



Vulnerability and Children's Right to a Healthy Environment, with a Special Focus on the Hungarian Ombudsman's Practice

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*'In every crisis, children are the most vulnerable.
Climate change is no exception'.¹*

Abstract. The impact of climate change on the rights and well-being of children is an undisputed fact among human rights researchers. It poses significant challenges to the effective enjoyment of various human rights, including the rights of children as set out in the United Nations Convention on the Rights of the Child (UN CRC). As a result, children's rights scholars also deal with this complex issue. Due to their incomplete maturity, evolving capacities, and special developmental needs, children are disproportionately affected by changes in their environment, making them highly vulnerable. Factors such as poverty, minority backgrounds, and disabilities exacerbate their vulnerability. Independent children's rights institutions (ICRIs) also play a critical role in monitoring and advancing children's rights as human rights in the context of the environment, often in the form of an ombudsman institution. The main monitoring body of the UN CRC, the CRC Committee, in its recently adopted General Comment No. 26 on children and the environment, also highlighted the importance in this field of environmental rights. Despite such calls, the ICRIs do not emphasise children's environmental rights. This study examines the Hungarian ombudsman as a case study. This is a unique situation, as Hungary has a specialised deputy ombudsman for future generations, along with a general ombudsman with the special task of protecting children's rights; nevertheless, evidence shows that neither of them feels any ownership of this issue.

Keywords: children's rights, vulnerability, independent children's rights institutions (ICRIs), ombudsman, climate change, environmental rights, Hungary, UN CRC.

1 UNICEF, 2015, p. 6.

1. Introduction

Many scholars and researchers highlight the significant impact of climate change on children's rights and well-being,² as climate change poses significant challenges to the effective enjoyment of various human rights, including those outlined in the United Nations Convention on the Rights of the Child (UN CRC). The UN CRC is a legally binding international agreement that sets out the basic civil, political, economic, social, and cultural rights of children. As climate change worsens, it directly and indirectly affects children's rights in numerous ways. These rights include the rights to life, survival, and development, access to health and education, protection from violence and exploitation, and enjoyment of one's culture. International bodies, including the UN Committee on the Rights of the Child (UN CRC Committee), have identified climate change as one of the biggest threats to children's health and urged states to prioritise children's health concerns in climate change adaptation and mitigation strategies. The latest General Comment (GC) No. 26 to the CRC³ on children's rights and the environment states that

The extent and magnitude of the triple planetary crisis, comprising the climate emergency, the collapse of biodiversity and pervasive pollution, is an urgent and systemic threat to children's rights globally. The efforts of children to draw attention to environmental crises created the motivation and were the momentum behind this general comment.⁴

The UN CRC Committee highlighted the benefits from the contributions of children and young people at its 2016 Day of General Discussion on children's rights and the environment.⁵ Moreover, a children's advisory team supported the consultation process undertaken for GC 26, the first of its kind, with 16,331 contributions from children from 121 countries, through online surveys, focus groups, and in-person national and regional consultations.⁶ The UN CRC Committee also received inputs from states, experts, and other stakeholders through two rounds of consultations on the concept note and first draft of the GC.

UNICEF also communicates clearly that children are disproportionately affected by changes in their environments due to their incomplete maturity, evolving capacities, and special developmental needs.⁷ However, they bear the

² McInerney-Lankford *et al.*, 2011; Sinden, 2008; Knox, 2009; Bakker, 2020; Nolan, 2022.

³ UN Committee on the Rights of the Child, 2023.

⁴ *Ibid.*

⁵ During its 69th session, the CRC Committee decided to devote its 2016 General Discussion Day to the issue of children's rights and the environment. It took place on Friday, 23 September 2016, during the 73rd session of the Committee at the UN Office in Geneva. OHCHR, 2016.

⁶ Child Rights Environment, no date.

