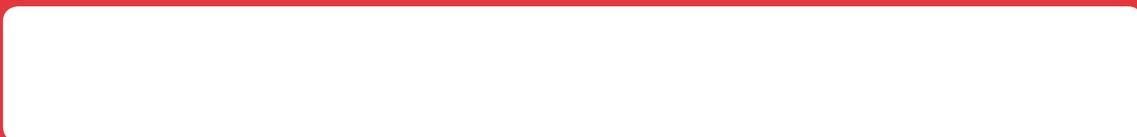


WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING HUNGARY

For Consideration by the Commission on Security and Cooperation in Europe,
U.S. Helsinki Commission (19 March 2013).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

TABLE OF CONTENTS

The Situation of Roma in Hungary	3
State Response to Violence Against Roma	3
Law Enforcement Abuse Against Roma	4
Anti-Roma Demonstrations and Statements	4

THE SITUATION OF ROMA IN HUNGARY

Human rights NGOs have consistently reported that Roma in Hungary are discriminated against in almost all fields of life, particularly in employment, education, housing, health care, and access to public places.¹ Yet government representatives maintain that the problems faced by Roma relate to their economic and social difficulties, rather than racism and prejudice against Roma in Hungary.² A similar view of the Hungarian authorities has been noted by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in its report following a mission to Hungary.³

In January 2013, following a complaint initiated in 2005 by two Romani people represented by the Chance for Children Foundation and the ERRC, the European Court of Human Rights ruled that Hungary violated the European Convention on Human Rights⁴ in a case challenging the segregated education of Romani children in a special school. The Court underlined that there was a long history of wrongful placement of Romani children in special schools in Hungary and that the State must change this practice. The Court concluded that 'positive obligations incumbent on the State in a situation where there is a history of discrimination against ethnic minority children' would have required Hungary to provide necessary safeguards to avoid the perpetuation of past discrimination or discrimination practices.⁵

STATE RESPONSE TO VIOLENCE AGAINST ROMA

In Hungary the European Roma Rights Centre examined the progress in 22 known cases of violence against Roma. In these incidents seven people died, including a five-year old boy, and a number of individuals were seriously injured. Ten Romani homes were set on fire with various levels of destruction. Guns were involved in 10 of the examined cases and in two cases hand-grenades were used. Out of the 22 attacks, nine, resulting in six deaths, are believed by police to have been committed by the same four suspects who are currently on trial.

Police misconduct and procedural errors were documented during the investigation of one of the violent crimes against Roma, as raised by NGOs and later confirmed by the Independent Police Complaints Committee and by the Head of Police.⁶ Misconduct by the National Security Service was also found.⁷

In the majority of the cases examined, the information provided by State authorities was inadequate. Where information was provided, limited results of investigation and prosecution were revealed. In several cases information was not provided by the authorities, who cited data protection and criminal procedure laws.

