



Rechtsgeschichtliche Vorträge/  
Lectures on Legal History

Linguistic rights and census of population and  
housing in Hungary

BERNADETT KISS

Budapest  
2011

---

# Rechtsgeschichtliche Vorträge/ Lectures on Legal History

---

Publication  
Research Group for Legal History of the  
Hungarian Academy of Sciences  
at the Department of Hungarian Legal History  
Eötvös Loránd University



Edited by

Prof. Dr. Barna Mezey

© Bernadett Kiss 2011

Technical editor:  
Ágnes Horváth

ISSN 1218-4942

## Linguistic rights and census of population and housing in Hungary

**Bernadett Kiss**

Eötvös Loránd University Budapest

In Hungary the CXXXIXth Act of 2009 orders the organisation of the next census of population and housing. According to the Act, during this process statisticians collect all information based on the conditions existing on the 1st, October in 2011 at midnight. They will list all Hungarian citizens living in Hungary or abroad in the case where they have official residence in Hungary. They would like to measure the number of foreigners who spend more than 3 months in Hungary, the number of the EU-citizens, the stateless persons and the citizens of 3rd countries, too. Furthermore, statisticians have to list the housing facilities.

During data collection we have to anonimise all informations according to many Hungarian and EU acts. Editors of the questionnaires have to pay attention at the regulations of these acts: the Regulation of the Parliament and the Council 763/2008/EC (9th July 2008.), the XLVIth Hungarian Act (1993) on the Statistic, the Act on the Protection of personal data and the calirty of public data, the Act on the Law of Ethnic and National Minorities.

On the web page of the Central Office of the Statistic (KSH) we can download the questionnaires at large, but the filling process of the paper that contains the data of individuals needs great attention. Interviewers will ask everyone about the sex, date of birth, residence, marital status, fertility, studies and education, revenues, travelling practice, health and disability, citizenship, ethnicity, religion, language etc.

Keeping census is not an unusual process in Hungary, because already in 1777, at the early period of the absolutism (a Hungarian historical era in the 18th century), the authorites collected information about Hungarian subjects. The early questionnaires asked about the mother tongue, the religion, and the citizenship and in 1941 the questionnaire enlarged with the topic of ethnicity. At the time people could choose between ten ethnic groups (Hungarian, German, Slovakian, Romanian, Ruthenian, Croatian, Serbian, Bunjevaca, Jewish, Gipsy) but they could declare themselves as the member of an „another” group. This

registration was influenced by the political ideas of the Nazism, because the questionnaire contained a separated column where the Jewish had to confess their origin, but theoretically everybody could express their affiliation „without violent interference.” Then – except the census of 1970 – all questionnaires contained questions concerning the ethnicity of Hungarian citizens.

However, nowadays there are some topics that require voluntary response and free self-declaration of a person. For example in Hungary the Act on the protection of personal data declares the necessity of voluntary response in connection with health, disability, religion, mother tongue, and ethnicity. Topics above are „sensitive data”, but they are very important because by these categories the Hungarian government could support the better realisation of linguistic rights of minorities in Hungary.

In 2008 the United Nations (UN) declared the Principles and Recommendations for Population and Housing Censuses and according to these Recommendations data on ethnicity are indispensable when we have to give a fair picture on the diversity of the population, the social status of certain minority groups – these information could be useful when governments would like to take measures against discrimination. In this respect during the next Hungarian census we should ask people in detail about their languages. According to the Recommendations of UN, we should register not only the mother tongues and the foreign languages spoken by the citizens, but the fair register should contain the term of „main language” (the language which the person commands best) and „language most currently spoken at home and/or work.” By these new details people could express whether they prefer a minority language in special situations (e.g. at home, with the members of family, etc.) or no.

Present questionnaire contains pre-printed columns for answer but when we would like to express the ethnicity and language, we can choose the possibility of multiple (two-part) response. Despite this there is a strange solution on the blank because people could choose two answer for their mother tongue. Explanatory notes of the questionnaire define „mother tongue” as the first language spoken in early childhood, the language of the communication at home and this is the language that respondents mark by free and open declaration. In Hungary we can choose 18 languages from the list, but, of course, in order to guarantee the free self-declaration of language, respondents should be allowed to indicate „none, other” or „not declared” when asked for their language.