⁷ UNICEF, 2021a, 2021b; Save the Children, 2021.

least responsibility for the climate crisis but are among the most vulnerable to its impacts. The so-called 'vulnerable' children, in global terms, such as those from low- and middle-income countries, indigenous children, children with minority or migrant backgrounds, and children living with disabilities, are particularly susceptible to the negative impacts of climate change. Extreme weather events, water and food shortages, displacement, and health risks exacerbate their vulnerabilities. Universal access to safe drinking water is a fundamental need but also a human right. Shortages of safe water and proper available food already have disproportionate impacts on children, particularly the most vulnerable ones. Child mortality rate in 2020 stood at 5.0 million, which means 13,800 children under the age of five years died every day in 2020.⁸ Globally, infectious diseases, including pneumonia and diarrhoea, remain a leading cause of deaths in children aged under five years, along with preterm birth and intrapartum-related complications. Globally, malnutrition and undernutrition are responsible for about half of all under-five-year-olds' deaths and are a major factor exacerbating the frequency and severity of other diseases and infections.⁹

Children are more vulnerable to vector-borne and infectious diseases due to factors such as their developing immune systems, limited access to healthcare, and higher likelihood of living in areas with poor sanitation and hygiene conditions. Climate change exacerbates these vulnerabilities by altering environmental conditions that affect disease transmission dynamics.

Climate change is projected to increase the displacement of people. In other words, it can be seen as a risk factor for migration and can indirectly increase the risk of violent conflict. There is no legal definition for 'climate refugees' (yet); however, the climate crisis is seen clearly as a human crisis by migration-related international organisations, such as the International Organization for Migration and the UN Refugee Agency. It is driving displacement and making life harder for those already forced to flee. It may trigger displacement and worsen living conditions or hamper return for those who have already been displaced.¹⁰

According to the Intergovernmental Panel on Climate Change (IPCC), persons who are socially, economically, culturally, politically, institutionally, or otherwise marginalised are especially vulnerable to climate change as well as some adaptation and mitigation responses. The negative impacts of climate change disproportionately affect vulnerable children. The IPCC states that

Children aged ten or younger in the year 2020 are projected to experience a nearly four-fold increase in extreme events under 1.5°C of global warming by 2100, and a five-fold increase under 3°C warming. Such increases in

8 UNICEF Data, no date.

9 Ibid. See also UNICEF, 2022.

10 UNHCR, no date.

exposure would not be experienced by a person aged 55 in the year 2020 in their remaining lifetime under any warming scenario.¹¹

OECD also reported that

Climate change is a serious risk to poverty reduction and threatens to undo decades of development efforts. As the Johannesburg Declaration on Sustainable Development states, ‘the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating and developing countries more vulnerable.’ While climate change is a global phenomenon, its negative impacts are more severely felt by poor people and poor countries. They are more vulnerable because of their high dependence on natural resources, and their limited capacity to cope with climate variability and extremes. Experience suggests that the best way to address climate change impacts on the poor is by integrating adaptation responses into development planning. This is fundamental to achieve the Millennium Development Goals, including the over-arching goal of halving extreme poverty by 2015, and sustaining progress beyond 2015.¹²

The impacts of climate change and the vulnerability of poor communities to climate change vary greatly; however generally, climate change is superimposed on existing vulnerabilities. It seems to be obvious that eradicating (extreme) poverty and stopping global warming can only be tackled together: Reducing poverty without considering carbon emissions is a self-defeating strategy, as climate change impacts will threaten hardly won development gains. However, despite rapid progress to decarbonise the world economy, reducing poverty by increasing people’s consumption today requires increasing carbon emissions, since economic systems in most developing countries still rely on fossil fuel energy.¹³ The evidence is mounting: An International Monetary Fund report estimated that an additional 68 to 135 million people could be pushed into poverty by 2030 because of climate change.¹⁴ Taconet, Méjean, and Guivarch¹⁵ also showed that if the most dire projections of future economic damages in the current scientific literature hold true, climate change would reverse the gains of the past few decades and cause inequality between countries to rise again. Within countries, the impacts of climate change also risk worsening inequality.

