

UNILATERAL LEGAL RESEARCH GROUP ON

**THE CRIMINAL JUSTICE
SYSTEM AND MINORITIES,
WITH A FOCUS ON THE
ROMA MINORITY IN HUNGARY**



"Each of us is more than the worst thing we've ever done." – Bryan Stevenson

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MINORITIES, WITH FOCUS ON THE ROMA
MINORITY IN HUNGARY**

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focus on the Roma Minority in Hungary**

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CONTRIBUTORS

Coordinators

Marcell Gerencsér

Lili Nagy

Fanni Horváth

National Academic Supervisor

Dr. Eszter Üveges Anna

Linguistic Editors

Noémi Ecsedi

Fanni Horváth

Máté Gál

Technical Editors

Noémi Ecsedi

Fanni Horváth

Máté Gál

Cover design – Claudia Bartalis

Researchers and Authors

Barnabás Hajdu

Xénia Dénes

Gergő Nagy

Ivett Nagy

Netti Madai

Petra Márki

Péter Pribula

Kata Nóra Veres

Éva Dabis

FOREWORD

What is ELSA?

The European Law Students' Association (ELSA) is a non-political, non-governmental, non-profit making, independent Organisation which is run by and for students. ELSA has 43 Member and Observer countries with more than 375 Local Groups and 60.000 students. The Association was founded in 1981 by five law students from Poland, Austria, West Germany and Hungary. Since then ELSA has aimed to unite students from all around Europe, provide a channel for the exchange of ideas and opportunities for law students and young lawyers to become internationally minded and professionally skilled. The purpose of the Association is to contribute to legal education, to foster mutual understanding and to promote social responsibility of law students and young lawyers. Our focus is to encourage individuals to act for the good of society in order to realise our vision: "A just world in which there is respect for human dignity and cultural diversity".

You can find more information about ELSA on <http://www.elsa.org>.

What is a Legal Research Group?

A Legal Research Group (LRG) is an academic, legal writing project that provides law students and young lawyers the opportunity to develop various legal skills, such as legal English, legal research and writing skills, as well as plenty of soft skills. A Legal Research Group is a group of law students and young lawyers carrying out research on a specified topic of law with the aim to make their conclusions publicly accessible. The project can work at local, national or international level. The first working LRG was formed by ELSA International in October 1996 to work on aspects of "International Criminal Law". Since the publication of that first research in 1997, ELSA International has launched LRGs on different topics of law, making the project more appealing and popular to its National Groups.

What is the Legal Research Group on The Criminal Justice System and Minorities, with a Focus on the Roma Minority in Hungary?

The topic of the legal research group focuses on problems, prejudice, and discrimination faced by the Roma minority within the criminal justice system. The study aims to present the prejudices Roma individuals encounter during criminal proceedings and the structural and practical disadvantages they face from the very outset of such procedures. The research will include a comparative analysis of how Hungarian courts treat defendants of Roma origin compared to defendants of Hungarian origin. In addition, the study will examine specific cases in which members of the Roma community were subjected to discriminatory treatment, in some instances escalating into acts of violence. Through this research, we seek to draw attention to the fact that discrimination based on ethnic origin does appear within the Hungarian judicial system, and to highlight the potential legal and societal consequences of such practices.

ACKNOWLEDGEMENTS

The Concluding Report of the Legal Research Group on The Criminal Justice System and Minorities, with a Focus on the Roma Minority in Hungary could not have been completed without the valuable contributions and support of numerous individuals.

First and foremost, ELSA Hungary wishes to express its sincere gratitude to the researchers and authors of this project: bachelor's and master's law students who undertook the challenging task of examining a complex and socially significant topic. Their dedication, academic rigor, and commitment to high scholarly standards were essential to the successful completion of this research. Through their work, the authors have provided important insights into the interaction between the criminal justice system and minority groups, while drawing particular attention to the legal and practical challenges faced by the Roma minority in Hungary.

Particular thanks are due to Dr. Eszter Üveges for her professional guidance, academic supervision, and continuous support throughout the research process. Her expertise and oversight played a decisive role in ensuring that the project was conducted and completed in accordance with applicable academic standards.

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ACADEMIC FRAMEWORK

Judicial Practice, Equality, and Comparative Analysis

- a. How do conviction rates differ between Roma and non-Roma defendants when controlling for the type and severity of crime?
- b. How do sentence lengths compare between minority and non-minority offenders for similar offenses?
- c. Are there observable differences in judicial attitudes during trials involving Roma defendants?
- d. To what extent does judicial prejudice influence court decisions?
- e. How do Hungary's and Slovakia's criminal justice systems differ in their approaches to minority issues?
- f. How do Hungarian majority cases compare with Roma cases in court practice?
- g. How are EU principles of equality, equal treatment, and human dignity reflected in domestic judicial practice?

Investigation Phase and Access to Justice

- a. How accessible is legal representation for Roma defendants compared to non-Roma defendants?
- b. To what extent do language barriers or cultural misunderstandings affect trial outcomes?
- c. How does police conduct during the investigation phase differ in cases involving Roma suspects?
- d. Is there evidence of prejudice during investigations, including arrest procedures and evidence collection?
- e. How does cooperation with authorities differ between minority and non-minority suspects?