- 1 US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2011, Hungary, report available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, see also Written Comments of the European Roma Rights Centre (ERRC), Chance for Children Foundation (CCFCF), Foundation for the Women of Hungary (MONA), Hungarian Association for Persons with Intellectual Disability (ÉFOÉSZ), Hungarian Civil Liberties Union (HCLU), Hungarian Helsinki Committee (HHC), Legal Defence Bureau for National and Ethnic Minorities (NEKI), Minority Rights Group International (MRG), People Opposing Patriarchy (PATENT) and The City is For All (AVM), concerning Hungary for consideration by the Human Rights Council (HRC) within its Universal Periodic Review at its 11th session, May 2010, report available at: <http://www.errc.org/cms/upload/file/hungary-upr-08112010.pdf>.
- 2 The Budapest Times, 24 May 2012, Tackling the Roma issue their own way, article available at: <http://www.budapesttimes.hu/2012/05/26/tackling-the-roma-issue-their-own-way/>.
- 3 United Nations (UN). 23 April 2012. Human Rights Council. Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Githu Muigai: Mission to Hungary. (A/HRC/20/33/Add.1) report available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-33-Add1_en.pdf.
- 4 European Court of Human Rights, 29 January 2013, case of case of Horváth and Kiss v Hungary, Application no. 11146/11, judgment available: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#{"itemid":\["001-116124"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#{).
- 5 ERRC, 2013, European Court of Human Rights Says State Parties Must Take Positive Measures Against Wrongful Placement of Romani Children in Special Schools, <http://www.errc.org/article/european-court-of-human-rights-says-state-parties-must-take-positive-measures-against-wrongful-placement-of-romani-children-in-special-schools/4089>.
- 6 ERRC, State Response to Violence, 2011, report available at: <http://www.errc.org/cms/upload/file/czech-hungary-slovakia-imperfect-justice-06-march-2011.pdf> (NGO report on the circumstances of the double murder committed at Tatárszentgyörgy on 23 February 2009 and conduct of the acting authorities (the police, ambulance and fire services), available at: <http://errc.org/cms/upload/media/03/DA/m000003DA.pdf>; Independent Police Complaint Committee complaint:366/2009. (XI.11.); Head of Police: 29000/9011/2009.R.P., December 2009, available at: http://www.police.hu/data/cms651181/ORFK_09011_2009_FRP_366_2009.pdf.
- 7 As reported by *Origo.hu*: <http://www.origo.hu/itthon/20090908-nbh-roma-tamadasok-komoly-hibakvoltak-a-vizsgalat-szerint.html>.

The Hungarian government does not systematically monitor racist violence. Police, prosecutors and court officials are reluctant to consider racial bias motivation as an aggravating circumstance to crimes: it is not explicitly included in the Criminal Code (only “base” motivation is included).⁸ Hate crimes are dealt with as a separate legal provision but are not linked to other crimes.⁹

In Hungary, there are no specific protocols or guidelines developed for police and prosecutors on how to investigate and prosecute hate crimes. In addition, there is no systematic monitoring of racist violence, or the collection of data disaggregated by ethnicity about the victims of crimes.¹⁰ There are no reliable statistics on the real number of racially-motivated crimes in Hungary: according to available statistics the number of cases investigated under the hate crime provision of Hungary’s Criminal Code is extremely low.¹¹

LAW ENFORCEMENT ABUSE AGAINST ROMA

Following an incident in 2010, the ERRC and the Hungarian Civil Liberties Union represented a Romani woman in domestic procedures and before the European Court of Human Rights. In June 2012 the European Court of Human Rights ruled that Hungary had violated the European Convention of Human Rights in a case of police violence against a Romani woman.¹²

In its judgment, the European Court found that there had been a substantive and a procedural violation of Article 3 of the Convention (prohibition of inhuman or degrading treatment)¹³. The Court concluded that the police used excessive force during the incident, and that such use of force resulted in injuries and suffering of the applicant, amounting to degrading treatment. The Court also noted that no internal investigation or disciplinary procedure appeared to have been carried out within the police force concerning the appropriateness of the police action. The Court also found that no adequate investigation had been carried out into Ms Kiss’ allegations. However it rejected the claim of discrimination (under article 14), finding there was no evidence of discriminatory conduct by the police.

ANTI-ROMA DEMONSTRATIONS AND STATEMENTS

Romani individuals and communities continued to be victims of intimidation, hate speech and various violent physical attacks throughout the last two years. The ERRC’s non-exhaustive list on Hungary includes eight attacks in 2012.¹⁴

Paramilitary groups have been marching and organising demonstrations in Hungarian villages since 2006.¹⁵ In spring 2011, paramilitary groups marched and patrolled, particularly in the Hungarian village of Gyöngyöspata, harassing and intimidating Romani communities. Members of the organisation patrolled the town, where they prevented the Romani residents from sleeping by shouting during the night, threatened Roma with weapons

⁸ Base motivation is only included in relation to homicide, battery/assault, defamation, unlawful detention and insulting a subordinate. This provision would not allow for the tracking of racially-motivated crimes because other motivations may also be included.