11 IPCC, 2022.

12 OECD, 2003.

13 World Bank, 2023.

14 International Monetary Fund, 2021.

15 Taconet, Méjean and Guivarch, 2020.

The principle of intergenerational equity¹⁶ underlying these frameworks places a duty on current generations to act as responsible stewards of the planet and ensure the rights of future generations¹⁷ to meet their developmental and environmental needs. This study highlights the critical role that independent children's rights institutions (ICRIs), working usually in the form of an ombudsman's institution can, and should, play in monitoring and advancing children's rights as human rights, particularly in the context of the environmental impacts of climate change. By nature, ICRIs should ensure that children have access to remedies and justice, including through extra-judicial means and in the field of children's environmental rights. This competence and responsibility should be even more significant in the case of vulnerable children.

As a kind of case study, the study analyses the Hungarian hybrid-type human rights institution of the Office of the Commissioner for Fundamental Rights (CFR). In this system, while the CFR (ombudsman or ombudsperson) typically oversees the protection and promotion of human rights in general, including those of children, the specific focus on children's environmental rights may not receive adequate attention or priority within their mandate. This could be due to various factors such as limited resources, competing priorities, or lack of specialised expertise in environmental issues. However, there is another actor, namely the general ombudsman's specialised Deputy Commissioner for Future Generations who may primarily focus on sustainable development issues, aiming to safeguard environmental rights. These officials do not deal with the rights of future generations as part of children's rights, and the specific intersection between children's rights and environmental rights is not explicitly addressed within their mandate.

My hypothesis highlights a gap in the protection of children's environmental rights within the framework of the institution, as neither the Commissioner nor his Deputy addresses this complex and multifaceted issue. The reasons behind this could be various, out of which institutional limitations are only one factor, and there may indeed be lack of ownership or clear responsibility for addressing children's environmental rights within the existing human rights framework. In the end, this gap potentially undermines efforts to effectively protect and promote the rights of children as well as of future generations, leaving children vulnerable to environmental hazards now as well as to climate change impacts in the future.

16 Brown Weiss, 2008.

17 The present study does not dive into the contemporary academic debates in the field of international human rights law about the definition and scope of future generations, nor does it take a stand in this discussion (see more: Cho, 2013; Boston and Stuart, 2015; Tattay, 2016; Könczöl, 2016; Brännmark, 2016; Lewis, 2018; Unruh, 2016; Arts, 2019; Jakab, 2021; Nolan, 2022; Skogly, 2021; Daly, 2022).

2. Vulnerability of Children

The concept of ‘childhood vulnerability’ and its legal implications are well-known to legal science;¹⁸ however, vulnerability is often seen as part of the complex child/childhood definition. Being a child in and of itself makes children vulnerable and in need of protection.¹⁹ Children are physically weaker and with developing cognitive, emotional, and social skills compared to adults. Children are perceived as in a relatively powerless position compared to adults.²⁰ This vulnerability is usually categorised into three forms: physical, social, and structural. Children are physically weaker and smaller than adults, making them more susceptible to harm. They have limited ability to protect themselves from physical dangers and risks. Children lack proper social skills, experiences, and relational contexts to protect themselves from harm. They may not have the knowledge or ability to navigate social situations safely. Thus, children need to be equipped with the tools to ‘escape’ vulnerability and achieve autonomy and self-sufficiency in adulthood. This includes access to rights such as education, which are seen as necessary for children to become responsible adult citizens. However, access to proper services, such as healthcare, can be listed here too.

Indeed, the concept of childhood vulnerability has been subject to criticism for several reasons. By framing children primarily as a vulnerable category, there is a risk of overlooking their agency and capabilities. This perspective may lead to paternalistic interventions that restrict children’s autonomy and decision-making, disregarding their capacity to participate in decisions affecting their lives. Emphasising childhood vulnerability may lead to an exaggeration of the risks children face. While it is essential to acknowledge and address risks to children’s well-being, an overly cautious approach can result in limiting children’s experiences and opportunities for growth and development. Focusing solely on vulnerability can downplay children’s abilities and resilience. Children are often more capable and resourceful than they are given credit for, and excessively stressing their vulnerability may overshadow their strengths and competencies.

