ETHNIC PROFILING IN SLOVAKIA

PREJUDICED POLICING OF ROMA NEIGHBOURHOODS

1. Introduction

In early January 2017, the Slovak Minister of the Interior, Robert Kalinak, announced a new crime prevention strategy[1]. This decision followed Prime Minister Fico's declared intent to "put an end to political correctness" and "put things in order" in Roma settlements. "Enough with tolerance" said the Prime Minister.[2]

The Ministry produced a list of 200 "problematic" localities in which they want to increase the number of police officers. Although the Ministry does not want to release the method used to create this list, the ERRC is concerned that it seems highly likely that the choices of the locations were a result of discriminatory ethnic profiling. Most of the mentioned localities are populated by a high percentage of Romani people. Although, the Ministry does not explicitly use the term Roma, it refers to the areas as problematic localities where problematic socially excluded groups live[3]. In many cases, locations that did not experience inordinately high crime rates appear on the list. This report highlights the problems related to discriminatory ethnic profiling in law enforcement and the proposed increased policing in Slovak Romani communities.

2. Discriminatory Ethnic Profiling in Law Enforcement

What is it?

In the most general sense, profiling is the act of categorising individuals based on some observable characteristics such as ethnicity, gender, religion, etc.[4] This practice, similar to behaviour analysis, is a common practice for insurance companies, marketing companies, and in this case, law enforcement. Ethnic profiling in the context of law enforcement is one of the most controversial types of profiling as it can lead to ethnic discrimination.

According to the European Union Agency for Fundamental Rights (FRA), discriminatory ethnic profiling involves:
- treating an individual less favourably than others who are in a similar situation (in other words 'discriminating'), for example, by exercising police powers such as stop and search;
- where a decision to exercise police powers is based only or mainly on that person's race, ethnicity or religion.

Some of the powers that police exercise based on ethnicity are identity checks, stop and search, raids, and surveillance.

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[1] http://domov.sme.sk/c/20429071/kalinak-ukazal-obce-v-ktorych-chce-bojovat-s-romskou-kriminalitou.html?piano_t=1
[2] https://spectator.sme.sk/c/20407847/fico-declares-end-of-political-correctness-remains-chair-of-smer.html
[3] http://www.minv.sk/?tlacove-spravy&sprava=priority-ministerstva-vnutra-v-roku-2017
[4] https://fra.europa.eu/sites/default/files/fra_uploads/1133-Guide-ethnic-profiling_EN.pdf

When is it unlawful?

Profiling as a law enforcement tool in itself is not unlawful, especially if it is not discriminatory. However, there are boundaries where profiling in the context of law enforcement can become unlawful. The European Code on Police Ethics states that the police have to carry out their tasks in a fair manner, guided in particular by the principles of impartiality and non-discrimination.[5]

What needs to be done to keep police profiling lawful and non-discriminatory?

According to the FRA report: "To avoid being considered discriminatory any decision to exercise police powers should be based on factors additional to a person's race, ethnicity or religion, even when race, ethnicity or religion are relevant to the particular operation or policy."[6] This means that, for example, the police can lawfully stop and search an individual based on a profile, only if that profile is not purely based on race, ethnicity or religion. Requiring additional factors (crime statistics, suspicious behaviour, etc.) which single out an individual, ensures that the police are not applying a policy that automatically connects race, ethnicity or religion to criminal behaviour.

Why it is bad?

Discriminatory ethnic profiling is unlawful and also harmful for society. It violates basic human rights, creates dangerous and inaccurate stereotypes and leads to stigmatisation and discrimination of Roma and other minority groups. For example, if the police increase their exercise of power over Romani people, solely, or mainly based on their Romani ethnicity, it creates the impression that all Romani people are criminals. This stereotype is of course not true, but perpetuates a negative public perception and increased prejudice towards Roma. On the other hand, the Roma that are being wrongfully profiled, often feel frightened and humiliated. In the case of Slovakia, police profiling runs counter to the National Roma Integration Strategy.[7]

