

# CAUSE OF ACTION

A SERIES BY THE EUROPEAN ROMA RIGHTS CENTRE



## Reproductive Rights of Romani Women in Hungary

APRIL 2020

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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# Introduction

In 2016, the ERRC launched an initiative to address the reproductive rights of Romani women in Hungary. The presumption that Romani women in Central Eastern Europe suffer from rights violations, among others, in the field of maternity care, are supported by the results of social science research and human rights fact finding.<sup>1</sup>

The present report is aimed at presenting the outcomes of the ERRC's initiative in Hungary: the results of a fact finding investigation, and the related strategic litigation; two lawsuits against a public hospital relating to discriminatory practices at the maternity unit.<sup>2</sup>

This report is based on research the ERRC commissioned from Lília Balogh and edited by Judit Gellér.

- 1 Helen L. WATSON – Soo DOWNE, Discrimination against childbearing Romani women in maternity care in Europe: a mixed-methods systematic review, *Reproductive Health*, 2017, Article 1, <https://reproductive-health-journal.biomedcentral.com/track/pdf/10.1186/s12978-016-0263-4>.
- 2 A comprehensive article about this initiative of the ERRC was published in a Hungarian human rights quarterly; see: Lília Balogh and Judit Gellér, Judit: „Roma nők hátrányos megkülönböztetése a szülészeti ellátás során: Két magyarországi jogeset, háttérrel” [Discrimination of Roma women during maternity care in Hungary – two legal cases, with background], *Fundamentum* Vol. 23, No. 1-2, pp. 204-223. (2019), <http://fundamentum.hu/sites/default/files/fundamentum-19-1-2-17.pdf>.



# The Context of the Issues in Hungary

## The demographic context

The current proportion of the Roma in Hungary is estimated to be around 8% of the general population; that translates into approximately 800,000 citizens of Romani ethnicity. During the population census in 2001 less than 2% of the general population (190,046 persons) identified themselves as Roma.<sup>3</sup> Before the next census in Hungary, which took place in 2011, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities reacted to worries connected to experiences from 20<sup>th</sup> century history on ethnic registration, and to present-day experiences of discrimination of certain ethnic groups. The Commissioner emphasised the anonymity of the census and highlighted the need for reliable ethnic data in order to design adequate inclusion policies. The Chair of the National Roma Self-government called on the Roma to declare their ethnicity as Romani. Moreover, a group of Roma rights activists organised a civil movement, “We belong to here” (*Idé tartozunk*), aimed to convince and encourage the Roma to declare their ethnic identity in the census. Eventually, slightly more than 3% of Hungary’s population (308,957 persons) declared themselves to be Roma during the census in 2011.<sup>4</sup>

While the general population of Hungary has been in decline for decades, the proportion of the Romani population is increasing.<sup>5</sup> This tendency is particularly visible in the case of children; while in the mid-1960s 6% of babies in Hungary were born into Romani families, this proportion increased to 10% in the 1990s, and in 2002, according to the latest available estimations, the share of Romani babies among all newborns in Hungary was 15%.<sup>6</sup>

## The public discourse

Ethnicity plays a crucial role in perpetuating poverty in Hungary. Roma are heavily over-represented among poor people, and a significant proportion of poor Romani families, especially large families with young children, are living in deep, multidimensional poverty. In this context, Romani women appear in public discourses as having relatively high fertility rates, which is usually interpreted by Hungarian mainstream society as a “strategy”: i.e. Romani women are seen to be giving birth to “too many children” in order to access social benefits related to childbearing.<sup>7</sup> This approach can be dated back to 1998, when a

3 Central Statistical Office, Országos adatok: 1.1.6.1 A népesség anyanyelv, nemzetiség és nemek szerint [Population data by mother tongue, nationality and sex]; [www.ksh.hu/nepszamlalas/docs/tablak/teruleti/00/1\\_1\\_6\\_1.xls](http://www.ksh.hu/nepszamlalas/docs/tablak/teruleti/00/1_1_6_1.xls).

4 *Ibid.*

5 PÉNZES János – TÁTRAI Patrik – PÁSZTOR István Zoltán: A roma népesség területi megoszlásának változása Magyarországon az elmúlt évtizedekben [The spatial concentration of Roma population in Hungary during the last decades], *Területi Statisztika*, 2018/1, 3–26, <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>.

6 István KEMÉNY – Béla JANKY: Roma Population of Hungary, 1971–2003, in *Roma of Hungary*, ed. István KEMÉNY, New York, Columbia University Press, 2005.

7 Ildikó ASZTALOS MORELL, “Gender Equality Struggles. An Intersectional Analysis on Women Roma NGOs in Hungary,” *Baltic Worlds* 8, no. 3–4 (2015).

Hungarian sociologist published a column in a widely circulated daily newspaper about the economic survival strategies of poor Romani and non-Romani families affected by chronic unemployment, and introduced the term “strategic child” (i.e. a child who is presumed to be born because the family is interested in gaining child-specific welfare benefits).<sup>8</sup>

Right-wing extremists tend to interpret the fertility of Romani women as an endeavour to outnumber “Hungarians” in Hungary. This exclusionary approach was manifested in an infamous social media post by an MP of the Jobbik party, published on the 1<sup>st</sup> of January 2015, reacting negatively to the news about the first baby born that year, because the boy’s name suggested that he was born to a Romani family.<sup>9</sup>

## Healthcare and corruption in Hungary

In Hungary, prenatal and childbirth-related care is covered by statutory health insurance. However, in practice women using these services often have to (or are expected to) pay for the care informally.<sup>10</sup> This is a general phenomenon in the Hungarian public health care system: for example, Hungarian public hospitals are infamous for the lack of basic amenities.<sup>11</sup> Patients are supposed to bring their own toilet paper, diapers for newborns, or even eating utensils, etc. (or, in some hospitals, these goods may be bought from vending machines in the corridors). The Parliamentary Commissioner for Fundamental Rights (the Ombudsman) published a report in December<sup>12</sup> regarding a related issue; namely that some public paediatric clinics charge a fee to those parents who stay overnight with their hospitalised children, despite the fact that the Act on Health Care provides that minors have the right to be accompanied by their parents (or their legal representatives or adult companion of their choice) during their stay in a hospital.<sup>13</sup> The Ombudsman found this policy (of charging a fee) to be unlawful, and claimed that health care institutions must not make respecting the rights of patients conditional on payment.

8 Márta GYENÉI, “A ‘stratégiai gyerek’, avagy miért növekszik nálunk a csecsemőhalandóság,” [The ‘strategic child’ – or, why do infant mortality rates increase in Hungary] *Népszabadság* Vol. 56, no. November 14 (1998).

9 See: <https://www.facebook.com/novakelod/photos/a.159541990795117.40105.112879632128020/762687637147213/?type=1&theater>.

10 See Miklós MERÉNYI: Egy szülés valódi ára – korrupció a magyar szülészeti ellátórendszerben [The real price of a birth – Corruption in the Hungarian maternity care system], 2., *K-Monitor Blog*, January 22, 2020m available at: [https://k.blog.hu/2020/01/22/egy\\_szules\\_valodi\\_ara\\_korrupcio\\_a\\_magyar\\_szuleszeti\\_ellatorendszerben\\_2\\_resz](https://k.blog.hu/2020/01/22/egy_szules_valodi_ara_korrupcio_a_magyar_szuleszeti_ellatorendszerben_2_resz).

11 Lovas, G., Balazs, E. (9 May 2016), “No Toilet Paper at Hungary’s Hospitals Spurs Private Investment”, *Bloomberg.com*, available at: <https://www.bloomberg.com/news/articles/2016-05-09/no-toilet-paper-at-hungary-s-hospitals-spurs-private-investment>.

12 Hungary, Parliamentary Commissioner for Fundamental Rights (2 December 2019), *Az Alapvető Jogok Biztosa a kórházi ellátásra szoruló gyermekeket kísérő szülők benntartózkodási lehetőségének biztosításáról és feltételeiről* [The Parliamentary Commissioner on providing the opportunity and the conditions for parents to stay with their hospitalized children], available at: <https://www.ajbh.hu/-/az-alapveto-jogok-biztosa-a-korhaz-ellatasra-szorulo-gyermekeket-kisero-szulok-benntartozkodasi-lehetosegenek-biztositasarol-es-felteteleiről?inheritRedirect=true>.

13 Hungary, Act CLIV of 1997 on Health Care (1997. évi CLIV. törvény az egészségügyről), 23 December 1997, Article 11 (4).



Corruption is also contextually relevant. In the *Euro Health Consumer Index 2018*, a report which compares the health care services in 35 European countries, Hungary is ranked as 2<sup>nd</sup> (after Albania) regarding the prevalence of “under-the-table payments” to doctors.<sup>14</sup> It is to be noted that in the Hungarian context this is not a hidden practice (the money, usually in an envelope, is supposed to be handed “over-the-table”); and the practice of “tipping” the medical staff<sup>15</sup> (the Hungarian phrase for this sort of informal payment is “gratitude money”<sup>16</sup>) is especially widespread in the maternity units of public hospitals.