Overall, while recognising and addressing vulnerabilities is essential for protecting children’s rights and well-being, it is crucial to maintain a balanced perspective that acknowledges children’s agency, strengths, and capacities. This approach promotes empowerment and autonomy while ensuring that children are supported and protected appropriately.²¹ The idea of children’s vulnerability

18 See also the vulnerability theory. Fineman, 2010, pp. 251–275.

19 Herring, 2022.

20 Norozi and Moen, 2016, p. 81.

21 Fineman, 2012; Kitzinger, 1988.

played a crucial role in motivating the adoption of the UN CRC,²² as universal vulnerability applies to all children as human beings.

However, attention should also be paid to children as rights holders, which did not happen before the UN CRC. The CRC Committee formulated children's vulnerability as follows: 'At a universal level all children aged 0–18 years are considered vulnerable until the completion of their neural, psychological, social, and physical growth and development'.²³

In sum, in terms of children's rights, primarily based on the UN CRC itself, everyone is a child below the age of 18 years, and as such the ratifying state parties shall respect and ensure the rights outlined in the UN CRC to each child within their jurisdiction without any discrimination.

3. Independent Children's Rights Institutions

The main monitoring treaty body of the UN CRC, the UN Committee on the Rights of the Child, in its General Comments No. 2 (2002) and No. 5. (2003) calls on the state parties to establish ICRIs. Moreover, it highlights the responsibilities of these institutions under Article 4 of the UN CRC, asserting that they are core parts of the state commitment to the application of the UN CRC.

Indeed, the quasi-judicial features of these institutions that handle complaints and address human/children's rights issues play a crucial role in ensuring accessibility, transparency, and effectiveness in promoting and protecting human rights. Moreover, as with most constitutional bodies, they have the legitimacy and wide acceptance to achieve compliance with their recommendations by the addressed organs, despite their soft law nature.²⁴

Ombudsperson institutions with a general mandate, but also in some cases ICRIs, function as the given country's national human rights institutions (NHRIs) according to the UN Paris Principles²⁵ and Venice Principles,²⁶ which offer a precondition system (and checklist) to monitor their functioning, independence, credibility, and effectiveness. Nowadays, ombudsperson institutions exist in more than 140 states, at various levels of the government, with different competencies. Therefore, ombudspersons have become a feature of most countries' institutional frameworks around the world.

The CRC Committee, in its recently adopted General Comment No. 26 on children's rights and the environment,²⁷ also called upon state parties to provide

22 Tobin, 2015.

23 UN Committee on the Rights of the Child (CRC), 2003, para 72 f).

24 Reif, 2015, 2017; Kucsko-Stadlmayer 2012; UNICEF, 2012.

25 UN, 1993.

26 Council of Europe, 2019.

27 UN Committee on the Rights of the Child (CRC), 2023.

access to justice pathways for children, including complaint mechanisms that are inclusive and child friendly. This ensures children's engagement with effective judicial, quasi-judicial, and non-judicial mechanisms, including child-centred NHRIs. Moreover, the European Network of Ombudspersons for Children (ENOC) issued a Position Statement in 2022, which arose from their members' concern about children's environmental rights and particularly concerns about the extent to which the climate crisis is an imminent threat to children's rights and interests.²⁸

Despite these steps and calls, evidence indicates that many (in fact, most) ICRI do not adequately address issues related to environmental and climate change concerning children's rights. Conversations around climate change are often lacking, leading to lack of awareness among young people about the dangers arising from environmental/climate change and the relevance of their rights to these issues.

