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Roma in the Republic of Serbia and Hungary: The Challenges of Discrimination – A Comparative Report

Andrea Spital'szky

P R A X I S



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Minority Rights Group Europe (MRGE)

Minority Rights Group Europe (MRGE) is registered as a not for profit company under Hungarian Law. Based in Budapest since 1996, Minority Rights Group Europe is the European regional partner of Minority Rights Group International (MRGI), with the aim of promoting and protecting the rights of minorities and indigenous peoples across Europe and Central Asia. MRG Europe does this through capacity building, international advocacy, media advocacy and networking.

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Cover image: A demonstration for the rights of Roma people in Budapest over a contested court ruling on compensation to segregated Roma pupils in Gyöngyöspata, a northern Hungarian village. *Gabriella Csoszó / FreeDoc*

About Praxis

Praxis is a national non-governmental organization established in 2004 in Belgrade that protects human rights by providing legal protection and advocating for elimination of systemic obstacles in access to rights. Praxis acts in the area of status and socioeconomic rights, antidiscrimination, gender equality, migration, child rights and public administration reform. In addition to providing free legal aid, Praxis achieves its goals through monitoring of public policies, research, analysis and advocating for systemic solutions and the elimination of obstacles to accessing rights by raising awareness of the problems faced by marginalized and socially excluded communities attempting to integrate, educational outreach, publishing of reports, and providing expert support for reforms, as well as through networking and cooperation.

About the Idetartozunk Association

The Idetartozunk Association was registered in 2017. Its aim is to strengthen the social movement of the Roma communities in Hungary and to improve the Roma emancipation movement. Its main goal is to maintain an open network based on volunteering, which is capable of meaningful, long-term cooperation, of formulating perspectives and of manifesting in social actions by putting the Roma self-organization on a new basis. The Idetartozunk Association promotes active civic behaviour in matters affecting the Roma communities and other social issues, therefore it is often a commentator, participant, and generator of social events.

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Introduction

This comparative report summarizes and analyzes the findings of two pieces of research which were conducted in the framework of the REILA project,¹ coordinated by Minority Rights Group Europe² with the participation of two partners – Praxis³ in Serbia and Idetartozunk (We Belong Here)⁴ in Hungary. The respective findings were published in two separate country reports. The aim of the research was to map different areas of discrimination against Roma and to identify the obstacles to their access to justice. The research was carried out in both countries from October to December 2020. During this period, various focus group interviews were organized in both countries with the participation of Roma men and women, Roma activists and civil society organizations (CSOs), and legal practitioners.⁵ The empirical research was completed with a review of the findings of the existing research data from previous years. The aim of this report is to summarize the findings of the studies and to compare the situation of Roma in the two neighbouring countries.

A significant Roma population has been settled for centuries in both countries. In Serbia, according to the latest census in 2011, 147,604 people identified themselves as Roma. However, according to other sources, their actual number is significantly higher. According to research

conducted at the beginning of the 21st century, there were 201,353 Roma who had Serbian citizenship and 46,238 Roma who had been displaced from Kosovo. Some sources even indicate that the Roma population may reach 800,000.

In Hungary, according to research conducted in 2017, the Roma population is around 876,000, comprising approximately 9 per cent of the total population. This is significantly higher than the 2011 census, when only around 316,000 people identified themselves as Roma - although that figure was itself approximately double the number of people who had declared themselves Roma in the census ten years earlier.

Consequently, the data shows that in both countries the Roma population is significantly higher than the official census statistics. One reason for this uncertainty is the reluctance of some Roma to openly self-identify as such: research conducted in 2017 in Hungary shows that people's willingness to identify themselves as Roma depends on the degree of discrimination and stigmatization they experience.⁶ It is therefore of utmost importance to know the exact number of the Roma population in both countries to design appropriate strategies for their social inclusion and to combat discrimination.

