

Issues of Homelessness

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“These men ask for just the same thing: fairness, and fairness only. This is, so far as in my power, they, and all others, shall have.”

(Abraham Lincoln)

Abstract

During my research I would like to draw attention to one of the society's major problems, homelessness, which is closely connected to the freedom of movement. As the profile of homeless people went through a change in both Europe and Hungary, I believe solutions have to be found to tackle the situation.

Whereas previously the majority of the homeless was middle-aged men, who were struggling with alcohol and drug problems and left closed institutions (psychiatry, jail, etc.) without permanent residence or job, nowadays several families with children, women and young adults can be found among the homeless. The increase in the costs of living, utility costs and the interests of foreign currency loans made it more difficult to maintain a home for people with low income. Families may fall apart and the number of homeless people will increase.

The situation of the homeless and the related legislation pose a huge challenge for all the countries in Europe. The number of people living on the streets is increasing in Hungary and in the neighbouring countries as well. Unfortunately, almost no attention is paid to prevention. The government intervenes only when people have already lost their homes and have to live on the streets and thus their safety or health are endangered. However, the problems never begin on the streets, they only end there. This situation must be legally solved through responsible actions, adequate supply systems and redeeming mechanisms. In this paper I introduce the current situation of the homeless in Hungary, the previous measures taken and the Decisions of the Constitutional Court. My aim is to draw attention to the seriousness and the possible consequences of the issue.

The administrative proposals which consider the stay of the homeless in public areas as an issue of city image hold the risk to contradict the right to human dignity. The legislation explicitly lists what activities can be carried out in public areas and leaves the decision whether to sanction habitual residence in public areas to the local government.

Keywords: *homelessness, homeless situation, legislation.*

1. THEORETICAL BACKGROUND

1.1. Introduction

One of the hottest social issues these days is the problem of homelessness. It is a problem need to be solved not only in Hungary but also nearly in all European countries.

The main question of the issue I deal with is whether the prosecution or the punishment of the homeless solves any of the related problems (or even one them). In other words, would it eliminate homelessness if the authorities persecuted the homeless people?

The problem of homelessness is not only the problem of the individual. In reality, it is a social problem affecting the whole population. It would be necessary to find solutions to address and eliminate this situation. When dealing with the problem of homelessness, the legal regulation of associated issues poses a major challenge. The number of people living on the street continues to increase. Solving the situation by the rule of law is possible and necessary by providing appropriate supply systems and exit mechanisms.

In the first part of my work, the legal decisions of the Constitutional Court concerning situation of the homeless are expounded. Any administrative proposal or sanction dedicated to address the problem of homeless people, especially those which refer to the issue in a way that the homeless living in public spaces ruin the image of the city, has the risk of an anomaly associated with the right to human dignity.

The Act of Offence provides an itemized lists of what behaviours can be continued in public areas. Municipalities are free to decide whether to impose sanctions e.g. for residing in public places habitually or not.

1.2. The definition of the homeless

The first question is the legal concept of the homeless. The Social Act gives the definition of the homeless in two different ways:

According to the first definition, which is the administrative type: “Homeless is a person who does not have a registered place of residence, except for those whose registered place of residence is a homeless shelter.” As it follows from the above definition „in the social case management procedures of the homeless, the body has social competence the area of which is declared as a place of residence by the statement of the (concerned) homeless at the time of the use of the supply.”

In case of providing financial and natural service, local governments should act according to this definition.

The second definition of the Act – the supply type definition defines the term in the following way: „The person should be considered homeless who spends their nights in public places or in premises not for the purpose of housing.”

Under this definition „Local authorities, irrespective of their competence, required to provide temporary support/assistance/aid, meal/food and accommodation if the lack of these needs would threat the lives or the physical

integrity of those in need.”

The Social Act links this definition to the provision of personal care for homeless people. In other words, the government is required to apply this definition if it provides personal care by providing shelters, night shelters or temporary accommodation. This also means that territorial jurisdiction of residence or last residence cannot be a condition when using these benefits.¹

1.3. Public land

According to the Act LXIII of 1999: “Any state-or local government-owned land which can be used according to its intended purpose... furthermore, those private areas which can be used under the same condition are considered public land.”² As for the Regulation of the Municipal Assembly,³ the public areas of Budapest „basically serve for the goals of the community and under the same terms and conditions these are available for anyone to achieve these goals.”

