



Joint Submission to the 3rd Cycle of the Universal Periodic Review by Civil Society Organizations Containing Follow-Up Information on the Previous Reports of the Working Group on the Universal Periodic Review of Hungary [A/HRC/18/17 and A/HRC/33/9]

Submitted by:

The Hungarian Civil Liberties Union

Civic Roma Women of Bódva-völgy

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I. Background information regarding the Submitting Parties

The **Hungarian Civil Liberties Union (HCLU)**, (<https://hclu.hu/>) is a human rights NGO, founded in 1994. Its main goal is for all Hungarian citizens to be well-informed on the subject of fundamental human rights and therefore have the possibility to enforce these rights against the undue interference by those in position of public power. HCLU monitors legislation, pursues strategic litigation, provides free legal aid in more than 2500 cases per year, provides trainings, and launches awareness raising media campaigns in order to mobilize the public. It stands by citizens unable to defend themselves, assisting them in protecting their basic rights. We are present at courts, national and international conferences, universities, in the capital as well as in the countryside.

The Equality Project of the HCLU presenting this submission, works against state-level discrimination of the most vulnerable groups within Hungarian society, and thrives to create equal opportunities and equal access to legal protection. In the main focus of this project are two marginalised groups: firstly, the Roma population of Hungary that lives in extreme poverty and is typically subject to segregation, secondly, people living with disabilities, who are often forced into isolated living conditions, and are being denied the right to maintain their legal capacity and therefore make decisions regarding their own lives.

The **Civic Roma Women of Bódva-völgy** (<http://romanok-edeleny.hu/>) is a civil society organization founded by Roma women living in a region called Bódva-völgy that aims to advocate for the rights and fundamental interests of Roma women and children. The main activities of the organization are social activities such as elderly and family care, furthering the education, development and capabilities of Roma children, health protection and the promotion of healthy lifestyles among Roma children, as well as training disadvantaged persons in order to strengthen their employability. The association organises different workshops on career guidance for Roma children, as well as talks that aim to prevent truancy and motivate Roma children to stay in school. Events about family planning, relationships and substance abuse are also organised by the association.

II. The content of the Submission

This submission contains follow-up information with regard to certain Recommendations relevant to the discrimination of Roma persons in Hungary as set out by the Reports of the Working Group on Hungary [A/HRC/18/17 and A/HRC/33/9] and a section dedicated to new recommendations. In this submission, the new recommendations, as well as the facts, comments and data relevant to the implementation of the Recommendations of the Working Group address the following topics:

- (a) The impacts of Covid-19 on Roma communities with a particular focus on Roma segregations
- (b) Intolerance against Roma communities promoted by the Hungarian Government
- (c) Discrimination of Roma children with a particular focus on children's removal from their families
- (d) Discrimination against Roma women with a particular focus on access to healthcare
- (e) Combating the overall discrimination of Roma people

Although the question of how the Covid-19 pandemic would effect Roma communities was not yet on the agenda of the Working Group, the current developments caused by the pandemic are strongly interconnected with the social, political, living and health conditions of the Roma communities, as well as with their access to services. Accordingly, these developments are good indicators for the shortcomings of the state regarding Roma communities and are immensely relevant to the Recommendations of the Working Group. Therefore, we find it crucial to demonstrate how and why the pandemic led Roma communities to become a marginalised and vulnerable group even more so than before.

III. HCLU's thematically clustered new recommendations regarding Roma discrimination in light of recent developments and issues that continue to remain unresolved

The recommendations listed in this section are further explained and evidenced in section IV. of the Submission.

(a) The impacts of Covid-19 on Roma communities with a particular focus on Roma segregations

1. Take effective measures to help Roma communities, particularly the ones living in segregated areas throughout the pandemic and later on in dealing with its long-term effects.
2. Strengthen efforts to improve the living situation of Roma people living in settlements with particular attention to Covid-19 related matters.
3. Ensure that adequate levels of information relating to the pandemic and the Covid-19 vaccines as well as protective gears, medicine and vaccines reach segregated Roma communities.

(b) Intolerance against Roma communities promoted by the Hungarian Government

4. Ensure that public officials not only refrain from hate speech but also take a firm public stance against the expression of any bias motivated hate speech and consistently react to it with counter-speech

5. Ensure that a counter-narrative policy or strategy covering all vulnerable groups is adopted. Such policy or strategy shall include concrete actions the Government would take, should a state official express hate speech.
6. Ensure that an independent body consisting of members of vulnerable groups is set up in order to assess and comment on planned governmental advertisements and national consultations. The body shall have a veto right, should it establish that a certain text violates the dignity of the members of a vulnerable group.
7. Ensure that the visibility of vulnerable groups is guaranteed through participation in state communication and holding state offices.

(c) Discrimination of Roma children with a particular focus on children's removal from their families

8. Ensure that discriminatory practices harming Roma communities in the field of child protection are minimised and eventually eliminated. This entails that more policies are adopted so that children's removal from their families cannot be accounted for solely by the financial hardships of the family in practice.
9. Take steps to assure the betterment of the state child care protection with a specific focus on the needs of Roma families, especially the ones living in segregation.