Discrimination against Roma

The research shows that in both countries, prejudice and negative stereotypes towards Roma are the main reasons for their discrimination. Roma face rejection and social exclusion from an early age, a situation that often continues throughout their lives. According to one study, in Serbia only around half of respondents reported that they would accept a Roma as their neighbour and only a fifth would be willing to marry a person of Roma origin.⁷ Similarly, in Hungary, according to a recent survey, 54 per cent of the respondents stated that they would not accept a Roma family member, 44 per cent that they would not want a Roma neighbour, and 27 per cent that they would not accept Roma as citizens of the country.⁸

In both countries, Roma most often face rejection and prejudice in everyday situations: in their relationships with their neighbours and colleagues, or during some daily routine activity. Focus group participants in both countries identified various situations where they were humiliated, belittled or insulted. In Serbia, for instance, a Roma woman who was selling fruit and vegetables in a market was subjected to daily insults by clients calling her a 'Gypsy' and a 'thief', while in Hungary, several focus group participants complained that when they entered a shop to buy something, they were followed by the shopkeepers who suspected that they would steal something.

The social exclusion of Roma in both countries has resulted in low school enrolment and completion, high unemployment rates and poor living conditions. In Serbia, according to research conducted in 2020, 66 per cent of Roma respondents had faced discrimination more than ten times and another 15.1 per cent up to ten times in their lives.⁹ Similarly, in Hungary, the outcomes of the focus groups interviews showed that Roma are stigmatized in most aspects of their lives, regardless of their place of residence, segregation, education or social status. In both countries, schools, job searches, employment, health care, police procedures and discrimination by the public authorities were the areas where Roma most often suffered discrimination.

School segregation is still widespread

School segregation of Roma children is a widespread discriminatory practice in both countries. In Hungary, according to a study published in 2018, school segregation increased by almost 10 per cent between 2008 and 2016.¹⁰ In addition, another study found that half of all Roma students drop out of the education system, barely 24 per cent complete secondary school and only 5 per cent go to

university, compared with 35 per cent for non-Roma, and nearly 75 per cent of non-Roma students complete secondary school. The report also points out that both school segregation and the reduction of compulsory schooling to 16 years of age contribute to the high drop-out rates.¹¹

In both countries, different actors have tried to address school segregation by different means. In Serbia, the Protector of the Citizens has repeatedly called attention to this phenomenon in his reports, while the Commissioner for the Protection of Equality issued an opinion about school segregation in Bujanovac, stating that the municipal administration and the Ministry of Education, Science and Technological Development had not taken the necessary measures to prevent school segregation. The Commissioner pointed out that the segregation of students is based on their nationality which is a form of discrimination. On the other hand, in Hungary, strategic litigation has resulted in a successful case. In the spring of 2020, a school segregation case in Gyöngyöspata was won in which courts at all instances found that a violation had occurred, prohibited the action and ordered the government to pay non-pecuniary damages for the victims.¹²

Many Roma children experience bullying throughout their schooling

However, school segregation is only one aspect of discrimination against Roma children in education. Participants of the Serbian focus group interviews reported various cases of bullying at school when Roma children were insulted and humiliated by their peers. Furthermore, the school management were reportedly reluctant to take any steps to address these incidents.

In Serbia, a Roma woman in one of the focus groups talked about her daughter's experience at school. Her daughter, a secondary school student with excellent grades, had been ignored and humiliated by her non-Roma peers both at the primary and secondary school and by her teachers. Her peers never wanted to be her friend or showed solidarity in situations when she needed help. When she was absent from school, they insulted and mocked her. When her parents turned to the school staff, they were told that 'it was better for a gypsy girl to get married than to go to school'. The parents did not report discrimination because they feared the potential negative consequences.

Roma face significant barriers to employment

In Serbia, according to research, Roma are perceived to be the fourth most discriminated against social group in the labour market (after persons with disabilities, the elderly and people with different political beliefs).¹³ In Hungary, Roma often face discrimination in the **public employment** programme which was launched in September 2012 in a number of disadvantaged settlements for the unemployed and for those who receive social benefits but are still able to work. Over the past eight years, public employment programmes have been expanding, providing an important source of income for those in need. However, Roma are over-represented in this form of employment and their rights are more often violated. Discrimination against Roma in **recruitment procedures** is common in both countries.

Many Roma struggle to access health services

In Hungary, the outcomes of the focus group interviews showed that the deterioration of certain health services or a lack of capacity disproportionately affect the poor who cannot afford the services.¹⁴ For example, one participant reported that a doctor refused to operate on him unless the patient paid.