It is interesting to review the answers printed on the questionnaire. For example, authors indicated that the community and language of Roma people in Hungary is not homogenous, because the questionnaire mentions the Lovari, Beas and Carpathian Roma languages but respondents could not be allowed to indicate their less known languages – they should be allowed to indicate solely the Roma language. Nevertheless, the distinction is not correct, because the Act

on the Law of Ethnic and National Minorities does not utilize the definition of „Carpathian Roma”, only the Romani and Beas. Apart from this, respondents can choose their mother tongue from this list: Hungarian, Arab, Bulgarian, Greek, Croatian, Chinese, Polish, German, Russian, Armenian, Romanian, Ruthenian, Serbian, Slovak, Slovenian, Ukrainian and Vietnamese.

Unfortunately, the same 18 possibilities are available to respondents when they would like to express their ethnicity. Although respondents can indicate more (two) minority groups, the mentioned list of ethnicity does not correspond to the Act on the Law of Ethnic and National Minorities, because this act does not include the Chinese, Arab, Russian and Vietnamese minority groups. Both the Act and the Hungarian Constitution recognise only 13 minority groups as national or ethnic minority, therefore Chinese, Russian, etc. communities are not allowed to identify themselves as a national minority in Hungary. To achieve this status, at least 1000 members of these groups should ask for the recognition as a legal minority by a popular initiative.

There is no doubt, that in the past not only the aforementioned groups constituted a minority community (for example, the Slavic formed an own group), but the Act requires additional conditions. Outside the status of numerical minority the Act provides for the community to at least a hundred years to live in the Hungarian Republic, and the minorities have to express their separation from the majority by their language, culture or traditions. Therefore it is concluded that Arab, Chinese, Russian or Vietnamese communities could not fulfilled the conditions of the Hungarian legal system.

Perhaps we could argue about the existence of homogenous Chinese or Arab nation. By the way, „Arab” people in Hungary came from 16 „Arabian” state, this means that it is difficult to identify the Hungarian „Arab” community formed by 2200 „Arab” people. Most of them are Turkish, they formed their own religious organisations, and they have good relations with Turkey. But it should not be forgotten that in Hungary there are many Turkish citizens, who declared themselves Kurds, and Hungary is home to by and large 1200 Iranian people.

The Office of Immigration and Nationality registered 11.000 Chinese citizens in Hungary, but only 6800 of them are registered as employees, only 100 of them received the Hungarian citizenship. (The reason is that Chinese law does not allow the dual citizenship.) Between Chinese living in Hungary we can find various internal groups: groups of immigrants from the same province or clan of China who created their active social life, they edit Chinese newspaper for themselves, organised sport clubs, established a Chinese Cultural Office (Confucius Office), and broadcast a Chinese program on the Civil Radio. But Chinese people in Hungary divided in two groups: most of them is „hualiao”, a Chinese citizen living abroad and they have good political and cultural relations with China. Furthermore there is another small group of Chinese in

Hungary called „huaren”: people who acquired the Hungarian (or other) citizenship, but because of their physical characteristics are used to identify „visible minorities”.

The questionnaire in 2011 is not a step forward from the previous one, because in 2001 there was many question about ethnicity and language. These columns of the present questionnaire are the same as the questionnaire in 1980 and 1990, but in 2001 four questions were formulated to affiliation with ethnic groups. In 2001 they asked the ethnicity of the respondents, they could identify their minority traditions, their mother tongue and their language most spoken at home. Of course, answer was not a must. This means that present questionnaire does not deal with the details of ethnicity and self-declaration because its technology and methodology is significantly simplified.

However simplification can be dangerous because sometimes does not provide real data. During the last two census statisticians realised that there were a few ethnic groups in Hungary who did not dare to define themselves and they choosed the „Hungarian” denomination. This phenomenon is rooted in historical and personal precedents (war, forced evacuation of certain ethnic groups) and that is why respondents indicated „Hungarian”. Moreover the use of minority language at home is relegated, too. We can study this attitude by the data of census in 2001.