Discriminatory ethnic profiling also has its limitations. If the police rely too much on stereotypical profiles, crime rates could actually increase over time. Sometimes ethnic groups that have been criminally stereotyped start living up to that stereotype. This case of self-fulfilling prophesies is a common phenomenon among discriminated against minorities which sociologists refer to as "Labelling Theory".[8] Another danger of ethnic profiling is that non-profiled groups are not associated with certain crimes, and are therefore able to commit these crimes while police attention remains focused on the profiled group. Even if the police achieves a specific 'hit rate' amongst profiled minorities, the offence rate in the majority population may increase just because their members were not targeted.[9]

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[5] https://fra.europa.eu/sites/default/files/fra_uploads/1133-Guide-ethnic-profiling_EN.pdf
[6] https://fra.europa.eu/sites/default/files/fra_uploads/1133-Guide-ethnic-profiling_EN.pdf
[7] https://www.romaeducationfund.hu/sites/default/files/publications/slovak_strategy_2020_ref.pdf
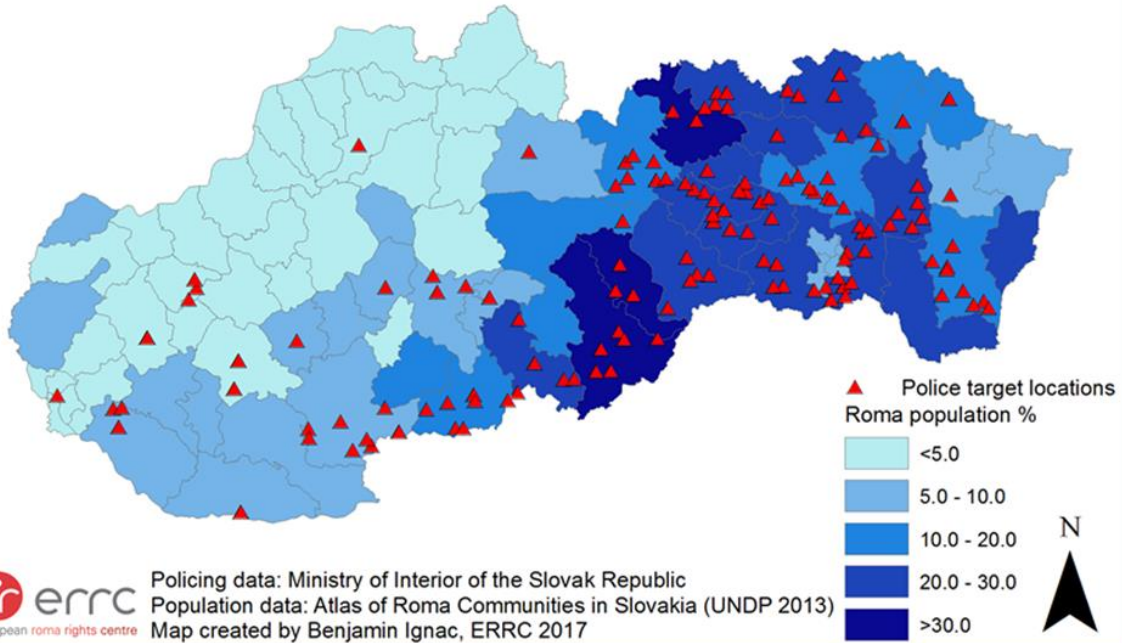[8] https://revisesociology.com/2016/08/20/labelling-theory-crime-deviance/
[9] http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1259&context=public_law_and_legal_theory