Roma women are exposed to multiple forms of discrimination based on their ethnicity, gender and their low social status in both countries. During focus group interviews exclusively organized for Roma women, participants in both countries identified health care as a key context where Roma women often face discrimination. Similarly, both in Hungary and Serbia, Roma women are often placed in 'Roma only' wards when they give birth and are often verbally abused or insulted by medical staff during gynaecological examinations or at the maternity ward. In Hungary, in a successful strategic litigation case, the Miskolc County Hospital was found guilty of discriminating on the basis of wealth when it charged visiting relatives 3,000 HUF to borrow the necessary clothes to enter the maternity ward. The court stated that this measure directly discriminated against Roma women.

In Serbia, a young Roma woman who went into hospital to give birth was verbally abused by nurses who told her that she did not use soap, that she smelled bad and insulted her in other ways. Moreover, they did not help her with breastfeeding and childcare in the first days after she gave birth. Instead, other mothers supported her.

Police abuse and impunity hinders access to justice

Discrimination against Roma is also common in police proceedings. In Hungary, focus group participants highlighted police abuse as an issue, with physical interrogation mentioned in more than one focus group. CSOs warned that, while the police were reluctant to properly investigate a case when the victim was Roma, they often used excessive force in cases when a Roma person was the suspect. Discriminatory acts by public authorities were also reported in both countries. In Serbia, the ineffective conduct of public authorities in addressing the problem of Roma poverty points to the existence of systemic discrimination.

In Hungary, a focus group participant complained that the neighbours regularly call the police when there is too much noise. On one occasion, when another Roma family had a party, the local government fined all five Roma families living in the same building, even those who had been away at the time.

Roma have been disproportionately affected by Covid-19

The Covid-19 pandemic has severely impacted on Roma in both countries. In Serbia, 38 per cent of Roma live in substandard conditions in settlements where they do not have access to water, although hygiene is crucial to reduce the risk of infection. Participants of the Hungarian focus groups also mentioned that the pandemic increased the possibility of discrimination against Roma. For example, when masks, detergents, firewood and other emergency assistance were distributed, Roma were often ignored and did not receive these products. Others added that Roma workers tended to be the first to be dismissed during redundancies caused by the pandemic.

Access to justice

In Serbia, most of the focus group participants had solid information about institutions and procedures related to reporting discrimination, and the ways and types of support that people who wanted to report discrimination could count on. A few participants, however, did not distinguish between discriminatory treatment and behaviour on the one hand and actions based on prejudice or resulting from intolerance on the other hand. In contrast, in Hungary, according to research, 15 per cent of Roma respondents knew neither the civil actors, nor the state institutions that they could turn to when they suffer discrimination. In addition, only 31 per cent of the respondents were aware that there is a law which prohibits discrimination, while 41 per cent thought that there was no such law. Some focus group participants did not know the legal remedies either.¹⁵

In both countries, discrimination against Roma most often goes unreported. In Hungary, according to research, only 6 per cent of Roma respondents reported discrimination, although in the previous five years, 32 per cent of them had experienced some form of discrimination.¹⁶ In Serbia, discrimination is most often not reported by Roma, except rarely in cases where discriminatory behaviour or action is accompanied by violence, which they report to the police or social welfare centre. In Hungary and Serbia, focus group participants confirmed that many Roma had internalized historical discrimination and accepted it as a part of life, meaning they were reluctant to report such cases. There is a lack of trust in the institutions or the established system of protection against discrimination, as Roma victims consider the institutional system of protection against discrimination inefficient and ineffective, and they think it is not worth seeking remedies when incidents occur. In addition, Roma victims of discrimination are fearful of the inconvenience that registering a case entails and the possibility that perpetrators might put pressure on them. For example, in Hungary, Roma living in social housing rented from the local authorities prefer not to report incidents when they suffer discrimination from a local government official. In addition, most social welfare benefits and the distribution of communal work, which is often the only source of income for many Roma families, also falls within the mayor's remit. Despite the lack of willingness to report discrimination cases in Serbia, Roma focus group participants still thought that it should be reported because in that way a system of prevention and protection of citizens from discrimination would be developed.

Equality bodies: Low levels of trust and few cases investigated

In both countries, there is an institution with a specific mandate to examine discrimination cases. In Serbia, the Commissioner for Protection of Equality, an independent state body which was established in 2010, is perceived by citizens as a key institution for the protection of the right to equality. However, focus group participants thought that the existing system for combatting discrimination is ineffective and that victims of discrimination do not trust either institutions or the established system of protection against discrimination. This impression is justified by the small number of complaints received, conducted and successfully resolved by the Commissioner for Protection of Equality in the field of discrimination on the grounds of nationality and ethnicity, the lack of strategic litigation that this body should conduct, the small number of court proceedings initiated for protection against discrimination based on nationality and the even smaller number of court proceedings in which discrimination was proved. As regards the findings related to Roma, it should be noted that 71 per cent of respondents did not report incidents of discrimination, and that of the 23 per cent of cases that were reported, in the large majority (84 per cent) of cases the authority responsible did not eliminate the consequences of discrimination.¹⁷ Focus group participants considered that the Commissioner was not active in local communities, with procedures initiated and conducted in a slow and piecemeal fashion: in their opinion the Commissioner did not contribute to the public condemnation of discrimination or a reduction in the number of discrimination cases. Legal practitioners and CSO representatives who participated in the focus group indicated that their lines of communication with the Commissioner needed to be improved, that the weight of the Commissioner's opinions and recommendations is unjustifiably negligible since courts ignore them in proceedings, that the authorities often do not comply with them as they are not binding, and, finally, that there should be more strategic litigation that could serve as the foundation for the institutional fight against discrimination. In addition, the fact that the Commissioner does not have the authority to monitor the implementation of opinions and recommendations issued in cases of established discrimination undermines the fight against discrimination.

In Hungary, the Equal Treatment Authority was established in 2005. It is an administrative body which has a

mandate to operate at the national level and was set up specifically with the aim of dealing with discrimination cases. Legal practitioners who participated in the focus group thought that although it does not work perfectly, it still functions relatively well, that the procedure is faster than a court procedure and that it is professionally more prepared, although it cannot award compensation for the victims. On the other hand, other participants criticized the Authority for not imposing serious sanctions on discriminatory state actors and the fact that it does not have either deterrent or preventive consequences. From 1 February 2021, the functions of the Equal Treatment Authority will be fully taken over by the Parliamentary Commissioner for Civil Rights. The merging of the Equal Treatment Authority, which specifically examined discrimination cases and had great expertise in this field, with the Ombudsman is concerning as the latter has various fields within its competency, discrimination being only one of them. The independence of the institution will also be questionable as it will be headed by a director general whose line manager is the Ombudsman, while the Equal Treatment Authority was a separate organization headed by a president who was appointed by the President of the Republic.

'It is not perfect, but I have seen worse, it is a relatively decent authority.'

'Not a very heavy-weight agency.'

'It has the power to impose fines... They walk on eggshells, mainly with government stakeholders, when it comes to sanctioning.'

'It has neither a deterrent, nor a preventive effect.'

'On the other hand, the proceedings are more rapid [at the EBH] than at the courts, and they are much more professionally qualified.'

Opinions about the Equal Treatment Authority in the legal experts' focus group, Hungary

In 2019, in Serbia, nationality and ethnicity were the eighth most frequent grounds for discrimination in the complaints. There were 50 such complaints, which accounted for 6.8 per cent of the total number of complaints filed with the Commissioner for the Protection of Equality. The largest number of these complaints were lodged due to discrimination against Roma (32), which accounts for 64 per cent of all complaints against discrimination on these grounds.¹⁸ In Hungary, in the same year (2019), 44 Roma complainants – only 5 per cent of the total number of incidents - turned to the Equal Treatment Authority. However, the Authority only found an infringement in seven cases.¹⁹ In Serbia, in the period 2011-2018, there was a declining trend of complaints in relation to discrimination based on national or ethnic origin which are most often lodged by Roma.²⁰ In

Hungary, complaints submitted by Roma complainants to the Equal Treatment Authority only amounted to 0.5 per cent of the total number of cases in recent years, and the Authority found discrimination in only a small number of cases. This number is very small given that Roma make up 9 per cent of the total population in Hungary.

Obstacles of access to justice

There are various obstacles to access to justice for Roma. In both countries, the implementation of the decisions²¹ of the equality bodies are problematic. In Serbia, the recommendations and opinions of the Commissioner are not binding, and the Commissioner does not have the authority to monitor the implementation. In Hungary, the decisions of the Equal Treatment Authority are binding. In most cases it collected the fines, but other sanctions were not implemented or implementation took a lot of time.

In Serbia, access to justice is also hindered by the complex procedure of free legal aid which can even be denied if the chances of winning a case in a court procedure are estimated to be low. Focus group participants confirmed that Roma victims of discrimination would need legal aid, given their lack of knowledge of procedural matters and the complex evidentiary procedure. Similarly, in Hungary, legal representation in court proceedings has become more complex since the new Code of Civil Procedure entered into force in 2018. It particularly affects victims of discrimination as such cases fall within the competence of regional courts where legal representation is obligatory.

In Serbia, courts usually do not take into consideration either the opinions and recommendations of the Commissioner for Protection of Equality, or any international standards. An additional problem is that in both countries, judges and other legal practitioners often do not have adequate knowledge of the relevant legislation.

Weakening civil society

The weakening of civil society in both countries has seriously affected victims of discrimination. In Serbia, CSOs would have an important role providing citizens, especially in local communities, with information about human rights and implementing activities related to the prevention and fight against discrimination. In Hungary, meanwhile, many CSOs which had an important role providing free legal aid to victims of discrimination or initiating an *actio popularis* claim have closed their offices in recent years, while many donor organizations have moved their headquarters abroad.

'Only a few of us remained. Until now, one of the reasons why we could do field work was that we were many [...]. We can visit only a few places, we are few, very few. Roma'

communities do not meet us. They do not hear or know about us.'

Opinion of a CSO representative in a focus group, Hungary

Even when a legal procedure has been initiated in discrimination cases, there are various problems in both countries. In Serbia, strategic litigation cases initiated in the public interest by the Commissioner for Protection of Equality are usually unknown to the public and are not properly prepared. Similarly, in Hungary, discrimination cases may be protracted and result in a dubious outcome, which is stressful and expensive for the victims. The inappropriate implementation of decisions does not have a preventive effect and if there are no consequences, it could even encourage perpetrators.

In Serbia, the lack of support from local governments also hinders access to justice. Although the Law on Local Self-government²² prescribes their obligation to ensure the protection of human rights, no systematic support for citizens has been established.

In both countries, the researchers organized focus group interviews both for legal experts of anti-discrimination law and also for legal practitioners who have less experience in this field.

The outcome of the second focus group interview was that lawyers who do not specifically work in the anti-discrimination field have limited knowledge about anti-discrimination legislation, the rules of legal procedure and the existing case law.

In general, they lack additional training and practical knowledge about anti-discrimination legislation and procedures.

National policies for the promotion of equality

In both countries, national policies were adopted to promote social inclusion and equality for Roma. However, the implementation of such policies is not sufficient.

No evidence-based evaluation of policies in Serbia

In Serbia, the Strategy for Prevention and Protection against Discrimination²³ was adopted in 2013 and was in place until 2018. A special section of the Strategy set goals to combat discrimination against national minorities and vulnerable social groups. Unfortunately, the evaluation of the Strategy was based on scarce and mainly unverified data.

The Strategy of Social Inclusion of Roma for the Period 2016-2015²⁴ was adopted in 2016 and will be implemented until 2025. A Coordination Body was set up for the monitoring of the implementation of the Strategy. So far, no fact-finding report on its implementation has been prepared: the 2017-2018 Action Plan for its implementation ended without any evaluation of the results, and the 2019-2020 Action Plan for the implementation of strategic measures was prepared without verified data.

The Coordination Body does not function appropriately either: it has faced organizational problems, it has not initiated any mechanism within its competence, it has not established efficient cooperation with any local government and has not met regularly. Research shows that the implementation of the Strategy is poor as there is no system for monitoring and reporting on implementation, the bodies in charge of the implementation do not coordinate their work, and Roma community members are not involved in the implementation and monitoring. Most measures should have been implemented at the local level but due to a lack of strategic planning, implementation has not been appropriate.

Concerning shortfalls in Hungary's new strategy

Similarly, in Hungary, the National Social Inclusion Strategy was adopted in 2011 and aimed to achieve the social inclusion of disadvantaged children and Roma living in poverty over a 10-year period (2011-2020).²⁵ The Strategy aimed to reduce the disadvantages faced by Roma in employment, education and housing. In 2020, the continuation of the Strategy up to 2030 was proposed, but this is still in the social consultation phase and has not been adopted yet. While the current Strategy has a separate chapter on equal treatment, the Equal Treatment Authority and the Commissioner for Fundamental Rights who are the main guarantors of access to justice and reduction of discrimination, the new Strategy does not cover these areas at all. The new Strategy focuses exclusively on social uplift and the reduction of poverty of Roma, and does not include any anti-discrimination measures although these elements should of course complement each other.