Name of the ethnic group	Number of respondents whose mother tongue is a minority language or dialect	Number of respondents declared themselves as a member of ethnic group	Number of respondents linked to the traditions of certian ethnic groups
Roma	48658	190046	129259
Greek	1921	2509	6140
German	33792	62233	88416
Slovakian	11816	17692	26631

Source: János,Vékás: Statistical data for comparison the census between 1890 and 2001. In: Space and Terrain Ed: Nóra, Kovács-László,Szarka. Budapest, MTA 2006. 277–292. pp.

Another interesting phenomenon occurs when respondents are allowed to indicate two ethnicities. For example somebody identifies himself Hungarian at first, and secondly, Serbian. In itself is a legitimate declaration, because the 7. §

article of the Act on the Law of Ethnic and National Minorities allows the expression of multiple ties.

Data on ethnicity are sensitive and associated with personal rights and governmental obligations. One of the most important minority rights are linguistic rights of ethnic groups that are linked to cultural and educational rights. In Hungary the 68. § article of the Constitution requires the state to ensure the use of mother tongue for the state-minority groups in the education and they could use their first name and surname in minority language. In practice, this means that everybody could use its name in mother tongue in official documents, too. In the case of non-Latin alphabet (Bulgarian, Greek), authorities are obliged to transcribe phonetically the names and when citizen requires, they have to ensure the preparation of bilingual documents.

Under the 51. § article of the Act minority citizens shall enjoy the right to use their mother tongue freely in every situation, what is more, State has the obligation to guarantee the conditions of this. Nevertheless, Hungarian legal system is not unified on this issue, because our procedural law extends this right.

For example, only the parliamentarian who is a member of a minority group could spoke to the National Assembly in his mother tongue and the preparation of bilingual documents of local governments could be required only if the town has minority population. Moreover, when minority citizens would like to placard bilingual name plate on a public buildig, they have to prove that settlement has an elected minority government. In contrast, the Code of Civil Procedure Law provides for the use of interpreters when the person involved in litigation does not speak Hungarian. Code of the Criminal Procedure allows the same,<sup>1</sup> but in the administrative proceedings there are multiple conditions to use a minority language as other tongue.

The elected minority government of a town could take a decision about the second official language of the administrative proceedings. In this case, the minority citizen or the representative of a minority community could use his language before the authority and if he wishes, authorities have to translate every Hungarian decision into minority language. If urgent measures are needed, state must guarantee that nobody will be affected due to lack of knowledge of Hungarian language.

It is undisputed, that Hungarian legal system needs reformation in connection with linguistic rights, because nowadays State has little information on the ethnic groups and their needs for language. To ensure the availability of interpreters, State must provide the necessary educational background and the use of minority languages should be guaranteed both education and cultural life. Unfortunately minority media has a small budget, and the maintaining of the

<sup>1</sup> Judit,Tóth-Péter, Kántás: Linguistic rights in the administrative proceedings. In: Kisebbségkutatás, 2005/2. 229–252. pp.

minority education system is a big burden to the State. This explains, why only certain ethnic groups took place in the education system in minority language (Roma, German, Romanian, etc.) and another problem is the training of teachers for minority educational institutions. Hopefully, the present census will provide information about where have to change this system. Perhaps, this will mean that some university courses get more financial support.

In addition to the foregoing, there are international legal norms and standards which are also bound by the State. For example, the European Charter of Regional or Minority Languages does not allow to State to specify every language on the Hungarian questionnaire as a minority language. According to the Charter, Arabian, Russian, Chinese and Vietnamese languages are not regional or minority languages because they are not spoken by the national minorities of Hungary (although none of them considered the official state language of Hungary), but according to this norm, neither a dialect of the official language, nor the languages spoken by immigrants could be called „minority language”.