(d) Discrimination against Roma women with a particular focus on access to healthcare

10. Take steps to provide Roma women with suitable assistance and information in healthcare facilities.
11. Eliminate the practice of isolating Roma and non-Roma women in maternity wards of state hospitals.

(e) Combating the overall discrimination of Roma people

12. Ensure that the Hungarian Police Headquarters takes systematic steps to prevent ethnic profiling and discriminatory police practices regarding Roma citizens.
13. Ensure that concrete policies are adopted against the over-policing of minor administrative offences committed by Roma citizens. Through these policies, ensure that the fines imposed on Roma persons are not automatically replaced by detention should the perpetrator be unable to pay the fine.
14. Revise the Municipality Act authorising local regulations that sanction poor living conditions so that the scope of autonomous community legislation is clear and it is ensured that local regulations do not entail rules that infringe the right to private and family life. Therefore, the legislator should make sure that rules leading to discriminatory practices in this regard are eliminated from autonomous community legislation.
15. The legislator should reconsider the possibility of appeal to the second instance authority against administrative decisions, so that vulnerable groups such as Roma communities can also enforce their right to a legal remedy.

16. Take steps to provide an accessible and effective legal aid service for the people concerned.
17. The Commissioner for Fundamental Rights of Hungary and the Deputy Commissioner for the Rights of National Minorities should draw attention to the serious rights violations affecting the Roma communities even in cases when such violations are committed by central government bodies. The Commissioner and the Deputy Commissioner should actively advocate for Roma persons' right to equality and non-discrimination, which entails frequent and effective public communication, as well as prompt reaction in instances that amount to the violation of these rights.
18. Ensure that the institutional change regarding the Equal Treatment Authority does in no way influence the efficiency and impartiality of its work. Should the Ombudsman's Office carry out the ETA's former tasks with less efficiency and impartiality, we propose that the original institutional framework of ETA be reestablished.
19. The network of equal treatment consultants should be restored and further promoted so that the most vulnerable groups, especially segregated Roma communities know about its operation.

IV. Follow-up information concerning the Recommendations made at the previous two cycles of the UPR regarding the discrimination of Roma communities

(a) The impacts of Covid-19 on Roma communities with a particular focus on Roma segregations¹ (94.106, 94.108, 94.110, 128.85, 128.88)

Given certain disadvantages such as poverty, segregation as well as direct and indirect discrimination that Roma people traditionally come up against in Hungary, it was to be expected that the Covid-19 pandemic would have an even more severe and devastating impact on members of the Roma population than on the members of the mainstream society, thereby increasing the already existing social gap between these two groups.

Roma people living in segregated slums are particularly exposed to the spread of the virus. Since it is frequent among inhabitants of slums that more generations live in the same household, while having no access to clean running water or adequate heating, they are exceptionally exposed to a possibly more rapid spread of the virus. In addition to these factors, dwellers of slums often lack the care of a family doctor, access to medical care in general and adequate levels of information, as well as a stable income. All these factors contribute to the consequences of the virus being more dire in case of Roma communities than in others.

Apart from these problematic circumstances, distance learning due to the closure of schools was also a big obstacle during the spring of 2020 for Roma children living in extreme

¹ Submission by the Hungarian Civil Liberties Union regarding the sixth report of Hungary to the European Commission against Racism and Intolerance (ECRI) 2020, Access to justice and rights, p. 2.

poverty. Since they mostly lack appropriate technical equipment and internet access, it was impossible for these children to keep up with their curriculum. A similar situation will most likely reoccur if the Government should decide to close primary schools once again (currently, in March 2021 primary schools remain open, while secondary schools are closed). The Government has not yet taken any measures which would suffice for the upgrade of these children.

According to a public opinion research² on this matter, the most crucial issues amidst the pandemic are not only the ones mentioned above, but also the rise of new forms of discrimination associated with the pandemic. 21% of respondents reported that they had personally experienced racism or discrimination during the pandemic and 62% of respondents claimed to have had witnessed discrimination against a Roma citizen during the pandemic. Focus groups demonstrated that Hungarian Roma citizens did not, by and large, understand the legal procedures designed to allow them to seek justice in cases of discrimination. Our expectation that Roma communities in Hungary would face extreme vulnerability due to the pandemic was also confirmed by this public opinion research. According to its findings, these vulnerabilities cut across various aspects of quality-of-life, including:

- Limited access to testing facilities, personal protective equipment, general healthcare services and public services in general;
- Drastic reductions in income leading to higher levels of debt, mental health challenges and food insecurity;
- Reduced access to primary and secondary education as well as to government information;
- Insufficient and unequal support from local government institutions, lack of information on civil society support.

What also gives cause for grave concern is a modification of the social security regulation that entered into force on 1 July 2020 that excludes a great number of people living in poverty from state health care. Those who are unemployed but are not entitled to either unemployment benefits or other forms of social allowance must pay a certain amount of contribution (a tax) to the national health care fund monthly. This is a financial burden that Roma families living in poverty cannot overcome, therefore many of them have built up significant debts, but up until now, such debts did not lead to their exclusion from state health care. According to the new provisions of the Social Security Act, however, people who have accumulated a certain amount of unpaid taxes, are completely excluded from free healthcare as of 12 February 2021.