It would be of utmost importance for members of the Roma community to identify cases of discrimination and to know where they can turn to seek legal remedies. CSOs play a crucial role in the prevention of and fight against discrimination in both countries, providing information and support for Roma in their access to justice. It is particularly important for those victims of discrimination who lack the necessary information and financial means to seek legal remedies. In addition, Roma activists play an important role in community building and empowerment of Roma so that they can actively advocate for their interests at the local level and campaign for their rights. Roma should be engaged with all institutional levels of the political and legal system to increase their influence on the protection of their rights. Nevertheless, it is ultimately the responsibility of the government to protect Roma from all forms of discrimination, ensure their effective access to justice and provide them with information when they suffer discrimination.

Conclusion

Both the empirical and the desk research show that there are serious obstacles in securing access to justice for Roma. In both countries, prejudice and negative stereotypes trigger discrimination against Roma. Rejection, social exclusion and discrimination accompany most Roma from an early age throughout their lives. They face rejection and prejudice most often in their relationships with their neighbours and colleagues, or while carrying out some other part of their daily routines. Roma most often face discrimination in education, job searches, employment, health care, police proceedings or by public authorities. School segregation is still a common practice, although either the equality body or the courts delivered some favourable decisions in both countries. Roma women are particularly vulnerable as they can suffer multiple discrimination based on their nationality, gender and their low social status. Similar discrimination patterns were identified in both countries against Roma women who were often separated in 'Roma only' wards when they gave birth or were humiliated by medical staff. The recent Covid-19 pandemic has had a disproportionate effect on Roma communities in both countries; it has often reinforced discrimination against them - either for living in settlements with no access to water or by being among the first to be dismissed from their employment. Reporting of discrimination is very low among Roma in both countries for similar reasons: discrimination is internalized and accepted by many Roma; there is a lack of trust in the system of protection against discrimination; and victims are afraid of the consequences and the perpetrators themselves.

Access to justice for Roma is hindered by various factors in both countries. While most Roma focus group participants in Serbia were aware of the institutions and procedures where discrimination cases could be reported, in the Hungarian focus group interviews some participants did not know about the available legal remedies. The institutions which have the mandate to decide in discrimination cases are somewhat different in the two countries. Both the Commissioner for Protection of Equality in Serbia and the Equal Treatment Authority in Hungary are independent state bodies, although the latter

will be merged with the Parliamentary Commissioner for Civil Rights from 1 February 2021, which is a cause for concern. Focus group participants criticized various aspects and functions of the equality body. In general, there is a lack of trust in the system demonstrated by the small number of cases reported by Roma victims of discrimination in both countries. It is considered that the work of the equality bodies does not have sufficient preventive force to deter potential perpetrators. In addition, implementation of the decisions of the equality bodies is not effective. Lack of access to free legal aid and representation, along with their weakened civil society, further hinder access to justice by Roma in both countries.

Judges and legal practitioners are often not familiar with anti-discrimination legislation, the rules of legal procedures and existing case law. In general, they lack additional training and practical knowledge about anti-discrimination legislation and procedures.

There are national strategies for the prevention of discrimination and social inclusion of Roma in both countries, but monitoring of their implementation and evaluation of their outcomes should be stricter and based on verified data. Equal treatment and elimination of discrimination should be integral parts of all national strategies which aim to achieve the social inclusion of Roma. Members of the Roma community should be involved in the planning, implementation, monitoring and evaluation of these national strategies.

Overall, it can be concluded that the national context, the patterns of discrimination against Roma and the obstacles in their access to justice are very similar in both countries. It would be worthwhile for state actors, equality bodies, CSOs, legal practitioners working in the anti-discrimination field and Roma activists to exchange their experience with each other and to learn about each other's best practices. Access to justice for Roma can only be improved if all the relevant stakeholders work together to provide information and support for Roma victims and prevent discrimination by advocating for an inclusive, tolerant society where Roma have the same life chances as everybody else.