According to this:

- (1) Public land can be used freely according to its intended purpose;*
- (2) The use of public land should not impair the rights of others with similar objectives;*
- (3) The use of the public land differs from its intended purpose if the use of the public area or just the use of a specified part of it prevents others from its proper use in the manner mentioned in this regulation.*

In other words, public land can be used in an improper way as well, but this requires special permission from local governments so you have to pay for it.

2. LEGAL REGULATION

2.1. Does law take us forward?

Unfortunately, experience shows that legal approach is quite insensitive to the depth of the problem, in many cases, it even prevents the effective work. Although, the former situation has not changed much by improving the situation of the homeless and by introducing new regulations designed to help them. The Social Act and regulations of the local authorities contain conflicting provisions often, which leads to a total disfunctionality.

As Hungary is a state party of most human rights conventions (more than a hundred...), the current government is committed to guarantee the right to adequate housing equally, including homeless people as well, without discrimination even if it is not included in the Constitution explicitly/*expressis verbis*.

No. 4 statement of the Covenant on Economic, Social and Cultural Rights (ICESCR) contains the details of the obligations of the states regarding the right to proper housing.

¹ Act III of 1993 on social administration and social benefits.

² Act LXIII of 1999 on the public space surveillance, Art. 27.

³ Degree of the Municipal Assembly 59/1995. (X. 20.).

In the 12th paragraph of the resolution, the committee points to the fact that “although the proper way of the practical implementation of the right to adequate housing differs in each signatory country inevitably, the Covenant requires clearly that each State should take the necessary steps in order to achieve this goal.” It requires the establishment of a national housing strategy in all cases.

2.2. *The homeless in the Fundamental Law*

Article XXVII para. (1) of the Hungarian Fundamental Law says that everyone staying lawfully in the territory of Hungary shall have the right to move freely and to freely choose his or her place of stay.

Under the Article 8 of the Fourth Amendment to Hungary’s Fundamental Law, the following provision shall replace Article XXII of the Fundamental Law:

(1) Hungary shall strive to provide the conditions for housing with human dignity and to guarantee access to public services for everyone.

(2) The State and local governments shall contribute to creating the conditions for housing with human dignity by striving to guarantee housing for every homeless person.

(3) An Act of Parliament or local government decree may outlaw the use of certain public space for habitation in order to preserve the public order, public safety, public health and cultural values.

2.3. *Legitimate illegality?*

When the fourth amendment of the Fundamental Law of Hungary came into force, the Constitution of Hungary came into conflict with itself.

The Amendment of the Constitution (Article 8) also states that any regulation made by the local government can declare the habitual use of public place (as an unlawful (action). Simply, the local government may restrict some basic constitutional rights of certain citizens, namely the right to freedom of movement and the choice of residence.

One of the most controversial points of the Fourth amendment of the Hungarian Fundamental Law concerning the homeless. A serious consequence of the amendment is that more judicial decision or interpretation of the law can be even contradictory at the same time. Some provisions can be legally challenged.

According to Amnesty International, it is particularly worrying that the proposal of the Amendment of the Constitution (Article 8) makes it possible to criminalize the habitual use of public place by law or by local regulations because it contradicts to the international obligations of Hungary. The state should guarantee the right to adequate housing equally for everyone.

The problem is not the restriction itself but the fact that the Fundamental Law declares that fundamental rights and duties may be regulated only by law, but even that should not restrict the essential content of fundamental rights. This is a cornerstone of the rule of law as in this way governance with decrees can be prevented.

The Constitutional Court has repeatedly held the view that in relation to a fundamental right the regulation by decrees is constitutional only in case of an indirect and remote correlation. Municipal regulations concerning homelessness

issues are most likely to affect the constitutional and fundamental rights closer and in a more direct way, they would not stand the test of constitutionality. The Fundamental Law is not aimed to have a constitutional level of solution to all fields and problems of life and society. It is enough to set out only basic rights and duties in the Fundamental Law, since the establishment of detailed rules and laws has to be carried out on the level of parliamentary legislation. Before the Fourth Amendment, rules concerning the problem has been set in the Constitution.

According to the text of the Constitution: “Hungary shall strive to provide the conditions for housing with human dignity and to guarantee access to public services for everyone.”

2.4. The Constitution is not a game

The constitution of a country records in writing the fundamental values of the people living there. We cannot allow that cruelty to and prosecution of the poor and the vulnerable become a fundamental value in Hungary.

Hungary formally ensures equal rights. However, homeless people are not able to exercise their rights similar to people in better positions.