⁹ Section 174(b) of the Hungarian Criminal Code deals with Violence Against a Member of a Community (hate crime).

¹⁰ ERRC correspondence with regional law enforcement authorities, e.g. Heves County Police Department letter to the ERRC: 28 April 2010; and Csongrád County Police Department letter to the ERRC: 29 March 2010.

¹¹ ERRC, State Response to Violence, 2011. The number of cases investigated under hate crime provisions: in 2004: 7; 2005: 7, 2006: 8, 2007: 9, 2008: 12. Available at: <http://crimestat.b-m.hu/KulsoLekerdezo.aspx>.

¹² European Roma rights Center, European Court of Human Rights Rules Against Hungary in Police Brutality Case, <http://www.errc.org/article/european-court-of-human-rights-rules-against-hungary-in-police-brutality-case/4014>.

¹³ European Court of Human Rights, 26 June 2012, case of Borbála Kiss v. Hungary, Application no. 59214/11, judgment available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{"itemid":\["001-111661"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{).

¹⁴ ERRC, Attacks list in Hungary; available at: <http://www.errc.org/cms/upload/file/attacks-list-in-hungary.pdf>.

¹⁵ David Chance, Hundreds join Hungary far-right “guard”, *Politics.hu*, 08 January 2013. <http://www.reuters.com/article/2007/10/21/us-hungary-farright-idUSL2141447820071021>.

and dogs and followed them every time they left their houses, unimpeded by local police.¹⁶ Human rights NGOs raised concerns and called on State authorities to take immediate action.¹⁷ During these unlawful actions Romani women and children were relocated due to the threat of violence.¹⁸ As a result of racial harassment, and due to stress, a Romani woman in her eighth month of pregnancy delivered her baby early and needed to be hospitalised.¹⁹ The incidents have been reported by the US State Department in its Hungary Country Report on Human Rights Practices for 2011 alongside other incidents.²⁰

Similar far-right movement activities continued in 2012, when several demonstrations were organised in Devecser,²¹ Cegléd and Miskolc.²² In Devecser pieces of concrete and other missiles were thrown at Roma houses, and one female activist was injured.²³ In an open letter to the Hungarian Minister of Interior and the National Chief of Police, three Hungarian NGOs expressed their concern about the violence in Devecser, stating that by not dispersing the demonstration, the police failed to ensure the rights to freedom, equality and security of the local inhabitants.²⁴ The Ministry and the police responded by saying they considered the police intervention in Devecser had been adequate.²⁵

Incitement to hatred is a common occurrence in Hungary. One of the latest examples was the publication of an op-ed in the Hungarian daily newspaper Magyar Hírlap on 5 January 2013 by a leading journalist and co-founder of the ruling FIDESZ party, calling Roma “animals” that “need to be eliminated” “right now by any means”.²⁶ This kind of inflammatory language is especially dangerous in Hungary. Bayer was initially criticised by the Deputy Prime Minister, Tibor Navracsics;²⁷ Navracsics later defended Bayer, saying that he could not imagine that Bayer seriously thought what he said in his article.²⁸ Key senior figures in the government, e.g. Prime Minister Viktor Orbán, and the Minister with responsibility for Roma issues, Zoltán Balog, did not officially condemn the racist article by Bayer on behalf of the Hungarian Government.²⁹

In response to the incident, the ERRC joined with a coalition of Hungarian NGOs in asking domestic companies and Hungarian divisions of multinationals to take a stand against racist commentary in Hungary. The NGOs have asked, among others, Vodafone, T-Com, FedEx, IKEA and Procter and Gamble to reconsider advertising in Magyar Hírlap.³⁰

To date seven companies have said they will no longer place advertising in the Hungarian newspaper that published the extreme anti-Roma statements. Erste Bank blacklisted Magyar Hírlap after the NGOs’ call, and

16 European Roma Rights Center, March 2011, Rights Groups Demand Protection for Hungarian Roma, available at: <http://www.errc.org/cikk.php?cikk=3816>.

