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## Roma in Hungary: The Challenges of Discrimination

Kinga Júlia Király, Gábor Bernáth and Jenő Setét

P R A X I S





**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 Csozó / FreeDoc*

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# Roma in Hungary: The Challenges of Discrimination

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# Executive summary

Research in recent years has shown that Roma in Hungary suffer substantial disadvantage in all areas of their daily life. The problems faced by Roma women and children are particularly severe, given that they are among the most vulnerable and the targets of most human rights violations within the community.

The Hungarian government is also aware of such social segregation, and it is precisely for this reason that national development strategies were drawn up. However, in many cases, the measures are not well focused, missing the target group and frequently failing to reach the most deprived communities.

In addition to widespread poverty, the other area where Roma children suffer the most is school segregation. In segregated schools — besides the fact that the mere existence of purely Roma classes, let alone schools, is discriminatory — the required staffing and resources are not available, either. The chances of children receiving education in these schools to progress on to further education are extremely low, which then adversely affects future generations on the labour market. Roma children are also overrepresented when it comes to interventions relating to social services, with disproportionate numbers taken from their families into foster care; reinstating them in their home is challenging, long-drawn-out and often overlooked by government stakeholders.

In disadvantaged regions of the country the only opportunity to work is through public employment programmes, where Roma are also overrepresented. Given that public employment programmes are organized by local governments, instances of discrimination experienced in this area are often not reported by the victims, for fear of losing their benefits. Roma women are discriminated across a range of situations, from employment to healthcare, both for being females and for belonging to the Roma community. Finally, housing discrimination, from segregated villages to ghettoized settlements in cities which do not meet even the most basic living standards, underscores many other discriminatory practices.

Based on community interviews with focus groups, the experience of everyday prejudices widespread, regardless of residence, segregation, education or social status. In each group, participants emphasized that the media has a serious responsibility for the discriminatory attitudes of the majority. In the interviews there were several

complaints about labour- and healthcare-related problems, as well as issues involving police proceedings and education; and there was a consensus among the civil society focus groups that the coronavirus pandemic had led to increased discrimination. Roma women, primarily the younger individuals, are particularly vulnerable to discrimination in maternity and gynaecological wards. In two locations, the reluctance of the local authorities to take any action illustrates how serious the problems are in the operation of the local governments, and also reveals that, due to their vulnerability, people cannot be expected to enforce any change in such matters by themselves, without the help of effective organizations.

## Barriers to access to justice

The potential of recourse to judicial or administrative remedy against discrimination involving the entire Roma community has been continuously shrinking since 2015. Given that human rights advocacy groups have either ceased to exist or relocated abroad, there are very few organizations left that offer legal representation. Most individual cases involve several areas of law; agencies of either the government or a local government have to be ‘fought’ against, where only professional legal work can bring results. A problem that has been practically present since the change of regime is that human rights civil society organizations (CSOs) are centred around Budapest. Such assistance is almost out of reach for those living in rural areas in extreme poverty. Several human rights advocacy groups have already attempted to organize rural human rights activists and offer them assistance, but these opportunities have receded while many of these CSOs have ceased to exist. The impairment of human rights advocacy capacities has entailed an almost complete erasure of the public-interest lawsuits and administrative proceedings that successfully brought about positive changes for communities, mainly in the field of education discrimination, housing and healthcare.

The reform of the civil law procedure in 2018 has created barriers to the pursuit of judicial remedies in general for justice-seeking citizens. No lawsuits concerning personality rights can be initiated without legal assistance; those living in extreme poverty are unable to pay for a

lawyer; and pro bono legal assistance has almost ceased to exist.

Statistics from previous years show a continuous decrease in the number of Roma complainants in cases initiated and successfully concluded before the Equal Treatment Authority (hereinafter ‘the EBH’, *Hungarian abbreviation*) which indicates both a lack of rights awareness and a decline of human rights advocacy capacities. Responsibility for this has been transferred to the Commissioner for Fundamental Rights from January 2021, and there are fears that local rapporteurs of the Authority will also cease their work, once again, to the detriment of victims of discrimination.

Based on focus group community interviews, there was almost a complete lack of confidence in whether it was worth reporting cases of discrimination. According to the interviewees, one reason for this is that everyday prejudices cannot be addressed by legal actions. A view shared across many groups was that victims were often somewhat held hostage by their dependence on the very organizations that are often responsible for perpetrating discrimination against them: local government housing and monopolistic service providers are examples of such power imbalances. The perception of the majority of participants was that any search for effective legal protection and remedy did not stand a chance in their case: the lack of support from professionals and organizations — combined with their vulnerability towards the local authority and service providers — makes such efforts significantly more difficult. The absence of independent complaint mechanisms also renders any attempts to see justice done impossible in less significant cases, and the decisions of the EBH do not have either a deterrent or preventive effect. On several occasions, Roma respondents were not aware of the resources available to them. The civil society and lawyer focus groups shared the opinion that both the protracted nature and uncertain outcome of discrimination cases took a mental and financial toll on those involved.

It is doubtful whether the existence of legal protection has any preventive effect; and, as long as decisions are prone to being openly sabotaged, the offenders could become even more audacious. The enforcement of anti-discrimination judgments would require legislative amendments. Follow-up actions — where advocacy is linked to community building efforts — play a significant role in the impact of cases won.

## Knowledge of legal practitioners about the anti-discrimination legislation

The prohibition of discrimination and the requirement of equal treatment are a specific area of civil law. As a secondary law, the Act on Equal Treatment serves as a framework for proceedings initiated on grounds of discrimination. These types of proceedings are subject to specific statutory elements, as well as special rules governing the burden of proof and representation, and therefore they require a different knowledge set compared to the average civil law mindset. It is the specific nature of the legislation that leads to a general conclusion that only a very small group of lawyers have a command of these rules and can deal with matters involving the issue of equal treatment. The most difficult terrain perhaps is the knowledge and application of the rules governing the burden of proof, which differ significantly from those governing traditional civil proceedings.

Focus group interviews gave a clear image of the scope of needs where it would be useful to improve the awareness and knowledge of legal practitioners. Based on the foregoing, the low level of awareness among officials who might encounter discrimination cases was also raised.

## Legal issues: what is needed for a more efficient legal remedy?

Both aspects of the research indicated that Roma communities have insufficient and incomplete access to the law, and these shortcomings are striking not only from the perspective of discrimination cases. Communities lack even the most fundamental legal knowledge that would help them navigate daily life.

Increasing the legal awareness of communities through trainings and targeted publications is essential, and should play an important role in every aspect of life involving members of the Roma community. Awareness raising should focus on several types of cases, from issues involving the local government to social matters. Better treatment can be brought about by the mere fact that complainants and applicants are aware of their rights, cannot be misled, and are therefore able to exercise their rights in the event of an adverse decision.<sup>1</sup>

However, increasing the legal awareness of Roma communities is insufficient, in itself, to improve the efficiency of legal assistance; boosting professional support is also essential. Legal remedies will only be available to complainants once they can easily and swiftly access assistance, advice and representation.

## Methodology

In the course of the desk research, relevant studies and reports were reviewed according to the research methodology. Review of the work, publications and reports of the EBH was essential for the area under research. The Civil Monitor reports written for the European Union (EU) were also extremely useful, as they served as points of reference on the implementation of Roma integration strategies. The reports and case descriptions of CSOs operating in this area were also included in the research material. Several fact-finding press articles were published on court cases of great interest to society, and these publications were also helpful for the desk research. Furthermore, draft legislation, government material and central statistics were also included.

The focus group research included four communities interviewed in person (27 individuals — 22 women and five men — in total), two female group sessions and five additional (due to the pandemic, carried out online) interviews organized with lawyers with expertise in the area

of human rights advocacy (five women and two men — ‘Law1’) and with practitioners not working or only rarely working with anti-discrimination legislation (three women and three men — ‘Law2’), and three more interviews with local activists and the associates of Roma CSOs (six women and seven men in total — ‘Civ1’, ‘Civ2’, ‘Civ3’).