In this context, there is an emerging public debate aimed at challenging the conditions of childbirth in Hungarian hospitals (including corruption), promoted mainly by grassroots initiatives of middle-class women, with Changes in Maternity Care Movement (*Másállapotot a Szülészetben Mozgalom*)<sup>17</sup> as a prominent actor in this field. Notably, the “birth movement” in Hungary used to focus on the legalisation of homebirth until 2011, when a decree governing this field was finally issued. The next goal of the Hungarian activists is to re-negotiate and improve the conditions of childbirth in hospitals.

14 Health Consumer Powerhouse (2019), *Euro Health Consumer Index 2018 Report*, available at: <https://healthpowerhouse.com/media/EHCI-2018/ehci2018-indicators/4.5%20Q16%202018%20Under-the-table%20money%20to%20doctors%20190104.xlsx>.

15 Rubashkin, N., Szebik, I., Baji, P., Szántó, Zs., Susánszky, É., Vedam, S. (2017), ‘Assessing quality of maternity care in Hungary: expert validation and testing of the mother-centered prenatal care (MCPC) survey instrument’, *Reproductive Health* Vol. 14, p. 152.

16 See Transparency International (TI), Hungarian Women’s Lobby (2019), ‘Cherchez la Femme! Gender and Corruption, with special regard to violence against women and gratitude payments in maternity care (a summary of the report)’, available at: [https://transparency.hu/wp-content/uploads/2019/03/cherchez\\_la\\_femme\\_summary.pdf](https://transparency.hu/wp-content/uploads/2019/03/cherchez_la_femme_summary.pdf).

17 See: <https://www.facebook.com/masallapotot/>.



## Human Rights Fact Finding

The first (grounding) part of the initiative was aimed at identifying systemic human rights violations in the broader field of reproductive rights of Romani women in Hungary, and also in the field of patients' rights of Romani women and their newborn babies in maternity and infant care units of Hungarian hospitals.

### Presumed issues

When planning the fact finding investigation, four issues were identified (based on a series of consultations with social science researchers, human rights experts, and NGO activists) to focus on when assessing the situation, or when looking for individual cases of rights violations: forced/involuntary sterilization of Romani women, performed in public hospitals; segregated maternity wards for Romani and non-Romani women in public hospitals; mistreatment (including neglectful or disrespectful treatment and harassment) of Romani women during prenatal and maternity care; disadvantages of Romani women, often resulting from regional/infrastructural inequalities, regarding the access to (appropriate) prenatal and maternity care services.

### Forced sterilization

Forced (involuntary) sterilization was applied as a tool, sometimes as a documented state policy, to control Romani women's fertility in a number of Central East European countries during the second half of the twentieth century, and even in the 2000's. In the case of Hungary, while there is no evidence for the systemic sterilization of Romani women, human rights NGOs have identified several cases of abuse.

In 2006, the United Nations Committee on the Elimination of Discrimination against Women (UN CEDAW Committee) found that the Hungarian government had violated the UN Convention on the Elimination of All Forms of Discrimination against Women in a case of a Romani woman, Ms. A.S., who was sterilized without her fully informed consent.<sup>18</sup> As for the facts: Ms A.S. was in the 41<sup>st</sup> week of pregnancy when she was brought by ambulance to a public hospital (in Fehérgyarmat, Szabolcs-Szatmár-Bereg County), where the doctors established that the baby had died, and she was subjected to a Caesarean section to remove the dead foetus. She was made to sign the declaration of consent to sterilisation just before the operation (and just a few minutes after learning that she lost her child), without being provided with appropriate information about the nature of this intervention. Ms A. S. realised only after the operation that she would not be able to become pregnant again. She filed a lawsuit against the hospital, with the support of the Legal Defence Bureau for National and Ethnic Minorities (NEKI) and the ERRC; the case was brought to the CEDAW Committee after exhausting all domestic legal remedies.

<sup>18</sup> UN CEDAW Committee, "36th Session, Communication No. 4/2004," (2004).

Years after the CEDAW Committee's communication, in 2009, the Hungarian government paid financial compensation to the victim.<sup>19</sup> However, according to the assessment of human rights organizations, Hungary failed to fully implement the recommendations of CEDAW Committee,<sup>20</sup> and the domestic legal provisions regulating sterilisation still do not comply with international standards.<sup>21</sup>

In 2008, the ERRC learnt about a similar case that happened in one of the public hospitals in Miskolc. The alleged victim in this case, Ms G.H., was not of Romani origin herself, but she had married a Romani man whose name she carried. She had seven children and was living in an ethnically segregated neighbourhood, thus she was perceived as a Roma based on her married name, number of children, and home address. She was in the 22<sup>nd</sup> week of her pregnancy with twins when she started to bleed heavily, and she was subjected to a Caesarean section to remove the dead fetuses. During this intervention she was also sterilised. According to the account of the hospital, she requested verbally to be sterilised, but they could not present the written consent form and respective documents. Ms G.H. filed a lawsuit against the hospital with the support of the ERRC, claiming that she was discriminated against on the basis of (perceived) Romani ethnicity. After exhausting the domestic legal remedies, she filed a complaint to the European Court of Human Rights (ECHR), but the ECHR found the complaint inadmissible<sup>22</sup> because the binding decision of a domestic court granted her some compensation for the procedural shortcomings of the hospital's administrative procedure. However, the domestic court did not establish discrimination, neither did it establish that the sterilisation was unlawful and violating her right to decide on the number of her children.<sup>23</sup> The ERRC brought the claim to the CEDAW Committee, the case is pending.

## Segregated maternity wards

The (more or less systemic) practice of some Hungarian public hospitals that Romani and non-Romani women are placed in separate maternity wards is supported mainly by anecdotal evidence, or by the results of human rights fact finding.

In 2003, the ERRC implemented an investigation based on 113 interviews with Romani women, and documented the practice of maternity ward segregation in 44 cases. According

19 ERRC, "Hungary Provides compensation to Coercively Sterilised Romani Woman. February 24"; <http://www.errc.org/cikk.php?cikk=3011>," (2009).

20 Hungarian Women's Lobby and European Roma Rights Centre, Alternative Report Submitted to the UN CEDAW Committee for Consideration in Relation to the Examination of the Combined Seventh and Eighth Periodic Reports of Hungary January 2013 by the Hungarian Women's Lobby and the European Roma Rights Centre. (2013).

21 ERRC (2011), "Letter to the UN Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health, to the UN Special Rapporteur on Violence against Women, And to the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading treatment or Punishment, Re: Involuntary Sterilisation of Romani Women in Europe". June 3; [www.errc.org/cms/upload/file/letter-to-un-special-rapporteurs-on-health-torture-and-violence-against-women-3-june-2011.pdf](http://www.errc.org/cms/upload/file/letter-to-un-special-rapporteurs-on-health-torture-and-violence-against-women-3-june-2011.pdf).

22 ECHR, *G.H vs Hungary*, Application No. 54041/14, Decision of 2 July 2015.

23 Adam WEISS – Judit GELLÉR: *G.H. v Hungary: Victim Status in Cases of Forced Sterilisation*, *Strasbourg Observers*, September 14, 2015, available at: <https://strasbourgobservers.com/2015/09/14/g-h-v-hungary-victim-status-in-cases-of-forced-sterilisation/#more-2971>.

to the account of a woman who gave birth in one of the public hospitals of Miskolc (Borsod-Abaúj-Zemplén County), Romani women were supposed to clean the “Gypsy room” by themselves; she claimed that the phenomenon of maternity ward segregation did not exist during the era of State-Socialism, before 1989. Meanwhile, an obstetrician (also from Miskolc) opined that segregated accommodation may serve in the interests of Romani women “because they are spared abusive attitudes” (e.g. offensive remarks from the visitors of the non-Romani roommates), and, according to his experiences, socio-economically disadvantaged Romani women sometimes ask to be placed together because they feel uncomfortable in the company of middle-class women.<sup>24</sup>

In 2008, upon receiving a letter from a reader, an investigative report was published in a regional newspaper about the relevant situation (i.e. whether the maternity wards are ethnically segregated or not) in the Borsod County Hospital. Some of the interviewees claimed that the practice of segregation exists, others opined that the ethnically homogenous composition of some wards may be incidental, while some patients (Romani women) opted not to answer the journalist’s questions.<sup>25</sup>

Upon receiving complaints from Romani families, the Legal Defence Bureau for National and Ethnic Minorities (NEKI) requested the Parliamentary Commissioner for the Rights of National and Ethnic Minorities (Minority Rights Ombudsman) in 2013 to investigate the phenomenon of ethnically segregated maternity wards in a public hospital in Eger, Heves County. The Minority Rights Ombudsman summarised the findings of the investigation in a report. Firstly, the Ombudsman claimed that, because of data protection regulations, no patients (allegedly discriminated against Romani women) had been contacted during the investigation; only the representatives of the hospital had been heard. According to the conclusion of the report, *“there is no proof beyond reasonable doubt for the intention of unlawful segregation of Roma mothers, and for the fact of direct discrimination [at the maternity unit of the hospital]. However it is obvious that during certain periods of time Roma and non-Roma mothers are actually placed in separate wards”*; this phenomenon was explained by the employees of the hospital that *“since there are a lot of Roma inhabitants living in the municipalities nearby, it could happen in certain periods of time that only Roma women were placed to ward”*; moreover *“Roma women sometimes asked to be placed together with acquaintances or relatives of theirs”*.<sup>26</sup>

As illustrated by the cases above, it may be a challenge to prove the existence of maternity ward segregation.