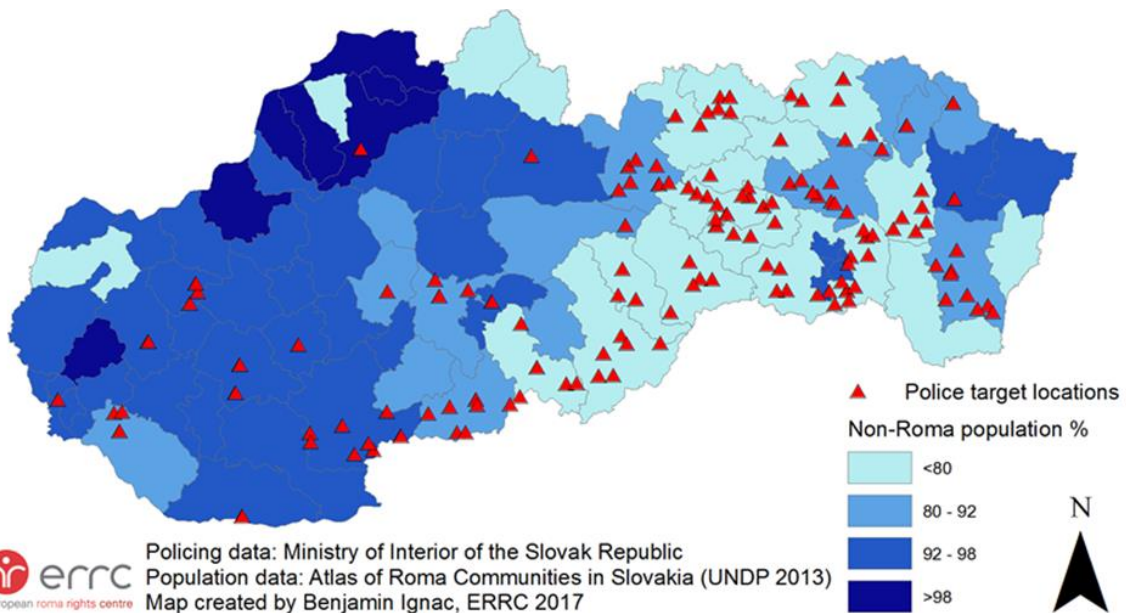## 3. Roma as Police Targets in Slovakia

The list of 200 "problematic" localities seems to be based on municipalities where mostly Romani people live. The Ministry of the Interior, however, does not want to disclose their criteria for creating their list. According to demographic data and crime statistics for these municipalities, it seems likely that the decision was largely based on discriminatory ethnic profiling. The maps below help us visualize where the 200 target locations are in comparison to the distribution of the general population and Romani population. All the data was gathered from the Ministry of the Interior and United Nations Development Program statistics from 2013.[10]

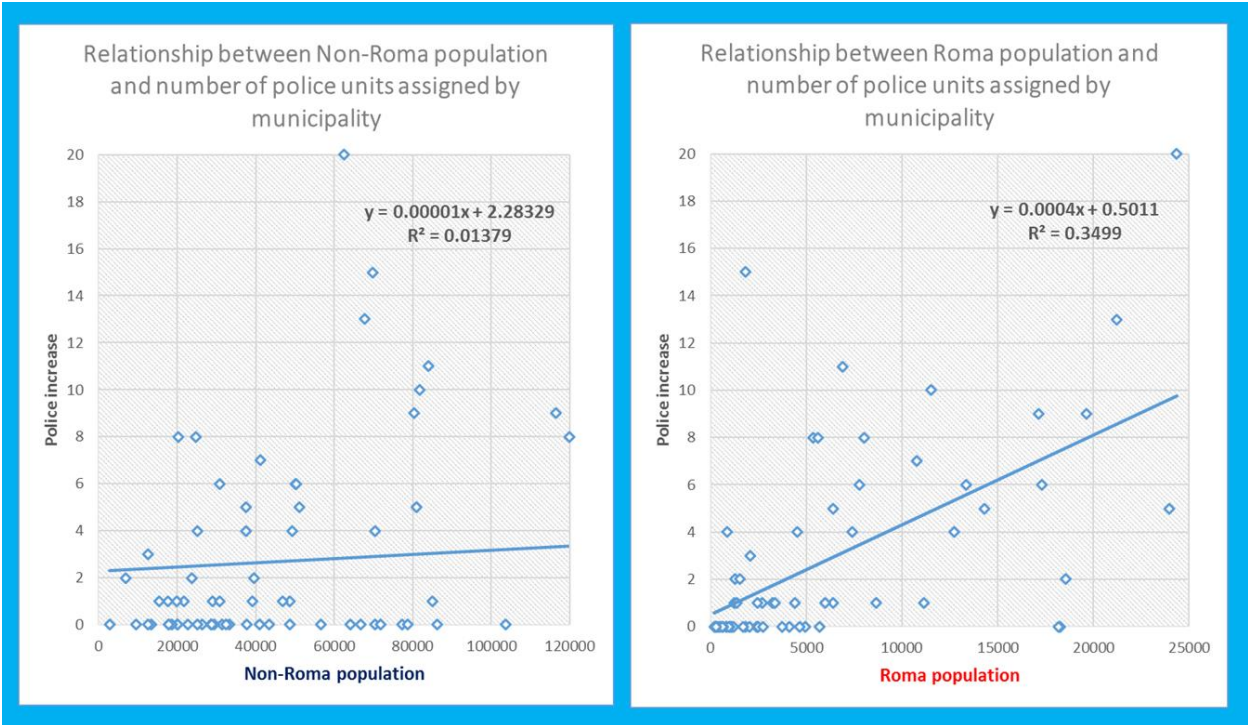[10] http://www.romadecade.org/cms/upload/file/9653_file2_atlas-romadecade.pdf

