

WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING HUNGARY

For Consideration by the European Commission on the Transposition and Application of the Race Directive and on the Legal Issues Relevant to Roma Integration.



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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Hungary

CASE REVIEW: HUNGARY

This submission focuses on the situation of Roma in Hungary and shortcomings in the transposition and implementation of the Race Equality Directive, which has particular impact on Roma. This review includes broader elements of the anti-discrimination framework in Hungary, but does not purport to be comprehensive.

1 TRANSPOSITION OF RED INTO DOMESTIC LEGISLATION

1.1 THE GENERAL FRAMEWORK ON THE PROHIBITION OF DISCRIMINATION

Hungary has ratified a number of international instruments banning discrimination, including the European Convention on Human Rights, the Revised European Social Charter, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of All Forms of Race Discrimination, the Convention on the Rights of the Child. However, a notable omission from this arsenal is Hungary's failure to ratify Protocol No. 12 to the European Convention on Human Rights.

The most important principles are laid down in the Fundamental Law, which is considered to be the highest level of law, i.e. the "constitution" of Hungary. Constitutional rules are expounded in laws, while detailed regulations are provided by government and ministerial decisions. The Fundamental Law states that Hungary shall ensure harmony between international law and Hungarian law in order to fulfill its obligations under international law and Hungary accepts the generally recognised rules of international law.¹ Yet, international treaties to which Hungary is a party do not automatically constitute part of domestic law, but become part of the Hungarian legal system by publication in the form of legislation.² In this regard, the Hungarian system can be considered dualist.

1.2 THE HUNGARIAN ANTI-DISCRIMINATION LAW

Hungary's general anti-discrimination clause is laid down in Article XV of the Fundamental Law. Anti-discrimination provisions are also covered by cardinal laws, such as the Civil Code,³ which provides for the ban of discrimination under the provision on the protection of "inherent personal rights," creating an important tool for combating discrimination. In addition, other sectoral laws, such as the Labour Code, Public Education Act, Law on Social Protection, Act on Health Care, etc. all contain anti-discrimination provisions and specific rules on enforcement of these provisions.

However, the first comprehensive anti-discrimination law in Hungary was only adopted in 2003 in order to comply with EU requirements to implement the RED. Act CXXV of 2003 on Equal Treatment and the Promotion on Equal Opportunities (ETA) entered into force on 27 January 2004.

1.3 COMPLIANCE ISSUES WITH THE RACE DIRECTIVE

Protected Grounds

The Hungarian ETA sets an open-ended list of protected grounds, including expressly naming all protected grounds listed under Article 19 of TFEU, including race and ethnicity. Consequently the ETA contains a non-exhaustive list, therefore grounds not explicitly mentioned are also covered by the ETA. However the protected grounds are not defined in the law.

Scope of protection

The ETA provides for protection against any form of discrimination in the public sector in all areas; therefore its scope is wider than the RED. In doing so the ETA enumerates state entities that provide for equal treatment

¹ Hungary, Fundamental Law, Article Q (2), (3).

² *Ibid.*

³ Act IV of 1959.

regardless of which sector they operate in. Still the ETA highlights five sectors, and provides a more detailed ruling for these. They are: employment, social protection and healthcare, housing, education and training and access to goods and services. However this doesn't mean that the entities listed above should not observe the principle of equal treatment in other areas.

Legal experts, however, express concerns with regards to limitations of the ETA's scope within the private sector.⁴ Whereas the RED has a limited material scope applicable for both public and private actors, the Hungarian ETA has an unlimited material scope for public entities, but has a limited personal scope in terms of private actors.

The ETA does not prescribe the non-discrimination clause for all private actors under the areas covered by the RED. It only provides protection against discrimination by entities falling under four areas: a) those who make a public proposal for contracting or issue a call for an open tender; b) those who provide services or sell goods at premises open to public; c) self-employed persons, legal entities and organisations without legal entity receiving state subsidies, in respect to their relationships established in the course of their utilisation of such state subsidies, from the time when the state subsidies are utilised, during the period while the competent authorities may audit the utilisation of the state subsidies in accordance with the regulations applicable to them; and; and; d) employers with respect to matters related to employment.⁵

Definition of Discrimination

The ETA incorporates the concepts of direct and indirect discrimination, segregation, harassment and victimisation. However, the concept of multiple discrimination is not defined in the Hungarian anti-discrimination law.