Recommendations

National and local decision-makers

- National and local strategies on anti-discrimination and equality should be designed based on available data, and properly implemented, monitored and evaluated with the inclusion of Roma in all phases.
- The competence of institutions responsible for the protection of human rights and fight against discrimination should be strengthened so that they can efficiently monitor the implementation of their decisions.
- Capacity-building on anti-discrimination legislation is necessary for the staff of public authorities at the national and local levels.
- The procedure to provide free legal aid for victims of discrimination should be made easier both in legislation and in practice.
- Public campaigns should be launched to raise awareness about discrimination against Roma and to promote their social inclusion and interculturalism.
- Information campaigns should be launched for Roma about their rights and the available legal remedies and rules of procedure in discrimination cases.

EU decision-makers

- The EU should strictly monitor and evaluate the implementation of the new EU Roma Strategic Framework for Equality, Inclusion and Participation at the national level.
- Funding of projects aiming to fight against discrimination against Roma should be ensured by the EU. The implementation of such projects should be constantly monitored and the outcomes should be evaluated.
- CSOs working with the Roma community and providing them with free legal aid should be supported and strengthened by the EU.

Roma activists and CSOs

- Capacities of Roma activists and CSOs should be strengthened so that they can actively combat discrimination and advocate for the social inclusion of Roma.

- Conduct targeted outreach campaigns to marginalized groups within the Roma community, including women, older people, persons with disabilities and LGBTQ+ persons, to ensure that they are also aware of their rights and the recourse available to them when they experience discrimination.
- Roma activists should strengthen and build local Roma community capacity so that they can actively advocate for their rights and fight against discrimination.
- Activists and CSOs should provide Roma with information about their rights so that victims of discrimination can seek legal remedies.

Legal practitioners

- Capacities and knowledge of legal practitioners about anti-discrimination legislation, the available legal remedies, the procedures and case law should be improved.
- Legal practitioners working in the anti-discrimination field should participate in awareness raising of Roma about their rights and the available legal remedies when cases of discrimination occur.
- Legal practitioners should reach out to Roma communities and build a trusting relationship with community members.
- Regular exchange of information among legal practitioners working in the anti-discrimination field is crucial.

Media

- The media should report about discrimination cases and the decisions of equality bodies to raise public awareness.
- The media should produce content which promotes inclusion and interculturalism to reduce racism and social rejection of Roma.
- Hate speech promoted by the media should be monitored and, if found to contravene national legislation, penalized by the competent public authorities.
- The media should promote Roma culture and involve Roma journalists in their work.