4. About the Hungarian Ombudsman

The establishment of the ombudsman's institution in Hungary marked a significant milestone in the country's transition to democracy and the protection of human rights. This move came as part of broader political reforms initiated during the transition from communism to democracy. Act 59 of 1993 on the Parliamentary Commissioner for Citizens' Rights was adopted, and two years later, the first commissioners were elected, and their joint office was established. The Commissioner for Civil Rights was responsible for fundamental rights in general (including the rights of children), while the Commissioner for Data Protection and the Commissioner for Minority Rights acted as specialised ombudspersons. The Establishment of the Parliamentary Commissioner for Future Generations in Hungary in 2008 marked a significant development in the protection of environmental rights and intergenerational equity. This 'green ombudsman'²⁹ was created to safeguard the rights and interests of future generations, including the fundamental right to a healthy environment and the right to physical and mental health. The constitutional mandate of the ombudsman's office encompasses the protection, maintenance, and preservation of natural resources as the common heritage of the nation for the benefit of future generations. In practice, the concept of future generations within the scope of the Commissioner for Future Generations includes both children and generations yet to be born. This broader interpretation acknowledges the interconnectedness between children's rights and the rights of future generations. However, as mentioned before, there is ongoing debate and divergence in international human rights law regarding the relationship, overlap, or distinction between the rights of future generations and children's rights.

28 ENOC, 2022.

29 Lukács, 2012.

Children's rights, as outlined in international instruments such as the UN CRC, encompass a wide range of civil, political, economic, social, and cultural rights that are specifically tailored to the needs and vulnerabilities of children. On the other hand, the rights of future generations focus on ensuring sustainable development and preserving resources for the benefit of future inhabitants of the planet. These rights often centre around environmental protection, sustainable resource management, and intergenerational equity. While there is overlap between the two concepts, they also have distinct features and objectives. Children's rights address the immediate needs and well-being of present-day children, while the rights of future generations have a longer-term perspective and aim to secure the well-being of future inhabitants of the Earth.

Later, the transition from a system of specialised commissioners to a unified CFR in Hungary, as established by Act 111 of 2011 (the new Ombudsman Act) and Article 30 of the Fundamental Law, represents a significant shift in the country's approach to human rights protection and oversight of government activities. This move towards centralisation reflects broader political dynamics and government priorities, including efforts to streamline governance, increase efficiency, and reduce costs; many European states had already opted for similar solutions.

The CFR now has two deputies: one working to protect the interests of minorities and one defending the rights of future generations (the Deputy for Future Generations [DFG]). They act with somewhat more limited powers than their predecessors, the former specialised commissioners. Since 2011, the ombudsman has constituted a National Human Rights Institution (NHRI). The CFR has been classified as an NHRI with 'A' status, following the UN Paris Principles; however, in 2021, the Sub-Committee on Accreditation of Global Alliance of National Human Rights Institutions (SCA GANHRI) recommended that the office be downgraded to a 'B' status – that is, as only partially compliant with the UN Paris Principles.³⁰ This decision invokes some concerning challenges and trends in the activities of the institution in the last couple of years, which require us to consider the decreasing level of efficacy towards defending fundamental rights.

When the new Ombudsman Act entered into force, the defence of children's rights became one of the main legal obligations of the general ombudsman (however, a deputy was not delegated for this task). This constitutional background does not provide for children's rights in general but for the rights of the child to protection, which is also the basis of the ombudsman's investigation reports. The Commissioner builds all investigations on the fact that, in addition to the general international human rights instruments applicable to children's rights – as Hungary ratified the UN CRC quite early, in 1991 –, it clarifies the state's constitutional obligation to protect the fundamental rights of children. Considering Article Q of the Fundamental Law, the legal system of the Republic of

30 UN, 1993.

Hungary accepts the generally recognised rules of international law and ensures the consistency of international legal obligations with domestic law.

Based on the law, the Commissioner's main task is to investigate issues relating to constitutional rights and initiate general or specific measures to remedy them. Anyone, including children, may initiate proceedings, but the ombudsman may also act on his own motion to investigate suspected constitutional irregularities.

