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Census, ethnic data and legislation¹

Abstract

The article gives a short account on the legislation concerning the collection of ethnic data on the Hungarian census of 2011. Examples from countries all over the world show that the otherwise comparable census data differ substantially when it comes to race, and ethnicity. While there are emerging European standards on national censuses, the case of ethnicity seems to remain untouched, left to the discretion of the country (the data on diversity thus remaining diverse). This does not mean, however, that there are no existing standards. The importance of these standards (that are summarized in the article) can be seen if we consider that the very framing of the ethnic question(s) reflect a view on ethnicity in the country, it is far from being neutral, and can have a large impact on the outcome, and the way people think of themselves as members of ethnic groups. Legislators should therefore provide arguments why they chose that specific method, they should make their motives explicit, making it clear what is the goal of the legislation, and of the data collection. Finally, the paper covers the recent legislative debates on the 2011 census, and concludes that the compliance of the Hungarian regulation remains to be seen: the existing standards require all efforts against undercount—something that happened most notably to the Roma community in earlier censuses.

In ideal circumstances the starting point of legislation and the special politics backing it is a constitutional goal where it can be decided whether the chosen solution was adequate, necessary and proportional. The history of census has shown that it originally served mili-

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tary and taxation purposes (this is why the French protested against any kind of census in the 18th c.);² later with the widening of the tasks of the state the aims also became manifold. Though it is difficult to question the necessity of census – the public utility services, the government and municipal self-governments need to have a reliable recording of the inhabitants in their planning even if the data can be obtained from other sources too;³ what is still arguable is the kind of data to be collected and the form they are collected.

The collecting of data concerning the ethnic affiliation, nationality is especially sensitive in Hungary. The historic experience of the 20th c. raises suspicion against any kind of attempt of the state that aims at the registering of the minorities. In addition there are references to real or imagined obstacles laid by data protection that frequently hinders the realization of programs that are meant to be in aid of the equality of opportunity (e.g. making legally impossible to identify ethnic Roma students, thus rendering them unable to apply for the grants especially intended for them,⁴ or obstructing through the endeavours against segregation, too)⁵ In the case of such characteristics as ethnic identity there is even more truth that census is not an external, neutral institution but a tool of the state that itself can form the result.⁶

The present paper tries to delineate the legal aspects by presenting first examples from abroad, then focusing on Hungary, the European regulations will be overviewed. Then follows a survey of the

² David I. Kertzer and Dominique Arel: Foreword. *Census and Identity. The Politics of Race, Ethnicity, and Language in National Censuses*, Cambridge University Press, United Kingdom, 2002. p. 7.

³ The parliamentary commissioner of minority rights explained in his 2009 report that the prerequisite of the creating effective social and minority policy is to have a possibly complete account of the number, geographical position and social-economic-demographic indicators of the minority communities living in the country. Report 2009. p.38.

⁴ Grants are mentioned together with voluntary acknowledgement and 'objective criteria' as conditions. <http://www.kisebbsegombudsman.hu/data/files/158627216.pdf>, p.13

⁵ Körtvélyessi, Zsolt: *Etnikai adatok és stratégiák, szegregációs perek a hazai és strasbourgi példák tükrében*, [Ethnic data and trials of strategy and segregation in Hungary and Strasbourg], *Föld-rész*, II. évfolyam, 3-4. szám, 7–17. pp

⁶ Kertzer & Arel: *im.*, p. 2.: „the census does much more than simply reflect social reality; rather, it plays a key role in the construction of that reality.”

Hungarian legal context and finally some questions of the organization of census will be discussed.

Leading practice from overseas

May be it is in America, in the USA, Canada and Brazil, where the ethnic, nationality and racial affiliations have been recorded the most complex way. The principle of the regulation, looking back at a long history (sometimes not without racist colouring)⁷ is that mixed identity it officially accepted.⁸ In the 2000 census of the USA the short explanatory booklet has a table showing that ethnic data⁹ offer a six-fold follow up of the answers.¹⁰ In the American system the native inhabitants have a special position who may enjoy extra rights but their acceptance depends on origin and the acknowledgement of the community.¹¹ In Canada there has developed a special situation: though there is the possibility for multiple answers, the specification ‘Canadian’ introduced in 1996 has been increasing in popularity¹² and it covers up the affiliation, just as the specification ‘Yugoslavian’ used after the Balkan wars, offering simplification and exclusion for those, e.g. born in mixed marriages.