Imprisonment, Treatment, and Sentencing Practices

- a. Are Roma prisoners treated differently by prison staff or fellow inmates compared to non-minority prisoners?
- b. What differences exist in prison conditions or sentence-serving practices between minority and non-minority inmates?
- c. How does the population ratio of Hungarian, and Roma individuals in prisons compare to their proportion in the general population?
- d. Are there disparities in disciplinary measures or parole opportunities?

Reintegration, Recidivism, and Social Support

- a. What is the recidivism rate among Roma ex-prisoners compared to non-Roma ex-prisoners?
- b. What challenges do Roma individuals face during reintegration after release?
- c. How do family background and childhood experiences influence criminal trajectories?
- d. What are the post-release experiences of former convicts?
- e. Are there support groups or rehabilitation programs specifically targeting minority ex-offenders?
- f. What organizations provide assistance, and how effective are they?

LIST OF ABBREVIATIONS

Common

BJS	U.S. Bureau of Justice Statistics
CERD	Committee on the Elimination of Racial Discrimination
COVID	Coronavirus disease 2019
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EC	European Commission
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
ELSA	The European Law Students' Association
ERRC	European Roma Rights Centre
EU	European Union
EU-MIDIS	European Union Minorities and Discrimination Survey
FRA	European Union Agency for Fundamental Rights
ISSN	International Standard Serial Number
LRG	Legal Research Group
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
UN	United Nations
US	United States
USA	United States of America
WHO	World Health Organization

Hungary

AB	Constitutional Court of Hungary
AJBH	Office of the Commissioner for Fundamental Rights
BVOP	Hungarian Prison Service Headquarters
CCP	Code of Criminal Procedure
EFOP	Human Resource Development Operational Programme
EJEE	European Convention on Human Rights (Hungarian: Az emberi jogok európai egyezménye)
ELTE	Eötvös Loránd University
ETAH	Equal Treatment Authority of Hungary
FECSKE	For Prisoners and Their Families
HHC	Hungarian Helsinki Committee
HUN	Hungary (ISO 3166-1 alpha-3 code)
HVG	Heti Világgazdaság
KSH	Hungarian Central Statistical Office
MJ	Magyar Jog
MTA	Hungarian Academy of Sciences
MTI	Magyar Távirati Iroda (Hungarian Telegraphic Office)
NBH	National Security Office
NEKI	Legal Defence Bureau for National and Ethnic Minorities
NSIS	National Social Inclusion Strategy
OCÖ	National Roma Self-Government
SZETA	Szegényeket Támogató Alap
TASZ	Hungarian Civil Liberties Union
UCCU	Uccu Roma Informal Educational Foundation

1. **Between Law and Reality: An Examination of State Response and Minority Rights Implementation – by Barnabás Hajdu**

a. Introduction

The legitimacy of a criminal justice system depends not only on the existence of clear procedural norms but also on their consistent and impartial application. Equality before the law requires that all participants in criminal proceedings—whether victims, defendants, or other actors—are treated without disadvantage arising from ethnicity, religion, or social background. Codified guarantees of fairness are a necessary condition, yet they remain insufficient if they do not translate into practice. The credibility of justice ultimately rests on whether individuals experience the law as equal and impartial in concrete cases.

The importance of this inquiry is tragically demonstrated by the racially motivated murders of members of the Roma community in 2008–2009, commonly known as the “Roma killings.” While Hungarian criminal procedure¹ and substantive norms² contained the formal guarantees necessary to secure fairness, the events surrounding these crimes and their prosecution revealed how minority individuals may nevertheless face systemic disadvantage. In such circumstances, victims become doubly affected: first by the violence of the perpetrators, and subsequently by deficiencies in the protection and enforcement offered by the legal system itself.

By analyzing this case, the present research illustrates how disparities in the practical operation of criminal justice undermine both the rights of individuals and wider public confidence in the rule of law. The argument advanced is that equal treatment within criminal proceedings is not a secondary aspiration but a foundational requirement for any state that claims adherence to constitutionalism and the rule of law.

Between 2008 and 2009, a series of violent attacks targeted Roma families across Hungary, amounting to one of the most serious instances of racially motivated violence in the country’s recent history. The perpetrators employed firearms and Molotov cocktails in coordinated assaults

¹ Act XIX of 1998 on Criminal Procedures

² Act IV of 1978 on the Criminal Code

on private homes, leaving behind a trail of fear and devastation. While some of these attacks resulted only in property damage or injuries, several led to fatalities.

The story begins on July 21, 2008³. On that day, Á. Kiss,, I. Kiss, and Zs. Pető, committed the first crime in a series of secretly planned, well-organized attacks against citizens of Roma ethnicity. I. Csontos, 27, joined them later, for the last two attacks.