In Hungary it is well-known, that most of Russian, Chinese, Arabian and Vietnamese citizens retained the nationality of their own. Therefore, despite the fact, that they are covered by the census, according to the Charter, they can not claim that Hungary guarantee them the linguistic rights. Moreover, in addition to the Act on the Law of Ethnic and National Minorities, they are not the members of any national minority group of Hungary.

Actually Hungary has 13 national minority groups, but according to the Charter, Hungary had the opportunity to choose special obligations in connection with the linguistic rights of minorities. That is why Hungarian State supports particularly the Croatian, German, Romanian, Serbian, Slovakian and Slovenian languages, because the location and population of these minorities is very remarkable.

Council of Europe issued many recommendations in connection with the minority policy of Hungary. In the last recommendation, in 2009, the Council proposed to support the teaching of Roma language and stabilize the financial background of minority language teaching and the minority media. Generally, the legal background of minority language teaching in Hungary is well-regulated, almost everyone could learn at school in his own mother tongue. Of course, in criminal proceedings and in mediation is possible to use minority language or interpreter, but up to now it is not often. There are some minority people working in the public administration, so theoretically they can understand the petition written in minority languages, too. Language difficulties are not typical in the economic life at all.<sup>2</sup>

<sup>2</sup> Judit, Tóth: Cultural rights of minorities in Hungary on the ground of international undertakings. Minorities Research, 2010. 103–119.

Although the minority press and broadcasting is underfunded, certain ethnic groups maintain theaters, libraries and cinemas, and they are planning the translation of literary works into minority languages.

After the census the Hungarian government have to supervise the financial and legal background of the cultural support of minorities. Regardless of the census, we have to standardize the status of linguistic rights in procedural law, because the Act on the Equal Treatment (act of CXXV. in 2003.) prohibits the language-based discrimination, too. During the legislation we have to avoid the excessive regulation, such as the Slovak Law of the use of languages that provoked international indignation. The Slovak law restricted unduly the language of the communication of individuals in public areas, for example, in a Slovakian hospital patients and doctors can only speak Slovak and prohibited the use of minority languages in Slovak media. Nevertheless, the fact, that a state prepare a State Language Act is not illegal, but Slovakia should also be kept for international conventions, which prohibit such a restriction of human rights. Moreover, the Slovak State Language Act takes undue favour to Czech language, which is, in fact, a minority language in Slovakia, so the Act violates the linguistic rights of other ethnic groups in Slovakia. This was the reason that in 2010 the Venice Commission criticized the Slovak legislation, and urged Slovakia to review the Act, particularly the articles on the culture and education.

Although it is unlikely that census will lead to large legislation in Hungary, we can not postpone the review of certain acts. During this procedure we should take into account the above-described errors, the needs of the minorities and international organizations. Thereby we facilitate the enforcement of civil rights and linguistic rights, too.

## Rechtsgeschichtliche Vorträge/

### Lectures on Legal History

Publication Research Group for Legal History of the Hungarian Academy of Sciences at the Department of Hungarian Legal History Eötvös Loránd University