Direct discrimination is defined under Article 8 of the ETA and regulates different treatment based on a real as well as presumed characteristic (i.e. prohibited ground). The ETA does not explicitly prohibit discrimination based on association, however according to the jurisprudence of the Equal Treatment Authority discrimination based on association is also protected under "other characteristic" as was decided in a case in which a non-Roma individual was treated as Roma because of her association with Roma.⁶ **Indirect discrimination** is defined under Article 9, which is in line with the RED.

In terms of direct discrimination and unlawful segregation in compliance with the RED, the ETA does not allow justification for race or ethnic discrimination.⁷

In terms of indirect discrimination, the ETA allows for justification if it restricts the aggrieved party's fundamental right for the sake of the enforcement of another fundamental right, provided that the restriction is *absolutely necessary, suitable for achieving the aim* and *proportionate* with the aim. This is in line with the RED. However it also allows justification in cases not falling under the scope of the above when it is found by objective consideration to have a *reasonable ground* directly related to the relevant legal relation.⁸ According to legal experts, the reasonable ground does not seem to meet the requirements of "appropriateness" and "necessity" under the RED, i.e. "...objectively justified by a legitimate aim and the means of achieving that aim is appropriate and necessary".⁹

Harassment is defined under Article 10 and is in line with the RED, but experts are of the opinion that the existing case law on harassment indicates a rather restrictive interpretation of the concept.¹⁰

4 European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Hungary, András Kádár, State of affairs up to 1st January 2012, available at: http://www.non-discrimination.net/content/media/2011-HU-Country%20Report%20LN_final.pdf.

5 Article 5, ETA.

6 Equal Treatment Authority, case no. 72/2008.

7 Article 7 (3), ETA.

8 Article 7, ETA.

9 European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Hungary, András Kádár, State of affairs up to 1st January 2012.

10 *Ibid.*, page 53.

2 THE HUNGARIAN EQUALITY BODY: THE EQUAL TREATMENT AUTHORITY

2.1 THE ESTABLISHMENT AND MANDATE OF THE AUTHORITY

The Hungarian Equal Treatment Authority (Authority) is a formally independent organisation set up to receive and deal with individual and public complaints on unequal treatment and to implement the principles of equality and non-discrimination. The Authority works under the direction of the Minister of Administration and Justice, and is independent in relation to the conduct of its duties. It started operating on 1 February 2005.

The Authority deals with discrimination based on any of the protected grounds under the ETA, which goes far beyond what is prescribed under the Equality Directives. The Authority is entrusted with all the powers that are required by the RED. It also has the power to issue independent reports.

Despite the increasing workload of the Authority, its budget has decreased dramatically since 2008.¹¹ This budgetary reliance on vagaries within the Ministry of Administration and Justice calls into question the real functioning independence of the Authority, particularly as there are now grave concerns about understaffing and the difficult financial situation of the Authority¹².

Another recent and troubling change regards the expertise available to the Authority. Until 1 February 2012, the Authority performed its duties in cooperation with an advisory board which was composed of experienced human rights experts. However from this date the advisory board was abolished with an act reasoning that it has already provided enough guidelines for the implementation of the ETA.¹³ However with the rapidly the changing legal and social context, especially under the current government, this regressive move seems unjustified.

2.2 CASE LAW OF THE ETA

Despite serious understaffing and increasing financial problems, the Authority has done a significant amount of work since it started its activities in 2005, and has issued important decisions that may serve as a guideline for the effective implementation of the RED.