Initially, during the first four attacks, they chose settlements where there had previously been some kind of conflict between Roma and non-Roma residents. The first target, Galgagyörk, was one such settlement. Although no lives were lost here, they fired shots at two residential buildings on several occasions. Their intention was clearly to instill fear in the local Roma population. The next attack took place on August 8, 2008, in Pircsén, where Molotov cocktails were thrown at two houses inhabited by Roma, and a woman fleeing from one of the houses was shot in the leg. Then, on September 5, Á. Kiss carried out what he believed to be a solo attack in the Roma neighborhood of Nyíradony-Tárnapuszta, where he fired several shots at the window of a house. No one was injured in this attack.

This is how the series of murders began. On December 15, 2008, in Alsózsolca, a young Roma man was wounded in the leg by the perpetrators. On February 23, 2009, they left two more people dead when they used the Molotov cocktail method again in Tatárszentgyörgy to force a 27-year-old Roma father to flee his home with his 5-year-old son and 6-year-old daughter. After they left the house, they were shot at several times, and only the little girl managed to escape, although she also suffered serious injuries. Later, on April 22, in Tiszalök, a 54-year-old Roma man was shot in the chest and died from his injuries. Then, at midnight on August 3, in Kisléta, a 45-year-old Roma woman and her little girl were attacked while they were sleeping. The girl survived the attack thanks to medical intervention, but her mother died of her injuries at the scene⁴.

The criminals committed a total of nine attacks against Roma with firearms and Molotov cocktails, killing a total of six people in four different towns.

³ The preparations for the attack were also added to the criminal records of the convicts'. Namely these were; a gun robbery in Besenyszög (March 7, 2008), where five shotguns and one bullet gun were stolen, and the targeted shooting at the refugee camp in Debrecen. - Decision No. B.101/2010/1010 of the Budapest Regional Court

⁴ Documented in decision No. B.101/2010/1010 of the Budapest Regional Court.

b. Failures of the investigative institutions

The series of attacks against Roma communities in Hungary between 2008 and 2009 was marked not only by the brutality of the crimes themselves but also by significant investigative and institutional failures. In July 2008, in Galgagyörk, the crime scene was not properly secured, allowing crucial evidence to be lost, and the handling of the site constituted a serious violation of constitutional rights. The following month, in Piricse, the emergency response was delayed, and the injured man received slow medical attention, further contributing to the deterioration of potential evidence. In September 2008, during the attack in Nyíradony-Tamásipuszta, the inadequate security of the crime scene and improper evidence collection hindered the progress of the investigation. Similarly, in Tarnabod, the police failed to take protective measures for nearby Roma communities despite repeated attacks in the area.

By November 2008, in Nagycsécs, the professionalism of the crime scene investigation remained questionable, as a paramedic did not notice that one of the victims had been shot in the head⁵. In December 2008, during the Alsózsolca attack, medical assistance and police response were slow, again contributing to the loss and contamination of evidence.

The February 2009 Tatárszentgyörgy attack exemplified the most serious investigative shortcomings. According to a May 2009 report by the National and Ethnic Minority Rights Protection Office (NEKI), the Hungarian Civil Liberties Union (TASZ), and the European Roma Rights Centre (ERRC), the initial response was chaotic: television crews arrived before the authorities, police and firefighters arrived later, and the ambulance lacked a physician⁶.

Firefighters incorrectly attributed the fire to an electrical short despite a gasoline container found on site, and police initially ignored witness statements regarding gunfire. One investigator reportedly urinated on a footprint that could have belonged to the perpetrator and suggested that cartridge cases were scattered by the victims. The Independent Police Complaints Board later concluded that constitutional rights had been seriously violated and highlighted that the scene had been misclassified as a simple accident for more than ten hours, with no police presence overnight until a formal forensic inspection could be conducted⁷. During the trial, the judge described the

⁵ According to the testimony of the paramedic. The oral part of the pleading had been well recorded and documented; original footage of the trial with English subtitles is available on the following site: <https://videa.hu/videok/film-animacio/itelet-magyarorszagon-magyarorszag-mnk8iA1VPXehJr67>

⁶ 'Shadow report' on the murder case in Tatárszentgyörgy - Hungarian Civil Liberties Union (<https://tasz.hu/cikkek/arnyekjelentes-a-tatarszentgyorgyi-gyilkossag-ugyeben>)

⁷ Independent Police Complaints Board, 2009

crime scene as “shocking and disheartening,” noting that a paramedic had failed to detect a fatal headshot.

In April 2009, in Tiszalök, the police failed to implement adequate preventive measures, contributing to the occurrence of the attack. Finally, in August 2009, during the Kisléta attack, official response was slow and precautionary measures were insufficient, facilitating the last assault in the series.

During the trial it has also turned out that the perpetrators were stopped and investigated by a police officer, but they had been let go, as the officer had accepted their reason to be there, namely that I. Csontos was on his way to meet up with a girl⁸.

Beyond these operational failures, prior surveillance lapses compounded the problem. All three eventual perpetrators had been monitored by the National Security Office (NBH) before the attacks, yet surveillance was suspended or not adequately intensified despite intelligence indicating weapons and ammunition procurement⁹. Internal communication within the NBH was deficient, and requests to extend and tighten surveillance were denied. The Parliamentary Committee attributed responsibility to ministers György Szilvássy and Ádám Ficsor, as well as NBH Director Sándor Laborc, for inadequate oversight of extremist threats. Subsequent judicial and prosecutorial inaction meant that no criminal proceedings were initiated against officers responsible for these failures, though later charges for falsifying documents were brought and ultimately dismissed¹⁰.

c. The court procedure

The entire series of attacks against Roma communities was adjudicated in a single criminal trial, commonly referred to as the “Roma killings trial.”

It was a question, what the exact accusation should be. The problem originated from the fact that there was no criminal substantive ground on “hate crimes” or crimes being purely racially motivated towards an individual group of minority, as these characteristics of the crime were only

⁸ „Witness No. 139, a police officer, asked Defendant IV why he was at the scene, to which Defendant IV replied that he had met a woman on the internet and arranged to meet her there, but she had not shown up for the meeting. He also said that he had a girlfriend, in whose name the car was registered, but she was working abroad, so he was currently using the car.” - Decision No. B.101/2010/1010 of the Budapest Regional Court

⁹ Parliamentary Committee Report, 2009

¹⁰ Parliamentary Committee Report, 2009, later public findings

present as aggravating circumstances in the former Criminal Code¹¹. Because of this problem, it was also a question whether the crimes committed should be considered as “terrorist acts” under Section 261 of the formal Criminal Code. However, in his closing statement, the prosecutor explained why the charges did not constitute an act of terrorism, as they did not involve the coercion of a state body¹²:

“Although the wording of the law seemingly allows for the classification of the series of murders committed against Roma as acts of terrorism, in my view, considering the specific legal interest protected by the offence of terrorism, the crimes that are the subject of the present proceedings cannot be qualified as terrorist acts. The legal interest protected by the offence of terrorism is the social interest in ensuring that the Hungarian state and other states, state bodies, and international organizations can act free from coercion, as well as in safeguarding the population’s undisturbed living conditions, the freedom of individuals, and the integrity of material goods.

What distinguishes terrorism from the offences listed in paragraph (9) is its specific intent. The intent set out in Section 261 (1) point (b) of the Criminal Code — which, according to the wording of the law, is to intimidate the population — is not an end in itself, but is connected to the intent described in point (a) of paragraph (1): the coercion of a state body.¹³”

On page 10 of the 85-page indictment, after describing the personalities of the defendants, it states that “at the end of 2007 and the beginning of 2008, going beyond the expression and joint discussion of their views, Accused I-III. came to the decision that, since the law and the justice system were not adequately fulfilling their duties in relation to the Roma, they would take matters into their own hands by carrying out armed attacks on houses inhabited by persons of Roma ethnicity.” According to their initial plan, their intended actions were intended to instill fear among the Roma people.

The first-instance proceedings were exceptionally lengthy, lasting 28 months, primarily because the court had to clarify the extensive investigative shortcomings revealed during the case. During the proceedings, numerous procedural and operational failures came to light, particularly in connection with the Tatárszentgyörgy attack. Even though, during the trials, all the mistakes made by the authorities had to be corrected and reinvestigated by the Court, after almost 3 years, Decision No. B.101/2010/1010 of the Budapest Regional Court concluded the events, putting an end to the investigations and court proceedings. Although smaller procedural mistakes had been made, none

¹¹ This problem has been pointed out by a number of state and non governmental institutions, explained below.

¹² His approach had been criticized as, there is another perception of the wording of Section 261, stating that the coercion of a state body is one way, but not the only way of committing the act. (Endre Bócz: *On an act of terrorism - The article was published in the third issue of Magyar Jog (Hungarian Law) in 2016 (pp. 148–155).*

¹³ Indictment, page 102.

of them have affected the outcome of the trial in a way that the decisions should be nullified, meaning that the core facts and legal reasoning had all been collected in the first instance decision¹⁴.

All four suspects were convicted: Á. Kiss, I. Kiss and Zs. Pető received life sentences, while I. Csontos was sentenced to 13 years in prison. The conduct and criminal acts established in the judgment were as follows;

The court found all four defendants guilty of multiple serious offences committed as members of an organised criminal group. The first defendant, was convicted of murder—partly as a principal offender, partly as a co-perpetrator, and partly as an accomplice¹⁵. He was also found guilty of two counts of armed robbery as a co-perpetrator¹⁶, unlawful possession of firearms and ammunition¹⁷, and unlawful dealing with military technology¹⁸. Considering the cumulative nature of these crimes and their commission within a criminal organisation, the court imposed a life sentence of imprisonment and ten years of disqualification from public affairs.

The second defendant, likewise a Hungarian citizen, was convicted of murder, in part as a co-perpetrator and in part as an accomplice, as well as two counts of armed robbery, unlawful possession of firearms and ammunition, and unlawful dealing with military technology, under the same provisions of Act IV of 1978.

The third defendant was also found guilty of murder as a co-perpetrator, two counts of armed robbery, unlawful possession of firearms and ammunition, and unlawful dealing with military technology, pursuant to the same statutory provisions.

