20 Kovács, P. (1996) 'Egyéni és kollektív kisebbségi jogok az alkotmányos fejlődésben – pozitivista szempontból (individual and collective minority rights in constitutional development – from a positivist point of view)', *Magyar Kisebbség*, Vol. 2, No. 5, p.1 [online] https://epa.oszk.hu/02100/02169/00004/m960303.html.

21 Fleming, D. (2002) 'Responding to new demands: legal aid and multi-party actions', in Regan, F. et al. (Eds.): *The Transformation of Legal Aid: Comparative and Historical Studies*, p.261, Oxford University Press, New York.

22 For example, preferential representation of national minorities in the Chamber of Deputies.

23 Szalayné (No. 3).

24 Kovács (No. 20).

25 Ibid.

26 Ferenc Deák (1803–1876) was a Hungarian statesman and the Minister of Justice in Batthyány's Cabinet. He was known as 'the Wise Man of the Nation'. József Eötvös (1813–1871) was a Hungarian writer and statesman. He was the Minister of Religion and Education in Batthyány's and later in Andrássy's Cabinet. He was also elected as the President of the Hungarian Academy of Sciences.

27 Advisory Committee on the Framework Convention for the protection of National Minorities, Third Opinion on Hungary adopted on 18 March 2010, ACFC/OP/III(2010)001.

28 Fűrész, K. (2002) 'Az állampolgári jogok országgyűlési biztosa (parliamentary Commissioner for civil rights)', in Kukorelli, I. (Ed.): *Alkotmánytan I,Alapfogalmak, Alkotmányos Intézmények (Constitutional Theory I. Basic Concepts, Constitutional Institutions)*, pp.411–422, Osiris, Budapest.

29 Ibid.

30 Sólyom, L. (2002) 'The rights of future generations, and representing them in the present', *Acta Juridica Hungarica*, Vol. 43, Nos. 1–2, pp.135–143.

31 See Subsection 5.3.2, point 1.

32 Somody, B., Szabó, M.D. and Vissy, B. (2013) *Az Alapjogi Bíráskodás Kézikönyve (Handbook of Fundamental Rights Adjudication)*, HVG–ORAC, Budapest.

33 See the application of the individual and collective approach to the protection of fundamental rights in Tóth, J.Z. (2012) 'Az egyéni (alap)jogvédelem az alkotmányban és az alaptörvényben [protection of individual (fundamental) rights in the Constitution and the Fundamental Law] (part I–II)', *Közjogi Szemle*, Vol. 5, No. 3, pp.11–19; Vol. 5, No. 4, pp.29–37.

34 Chronowski, N. (2014) 'Az alkotmánybíráskodás sarkalatos átalakítása (the cardinal transformation of constitutional adjudication)', *MTA Law Working Papers*, Vol. 1, No. 8, pp.2–14.

35 Decision 35/1992 (VI 10) AB, Decision 24/1994 (V 6) AB, Decision 53/2010 (IV 29) AB.

36 Pursuant to Decision 41/2012 (XII 6) AB, conditioning the establishment of minority self-governments upon census data in itself does not, and cannot violate the right of self-determination.

37 In Decision 57/1991 (XI 8) AB, the Constitutional Court emphasizes that 'constitutional complaint is a remedy' – despite the fact that the regulations effective then, i.e., the remedy nature of the old-type constitutional complaint was rather limited.

38 Decision 3390/2020 (X 29) AB (termination of the minority self-government representative mandate, registry of public debt free taxpayers), Decision 3237/2020 (VII 1) AB (revision of public administration decision made in a minority self-government case), Decision 3192/2016 (X 4) AB (allowance for people of working age).

39 See Somody (No. 32).

40 Orbán, E. (2016) 'A bírói döntések ellen benyújtott alkotmányjogi panaszok tapasztalatai (experiences of constitutional complaints against judicial decisions)', *Pázmány Law Working Papers*, Vol. 7, No. 20, pp.1–26.

41 See Giussani, A. (2003) 'The 'verbandsklage' and the class action: two models for collective litigation', in Storme, M. (Ed.): *Procedural Laws in Europe, Towards Harmonisation*, pp.389–402, Maklu Publishers, Antwerpen.

42 Harsági, V. (2018) *Európai Válaszok a Kollektív Igényérvényesítés Szükségességének Kérdésére (European Responses to the Question of the Need for Collective Claims Enforcement)*, Pázmány Press, Budapest.

43 See Neil, A. (2014) 'Multi-party litigation in England', in Harsági, V. and Van Rhee, C.H. (Eds.): *Multi-party Redress Mechanisms in Europe, Squeaking Mice?*, pp.111–125, Intersentia, Cambridge.

44 In the Netherlands, there is no limitation in the material scope, but compensation cannot be claimed in this litigation. See Fleming, J. and Kuster, J.J. (2012) 'The Netherlands', in Karlsgodt, P.G. (Ed.): *World Class Actions, A Guide to Group and Representative Actions Around the Globe*, pp.286–300, Oxford University Press, Oxford.

45 Harsági (No. 42).

46 The conceptual guidelines of the (new) code included a clear reference to the need to establish collective redress tools, referring to the Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law, as well as to other European models.