24 Izsák, Rita: “Gypsy Rooms” and other Discriminatory Treatment Against Romani Women in Hungarian Hospitals, *Roma Rights Journal*, December 15, 2004, <http://www.errc.org/roma-rights-journal/gypsy-rooms-and-other-discriminatory-treatment-against-romani-women-in-hungarian-hospitals>.

25 BoOn.hu: „Szinre szín” a B-A.-Z. megyei kórház szülészeten? [“Colour on Colour” practice in the maternity ward of the county hospital?], *Borsod Online*, April 23, 2008., <https://boon.hu/kozelet/helyi-kozelet/sznre-szn-a-b-a-z-megyei-krhz-szlszetn-3553585/>.

26 Nemzeti és etnikai kisebbségi jogok országgyűlési biztosa: *Jelentés a Heves Megyei Önkormányzat Markhot Ferenc Kórház-Rendelőintézet Szülészeti és Nőgyógyászati Osztályán folytatott vizsgálatról* [Report on the investigation implemented at the obstetrics and gynecology ward of the ‘Markhot Ferenc’ Hospital and Health Care Centre, operated by the Heves County Municipality]. No. 1746/2003, p. 201, <http://www.kisebbségiombudsman.hu/data/files/101610622.pdf>.

## Mistreatment

Sociologist Mária Neményi implemented an empirical research in 1997, aimed at assessing the gap between the conceptions of young Romani women regarding their own (and their children's) health and lifestyles, and the approaches of the representatives of the local health care services.<sup>27</sup> The Romani interviewees' *"everyday experience with the representatives of the health care system was that the Roma are judged in general terms, regardless of the actual behaviour or problem of the individuals"*; as for the interviews with health care providers, it turned out that *"the district nurses are those who developed the most direct and most tolerant relationships [with Romani families], this is less so in the cases of general practitioner and paediatric practitioners [...]; and doctors and midwives working in hospitals rather showed a tendency to present their experiences through the prism of a pre-constructed image of the Roma"*.<sup>28</sup>

The BirthHouse Association (a Hungarian women's NGO, dealing with birth rights issues)<sup>29</sup> implemented a field study in 2015 whereby the researchers visited four ethnically segregated neighbourhoods, and interviewed Romani women living there in deep poverty about their experiences with prenatal and maternity health care services.<sup>30</sup> The interviewees shared negative experiences (e.g. that they had been discriminated against or subjected to disrespectful treatment), but apparently none of them had ever made a complaint. This finding is accordance with the years-long experience of the legal aid service operated by BirthHouse Association: *"Women extremely rarely file a complaint if they are mistreated during maternity care – except in cases of medical malpractice [...]. women rather wish to forget the grievance experienced, instead of taking any kind of steps"*, because of various reasons, including the *"lack of supporting environment, vulnerability, the foreseen unsuccessfulness of the process, socialization"*, and after all, *"it is not surprising that Roma women living in extreme poverty do not make a complaint about the experienced mistreatment or incidental discrimination – similarly to women belonging to the middle-class majority"*.<sup>31</sup>

## Access

According to the above cited report of the BirthHouse Association on the situation of Romani women in the field of maternity care, *"[a]ll the women [...] who were selected for interviews mentioned the difficulties related to access to care"*.<sup>32</sup> If the nearest obstetric clinic is 20-30 kilometres away, both travel costs and travel time constrain access, especially when *"the opening hours of obstetrical clinics do not take into account public transport schedules, meaning that it is virtually impossible to arrive at the*

27 NEMÉNYI Mária: *Cigány anyák az egészségügyben* [Roma mothers in the health care system], Budapest, Nemzeti és Etnikai Kisebbségi Hivatal, 1998; <http://mek.oszk.hu/01100/01156/01156.htm>.

28 NEMÉNYI Mária: *Cigány anyák az egészségügyben* [Roma mothers in the health care system], Budapest, Nemzeti és Etnikai Kisebbségi Hivatal, 1998; <http://mek.oszk.hu/01100/01156/01156.htm>.

29 The organisation has since changed its name to EMMA Association (EMMA Egyesület), see: <https://emma-vonal.hu/>.

30 BODROGI Beáta: *The Situation and Possibilities of Roma Women in Maternity Care*, Budapest, BirthHouse Association, 2016, [http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA\\_final\\_online.pdf](http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA_final_online.pdf).

31 BODROGI Beáta: *The Situation and Possibilities of Roma Women in Maternity Care*, Budapest, BirthHouse Association, 2016, [http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA\\_final\\_online.pdf](http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA_final_online.pdf); p. 23.

32 BODROGI Beáta: *The Situation and Possibilities of Roma Women in Maternity Care*, Budapest, BirthHouse Association, 2016, [http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA\\_final\\_online.pdf](http://www.szuleteshaz.hu/wp-content/uploads/2016/04/ROMA_final_online.pdf); p.10.

obstetrician's appointment on time and return home the same day travelling by public transport".<sup>33</sup> Moreover, there are significant regional disparities in the distribution of health care services in Hungary,<sup>34</sup> and the Romani population is disproportionately affected by the shortcomings (including the high number of vacant general/paediatric practitioner positions in the disadvantaged regions of the country). A previous investigation by the ERRC, summarised in the report *Ambulance Not on the Way* (published in 2006),<sup>35</sup> revealed the phenomenon of denying emergency aid to Roma in several Central Eastern European countries, including Hungary.

33 BODROGI Beáta: *The Situation and Possibilities of Roma Women in Maternity Care*, Budapest, BirthHouse Association, 2016, [http://www.szuleseshaz.hu/wp-content/uploads/2016/04/ROMA\\_final\\_online.pdf](http://www.szuleseshaz.hu/wp-content/uploads/2016/04/ROMA_final_online.pdf); p.9.

34 VITRAI József – BAKACS Márta – KAPOSVÁRI Csilla – NÉMETH Renáta: Szükségletre korrigált egészségügyi ellátás igénybevételének egyenlőtlenségei Magyarországon [The inequalities of the use of health care services, assigned to needs, in Hungary], *Legis Artis Medicinae*, 2010/8, 527–532, [http://www.elitmed.hu/upload/pdf/szuksegletre\\_korrigalt\\_egeszsegugyi\\_ellatas\\_igenybevetelenek\\_egyenlotlensegei\\_magyarorszagon-6087.pdf](http://www.elitmed.hu/upload/pdf/szuksegletre_korrigalt_egeszsegugyi_ellatas_igenybevetelenek_egyenlotlensegei_magyarorszagon-6087.pdf).

35 ERRC: *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, Budapest, 2006, [http://www.errc.org/uploads/upload\\_en/file/01/E6/m000001E6.pdf](http://www.errc.org/uploads/upload_en/file/01/E6/m000001E6.pdf).





## Regional Aspects

According to the hypothesis of the investigation, the geographical aspect is crucial regarding the realisation of Romani women's reproductive rights: on the one hand, because of the regional infrastructural inequalities; on the other hand, because of the allegedly stronger social exclusion mechanism in regions with a higher concentration of Romani populations. Based on these considerations, the investigation focused on two regions: North-Eastern Hungary and South-Western Hungary.<sup>36</sup> In the North-Eastern region, the area of the investigation was Borsod-Abaúj-Zemplén County (with Miskolc as the county seat), and in the South-Western region it was Baranya County (with Pécs as the county seat).

When considering the ethnic composition of a region or a community, there may be huge gaps between the picture shown by the official statistical/census data<sup>37</sup> and the actual (or the perceived) demographical situation. Nevertheless, a home address in a village that is associated with a high proportion of Romani population (i.e. that is considered a “Gypsy village”) presumably increases the risk of ethnic discrimination in regional health care centres and hospitals.

<sup>36</sup> According to available data, the concentration of the Romani population is the highest in these regions; see PÉNZES, János – TÁTRAI, Patrik – PÁSZTOR, István Zoltán: A roma népesség területi megoszlásának változása Magyarországon az elmúlt évtizedekben [The spatial concentration of Roma population in Hungary during the last decades], *Területi Statisztika*, 2018/1, 3–26, <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>.

<sup>37</sup> The source of the data on demographics and ethnicity presented here is the latest census, held in 2011. See the webpage of the Central Statistical Office (*Központi Statisztikai Hivatal*): [http://mtatkki.ogyk.hu/nepszamlalas\\_adatok.php](http://mtatkki.ogyk.hu/nepszamlalas_adatok.php).