⁷ “Brazilian censuses: White is better” Chapter of Nobles: Racial categorization and censuses, in: David I. Kertzer és Dominique Arel (eds.): *Census and Identity. The Politics of Race, Ethnicity, and Language in National Censuses*, Cambridge University Press, United Kingdom, 2002. pp. 60–63.

⁸ Melissa Nobles: *op.cit.* pp. 67–68., Tables 2.1. and 2.2.

⁹ Elizabeth M. Grieco and Rachel C. Cassidy: *Overview of Race and Hispanic Origin. Census 2000 Brief, March 2001, Table 2, pp. 4-5.* <http://www.census.gov/prod/2001-pubs/c2kbr01-1.pdf>.

¹⁰ The homepage explains why the state needs the data. Question 8. asks about Hispanic origin. Since 1970 the aim is to monitor the success of regulations against discrimination as well as where would be needed state services in Spanish. Question No.9. aims at discovering racial inequalities since 1970. More than answer is possible. <http://2010.census.gov/2010census/how/interactive-form.php>

¹¹ Körtvélyesi Zsolt: *Az őslakos népek jogai [The rights of natives] Pro Minoritate 2009.* (Ősz [Autumn]) pp.10–30.

¹² Calvin Goldscheider: *Ethnic categorization in censuses*, in: David I. Kertzer és Dominique Arel (szerk.): *Census and Identity. The Politics of Race, Ethnicity, and Language in National Censuses*, Cambridge University Press, United Kingdom, 2002. pp. 79–83.

The successor states of the Soviet Union represent a special case where the practice to indicate nationality has been preserved in official documents. Benedict Anderson cites Ernest Renan saying that nationalism is not about finding national identity but creating nationalities where they had not existed before.¹³ The classification of nationalities by the state can contribute to nation creating efforts e.g. by the categories about nationalities in the census questionnaires. In Uzbekistan the official categorization (censuses, the data received being used in governmental decision making, individual statements, etc.) played an important role in the nationality self-definition of the individuals.¹⁴

The post colonial state building efforts in Africa continued the categorisation of the population – sometimes using surprising sources especially considering the possibilities of some of the countries.¹⁵ The registrations sometimes ending in brutality show how the census, the ethnic division of the population can become the tool of power and control.¹⁶

The most important lesson of the various census processes could be that those who are counting and those persons, institutions, the legislators themselves who define the methods of counting could just as easily influence the result as those who answer the questions.¹⁷ The frames set by the legislator can reflect presuppositions and prejudices during the process of categorization, the definition of the object and the formulation of the questions could be decisive. It is especially important that the questionnaires must not be arbitrarily constructed but should contain well-defined aims. Among the inter-

¹³ Benedict Anderson: *Imagined Communities. Reflections on the Origin and Spread of Nationalism*. Revised Edition. Verso, London – New York, 1991. p. 6.

¹⁴ David Abramson: *The Soviet legacy and the census in Uzbekistan*, in: David I. Kertzer és Dominique Arel (eds.): *Census and Identity. The Politics of Race, Ethnicity, and Language in National Censuses*, Cambridge University Press, United Kingdom, 2002. pp. 176–201.

¹⁵ Peter Uvin: *Categorizing and Violence in Burundi and Rwanda*, in: David I. Kertzer és Dominique Arel (eds.): *Census and Identity. The Politics of Race, Ethnicity, and Language in National Censuses*, Cambridge University Press, United Kingdom, 2002. p. 169.

¹⁶ Peter Uvin: *op.cit.*, p. 171.

¹⁷ David Abramson cites David Laitin: “Nations ... are not out there to be counted. They are a function of social, political, and economic processes.” David Abramson: *op.cit.*, p. 176.

national examples there some that are nearer to statistics e.g. they are comparable (that is not entirely independent of legal and data protection aspects since they are closely connected to the aim). And also such that have direct data protecting, legal relevance in their connection to the legal aim.¹⁸

In the USA the device of census was adapted to the goal already at an early period of its history: the original text of the Constitution¹⁹ ruled that the number of the representatives in the Congress should be elected according to the number of free men in each of the states, not counting the Indian population who did not pay taxes and three fifth of every other persons.²⁰ The aim of the state was clearly the recording the population for drafting and taxation in the early period.

European models?