Notes

- 1 The full title of the two-year project is 'Roma Equality through Increased Legal Access'; it has been running since September 2020. It is funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020). More information about the project is available here: <https://minorityrights.org/what-we-do/reila/>
- 2 More information about the organization is available at: <https://minorityrights.org/>
- 3 More information about the organization is available at: <https://www.praxis.org.rs/>
- 4 More information about the organization is available at: <https://idetartozunk.org/we-belong-here-association/>
- 5 In each country, there were two focus groups for Roma community members, two focus groups only for Roma women, two focus groups for legal practitioners (one for experts who work in the anti-discrimination field and another one for general legal practitioners), and one focus group separately for Roma activists and CSOs working with Roma communities.
- 6 János, P., Patrik, T. and Zoltán, P., 'Changes in the spatial distribution of the Roma population in Hungary during the last decades', *Területi Statisztika*, 2018, 58(1), p. 6. Available at: <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>
- 7 Institute of Social Sciences and Ethnicity Research Centre, *Socijalna Distanca Etničkih Zajednica u Srbiji* [Social Distance of Ethnic Communities in Serbia], 2020. Available at: http://idn.org.rs/sr_lat/wp-content/uploads/2020/09/SOCIJALNA-DISTANCA-ETNICKIH-ZAJEDNICA-IZVESTAJ.pdf
- 8 United States Department of State, *Country Reports on Human Rights Practices for 2018*, 13 March 2019. Available at: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/hungary/>
- 9 Institute of Social Sciences, *op. cit.*
- 10 United States Department of State, *Country Reports on Human Rights Practices for 2019: Hungary*, 11 March 2020. Available at: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/hungary/>
- 11 European Commission, *Civil monitoring jelentés a magyarországi roma integrációs stratégiák végrehajtásáról A stratégia négy kulcsterületének értékelése*. Available at: <https://cps.ceu.edu/roma-civil-monitor>
- 12 Index, 'Döntött a Kúria: ki kell fizetni a kártérítést a gyöngyöspatai roma diákoknak', 12 May 2020. Available at: https://index.hu/belfold/2020/05/12/gyongyospata_iskolai_sze_gregacio_roma_diakok_karteritesi_per_itelet_kuria/
- 13 Commissioner for Protection of Equality, Discrimination on the Labour Market, 2019.
- 14 'Parasolvency' – a situation where patients are effectively obliged to give a tip or surcharge to doctors and health workers for treatment - is widespread in the Hungarian health care system, in part because of considerable funding shortfalls. However, from 2021 the practice will be prohibited by law.
- 15 FRA (2016), *Az Európai Unió Második Felmérése a Kisebbségekről és a Hátrányos Megkülönböztetésről: Romák – Válogato*, p.44. Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_hu.pdf
- 16 *Ibid.*, pp. 42-43.
- 17 Institute of Social Sciences, *Social Relations between Ethnic Communities in Serbia, 2020*, http://idn.org.rs/sr_lat/wp-content/uploads/2020/09/SOCIJALNA-DISTANCA-ETNICKIH-ZAJEDNICA-IZVESTAJ.pdf
- 18 Commissioner for Protection of Equality, *2018 Annual Report*. Available at: <http://ravnopravnost.gov.rs/izvestaji/>
- 19 Egyenlő Bánásmód Hatóság, *Tájékoztató 2019* [Equal Treatment Authority: Annual Report 2019], 2020, pp.6-9. Available at: https://www.egyenlobanasmod.hu/sites/default/files/tajekoztatok/EBH_tajekoztato%202019_HU_w.pdf
- 20 Reljanović, M (2019), *Analiza prakse postupanja Poverenika za zaštitu ravnopravnosti po prituzbama za diskriminaciju po osnovu nacionalne pripadnosti* [Analysis of Practice of the Commissioner for Protection of Equality in Handling Complaints for Nationality-Based Discrimination], Belgrade. Available at: <http://www.jednakost.org/wp-content/uploads/2020/05/Analiza-Diskriminacija-Manjine-Final.pdf>
- 21 In Serbia, the Commissioner for Protection of Equality makes recommendations and issues opinions, while in Hungary, the Equal Treatment Authority adopts decisions.
- 22 Government of the Republic of Serbia (2007, 2014 and 2018), Official Gazette of the RS, nos. 129/2007, 83/2014 - as amended, 101/2016 - as amended and 47/2018.
- 23 Government of the Republic of Serbia (2013), Official Gazette of the RS, no. 60/2013.
- 24 Government of the Republic of Serbia (2016), Conclusion of the Government of the Republic of Serbia 05 no. 90-1370/2016-1, Official Gazette of the RS, no. 26/2016. Available at: www.ljudskaprava.gov.rs/sh/node/19980.
- 25 Government of Hungary (2011), *Kormány a 1430/2011. (XII. 13.) a Nemzeti Társadalmi Felzárkózási Stratégiáról, valamint végrehajtásának a 2012-2014. évekre szóló kormányzati intézkedési tervéről* szóló Korm. határozat.

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P R A X I S


Roma in the Republic of Serbia and Hungary: The Challenges of Discrimination – A Comparative Report

This comparative report summarizes and analyzes the findings of two studies conducted by two partner organizations: Praxis in Serbia and Idetartozunk (We Belong Here) in Hungary. The aim of the research was to map different areas of discrimination against Roma and to identify the obstacles they face.

Drawing on focus group interviews and first-hand testimonies with community members, the findings highlighted that for many Roma in both countries discrimination is still a daily reality in almost every area of their lives, from work and housing to health care and education. Underlining these issues is a broader lack of access to justice, enabled in part by a lack of faith among many Roma in the judicial system.

This comparative study identifies some of the key findings from the research projects and confirms that the patterns of exclusion against Roma are very similar in both contexts. Access to justice for Roma can only be improved if international organizations, the state, local self-government, civil society and the media work with Roma communities to advocate for an inclusive, tolerant society where Roma have the same life chances as everybody else.

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This briefing is published as a contribution to public understanding.

The text does not necessarily represent in every detail the collective view of MRGE or its partners.

Copies of this study are available online at www.minorityrights.org

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