Already during the very first term of office, the experience was that children's rights were not reflected in the complaints (which is not an unusual or Hungary-specific phenomenon),³¹ so the commissioners started comprehensive inquiries *ex officio* in areas where there were conspicuously few complaints (e.g. children with disabilities, living in state care, facing the justice system, etc.). Proactivity was prompted by the empirical experience that violations of children's rights were less likely to reach the office than that of other vulnerable groups.

According to case statistics, the CFR has received around 7,300–8,000 complaints per year,³² a significant number of which are rejected because of jurisdictional limits, with the complainant being informed at the time of submission.

Since 2011, the CFR had acted as an NHRI classified with 'A' status, but recently, based on the recommendation made in 2021 by the SCA GANHRI, it was downgraded to 'B' status, as being only partially compliant with the Paris Principles. The reasons invoked were that 'the SCA is of the view that the CFR has not effectively engaged on and publicly addressed all human rights issues'.³³ The CFR's reserved, or even silent attitude, especially since 2013 (and even more so since 2019), was the reason for downgrading it and also a point to be criticised from a human rights defender's perspective.³⁴ The CFR tried to act as a quasi-ombudsman for children, becoming an associate member of the ENOC; within the framework of annual projects on children's rights between 2018 and 2013, it initiated many *ex officio* investigations and turned to the Constitutional Court. From Hungary, the CFR is still an associate – an ever less active – member of ENOC, while the DFG is not involved in the network.

With the new Ombudsman Act, the defence of children's rights has become written into the law (Article 1. 2a. of the CFR Act) as one of the main legal obligations of the ombudsman. However, unfortunately, no deputy was set up for this task, and a department was dedicated to deal with children's rights (along with other social-rights-related cases).

The work in the unified institution also has consequences for case management, as it also means that in the case of violation of the rights of children to a healthy

31 Lux, 2022.

32 Office of the Hungarian Commissioner for Fundamental Rights, no date.

33 GANHRI SCA, 2021, pp. 12–13.

34 valaszoltekozmaakos.hu (Accessed: 15 march 2024).

environment/climate change, the competence is divided between the CFR and his DFG.

In recent years, there has been an inflation of extra tasks for which the office has a mandate, such as constituting the National Preventive Mechanism of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 2015. The Equal Treatment Authority merged into the CFR in 2021. Since 1 January 2023, the ombudsman has been performing the tasks of the independent mechanism of the UN Convention on the Rights of Persons with Disabilities as well, such as setting up a Disability Directorate with a seat in the city of Debrecen.

While the topic of children's rights falls within the mandate of the CFR, his DFG deals with the right to a healthy environment. The DFG's work is geared towards a general environment and nature protection agenda (including climate change) and does not specifically target children's rights, 'although the beneficiaries of the work would indeed be today's children and generations not born yet'.³⁵ Despite this understanding, there is no sign that more focus will be given to child-related issues.

The DFG has worked on several environment-related topics (e.g. nature conservation, noise and air pollution) not only as investigations but also in an advisory capacity or to prepare legislative proposals (e.g. on topics such as environmental liability, nature conservation, ecosystem services, and indoor air pollution).

Based on its special responsibility to promote the needs of future generations as outlined in the Report of the UN Secretary-General, the DFG organised a conference in 2014 to bring together national institutions, titled Model Institutions for a Sustainable Future, with the aim to contribute to closer cooperation in the implementation of sustainable development and intergenerational solidarity at the national level. As a consequence, the Network of Institutions for Future Generations had been established.³⁶

Neither the CFR nor the DFG has received any complaints related to children's healthy environment in the last seven years. However, the importance of the issue was clear to the general commissioner at one point, so he decided to dedicate the year 2013 to issues related to the child's fundamental right to a healthy environment. The basic legal starting point of the 2013 project were articles 20 and 21 of the Fundamental Law, which state that everyone has the right to physical and mental health. Hungary promotes the enforcement of this right with genetically modified organism-free agriculture, by ensuring access to healthy food and drinking water, organising occupational safety and healthcare, supporting sports and regular exercise, and ensuring the protection of the environment. Article of the Fundamental Law also stipulates that natural resources, especially

35 Interview 1.

36 Network of Institutions for Future Generations, no date.

agricultural land; forests and water resources; biological diversity, especially native plant and animal species; and cultural values constitute the common heritage of the nation, while protecting, maintaining, and preserving it for future generations is the duty of the state and everyone.

Moreover, Article 24 of the UN CRC recognises the child's right to the best possible state of health. It provides that state parties should make efforts to ensure that no child is deprived of the right to access these services.

During the ombudsman's research, it became clear that all children suffer the consequences of a polluted and unsafe environment, but the most vulnerable are children living in the poorest countries and belonging to the most disadvantaged population groups. Most often, children living in particularly unfavourable conditions become victims of physical and psychological trauma, injuries, acute and chronic infectious and non-infectious diseases, growth and development disorders, disability, and, in the worst case, death. Special attention must therefore be paid to the prevention of such circumstances and the elimination of their underlying causes. According to a study on the environmental burden of disease in children, nearly a third of the total burden of disease from birth to 18 years of age in the European region can be traced back to an unsafe and unhealthy environment in the child's home and the wider community, causing significant social and economic costs. These findings were also highlighted in the Fourth Ministerial Conference on Environment and Health organised in Budapest in 2004, where the ministers adopted the European Action Plan for the Environment and Children's Health programme (CEHAPE), which deals with the environmental risk factors that have the greatest impact on children's health. Therefore, these were the cornerstones of the ombudsman's project year.

At the end of the year, two comprehensive reports were drafted regarding the enforcement of the rights of the child pertinent to environmental rights: one on environmental education (report no. AJB-676/2013) and the other (report no. AJB-677/2013) on certain issues related to providing access to healthy drinking water, in connection with the EU's CEHAPE programme. In the first report, according to the ombudsman, one foundation of intergenerational justice is the creation of a knowledge-based society because, without adequate knowledge and information, neither the society nor decision-makers can enforce the protection of natural resources. In state and local government decisions affecting finite natural resources, when making legislation, not only the common needs of the present generation but also how today's decisions affect the living conditions of future generations must be considered.

When it comes to children's rights through a healthy environment, the field covered by the Office of Future Generations overlaps with the mandate of the CFR, whose priority includes the protection of the rights of the child. Therefore, in this case, the Commissioner and his Deputy can and shall work together. As

mentioned above, a second joint *ex officio* investigation was documented (report no. AJB-677/2013), bearing the working title 'Can Children Drink Tap Water When Thirsty?' It reviewed certain issues of providing access to healthy drinking water, with special emphasis on exposure to naturally occurring arsenic content. The investigation confirmed that not every child has access to healthy drinking water even in Hungary, and until the drinking water system is renovated and any pollution eliminated, the official service provider should provide adequate information to the public about any potential health-related effects and offer laboratory services for confirming the quality of water. The investigation also concluded that it could constitute a violation of the child's right to protection and care if access to clean water is not ensured.

There is also a clear correlation between air pollution, environmental degradation, the right to a healthy environment, and the right to physical and mental health. For example, household heating practices, including the burning of inadequate material (lignite, waste, and wet wood), play a significant role among the causes of air pollution both indoors and outdoors. In this regard, it is also clear how strong is the link between equality issues, children's rights, and the right to a healthy environment.

Bearing this in mind, the general ombudsman comprehensively examined the conditions for children's healthy start in life in report no. AJB-1356/2013. It has become an accepted position that the environment has both positive and negative impacts on human rights, since it has a fundamental role and importance in ensuring human life. The quality of the environment of the expectant mother and unborn child and toddler is decisive for the later health of the adult. This appears as an increased challenge in households where all this is associated with poverty and deprivation.

The ombudsman also asserted the rights to a healthy environment of vulnerable children (mainly children belonging to Roma minorities) living in segregated places in report no. AJB-2050/2013, which tried to assess the issue in the framework of on-site investigations.