The European practice dealing with the data collected by census was varied, and the details of the regulation, too. The context of the regulation was brought into harmony and it made necessary that the data collected from the population also be comparable, and the statistical finding internationally extended. The Hungarian Statistical Office remarked in its information booklet²¹ that already in 1949 the UNO tried to give uniform directions for censuses (there is a detailed data-

¹⁸ Cf. 1992. LXIII. Law § 5. on the protection of personal data and the publicity of data of general interest.,

¹⁹ Article 1. Section 2. paragraph 3.: „Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”

²⁰ The regulation was changed by the Paragraph 2. of the 14. amendment accepted in 1868 extending it to the Indian population and every other inhabitants. Amendment 15. prohibited restrictions of races at elections from 1870, and 1920 Amendment 19. that of restrictions according to gender and according to Amendment 24. the deprivation of right to election because of tax debt is against the constitution since 1964; finally Amendment 26. lowered the election age to eighteen (from earlier twenty .one).

²¹ Központi Statisztikai Hivatal: A nemzetközi szervezetek népszámlálási ajánlásai [The recommendations of the international organisation]. <http://www.nepszamlalas.hu/hun/dokumentumok/nemz1.html>

base on the UNO website with a collection of questionnaires from various countries,²² containing, among others, questions of ethnic interest and the ways those questions were formulated. However, a comparative analysis would carry this paper too far).

The recommendations of the European Economic Commission and the Statistical Office of the European Communities (EUROSTAT) for the censuses to be held in the 2010s²³ count ethnicity, language and religion among the 'ethno-cultural characteristics', all described as non basic features, stressing that when presenting them the national characteristics must be taken into account. According to the recommendation the informants must be given opportunity to claim affiliation to more than one ethnic group,²⁴ as well as denying an answer has to be allowed too (options 'none' or 'no answer').²⁵ It has to be observed, too that the claim of ethnicity has to be defined widely, considering religion, regional, local or citizenship groupings, and stressing that the question is not recommended for comparison, the national characteristics should be observed instead.²⁶ It is an important advice that the users have to be informed about the scientific, social-political approach behind the ethnic categories and the methods the various countries have applied has to be explained too.²⁷

The question of language can be divided into four sub-questions: mother tongue (language learned in childhood, language first used), main language (language mastered), language most frequently used (at home or at work), other language knowledge.²⁸ In the first two cases it may be important for minorities to have an option of several choices.²⁹ Regarding religion, local characteristic can also be taken into account (thus ensuring voluntariness) but when classifying the

²² <http://unstats.un.org/unsd/demographic/sources/census/censusquest.htm>

²³ United Nations Economic Commission for Europe, in cooperation with the Statistical Office of the European Communities (EUROSTAT): Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, ECE/CES/STAT/NONE/2006/4, United Nations, New York and Geneva, 2006 (a továbbiakban: EGB/EUROSTAT)

²⁴ EGB/EUROSTAT 2006, Recommendation No. 426.

²⁵ EGB/EUROSTAT 2006, Recommendation No. 427.

²⁶ EGB/EUROSTAT 2006, Recommendation No. 429.

²⁷ EGB/EUROSTAT 2006, Recommendation No. 428.

²⁸ EGB/EUROSTAT 2006, Recommendation No. 430.

²⁹ EGB/EUROSTAT 2006, Recommendation No. 431.

data it is recommended to use uniform, comparable criteria (according to the major religions and groups within them).³⁰ The data about religion have five different questions: formal membership, accepted identity, religious belief, religious upbringing and participation.³¹

In Appendix 1.³² the recommendation divides the data received during the census into two groups. Among the basic characteristics that refer to geography, demography, economy, education, family and housing there are 29 questions about e.g. gender, age, domicile, citizenship, occupation, schooling, number of residents and number of rooms. Among the non-basic data there is e.g. the date of immigration, income, dependence or number of dependents, literacy, questions about the house equipments, or such questions that are important for the topic under discussion such as the acquiring of citizenship, ethnic and/or nationality affiliation, language and religion.