However, by declaring living in public areas a petty offence by the Municipal Assembly and by the National Assembly as well in the spring of 2011, it is homelessness that became unlawful.

Banning homeless people from public places violates their fundamental human rights and human dignity, as well as the right to freedom of movement and free choice of residence.

It can be considered unconstitutional. It would restrict their right to free decision-making and their freedom of action without meeting the requirements of the Constitutional-test. According to the current practice of the Constitutional Court, the State should limit fundamental rights only if the protection or the enforcement of other fundamental rights or other constitutional values cannot be achieved by any other ways.

In order to be constitutional, a constitutional restriction must fulfill the requirements of the so-called „necessity-appropriateness” test. The legislature is required to apply the weakest means appropriate for achieving the objective of the limitation.

According to the practice of the Constitutional Court, a reference to an abstract public interest or to an increase of the efficiency of public safety is not adequate grounds for limiting the fundamental constitutional rights.

The Constitutional Court has already explained at the time of the constitutional foundation of rule of law that dignity is associated with human life inherently and it is indivisible and unrestrictable, and therefore it is equal for all people. [...] Human dignity and life is untouchable, undisputable for everyone equally regardless of their physical and spiritual level of development or condition.

3. THE SITUATION OF THE HOMELESS IN VIEW OF THE DECISION OF THE CONSTITUTIONAL COURT

3.1. Constitutional Court Decision 176/2011. (XII. 29.)

The Constitutional Court has repeatedly dealt with the limitation of the rights of the homeless. In the first case, the Parliamentary Commissioner for Civil Rights initiated the examination of the constitutionality of the (Art. 14 para. (2)) of the regulation of Kaposvár Municipality because this regulation declares rummaging through garbage as an offence.

Although, according to the commissioner, the regulation is unconstitutional.

The commissioner argues that the regulation restricts rummaging through garbage without any reasonable grounds, however it does not target a group expressis verbis, and it stigmatizes and discriminates people living below the poverty line because it relates to them, so the regulation violates the freedoms and equality of opportunity of these groups.

The Commissioner turned to Kaposvár county town in order to repeal the objected decree but that did not happen, so he turned to the Constitutional Court, which examined what kind of attitude can be declared as an offence by a local governmental decree. An activity declared as a petty offence by the local government must be in accordance with major goals and principles of different regulations.

According to the challenged ordinance: those who effuse rubbish or rummage through garbage at the littery placed in public areas commit an offence and can be punished by a maximum of thirty thousand (30,000) HUF fine.

According to the Kaposvár notary, the decree was necessary because of the maintenance of the public peace and public health.

Contrary to this, according to a higher level regulation, if someone effuses rubbish or rummages through garbage in containers, commits an offence in a public health point of view, which is punishable by up to 50,000 HUF fine. Thus, the regulation of the local government is needless, since the qualification of littering is regulated by a higher regulation.

The Constitutional Court ruled that the local government must not impose sanctions because rubbish is considered ownerless as the contents of the waste container can be picked up by anyone. The fact that someone puts garbage into the container expresses that they dispose it, because they do not need it. Therefore, rummaging through garbage must not be sanctioned because it is not an illegal conduct. So the local government exceeded its legislative competence by sanctioning “getting out garbage of the container”.

Finally, the Constitutional Court examined whether rummaging through garbage can be declared as a petty offence or not.

According to the Ombudsman, sanctioning rummaging through garbage is also unconstitutional because there is no constitutional limitation of such activities. Since the „valuable” things removed from containers as a result of rummaging through garbage are taken away and not littered, the action does not cause any pollution. Although, if the concerned person litters, (s)he is responsible for this

action.

The Constitutional Court thought that rummaging through garbage is an involuntary action that arises from existential reasons as those doing so are poor, needy people, who can ensure conditions to survive, only in this way, that is why that action should not be sanctioned and the State must ensure respect for human dignity.

The state has a compulsory obligation to provide assistance for the socially disadvantaged by creating or founding institutions, etc. but those who do not take advantage of this help, for example, they need to have access to the vital things by means of rummaging through garbage. The local government, therefore, exceeded its legislative powers again.

Finally, the Constitutional Court examined whether the regulation violates the conditions of equality or not.

According to the Commissioner, it violates that because the decree stigmatizes an excluded group, which is considered an indirect discrimination.

The Constitutional court ruled that the impugned section of the local government decree was unconstitutional and therefore annulled it.⁴

3.2. Constitutional Court decision 38/2012. (XI. 14.)

There is another decision of the Constitutional Court also dealing with the homeless.

It was also Máté Szabó, the ombudsman, who initiated an action for constitutional review of laws declaring living on public areas habitually a petty offence and those who commit this offence can be fined or detentioned.

Some of the main points of the regulation on the use of public places and public areas of the capital city are contrary to the requirement of the principle of the rule of law and violate the right to human dignity. The usage of public land for the purpose of living there habitually is declared a petty offence.

For those homeless people who live in the public place, this is a very serious crisis situation, which is due to various constraints, and it is rarely a consequence of a conscious or thoughtful free choice. Homeless people have lost their homes and have no opportunity to resolve their housing, so the absence of a real alternative forces them to live in public places – as that is the only open public area.

According to the Ombudsman, a priori there is no place for them to go to, so they are forced to reside habitually in public areas that is why sanctioning this situation is in conflict with their human dignity. Homelessness does not infringe the rights of third parties/others, so it should not be threatened by such a disadvantage. He considers fine unsuitable because it is not deterrent.⁵

⁴ Decision 176/2011. (XII. 29.) Constitutional Court.

⁵ Decision 38/2012. (XI. 14.) Constitutional Court.

4. NO ROOF = NO RIGHTS?

4.1. Legislation leading to illegality

Parliament, local governments and particularly concerned metropolitan and district municipalities (most of the homeless people live in the capital) considered the introduction of strict rules and regulations as a successful way to handle the issues of homelessness.

Examining former and current legislation and regulations, it is clear that harassing begging or begging with children was prohibited before 2010, as well.

Intervention by the state had a turn again concerning the homeless when legislators interfered with the issue in statutory level.

This provided an opportunity for local governments to declare the improper use of public areas a petty offence. According to the concerned amendment of the Act of Offence, fine and imprisonment can be imposed for offences.

The Ministry of Home Affairs attempted to set up some „surviving spots” for the homeless by larger municipalities in February in 2011 but these attempts were unsuccessful. However, in spring, 2011, the Metropolitan Municipality took advantage of the amendments of 2010 and made a local regulation in which homelessness (in public areas) was declared as an offence. In November 2011, the National Assembly adopted a new bill in which declared „habitual residence in public places” a punishable offence for which imprisonment or a fine of up to 150 thousand HUF can be imposed if someone violated the prohibitive municipal regulations repeatedly.

On the 23th of December in 2011, the Parliament accepted the new Act of Offence, which was to punish homelessness throughout the country.

On 12th of November 2012, the Constitutional Court declared the provision of the Act of Offence – which sanction living in public areas habitually – unconstitutional and annulled it due to the actions of the ombudsman. The committee also annulled those statutory provisions, which have authorized local governments to impose a fine or apply confiscation as a punishment of antisocial behaviour by regulations.

Finally, on March 11, 2013, the Parliament adopted the Fourth Amendment to Hungary's Fundamental Law and with this action it is included in the constitution that „An Act of Parliament or local government decree may outlaw the use of certain public space for habitation in order to preserve the public order, public safety, public health and cultural values.”⁶ Since according to the majority of the Constitutional Court, the contents of the Amendment to Hungary's Fundamental Law cannot be reviewed by them, this situation had a serious and lasting effect on the constitutional condition of the homeless.

4.2. International judgement of the Hungarian situation

Despite international pressure and protests at home, the Hungarian Parliament has voted in a constitutional reform which not only inscribed the criminalisation of

⁶ Fourth amendment to Hungary's Fundamental Law.

homelessness in the country's Constitution but also made it possible to ban people from habitually residing in public places and to fine them.

The constitutional amendment, which criminalizes homelessness, has been abolished by the Constitutional Court stating that criminalising homelessness is unconstitutional, as it violates fundamental human rights and human dignity. Including prosecution of homeless people for living in public spaces into the law is unconstitutional. Neither the removal of homeless persons from public premises, nor urging them to take up social assistance may be considered a legitimate constitutional aim.

“Homelessness is a social problem that should be dealt with by the state by means of social intervention and social assistance rather than punishment. It is incompatible with the protection of human dignity as enshrined in Article II of the Fundamental Law to declare homeless persons dangerous to the society and punish them.”⁷

Hungary has been called on to veto the amendment criminalising homelessness which makes it possible to imprison or fine those who sleep on streets. This proposed constitutional amendment clearly violates the spirit of the many international human rights treaties to which Hungary is signatory.

Members of FEANTSA (European Federation of National Organisations Working with the Homeless), which is an umbrella of not-for-profit organisations which participate in or contribute to the fight against homelessness in Europe, are alarmed by the regulations of the Hungarian authorities. This organization is the only major European network focusing exclusively on homelessness at European level. They are alarmed by the Hungarian government's campaign to punish and imprison homeless people who are unable to find or afford accommodation. It is quite shocking that over the past two years, the Hungarian government has used the legal system to systematically target vulnerable people living in extreme poverty. There is a lack of affordable housing in Hungary and people who are homeless have nowhere to go.

“Criminalising homeless people is not the answer. Punitive measures, which stigmatise and criminalise homeless people, are cruel, since they punish the most vulnerable. These measures, whether they be fines that are absolutely unaffordable for people who have no means, or convictions for misdemeanors and other administrative offences, make it even more difficult for people to emerge from situations of extreme poverty. People face additional stigma, huge bureaucratic burdens and debts when attempting to re-integrate into society and the labour market. Criminalisation measures are also ineffective, since they aim to move the visible problem of homelessness out of view rather than offering any real solution.”

The solution should be an integrated homelessness strategy, which offers real housing options for homeless people, either in social rental properties or in supported housing on the private rental market can be successful and affordable, even in times of economic crisis. The main argument for this opinion is: „These

⁷ European Federation of National Organisations Working With the Homeless Press Release – 13th March 2013 For Immediate Release FEANTSA Deeply Concerned by Constitutional Amendment Criminalising Homelessness.

strategies are not more expensive than using police and the justice system to fine, arrest and imprison homeless people and they work.”

FEANTSA, and its members urge the Hungarian government to withdraw its proposed amendment which will open the door to human rights violations in the Hungarian constitution. Instead, Hungary was called on to work towards developing an integrated homelessness strategy as a positive and effective way of putting an end to this unacceptable situation.⁸

4.3. Ruthless power – destructive consequences

Over the past two years, there was a change of attitude in the management of homelessness by the state and local governments in Hungary; instead of a social or an administrative problem the issues of homelessness have become a criminal-legal question.

The government provides power for municipalities to criminalize homeless people in many ways. There is an Act according to which living in public places habitually as well as the construction of a cottage in a public land without a permission is punishable. It was done despite the fact that in Hungary there is no adequate social housing policy and people cannot exercise their rights to possessing proper housing. The state responsibility is realised in the effort that the homeless are forced to live in shelters – act enforced even by law enforcement tools. The current Hungarian politics misses the ambition to find a socio-political solution to the problem of homelessness.

Huts and tents of those homeless who try to create own, independent „homey” conditions are dismantled. The authorities try „to solve” the problem by moving the visible problem of homelessness out of view. There is something particularly cruel in the way how the government has been working on the prosecution of homeless people over the past two years; and this cruelty appears not only in the legislative level but also in practice.

4.4. Punishment or fair judgement?

Contrary to this situation, the Constitutional Court stated in its decision that homelessness is a social problem so instead of punishing them, the state should deal with social intervention and provide social aid and support.

Thus, – the Constitutional Court says – it violates the right to human dignity if the homeless are considered to be dangerous to the society or considered as criminals. To penalise those who have lost their houses is not humane. Homeless people live on public places but doing so they do not infringe the rights of others, do not cause any harm and they do not commit other unlawful actions.

According to the committee, the human dignity of the individual and the freedom of action cannot be reconciled with the fact that the state enforces anybody to the use of services by punishment.

Last but not least, homelessness is a social problem so solving the problem by

⁸ European Federation of National Organisations Working With the Homeless Press Release – 4 March 2013 For Immediate Release – Statement Against the Continued Persecution and Criminalisation of Homeless People in Hungary

penalising it is not only inappropriate, but also pointless. These homeless people got to this position because they cannot resolve their housing due to lack of income, thus, they are not able to pay the fine. If we accepted that a person in an unworthy position does not have a human dignity to be protected, we would question human dignity and equality itself.

Anyone at any time can get involved in an indignity. We do not need an economic crisis for this to happen, an unexpected life tragedy might be sufficient to make somebody homeless. Homelessness and living on the streets is not a matter of the choice of the individual, but also it is a kind of deviance. – Besides, there are the ranges of differences in individual cases – so dealing with it might cause a dilemma and a lot of conflicting views and interests. Obviously, neither sleeping on the streets nor rummaging through garbage may not be 'rights', anyway, they have never been and nobody wants to achieve that.⁹

5. A POSSIBLE WAY TO SOLUTION

As the problem of homelessness is a multi-dimensional problem, solutions and efforts to reintegrate homeless people into the society also need to be enforced in several areas simultaneously. Different ideas, opinions and ways can be and should be considered and supported to achieve success.

The public opinion should be revealed also. Policy makers consider it inevitable to find solutions to the prevention of homelessness, to release the difficulties of the homeless and to help them in the housing while respecting and guaranteeing the requirement of an equal dignity.

Provision of adequate housing is a key component/element of reintegration.

Access to a number of good quality and affordable housing for the marginalized population would be necessarily important. Furthermore, politics on employment, housing and expenditure on health should be revised and reconsidered as well. It is important that other areas associated with homelessness should be consistent with current policies and measures with the effort to eliminate homelessness, and should not generate a regular supply of the homeless population.

It is important to act against the social perception that homelessness is only the problem of the individual, as it is a social problem affecting the whole population.

Instead of punishing and placing the homeless in mass accommodation shelters, the solution would be the prevention of rooflessness and facilitating the access to housing for those who have been unhoused.

Issues of homelessness should be dealt together with social and housing policies instead of using law enforcement exclusively. Furthermore, ensuring the

⁹ BORZA, BEÁTA – CSIKÓS, TÍMEA – KISS, BERNADETT (et. al.): A hajléktalan lét, in HAJAS, BARNABÁS – SZABÓ, MÁTÉ (ed.): *Pajzsuk a törvény. Rászoruló csoportok az ombudsmani jogvédelemben* [Their shield is the law. The Ombudsman's protection for vulnerable groups], 2013, Alapvető Jogok Biztosának Hivatala, Budapest, 337-338.

cooperation of local authorities and efficient governmental programs are needed. This cooperation would facilitate their social integration and settle their situation instead of criminalization of homeless and displacement them from the street.

Comprehensive housing and social policy reform is needed to manage the issue of homelessness; e.g. Acts should contain an enforceable right to housing.

Measures taken in the following areas are also necessary; an extended social housing network, significantly increased housing subsidies, widespread, effective debt management, moreover a social service system that works on helping its customers to be re-housed soon, and finally, putting a greater emphasis on prevention rather than post-compensation.

Nobody should have the purpose to – especially not the Parliament that helps so much for those who are in danger of losing their home due to foreign currency loans – more people live on the street or in a cottage, but we should have the purpose to have real solutions to the housing crisis. Either the development of the local governmental rental property and the use of empty houses or the renovation of the houses in bad condition and making them habitable would be the solution to this problem.

All upcoming governments should seek to alleviate homelessness, reduce the number of homeless people, to ease the housing crisis situations. The method of allocation housing and the access to housing opportunities should be improved. These efforts, however, limited by the course of the current budgetary constraints, which can be grouped into two categories: achievable steps with or without out increasing the reverse current resources.

Although, it is true that it is not the government that is responsible for the elimination of homelessness in whole or for every aspect of the situation.

Wide social cooperation and social professional initiative is necessary for the gradual elimination of homelessness. Housing and housing retention, furthermore, conversion of the regulation concerning the homeless is that requires governmental actions. Such integrated systems in which the government, local governments, social service providers and operators are working together are required in each area of intervention.¹⁰

6. CONCLUSION

The most important is that homeless people should not be treated as criminals. I am convinced that direct assistance can only be successful and efficient by the collaboration of various organisations and people. It is strongly important to emphasize the respect of the human dignity, the equitable recognition of the autonomous and responsible decision-making capabilities, furthermore, the

¹⁰ GYŐRI, PÉTER – MARÓTHY, MÁRTA: *Merre tovább?* Egy nemzeti hajléktalanügyi stratégia lehetséges keretei. Szakértői javaslat a Magyar Köztársaság Kormánya részére [Where to go? A possible framework of a national homelessness strategy. An expert proposal for the Government of the Republic of Hungary], in *Pro Domo Füzetek*, No. 1. (2008), 10.

expression and the protection of the rights of the homeless or the people threatened with such a situation. It is also indispensable to prevent the development of such situations, in other words, to prevent people becoming homeless.

The state always had, and now it also has a constitutional way to – not really constitutional law, but rather implemented a kind of paradigm shift in approach – become an active ally of the citizen instead of being a passive assistant. The role of the ombudsman can be defined as an incentive to act as a professional and as a consistent critic who shows the arguments in favour of participation and coordinates the process.

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