Finally, the fourth defendant was convicted of murder as an accomplice under Sections 166 (1)–(2) a), c), f), and i) of Act IV of 1978. Given his lesser degree of participation, but still recognising his role within the organised group, the court sentenced him to thirteen years of imprisonment and ten years of disqualification from public affairs.

¹⁴ Several appeals had been filed, including a Constitutional Claim, but all higher courts had stated that no major procedural errors had been made. (Decision 3046/2019 (III. 14.) AB of the Constitutional Court of Hungary on the dismissal of a constitutional complaint) (The Supreme Court's precedent-setting decision No. Bhar.1320/2015/47. on the crime of homicide.[33]"In the case under review, during the investigation, the experts undoubtedly examined evidence that was not formally seized. However, this does not mean that the evidence obtained from this was obtained in violation of the Criminal Procedure Code.")

¹⁵ Under Sections 166 (1)–(2) a), c), d), f) and i) of Act IV of 1978 (the former Hungarian Criminal Code)

¹⁶ Section 321 (1), (3) a), c) of Act IV of 1978

¹⁷ Section 263/A (1) a) of Act IV of 1978

¹⁸ Section 263/B (1) b)

In his oral statement, the presiding judge – László Mészáros - stated that the motive was racist. He emphasized that it is morally reprehensible and unacceptable in any country for people to conspire to commit crimes with the aim of controlling, subjugating, or intimidating an ethnic group. He added that the racist motive was not only evident from the witnesses' statements, but that even the defendants themselves did not deny it. The racist motive is not only evident from the testimony of the witnesses, but even the defendants themselves did not deny it, he added.

The convicted perpetrators appealed the first-instance judgment; however, the Court of Appeal found the work of the trial court to be thorough and well-founded. Although it made minor modifications, it upheld the judgment in its overall outcome¹⁹. Furthermore, the convicts twice turned to the Curia (the Supreme Court of Hungary), but it neither acquitted them nor ordered a retrial by the lower courts²⁰.

d. Outcome and public opinion relating to the events

Critics have pointed out that although the crime could fall under the offence of violence against a national, ethnic, racial or religious group²¹, the provision does not constitute an aggravating circumstance in cases of homicide, whereas a “base motive” does.

In its fifth report on Hungary, dated 19 March 2015, the ECRI found it concerning that, although in cases of crimes against life and bodily integrity, committing the offence with a “base motive” constitutes an aggravating circumstance, the law does not explicitly define racist motivation as one form of such a base motive. Moreover, there is no general provision in the Hungarian legal system under which racial motivation would expressly qualify as an aggravating circumstance in cases of “ordinary” crimes. As a result – according to the ECRI’s findings – it is practically impossible to monitor racially motivated crimes in Hungary.

This criticism, in the Supreme Courts’ Summary opinion, is essentially justified.

“Based on the data from the Uniform Criminal Statistics of the Investigative Authorities and the Prosecution Service (ENyÜBS), it can only be determined how many cases of homicide, bodily harm, or other crimes were committed with a “base motive.” During the evidentiary process, the authorities conducting criminal proceedings are obliged to

¹⁹ Decision No. Bf.399/2014/61 of the Budapest Court of Appeal on the crime of homicide.

²⁰ Supreme Court Decision Bhar.1320/2015/47., Supreme Court Decision Bfv.1365/2017/18. on the crime of homicide

²¹ Article 174/B of Act IV of 1978

clarify all circumstances relevant to the subject of proof, including the motives and consequences of the act – and, within this framework, to identify any potential racist or xenophobic motives. Although the registration system would in principle allow for this, the ENyÜBS does not reflect motives such as racism or racial prejudice²².

Determining the exact number and characteristics of hate-motivated crimes would only be possible through a detailed analysis of each individual criminal case. However, the jurisprudence analysis group was obviously unable to undertake such a task. Based on information provided by the heads of the criminal divisions of the regional courts, the group identified several cases committed with hate motives but not classified as violence against a member of a community or as incitement to hatred against a community.²³”

To address this issue, the Working Group Against Hate Crimes established by Amnesty International Hungary developed so-called “bias indicators.” These indicators make it possible to infer already during the investigation whether a given crime was committed with a hate motive. They can assist in conducting the evidentiary process regarding hate motivation, particularly during the pre-indictment phase.

Hungarian Civil Liberties Union (TASZ) have stated the following regarding the judgements:

“Although the Supreme Court upheld the previous decision, it also stated that the murders were committed for despicable reasons, i.e., racist motives. We nevertheless find it regrettable that, unlike the lower courts, the highest judicial body did not emphasize and condemn the racist motive in its oral reasoning. As expected, there was enormous media interest in the court proceedings, so the Supreme Court could have sent a message to society as a whole by taking a stand against racism, but it failed to do so. The words "Roma," "anti-Gypsy," and "racist" were not mentioned during the pronouncement of the judgment. The presiding judge merely referred to the despicable motive by saying that, in view of the depravity of the defendants and the particular danger they pose to society, a life sentence was justified.”