## Method and Sample

The initiative is based on two types of empirical investigative methods: focus group discussions and individual interviews with female members of local (Romani) communities. The focus group discussions were aimed at identifying phenomena related to reproductive/birth rights of Romani women, and possibly identifying individual victims of discrimination who would be willing to bring their cases to the Equal Treatment Authority, or to the court.

We implemented five focus group discussions: four in Baranya County (in four different villages) and one in Borsod County. The name of the municipalities has been replaced by pseudonyms, for confidentiality reasons, with the aim of protecting the participants from the consequences of revealing highly sensitive information and sharing critical opinions. Because of the nature of the topics, the focus groups were organised as women-only discussions, with the participation of 40 individuals ranging from 19 to 61 years of age (most of them were in their twenties or thirties).

The discussion sessions were approx. two hours long; the agenda was based on a script (see Annex of the present report). The “presumed issues”, such as forced sterilization, segregated maternity wards, mistreatment, and hindered access to health care, were included in the list of topics to be addressed.

The venue of the first focus group, held on the 13<sup>th</sup> of June 2016, was a village located to the South-East of the county seat of Baranya, home to approx. 400 inhabitants. During the latest census, 19% of the population claimed to be of Romani origin. According to the assessment of the president of the local Roma Self Government,<sup>38</sup> the proportion of the Romani population may be somewhat larger; it is considered to be 20–30% (but this estimation is “uncertain”, partly because of the relatively high rate of mixed marriages; moreover, some marginalized non-Romani families are considered “socially” as Roma by the locals). *Number of focus group participants: 14; age spectrum: 21–61 years; pseudonym: ‘Baranya1’.*

The second focus group, held on the 29<sup>th</sup> of June 2016, took place in a village located to the South-West of the county seat of Baranya, home to slightly fewer than 400 inhabitants. During the last census 56% of the inhabitants identified themselves as Roma, however the actual proportion of the Romani population is said to be significantly larger. According to the participants of the discussion, there are only one or two non-Romani families, and there are some families based on mixed marriage; even the mayor of the village is of Romani origin. *Number of participants: 7, age spectrum: 19–39 years; pseudonym: ‘Baranya2’.*

The third focus group was held on the 21<sup>st</sup> of July, in a village to the South-East of the county seat of Baranya, home to slightly more than 400 inhabitants. The last census showed that 75%

38 See regarding Roma Self Governments in Hungary: The Hungarian Minority Self-Government System as a Means of Increasing Romani Political Participation. National Democratic Institute Assessment Report September/October 2006, Funded by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR); <http://www.osce.org/odihr/25974?download=true>.

of the population is of Romani ethnicity, however the proportion of the Roma may be larger according to the perception of the focus group participants; even the mayor of the village is of Romani origin. *Number of participants: 7, age spectrum: 26–43 years; pseudonym: ‘Baranya3’.*

The venue of the fourth focus group, held on the 30<sup>th</sup> of August 2016, was a village with approx. 1,800 inhabitants, located to the North-East of the city seat of Borsod. According to last census, 16% claimed to be of Romani origin, but this proportion was estimated to be larger by the participants of the focus group. *Number of participants: 5, age spectrum: 19–43 years; pseudonym: ‘Borsod1’.*

The fifth focus group was held on the 16<sup>th</sup> of December 2016, in a village to the South-East of the county seat of Baranya (very close to the border between Croatia and Hungary), home to more than 1,100 inhabitants. During the last census, 99% of the locals identified themselves as Roma; however, the participants of the focus group unanimously claimed that everybody in the village (including the mayor) is of Romani origin, except the Roman Catholic priest. *Number of participants: 7, age spectrum: 23–46 years; pseudonym: ‘Baranya4’.*

According to the preliminary plans, more focus groups were to be held in Borsod County. However, an individual case and a specific issue were identified in the region, therefore it seemed necessary to amend the work plan and, instead of organising focus group sessions, to interview alleged victims and/or potential witnesses within the framework of field visits. One of the venues of the field visits (implemented on the 3<sup>rd</sup> of August, 16<sup>th</sup> of August, and 14<sup>th</sup> of September 2016) was a small town near the county seat (Miskolc) with approx. 5,700 inhabitants. According to the last census, 12% of the population claimed to be of Romani origin, but the interviewees agreed that the proportion is certainly larger. *Pseudonym: ‘Borsod2’; interviews were held with 9 female members of the local Romani community (one of them was a minor at that time; she was accompanied and supported during the interview by her mother):*

- D.B. (17-year-old, mother of one);
- D.E. (18-year-old, mother of two, pregnant with her third child);
- E.R. (19-year-old, mother of one);
- B.E. (21-year-old, mother of four);
- E.M. (21-year-old, mother of five);
- K.R. (26-year-old, mother of two);
- R.O. (26-year-old, mother of three, pregnant with her fourth child)
- M.R. (27-year-old, mother of three);
- T.H. (39-year-old, mother of nine).

The other venue for interviews was a village North-East of Miskolc (the field visit took place on the 13<sup>th</sup> of December 2016), home to almost 1,000 inhabitants. During the last census, 44% of the inhabitants identified themselves as Roma, however this proportion may be larger according to the perception of some interviewees. *Pseudonym: ‘Borsod3’; interviews were held with 4 female members of the local Romani community:*

- M.L. (27-year-old, mother of four);
- B.N. (36-year-old, mother of ten, pregnant with her eleventh child);
- V.N. (36-year-old, mother of four);
- G.B. (38-year-old, mother of four).

## The Findings

### Access (to prenatal and maternity care)

The participants of one of the focus group discussions in Baranya stressed that physical access to care is a crucial issue; due to the (recent) centralisation of the regional health care system some prenatal health services are available only in the city of Pécs, the county seat, and it takes a lot of time and money to get there by public transportation (bus). Moreover, as they claimed, travel by bus is very inconvenient with young children, i.e. without babysitting support, expectant mothers must take their children with them when they travel to the city for prenatal check-ups. (Baranya3)

The same group complained that the local paediatric practitioner and the district nurse offer very limited office hours; as they do not spend enough time in the village, parents have virtually no opportunity to seek their advice on health issues. (Baranya3)

The participants of a focus group in Borsod complained that, although there is an obstetrics and gynaecology clinic operating in the health centre of the village, it is “almost impossible to meet a doctor there”, as there is no booking system to make an appointment, and there are always long queues in the waiting room, “as early as 6:30 in the morning”. (Borsod1)

An interviewee in Borsod shared one of her birth stories: her third daughter was born at home, during the labour she was supported by a female neighbour and by her husband (who is competent in providing first aid as an industrial worker). However, this was not a planned home birth; when they called the ambulance, the dispatcher refused to send a car for her. Upon further calls, eventually an ambulance car arrived, but by that time the baby was already born, with the umbilical cord around her neck. (Borsod3, G.B.)

### Mistreatment (during maternity care)

#### NEGLECTFUL TREATMENT

Interviewees in Borsod claimed that doctors and nurses (especially the latter) paid less attention to Romani and/or poor women than to non-Romani middle class women. (Borsod2, D.E.; Borsod3, G.B.; Borsod3, M.L.; Borsod3, B.N.) One of these women, who was expecting her eleventh baby when she was interviewed, claimed that she had decided to ‘hire a doctor’ (i.e. to pay one of the obstetricians in the hospital informally) to prevent another experience of negligence and derogatory treatment (Borsod3, B.N.).

In Baranya, the participants of all four focus groups agreed that doctors and nurses tend to pay less professional attention to Romani or poor women. Some of them added that only those women who had a “hired” doctor (paid informally) would receive sufficient attention. (Baranya3; Baranya 4) The experience of those who could not afford to pay informally for the medical staff was that “*they don’t hurt you, but they don’t help you, either*”. (Baranya4)

In Baranya, participants of two focus groups claimed that in a hospital in Pécs lactation consultants and nurses did not pay enough attention to Romani women who were experiencing breastfeeding difficulties. (Baranya2; Baranya3)

Participants of a focus group in Baranya mentioned that Romani newborns' names were not always registered properly by the hospital staff:<sup>39</sup> they found it dehumanising that in some cases only the family name and the baby's sex was written on the wristband, while (according to their experiences) non-Romani babies had their full names indicated. (Baranya2)

In the same group, two women had the traumatising experience of waking from anaesthesia after a Caesarean section, alone in a room, without any information about their babies. One of these mothers could not even declare the baby's planned name before the emergency operation, and she had been roaming around the building dizzily until she found the newborns' ward, where a nurse told her unsympathetically: *"Well, then let's find here a no-name baby!"* (Baranya2)

## STEREOTYPED TREATMENT

Participants of one of the focus groups in Baranya opined that surname, home address, and age matters when it comes to the treatment of Romani women at the maternity units of hospitals; those who have a "typical Gypsy surname", those who came from a "Gypsy village" (i.e. from a municipality with a large proportion of Romani population), and minors (young mothers under 18 years of age) are much more exposed to discrimination. (Baranya4)

The participants of another focus group in Baranya claimed that, although they were not targeted with explicit anti-Roma remarks by the hospital staff, they sometimes experienced subtle forms of racism, stereotyped treatment, and generalisation: *"Well, the midwife wouldn't say anything like that, but I can still feel that she talks with me differently than she would talk with a non-Roma."* – *"The doctor picked at us about everything. By doing this, he made us to feel that we are Roma."* – *"If one of us [i.e. a Romani woman] was unwashed, the doctor disciplined all of us [i.e. all the Romani women]."* (Baranya2)

## DISRESPECTFUL TREATMENT

Some interviewees and focus group participants in Borsod complained that doctors and (more often) nurses speak to adult Romani women as if they were talking to children; by using the informal version of the "you"<sup>40</sup> (singular second person pronoun) and verbs conjugated in the informal form. (Borsod1, Borsod2, T.H.; Borsod2, B.E.). This kind of informal language is usually used by adults towards children, or between family members, friends etc. Here, used unilaterally, it is a way of demonstrating a power hierarchy. An interviewee, a woman in her late thirties and, mother of nine, was rebuked by a male obstetrician (who also used the informal language towards her) because she was sitting on the edge of the bed with her legs crossed during the ward round: *"Do you think that you are in a pub?!"* (Borsod2, T.H.)

According to experiences of another interviewee, many of the hospital staff, especially nurses, speak to Romani women and their visitors in a disrespectful way. (Borsod3, G.B.)

<sup>39</sup> According to the general practice in Hungary, the newborn's full name is registered right after (or soon after) birth.

<sup>40</sup> In Hungarian, the formal and informal versions of the pronoun "you" (*te/Ön*) are similarly used like the pronouns 'Du/Sie' in German, or the pronouns 'Tu/Vous' in French.

A focus group participant from Borsod mentioned that the privacy of Romani women is not always respected at the maternity unit of the hospital; male doctors may ask them questions about sensitive health issues in the corridor, within earshot of strangers (including men). (Borsod1)

The participants of a focus group in Borsod agreed that Romani and/or poor women are only treated respectfully by the medical staff if they have a “hired doctor”. (Borsod1)

The participants of the focus groups in Baranya had fewer negative experiences, however some of them mentioned that Romani and disadvantaged women are not always treated respectfully during maternity care. (Baranya1) (Baranya2)

## VERBAL HARASSMENT

Verbal harassment of Romani women was claimed to be an existing phenomenon in prenatal care and maternity care by several focus group participants and interviewees (Baranya2; Borsod1; Borsod2, K.R.; Borsod 3, M.L.; Borsod 3, V.N.)

The manifestations of verbal harassment include inappropriate, judgmental questions. A young Romani woman from Borsod was addressed with these questions during delivery: *“Where does your husband work? Why don’t you go to school? How will you get money to raise the child? You should be playing with dolls, not giving birth to a baby – what will a child like this do with his life?”* (Borsod2, E.M.) *“Why are you delivering a baby, why aren’t you playing with a doll?”* (Borsod2, E.R.) *“Why are you having babies, if you are not capable of caring for them?”* This (quasi) question was asked of a young Romani mother in a public hospital in Pécs (Baranya3)

*“Roma women are told to have babies just for the [welfare] money”* – as experienced by an interviewee in a hospital in Miskolc. (Borsod2, R.O.) Another interviewee from Borsod was told by a midwife after delivery: *“Obviously, you gave birth for the money, now we are curious to see how you will provide for the child!”* (Borsod2, E.R.)

Romani women may be addressed with obscene verbal insults, even during delivery. According to the account of an interviewee, she was 14-years old when she had her first child, and the midwife told her in the labour room: *“Come on, you stinky Gypsy, if you enjoyed opening your legs, let’s give birth to your child!”* (Borsod2, D.E.) A young Romani woman reported that a nurse had told her after the birth of her fourth child: *“Instead of keeping on giving birth to more children, you should tie a knot on the penis<sup>41</sup> of your man!”* (Borsod2, B.E.)

Romani women may be humiliated because of their allegedly poor hygiene. A male gynaecologist, working for a local health centre in Baranya, is said to have insulted poor Romani women: *“You should have had a shower before you came to the appointment!”* (Baranya4) A young Romani woman remembered that a nurse had told her in the maternity ward: *“Go and have a bath, because I can smell that you’re stinking!”* (Borsod2, E.R.). The phrase *“You stinky Gypsy!”* is used as a form of ‘addressing’ Romani women by some members of the medical staff in a hospital in Miskolc. (Borsod2, E.R.; Borsod2, E.M.)

41 The Hungarian phrase here includes an obscene word.

Romani women are sometimes explicitly told that they are not welcome at the maternity unit. *“Why are you here again?”* in a hospital in Pécs; this question is asked sometimes of birthing Romani women who already have children. (Baranya1) Many of the interviewees from Borsod mentioned the same public hospital in Miskolc. A young Romani woman was openly threatened there by a midwife: *“I don’t want to see you here next year! I promise that I will choke you!”* (Borsod2, E.R.) A Romani woman, while she was in labour, was told by a male obstetrician that *“I am sick and tired<sup>42</sup> of these pregnant women, that all the babies are coming during the night!”* (Borsod2, T.H.) Another Romani woman was told by a midwife during a physical examination that *“I am really fed up with the Gypsies!”* (Borsod2, M.R.) An interviewee was also told by a midwife while her stitches were being checked that *“There are too many Gypsies in the labour room!”* (Borsod2, B.E.) A young Romani girl, who was just 14-years old at that time, wanted to cling to the arm of the midwife during labour but she pushed away her hand: *“Gypsies shouldn’t touch me!”* (Borsod2, D.E.)

An interviewee from Borsod shared a sadly ironic story. She had extremely negative experiences in one of the public hospitals in Miskolc; she was subjected to different forms of mistreatment, including racist harassment by the medical staff when she gave birth to her first child there. Later, when she learnt that she was pregnant again, she decided to “hire a doctor” in the other hospital in Miskolc, which had a better reputation among the Roma. However, as soon as she arrived to give birth at this other hospital she was addressed by a hostile remark at the reception: *“How come you are here? As I understood, this place is not for dirty Gypsies.”* (Borsod2, D.E.)

Derogatory or insensitive remarks about babies, made by nurses, were also mentioned by Romani mothers. In a hospital in Miskolc, an interviewee was criticised by a nurse for choosing the name ‘Anna’ for her baby girl. *“It is not a name for Gypsies!”* The nurse argued that she felt uncomfortable because her (apparently non-Romani) granddaughter was also named Anna. (Borsod2, B.E.) Another interviewee in the same hospital was ridiculed by a nurse who found the first and middle names (Dániel Ronaldó) chosen for her son too extravagant: *“This boy is just ‘a piece of Gypsy work’!<sup>43</sup> Does he really need two names!?”* Moreover, she recalled the nurses’ horrified remarks regarding the appearance of her newborn baby: *“Oh, how brown his skin is!” – “Look, this kid is so black!”* (Borsod2, E.M.)

## OBSTETRIC VIOLENCE

Four of the interviewees reported in Borsod that they had been physically abused in the hospital during childbirth. One of them was only 14-years old when she gave birth to her first baby, and when she was screaming during labour a midwife pushed a pillow onto her mouth and slapped her face; then a male obstetrician hit her thighs during delivery. (Borsod2, D.E.) Another interviewee was 16-years old when she had her first child, and she was yelling from pain during labour when a midwife slapped her face and told her: *“Shut up, you stupid Gypsy! If you do not calm down, you will get more slaps!”* (Borsod2, D.B.) In the case of a 17-year old Romani girl, who was also a first-time mother and was also screaming in the labour room, the midwife covered her mouth with her hand, slapped her face several times, and hit her thighs. (Borsod2, E.R.) According to the account of a woman who gave birth for the third time at the age of 20, she was hit so badly during delivery by a male obstetrician that her thighs turned blue. (Borsod2, B.E.)

<sup>42</sup> The Hungarian phrase here includes an obscene word.

<sup>43</sup> ‘A piece of Gypsy work’ (*cigánymunka*) means ‘sloppy work’; a pejorative phrase in Hungarian, used for low-quality accomplishments.