The European Union considered it necessary – in order to support its tasks – to obtain uniform and comparable data about the population. Therefore regulation 763/2008/EK (9. July 2008) about census (population and accommodation) of the European Parliament and Council was accepted and it was followed by the Hungarian legislation when preparing the 2011 census. The regulation, however, does not deal with the question of nationality, religion or language, since according to the classification elaborated together with EGB their necessity and methods have to be organized at member state level as was expressed by the current opinion explained above

The system of organization of the European Council contains recommendations especially targeting at the ethnic data and census. The Advisory Committee created by the EC for the Framework Convention for the Protection of National Minorities³³ - expressed its opinion that especially deals with the 2011 census and the ethnic data on the 22th of September 2010 after having received the reply of the Hungarian government. The opinion dealt with the third cycle

³⁰ EGB/EUROSTAT 2006, Recommendation No. 444.

³¹ EGB/EUROSTAT 2006, Recommendation No. 439.

³² EGB/EUROSTAT 2006, pp. 155 ff.

³³ Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Third Opinion on Hungary, adopted on 18 March 2010, Strasbourg, 17 September 2010, ACFC/OP/III(2010)001, http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Hungary_en.pdf

of inquiry in Hungary and welcomed that there had been consultations with the representatives of minorities held during preparations and also that there will be several (non-compulsory and open end) questions on the census questionnaires concerning minorities. The document stresses the importance of guaranteeing the informants the choice among several questions – e.g. in the case of those born in mixed marriages that could more exactly reflect their real identity, language and culture – and that before the census begins there will be information campaigns aimed at the minorities urging them to acknowledge their affiliation.³⁴

It is interesting that when discussing the ethnic data the Opinion does not connect them to Article 4. of the Framework (where Par.2. is about the necessary of measures to guarantee equality opportunity) but to Article 3. that guarantees the freedom of identity choice and the individual and collective legal practice – the effective and democratic collective legal practice is inconceivable in social dimensions without reliable data about the given minority.

The ECRI, the European Commission against Racism and Intolerance of the EC relies on ethnic data at several instances and condemns if they are lacking. Recommendation No. 4. of the Commission dealing expressly with data collecting, stresses the protection of informants as a legislative aim.³⁵

The Hungarian Regulation

Instead of connecting the ethnic data collection to governmental aims, Law 1993. LXXVII. §8. about the rights of national and ethnic minorities discusses the question as one belonging to the freedom of choice of identity, stating that it is the right of the members of minorities to acknowledge their belonging to a minority in anonymity during the census. §7.(3) further regulates the possibility of multiple identity, stating that the right to national and ethnic identity and the

³⁴ Cf. Points 40.42. of the Opinion, ACFC 2010, pp.10-11.

³⁵ ECRI General Policy Recommendation N°4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims. CRI (98) 30, http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Rec_Gens/recgen-04-eng.pdf, In Hungarian: http://www.europatanacs.hu/pdf/ECRI_4.pdf

acknowledgement of the affinity to such a minority does not exclude the possibility of double or multiple affinity. Of this it may follow that persons could give several answers to the question about ethnic affinity. As has been pointed out above this is a solution in accordance with the international recommendation.

Law 1992. LXIII. §2.; 2. a) on the protection of personal data and the publicity of data of general interest concerning race, affinity to ethnic or national minority, political belief or party allegiance, religion or other ideological conviction are special ones thus all the data types discussed in the present paper belong to this especially protected category. According to §3.2. of the law such data can only be processed if the a) informant agrees to it in written form, or b) in the case of data described in §2.2.a) of the law if it is part of an international agreement or it is the enforcement of a basic right guaranteed by the constitution, or else is ruled by the law in the interest of national security, crime prevention or law enforcement; and c) in any other case ruled by legislation. In this case all the instances enumerated in a): according to resolution 121/B/2001. AB³⁶ the informant has agreed to the handling of data, b) it agrees with the international recommendations and relevant constitutional considerations, and c) are all realized.

Law 1993. XLVI. §6.(1) c) on statistics appoints the Central Statistical Office to periodically carry out the census ordered by a special law for the registration of the data of the population. This special law (Law 1999.CVIII. about the 2001 census,³⁷ and Law 2009. CXXXIX about the 2011 census) is authorized for the handling of ethnic and nationality data according to the Law on data protection. The history of the law and its discussion over the past year will be introduced below.

³⁶ 121/B/2001. AB határozat, 11. February 2002. According to the applicant the laws of 2001. about census and statistics are against the Constitution as in spite of §59. (2) it regulates the handling of personal data by a law accepted by simple majority. Constitutional Court established that the law according to §59.(2) is about data protection and not about census or statistics and the rule of 2/3 majority does not apply. On the other hand it referred to voluntariness, i.e. in the case of answering non-compulsory question the informant agrees to the handling of data. (c.f. resolution II.1.1. and 1.2.).