However, the Authority has not fully utilised its considerable arsenal. For example, it has the power to initiate an ‘actio popularis’ lawsuit if the principle of equal treatment is violated, provided that the violation of the principle of equal treatment was based on a characteristic that is an essential feature of the individual and the violation effects a larger group of people who cannot be determined accurately. The Authority has not initiated such a lawsuit to date, and has only intervened in one case up to now.¹⁴

The Authority has adopted several decisions regarding discrimination against Roma.¹⁵ It has extensively dealt with the segregation of Romani children in education, access to employment and harassment cases.¹⁶ Amicable settlements were reached in several cases, for example in a case in which a local law enforcement authority were involved in discriminatory practices against a Romani community, who were disproportionately targeted with bicycle check ups and subsequent fines.¹⁷

The Hungarian Supreme Court quashed the decision of the Authority and the Metropolitan Court and found no harassment in a case in which a local mayor (Edelény, in the North-East of Hungary) made a statement that Romani women in certain settlements take medication and hit their bellies with rubber hammers so that they would give birth to children with mental disabilities, and be entitled to increased family allowance. Despite the

¹¹ *Ibid.*, page 132.

¹² *Ibid.*, page 132. ETA is a central budgetary institution vested with “chapter authorizations”, which means that although its budget is included in the budget of the Ministry supervising the Authority (Ministry of Justice), it is in charge of its own finances. The Parliament is entitled to reduce the budget limits of ETA.

¹³ Act CLXXIV of 2011.

¹⁴ European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report on Hungary, András Kádár, State of affairs up to 1st January 2012, page 136.

¹⁵ See the table: <http://www.egyenlobanasmod.hu/jogesetek/jogesetek#y2012>.

¹⁶ Note 2, Page 8.

¹⁷ <http://helsinki.hu/rendorsegi-lepesek-az-etnikai-aranytalansagok-kikuszobolesere>.

decision of the Authority establishing that the mayor's statement constituted harassment, which was upheld by the Metropolitan Court, the Supreme Court quashed the decision and concluded that the mayor did not fall under the scope of the ETA since as the mayor of Edelény he can only have legal relation to the inhabitants of this town, but he made his statement with regards to Romani women living in other settlements.¹⁸

3 THE GOVERNMENT STRATEGY ON ROMA

3.1 THE SETTING FOR ADOPTING A ROMA STRATEGY IN LINE WITH THE EU FRAMEWORK

In response to the European Commission's communication from 5 April 2011 on the EU Framework for National Roma Integration Strategies, the Hungarian Government adopted its national inclusion strategy, which was submitted for review to the Commission in December 2012.¹⁹ The Strategy targets several vulnerable groups, not only the Roma, following the "explicit but not exclusive targeting" principle, which may cause shortcomings in terms of targeted implementation. National policymaking with regards to constitutional and cardinal law changes are also not in compliance with the targets set out in the Strategy.

Hungarian civil society provided a detailed analysis of the strategy and its shortcomings, including all spheres, and expressed concerns, amongst others, with regards to its lack of human rights-based approach, lack of concrete provisions on combating anti-discrimination and hate crimes.²⁰

Similarly, the Commission underlined a number of shortcomings in the Hungarian Strategy. For example, in the area of education the strategy needs more focus on desegregation measures and integrated education, and policies need to respond to the specific needs of Roma children. In the area of employment and health the strategy needs more concrete and specific measures, targets that are measurable, a clear timeline for implementation and an applicable budget. Much more attention should be dedicated to tackle access to social housing. Generally the strategy is not precise enough, lacks a detailed description of the monitoring and evaluation system and does not envisage a clear budget.²¹

4 DISCRIMINATION AGAINST ROMA

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.²² 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. 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.²³

¹⁸ Case no. 1475/2009.

¹⁹ <http://romagov.kormany.hu/hungarian-national-social-inclusion-strategy-document>.

²⁰ http://www.partnershungary.hu/images/Letoltheto/ngo_javaslat.pdf.

²¹ Commission staff working document accompanying document to the National Roma Integration Strategies: a first step in the implementation of the EU Framework SWD(2012) 133 - 21 May 2012, Hungary page 46-48, http://ec.europa.eu/justice/discrimination/files/roma_nat_integration_strat_en.pdf.