Unfortunately, since this special dedicated year of 2013 elapsed, neither the CFR nor his DFG retained any special focus on children and the environment when it comes to investigations.

5. Conclusions

Summing up, the transition to a unified system of the CFR, while aimed at increasing efficiency and reducing costs, has raised concerns about potential challenges and trends in the institution's activities, particularly regarding its efficacy in defending the fundamental rights of all, especially children and

other vulnerable groups. Some of these challenges and trends may include the following.

Centralisation of power. The consolidation of oversight functions under a single institution may concentrate power and decision-making authority, potentially limiting the independence and autonomy of the CFR. This centralisation could undermine the institution's ability to effectively hold government authorities accountable and address human rights violations.

Political interference. Looking at the very 'reserved attitude' of the current commissioner during his mandate, there may be concerns about political influence in the activities of the CFR, particularly if the institution is perceived to be aligned with or influenced by the ruling government. Political pressure could compromise the institution's impartiality and effectiveness in defending fundamental rights.

Reduced specialisation. The transition from specialised commissioners to a unified ombudsman institution may result in reduced specialisation and expertise in addressing specific human rights issues. This could limit the institution's capacity to effectively investigate and address complex or specialised cases, particularly those requiring in-depth knowledge and understanding of specific rights violations.

Resource constraints. Centralising oversight functions may lead to resource constraints and capacity limitations within the CFR's office. A lack of adequate resources, including funding, staff, and infrastructure, could hinder the institution's ability to respond promptly and effectively to citizens' complaints and grievances, thereby compromising its efficacy in defending fundamental rights.

Diminished public trust. Concerns about political interference, reduced specialisation, and resource constraints may contribute to diminished public trust and confidence in the CFR. If citizens, especially those who have less capacity and ability to enhance their voice, such as children and other vulnerable groups, perceive the institution as ineffective or compromised, they may be less inclined to seek assistance or report human rights violations, further undermining the institution's efficacy in defending fundamental rights.

Upholding the independence, impartiality, and effectiveness of the institution is crucial for safeguarding the fundamental rights of children in Hungary.

In this particular situation of defending children's environmental rights, it could be seen that the DFG does not deal with children's rights cases. It deals with the right to a healthy environment as a fundamental human right, not as a particular children's right. The CFR has a dedicated competence to pay particular attention to the protection of children's rights and to the rights of the societal groups most at risk, that is, vulnerable groups (Article 1, point d. of the CFR Act). However, he does not deal with environment-related rights (of children or people at risk in the society).

The DFG, with his limited powers, is in a weaker legal position than the ombudsman himself; invoking his lack of competence in this issue, he does not use any non-formal, non-legal tools or possibility of communication to raise his voice on this issue. The current CFR is often criticised because of his 'reserved' or even negligent, silent attitude in general. Neither official highlights the issues related to children and climate in a reactive (based on lack of complaints) or proactive way. In this unified system, the CFR is not obliged to speak out on issues of children's rights any more than other issues within the ambit of his general mandate.

The issues of the right to a healthy environment and children's rights aspects of climate change 'fall between the two seats' of the two offices because of this structure and interference of competences. The passivity and lack of proactivity of the CFR and his specialised Deputy are especially surprising. However, there is space and also legal possibilities to present, advocate, and highlight many more questions related to climate issues in connection with children's rights. Moreover, the attitude and chosen role of the head of the institution, the CFR as a single head body, determine the proactivity of the entire office (and deputies). Still, I firmly believe that the legislator has missed an important opportunity, as neither a separate specialised ombudsperson nor even a deputy for children's rights has been established in Hungary.

To address the gap of the lack of ownership of children's rights to a healthy environment, which can be seen in the lack of investigations, public speeches, and activities performed by both actors, it may be necessary to advocate for dealing with children's environmental rights within the current mandates of the office, as well as provide them with the necessary resources, expertise, and support to effectively address these issues. Additionally, raising awareness among stakeholders and the public about the importance of children's environmental rights could help generate momentum for action and accountability in this area.

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