³⁷ On the 2001. census and statistics; the Amendment of Law 1993. évi XLVI. by Law 1999. CVIII.

The history of the legislation for the 2011 census in Hungary

Of the data concerning minorities of the Hungarian census the information about the Roma are the most important socially. Every party has agreed in the necessity of programs directed toward the largest minority of Hungary (though they differ more in content than in prominence, e.g. LMP wants to achieve the same result by ‘colour blind’ programs, and the Jobbik went to extremities by suggesting to put them in lagers).³⁸

The legislative background of the 2011 census has been given by Law 2009. CXXXIX accepted by the Parliament on the 7th of December 2009 and amended on the 1st of June 2010. The party political debate was held around the questions of nationality, religion and handicap.

During the (general) parliamentary debate of the law the prime minister’s office presented the following arguments in favour of the collection of ethnic data:

One of the reasons is the planning of the national and ethnic minorities governments and the local and minority self-governments. Secondly prohibition of discrimination, and the realization of the demand for equal opportunity is extremely important as is described in §70/A of the Constitution.

The third reason is the well-grounded definition and successful realization of the Roma-program of the Government, the execution of the tasks connected to the integration of Roma; and the fourth is to provide the statistic indexes indicating the number and proportion of national and ethnic minorities that is necessary for the EU applications at settlement and regional level.³⁹

³⁸ A Jobbik táborokba zárna a „cigánybűnözőket” [Jobbik would put the Roma in lagers] Index/MTI, 2010. augusztus 24. http://index.hu/belfold/2010/08/24/a_jobbik_taborokba_zarna_a_ciganybunozoket/
http://www.parlament.hu/internet/plsql/ogy_naplo.naplo_fadat_aktus?p_ckl=39&p_uln=29&p_felsz=6&p_felszig=19&p_aktus=4 (14:50 perc előtt)
http://lehetmas.hu/upload/9/9/201003/LMP_Program_2010_1.pdf
http://mszp.hu/public/downloads/pdf/haladast_biztonsagot_demokraciat.pdf
http://www.demos.hu/Sajto?news_id=48&page=details

³⁹ Országgyűlési Napló 2006-2010, 221. ülésnap (2009.09.15.), 50. felszólalás, Dr. Molnár Csaba (MSZP), a Miniszterelnöki Hivatalt vezető miniszter [Parliament Diary....session ... address Dr. Molnár Csaba (MSZP) the Office director minister

The debate was not about the inclusion of the question about ethnicity but the way it had to be formulated. On the 21st of October 2009 László Sólyom President of the Republic sent back the version accepted on the 5th of October 2009 for reconsideration exercising his power of veto.⁴⁰ In his letter he missed the questions on productivity, handicap and religion though all three were there in the 2001 questionnaire, thus comparability would justify their inclusion.⁴¹ He found the question about productivity important for demography and planning while he considered the question about handicap – similar to that on ethnicity – important to the practical enforcement of equal opportunity.⁴²

The President also criticized (Letter 2.2.) the original version of the law that allows only the affiliation to ‘official’ minorities in Hungary. He has pointed out that in order to get a wider overview by the census data it is necessary to know about nationality affiliations in general, the inclusion of the question about mother tongue, neglecting the majority – minority dimensions. The President has introduced another important question that of multiple nationality. Though the letter did not elaborate upon the problem the international recommendations drew attention to it. On the one hand the exclusive choice of nationality may obscure nationality affiliations, the possibility of a multiple choice may give more detailed results thus fulfilling better the goals of the census. The Parliament accepted the President’s comments in part and included questions on the mother tongue, productivity and handicap, modified the definition of minority to national and ethnic *affiliation*, but the question on religion was left out yet again.

Following Fidesz winning the elections, in accordance with the President’s directions Law 2010. XLIX was the amendment of the law on census. The term of national and ethnic affiliation was replaced by nationality and questions on religion and language knowledge were also added. The first version of the motion for amendment handed

of the prime minister’s office]. [http://www.parlament.hu/internet/plsql/ogy_naplo_naplo_fadat?p_ckl=38&p_uln=221&p_felsz=50&p_szoveg=&p_felszig=50

⁴⁰ Constitution of the Hungarian Republic 1949. law XX. §26.(2).

⁴¹ http://www.solyomlaszlo.hu/admin/data/file/6538_20091021_visszakuldo_level_nepszamlalas_cimerrel.pdf

⁴² Ibid. 2.1.

in by three members of the ruling party was withdrawn – it did not contain the voluntary question on handicap.⁴³ The Parliament accepted the effective text on the 1st of June 2010 that was published after its being signed by László Sólyom. The amendment preserved the text of Law 1999. CVIII. that was the legal background of the 2001 census, with the addition of the question about handicap.

During the debate of the amendment – just before midnight on the 21st of May 2010 – the MPs presented their opinion about the justification of the question on religion. It is evident from the above explanation that both the questions on religion and ethnic affiliation are optional and are based on voluntariness. The only opposition to the question on religion came from the MSzP faction where the speaker warned from fears, referred to scandalous illegal party-lists of voters and also that the state had nothing to do with such a question.⁴⁴ The speaker of LMP found the remark reasonable that in the 20th c how justified was the inclusion of a question on religion. This faction stated that

If we believe such statistical data are justified by serving social planning, social-political organisation we have to consider that religion has an important feature belonging to the cultural multiplicity, that let's hope will be maintained in our society. Thus if we want an accurate picture of the state of a society it cannot be neglected either, independently of the world view of the individuals and what is the proportion of religions in the country.”⁴⁵

Than the MP separated the problem of financing the churches from the data of religion. The speaker of Fidesz agreed with the LMP speaker and criticized the MSzP standpoint because the ethnic data are private affairs too thus if consistency is sought that could not be asked either.⁴⁶

⁴³ http://www.parlament.hu/internet/plsql/ogy_irom.irom_adat?p_ckl=39&p_izon=33

⁴⁴ Országgyűlési Napló 2010-, 5. ülésnap (2010.05.21.), 230. felszólalás, Dr. Nemény András (MSZP) http://www.parlament.hu/internet/plsql/ogy_naplo.naplo_fadat?p_ckl=39&p_ulon=5&p_felsz=230&p_szoveg=&p_felszig=230

⁴⁵ Országgyűlési Napló 2010-, 5. ülésnap (2010.05.21.), 236. felszólalás, Dr. Schiffer András (LMP), http://www.parlament.hu/internet/plsql/ogy_naplo.naplo_fadat?p_ckl=39&p_ulon=5&p_felsz=236&p_szoveg=&p_felszig=236

⁴⁶ Országgyűlési Napló 2010-, 5. ülésnap (2010.05.21.), 238-242. felszólalás, Balog Zoltán (Fidesz), http://www.parlament.hu/internet/plsql/ogy_naplo.naplo_fadat?p_

It is evident that religion and ethnic, national affiliation are the most sensitive questions and need special circumspection during the handling of data, as was also indicated by the petitions concerning the 2001 census addressed to the commissioner of data protection touching mostly this aspect.⁴⁷ In one of his answers the commissioner of data protection explained⁴⁸ that he had consulted with the president of the Central Statistical Office and thanks to the applied precautionary measures – e.g. by withholding detailed addresses – the level of data protection was adequate. It, however, remains a question whether data collection is really a necessary process to carry out governmental tasks. The inquiry about the data of ethnicity, nationality are to serve the guaranteeing of equal opportunity, anti-discrimination, language, education etc. and is more important than questions about religion, because the former need governmental financing, however, the consideration and weight of the data obtained in the census were arguable.⁴⁹ In connection with the ethnic, nationality questions there were no similar problems raised.

The 2001 questionnaire contained a special question on language knowledge (it was compulsory, without special mention of the mother tongue), an other on ‘nationality, language affiliation’ and further four (not compulsory) sub questions limiting the possible answers at three. The first was about nationality affiliation, the second cultural identity, the third mother tongue and the fourth about the language used in the private sphere.⁵⁰ The available 2010 test questionnaire inquires about language knowledge (obligatory, with a choice of answers), mother tongue (non-obligatory, maximum two answers), and two questions about nationality affiliation (non-obligatory).⁵¹ All

`ckl=39&p_uln=5&p_felsz=238&p_szoveg=&p_felszig=242`

⁴⁷ Az adatvédelmi biztos 2001. évi parlamenti beszámolója, II. A. 1. 1. 2. A 2001. évi népszámlálás, [Report of the commissioner of data protection. Census 2001]. <http://abiweb.obh.hu/abi/index.php?menu=beszamolok/2001/II/1/1/2>

⁴⁸ Ibid.

⁴⁹ The question on the homepage of the Statistical Office for the 2001 census was: „val-lása, hitfelekezete?” [religion?] (http://nepszamlalas.hu/hun/kerdoiv/hun_4.html, 24. kérdés); in the 2010 test questionaire: „Mely egyházhhoz, felekezethez tartozónak érzi magát?” [which denomination do you feel to belong to?]. (<http://portal.ksh.hu/pls/portal/url/ITEM/903719112FD4508EE04400156004451E>, 36. kérdés)

⁵⁰ http://nepszamlalas.hu/hun/kerdoiv/hun_4.html, questions 22. and 23.1–4

⁵¹ <http://portal.ksh.hu/pls/portal/url/ITEM/903719112FD4508EE04400156004451E>, 32–34. questions

the questions are open and it is possible to add more languages or specify more nationalities. The last two items of the questionnaire do not offer multiple answers (the first is which nationality does the informants think themselves to belong to, the second whether there is other affiliation besides the one specified in an earlier question). While the solution for the mapping out of a more complicated identity has not yet been achieved, the method may help to make the results more exact: certainly it will be possible to fill in the questionnaire on the internet and may be that could increase the willingness in the participation of some groups otherwise difficult to reach.⁵²

As in various questions the census needs political decision what is especially true for the ethnic data (as could be observed during the debate in the parliament), the data obtained by the census also need to be treated critically. The legislator has to keep in mind that every new decision (an opportunity offered every ten years only) should rectify the omissions revealed by the earlier results. Concerning the ethnic data the most prominent shortcoming was the insufficient choice of minority groups contrasting to the number of possibilities revealed by research. The reasons causing such difficulties have been explained by Peter Skerry that in the USA there are entire different reasons for the undercount of Hispanic and that of the African – American populations;⁵³ therefore different methods have to be chosen to improve the efficiency of the census. The Hungarian legal context has surmounted the question of what to measure and what not and can start deliberating how to measure to get more exact results;⁵⁴ that could be later used by the Government or the civil rights organisations in their work. For the Hungarian society the most urgent and long-range problem of equal opportunity is the problem of Roma segregation at schools as a compelling governmental interest.⁵⁵

⁵² Waffenschmidt Jánosné: Felkészülés a 2011. évi népszámlálásra, [Preparation for the 2011 census]. *Statistikai Szemle*, 87. évfolyam 3. szám, p. 257.

⁵³ Peter Skerry: Counting on the Census? Race, Group Identity, and the Evasion of Politics. Brookings Institution Press, Washington, D.C., 2000. pp. 100–101.

⁵⁴ On the various methods of measuring, questions offering more exact picture cf. Hoóz István: Népszámlálás és nemzetiség. [Census and nationality]. *Kisebbségkutatás* 2000 (9. évf.) 4. szám,

⁵⁵ Cf. in the USA the strict measure used in cases of racial discrimination needing the existence of “compelling state interest” at the “strict scrutiny test”.

Summarizing it can be stated that the Hungarian legislation complies with the requirements of collecting complex data during the census about the ethnic composition of the population. The details, however, decisive for the qualities of the data do not appear at the level of laws: 1. how complex is the measuring of descent – at present the 2010 test questionnaire allows just two choices of identity and the language use has also only two aspects; 2. what does nationality mean, what sub-questions can be there and what goal can define success. The overview of the international recommendations reveals that the governmental obligations connected to the census is not a simple passive collecting of the data. The members of minorities must be informed about the possibility of acknowledging their affiliation, about its stake and have to be convinced that acknowledging their minority identity will not mean any disadvantage for them. In this respect the international recommendations require the ethnic data to give as exact picture about the society as possible; it is arguable that the census data obtained ten years ago would fulfil this requirement as e.g. the number of the Roma in Hungary was greatly underestimated (the official number representing less than the half of the actual one⁵⁶ compared with any other estimates given by specialists.⁵⁷

⁵⁶ Data for 2001: 190 046 persons. Cf: A 2001. évi népszámlálás nemzetiséggel összefüggő kérdései, p. 4. [Question of the 2001 census related to nationality].http://nepszamlalas.hu/hun/kotetek/04/04_modsz.pdf

⁵⁷ For methods to avoid undermeasuring cf. Peter Skerry op.cit. pp. 80–120.