² Public Opinion Research on the Impact of Covid-19 on Hungary's Roma Communities, conducted by the National Democratic Institute for International Affairs (NDI) and the National Endowment for Democracy (NED), 2020
<https://www.ndi.org/sites/default/files/Impact%20of%20Covid-19%20on%20Hungarian%20Roma%20Communities%20-%20Associated%20Narrative%20%281%29%20%281%29.pdf>

HCLU is currently gathering information on the situation of Roma settlements hit hard by the pandemic. In our experience, free Covid-19 testing is extremely slow if even available in Roma settlements, leaving plenty of time for potentially infected persons to spread the virus. Preventive testing, personal protective equipment and disinfectants are mostly unavailable as well. Another very serious problem is that in order to be included on the list of persons who wish to get vaccinated, one needs to register online in Hungary, however, this information and the details of how and where to arrange the registration, does not reach Roma settlements, therefore, almost none of its dwellers register. This practice and the fact that no specific attention has been paid to the fact that Roma communities need to be informed about the registration process and the vaccination itself, does not fulfil the requirements set out in the Statement on universal and equitable access to vaccines for COVID-19 made by the UN Committee on Economic, Social and Cultural Rights.³ Based on the interviews conducted by HCLU, most Roma persons asked did not have confidence in the effectiveness of the Covid-19 vaccination, despite the fact that most of them had an acquaintance or a relative who died of the virus.

In light of the above, we suggest that none of the relevant Recommendations have been implemented so far.

(b) Intolerance against Roma communities promoted by the Hungarian Government
(94.47, 94.49, 94.55, 94.102, 128.70, 128.86, 128.98, 128.109, 128.115)

In 2020, governing party politicians launched a concerted public campaign at the occasion of a lawsuit for damages that was filed by the parents of Roma children who were educated in segregated classes in the elementary school of Gyöngyöspata. The trigger for this campaign was the court decision granting non-pecuniary damages to over 60 Roma victims of educational segregation lasting for over a decade in this particular establishment.⁴ While the Supreme Court review of this judgment was still pending, high-ranking government party politicians launched a campaign against the decision, questioning its justness and legitimacy.⁵ The governing party MP representing the region of Gyöngyöspata stated in a Facebook post that the court decision might be legal, *“but it is unfair, one-sided, excessive and destructive. It*

³ E/C.12/2020/2., Committee on Economic, Social and Cultural Rights, Statement on universal and equitable access to vaccines for COVID-19

⁴ For more details, see: Flash report – Second instance court decision on damages for segregation in education, 30 September 2019,

<https://www.equalitylaw.eu/downloads/4957-hungary-second-instance-court-decision-on-damages-for-segregati-on-in-education-pdf-86-kb>.

⁵ See also: Flash report – Prime Minister calls damages granted to Roma pupils for decade-long segregation “unjust” during pending court case, 7 February 2020,

<https://www.equalitylaw.eu/downloads/5071-hungary-prime-minister-calls-damages-granted-to-roma-pupils-for-decade-long-segregation-unjust-during-pending-court-case-116-kb>; Hungarian Helsinki Committee, Unfettered Freedom to Interfere – Ruling party politicians exerting undue influence on the judiciary in Hungary

2010–2020, 29 July 2020,

https://www.helsinki.hu/wp-content/uploads/HHC_Hun_Gov_undue_influence_judiciary_29072020.pdf, pp. 5-6.

is unjust because it punishes the whole town.”⁶ In January 2020, the Prime Minister himself labelled the judgment as unjust and stated the following:

“If I lived there, along with other members of the community I would be asking myself how, for some reason members of an ethnically identifiable group living in my village could receive a significant amount of money without doing any kind of work. Meanwhile, I don’t know how many hours, how many days, or years I would have to work for this money [...] And I think these people are right.”

Following the Gyöngyöspata judgement, in June 2020, the governing party MP for the region submitted an amending proposal to the Act on National Public Education, which became known as the “Lex Gyöngyöspata”. This amendment prescribes that in relation to future violations caused by access to substandard education, the court shall grant compensation for the damages in the form of educational services instead of pecuniary compensation to be paid for moral damages. The “Lex Gyöngyöspata” entered into force on 22 July.⁷ It is a clear violation of the requirement of equal treatment as it constitutes indirect discrimination based on ethnicity with regard to the victims of segregation, not to mention, it is perfectly capable of strengthening and validating the anti-Roma sentiments of the majority population.

The Gyöngyöspata case and the subsequent legislative decisions are apparent examples of how the Government and the governing majority use legislation to undermine the respect for court decisions, and how high-ranking government officials repeatedly use public statements as a tool to further their discriminative agenda affecting the most vulnerable groups of society.

In light of the above, we suggest that not only have the relevant Recommendations not been implemented, but the Government acted explicitly contrary to them.

(c) Discrimination of Roma children with a particular focus on Roma children’s removal from their families⁸ (128.94, 128.95, 94.41, 94.95)

According to international and domestic legal obligations, the Hungarian state has to take measures to ensure non-discrimination against children belonging to minority groups, in particular with regard to the removal of children from their home environment as well as within the state child care system. According to the Child Protection Act, the removal of a child based exclusively on the poor material conditions or the indigent status of the family, is a violation of the law. Instead, families that struggle due to insufficient financial resources should be assisted to take “good enough” care of their children.

⁶ See e.g.:

https://index.hu/belfold/2020/01/04/gyongyospata_hovath_laszlo_soros_halozat_dontes_kuria_penz_millio_roma_szegregacio/.

⁷ Act LXXXVII of 2020

⁸ Submission by the Hungarian Helsinki Committee Regarding the Eighteenth to Twenty-fifth Periodic Reports of Hungary to the UN Committee on the Elimination of Racial Discrimination at its 98th Session (April-May 2019), Discrimination of children in particular with regard to removal of them from their families, p. 18-19.

Contrary to these principles, the Hungarian child protection system is strongly discriminative in practice. In the last few years researchers have examined this question in different Hungarian counties. These studies revealed that roughly 70-80 % of the children in foster care (altogether 23 thousand children) are of Roma origin⁹. The latest survey showed that 80% of these children are Roma, while the proportion of the Roma population within the Hungarian society amounts only to 7-9 %.

Although it is forbidden by law to remove children from their families solely on the ground of the family's social situation, data suggests that 30 % of children in foster care were removed from their families due to poverty. The Ombudsperson examined the situation of children in state out-of-home care in 2017 and his report¹⁰ showed that every third child is taken into state care due to his or her family's financial constraints. Roma families are disproportionately affected by this unlawful practice as they are highly overrepresented among the poorest societal groups.

We would like to add that this practice severely violates the child's right to be raised and looked after in a family in itself, however, the notably deficient state of the children's homes throughout the country makes this practice even more problematic. In 2020, the Ombudsperson examined a state children's home called Kossuth Lajos Gyermekotthoni Központ és Általános Iskola¹¹ where 51% of the children in state out-of-home care were removed from their families mainly or solely due to the poor living conditions and financial hardships of their parents. Despite this, the Ombudsman found that the institution examined did not have the necessary staff and equipment, its continuous bed bug infestations posed a serious health risk and due to the lack of renovation many accident hazards were identified in and around the building. Altogether the establishment violates the children's right to protection and care, as well as their right to physical and mental health. Undoubtedly, these conditions do not amount to an improved standard of living for even the poorest Roma children concerned - bearing in mind that the main or sole reason for their removal in many cases was the family's unsatisfactory living condition in the first place. What this report describes is rather the norm than the exception when it comes to the state child care system and children's homes. Similar observations regarding the lack of available workforce and equipment, high fluctuation and far-reaching operational problems have been made in many other Ombudsman reports.¹² What gives cause for an even greater concern is the fact that the Ombudsman has also identified cases of abuse and violence. In the Children's Home of Zalaegerszeg for instance, the inspection found that not only did the children regularly abuse

⁹ ERRC (2007) http://www.errc.org/uploads/upload_en/file/02/90/m00000290.pdf, ERRC (2011) <http://www.errc.org/reports-and-submissions/life-sentence-romani-children-in-institutional-care>, Darvas et al (2016): Roma gyerekek a szakellátásban. Esély, 4: 52-82. http://www.esely.org/kiadvanyok/2016_4/2016-4_3-1_Darvas-Farkas-Kende-Vigh_Roma_gyerekek.pdf

¹⁰ The Ombudsman's statement on the practice of placing children in child protection care primarily for financial reasons <http://www.ajbh.hu/en/web/ajbh-en/press-releases/-/content/ujPUErMfB9lw/resources-needed-for-prevention-and-basic-child-welfare-services-the-ombudsman-s-statement-on-the-practice-of-placing-children-in-child-protection-care>

¹¹ Office of the Commissioner for Fundamental Rights, case number: AJB-2875/2020.

¹² Office of the Commissioner for Fundamental Rights, case numbers AJB-2316/2016, AJB-166/2016, AJB-3292/2017, AJB-299/2019

each other, but they were also both verbally and physically abused by the professional staff.¹³ Last but not least, the Ombudsman warns in his report that children with dual needs (who not only have behavioural disorder but also suffer from a longstanding health condition or disability) are particularly exposed to the systematic deficiencies of the state child care services, as institutions are not equipped to appropriately take care of them.¹⁴ Based on our experience, Roma children are more likely to be removed from their families than their non-Roma peers also when they have dual needs.

Irrespective of the child's removal from the family, the fact that Roma families remain much more exposed to the risk of poverty than the rest of the population, gives cause for grave concern in itself, particularly in light of a new report¹⁵ assessing the detrimental effects of poverty on children's health. According to the conclusions of this report, children born in poor families are systematically prone to have poorer health than the ones born in wealthy families. The reason behind this observation is not only the difference between the lifestyles of children already born (e.g. the fact that young girls living in poverty tend to drink more than twice as much soft drinks full of sugar as their wealthier peers), but also the differences noticeable in fetal development. Children born in indigent families are more likely to be premature infants, born with a much smaller bodyweight and a significantly bigger probability of lagging in development.

Another pressing issue is the recent discovery that in the period 2015-16, out of 1310 registered child victims of trafficking in the European Union, 647 were of Hungarian nationality.¹⁶ Among many other factors, this can also be explained by the fact that the Hungarian Government does not meet the minimum standards identified as essential to fight human trafficking.¹⁷ This finding is extremely relevant to the matter at hand, as services provided by the state for the victims are especially uncoordinated, unsatisfactory and rare regarding children in state institutional and other care facilities: these particularly vulnerable groups are further discriminated against, as they are not included in the identification mechanism for victims of trafficking. As mentioned above, Roma children are overrepresented in out-of-home care facilities, which poses them to a greater risk of child trafficking as well.

In light of the above, we suggest that none of the relevant Recommendations have been implemented so far.

¹³ Office of the Commissioner for Fundamental Rights case number: AJB-159/2017
<http://www.ajbh.hu/en/web/ajbh-en/press-releases/-/content/ujPUErMfB9lw/derogatory-institutional-sanctions-bad-automatizms-probable-abuse-report-by-the-commissioner-for-fundamental-rights-on-the-operation-of-the-children-s>

¹⁴ Office of the Commissioner for Fundamental Rights case number: AJB-1201/2016

¹⁵ Hajdu Tamás - Kertesi Gábor: Statisztikai jelentés a gyermekegészség állapotáról Magyarországon a 21. század második évtizedében, Institute of Economics Centre for Economic and Regional Studies, 2021

¹⁶ ECPAT Country Overview, Hungary, A report on the scale, scope and context of the sexual exploitation of children, 2021, p. 15.

¹⁷ United States Department of State, Trafficking in Persons Report, 2020

(d) Discrimination against Roma women with a particular focus on access to healthcare
(94.41, 94.100, 128.54, 128.95, 128.171)

The Regina Foundation Miskolc (a local civil society organization working with Roma women) identified¹⁸ certain problems relating to the medical assistance provided to Roma women living in Borsod county (one of the most disadvantaged regions in Hungary). Based on the Foundation's experience, Roma women were discriminated against in the Borsod county hospital in many different ways, mostly in the maternity ward.

Firstly, they were not provided with adequate assistance and were not informed about their rights, particularly about the possibility to be accompanied by an adult relative while giving birth. In the hospital, there was a tacit agreement on charging persons who wished to accompany the woman to the labour room for protective hospital clothing in the sum of 3000 HUF. This practice was even confirmed by the chief physician of the maternity ward.¹⁹ However, many disadvantaged Roma families living in the region could not afford to pay this sum, consequently this system made it impossible for these persons to accompany their wives/relatives to the labour room.

Secondly, although a system of separation was not officially declared, Roma and non-Roma women are regularly placed in isolated rooms after having given birth. When asked about this practice, the hospital claimed that non-Roma women prefer not to be placed in the same room as their Roma peers, claiming that they need a "calm environment" which cannot be granted unless such isolation takes place, mainly due to the cultural differences between Roma and non-Roma families. The hospital did not wish to address this problem. Based on our experiences, the Miskolc county hospital is just one of many Hungarian hospitals that engage in this widespread practice.

With regard to these practices, the European Roma Rights Centre sued the Miskolc county hospital in 2017 based on the allegation of direct and indirect discrimination. The Miskolc Tribunal established that the hospital had in fact discriminated Roma women based on their ethnicity and social status. The judgment was upheld on appeal by the Debrecen Court of Appeal in 2019. As a result, the hospital was fined and ordered to refrain from such unlawful practices.

Another civil society organisation called Születésház Egyesület conducted twenty in-depth interviews with Roma women living in segregation regarding their experiences in obstetric health care.²⁰ Almost all of the women asked felt that they received the support most suitable to them during their pregnancy not from a health professional, but from a relative or friend

¹⁸ Submission by the Hungarian Helsinki Committee Regarding the Eighteenth to Twenty-fifth Periodic Reports of Hungary to the UN Committee on the Elimination of Racial Discrimination at its 98th Session (April-May 2019), Measures taken to ensure full enjoyment of the rights enunciated under Article 5 of the Convention, p. 14-15.

¹⁹ Balogh Lídia – Gellér Judit: Roma nők hátrányos megkülönböztetése a szülészeti ellátás során: két magyarországi jogeset, háttérrel, *Fundamentum*, 2019. 1-2. szám.

²⁰ Dr. Bodrogi Bea: Roma nők helyzete és lehetőségei a szülészeti ellátásban, Születésház Egyesület, 2016, https://emmaegyesulet.hu/wp-content/uploads/2020/05/roma_hu.pdf

they trusted. Additionally, they felt without exception that during medical procedures “something bad was happening to them” and that the labour itself was something “to get over with” and something “to just survive”. They mostly did not understand the information given to them by their doctors and felt that it would have helped a lot to have the procedures, medical terms and conclusions explained to them by someone. Most women asked also mentioned that they had to endure some sort of discrimination and negative comments regarding their ethnicity in obstetric health care, however, they almost never filed a complaint regarding the impairment of their right to equal treatment.

In light of the above, we suggest that Recommendation no. 94.100 has been partially implemented, since investigations have taken place. The rest of the relevant Recommendations, however, have not yet been implemented.

(e) Combating the overall discrimination of Roma people (128.72, 128.84, 128.86, 128.115, 94.46, 94.48, 94.49, 94.60, 94.102, 94.107)

1. Discrimination in the criminal justice system

Certain disparities continue to be further increased to the detriment of Roma people due to the shortcomings of the criminal justice system and its discriminatory practices. The most common and problematic practices are the following.

The lack of trust between the police and members of the Roma community remains an unresolved issue. Many Roma persons feel that they cannot rely on the police, since they often do not act when the victim of an offence is of Roma origin. For instance, when a Roma person reported at the police station that his bicycle was stolen, he was told to “steal it back”.²¹ In another case, when a Roma citizen reported assault, he was told that they should have “just dealt with it among themselves”.²² In parallel to this inaction, minor offences are being over-policed when it comes to Roma perpetrators as a result of ethnic profiling that links certain types of offences to certain groups of people. This prejudiced attitude still leads to the regular discriminatory fining of Roma persons, even though the number of complaints regarding this practice has decreased since 2016.²³

The over-policing of administrative offences committed by Roma citizens is a problematic phenomenon also due to the fact that unpaid administrative fines can be replaced by a custodial sentence in Hungary. Since Roma persons often cannot afford to pay the sum of the fine imposed on them, there is a possibility that they are detained even for committing a minor offence, motivated or caused by financial hardship. There are a good number of

²¹ Kazarján Annie - Kirs Eszter: A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban, Fair Trials, 2020, p.17.

²² Kazarján Annie - Kirs Eszter: A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban, Fair Trials, 2020, p.17.

²³ Kazarján Annie - Kirs Eszter: A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban, Fair Trials, 2020, p. 27.

examples for this harmful practice, a typical one for instance was when a Roma man stole wood in low value to be able to heat his house and protect his children from freezing to death, the police imposed a fine of 50 thousand HUF on him. Naturally he was unable to pay the fine and due to his work schedule he was unable to attend community services as well. Therefore, he had to spend 10 days in detention.²⁴

2. Municipal regulations punishing poor living conditions

A change has taken place in the municipal regulations that we find problematic: countless municipalities adopt local regulations that sanction poor living conditions. The declared aim of such regulations is to ensure public safety and public order, however, the specific provisions often exceed the scope of these legitimate goals. In many instances, municipalities sanction the poor sanitary conditions of private properties, making site visits possible for the authorities inside the homes of the people concerned. These provisions also make it possible for municipalities to impose administrative sanctions on people whose homes are not tidy or well-organised enough. The HCLU finds that these provisions amount to a gross violation of the rights of persons concerned - mainly poor Roma people living in unsatisfactory conditions. They leave space for the harassment of the poorest and most vulnerable persons who are unable to maintain a sanitary and clean household, but in no way pose a threat to either the public safety or public order.

3. Weakened access to justice²⁵

3.1. Obstacles to challenging administrative decisions

In March 2020, a revision of the legal environment regarding administrative decisions took place, causing a palpable step back in the enforcement of rights regarding all citizens, but in its effects especially members of vulnerable groups - and among them, members of the Roma community. The possibility of appeal to the second instance authority against administrative decisions was withdrawn from the relevant Act, meaning that the only possible way to challenge administrative decisions, is before court. This even stands for decisions removing children from their families: if the parents (who are often members of the most vulnerable groups, such as Roma people living in extreme poverty, who may even be illiterate, as demonstrated in section (b) of this submission) wish to challenge the decision ordering the removal of their children, they have to file a formal action. This in itself is an immense obstacle for many poor Roma families and makes it extremely difficult if not impossible for them to enforce their right to a legal remedy. Moreover, court procedures are expensive and although there are instances when one can get exemption from payment of court fees, the criteria for this are extremely strict. Most poor persons remain ineligible for the exemption from payment, which means that even if marginalised Roma people manage to write and file

²⁴ Szegő Dóra: A szabálysértési elzárás az elzárást töltő, sérülékeny csoportba tartozó elkövetők szemszögéből, Foresee Kutatócsoport, 2016, p. 11.

²⁵ Submission by the Hungarian Civil Liberties Union regarding the sixth report of Hungary to the European Commission against Racism and Intolerance (ECRI) 2020, Access to justice and rights, p. 3.

a formal action to court, the court fees create additional and at times insurmountable hardships for them.

3.2. The ineffectiveness of State legal aid services

Roma persons subject to criminal proceedings are highly distrustful in the criminal justice system.²⁶ One of the factors largely contributing to their distrust is the lack of efficient legal aid. Legal aid defence lawyers mostly fail to represent the interest of their clients effectively, which problem affects Roma persons disproportionately, as they generally cannot afford to pay for a defence lawyer and are exceedingly exposed to the shortcomings of state legal aid. Mostly, legal aid defence lawyers fail to share the necessary information with their client, as they often do not even contact the client and send their clerks to court instead of showing up personally. Even if they manage to be present in the courtroom, they are often utterly unprepared, they do not have any documentation regarding the case and only see the relevant evidence minutes before the court is in session.²⁷ These defects are likely to determine the use of coercive measures, the outcome of the criminal proceedings and the rigor of the sentences imposed, leaving most Roma persons without effective protection and legal expertise in the courtroom.

The state legal aid service is not accessible in practice. A reform of the system was ongoing last year but we have no information about its results yet.

3.3. The ineffectiveness of the Commissioner for Fundamental Rights of Hungary²⁸

In October 2019, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) deferred the review of the status of Hungary's Commissioner for Fundamental Rights (the Ombudsperson) as a national human rights institution (NHRI). The reasons for the deferral included that the Commissioner's selection process was "not sufficiently broad and transparent", and that the Commissioner as a national human rights institution had "not demonstrated adequate efforts in addressing all human rights issues, nor has it spoken out in a manner that promotes and protects all human rights". SCA's 2019 report detected a serious lack of action regarding the rights of the Roma community in particular.

This destructive inaction is clearly demonstrated in section (b) above with regard to the Gyöngyöspata case. We would like to add that offensive, generalizing statements about the members of the German minority in Hungary in an online show were made around the same time as the statements questioning the legitimacy of the Gyöngyöspata judgment by high-ranking politicians. The Deputy Commissioner for the Rights of National Minorities issued a statement that it would launch an investigation into both of these cases around the

²⁶ Kazarján Annie - Kirs Eszter: A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban, Fair Trials, 2020, p. 31.

²⁷ Kazarján Annie - Kirs Eszter: A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban, Fair Trials, 2020, p. 36.

²⁸ Shadow Report to the Ganhri Sub-Committee on Accreditation on the Activities and Independence of the Commissioner for Fundamental Rights of Hungary in Light of the Requirements Set for National Human Rights Institutions, 2021

same time. However, the Deputy Commissioner issued a general comment²⁹ only with regard to the statements attacking the German minority and has not so much as commented on the degrading and inciting public statements of governing party politicians with regard to the Gyöngyöspata case to date. In spite of the unambiguously discriminatory elements of both the public statements and the legislative changes regarding this case, the Commissioner failed to address the problem or take any adequate steps needed.

Furthermore, despite the detrimental effects the pandemic has had on Roma communities as explained in section (a), the Commissioner remained utterly silent and inactive in this matter. Although the Ombudsperson issued a statement³⁰ in March 2020 claiming that its Office would “continuously analyse” the effects of the pandemic with special attention to members of vulnerable groups,³¹ the Deputy Commissioner issued a general comment³² in this regard only in February 2021. We would like to add that the document is dated back to November 2020 despite the fact that it was first disclosed in February 2021. Albeit the general comment stresses that special attention should be paid to minorities living in poverty and segregation with regard to the pandemic, the document was not publicly communicated at any point, rather the contrary: it was hidden from the public eye to the extent that its publication was almost undetectable even for HCLU, an NGO specialising in the field of discrimination and aiming to monitor the repercussions the pandemic has on Roma segregations specifically. Naturally, this means that the general comment was completely unnoticeable for anyone less involved in this particular issue. Although the general comment makes some important observations, the single related recommendation to the government set out in the document is excessively soft and general.

3.4. The fusion of the Equal Treatment Authority into the Commissioner for Fundamental Rights

In our experience, the Equal Treatment Authority (ETA) worked quite effectively in the past. A seemingly alarming development however, is that as of 1st January 2021 the institution of ETA has been abolished, leaving the Commissioner for Fundamental Rights of Hungary to take over on its competences. This in our view is a very disturbing development not only due to the circumstances mentioned in section III. above, but also due to the fact that the Ombudsman’s A status as a human rights institution is currently under revision by the UN Human Right Committee.³³

What makes this institutional change even more worrisome is that fact that the network of equal treatment consultants has also been eradicated - or at least it seems that way at the moment. We found this initiative forward-looking and valuable, as the network of equal treatment consultants were responsible for the promotion of legal proceedings regarding

²⁹ General Comment no. 5/2020 on the Offensive Statements Regarding the German Minority of Hungary, <https://bit.ly/3bRQkm1>

³⁰

<http://www.ajbh.hu/kozlemenyek/-/content/qzyKPkTyQAvM/az-alapveto-jogok-biztosanak-es-helyetteseinek-ko-zlemen-1>

³¹

<http://www.ajbh.hu/kozlemenyek/-/content/qzyKPkTyQAvM/az-alapveto-jogok-biztosanak-es-helyetteseinek-ko-zlemen-1>

³² General Comment no. 4/2020 on the Effects of the Pandemic on Ethnic Minorities, <https://bit.ly/3sBGawM>

³³ <https://civilizacio.net/en/news-blog/abolishingtheequaltreatmentauthority>

discrimination cases locally, outside the capital. This entailed that anyone concerned could reach out to a consultant (a lawyer) working in the provincial capital of their county and ask for their help free of charge. The eradication of this network is a big step back in the enforcement of the right to equal treatment.

In light of the above, we suggest that the Recommendations relevant to this section have not been implemented so far. We would also like to stress the fact that the developments regarding the Equal Treatment Authority seem to be explicitly contrary to Recommendation no. 94.60.

Annex: Table containing the thematically clustered Recommendations from the previous two cycles

Repeated Recommendations	
Combating the overall discrimination of Roma people	
A/HRC/33/9	128.72 Step up the efforts to combat all forms of discrimination and favour equality of opportunities and treatment, with special care and attention to those who are in a more vulnerable situation, such as persons belonging to the Roma community
A/HRC/33/9	128.84 Undertake further steps to promote efforts to overcome residual social discrimination against Roma and other ethnic minorities
A/HRC/33/9	128.86 Strengthen its efforts to promote tolerance and cultural understanding of the Roma population in the aim of eliminating discrimination including in regard to access to education and employment and participation in politics
A/HRC/33/9	128.115 Enhance its efforts to prevent and root out all kind of national and ethnic intolerance, as well as condemn any incitement to ethnic and religious hatred and hate speech against the Roma in particular

A/HRC/18/17	94.46. Take effective measures to curb racial hatred and discrimination against the Roma population
A/HRC/18/17	94.48. Strengthen measures directed towards the protection from discrimination and further integration of the Roma
A/HRC/18/17	94.49. Take concrete and stern action to ensure equal treatment for all in the society, in particular to remove de facto discrimination against Roma people
A/HRC/18/17	94.102. Intensify the fight against prejudices towards minority groups, the Roma in particular
A/HRC/18/17	94.107. Take further measures to ensure that Roma people fully enjoy their human rights, including by preventing and combating discrimination and racially motivated crimes against Roma people
Discrimination of Roma children	
A/HRC/33/9	128.94 Include specific components in public policies and budgets to address the needs of persons belonging to minorities, including Roma women and children
A/HRC/33/9	128.95 Adopt more policies and allocate more resources specifically directed towards Roma women and children
A/HRC/18/17	94.41. Intensify efforts to combat all forms of discrimination to make effective the equality of opportunities and treatment among all inhabitants in its territory, with particular care and attention to women and children who are in the situation of more vulnerability, such as those who belong to the Roma people
Discrimination of Roma women	

A/HRC/33/9	128.54 Take effective measures to address the needs of women belonging to minorities, such as Roma women, in order to eliminate all forms of discrimination against them
A/HRC/33/9	128.171 Take further steps to ensure better labour market access and access to basic social and health services for marginalized women, including women with disabilities, Roma women and migrant women
A/HRC/18/17	94.41. Intensify efforts to combat all forms of discrimination to make effective the equality of opportunities and treatment among all inhabitants in its territory, with particular care and attention to women and children who are in the situation of more vulnerability, such as those who belong to the Roma people
Impacts of Covid-19	
A/HRC/33/9	128.85 Take effective steps to end discrimination against Roma in education, health, employment, housing and access to services with a special focus on ending continued segregation of Roma children at schools
A/HRC/33/9	128.88 Take further steps to eliminate discrimination against the Roma population, especially in the field of education, health, employment, housing and access to services
A/HRC/18/17	94.106. Place special emphasis on addressing the socio-economic disadvantages of the Roma, particularly in the areas of employment, education, housing and access to health services. Segregation in school should be eliminated through both incentives and sufficient penalty in case of violation
A/HRC/18/17	94.110. Strengthen its efforts to improve the social, political, living, and health conditions for Romani citizens through legal, administrative and socioeconomic means
Intolerance promoted by the Government	

A/HRC/33/9	128.70 Take all necessary measures to eliminate racial discrimination and segregation of Roma in education
A/HRC/33/9	128.86 Strengthen its efforts to promote tolerance and cultural understanding of the Roma population in the aim of eliminating discrimination including in regard to access to education and employment and participation in politics
A/HRC/33/9	128.115 Enhance its efforts to prevent and root out all kind of national and ethnic intolerance, as well as condemn any incitement to ethnic and religious hatred and hate speech against the Roma in particular
A/HRC/18/17	94.55. Continue its efforts to achieve full social integration of minorities, especially the Roma and take urgent measures to combat and prevent racist incidents and hate crimes
A/HRC/18/17	94.102. Intensify the fight against prejudices towards minority groups, the Roma in particular
Recommendations from the second cycle	
Discrimination of Roma women	
A/HRC/33/9	128.95 Adopt more policies and allocate more resources specifically directed towards Roma women and children
Intolerance promoted by the Government	

A/HRC/33/9	128.98 Intensify national efforts to prevent and eliminate all manifestations of anti-Semitism and take resolute measures to condemn hate speech, including against Roma
A/HRC/33/9	128.109 Further step up efforts to publicly condemn hate speech, including against Roma
Recommendations from the first cycle	
Combating the overall discrimination of Roma people	
A/HRC/18/17	94.60. Continue to be committed, via its Equal Treatment Authority, to implement and train its citizens as regards to equal treatment for all, and to eradicate violence and discrimination against women and offer greater protection and equal opportunities to the Roma community
Discrimination of Roma children	
A/HRC/18/17	94.95. Commit to improving school results of Roma pupils by 2015
Discrimination of Roma women	
A/HRC/18/17	94.100. Investigate, and in the future prevent, cases mentioned by CESCR of the denied access of Roma to health services and their segregation in hospitals, including the existence of separate maternity wards for Roma women in some hospitals

Impacts of Covid-19	
A/HRC/18/17	94.108. Increase public actions to allow the access to education, health, employment and decent housing for the Roma community, and put emphasis on combating violence against Roma women
Intolerance promoted by the Government	
A/HRC/18/17	94.47. Take concrete measures to prevent and combat violence against members of other minorities and vulnerable groups, especially racially motivated hate crimes against and discrimination of the Roma and to promote their integration into society