17 See: <http://www.errc.org/article/rights-groups-demand-protection-for-hungarian-roma/3816>.

18 Hungarian Civil Liberties Union, Shadow report about the events in Gyöngyös, 14 November 2011, available at: <http://tasz.hu/en/news/shadow-report-about-events-gyongyospata>.

19 Hungarian Helsinki Committee, Events of concern in Hungary during the period of the country’s EU Presidency, June 2011, available at: http://helsinki.hu/wp-content/uploads/HHC_Events_of_concern_in_Hungary_during_the_countrys_EU_presidency_2011June.pdf, page 1.

20 US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2011, Hungary, report available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

21 See: <http://www.reuters.com/article/2012/10/25/hungary-jobbik-idUSL5E8LMJZ20121025>.

22 David Chance, Hundreds join Hungary far-right “guard”, Politics.hu, 08 January 2013; available at: <http://www.reuters.com/article/2012/10/17/us-hungary-farright-idUSBRE89G1MN20121017>.

23 Atv, 05 August 2012; video footage available at: http://atv.hu/belfold/20120805_devecser.

24 Amnesty International, Hungary must protect Roma communities from attack, 15 August 2012, available at: <http://www.amnesty.org/en/news/hungary-must-protect-roma-communities-attack-2012-08-15>.

25 Hungarian Civil Liberties Union, Reply to NGOs open letter on Devecser, 21 September 2012, available at: http://tasz.hu/files/tasz/imce/bm_valasz_devecser_nyilt_levelre.pdf.

26 The article is available in Hungarian at: <http://www.magyarhirlap.hu/ki-ne-legyen>.

27 MTI, Deputy PM joins outcry against anti-Roma remarks by leading Fidesz figure Bayer, Politics.hu, 08 January 2013, available at: <http://www.politics.hu/20130108/deputy-pm-joins-outcry-against-anti-roma-remarks-by-leading-fidesz-figure-bayer/>.

28 MTI, “Justice Minister Navracsics says Bayer sets record straight in new Roma article”, Politics.hu, 15 January 2013; available at: <http://www.politics.hu/20130115/justice-minister-navracsics-says-bayer-set-record-straight-in-latest-gypsy-article/>.

29 Statement of the US Ambassador on Discrimination Against Roma to the OSCE; 31 January 2013, available at: http://osce.usmission.gov/jan_31_13_roma.html.

30 ERRC, January 2013, NGOs call for advertising boycott over anti-Roma statements in Hungarian media, available at: <http://www.errc.org/article/ngos-call-for-advertising-boycott-over-anti-roma-statements-in-hungarian-media/4085>.

expressly brought it to their media agency's attention to "act more prudently next time" when dealing with the publication of their advertisements. They also emphasised that the bank will not advertise in any media whose content "hurts the dignity of others, or uses an inflammatory tone regarding any minority, ethnicity, or religious group". The leaders of CIB Bank said that the CIB Group will refrain from advertising in Magyar Hírlap and its portal "until the editorial staff categorically condemns Zsolt Bayer's writing and ensures that both publications are free from writings that include hate speech". IKEA, FedEx, and GDF Suez also distanced themselves from the article, and stated they do not plan to advertise in the online version of the newspaper in the future.³¹

On March 15, 2013, a national holiday in Hungary which is also the "Day of Hungarian Freedom of Press" the Hungarian Government awarded the journalist Ferenc Szaniszló the "Táncsics Mihály" award and honoured him as the "journalist of the year in Hungary".³² Mr Szaniszló is infamous for spreading Jewish conspiracy theories and describing the country's Roma minority as "human monkeys".³³

The award was given for "extraordinary journalistic achievements" and was presented by the Minister of Human Resources, Zoltán Balog, who is also in charge of integration of Roma. Balog claimed that he did not know who had received the award, but still handed it over to Szaniszló. Balog later distanced himself from the views of Szaniszló.³⁴

Recently, Canadian authorities launched a billboard campaign in Miskolc, Hungary, to deter Romani asylum seekers. The majority of Hungarian Romani asylum-seekers to Canada originate from this town. The billboards around the city stated that "Canada's refugee system has changed" and that "Asylum claims are evaluated within weeks instead of years". The billboards further cautioned the public that "Applicants with unjustified immigration claims are sent home faster".