Increased policing locations in Slovakia targeting regions with high Roma population

Police target locations
Roma population %

- <5.0
- 5.0 - 10.0
- 10.0 - 20.0
- 20.0 - 30.0
- >30.0

N

Policing data: Ministry of Interior of the Slovak Republic
Population data: Atlas of Roma Communities in Slovakia (UNDP 2013)
Map created by Benjamin Ignac, ERRC 2017

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Police Target Locations in Relation to Density of Non-Roma Population

Police target locations
Non-Roma population %

- <80
- 80 - 92
- 92 - 98
- >98

N

Policing data: Ministry of Interior of the Slovak Republic
Population data: Atlas of Roma Communities in Slovakia (UNDP 2013)
Map created by Benjamin Ignac, ERRC 2017

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The first map shows us how Roma are distributed mostly in the East and South-Central parts of Slovakia. This is precisely where most of the 200 localities for increased policing can be found. On the other hand, the municipalities with a high non-Roma population are clearly not as targeted as the ones with high Roma concentrations. This can be further visualised through a statistical analysis in the scatter-plots below.
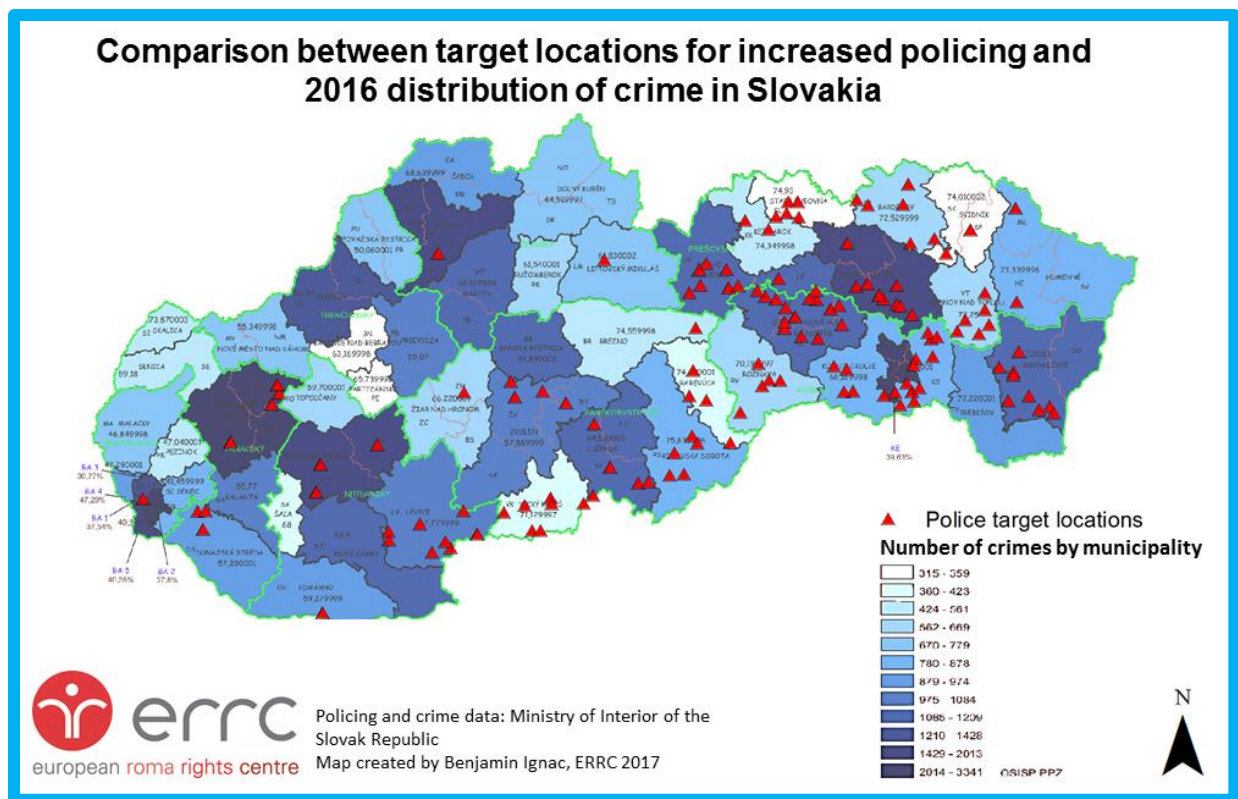