²² Submission to UN HRC on Hungary, written Comments of the European Roma Rights Centre, Chance for Children Foundation and the Hungarian Helsinki Committee, report available at: <http://www.errc.org/cms/upload/file/iccpr-2010-hungary.pdf>, Written Comments of the ERRC, Chance for Children Foundation (CFCF), 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>; ERRC submission for consideration by the Committee on the Elimination of Discrimination against Women at its 52nd session, available at <http://www.errc.org/cms/upload/file/hungary-cedaw-submission-25-june-2012.pdf>.

²³ ERRC, Written comments concerning Hungary for consideration by the Commission on Security and Cooperation in Europe, U.S. Helsinki Commission (19 March 2013) available at <http://www.errc.org/cms/upload/file/hungary-us-helsinki-commission-19-march-2013.pdf>.

4.1 EDUCATION

In Hungary, segregation in special education and mainstream schools persists, despite Hungarian court decisions at the highest level condemning such segregation. With the government's reluctance to press for desegregation, litigation continues to have a role in achieving equal rights to education for Romani children. The ERRC has joined the Chance for Children Foundation (CFCF) in litigation before domestic courts to challenge the overrepresentation of Romani children in special schools, alleging Romani children are mis-diagnosed with mild mental disabilities due to the flawed diagnostic system and are segregated in special schools. Research conducted by the ERRC and CFCF revealed that in Heves County, 98% percent of the children studying in special education are Roma and preliminary findings indicate similar statistics in Tolna County. The public interest claim in Heves County is pending.

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 Rights²⁴ 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.²⁵

4.2 HEALTHCARE

The situation of Romani women in respect to health is significantly worse than that of the general population. This is largely as a result of direct discrimination and degrading treatment at the hands of doctors and other hospital staff (including segregation in maternity wards), lack of access to medical services and the disadvantaged position of Romani women within the family.²⁶ Major policy documents adopted by the Hungarian State to improve the situation of Roma have not yet resulted in substantive improvements in the situation of most Romani women, or have failed to address the particular situation of Romani women.²⁷

Coercive sterilisation remains a concern for Romani women in Hungary. For example, on 29 August 2006, the Committee on the Elimination of Discrimination against Women found Hungary in breach of the Convention in the matter of *A.S. v. Hungary*. A.S., a Romani woman, had been sterilised during emergency obstetrical services without her informed consent. No domestic court at any instance ever acknowledged her rights had been violated. With the legal representation of ERRC and local partner the Legal Defence Bureau of National and Ethnic Minorities (NEKI) A.S. filed a complaint with CEDAW under the Optional Protocol in 2006. In 2009, the Hungarian Government finally provided her financial compensation on the basis of the Committee's findings.²⁸

More than six years later, Hungary has failed to fully implement the recommendations by the CEDAW Committee in that decision: the legal provisions regulating sterilisation do not comply with international standards on medical indication as a basis for sterilisation and the reversibility of sterilisation procedures. Although informed consent is required, the Hungarian Public Health Act still mandates sterilisation on the basis of a medical indication. Sterilisation for prevention of future pregnancy cannot be justified on grounds of medical emergency. The legislation also requires the provision of relevant information to patients on the "chances of

²⁴ European Court of Human Rights, 29 January 2013, case of case of *Horváth and Kiss v Hungary*, Application no. 11146/11, judgment available at: [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#{"itemid":["001-116124"]}).

²⁵ ERRC, 2013, European Court of Human Rights Says State Parties Must Take Positive Measures Against Wrongful Placement of Romani Children in Special Schools, available at: <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>.

²⁶ Written Comments of the European Roma Rights Centre, Chance for Children Foundation and the Hungarian Helsinki Committee concerning Hungary to UN Human Rights Committee (February 2010), report available at: <http://www.errc.org/cms/upload/file/iccpr-2010-hungary.pdf>.

