



REPORT AND LEGAL POSITION ON THE SITUATION IN GYÖNGYÖSPATA

Facts:

On March 6, 2011 JOBBIK (the Movement for a Better Hungary) held an assembly in Gyöngyöspata. Following the speeches held in the center of the village a crowd of around a thousand, including people in military style clothes, marched through the 'Gypsy-row' of the settlement. The police did not disband the demonstration.

The members of, supposedly, 'Szebb Jövőért Polgárőr Egyesület' (For a Better Future Militiaman Association) depicting "Magyar Gárda" (Hungarian Guard), "Védőrség" (Garrison), "Csendőrség" (Gendarmerie) and other labels, and the groups wearing militant attire, named 'Betyársereg' (Rogue-army) did not leave Gyöngyöspata after the assembly of JOBBIK. Arrogating the state role of maintaining the public order and prevention of crime, they kept marching through the settlement in small groups for 10 days, following members of the Roma minority group to the food store, and schoolchildren to school. Unacceptable and spiteful remarks were directed at the Roma, as well as discriminatory slogans. Their appearance was troubling, making the locals frightened to leave their homes, and children did not dare to go to school. The ethnic tension in the settlement increased significantly.

Following the village assembly of March 16, the members of the extreme units left the settlement. According to the latest information in the media, they are planning to move on to Hajdúhadháza, to continue their action started in Gyöngyöspata.

According to information from the media, a local branch of the mentioned association was founded in Gyöngyöspata at the village assembly of March 16, and already has 30 local resident members. In the future, the local branch will carry out the tasks of the militiaman in the settlement, and representatives of the association threatened to return in case a new crime happens.

The police, though being present in great numbers, did not interfere during the ten days. To our knowledge, proceedings were only initiated against 4 people, simply for refusing to show identification.

On March 16 Károly Konrát, state-secretary of the Ministry of the Interior, while being interpellated by an MP, said in the Parliament that order was kept in Gyöngyöspata by the police. He added that there was no need for a militiaman association, which terrorizes the locals.

Besides this, the Prime Minister, the Minister of the Interior, and the State Secretary for Social Inclusion did not make a statement about the case, and to our knowledge did not give an order to the police. Thus the Government does not seem to have an official position, or does not consider the situation serious enough to make a statement.

Legal position:

The frightening act of the people arrogating the role of maintaining public order in Gyöngyöspata is not protected by freedom of assembly. With their threatening appearance, they questioned the absoluteness of state force-monopoly. The inactivity of the police caused legal uncertainty.

The police captain explained the inactivity of the police stating that the uniforms were not the uniforms of the dissolved Gárda (Hungarian Guard) and as long as there were no violent acts, there was no legal opportunity for the police to take steps. In our point of view it is a false legal interpretation to refer to the lack of facts of minor offenses, when the suspicion of serious crime arises.

The effectiveness of the criminal procedures are unfortunately greatly endangered by the fact that the police has not initiated these procedures; compelling measures were not taken against the perpetrators, while they were staying in the settlement before the very eyes of the authorities.

The criminal procedures should be launched on the following grounds:

Violence against a member of the community

According to Section 174/B of the criminal code:

Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, or compels him by applying coercion or duress to do, not to do, or to endure something, is guilty of a felony punishable by imprisonment for up to five years. The punishment shall be imprisonment between two to eight years if the act of crime is committed: by force of arms; with a deadly weapon; causing a considerable injury of interest; with the torment of the injured party; in groups; in criminal conspiracy. Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment for up to two years.

To our judgment, the people maintaining the terror in Gyöngyöspata, in groups with whips and tomahawks and threatening the Roma, have realized the point of “compel[ing] another person by applying coercion [*sic*] to endure something.” It is obviously provable that the local Roma residents were threatened because of their ethnic origin, thus these acts are classified as more serious than the crime of coercion, according to Section 174/B. and Section 174., respectively, of the criminal code.

Harassment

According to Section 176/A. (2) of the criminal code: Any person who, for the purpose of intimidation conveys the threat of force or public endangerment intended to inflict harm upon another person, or upon a relative of this person, or purports to make believe another person, or a relative of this person to put that person in fear that any threat to his life or health, or to the life or health of a relative of this person is imminent, is guilty of a misdemeanor punishable by imprisonment for up to two years, community service work, or a fine.

In connection with the threatening appearance of the people who appeared to be maintaining the public order in Gyöngyöspata, the elements of harassment also might have been fulfilled. Thus, in the case of a private motion the police have to investigate.

Public nuisance

According to Section 271. of the criminal code: Any person who displays apparently anti-social and violent conduct aiming to incite indignation or alarm in other people is guilty of a misdemeanor punishable by imprisonment for up to two years, community service work, or a fine, if such act does not result in a criminal act of greater gravity. The punishment shall be for felony imprisonment for up to three years if public nuisance is committed in group; in a manner gravely disturbing public tranquility. The punishment shall be for felony imprisonment for up to five years if public nuisance is committed in a group, in a manner gravely disturbing public peace, in a public event.

If the facts of violence against a member of community or harassment do not hold for any reason, it is our position that the police should at least initiate proceedings for public nuisance.

Abuse of authority

Due to the inactivity of the police Section 225 of the criminal code arises: Any public official who breaches his official duty, transgresses his competence or performs any official act that is illegal or wrongful with the aim of causing unlawful disadvantage or obtaining unlawful advantage is guilty of a felony punishable by imprisonment for up to three years.

From our point of view, if the police deliberately failed to take the necessary and legally required steps, the facts of abuse of authority were realized.

Disciplinary responsibility

Due to failing to initiate proceedings, the disciplinary responsibility of leaders or members of the police also arises.

According to the law on assembly, if there are violations of the rights and liberty of other people, demonstrations held in public must be dissolved by the police. Based on the judgment of the High Municipal Court of Budapest, it is clear that the march in the 'roma-row' following the assembly of JOBBIK in Gyöngyöspata on March 6 violated the liberty of the local Roma. Nevertheless, the police neither interfered, nor called upon the organizers to stop their illegal activity, or dissolved the assembly. We also find it necessary to call the persons responsible to account for this, and draw conclusions for the future.

Proposal:

Our view is that the inactivity of the police widely endangers society: if the authorities do not pursue the perpetrators of certain illegal activities – especially hate crimes – properly, it communicates the message that the perpetrators can continue their activity freely, which can encourage others to commit similar crimes. If the perpetrators remain unpunished, it contributes to an increase of violence. Due to the lack of state protection, minority groups lose their faith in law-enforcement authorities and the government and become further marginalized. All this can result in an endless spiral of violence.

To prevent the above, we ask the representatives of the government to take a political stance on the appropriate level and to condemn publicly the activities of paramilitary organisations in Gyöngyöspata and the inactivity of the police. The government should make clear for the citizens that the force-monopoly belongs exclusively to the state and that the events occurring in Gyöngyöspata endangered the rule of law.

We ask the government to instruct the police via the Minister of the Interior to start appropriate criminal proceedings.

We believe that it is the government's responsibility to make sure that in an effort to protect the minorities such situations do not develop in other villages, and therefore we ask the government to stop such situations with all possible means of the law from occurring in the future.