## Segregation (and placement issues)

### ISOLATION DURING DELIVERY

The Act on Healthcare includes a provision that women are entitled to be accompanied during childbirth by a person of their choice (an adult family member, a relative, a friend, or a doula, etc.),<sup>44</sup> however, as it turned out during the first focus group discussion in Borsod, the presence of Romani women's companions in the labour room was often objected to. The participants claimed that the hospital staff may use excuses, like: *"companions cannot enter the labour room during the night"*, *"companions are not allowed to enter during the early stage of labour"*, etc. (Borsod1) Moreover, the participants of this group claimed that in a public hospital in Miskolc the companions of birthing mothers were charged a fee of 3,000 HUF (almost 10 EUR) if they wanted to enter the labour room; they were told that this was the price of a disposable hygienic set ('visitors' attire') to be worn inside the labour room. (Borsod1)

These claims were supported by interviewees from Borsod. One of them gave birth to her first child when she was 14-years old and her mother was not allowed to follow her into the labour room; they were told that family members were not supposed to be there at night. (Borsod2, D.E.) An interviewee, who was 17-years old when she gave birth, arrived at the hospital with her mother; they were asked by the midwife to pay 3,000 HUF for the 'visitors' attire',<sup>45</sup> but they could not afford this cost and so her mother was not let into the labour room (Borsod2, E.R.) In the case of a 16-year old girl, who also arrived at the hospital with her mother, no clear explanation was given when the medical staff prevented her mother from entering the labour room (despite the fact that she was ready to pay the fee for the hygienic attire). (Borsod2, D.B.) It should be noted that these cases included underage girls who would have a "double entitlement" for a companion during delivery; not just as birthing women, but also as children (under the age of 18 years) who have a special right to be accompanied by a parent or a trusted adult while they are in a hospital.<sup>46</sup> According to the account of another interviewee it is a quite common experience for Romani families that companions are prevented from entering the labour room, regardless of the age of the birthing woman/girl. (Borsod2, R.O.)

### SEGREGATED MATERNITY WARDS

The participants of several focus group discussions and some interviewees agreed that the phenomenon of ethically segregated maternity wards existed (Baranya2; Borsod2, R.O.; Borsod3, G.B.; Borsod3, V.N.); however, some of them claimed that segregation was not applied as an absolute policy in public hospitals. (Baranya4)

In Borsod, many of the interviewees reported that they had been placed in a Roma-only maternity ward after giving birth in a public hospital in Miskolc. (Borsod2, D.E.; Borsod2, M.R.; Borsod2, D.B.; Borsod2, B.E.; Borsod2, E.R.)

<sup>44</sup> Hungary, Act CLIV of 1997 on Health Care (1997. évi CLIV. törvény az egészségügyről), 23 December 1997, Article 11 (5).

<sup>45</sup> See, below in the present report, the section: "The Visitors' Attire Case".

<sup>46</sup> Hungary, Act CLIV of 1997 on Health Care (1997. évi CLIV. törvény az egészségügyről), 23 December 1997, Article 11 (4).

Some participants of a focus group in Baranya opined that they had been treated as non-Roma in the hospital (i.e. they had not been placed to a segregated Romani ward) because of not having a typical “Gypsy family name”. (Baranya4)

### NEGATIVE EXPERIENCES WITH MIXED WARDS

According to some of the participants of a focus group in Baranya, Romani women themselves may request to be placed together with other Romani women in the hospital: *“There would not be anything we could talk about with the ‘Hungarian’ [i.e. non-Romani, ‘white’] women.”* (Baranya4) Two of the participants had negative personal experiences with ethnically mixed arrangements. One of them claimed that the nurse disinfected the beds that had been used by Romani women much more thoroughly than the beds of non-Romani women: *“It was obvious that she was doing it consciously.”* The other woman shared a memory of a humiliating situation; she was placed together with non-Romani women (supposedly “by mistake”, based on her light skin colour and her non-revealing surname) and she overheard the conversation of her roommates: they were worried that a Romani woman would be placed on the ward, and they were preparing for that scenario with emergency plans on where to hide their purses. (Baranya4)

According to the account of an interviewee from Borsod, who was placed in a mixed maternity ward once, the nurses provided more disposable nappies (4-5 per day) for the non-Romani babies than for the Romani babies (only 1 or 2 per day). (Borsod2, E.M.)

### Forced sterilization

During the fact finding no specific case of forced sterilisation was identified (neither from contemporary times, nor from the past), while it turned out that voluntary sterilisation is one of the preferred forms of family planning in some Romani communities today.

In the case of a focus group in Baranya, some of the elderly participants could recall decades-old allegations of forced sterilisation regarding one of the hospitals in the county, but they did not know the alleged victims or anything about the circumstances of these cases. (Baranya1)

Participants of another focus group in Baranya mentioned recent cases of misconduct relating to gynaecologic care. A woman in her thirties claimed that one of her ovaries had been removed during a cyst removal operation, but the doctors had *“forgotten to share this piece of information”* with her after the procedure. The lack of this ovary had been discovered years later, accidentally, when she had been trying to get pregnant unsuccessfully. (Eventually she could have a baby, and she does not intend to take any legal steps.) Another woman in this group had recently had a series of gynaecological operations due to a disease and, although she had experienced shortcomings regarding the administration of medical records, she never complained: *“Well, I don’t file a lawsuit against the hospital, because I know that I will have to go there again, very soon.”* (Baranya3)

## Other issues

### LACK OF MOTIVATION TO FILE A COMPLAINT

Some of the interviewees who reported that they had been mistreated in a hospital stated explicitly that they would not take any steps. A 38-year old woman, mother of four, claimed that she had never intended to file any kind of formal complaint since she thought that it would be useless to challenge the system because *“nothing would change”*. (Borsod3, G.B.) A 36-year old woman, who was expecting her eleventh child when she was interviewed, expressed her hope that *“this time everything will be different”* (i.e. because she decided to pay informally to an obstetrician); moreover she opined direct discrimination or verbal harassment happens usually with those Romani women who *“don’t keep good hygiene”* or those who *“can’t behave well in a hospital”*. (Borsod3, B.N.)

### POSITIVE EXPERIENCES WITH CARE PROVIDERS

Some participants of a focus group in Baranya mentioned positive experiences in a hospital in Pécs. According to their accounts, there are nurses and midwives of Romani origin, and some of them are notably helpful, available for information, and keen on treating Romani women with equal care and respect. (Baranya4)

The participants of the same group unanimously praised the district nurse of the village (a young non-Romani woman, who is married to a Romani man and lives in one of the neighbouring villages): “She is protecting us, indeed!”<sup>47</sup> They considered the district nurse as a key source of support for local families. They claimed that she was available beyond office hours (e.g. via Facebook/Messenger late in the evening when parents contacted her about health concerns regarding their children); that she provided personalised advice for women about family planning/contraception; that she facilitated their access to health care services (e.g. by helping to book appointments, by phone or online, with doctors); and that she prevented the removal of children by the welfare authorities from some poor/disadvantaged families. One of the participants spoke about the district nurse with deep emotions: *“We respect her, we adore her!”* (Baranya4)

<sup>47</sup> This statement includes an untranslatable play on words, as the literally meaning of the Hungarian term for district nurse (*védőnő*) is: ‘a woman who protects’.



## Strategic Litigation

Besides the knowledge gained through the fact finding investigation, the ERRC's initiative on Romani women's reproductive health rights took shape in the form of two strategic litigations cases in Hungary; both involved the same public hospital in the city of Miskolc.

The venue, Miskolc, is located in the region of North-Hungary (*Észak-Magyarország*), which is one of the least economically developed regions of the EU.<sup>48</sup> In this region, the proportion of the Romani population is high,<sup>49</sup> and in Hungary the Roma are overrepresented among the socio-economically disadvantaged.<sup>50</sup>

The first legal case against the hospital was a racial harassment complaint procedure before the Equal Treatment Authority, filed by a Romani woman who gave birth there; the second one was an *actio popularis* claim against the hospital because of a policy that had had a disproportionate negative impact on socio-economically disadvantaged Romani women and their families.

<sup>48</sup> „2015 GDP per capita in 276 EU regions,” Eurostat Newsrelease, no. 52 (2017), <https://ec.europa.eu/eurostat/documents/2995521/7962764/1-30032017-AP-EN.pdf/4e9c09e5-c743-41a5-afc8-eb4aa89913f6>.

<sup>49</sup> See the map published by the Library of the Hungarian Parliament on the dispersion of Roma population in Hungary: [http://mtatkki.ogyk.hu/terkepek.php?map=2011\\_roma\\_cigany](http://mtatkki.ogyk.hu/terkepek.php?map=2011_roma_cigany).

<sup>50</sup> See the Hungarian National Social Inclusion Strategy for 2011-2020, p. 6, available at: [https://adsdatabase.ohchr.org/IssueLibrary/HUNGARY\\_Nacional%20Social%20Inclusion%20Strategy%20extreme%20poverty%20and%20the%20Roma%202011%20-%202020.pdf](https://adsdatabase.ohchr.org/IssueLibrary/HUNGARY_Nacional%20Social%20Inclusion%20Strategy%20extreme%20poverty%20and%20the%20Roma%202011%20-%202020.pdf).



## Racial Harassment in the Labour Room<sup>51</sup>

### The case

In the summer of 2016, while the fact finding was still in progress, Roma rights activists from Borsod County notified the ERRC about the case of a Romani woman who claimed that she had been subjected to racial harassment in a public hospital in Miskolc during labour. By that time, she had already taken agency into her own hands: she had contacted the regional office of the Equal Treatment Authority and requested assistance to file a formal complaint against the hospital. (It should be noted here that according to the results of a survey, implemented by the EU Fundamental Rights Agency in the same year (in 2016), only 15% of the Romani respondents were aware of any organisations that offer support or advice to victims of discrimination in Hungary.<sup>52</sup>) The complainant was provided with an attorney by the ERRC before the first hearing in the course of the Equal Treatment Authority's procedure.

