

**Péter György SZEGL (Hungarian Civil Liberties Union): Ethnic profiling practices in Hungary,  
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**Introduction**

In Hungary, the most frequent victims of ethnic profiling are the Hungarian Roma, especially those living in rural areas often in segregated circumstances. The Hungarian Roma make up around 7 to 9% of the total population and an estimated 40% live in segregated slums. They are the most vulnerable members of Hungarian society, suffering from unemployment and being subject to deep poverty, social segregation, prejudice and racism.

During our field visits, Roma people of rural areas have been complaining about two forms of ethnic profiling: discriminative **fining practice of the police for bagatelle petty offences and ID checks**.

**I. DISCRIMINATORY FINING PRACTICE**

The Roma usually get fined for **minor infringements of rules concerning bicycle users and pedestrians**. For example: lack of bike accessories (prism, bell), bad condition of the bike, jaywalking or walking on the road instead of the sidewalk—these finings take place in small villages where there is practically no traffic. Also, it is typical that they get fined for littering or spitting. They usually get fined when they are about to leave the slum.

The **non-Roma** commit the same infringements but are unlikely to get fined for them, which means that there is a **discriminative selection for police measures**, which becomes a tool for intimidation and segregation of Roma communities.

The **effects** of these practices are not only **marginalization** of the Roma but also their **criminalization**. This is mostly because since the new Law on Petty Offenses of 2012 all **finés**, even on-the-spot fines, can **get changed – without a judicial hearing – to confinement** if the perpetrator fails to pay the fine. This is very often the case as Roma in the rural areas live in abject poverty and cannot afford paying fines of 20-50 Euros, when the whole family lives on 400 Euros a month.

As Roma in deep poverty do not know their rights, they do not get information or they do not understand the information provided, they have **absolutely no means to enforce their rights**. So they either try to collect the money by legal or illegal means to pay the fine or go to jail for a few days. These short time imprisonments have long lasting and serious consequences, manifestly disproportionate for the bagatelle minor offences.

➤ **Find out more:** <https://www.youtube.com/watch?v=QpUae6KXrEE>

### Case study I.

The HCLU launched court proceedings against this practice in 2011 when we initiated an *actio popularis* civil lawsuit before Court. The biggest challenge we encountered when litigating ethnic profiling was the **lack of data**. The Hungarian police is not allowed to collect ethnic data of offenders. Furthermore, the police firmly **deny this practice** and claim to act against offenders and not the Roma. They rely on their obligation to act in case of a petty offence is committed. It should be emphasized that the **individual police measures are** (at least formally) **lawful**, as the petty offences are typically committed. What is **unlawful is their overall impact**. We also had to substantiate that **non-Roma people also committed** similar offences for which they did not get fined. Lastly, there was **no Hungarian case law** to rely on.

The first instance judgment highly reflected our arguments. The court held that **(direct) discrimination can occur at the level of police practice even if the individual measures are lawful**. On the other hand, the second instance court and eventually the Supreme Court judged that HCLU **could not substantiate discrimination**. We strongly believe that these courts were not familiar with the special rules on burden of proof or did not correctly use them. The court would have required us to prove causality between ethnicity and the alleged violations which is clearly not the obligation of the claimant according to the Equal Treatment Act. Therefore, in July 2017, **HCLU submitted an application to the ECtHR** based on the violation of our right to a fair trial.

- **Find out more:** <https://tasz.hu/en/romaprogram/supreme-court-police-discriminated-against-roma-gyongyospata>

### Case study II.

In 2012, the notary of the village Rimóc (Northern Hungary) noticed that petty offence fines for lack of mandatory accessories for bicycles (ring, headlights, reflector prisms) are **almost exclusively imposed on Roma people** in the area, although the **bicycles used by the non-Roma are not significantly better equipped**. He notified the Equal Treatment Authority which launched an *ex officio* investigation into the matter. The Hungarian Helsinki Committee (HHC) stepped into the procedure.

The case ended in a friendly settlement between the Nógrád County Police Chief and the HHC. The Police Chief acknowledged that the practice **may have disproportionately affected the Roma community**, but emphasised that the police had no means to control the overall practice of a certain unit, because they were not allowed to process data of the ethnic affiliation of the individuals fined. The police undertook to delegate 20 officers to a 3-day anti-discrimination training, offered to provide the local community with necessary accessories free of charge.

- **Find out more:** <https://www.helsinki.hu/en/practice-of-racial-profiling-against-the-roma-community-is-acknowledged-by-the-police/>

## II. WORKING GROUP ON PETTY OFFENCES

HCLU is a member of a coalition of NGOs working to reform the fining system through advocacy, empowerment of the affected Roma communities and strategic litigation. The Working Group on Petty Offences' initiatives have included so far:

- compiling a **proposal** revealing structural problems of the act itself and its application and suggesting decriminalisation, alternative sanctions, etc. **to the Ministry of Interior**;
- creating **know-your-rights leaflets** in a form of a cartoon, explaining the rights and obligations of the person subjected to petty offence procedure;
- sending these **leaflets** to police stations, that they can hand out to offenders – an Eastern county police chief has recently agreed to **train field officers** to use clear, plain language when informing the person under procedure thus facilitating access to justice;
- organizing **workshops for Roma activists** to empower the local communities;
- turning to the **Constitutional Court** in a strategic case revealing the lack of adequate procedural safeguards in the Petty Offences Act.

## III. ID CHECKS

ID checks are the **most frequently used police measures** in Hungary: on average, more than 1.5 million checks are conducted annually. Concerning the effectiveness and analysis of this police measure, the first **comprehensive research** was carried out in 2007-2008 by the Hungarian Helsinki Committee in the framework of a project sponsored by the European Commission's AGIS Program and the Open Society Foundations. The study also examined whether ID checks may be discriminatory, namely if members of the Roma minority are ID checked in unjustified and disproportionate numbers compared to their non-Roma peers. The research indicated that **Roma people are 3 times more likely to be ID checked than the non-Roma**, while there is no difference in the effectiveness of the measures.

### Case Study

The HCLU is **currently representing a client of Roma origins who has been stopped by the police on a monthly basis**. He is a young college student living in Budapest with **no criminal record**. The case is still on the administrative level and the police is investigating its officers' actions. The police's main argument is that our client was stopped because he was behaving suspiciously – which he firmly denies, explaining that he was just walking on the street and looked away when he spotted the officers. The police also claim that they stopped our client because he has a darker skin colour and so they thought he might be an illegal migrant.

➤ Find out more: <https://tasz.hu/en/about-us>