Amnesty International urged the Hungarian government to take stronger action against discrimination and hate crimes. The organization called for better protection of Roma and other vulnerable groups, clear condemnation of racist behavior by officials, ratification of Protocol No. 12 to the European Convention on Human Rights, more effective investigation and prosecution

²² Since then improvements had been made, hate crime data collection was improved in July 2018. Two new fields were introduced in the statistical form: a yes-no question on whether the crime is a hate crime, and if answered affirmatively, a compulsory question on the targeted protected characteristic (race, nationality, ethnicity, religion, sexual orientation, gender identity, disability, other). (https://hatecrime.osce.org/national-frameworks-hungary?utm_)

²³ Summary opinion on the analysis of case law concerning crimes violating certain fundamental rights, Supreme Court of Hungary (Kúria) 2015.

of hate crimes, improved data collection and monitoring, specialized police training, cooperation with civil society, and stronger victim support services, including legal and psychological assistance²⁴.

e. Summary of the case and changes after the case

The series of murders committed against Roma people in 2008–2009 marked one of the most shocking and consequential episodes in recent Hungarian legal and social history. The attacks exposed deep structural deficiencies within law enforcement, the justice system, and the country’s framework for minority protection. In the aftermath, the Hungarian state — driven partly by internal public pressure and partly by international scrutiny — was forced to re-examine its institutional approach to hate crimes and racial violence. Several reforms were introduced in the years that followed: the training of police officers²⁵ and prosecutors²⁶ increasingly incorporated elements of human rights and hate crime recognition, and the judiciary began to develop a more nuanced understanding of bias-motivated offences. The prosecution of the perpetrators itself set important precedents regarding the evidentiary treatment of racial motivation, which later served as a reference point in other hate crime cases. A specialised unit was set up in the police on hate crime and training sessions have been organised with the help of NGOs. Police constantly monitor areas at risk of conflict. They now also monitor files in cases of violence and can re-qualify an offence if any hate motivation is suspected²⁷.

Moreover, international bodies such as the European Commission against Racism and Intolerance (ECRI), the OSCE, and various NGOs pushed for the adoption of clearer legal definitions and more transparent data collection mechanisms concerning hate crimes. As a partial result, law enforcement authorities began implementing specific internal guidelines to help identify potential

²⁴ Erőszakos Támadások a romák ellen Magyarországon (“Violent attacks against roma people in Hungary”) Amnesty International Publications, EUR 27/001/2010 Hungarian, 2010, pp. 41-43.

²⁵ On 28 November 2023, 20 police officers were trained on hate crime and the sensitive treatment of hate crime victims as part of a new training programme for professionals working in the criminal justice and victim support systems. The programme forms part of a project titled "Counter-Hate: Helping victims of hate crime through a victim-centred and intersectional approach", implemented by the HÁTTÉR society and the Deputy Commissioner for the Protection of the Rights of National Minorities in Hungary and funded by the European Union's Citizens, Equality, Rights and Values programme. (OSCE Office for Democratic Institutions and Human Rights (ODIHR) Tolerance and Non-Discrimination Department) (https://hatecrime.osce.org/hungary?utm_)

²⁶ In 2023, meetings of the 33 deputy chief prosecutors of the capital and the counties in the criminal law section were partly devoted to more effective action against hate crimes and the recognition, protection and respectful treatment of victims, as well as methodological issues in the supervision and management of investigations. On 9 October 2023, hate crime-related topics were discussed in a number of lectures. (OSCE Office for Democratic Institutions and Human Rights (ODIHR) Tolerance and Non-Discrimination Department) (https://hatecrime.osce.org/hungary?utm_)

²⁷ ECRI REPORT ON HUNGARY (fifth monitoring cycle) Adopted on 19 March 2015 Published on 9 June 2015

bias indicators during investigations — an initiative further supported by civil society groups like Amnesty International Hungary’s Working Group Against Hate Crimes²⁸. Despite these positive developments, many of the underlying issues revealed by the Roma murders persist today: institutional prejudice, the reluctance to acknowledge racism as a systemic factor, and the lack of comprehensive statistical monitoring of hate crimes.

The overarching lesson of the Roma killings lies in the recognition that legal equality in itself is insufficient without active institutional awareness and the consistent enforcement of anti-discrimination norms. The events demonstrated that when the state fails to identify and address racially motivated violence promptly and transparently, it risks eroding public trust and further marginalizing vulnerable communities. In this sense, the Roma murders became a tragic yet crucial turning point, highlighting both the fragility of minority protection in Hungary and the need for sustained, systemic change to ensure that such atrocities never recur.