The scatter plots above compare the relationship between the number of Roma or non-Roma people who live in a municipality, and the number of additional police units that were assigned to it. If the number of police unites increases along with the size of the population, there is a relationship between those variables. The trend line for the Roma population shows a stronger relationship with police increase (R^2=0.35) than for non-Roma (R^2=0.01). For example, there are many municipalities in Slovakia with over 50,000 non-Roma inhabitants where the Ministry did not assign any additional police units. On the other hand, municipalities with up to 10,000 Roma people will get more than 10 additional police units. This points out the disproportional nature of the police distribution based on ethnicity. According to the slope of the trend lines above, **it is 40 times more likely that a police unit will be appointed to a Roma community than to a non-Roma community.**

4. Relationship Between Crime and Presence of Roma in Slovakia

The distribution of the additional police units would be justifiable if the chosen localities were placed within crime hot spots of Slovakia. This would indicate that ethnicity is not the main reason for the decision, making it less obviously discriminatory. However, the crime maps for 2016 created by the Ministry of the Interior, and the 200 target locations for increased policing, show a discrepancy between crime, the presence of Roma, and allocation of additional police units.

We know that the 200 localities correlate with locations of high Romani populations but the crime maps show that the Roma locations do not necessarily correlate with high crime rates. A few municipalities with high Romani populations do have higher crime rates. However, due to the fact that Roma are being targeted there is likely to be a disproportionate number of arrests.[11] Predictions that are made solely based on ethnicity are both over-inclusive and under-inclusive; the vast majority of those who fall into the profiled ethnic category are innocent, while many criminals do not fit the profile - and would presumably escape police attention if ethnic profiles are used as the primary basis for intervention.[12]

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[11] https://revisesociology.com/2016/08/20/labelling-theory-crime-deviance/
[12] https://www.opensocietyfoundations.org/sites/default/files/Factsheet-ethnic-profiling-20091001-ENG.pdf

5. Conclusion

According to the analysis of the 200 proposed locations for increased policing, it is 40 times more likely that a police unit is going to be appointed to a Roma community than to a non-Roma community in Slovakia. Many municipalities with a high Romani population do not experience high crime rates but are nevertheless included in the list of 200 locations for increased policing.

Discriminatory ethnic profiling involves treating an individual less favourably than others who are in a similar situation based only, or mainly, on that person's race, ethnicity or religion. In the case of the new strategy for increased policing in Slovakian municipalities with high Roma population, the profiling is discriminatory.

The overall picture in Slovakia does not show a significant correlation between crime rate and ethnicity by municipality. Ethnic profiling is not only discriminatory, it is ineffective, and a waste of resources. Negative effects include harassment, unwarranted stop & search, and an increase in wrongful arrest. A reliance on stereotypes allows criminals who do not fit the profile to walk free. Ethnic profiling alienates people, erodes trust between police and Romani communities and undermines the rule of law.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY