



OFFICE OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS
THE NATIONAL HUMAN RIGHTS INSTITUTION OF THE UNITED NATIONS

Ethnic profiling by the police – the report of the Minorities' Ombudsman about the events in Gyöngyöspata

**Ethnic Profiling Seminar
Equinet
Brussels, 08. 11. 2018.**



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Gyöngyöspata Report 1.

Background (March – May 2011)

- Spring of 2011 – „invasion” of extremists in a small town
- paramilitary, anti-Roma organizations: patrols, military exercises
- intention: to take the tasks of police of maintaining law and order
- harrassing and intimidating local Roma population

Ombudsman's report (April 2011):

- interdisciplinary approach: no adequate response to the social problems enhanced by the financial and economic crisis which resulted in the increased unemployment and social inequality
- several legislative and law enforcement deficiencies
- **the police failed to apply the relevant laws against the extremists!**
- several recommendations





Gyöngyöspata report 2.

Follow-up report

- „on the spot” investigation: 8 November 2011 without previous announcement
- considers the well-being of the community: Roma people in Gyöngyöspata are between the political goals of the extreme right and the government trying to restore public order and the faith of public opinion in state institutions
- triple focus based on complaints and media coverage:
 - ✓ public work schemes,
 - ✓ segregation in education,
 - ✓ **allegedly discriminatory practice of initiating minor offence cases and imposing fines!**



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Methodology 1.

- interview with locals, complaints encountered on the spot
- interview with local authorities
- perception: pavement/road



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**interview with locals, complaints encountered
on the spot:**

<https://hclu.hu/en/articles/hclu-vs-police-the-trial-of-discrimination-against-roma-1>
(0:17-2:29)

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(3:13-3:37)



Methodology 2.

- review of documentation of the local authorities/police (not a full review due to procedural reasons)
- **How to determine who is Roma?**
 - ✓ joint report on ethnic data
 - ✓ local Roma self-government: local Roma family names, streets inhabited by Roma



Findings

- wide margin of appreciation in case of a minor offence:
ignore/warn/fines/start minor offence proceedings
- **Contrasting practices:**
 - during the patrols in spring began the practice of fining the Roma mostly for bagatelle traffic violations, while the extremists were never fined for similar minor offences
 - loud marches at night/dawn *versus* music in the evening
 - public consumption of alcohol: fine *versus* warning
 - people who were fined were living mostly in Roma streets (Bem utca, Sövény utca, Hegyalja utca) – if living elsewhere, more than a half of people fined have locally typical Roma family names
 - all in all: disproportionate concentration on Roma streets and inhabitants: contrary to rule of law and the right to a fair procedure; presumption of ethnic discrimination



Recommendations

The National Police Chief:

- shall *overview police practice* concerning minor offences in Gyöngyöspata, and *compare* it to other settlements of a similar size and composition of population;
- if that would reveal discriminatory treatment, shall take the necessary steps to *remedy and prevent* those;
- shall elaborate a *code of methodology* concerning the handling of minor offences



„Afterlife”

Actio popularis lawsuit based on Law on Equal treatment by HCLU

Based partly on the Ombudsman's report, partly on their own fieldwork

1. the police failed to protect the Roma community against the militant groups during the extremist patrols and thereby facilitated harassment of the Roma, violating the law on equal treatment. –

Success!!

2. ethnically disproportionate fining practice against members of the Roma community (ethnic profiling) --- direct discrimination and harassment according to the law on equal treatment:

- ✓ first instance judgement found the practice constituted harassment and direct discrimination against the Roma even if the individual measures were lawful
- ✓ second instance court and the Supreme Court ruled that HCLU could not substantiate discrimination,
- ✓ HCLU turned to ECHR



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Thank you for your attention!

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