²⁸ https://gyulotellen.hu/about-us?utm_

2. The Situation of the Roma Minority in Hungary: Legal Developments and Governmental Approaches in the Context of European Standards – by Éva Dabis

a. Introduction

The Roma minority, often referred to as the largest and most disadvantaged ethnic group in Europe, has faced centuries of marginalization. In Hungary, the Roma experience entrenched social exclusion, economic hardship, and discrimination in multiple facets of daily life, including education, housing, employment, healthcare, and justice. Despite a range of national policies and legal initiatives designed to promote their integration, progress has been slow. This study aims to examine the evolution of Roma inclusion efforts in Hungary over the past 20 to 30 years, assess the legal and political framework, and situate the discussion within the broader context of European Union law and human rights standards.

b. Historical and Demographic Background of Roma in Hungary

Roma presence in the Carpathian Basin dates back to the 15th century, but their integration into Hungarian society has historically been hindered by systemic discrimination²⁹, forced assimilation policies, and widespread prejudice. During the Habsburg era and under communism, policies oscillated between forced assimilation and segregation. In the 20th century, especially during World War II, Roma suffered atrocities, including internment and executions. Post-1989 democratization brought some legal recognition, yet socio-economic disparities persist. According to the 2011 census, around 315,000 people identified as Roma in Hungary, but estimates suggest the actual number may exceed 700,000. This underreporting reflects fear of stigmatization and mistrust of institutions. The Roma population is younger on average, and their birth rate is significantly higher than the national average, contributing to a growing share of the population.

c. Governmental Policies and Programs (1995–2025)

Hungary has launched several programs to improve Roma inclusion. The Medium-Term Roma Action Plan (1997) aimed to enhance educational opportunities, improve living conditions, and create employment pathways. The Decade of Roma Inclusion (2005–2015), supported by

²⁹ European Commission (2020). EU Roma Strategic Framework

international donors, introduced regional initiatives focused on access to education and healthcare. The National Social Inclusion Strategy (NSIS) launched in 2011 was updated for 2020–2030 with goals of reducing child poverty, improving public education outcomes, and promoting labor market inclusion.

Despite these efforts, implementation gaps persist due to underfunding, insufficient monitoring, and lack of local stakeholder involvement. Civil society organizations have criticized the government for using Roma-related EU funds ineffectively, and for political rhetoric that occasionally stigmatizes Roma communities. There are significant differences in outcomes between urban and rural areas, with Roma in rural settlements often remaining untouched by these programs.

d. Legal Framework: National Laws and Constitutional Protection

The Fundamental Law of Hungary (2011) affirms the rights of national minorities, including cultural and linguistic autonomy. Act CLXXIX of 2011 guarantees Roma³⁰ the right to maintain their cultural identity, establish self-governments, and receive mother-tongue education. The Equal Treatment Act (Act CXXV of 2003) prohibits direct³¹ and indirect discrimination on ethnic or racial grounds.

However, critics argue that legal enforcement is weak. Courts often fail to recognize structural discrimination, and minority self-governments lack meaningful power. Additionally, political centralization in Hungary over the past decade has weakened the independence of equality bodies, such as the Equal Treatment Authority (ETAH), which was merged into the Commissioner for Fundamental Rights in 2021³².

e. Segregation in Education and Housing

Roma children continue to face segregation in both public and church-run schools. Although the Supreme Court of Hungary and the European Court of Human Rights (*Horváth and Kiss v. Hungary*, 2013)³³ ruled against such practices, segregated schooling remains common. Many Roma children are placed in separate classes or special education due to biased psychological assessments.

³⁰ Act CLXXIX of 2011 on the Rights of Nationalities

³¹ Fundamental Law of Hungary (2011).

³² Act CXXV of 2003 on Equal Treatment

³³ *Horváth and Kiss v. Hungary* (ECHR, 2013)

In housing, Roma frequently live in substandard conditions, often in segregated settlements with inadequate access to water, electricity, and public transport. Urban development projects have occasionally displaced Roma families without offering alternative housing. Local governments are sometimes complicit in maintaining segregation through zoning practices and land use restrictions.

f. Equal Treatment and Anti-Discrimination Measures

The Equal Treatment Authority handled several landmark cases involving Roma plaintiffs, particularly in education, housing, and public services. However, its limited budget and political constraints have affected its impact. Strategic litigation by civil society actors such as the Chance for Children Foundation has succeeded in several cases but also revealed the judiciary's inconsistent application of anti-discrimination norms.

Public awareness campaigns, often funded by the EU, have attempted to combat anti-Roma sentiment, but long-standing societal prejudices remain a major barrier to equal treatment. The Hungarian police have been criticized for ethnic profiling and over-policing of Roma neighborhoods, despite internal codes of conduct meant to prevent such practices.

g. Use of the Roma Mother Tongue and Cultural Rights

The Romani and Beás languages are officially recognized in Hungary, and minority education programs exist in a limited number of institutions. However, only a small fraction of Roma children receive mother-tongue instruction, and curriculum materials are scarce. Minority media outlets operate with limited funding and outreach, while Roma cultural organizations often struggle to secure financial support.

The system of minority self-governments was designed to offer cultural autonomy, but their effectiveness varies widely. Some are active in promoting Roma heritage and arts, while others lack administrative capacity and face interference from national politics.

h. Fair Trial and the Right to Equal Justice

Roma individuals often face systemic barriers when interacting with the justice system. Ethnic profiling during police stops, disproportionate pre-trial detention rates, and a lack of accessible legal aid contribute to unequal treatment. Judicial bias, whether explicit or implicit, can influence trial outcomes, especially in rural courts.