1. **Kurt Seelmann:** Hegels Versuche einer Legitimation der Strafe in seiner Rechtsphilosophie von 1820, Budapest 1994
2. **Wolfgang Sellert:** Der Beweis und die Strafzumessung im Inquisitionsprozeß, Budapest 1994
3. **Wilhelm Brauner:** Grundrechtsentwicklung in Österreich, Budapest 1994
4. **Barna Mezey:** Kerker und Arrest (Anfänge der Freiheitsstrafe in Ungarn), Budapest 1995
5. **Reiner Schulze:** Die Europäische Rechts- und Verfassungsgeschichte – zu den gemeinsamen Grundlagen europäischer Rechtskultur, Budapest 1995
6. **Kurt Seelmann:** Feuerbachs Lehre vom „psychologischen Zwang“ und ihre Entwicklung aus Vertragsmetaphern des 18. Jahrhunderts, Budapest 1996
7. **Kinga Beliznai:** Gefängniswesen in Ungarn und Siebenbürgen im 16–18. Jahrhundert (Angaben und Quellen zur Geschichte des ungarischen Gefängniswesens) Budapest 1997
8. **Michael Köhler:** Entwicklungslinien der deutschen Strafrechtsgeschichte, Budapest 1998
9. **Attila Horváth:** Die privatrechtliche und strafrechtliche Verantwortung in dem mittelalterlichen Ungarn, Budapest 1998
10. **Allan F. Tatham:** Parliamentary Reform 1832–1911 in England, Budapest 1999
11. **Arnd Koch:** Schwurgerichte oder Schöffengerichte? C.J.A. Mittermaier und die Laienbeteiligung im Strafverfahren, Budapest 2002
12. Strafrechtliche Sanktionen und Strafvollzug in der deutschen Rechtsgeschichte Die Entwicklung des Strafsystems und der Straftheorie in Europa Deutsch-ungarisches strafrechtsgeschichtliches Seminar I., Budapest 2002
13. Strafrechtliche Sanktionen und Strafvollzug in der ungarischen Rechtsgeschichte Die Entwicklung des Strafsystems und der Straftheorie in Europa Deutsch-ungarisches strafrechtsgeschichtliches Seminar II., Budapest 2002
14. **Markus Hirte:** Poenae et poenitentiae – Sanktionen im Recht der Kirche des Mittelalters, Budapest 2003
15. **Werner Ogris:** W. A. Mozarts Hausstandsgründung, Budapest 2003
16. **Hoo Nam Seelmann:** Recht und Kultur, Budapest 2003
17. **Arnd Koch:** Die Abschaffung der Todesstrafe in der DDR, Budapest 2003
18. **Kurt Seelmann:** Gaetano Filangieri, Budapest 2003
19. **Elisabeth Koch:** Die historische Entwicklung der Kodifikation des Privatrechts, Budapest 2003
20. **András Karácsony:** Relationship between state-, political- and legal sciences in education of law, Budapest 2004
21. **Barna Mezey:** The history of the harmonisation of law and the legal education in Hungary, Budapest 2004
22. **Gizella Föglein:** Conceptions and Ideas about National Minorities in Hungary 1945–1993, Budapest 2004
23. **József Ruzsoly:** István Csekey und die ungarische Verfassung, Budapest 2004
24. **Attila Horváth:** Rechtswissenschaft in den sowjetischen Staaten, Budapest 2004
25. **Mária Homoki-Nagy:** Die Kodifikation des ungarischen Zivilrechts im 19. Jahrhundert, Budapest 2004
26. **András Karácsony:** On legal culture, Budapest 2004