A side effect of the billboard campaign in Miskolc has been the aggravation of the hostile atmosphere that Romani people have to face every day. The Mayor of Miskolc Ákos Kriza (member of the governing party FIDESZ) stated that, "Miskolc will not welcome back repatriated Roma refugee claimants arriving from Canada".³⁵ A couple of days after his appearance on national television, Mr Kriza announced that he will "keep the criminal elements out of Miskolc by checking whether any of the people who left for Canada also took advantage of social assistance from the city or the central government." He claimed that he had already found five people who were ineligible and who thereby committed a crime. He got in touch with the police. He will do everything to prevent "these criminals from settling in the city. Moreover, criminals currently residing in Miskolc will be driven out by the authorities." He even threatened returning Romani parents that the authorities would take their children away and place them under state supervision.³⁶

After the campaign in Forró (near Miskolc) anonymous anti-Roma graffiti appeared on houses calling on the Roma to "go to Canada".³⁷

31 ERRC, March 2013, Advertisers Withdraw from Hungarian Newspaper over Anti-Roma Statements available at: <http://www.errc.org/article/advertisers-withdraw-from-hungarian-newspaper-over-anti-roma-statements/4098>.

32 <http://www.independent.co.uk/news/world/europe/hungarian-government-awards-tancsics-prize-for-journalism-to-notorious-antisemite-ferenc-sziszlo-8538178.html>.

33 Hungary Around the Clock, Media Council fines TV station for hate speech, 06 September 2011, available at: <http://www.politics.hu/20110906/media-council-fines-tv-station-for-hate-speech/>: "The Media Council fined Echo TV Ft 500,000 on Monday after ruling that its programme "Világ-panoráma" was in violation of the laws on respecting human dignity and banning hate speech. Presenter Ferenc Szaniszló spoke of "Gypsies, Gypsy terrorism" and the "Nazi liberals" who encourage them, and whose single goal is to "infect parasitic human-like figures on Hungarians", in the programme, which aired on February 11, 2011".

34 HVG "Balog kitüntette Szaniszlót, pedig azt a szakmai bizottság sem támogatta", 18 March 2013, available at: http://hvg.hu/itthon/20130318_Balog_kituntette_Sziszlot_pedig_azt_a_s.

35 Bilbo Poynter, Canada telling Hungary's Roma do not seek asylum here, Csmonitor.com, 24 January 2013; available at: <http://www.csmonitor.com/World/Americas/2013/0124/Is-Canada-telling-Hungary-s-Roma-Do-not-seek-asylum-here>.

36 Hungarian Spectrum 24 January 2013 "Canada will not send its refugees to Miskolc" says the Hungarian mayor, available at: <http://hungarianspectrum.wordpress.com/2013/01/24/canada-will-not-send-its-refugees-to-miskolc-says-the-hungarian-mayor>.

37 HVG; Roma családok kiirtásával fenyegető feliratokat írtak több házra Forró; 04 February 2013, available at: http://hvg.hu/itthon/20130204_Roma_csaladok_kiirtasaval_fenyegeto_felir#rss.

Suggested questions to the Hungarian Government:

- Does the Hungarian Government keep detailed data on the number and type of racially motivated crimes committed against Roma, and in particular Romani women, as well as information on prosecutions? Please supply detailed information.
- What measures have been adopted to bring the Hungarian criminal legislation in line with international standards on investigating and prosecuting hate crimes?
- What professional training and capacity-building activities have been implemented for law-enforcement, prosecution and judicial officials dealing with hate crimes?
- What measures have been adopted to ensure that access to counselling, legal assistance and justice for victims of hate crimes is explored, in co-operation with relevant actors?