47 Udvary, S. (2019) 'Collective litigation tools in the Hungarian legal system', in Simon, R. and Müllerová, H. (Eds.): *Efficient Collective Redress Mechanisms in Visegrad 4 Countries, An Achievable Target?*, pp.79–92, Ústav Státu a Práva, Prague.

48 Act V of 2013 on the Civil Code Arts. 6:105 and 6:106, Act CLV of 1997 on Consumer Protection Art. 39, Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices Art. 85/A, Act CXXXIX of 2013 on the National Bank of Hungary Art. 164, Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities Art. 20 (1).

49 See Udvary, S. (2021) 'Competitive edge of a procedural system. The introduction of collective litigation in Hungary', *Economics & Working Capital*, Nos. 3–4. pp.48–56 [online] http://eworkcapital.com/competitive-edge-of-a-procedural-system-the-introduction-of-collective-litigation-in-hungary/.

50 Art. 20 (1):

> "For violation of the principle of equal treatment, an action for the enforcement of personality rights, a labour law action, or an action concerning public service relationships may be brought in court by a) a prosecutor, b) the Authority, c) a non-governmental and representative organisation, if a violation of the principle of equal treatment, or the direct threat of it was based on a characteristic specified in article 8 that constitutes an essential trait of an individual's personality, and the violation or the direct threat of it affects a larger but undefinable group of persons."

51 The Equal Treatment Authority, operating until 31 December 2020, had the competence to conduct authority procedures in case of direct and indirect discrimination and other conducts. In the legal practice of the authority, several decisions can be found that established violations as a consequence of discrimination due to national minority as a protected trait, e.g., EBH/25/2016, EBH/381/2016, EBH/381/2016, EBH/349/2016, EBH/39/2016, EBH/232/2016, EBH/70/2018, EBH/45/2018, EBH/319/2018, and EBH/553/2018.

52 Budapest Environs Regional Court 22.P.20.485/2017/11, Budapest-Capital Regional Court of Appeal 2.Pf.20.122/2018/5/II.

53 Curia Pfv.IV.20.068/2012/3, Supreme Court Pfv.IV.20.936/2008/4, Debrecen Regional Court of Appeal Pf.I.20.361/2007/8.

54 Udvary (No. 47).

55 The Code of Civil Procedure rejected the *opt-out* system joint litigation despite the fact that the Expert Proposal contained this. According to this, such claims could have been enforced in joint litigation that were not 'viable' independently, and therefore, did not appear in the judicial system: the claim is insignificant on the level of individuals, but collectively, it is a huge amount. The argument against the *opt-out* system: it violates autonomy if an action is filed without the consent of the persons entitled to initiate the litigation, and not for public interest, by a special applicant, but by another individual in similar situation, with financial interest. If the class member is not informed of the commenced procedure and due to this, fails to exercise the right to *opt-out*, the inactivity is considered as a consent to be represented by the representative plaintiff.

56 See Udvary (No. 47).

57 Labour litigation not only covers the legal relationships established pursuant to Act I of 2012 on the Labour Code, but also public employees, and with certain exceptions stipulated by law, the service, public employment, employment agreement concluded pursuant to the sports law, student agreements concluded during professional training, student employment agreements concluded pursuant to the national higher education act, and the member's employment legal relationship concluded with social cooperatives or employment cooperatives may also be subjects of the litigation.

58 Claim or financial damages arising from health damages caused directly by unforeseen environmental impact based on human behaviour or negligence (this latter shall apply if the given person is obliged by law to refrain from the behaviour).

59 Budapest-Capital Regional Court 28.P.23.924/2018/10, Budapest-Capital Regional Court of Appeal 32.Pf.20.546/2019/4-II, Curia Pfv.IV.20.199/2021/7.

60 Amendment proposal T/11900/9 submitted to Draft Act T/10537 on the Rules of Civil Procedure, Hungarian National Assembly.

61 The following article deals with the constitutional interpretations of the concept of the dignity of communities, which is the constitutional basis of collective litigation: Erdős, C. (2022) 'Közösség, vázlat az Alaptörvény és az Alkotmánybíróság közösségi méltóság-koncepcióiról (community, outline on the Fundamental Law's and the Constitutional Court's concepts of dignity of communities)', in Erdős, C. et al. (Eds.): *Kukorelli-Kommentár (Kukorelli-Commentary)*, Gondolat, Budapest, pp.228–234.

62 Gárdos-Orosz, F. and Pap, A.L. (2014) 'Gondolatok a gyűlöletbeszéd polgári jogi szabályozásának jogi és jogpolitikai környezetéről (thoughts on the legal and political environment of the civil law regulation of hate speech)', *Állam-és Jogtudomány*, Vol. 55, No. 2, pp.3–26.

63 Rixer, Á. (2016) 'A romák és a központi közigazgatás kapcsolata Magyarországon, elnagyolt kísérlet a kapcsolat rendszerező bemutatására (the relationship between the Roma and the central administration in Hungary, a crude attempt at presenting the relationship in a systematic way)', *Jogtudományi Közlöny*, Vol. 71, No. 2, pp.95–105.