²⁷ In December 2011, the Hungarian Government adopted the Hungarian National Social Inclusion Strategy. However the Action Plan for 2012-2014 implementing the Strategy (1430/2011 (XII.13) Government Resolution) failed to address the multiple disadvantages of Romani women. The Government also adopted a Resolution on Promotion on Gender Equality. The first action plan (2010-2011) to implement it did reference the situation of Romani women situation but no programme was launched or implemented to tackle the disadvantaged situation of Romani women. (see ERRC list of critical issues concerning Hungary, for consideration by the Committee on the Elimination of Discrimination against Women, 2012, available at: <http://www.errc.org/cms/upload/file/hungary-cedaw-submission-25-june-2012.pdf>).

²⁸ Anna Wilkowska-Landowska, RH Reality Check, Eastern Europe, *Coercively Sterilized Romani Woman Will Receive Compensation*, 2009. available at: <http://www.rhrealitycheck.org/blog/2009/06/11/coercively-sterilized-romani-woman-will-receive-compensation>.

reversibility”, which suggests that sterilisation is a non-permanent procedure and relevant patient counseling is therefore conducted based on that premise. However, consent cannot be considered fully informed without informing the patient about the permanent consequences of sterilisation.²⁹

In another case of a coercive sterilisation of a woman in a public hospital in 2008, the ERRC, together with a local partner, are providing legal representation before domestic courts. Through an amicus brief, the ERRC has argued that coercive sterilisation has been a discriminatory practice targeting Romani women in Central and Eastern Europe and it seriously violates the fundamental human rights of women under international law. The ERRC argued that such a violation also occurs in the case of discrimination by association, when the victim is not of Roma origin but is associated as such due to ties with Romani family members, such as her husband or other relatives. The case is pending on appeal following the first instance court’s rejection of the claim.³⁰

4.3 VIOLENCE AGAINST ROMA

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.³¹ Misconduct by the National Security Service was also found.³²

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.

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).³³ Hate crimes are dealt with as a separate legal provision but are not linked to other crimes.³⁴

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.³⁵ 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.³⁶

29 Alternative report submitted to the UN CEDAW Committee by the Hungarian Women’s Lobby and the European Roma Rights Centre, available at: http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/HWlandERRC_Hungary_ForTheSession_Hungary_CEDAW54.pdf.

30 *Ibid.*

31 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. (Xl.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).

32 As reported by *Origo.hu*: <http://www.origo.hu/itthon/20090908-nbh-roma-tamadasok-komoly-hibakvoltagek-a-vizsgalat-szerint.html>.

33 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.

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

35 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.

36 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>.

Police violence 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.³⁷

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)³⁸. 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 2012.³⁹

Paramilitary groups have been marching and organising demonstrations in Hungarian villages since 2006.⁴⁰ 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 and dogs and followed them every time they left their houses, unimpeded by local police.⁴¹ Human rights NGOs raised concerns and called on State authorities to take immediate action.⁴² During these unlawful actions Romani women and children were relocated due to the threat of violence.⁴³ 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.⁴⁴ The incidents have been reported by the US State Department in its Hungary Country Report on Human Rights Practices for 2011 alongside other incidents.⁴⁵

Similar far-right movement activities continued in 2012, when several demonstrations were organised in Devecser,⁴⁶ Cegléd and Miskolc.⁴⁷ In Devecser pieces of concrete and other missiles were thrown at Roma houses, and one female activist was injured.⁴⁸ 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

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

38 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?{).

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

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

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

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

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

44 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.

45 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>.

46 See: <http://www.reuters.com/article/2012/10/25/hungary-jobbik-idUSL5E8LMIJZ20121025>.

47 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>.

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

demonstration, the police failed to ensure the rights to freedom, equality and security of the local inhabitants.⁴⁹ The Ministry and the police responded by saying they considered the police intervention in Devecser had been adequate.⁵⁰

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”.⁵¹ This kind of inflammatory language is especially dangerous in Hungary. Bayer was initially criticised by the Deputy Prime Minister, Tibor Navracsics;⁵² Navracsics later defended Bayer, saying that he could not imagine that Bayer seriously thought what he said in his article.⁵³ 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.⁵⁴

49 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>.

50 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.

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

52 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/>.

53 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/>.

54 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.