In her statement before the Equal Treatment Authority, the complaint described the case that happened when she gave birth to her second child in February 2016: *“I was transferred to the hospital by the ambulance on the morning of the 10 February. I was alone in the maternity ward. [...] During labour I was shouting because of the pain when the midwife yelled at me ‘if you shout once more I will push the pillow into your face’. [...] The doctor also walked in and said ‘if you had shouted once more I would have called the psychiatrist who would have taken your child away and then you wouldn’t receive the child benefit, because anyway, you Gypsies give birth only for the money!’”*<sup>53</sup>

### The decision of the Equal Treatment Authority

When the hospital received the complaint from the Equal Treatment Authority, the management launched an internal investigation regarding the case; the complaint was shared with the concerned obstetrician (who allegedly had threatened the complainant) who refuted the claims of the complaint in the form of a letter, signed by him and by the other witnesses (a resident doctor, two midwives, and a member of the cleaning service). This letter, along with a brief statement, was submitted to the Equal Treatment Authority by the hospital as their defence.

During the investigation of the Equal Treatment Authority the witnesses (on behalf of the hospital) were heard not just regarding the complained case, but regarding the circumstances of the internal investigation as well. It turned out, from the statements of the witnesses, that

<sup>51</sup> See also: “Hungary: Roma woman harassed in hospital while giving birth” News Report, 18 April 2017, European Network of Legal Experts in Gender Equality and Non-discrimination (expert: András Kádár), <https://www.equalitylaw.eu/downloads/4069-hungary-roma-woman-harassed-in-hospital-while-giving-birth-pdf-110-kb>.

<sup>52</sup> FRA: *Second European Union Minorities and Discrimination Survey (EU-MIDIS II). Roma – Selected findings*, Luxembourg, Publications Office of the European Union, 2018, 41, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf).

<sup>53</sup> See the decision of the Equal Treatment Authority (*Egyenlő Bánásmód Hatóság*), EBH/349/2016, December 15 2016.

the internal investigation was *de facto* led by the very person (the obstetrician) whose alleged behaviour had been complained about.

Based on the investigation, considering the statements of the complainant and the witnesses, the Equal Treatment Authority ruled in favour of the Romani women by establishing harassment based on ethnicity (according to the terminology of the Hungarian law: ‘affiliation with a national minority’) and race/colour. The Authority’s examination focused on two issues; whether the obstetrician had made the derogative statement concerning the complainant’s (Romani) ethnicity and, if he had made the statement, whether the statement constituted ethnic/racial harassment or not. Regarding the first issue, the authority accepted the complainant’s account, despite the fact that all the five witnesses on behalf of the hospital (who were all employees of the hospital, at the same time) fully denied these claims. The Authority based its conclusion on the following three elements of the circumstances: 1) the complainant was persistently trying to seek remedy for the alleged violation of her rights (she had already tried to file a complaint with different authorities, e.g. with the police and with the prosecution authority, before she turned to the Equal Treatment Authority); 2) the complaint was presented in a realistic and consistent manner (e.g. she cited the offensive statements always in the same form, claiming that she was addressed with the informal version of ‘you’ by the doctor); 3) she differentiated between the employees of the hospital regarding the role they had played in the incident - she made clear distinctions between those who were offensive and those who were supportive towards her.

The Equal Treatment Authority’s decision is a milestone in the field of Roma rights (beyond the particular field of Romani women’s reproductive rights) in Hungary, given that this was the first time when ethnic/racial harassment was established regarding a healthcare provider. Moreover, from the point of general legal assessment, the Authority’s approach regarding the weighing of evidence is innovative: the decision was based fully on the account of the complainant, since the witnesses on behalf of the respondent were not considered as impartial (thus the credibility of their statements were questioned), and the results of the internal investigation were considered as biased (because of the deficiencies of the implementation).

The Authority imposed several sanctions. It ordered the hospital: to cease the unlawful practice; to publish the (anonymised version of the) decision on its own website for a mandatory period of 60 days; and to pay a fine of HUF 500,000 (approx. EUR 1,600). The hospital did not request a judicial review of the decision, thus it became final and binding. As for the impact of the decision on the situation, according to accounts by local NGO contacts, the hospital ceased the unlawful practice. In fact, the companions of birthing women have been provided with attire sets free of charge since then.

After the publication of the Equal Treatment Authority’s decision, the ERRC contacted the complainant, and cited from her in a press release: *“The hospital challenged my credibility. I am happy that my truth was finally revealed. I cannot prevent this happening to other Romani women, but I’m sending them the message now to dare to stand up for their rights, to know their rights, and to cease this humiliating, inhuman treatment against them.”*<sup>54</sup>

<sup>54</sup> ERRC, “Romani woman Harassed by Racist Hospital Staff During Childbirth Wins Case”. January 18; <http://www.errc.org/press-releases/romani-woman-harassed-by-racist-hospital-staff-during-child-birth-wins-case> (2017).



## The Visitors' Attire Case<sup>55</sup>

### The case

The ERRC was informed by local pro-Roma activists, during the human rights fact finding in 2016, that the maternity unit of a public hospital in Miskolc charged the companions of women who arrive to give birth a fee of HUF 3,000 (almost 10 EUR) for so-called 'visitor attire' (a disposable suit, to be worn in the labour room for hygienic reasons). The fee is quite high for families living in deep poverty, and in many cases they just cannot afford this extra cost.

This means that these women (and girls, younger than 18 years of age) are hindered into exercising their right to be accompanied during childbirth by an adult person (i.e. a family member, a friend, or a doula) of their choice as provided by the Act on Health Care.<sup>56</sup> Thus they have no other option than to endure the hours of labour on their own, without the supporting presence of a companion. Moreover, socially excluded Romani women and girls, who are alone in the labour room, may be exposed to the risk of being abused and harassed by the medical staff, as was shown by the results of the fact finding, and by the above presented case before the Equal Treatment Authority).

It may be noted here that a similar problem was revealed during research, implemented in Serbia and Macedonia, aimed at investigating the experiences of Romani women with maternity care: *"One of the aspects of maternity care about which Romani women were most dissatisfied was that a husband or family member is not allowed to be present during birth, or that in some maternities it is allowed, but only for a fee they said they could not afford. [...] Being left without an advocate during delivery such as a family member, acts to further decrease accountability."*<sup>57</sup>

### The legal claim

The ERRC filed an *actio popularis* civil lawsuit, claiming the policy of the hospital in Miskolc amounts to direct discrimination based on pregnancy/maternity and on social/economic status (these are protected grounds in the Hungarian anti-discrimination legislation<sup>58</sup>), and indirect discrimination based on Romani ethnicity.

<sup>55</sup> See also: "Hungary: Discriminatory practice at the maternity clinic of a public hospital in Miskolc (the 'visitors' attire' case)", Flash Report, 11 June 2019, European Network of Legal Experts in Gender Equality and Non-discrimination (expert: Lídia Hermina Balogh), <https://www.equalitylaw.eu/downloads/4898-hungary-discriminatory-practice-at-the-maternity-clinic-of-a-public-hospital-in-miskolc-the-visitors-attire-case-pdf-125-kb>.

<sup>56</sup> Hungary, Act CLIV of 1997 on Health Care (1997. évi CLIV. törvény az egészségügyről), 23 December 1997, Article 11 (5).

<sup>57</sup> Teresa JANEVIC – Pooja SRIPAD – Elizabeth BRADLEY – Vera DIMITRIEVSKA: "There's no kind of respect here": A qualitative study of racism and access to maternal health care among Romani women in the Balkans, *International Journal for Equity in Health*, 2011, Article 53, <https://doi.org/10.1186/1475-9276-10-53>.

<sup>58</sup> Hungary, Act CXXV of 2003 on Equal Treatment and the Promotion of the Equality of Opportunities (2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról), 28 December 2003, Article 8.

The legal claim referred to the fact that the maternity unit of this public hospital in Miskolc (the third largest in the country in terms of the number of beds in 2015) served 160 municipalities in Borsod-Abaúj-Zemplén County. In most of these towns and villages, a significant proportion of the population is considered as socio-economically disadvantaged and this region, North-Hungary (*Észak-Magyarország*), was one of the least economically developed ones in the EU, according to Eurostat data in 2015.<sup>59</sup> Among those living in poverty, Romani families are overrepresented in Hungary; this is also acknowledged by the Hungarian National Social Inclusion Strategy (for 2011–2020).<sup>60</sup>

The claim of the ERRC cited a statement of the World Health Organization from 2014 (“The prevention and elimination of disrespect and abuse during facility-based childbirth”) on the need *“to ensure that all women have access to respectful, competent and caring maternity health care services. This can include (but is not limited to) social support through a companion of choice”*.<sup>61</sup>

## The court decisions

The first instance court, the Regional Court of Miskolc, ruled in favour of the ERRC on the 15<sup>th</sup> of October 2018.<sup>62</sup> According to the reasoning of the judgment, the hospital’s policy amounted to direct discrimination based on maternity/pregnancy because of the principle developed by the European Court of Human Rights in the *Thlimmenos v Greece* case;<sup>63</sup> i.e. that it is a form of discrimination when certain groups of people, whose situations are significantly different, are not treated differently. In this case, the situation of the group of birthing women was to be compared with the group of other patients of the hospital. As the court decision stressed, the legislator had the firm intention to provide birthing women (unlike other hospitalized patients) with the special right to be accompanied in the hospital. Moreover, the court found that the policy of the hospital amounted to direct discrimination based on social/economic status as well, because the fee of the mandatory “visitors’ attire” was not affordable for families living in poverty. As Romani families are overrepresented among the poor families in the region, the policy had a disproportionately negative impact on them, therefore it amounted to indirect discrimination based on (Romani) ethnicity. The first instance court ordered the hospital to pay a fine of 5 Million HUF (cca. 17,000 EUR), and to cease the unlawful practice of charging a fee for the mandatory hygienic attire for the companions of birthing women.

<sup>59</sup> Eurostat: 2015 GDP per capita in 276 EU regions, *Eurostat Newsrelease*, 2017/52, <https://ec.europa.eu/eurostat/documents/2995521/7962764/1-30032017-AP-EN.pdf/4e9c09e5-c743-41a5-afc8-eb4aa89913f6>.

<sup>60</sup> Hungarian National Social Inclusion Strategy II: Permanently Deprived – Children Living in Poor Families – Roma (2011–2020), Updated version, Budapest, September 2014, Ministry of Human Capacities, State Secretariat for Social Affairs and Social Inclusion, <http://romagov.hu/download/hungarian-national-social-inclusion-strategy-ii/>.

<sup>61</sup> WHO: The prevention and elimination of disrespect and abuse during facility-based childbirth. WHO Statement (2014), [https://apps.who.int/iris/bitstream/handle/10665/134588/WHO\\_RHR\\_14.23\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/134588/WHO_RHR_14.23_eng.pdf?sequence=1).

<sup>62</sup> Regional Court of Miskolc, Judgement no. 10.P.22.249/2017/19., the anonymised version is made available on the ERRC’s website: [http://www.errc.org/uploads/upload\\_en/file/5102\\_file1\\_hungary-miskolc-court-decision-october-2018.pdf](http://www.errc.org/uploads/upload_en/file/5102_file1_hungary-miskolc-court-decision-october-2018.pdf).

<sup>63</sup> European Court of Human Rights, *Thlimmenos v Greece*, Application No. 34369/97, 6 April 2000, Article 44.

This judgment of the Miskolc Regional Court was upheld on appeal by the Debrecen Court of Appeal on the 24<sup>th</sup> of January 2019, although the fine was decreased to 2 Million HUF (cca. 6,800 EUR).<sup>64</sup> The reasoning of the Court of Appeal's judgment stressed that the enjoyment of a patient's right cannot be made conditional on payment; thus the practice of the hospital was unlawful. This court decision is final and legally binding.

Assessing the judgments from a legal point, the principle of shifting the burden of proof was rightly applied by the courts, and statistical evidence to prove *prima facie* discrimination was rightly accepted. Moreover, the decisions are important from the aspect of reproductive rights, as the courts acknowledged the vulnerable situation of birthing women and reinforced the right of all women, regardless of their social or economic status and their ethnicity, to respectful and equal treatment in the area of maternity health services.

<sup>64</sup> Debrecen Court of Appeal, Judgement no. Pf.I.20.749/2018/8, the anonymised version is made available on the ERRC's website: [http://www.errc.org/uploads/upload\\_en/file/5106\\_file1\\_anonymised-version-of-the-judgment-in-hungarian-2018.pdf](http://www.errc.org/uploads/upload_en/file/5106_file1_anonymised-version-of-the-judgment-in-hungarian-2018.pdf).



## Closing Thoughts: Relevance of the Cases for the Broader Society

In the course of the fact finding investigation, the ERRC consulted with the representatives of a regional women's NGO, Regina Foundation Miskolc (*Regina Alapítvány Miskolc*), among others, on the issue of visitors' attire in the local hospital. In order to raise awareness about this problem, as well as to provide immediate support for disadvantaged families, the Regina Foundation launched a fundraising campaign in September 2016 with the title: "You would not like to be alone in the labour room, either – would you?"<sup>65</sup> Prospective donors were asked to contribute with an amount of 850 HUF (approx. 2,6 EUR) which was the retail price of a disposable visitor's attire set at that time. (Note: meanwhile the hospital requested 3,000 HUF, i.e. a three and a half times higher amount of money, for the same set.) Later it was announced via the social media account of the organisation that they managed to raise funds to purchase disposable attire sets that are available, upon request, for pregnant women in the area of Miskolc who could not afford to cover this extra cost alongside all the other financial burdens related to the arrival of a new baby.<sup>66</sup>

Thanks to the strategic litigation of the ERRC, this initiative is not relevant anymore; according to the legally binding decision of the court, the hospital in Miskolc must abolish the unlawful practice of requesting money from the companions of birthing women. This measure affects, of course, not just the Roma but all the women who give birth there.

Moreover, a claim of the Miskolc Court's judgement, that "*childbirth is not a pathological event, but a physiological process, and a psychological and social happening as well*",<sup>67</sup> may serve as a valuable point of reference for the Hungarian birth movement. However, a related notion has already appeared in the context of the pro-natalist governmental discourse: the State Secretary for Family and Youth Affairs, Katalin Novák, announced in 2017 the "Family-friendly Maternity Care" programme by explaining that "*the aim of the measure is to ensure a positive birth experience for every birthing woman*". Hopefully, the category of "every woman" in Hungary includes Romani women as well.

<sup>65</sup> See: <https://www.facebook.com/reginamiskolc/photos/a.572579269570512.1073741829.505907942904312/627779374050501/?type=3&theater>.

<sup>66</sup> See: <https://www.facebook.com/reginamiskolc/posts/639116479583457>.

<sup>67</sup> See the decision of the Miskolci Regional Court (Miskolci Törvényszék), 10.P.22.249/2017/19. 78.



## Recommendations

- Provide Romani and socially marginalised girls and boys with adequate sexual education;
- Provide Romani and socially marginalised women with adequate family planning counselling services;
- Provide pregnant Romani women with accessible birth-preparation sessions (including labour room visits organised by the maternity units of public hospitals);
- Raise awareness among Romani and socially marginalised women and girls about legislation and access to justice regarding reproductive rights, patient's rights, and the principle of non-discrimination;
- Empower pregnant Romani women through peer support, promoting the presence of companions during labour and birthing (partners, female friends, family members, or doulas).





# Annex: Script of the Focus Group Discussions

## INTRODUCTION

- The researchers introduce themselves, the concept, and the aim of the research (5 min.)
- The researchers present the framework of the meeting: data protection, ethical principles, the role of the moderator, confidentiality, topics to be discussed, and technical issues (5 min.)
- The participants introduce themselves: first name or preferred name, age, number of children, date(s) of giving birth, and venue(s) of giving birth (10 min.)

## DISCUSSION

1. **At the maternity unit: labour and birthing, the days after giving birth (25 min.)**
  - Do the hospital staff treat Romani women and Romani new-borns differently/worse?
  - Are Romani women placed in segregated rooms/wards; if yes, are the conditions in these rooms/wards inferior?
  - Do the hospital staff treat the visitors of Romani women and Romani newborns differently/worse?
  - Are Romani women/families requested or forced to pay “gratitude money” (i.e. bribes) to doctors or nurses, possibly for services which are offered “for free” for non-Romani patients?
2. **Pregnancy (25 min.)**
  - Relationship with the district nurse/midwife: does she treat Romani women differently/worse?
  - Does the district nurse threaten Romani women (or women living in poverty) that their children will be taken away and placed in state care?
  - Is it difficult to get to the regional healthcare centre (e.g. because of the inappropriate schedule of buses or trains, or because of the travel costs)?
  - Does the local municipality help pregnant women in these issues (e.g. is the municipality’s minibus offered them for transportation)?
3. **Family planning (25 min.)**
  - What kinds of methods are available for Romani women (or for women living in poverty)?
  - Have you heard of cases where Romani women (or women living in poverty) were not provided with adequate consultation or with assistance (despite their explicit request) to access the preferred family planning method?
  - Have you heard of cases where the district nurse (or a representative of the authorities) tried to convince Romani women (or women living in poverty) to use some methods of birth control?
  - Have you heard of cases where a district nurse (or a representative of the authorities) tried to convince Romani women (or women living in poverty) to have an abortion?

- Have you heard of irregularities/anomalies in connection with abortions performed on Romani women (or women living in poverty), e.g. in cases of late term pregnancies?
- Do you have information about cases (recently or in the past) when a Romani woman was subjected to sterilisation without her request or consent? Or, do you have information about “suspicious” cases when Romani women could not get pregnant again (without any obvious reasons) after hospitalisation?

#### 4. Other emerging topics; wrapping up the discussion (25 min.)

#### CLOSING REMARKS

- Acknowledgements, sharing contact information (5 min.)