The subjects for the community groups were recruited from various labour market statuses and ages: from a small segregated village (Gilvánfa — ‘Gi’), a ghetto further from Pécs and abandoned by the city (Pécs, István-akna — ‘IA’), in a community living in Pécs-Meszes on the rim of the city (‘PM’), where an integration programme of some sort has been launched recently, and from Budapest-Újpest (‘BpÚ’). Participants of interviews with activists, CSOs and lawyers have been selected from every corner of the country, with a slight overrepresentation of Borsod-Abaúj-Zemplén and Szabolcs-Szatmár-Bereg counties. Likewise, the views of Roma activists among the members of the activist and CSO groups were also collected. The interviews were conducted in October 2020 and the first half of November 2020.

# Introduction: Discrimination against Roma in Hungary

## Background

The most comprehensive research on Roma in Hungary in recent years was carried out under the auspices of the University of Debrecen in 2017.<sup>2</sup> According to the findings, Roma represent approximately 9 per cent of the Hungarian population today, which is about 876,000 individuals, as opposed to the results of the population census in 2011, where only 315,583 individuals stated that they belong to the Roma community.<sup>3</sup> There were already twice as many individuals in 2011 claiming to be Roma as 10 years before: however, the actual number of those belonging to the community has always been higher than the number indicated through self-reporting. The research revealed that there have been no significant changes in the geographical distribution of the Roma population in recent decades; the largest Roma community remains in North-Eastern Hungary and the South Transdanubian Region. Despite the significant rate of urbanization among Roma, their proportion of the overall population still remains the highest in small villages, which, in addition, are mainly located in disadvantaged, peripheral districts. One can find several, purely Roma-inhabited segregated villages and several segregated urban districts in these peripheral regions, where the daily focus is to make ends meet every single day.

Hungarian Roma can be categorized according to three major linguistic divisions. The ‘Romungro’, that is Hungarian Gypsies, are the largest group, who arrived earlier in the region and changed their language to Hungarian and represent the majority: around 80 per cent of the Hungarian Roma population. The second group are the so-called ‘Vlach’ Gypsies, who immigrated from Romanian areas in the second half of the 19th century. Finally, there is a third, small group, the ‘Boyash’ community, established mainly in the South-Eastern region of Hungary and speaking archaic dialects of the Romanian language.<sup>4</sup>

## The everyday reality of discrimination

The study by the University of Debrecen mentioned above also found that the willingness to self-report as Roma always depended on the extent to which were

discriminated against and stigmatized.<sup>5</sup> Both the CSOs supporting Roma and the few still-existing human rights advocacy groups with relevant expertise clearly indicate that Hungarian society has become more prejudiced in recent years. A 2017 study by the Pew Research Center on religious belief and national belonging in Central and Eastern Europe found that ‘54 percent of respondents in Hungary would not be willing to accept Roma as members of their family, 44 percent as neighbours, and 27 percent as citizens of their country.’<sup>6</sup>

In one of the lawyer focus groups, it emerged that long-established discrimination affects access to justice as well:

*‘Many times, discrimination is internalized. I have not been served, so what? My mother and grandmother were not served, either. So where could I go and complain?’ (Law1)*

Besides the challenges faced by Roma women, the ability of Roma children to access education also shows an increasingly depressing trend. According to the findings of the Roma Civil Monitor report on the National Social Inclusion Strategy for the European Commission, half of Roma students drop out of the education system, only 24 per cent finish high school and 5 per cent enter university, compared to nearly 75 per cent and 35 per cent of non-Romani students, respectively. The country report also noted that both segregation in schools and lowering the mandatory school age to 16 years contributed to high dropout rates.<sup>7</sup> Similarly, a study published by the Hungarian Academy of Sciences in 2018 concluded that school segregation increased by almost 10 per cent between 2008 and 2016.<sup>8</sup>

Roma children are discriminated against in areas outside of education as well. On two occasions in the last six years, the European Roma Rights Centre has examined the practice of removal of children from their families in Nógrád county. The organization found in both cases that the rate of removal of Roma children from their families far exceeds that of their non-Roma peers. In 2016, young Roma made up almost 80 per cent of children placed in the specialized care system, a daunting number, especially given that the rate of Roma population in the county is approximately 20 per cent.<sup>9</sup>

Finally, Roma communities also face discrimination in the area of public employment. The first public employment programmes were launched in September 2011 in several disadvantaged municipalities for the unemployed and the beneficiaries of social welfare services who are able to work. Public employment programmes have continuously expanded over the past eight years: while on the one hand these represent an essential source of income for those in need, on the other hand it can be concluded that the Roma population is overrepresented in this particular type of employment, and thus any violation in that area affects this group in larger numbers, too.

The findings of research, studies and general experience clearly identify the problematic areas where the gravest forms of discrimination against Roma can be seen. There has also been some success in the most affected areas in the recent years. The Curia (the Supreme Court of Hungary) has just closed a court case on the personality rights of Roma children from Gyöngyöspata; in this case, each court established that the rights of the children had been violated and the operator of the school had been sanctioned with a prohibition against further violations and the payment of non-pecuniary damages.<sup>10</sup> Likewise, the county hospital in Miskolc has also been widely condemned on grounds that the institution exercised direct discrimination based on financial status, by making surgical clothing available in exchange for the payment of HUF 3,000 for family members. The Miskolc Regional Court and the Regional Court of Debrecen also concluded that such measures met the statutory elements of and thus qualified as direct discrimination against Roma women. Finally, the city of Miskolc was also condemned by the EBH and the Budapest-Capital Administrative and Labour Court due to evicting mainly Roma inhabitants from the so-called 'Numbered Streets' without taking any action to prevent them from becoming homeless.

At the beginning of each **community focus group** interview, the participants were asked to describe any form of discrimination or violation they might have encountered in the past year. Their responses revealed that the experience of everyday prejudices was extensive in all the four locations, regardless of residence, the extent of segregation, education or social status. The first among such encounters mentioned was the expression of everyday prejudices, from job recruitment to being followed by shop staff 'as if I were a thief' (PM, Gi, Civ3). There were three locations where participants suffered discrimination not only for being Roma but also for coming from a certain place:

*'You apply for a job, and then you are asked where you belong, you say 'István-akna', and the position is already filled.'* (IA)

*'They say nothing is open once they hear 'Gilvánfa'. Every position is filled.'* (Gi)

A similar story was also mentioned in one of the civil society focus groups:

*'There is a segregated settlement in Inárcs, where a few years ago there was a wave of hepatitis infections; word got out, and the young people who want to move out from these houses (95 per cent have a job) cannot get a lease. So they have to stay in the shacks, because they are from Inárcs. The infectious ones.'* (Civ3)

One of the other key areas beyond 'everyday' racism is hiring. Stories about healthcare indicate that those who are poorer are significantly affected by the limited or non-existent capacity of certain services and are at a particular disadvantage, given that these groups are unable to pay 'commission' to healthcare professionals, their access to doctors is not a question of connections, and they have little ability to promote their own interests, which would prevent service providers from open violations. (In Gilvánfa, for example, a story about a doctor was told, who openly admitted that the hernia operation of one interviewee would not happen without a 'commission'.)

In three of the community focus group interviews, complaints about police actions also emerged: in Újpest, police interventions were carried out publicly in the main square, followed by the detention of two innocent individuals, including one participant. In Gilvánfa, a forced interrogation was reported and, in Meszes, two additional stories emerged: one involved a suspected forced interrogation and the other occurred as follows:

*'One of my relatives was hit on the head by the neighbours with an axe. It was almost him who became the suspect. The ambulance said that he was on the street after a brawl, while he was hit on the head in his own house... One is in provisional detention, and the other was released after six months... [My family member] suffered lasting harm... and had to learn to speak again.'* (PM)

The following story was told by an associate of one of the CSOs in Pest county:

*'The two extremes are: the police do not intervene or apply excessive force; it is the first situation where we usually come in... A clearly obvious criminal offence that would be treated as such anywhere else, is not criminal in a Roma settlement. Even if the police do reach the scene, they do not take measures; and if a report is filed, the police do not act... An example is*



*the rapidly increasing presence of drugs, the police look the other way. If anything starts to happen, it is when the problem spreads out from the Roma ghetto. The moment it appears in the village itself... things start to happen.'*

And then the other extreme:

*'Or, for example, officers effectively put a child on a leash, because they forgot to erase his arrest warrant from the system. Roma people living in these settlements have a very limited ability to promote their own interests... and the police... know exactly that... they will not stand up for themselves. They do have a sense that this is not the way it should be, but do not really know what they could do under such circumstances.'* (Civ2)