27. **Gernot Kocher, Barna Mezey:** Juristenausbildung in der österreichischen und ungarischen Geschichte, Budapest 2004
28. **Markus Steppan:** Die Grazer Juristenausbildung von 1945 bis zur Gegenwart, Budapest 2004
29. **Harald Maihold:** „Ein Schauspiel für den Pöbel“ Zur Leichnamstrafe und ihrer Überwindung in der Aufklärungsphilosophie, Budapest 2005
30. **Barna Mezey:** Vier Vorträge über den Staat in der Zeit des Rákóczi-Freiheitskampfes, Budapest 2005
31. **Zoltán Szenté:** The Issue of Superiority: National versus Community Legislation, Budapest 2005
32. **Günter Jerouschek:** Skandal um Goethe? Budapest 2005
33. **József Szalma:** Haupttendenzen im ungarischen (Deliktrecht) Haftpflichtrecht, Budapest 2005
34. **Georg Ambach:** Die strafrechtliche Entwicklung der Republik Estland in der ersten Seite des zwanzigen Jahrhunderts, Budapest 2005
35. **Gábor Máthé:** Der bürgerliche Rechtsstaat in Ungarn, Budapest 2005
36. **Paolo Becchi:** Hegel und der Kodifikationsstreit in Deutschland am Anfang des 19. Jahrhunderts, Budapest 2005
37. **Hinrich Rüping:** Anwaltsgeschichte als Juristische Zeitgeschichte, Budapest 2005
38. **Masakatsu Adachi:** Entwicklung der Nationalstaaten im 19. und 20. Jahrhundert aus japanischer Sicht, Budapest 2006
39. **Georg Steinberg:** Aufklärerische Tendenzen im ungarischen Strafrecht, Budapest, 2006
40. **Viktor Illés:** Die Rolle der Nationalkommissionen in der Aufstellung der Volksgerichte bis Februar 1945, Budapest 2006
41. **Gábor Máthé:** Die Bedeutung der Lehre von der Heiligen Stephanskrone für die ungarische Verfassungsentwicklung, Budapest 2006
42. **Hinrich Rüping:** Politische und rechtliche Schuld nach Systemumbrüchen im Europa des 20. Jahrhunderts, Budapest 2006
43. **Attila Barna:** Der wahre Diener des Staates – Verwaltungsreformen von Joseph II. in den ungarischen Komitaten, Budapest 2006
44. **Attila Horváth:** Geschichte des Strafrechts in Ungarn während des sowjetisch geprägten Sozialismus, mit besonderem Hinblick auf die Schauprozesse, Budapest 2006
45. **István Sipta:** Die Herausbildung und die Wirkung der deutschen Verwaltungsgerichtsbarkeit auf den ungarischen Verwaltungsrechtsschutz, Budapest 2006
46. **Gábor Máthé:** Moments of making fundamental law in the Hungarian Parliament in the dualistic era, Budapest 2006
47. **Petronella Deres:** The criminal substantial law's evaluation of crimes committed under the influence of alcohol in the criminal code's general section, Budapest 2007
48. **Magdolna Szigeti:** Die Grundrechte und deren Geltung in dem sozialistischen Ungarn, Budapest 2007
49. **Gábor Béli:** Die Verjährung (praescriptio) und die Ersitzung (usucapio) im alten ungarischen Recht, Budapest 2007
50. **Jubiläumsband,** Budapest 2007
51. **Karl Borchardt:** Ungarn und Rothenburg ob der Tauber: Ein Überblick historische Kontakte, Budapest 2007
52. **Der österreichisch-ungarische Ausgleich 1867,** Budapest 2008
53. **Tamás Nótári:** Show Trials and Lawsuits in Early-Medieval Bavaria, Budapest 2008.
54. **Günter Jerouschek:** „Wer Menschenblut vergießt, des Blut soll auch durch Menschen vergossen werden.“ Überlegungen zu peinlicher Strafe, Fehde und Buße im mosaischen Recht, Budapest 2008

55. **Markus Hirte:** „non iuris necessitate sed importunitate petentis“ Innozenz III. als Richter und Schlichter im Umfeld der Besetzung des Erzbistums Esztergom, Budapest 2008
56. **Paolo Becchi:** Juristische Aufklärung, deutscher Idealismus und das Problem der Legitimation der Strafe, Budapest 2008
57. **Magdolna Szigeti:** Die verfassungsrechtlichen Änderungen der politischen Wende in Ungarn, Budapest 2008
58. **Christian Neschwara:** Zwischen Staatsgründung und Anschluss: Die Entstehung der Verfassungsordnung der Republik Österreich 1918–1938, Budapest 2008
59. **Dóra Frey:** Auf anderen Wegen Konfliktbewältigungsformen bei den Zigeunern in Ungarn, Budapest 2009
60. **József Szalma:** Differenzierung zwischen der zivilrechtlichen und der strafrechtlichen Haftung in der Theorie und in den Kodifikationen des 19. und 20. Jahrhunderts, Budapest 2009
61. **Eric Gojoso:** Le contrôle de constitutionnalité des lois dans la France d’Ancien Régime. Bilan historiographique, Budapest 2010
62. **Judit Lenkovic:** Implementation des IstGH-Statuts in Deutschland und in Ungarn, Budapest, 2010
63. **Estevão C. de Rezende Martins:** Die Konstitutionalisierung des unabhängigen Brasiliens (1824-1988), Budapest, 2010
64. **Thomas Olechowski:** Biographische Untersuchungen zu Hans Kelsen, Budapest, 2011