The lack of police action was mentioned in a different context as well: one of our subjects brought up the story of a Youtuber:

*'[He] posted allegations claiming that it was the Roma people who spread Covid and had to be burnt in front of the Parliament... We wanted to file a report, but the officer just laughed, telling us that this could not be taken seriously. The prosecutor's office, however, accepted our complaint and ordered an investigation. Now, think of it, if the prosecutor's office had told us that "The police do not care, why would we?"'* (Civ2)

The community group from Újpest and the civil activist groups have the following perception of segregation in education:

*'Many parents complain that there is no quality education in segregated schools.'*

*'Now we have teachers [in one of the segregated Roma schools who] literally bully seventh- and eighth-grade children into not pursuing further education. Of course, they say everything, why: that the children are bad, that they smoke and cannot be handled, and the usual things, you say about a 14–15-year-old Roma kid.'* (Civ1)

Another issue mentioned during an interview with one of the civil society focus groups was environmental justice:

*'This is a new trend, and finally becoming part of a discussion. Energy poverty, for example, is linked not only to poverty but it is also a matter of access, and would be worth dedicating a separate project to it.'* (Civ2)

In another interview, the circumstances of children in public care services and particularly those in after care were in focus:

*'Their life is also a series of endless disappointments; they get cheated all the time. Such kids do not even have to be Roma... There is no signalling system in place for that... Nobody even notices. I have not even heard about children from the public care services in cases involving the EBH. Moreover, these children do not even have any root to a community or their family... they leave us and have nobody to rely on.'* (Civ3)

Uncertainty and the lack of concrete action by the local government was brought up in two community focus groups (in István-akna and Meszes). Based on the stories told by these groups, it can be concluded that the annual extension of lease agreements for public housing and the lack of services provided by the local government are not only examples of what gradually erodes the sense of security in people, but also indicate the presence of serious issues in the operation of local governments. Furthermore, these examples also reveal that, due to their vulnerability, people cannot be expected to enforce any change in such matters by themselves, without the help of effective local organizations.

## Discrimination against Roma women

In the past three years, women's organizations have warned that Roma women are vulnerable to multiple forms of discrimination. In addition to their belonging to a national or ethnic minority, they are discriminated against based on their sex and social status; they have limited access to education, healthcare services, housing and employment as well.<sup>11</sup>

One conclusion from the focus group interviews was that Roma women are particularly vulnerable in various aspects of their lives. The added discrimination experienced by Roma women was only sporadically mentioned by the community focus groups, possibly because the stories of 'everyday racism' were dominant in these groups. One of our interviewees in Gilvánfa told us about a humiliating experience she endured at a hospital examination:

*'I went to Szigetvár for my 12-week ultrasound; the doctor was a [non-Roma] Hungarian man with an assistant of Boyash origin, but the Boyash Roma was talking to her fellow Boyash community member in a rude and patronising manner.'* (Gi)

Maternity and gynaecological wards were brought up in three of the CSO/activist focus groups as well:

*‘My wife is white but she was put in a ward full of Roma women. They knew that her husband was a Roma, so they put her there.’ (Civ3)*

*‘Here, in Borsod [county], where there is a hospital... the Roma women are not being treated as human beings, especially if they are young... This is one of the most humiliating things that can exist. They are being treated rudely... and they can do nothing about it, because they need the medical care. ... Many do not tell these things at home, not even to their husband. They silently suck it up.’ (Civ1)*

An activist in Szabolcs county described the following:

*‘I know three women, 17–18-year-old girls with boyfriends who had undergone IUD insertions, despite the fact that this should not happen before giving birth to a child. They consented to the procedure but without the necessary information about the possible risks of such a device. The doctor recommended it to them, so they did it.’ (Civ1)*

One issue mentioned in one of the civil society focus groups was that, while police treatment is generally harsher in the case of men, it is women who face conflicts in most situations where customer service is involved, because they are the ones who run the errands (Civ2). In the same group, one of our subjects emphasized that there was potential in community programmes that could be used as a foundation:

*‘If I change my perspective from looking at the amount of extra discrimination we suffer to all the resources that we have to prevent such discrimination from happening, then such resources are worth looking at.’ (Civ1)*

## The Covid-19 pandemic and new challenges

The way that discrimination has deepened the impact of the Covid-19 pandemic on Roma was also highlighted in two groups, with one participant highlighting:

*‘There is a higher likelihood of discrimination... For example, despite the moratorium on cutting off electricity, a significant amount of debts was*

*accumulated. This is not a direct discrimination case, but it is still an indirect form of discrimination, because we see that none of the stakeholders are open to resolve these matters... Many times they say that these are just Roma, they are broke, they will not be able to pay anyway, so it is no use dealing with them. And this is a systematic phenomenon, present both at the service providers and the government agencies.’ (Civ2)*

An associate of a CSO primarily active in Szabolcs county told us about a recurring issue:

*‘Whenever any form of social services was available for the population (such as distribution of packages, cleaning products or masks) the Roma people were left out in many places.’*

Someone had an example of this from Pest county:

*‘In Tatárszentgyörgy, the local authority did not give firewood to those in need. They had public utility debts.’ (Civ3)*

In addition, Roma reported their impression that they were the ‘primary targets’ of mass dismissals carried out in the wake of the pandemic.’ (Civ1)

## Additional stories from the focus groups

It emerged in two focus groups that individuals born outside the Roma community but who later joined through marriage could not escape discrimination against Roma, either. One of the participants from István-akna (born as non-Roma but married to a Roma man) recalled that she applied for a cleaning job in a restaurant in the city centre, but when the employer heard where she lived, she was refused on the spot (I-A).

Another story illustrated that not even relative privilege can offer protection against discrimination: in Újpest (where our interviewees had the highest social status among the groups) two individuals complained about being the target of wrongful reports by their neighbours, who usually call the police on them if there is a noise in the building. Another issue the group encountered was the following: one of the Roma families was making noise by holding a party, but the local government fined all five Roma families in the building, even though the individual reporting the incident was not at home at the time (BpÚ).

# Access to justice

Another issue discussed during the community focus group interviews was whether our participants (or, if not, people they know) had ever filed a complaint with any authority: if yes, where; and if not, why. Based on community interviews, very few people have ever sought legal remedy, and there was almost a complete lack of confidence in whether it was worth reporting cases of discrimination. There were several reasons for this. One reason is that, in the view of the interviewees, everyday encounters with prejudice cannot be addressed by legal measures. When one has to suffer prejudice and humiliation in one's daily interactions, it is hard to believe that legal actions will resolve anything. Perhaps other, less spectacular but more frequently experienced discrimination situations, such as school segregation, do more harm, but these issues are mostly not being prioritized. Furthermore, there is also little confidence in winning a case when the issue at hand is discrimination arising from private companies' employment practices or by the local government. In the words of one interviewee in István-akna, referring to discrimination by a large company:

*'There is always fallout when something like this happens. Had I started a lawsuit, it is very likely that I would have got in trouble. There are five hundred attorneys, eighty lawyers, you see, [...] it is sure that they would have eaten me alive.'*

A view shared across many groups was that victims were often dependent on public housing provided by local authorities. In both Pécs-Meszes and Újpest, the inhabitants of public housing apartments live in uncertainty in leased apartments, under temporary or floating contracts. Given their precarious situation, the occupants of properties leased under the local government's housing programme saw even less reason to seek justice. The following interview extract finely summarizes this mindset:

*'It makes no sense; they are always right, no matter what, they are always right. Everyone knows this. If a Roma goes to God himself, still, who is right? Of course, it is the man sitting behind the table.'*  
*'If somebody's lease agreement expires, they do not give a damn about it, they do not extend it, and then you*

*find out that the occupancy has been classified as arbitrary.'* (IA)

The erosion in the number of complaints is partly associated with the structural changes of power as well: the fact that the allocation of the majority of social support and public employment programmes, the only source of income for most families, is overseen by the local mayor has noticeably increased the risk and cost of any action against local violations.<sup>12</sup> 'Only those who have nothing to fear are able to propose [legal remedy],' said a participant in one of the groups. (Civ3)

Vulnerability is particularly prevalent in situations where no other service provider is available. In Gilvánfa, for example, it would take a huge financial investment to change one's doctor. The same issue was also brought up by members of the focus group of lawyers with expertise in human rights advocacy:

*'It is important to know what the intention of a person is: in a particular hospital case, the woman, who fought for her justice, did not want any more children. You do not need to be Roma to be for avoiding any conflict with the institution... For example, if you plan to return to give birth.'* (Law1)

In one of the CSO/activist groups, the vast psychological toll resulting from the continuous decline and demoralization observed in Roma communities — particularly segregated settlements — was also a major topic:

*'The area where things got a lot worse is awareness... Everything and everyone is continuously going downhill, and also because of the emergence of designer drugs in the past five years that have done even more damage to communities... Five years ago... they were so downcast by many things that they suffered from... they wanted to talk about it so much, I did not need to ask them... But now, if you go to any community... they not only refuse to tell you their problems, you can also see that they are scared. We are facing an incredibly massive problem, and discrimination is one element. What five years ago hit a nerve, is now not even mentioned.'* (Civ1)

*‘ Many do not even know what really happened to them. ’ (Civ3)*

The fact that human rights advocacy CSOs have significantly eroded in Hungary over the past 10 to 15 years has also had a major effect. As someone in one of the civil society focus groups expressed:

*‘ Only a few of us have 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. ’ (Civ1)*

Many human rights advocacy agencies are closed now, and — despite the fact that some important judgments are still being handed down — the broad community fact-finding efforts have lost their momentum, and discrimination awareness has also eroded:

*‘ There are no human rights advocacy groups who would be able to raise awareness of such phenomena by being part of the public discourse... If we talk about the existence of education discrimination, someone, who might otherwise not even think about this, may think that their child could be better off going somewhere else. ’ (Civ1)<sup>13</sup>*

This view resonated with the participants of the third civil society focus group interview:

*‘ Once the state operated its own human rights advocacy network and agencies... Now you do not have a number to call, so you go to the Roma self-government and the CSOs, whose heads are spinning trying to reach out to the competent people. ’ (Civ3)*

The focus group of lawyers specializing in human rights advocacy elaborated on this point further:

*‘ Even if victims are aware that their rights were violated and know where to file a complaint, it is still unclear, in my opinion, if it is worth it. One does not even have to have minority status. ’ (Law1)*

The fact that the government itself has been attacking advocacy efforts in Hungary in recent years brings an additional perspective to the picture. Stigmatization and restriction (declared unlawful by the EU)<sup>14</sup> of organizations also funded from abroad, impedes independent support,<sup>15</sup> makes human rights advocacy more difficult and is aimed at discrediting the people doing that work. As one of the civil society focus groups put it:

*‘ In the past 10 years, numerous negative narratives appeared and cast a pejorative light on human rights advocacy and activists fighting against discrimination against the Roma people... It feels bad to be a human rights activist. ’ (Civ1)*

## Activities and experiences of the Equal Treatment Authority

Access to more efficient legal remedy was previously enhanced by the creation of the EBH in 2005. The EBH is a public administrative agency with nationwide powers, set up by the legislator with the specific aim to act in cases involving discrimination against various protected groups.

Pursuant to the Equal Treatment Act (‘the Ebktv’), the EBH is an autonomous administrative organ whose decisions can only be challenged by judicial review and no ordinary legal remedy (the so-called appeal) is available. The EBH is entitled to handle all areas of discrimination, while courts are subject to special rules.

The party whose rights have been violated may also choose to seek judicial remedy, in addition to the EBH. Civil cases involving the violation of equal treatment are handled by regional courts, while labour disputes are settled by administrative and labour courts.

The key difference between the EBH and court proceedings is that the EBH may impose a fine on the alleged infringer, while the courts may also grant the plaintiff a grievance award (*in Hungarian: ‘sérelemdíj’*). The fine is levied as income for the central budget, while the grievance award is paid to the plaintiff. Given that parallel proceedings are prohibited, victims must choose between the available paths of legal remedy.

While court statistics do not allow searches by case type, the EBH must publish the annual statistics of the previous year, and complements these with the description of a few cases of public interest.

According to the annual reports of the EBH, the number of cases initiated in the past years based on belonging to a national or ethnic minority:

In 2019, 864 applications were filed with the EBH, and 308 ended with some form of administrative decision. More than half of the decisions were either rejections or terminations of the proceedings, and the rest (44) of the cases ended with a condemnatory decision (i.e. a positive finding for the applicant) or settlement (22) between the parties. In 2019, 44 Roma applicants sought the EBH’s help in total, while the majority (74) of the complaints (consistent with the statistics of many years) involved discrimination based on disability. The violation claim was considered in only seven cases of those involving violations

against Roma.<sup>16</sup> No cases involving Roma individuals were available in the detailed case descriptions.

Two years ago, in 2018, the EBH received slightly fewer complaints: 786 requested its assistance. Unfortunately, the infographics no longer show the distribution of complaints based on protected characteristics, only the fact that there have been only three cases where belonging to the Roma minority was found to be the reason of discrimination.<sup>17</sup> The detailed case descriptions for this year do not contain any Roma cases, either.

In 2017, the EBH received a record number of applications (1,288), where more than 1,000 complaints were ended with information provision and 285 proceedings were closed by administrative decision. The majority of the decisions (222) comprised either a dismissal of the application without examination on the merits or the rejection thereof. Condemnatory final decisions or approvals of a settlement were issued in the remaining 36 cases. There were only four cases with decisions on the merits where the EBH established discrimination based on belonging to a national or ethnic minority.<sup>18</sup>

When taking all the cases from recent years received by the EBH into account, it appears that more than half of the complaints were rejected - a significantly high proportion. Based on the statistics, one may even come to the conclusion that Roma suffer from discrimination

typically (and only) in the field of services. However, various research projects have revealed that discrimination prevalent in other areas (such as education, employment or child protection services) is a much graver problem that unfortunately remains hidden from the EBH or, if not, still makes up many of the cases closed without a condemnatory decision.

It was in 2019 when the annual report first accounted for the number of complaints based on protected characteristics; during the preceding years, it was only possible to draw indirect conclusions from the published decisions. It can be established, however, that 0.5 percent of the total number of complaints was filed by Roma applicants, and an even fewer number of cases from these ended with the conclusion that the requirement of equal treatment was violated. This number appears even more irrelevant given that Roma are estimated to make up as much as 9 per cent of the population in Hungary today.

When looking at the numbers from the previous years, the data seems to be even more disappointing, as one year saw only three cases closed with a decision establishing that a violation had been committed. Except for 2017, the number of complaints remained slightly below 1,000, and therefore it is likely that the number of Roma complainants was not significantly different to that of 2019. According to the findings of the study by the University of Debrecen, only 0.5 per cent of the claims received by the EBH is from Roma complainants.

### Assessment of the EBH based on focus group interviews

The following views were expressed in the human rights advocacy lawyer group:

*'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.'* (Law1)

One of the civil activists, however, pointed out a major structural issue: lawyers who also take on anti-

discrimination cases at a local level (e.g. on assignment from the EBH) might face obstacles later on, when they try to get assignments from those in power locally, due to their former actions against the local government. (Civ3) The role of the EBH as a source of legal remedies was brought up in the second lawyer focus group as well: its proceedings are in fact more rapid, but no damages are awarded at the end.

*'There are numerous protected groups and characteristics listed in the law in Hungary; the procedure is quick and efficient, and these are good things. On the other hand, when we find that the case may even end up at court, we explore this possibility as well. The reason is that the latter will be incomparably longer and more costly. So, if someone chooses not to start it there is a practical consideration behind that. The only thing we are also able to say that it is the EBH's proceedings that will be quick and free, but we also add that no compensation is available for damages there.'* (Law2)

## Major obstacles to access to justice

### Lack of visibility

The 2016 survey of the EU Agency for Fundamental Rights (FRA) on the selected findings about the Roma community and discrimination in nine EU member states (including Hungary) was the most comprehensive study in recent years, and clearly showed the reasons underlying the obstacles to access to justice faced by Roma. According to the survey, most members of the Roma community do not report any violations that they suffer: only 6 percent of the Hungarian survey subjects reported any violation experienced by them to a government agency, despite the fact that 32 percent had encountered some form of discrimination in at least one area of their daily lives over past five years.<sup>19</sup>

Another widespread issue is that they do not know any civil society stakeholder (only 15 per cent of the survey subjects) or any competent government agency where they could seek guidance. A serious problem of parallel significance is that only 31 per cent of the subjects were aware of the fact that there is a law in Hungary that prohibits discrimination, while 41 per cent guessed that no such law exists.<sup>20</sup> The same question was brought up in the second lawyer focus group as well, where one participant highlighted the importance of communication:

*‘ They start to believe something if they see that the same thing happened in their own life as in a specific story. ’*  
(Law2)

On several occasions, our subjects in the community focus group were not even aware of the resources available to them. In the second lawyer focus group, where lawyers with little or no knowledge of the anti-discrimination legislation were interviewed, the participants also had broad and nuanced first-hand knowledge about the possible reasons underlying the lack of visibility (there was a consensus within the group that this was the case) and the various causes behind and anomalies involving legal remedy. The explanations of the focus group members varied, from the desire to avoid reliving humiliation to the lack of support by human rights advocacy organizations.  
(Law2)

### The issue of representation

The new Code of Civil Procedure entered into force on 1 January 2018,<sup>21</sup> and it is one of the most stringent European procedural laws, according to the almost unanimous view of the legal community. The Code is

significantly more complex than its predecessor and has made it far more difficult for citizens to secure justice. This is also demonstrated by the figures, given that the number of lawsuits after the entry into force of the new law shrunk significantly, thus making it more difficult for disadvantaged social groups to have access to justice.<sup>22</sup>

While the problem has affected all of society, the impact has been even harder in the area of Roma rights advocacy, given that lawsuits based on the violation of equal treatment fall under the material jurisdiction of the regional courts, where legal representation is mandatory.

During the focus group interviews, there was a broad consensus in the first lawyer group regarding the inequality of access to the law:

*‘ Based on the new procedural rules, it is completely impossible to get by for anyone who wants to seek judicial remedy **without legal representation**. If someone, either as a Roma or non-Roma individual... decides today to pursue his or her rights without a lawyer before the court, well, (s)he has to put a lot of effort then... This a basic violation, a very serious discrimination of unskilled people. ’* (Law1)

On the top of all this, many times even the practitioners are not aware the laws, as one participant in the focus group of human rights advocacy lawyers highlighted:

*‘ Often, even the judges [do not know the laws]... Some judges are just incredibly unprepared. We have to explain them the anti-discrimination legislation over and over again, the reverse burden of proof, the difference between direct and indirect discrimination... Then we learn it from the first-instance judgment that they just did not get it. ’* (Law1)

### The decline of human rights advocacy groups

Although the previous civil procedure law required mandatory representation, by the time the new legislation came into force, the human rights advocacy capacities specifically dedicated to helping the Roma community had already disappeared or been abolished by the government. One of the most painful moments of this process was when several Roma advocacy CSOs closed in 2016, and then, in 2018, donors relocated to other EU member states. The majority of the country’s Roma population live in extreme poverty, under financial circumstances that make it impossible for them to hire a lawyer. With the dissolution of human rights advocacy groups, the possibility of free<sup>23</sup> legal representation also

disappeared. In addition to individual cases, human rights advocacy groups have also filed public-interest lawsuits<sup>24</sup> (also a possibility created by the Equal Treatment Act) before regional courts in cases involving a significant number of Roma people. In such lawsuits, the plaintiff was a CSO and the lawyer acted on its behalf, as a representative. The law allows this form of lawsuit to be filed if a violation affects an unidentifiable and larger group of individuals with protected characteristics. These lawsuits typically had an effect on the development of the law and brought positive changes in the lives of the communities, all in a manner that individual complainants could avoid conflicts with social actors who held power over them. These types of lawsuits were particularly common in the areas of education, access to social benefits and healthcare.

There are fears that there will be no one to act as plaintiff in these precedent-setting lawsuits; and in the absence of assignments, there will be no one to offer legal representation.

Access to legal remedy and the associated costs were also raised during the focus group research. The outcome and likelihood of success were also assessed by the participants of the community, civil society and lawyer focus groups mainly from this perspective. The protracted nature and the uncertain outcome of discrimination cases takes a mental and financial toll on those involved. (Bp-Ú, Civ1, Civ2)

The lengthy duration of cases was also mentioned in the human rights advocacy lawyer focus group as well:

*‘ There is neither a client, nor a CSO or a legal representative who is able to pursue a court case for eight years. It also costs a tremendous amount of money. ’ (Law1)*

## Problems during implementation

The dissolution of human rights advocacy groups also affects the cases before the EBH. Prior to 2016, numerous public interest legal proceedings were initiated, primarily in the areas of education or housing, in which the violation of rights had been established. Proceedings before the EBH are finished in a significantly shorter time, compared to court cases. However, implementation of the decisions was problematic. In most cases, fines were collected/recovered by the EBH, but the enforcement of other sanctions was impossible or took a long time.

During the **focus group** research, the majority in the group of lawyers with expertise in human rights advocacy agreed that the legal environment in general was acceptable and in line with EU directives and

international treaties, but the implementation of judgments was very burdensome:

*‘ It is the implementation that somehow fails all the time. Even to an extent that it is impossible to figure out where the defendant should pay the public interest fine in a case that was won. There is a legal instrument that does function, and no one even tries to find out why. ’ (Law1)*

The group could finally agree on an issue that would require legislative amendments: anti-discrimination judgments need to be concretized.

## Limited deterrence

Based on the opinions expressed in the focus group research, judgments have a very limited preventive effect. As long as decisions can be openly sabotaged, the offenders might become even more audacious:

*‘ They know that they have nothing to fear, the sanctions are weak; it takes years. ’ (Civ2)*

*‘ What I see is that there are huge problems with the rate of penalties. For example, five hundred thousand forints is “peanuts” for a nightclub. ’ (Civ3)*

Participants in several civil groups and in the group of lawyers with human rights advocacy experience shared the view that follow-up work is a significant factor in the impact of cases won:

*‘ What I see is that if a judgment is handed down, and a CSO or community work (let alone the press) is involved in the implementation, and everything links up nicely, success can be achieved. ’ (Law1)*

## Planned overhaul of the EBH

In early November 2020, bill no. T/13631<sup>25</sup> was submitted, which has since been adopted by the Hungarian National Assembly, and this means that the functions of the EBH will be taken over by the Commissioner for Fundamental Rights. According to the explanatory note of the bill, it is expedient to merge the Authority into the Office of the Commissioner for Fundamental Rights, because this way ‘a legal instrument will be created to ensure the even more effective enforcement of the requirement of equal treatment.’

However, it is hard to understand the above reasoning, as the EBH has examined more than 10,000 cases over the last 15 years, its decisions have been upheld by the

regional court with a few exceptions, many of its staff members have decades of experience and dealt exclusively with discrimination, while the legislator gave the Commissioner a wide range of various responsibilities. For this reason, it is unclear why the proposer of the bill claims that enforcement of rights is better aided by merging the EBH into an organization where investigations cover a wide range of issues from criminal proceedings to environmental protection.

‘The protection of human rights, which is increasingly recognized, requires the integration of certain independent human rights government agencies’, explains the next part of the explanatory note. In this case, however, it is a merger and not integration: a formerly independent

institution, headed by a president who is appointed by the President of the Republic, is relegated to departmental level, steered by a director general, but the employer’s rights are exercised directly by the Commissioner over both the department and the director general. The second group of lawyers also argued that the key of the EBH’s efficiency was exactly its independence.

There are therefore valid concerns about removing an independent administrative body that has offered legal protection for protected groups affected by discrimination for fifteen years. By 2021, as a result of the government’s recent policies, the Office of the Commissioner for Fundamental Rights will be the only organisation in Hungary dedicated to the protection of human rights.



# Anti-discrimination legislation and shortcomings

The Equal Treatment Act<sup>26</sup> entered into force in Hungary on 27 January 2004, consolidating various types of discrimination, personal and functional scope, protected characteristics, burden of proof applicable to the parties and organisations dealing with infringements. Although discrimination has already been prohibited by past sectoral legislation (any discrimination against individuals based on sex, race or nationality already constituted a violation of personality rights under the Constitution and the Civil Code), effective legal remedy for victims of discrimination was only created by the Equal Treatment Act ('the Ebktv'<sup>27</sup>), because it eased the rules governing evidence and defined certain forms of discrimination.

Before the Act entered into force, judgments had been handed down only in cases of direct discrimination (the Góman case in Pécs)<sup>28</sup> and unlawful segregation (separate graduation ceremony in Tiszavasvár),<sup>29</sup> while indirect discrimination, harassment and retaliation were not legally regulated and defined offences.

The law dedicates separate chapters for each aspect of everyday life where protected groups suffer most frequently from discrimination. Such areas are: employment, social security and healthcare, housing, education and training and the sale of goods and use of services.

The law is in accordance with European standards as well: one of the conditions for accession to the EU in 2004 was the harmonization of anti-discrimination legislation. The Act has transposed every EU directive into national law.

## Knowledge of legal practitioners about anti-discrimination legislation

It has been typical for legal awareness surveys in recent years to examine this issue among rights-seeking citizens in general, while surveys involving the legal profession have been conducted primarily among law students. The knowledge of various protected groups about anti-discrimination laws was also examined several times on behalf of the EBH. Researchers explain in the summary of the most recent EBH study, published in 2017, that it would be important for different professionals, including lawyers, to familiarize themselves with the specifics of this area of law, and to have the knowledge to enable them to

recognize discrimination and to assist those who turn to them when needed.<sup>30</sup>

According to the cited research, knowledge about the regulatory framework of equal treatment and the work of the EBH has significantly eroded compared to the period between 2005 and 2015. The reason for this is that both the EBH and the relevant human rights advocacy groups organized numerous training events for — among others — lawyers or even county-level judges after 2005. It would be necessary for newer generations of lawyers as well to acquire this knowledge, given that it is such a specialized and complex area of the law that goes far beyond 'simple' legal work.

In the second lawyer focus group (Law2), the participants, with the exception of one participant, did not use or only superficially used anti-discrimination legislation in their daily work. (The group included lawyers with criminal and family law backgrounds and doctoral law students as well). The participants in this group also confirmed that:

*'...willingness to litigate has also been visibly decreasing recently, partly because of legislative changes... The number of non-ex-officio proceedings has drastically decreased. This also involves a certain judicial behaviour that may be associated with preparedness, the renewal of the judiciary, or even related to the fact that the case officers are relatively young at the investigating authority; there are serious issues in the professional sphere as well... These people are less aware of what the law requires of them.'* (Law2)

Several relevant proposals were made to remedy this situation:

*'We need to build from below. If anyone needs any help, they should receive not just general information, but also practical help. [...] It is important to have a dedicated human rights advocacy group, a collective to manage the case. Assistance has to be in place all the way through, from the beginning to the end... Both at the level of counselling and representation... Help should be more than just saying 'Here is a study, there is a brochure, there you go, you can go through now the process yourself'''* (Civ3)

*‘Discrimination [should] be recognized in the social sphere for example, by those who often face it. Many times they don’t even recognize such discrimination or trivialise it.’ (Law2)*

*‘Any awareness-raising initiative can make a huge difference, at all levels. In general: integrate these issues into public education, for example, to raise awareness. And any visibility matters a lot. For example, despite the fact that the name of the patient advocate is displayed in every healthcare institution, it says nothing for many people.’ (Law2)*

In the second group of lawyers, one participant drew attention to the fact that certain practices in Hungary may differ even from county to county:

*‘In Békés county, for example, an arrest will certainly be more lengthy than in Zala county... It also has to do something with the number of Roma people living there. I see that the greater the number of groups affected by discrimination in an area, the more worrying the procedures are. As if there were something behind it, like nipping it in the bud, so that no one would even think to go and enforce their rights.’ (Law2)*

Given that the members of the second group of lawyers do not or only superficially deal with the issue of equal treatment, in their case, the aim should be to learn more about anti-discrimination legislation, to study the rules governing the enforcement of rights and the case law of courts and authorities.

# Legal issues: what does an efficient legal remedy require?

The Hungarian National Social Inclusion Strategy (*Hungarian abbreviation: 'the MNTFS'*) was published in 2011, targeting the inclusion of disadvantaged children and Roma people living in poverty over the ten-year period of 2011-2020. The strategy was adopted by a government resolution in December 2011, followed by a revision in 2014.<sup>31</sup> The strategy aims to alleviate the disadvantages of Roma communities in general in the areas of employment, education and housing over the ten-year period. It is the case that this strategy was the most extensive government undertaking since 1989, a far-reaching, solution-focused exploration of the problems experienced by the Roma; its primary goal, however, was socio-economic inclusion.

This year, a continuation of the strategy until 2030 was also proposed, but it has not been adopted yet and can only be considered a plan for the time being, as it is in the stage of review by social consultation.<sup>32</sup> While the current strategy devotes a separate chapter to equal treatment, the EBH and the Commissioner for Fundamental Rights (these are the key guarantees of access to the law and narrowing discrimination), the new strategy no longer covers these areas at all. It only mentions the use of the mother tongue laid down in various procedural laws, but given that Hungarian is a mother tongue of the Roma community, this has no significance at all.

The county rapporteurs of the EBH have a network available during office hours to people living in the counties, where they can lodge a complaint or ask for help. These rapporteurs are always lawyers with experience in the relevant field. If necessary, they give advice, and in the case of suspected discrimination, they forward the matter to the EBH, which will then investigate the complaint. All of this is significant because it is very difficult or impossible for those involved to reach out to the small, mostly Budapest-centred human rights advocacy groups that are still around. It is not yet known how the county-level network will be impacted by the changes that will take effect in 2021. Hopefully, this opportunity will not be taken away from those who need it.

The social, community-related, and legal changes of recent years, together with the government's development plans, have a variety of impacts on Roma communities and consequently, on their legal awareness and actions against discrimination.

The government's measures focus exclusively on social advancement and helping Roma out of poverty, but the new strategy no longer contains any non-discriminatory definitions or development directions, although such measures should be implemented jointly and in a complementary manner. One element of socio-economic progress is legal awareness: the knowledge of a Roma person that they will not be humiliated as a human being, and that they will not face setbacks in employment, parenting and housing, because of their identity. In this regard, it is important for Roma communities to have access to government-run institutions, to know how these operate and to be aware of the relevant agency in each specific case (for example, equal opportunity housing or legal aid services).

The downside of these changes is the disappearance of legal knowledge, which was already incomplete. It is generally true that, despite the fact that legal proceedings in Hungary are rather lengthy, almost all cases of great social significance broadly covered by the press have come to an end by 2020. These issues have been closely followed by Roma society, if not elsewhere, then on social media. Without legal cases, public interest diminishes, together with the acquired knowledge. As a further consequence, the decline in human rights advocacy capacities leads to apathy: those in need feel that they have no one who can help them, nor would they be able to pay for such support even if it were available. As a result, cases will run out, giving the impression that professional help is not even necessary. This, of course, leads to a further decline.

It is therefore important that members of the Roma community recognize the violations they have suffered, know where and to which authorities and courts they can turn in various cases, and this requires a transfer of knowledge. However, in order for all this to become a reality, support for existing Roma advocacy agencies and pro-Roma CSOs in community building, as well as finding and preparing local activists, must be a priority. If people can actively advocate for their own interests at the local level, then local authorities will recognize that this is not a vulnerable community unable to take legal action in the event of violations.

Uniquely in Europe, Hungary has had a system of minority ('ethnic') self-governments in place since 1994. During local government elections, minority voters also

elect their self-governments at local, county and national levels. Minority self-governments are responsible for representing the community in local public affairs, as well as securing its interests and, as the case may be, enforcement of the law. The efficiency of minority self-governments is contingent upon their ability to help with the problems of their constituents, including in cases involving discrimination claims. A well-functioning minority self-government must be able to shape local decisions.

In addition to minority self-governments, civil society activists, who unite the local community, can also effectively enforce rights and interests. For this reason, the development of communities in settlements is a basic

need. Altogether, the only path forward to combating discrimination is through the strength of the community and their representatives, one step at a time.

It is essential to strengthen the legal awareness of local communities, that is to teach them how to recognize when their rights are being violated, to make them aware that they can take legal action, and to enable them to take such action. Legal awareness is the basis of an unimpeded access to justice.

Local communities, minority self-governments or even CSOs alone are unable to help everyone in need, and therefore it is vital to ensure that state aid works efficiently and quickly and that clients have the right information on where they can lodge their complaints.

# Conclusions

A consistent finding of various studies on the subject is that the Hungarian Roma community suffers from widespread prejudice and discrimination. This goes hand in hand with the deepening social exclusion of the community. Despite widespread discrimination, cases are rarely filed by victims and therefore seldom reach the appropriate redress forum. One of the underlying reasons for this is that the possibilities for judicial remedy and recourse to authorities in many discrimination cases affecting the entire Roma community have gradually decreased over the last five years. Many human rights advocacy groups have disappeared entirely, with very few organizations offering legal representation. It is almost impossible to handle these discrimination cases without the necessary legal knowledge. The reform of the civil law procedure in 2018 has created barriers to the pursuit of judicial remedy in general for justice-seeking citizens, thereby creating further disadvantages for the Roma community. Access to justice is also hindered by a lack of knowledge within the community. The majority of Roma are unaware that there is a law that prohibits discrimination, and that it is possible to lodge their complaints to the authorities and courts in such cases.

The lack of independent complaint mechanisms makes it impossible to seek justice even in less significant matters.

The protracted nature and the uncertain outcome of discrimination cases takes a mental and financial toll on those involved. And in the few cases where a condemnatory judgment is handed down, weak implementation is still a matter of serious concern.

The focus group interviews highlighted the areas where it would be worthwhile to raise awareness and develop the knowledge of legal practitioners.

Based on the findings of the research, it is unlikely that the access of Roma communities to justice will improve in the future without effective legal assistance and the strengthening of relevant CSOs, or without developing their integration into the community. The lack of independent complaint mechanisms makes it impossible to seek justice even in less significant matters. Strengthening these areas is key to reducing discrimination.

At the same time, the acceleration of proceedings in discrimination cases, as well as anomalies in litigation and enforcement, are all areas that also need attention. Mass communication (especially the fact that people might recognize their own stories in certain media reports) and community follow-up efforts in discrimination cases can play a major role in improving the situation. The training of various state and local government actors is also essential for achieving a more effective legal remedy.

# Recommendations

## a) Local and national decision-makers

1. *Address as a matter of urgency the serious shortfalls in the functioning of local governments, particularly in the field of housing policies.* Given the broader context of marginalization and discrimination they face, Roma communities cannot be expected to enforce any change in such matters by themselves without appropriate institutional support from local organizations.
2. *Develop the self-monitoring mechanisms of local governments to ensure that current regulations are better enforced.* Government offices should act promptly and efficiently to any evidence of failures or shortcomings, with designated bodies responsible for identifying these if they occur.
3. *Enhance the organization of independent complaint mechanisms to improve their effectiveness.* At present, the lack of independent complaint mechanisms makes it almost impossible for Roma to seek justice even in relatively minor matters.
4. *Ensure that complaints procedures at the level of both the authorities and the courts are carried out promptly, in line with the timelines mandated by law.* The protracted nature and the uncertain outcome of discrimination cases takes a mental and financial toll on those involved, deterring many victims of discrimination from taking action in the first place, yet legal cases often continue well beyond the legally prescribed timelines.
5. *Enforce anti-discrimination judgements not only to ensure redress for the individual victims, but also to promote a broader environment of justice and accountability.* At present, the few instances of successful anti-discrimination litigation appear to have had little or no preventive effect due to their small number, piecemeal impacts and lack of publicity. As long as decisions are prone to being openly sabotaged or ignored, the climate of impunity for perpetrators is likely to persist.
6. *Take steps to ensure that any reform or changes to the current legal and judicial structures relating to discrimination do not undermine the significant progress made in recent years.* While it is not known how the legal redress of violations of equal treatment will change after the dissolution of the EBH, the most important thing is to maintain expertise and

continuity, and to ensure that the enforcement of decisions will be effective.

7. *Make legal proceedings as clear, transparent and accessible as possible to improve uptake.* In addition to ensuring independence, complaints procedures should be simplified and, in some cases, the lodging of anonymous complaints should also be allowed.
8. *Strengthen access to free legal aid for all victims of discrimination, including Roma.* At present, the high costs of legal action and the increasing difficulties for potential plaintiffs to seek justice in the event of discrimination are forcing many Roma not to pursue proceedings.
9. *Improve knowledge and awareness of rights to equality and anti-discrimination among local officials.* Widespread training of key state and local government actors would be an important step to support a more effective enforcement of rights in future.

## b) EU decision-makers

1. *Provide targeted resources to lawyers, activists and CSOS to effectively identify and respond to incidents of discrimination.* This is especially important as resources to support such efforts have become increasingly scarce in Hungary itself, due not only to limited official support for these actions but also the accompanying government crackdown on civil society and human rights advocacy groups. Ensure that such resources are also used for outreach towards marginalized groups within the Roma community, including women, older people, persons with disabilities and LGBTQ+ persons.
2. *Condemn the unlawful stigmatization and restrictions imposed on human rights work, including the prohibition of funding from abroad.* While barriers imposed on external financial assistance make it increasingly difficult for international organizations to provide support to these activities, the EU should continue to challenge this repression at every opportunity. If the current situation is allowed to become normalized, then the degradation of an independent civil society in Hungary will continue.

### c) Roma activists and CSOs

1. *Communicate effectively with Roma communities about the opportunities for legal redress in cases of discrimination.* The fact that very few Roma who experience discrimination choose to seek legal remedy is a reflection not only of the widespread lack of awareness around the existing legislation, but also a lack of confidence that reporting incidents will lead to justice. Activists and lawyers need to engage with these concerns and provide clear information on the options available for victims.
2. *Ensure support for Roma victims of discrimination at every stage of their proceedings.* The potential risks for Roma who choose to pursue legal cases are considerable, and without proper sustained assistance from CSOs and other actors they could even be subject to retaliation. Human rights groups and lawyers should commit to providing continued support through these often difficult processes.
3. *Link individual legal advocacy cases with broader anti-discrimination efforts for the Roma community as a whole.* For instance, activists should follow up any successful legal judgements with campaigns to raise awareness among other Roma of their rights and build the capacity of local communities to recognize and pursue other instances of discrimination should they occur.
4. *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.

### d) The Hungarian Bar Association

1. *Take steps to ensure that legal advocacy, particularly anti-discrimination work, is embedded in Roma communities.* As the majority of Roma report having little knowledge or experience of litigation in the area of discrimination, even second-hand through other community members, it is vital to engage communities in legal processes and the opportunities they present.
2. *Strengthen the collective awareness of anti-discrimination law in the legal community, particularly among*

*practitioners and judicial officials with little or no direct experience in this area.* Given the evidence that many lawyers and even judges in Hungary have limited understanding of the special rules of procedure or case law surrounding discrimination, it is essential to improve general awareness of these issues to improve the responsiveness of the judicial system to incidents when they occur.

3. *Publicize successes and challenges in anti-discrimination litigation on behalf of Roma.* Without wide public awareness of legal milestones and victories on behalf of Roma victims, individual cases are much less likely to translate into broader societal change. Lawyers and advocacy organizations working in the field can support this process by creating platforms to regularly share their experiences.

### e) Media

1. *Promote a positive and informed understanding of the discrimination Roma experience in their daily lives.* Popular media outlets have a unique opportunity to challenge the silence and invisibility that has enabled the abuse and exclusion of Roma to persist, despite the legal prohibitions on discrimination currently in place.
2. *Support the development of greater awareness about the challenges facing Roma when educating future journalists.* Media faculties at universities have an important role to play in communicating these issues to the next generation of journalists.

# Notes

- 1 As GyörgyGajduscek, a university professor, wrote in his summary on legal awareness research in 2017: 'The research on the relation and attitude of the Roma people towards the law [...] reveals, with painful clarity, that a Roma litigant is plainly unable to grasp the meaning of anything happening at the court, including the substance of "texts" directly affecting them'. György, G., 'Empirikus jogtudat-kutatás Magyarországon 1990 után', *Iustum Aequum Salutare*, 2017, 13(1), p.58. Available at: [http://ias.jak.ppk.hu/hir/ias/20171sz/07\\_Gajduscek\\_IAS\\_2017\\_1\\_jav.pdf](http://ias.jak.ppk.hu/hir/ias/20171sz/07_Gajduscek_IAS_2017_1_jav.pdf)
- 2 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), pp 21–22. Available at: <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>
- 3 [http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz\\_09\\_2011.pdf](http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_09_2011.pdf) pp.58–65
- 4 For more information, see Kemény-Janky-Lengyel: A magyarországi cigányság. [https://regi.tankonyvtar.hu/hu/tartalom/tamop425/2011\\_0001\\_542\\_02\\_A\\_magyarorszagi\\_ciganysag/ch05.html](https://regi.tankonyvtar.hu/hu/tartalom/tamop425/2011_0001_542_02_A_magyarorszagi_ciganysag/ch05.html)
- 5 János, Patrik, T. and Zoltán, P., *op. cit.*, p. 6.
- 6 United States Department, *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/>
- 7 European Commission, *Civil társadalmi jelentés a Nemzeti Társadalmi Felzárkózási Stratégia megvalósulásáról: Magyarországon* [Civil Society Monitoring Report on Implementation of the Hungarian National Social Inclusion Strategy in Hungary], 2018. Available at: <http://autonomia.hu/wp-content/uploads/2018/09/Civil-t%C3%A1rsadalmi-jelent%C3%A9s-a-Nemzeti-T%C3%A1rsadalmi-Felz%C3%A1rk%C3%B3z%C3%A1si-Strat%C3%A9gia-megval%C3%B3sul%C3%A1s%C3%A1r%C3%B3l.pdf>
- 8 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/>
- 9 Romani Children in State Care in Nógrád County (Hungary) 20 November 2017 European Roma Rights Centre p. 8 <http://www.errc.org/reports-and-submissions/cause-of-action-romani-children-in-state-care-in-nograd-county-hungary>
- 10 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\\_szegregacio\\_roma\\_diakok\\_karteritesi\\_per\\_itelet\\_kuria/](https://index.hu/belfold/2020/05/12/gyongyospata_iskolai_szegregacio_roma_diakok_karteritesi_per_itelet_kuria/)
- 11 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/>
- 12 cf. the latest report of the Hungarian Roma Civil Monitor to the European Commission: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-3-hungary-2019-eprint-hu-fin.pdf>; in English: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-3-hungary-2019-eprint-fin.pdf>
- 13 The decline of the work of human rights advocacy groups in the public eye has also been documented by studies. Cf. GáborBernáth, Vera Messing: Pushed to the Edge. Research Report on the Representation of Roma Communities in the Hungarian Majority Media, 2011 ([https://www.mediakutato.hu/cikk/2012\\_01\\_tavas/05\\_roma\\_mediakap](https://www.mediakutato.hu/cikk/2012_01_tavas/05_roma_mediakap));
- 14 see (for example): <https://444.hu/2020/09/28/eu-s-palyazati-penzt-bukott-egy-civil-szervezet-mert-nem-volt-hajlando-igazolni-hogy-kulfoldrol-tamogatott-e>
- 15 see (for example): [https://nepszava.hu/3034216\\_bukhatjuk-a-norveg-alap-70-milliardjat-ha-a-kormany-nem-szall-le-a-civilekrol](https://nepszava.hu/3034216_bukhatjuk-a-norveg-alap-70-milliardjat-ha-a-kormany-nem-szall-le-a-civilekrol)
- 16 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](https://www.egyenlobanasmod.hu/sites/default/files/tajekoztatok/EBH_tajekoztato%202019_HU_w.pdf)
- 17 Egyenlő Bánásmód Hatóság, Tájékoztató 2018 [Equal Treatment Authority: Annual Report 2018], 2019, pp.12-13. Available at: [https://www.egyenlobanasmod.hu/sites/default/files/tajekoztatok/2018\\_hu\\_web.pdf](https://www.egyenlobanasmod.hu/sites/default/files/tajekoztatok/2018_hu_web.pdf)
- 18 Egyenlő Bánásmód Hatóság, Tájékoztató 2017 [Equal Treatment Authority: Annual Report 2017], 2019, p.9. Available at: <https://www.egyenlobanasmod.hu/sites/default/files/tajekoztatok/EBH%2017%20HU.pdf>
- 19 FRA, *Second European Union Minorities and Discrimination Survey Roma – Selected Findings*, 2016, pp.36 and 40. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf)
- 20 FRA, *Second European Union Minorities and Discrimination Survey Roma – Selected Findings*, 2016, p.41. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf)
- 21 Act CXXX of 2016 on the Code of Civil Procedure.
- 22 'While the annual average number of lawsuits filed to district courts and regional courts during the three years before 2018 was 145,000 and 17,000 , respectively, this number collapsed to 115,000 and 7,200, respectively, in the last three years. This represents a 22 and a 57 percent decrease. At the same time, companies started to put arbitration clauses in more and more contracts, thus avoiding the ordinary courts. The new bill, still to be negotiated, adjusted the rules adopted three years ago based on numerous criticisms from professionals and the recent case law of the courts.' [Uzletem.hu](https://uzletem.hu), 'Kevés a polgári per – Enyhítenek a pervezetésszigorán', 11 October 2020. Available at: <https://uzletem.hu/jogadokonyveles/keves-a-polgari-per-enyhitenek-a-pervezetes-szigoran>
- 23 It was common practice for human rights advocacy groups to pay the attorney's fees.
- 24 Section 20(1) of the Equal Treatment Act ("the Ebktv"): 'A lawsuit for rights relating to personality or under labour law or public service relationship due to a violation of the requirement of equal treatment before a court can be initiated by  
a) the Public Prosecutor,  
b) the Authority, or  
c) CSOs and advocacy organizations,



- if the violation of the principle of equal treatment or the direct threat thereof was based on a characteristic specified in Section 8 that is an essential feature of the individual, and the violation of law or the direct threat thereof affects a larger group of persons that cannot be determined accurately.'
- 25 <https://www.parlament.hu/irom41/13631/13631.pdf>
- 26 Act CXXV of 2003 on equal treatment and the promotion of equal opportunities
- 27 The Hungarian abbreviation of the Act on equal treatment and the promotion of equal opportunities
- 28 For more information, see Otherness Foundation / Legal Defense Bureau for National and Ethnic Minorities, *Fehér Füzet 1995* [White Booklet 1995], 1996, p.20. Available here: [http://dev.neki.hu/wp-content/uploads/2013/05/387\\_ff1995.pdf](http://dev.neki.hu/wp-content/uploads/2013/05/387_ff1995.pdf)
- 29 Angela, K. (1997) *Ebben az esetben ez nem volt szerencsés választá, available here*[https://epa.oszk.hu/02300/02334/00051/pdf/EPA02334\\_Fundamentum\\_1997\\_02\\_135-138.pdf](https://epa.oszk.hu/02300/02334/00051/pdf/EPA02334_Fundamentum_1997_02_135-138.pdf)
- 30 Egyenlő Bánásmód Hatóság, *Az Egyenlő Bánásmóddal Kapcsolatos Jogtudatosság*, 2017, pp.29-30. Available at: [https://www.egyenlobanasmod.hu/sites/default/files/kiadvany/EBH\\_2017\\_kutatas\\_HUN.pdf](https://www.egyenlobanasmod.hu/sites/default/files/kiadvany/EBH_2017_kutatas_HUN.pdf) pp 29–30
- 31 Resolution No. 1430/2011 (XII.13.) of the Government Regarding the National Social Inclusion Strategy and Governmental Action Plan for the Implementation Thereof in the Years 2012 to 2014.
- 32 Government of Hungary, *Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*, 2020. Available here: [http://romagov.hu/wp-content/uploads/2020/12/MNTFS2030\\_1201-tervezet.pdf](http://romagov.hu/wp-content/uploads/2020/12/MNTFS2030_1201-tervezet.pdf)

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P R A X I S

## Roma in Hungary: The Challenges of Discrimination

Roma in Hungary have long been exposed to the consequences of structural poverty and discrimination. Underlining these issues is a broader lack of access to justice, enabled in part by a lack of faith among many Roma in the country's judicial system and the decline in recent years of freely available, accessible legal remedies for victims of discrimination. These issues have been reinforced by the broader erosion of many key civil society organizations in Hungary that have historically supported Roma.

This report highlights that for many Roma, discrimination is still a daily reality in almost every area of their life, from work and housing to health care and education. In order to improve their current situation and effectively combat discrimination, the report calls for international organizations, the state, local governments, civil society and the media to work with Roma communities to transform the social and institutional context.

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