Though the Hungarian Criminal Procedure Code and EU directives guarantee fair trial rights, implementation remains uneven. NGOs like the Hungarian Helsinki Committee provide legal representation in discrimination cases and document ongoing violations of Roma rights.

i. Criminal Law Principles in Relation to the Roma Minority

The presumption of innocence, legal defense rights, and proportionality of punishment are codified in Hungarian criminal law. Yet, Roma defendants are more likely to be detained before trial, receive longer sentences, and face harsher treatment. Research has documented disproportionate use of surveillance, raids, and force in Roma communities.

Government narratives linking crime with ethnicity have further stigmatized the Roma. While there are efforts to improve police-community relations, such as community policing programs, these have not been uniformly adopted across the country.

j. European Union Law and Hungary's Obligations

EU law provides a comprehensive anti-discrimination framework. The Racial Equality Directive (2000/43/EC) mandates equal treatment regardless of racial or ethnic origin. The Charter of Fundamental Rights prohibits ethnic discrimination, and the European Pillar of Social Rights includes a commitment to equal opportunities. The European Commission has launched infringement procedures against Hungary related to school segregation and housing discrimination. EU structural and cohesion funds are available for Roma inclusion projects, yet audits have revealed mismanagement and weak oversight. The European Court of Auditors has called for better monitoring of how member states use EU resources to support marginalized communities.

k. Conclusion

Although Hungary has adopted laws and strategies to improve Roma inclusion, their implementation is inconsistent, and societal attitudes remain resistant to change. Genuine inclusion requires systemic reforms, increased political commitment, and partnership with Roma communities. European oversight and funding play an important role, but sustainable progress must also come from within Hungarian society. Efforts should focus on early childhood education, community-based health and social services, desegregation in schools, and anti-bias training for public officials. Only through a holistic and rights-based approach can Hungary fulfill its domestic and international obligations to the Roma minority.

3. The Situation of the Roma Society in Hungary: Issues of Integration, Education, and Social Mobility – by Éva Dabis

a. Introduction

The Roma community, Europe's largest ethnic minority, has long faced systemic disadvantages across the continent. In Hungary, the Roma represent a particularly vulnerable segment of the population. Their integration into mainstream society remains one of the most challenging and complex social issues of the past decades. Despite various government strategies and European Union support programs, significant disparities remain in education, employment, housing, and access to public services.

b. Structural Problems: Poverty and Lack of Integration

Integration and adaptation challenges persist in Roma communities due to multiple overlapping factors. The fight against poverty unfolds as a slow and deeply rooted process, hindered by the lack of a stable family model, insufficient social mobility, and the absence of systemic efforts to encourage personal or collective growth. These deficiencies have led to a situation where Roma society continues to struggle with undereducation, marginalization, and generational poverty. Rather than improving, the trends indicate a deepening socioeconomic divide. The Roma are not catching up with the broader society; instead, they risk further isolation and exclusion.

c. Undereducation and Social Disadvantage

Undereducation remains one of the most serious problems facing the Roma population in Hungary. Children from Roma families often grow up in under-resourced environments with limited access to quality education. The lack of supportive infrastructure in schools, low expectations from teachers, and instances of institutional discrimination further exacerbate the problem. This educational deficit carries long-term consequences: Roma individuals often enter the labor market with little or no formal qualification, which confines them to low-income jobs or long-term unemployment. The inability to achieve upward mobility perpetuates cycles of disadvantage across generations.

d. High Birth Rates and Family Structures

The Roma community in Hungary exhibits significantly higher birth rates³⁴ compared to the national average. This demographic trend is partly rooted in cultural traditions that emphasize the continuity of Roma identity across generations. However, early motherhood—often occurring around the age of 14 or 15—limits opportunities for girls to pursue secondary or higher education. This dynamic places significant pressure on social and child protection systems. Despite high birth rates, most Roma families do not meet the formal conditions required for stable child welfare support under current Hungarian policies. The result is a demographic growth that is not accompanied by improved living conditions or social mobility.

e. The Inspirational Case of László Bogdán

One exception to this general pattern was László Bogdán, the former mayor of Cserdi. Despite having completed only four years of primary school, Bogdán demonstrated through his leadership that changing mindsets can drive radical community transformation. Under his guidance, the village of Cserdi became known as a national model for Roma integration—a phenomenon widely referred to as the “Cserdi Miracle.” Bogdán focused on fostering a culture of responsibility, work, and education. He discouraged early pregnancies and encouraged young people to stay in school. Through local employment programs, public works, and educational initiatives, he provided real alternatives for community members. Most notably, crime rates in Cserdi dropped significantly, and children began to aspire to continue their education.

f. Awards and Recognition

From 2002 until his death in 2020, László Bogdán served as mayor and received widespread national and international recognition for his work. He gave lectures at Hungarian and international institutions³⁵, inspiring audiences with his message of transformation through dignity and effort.

g. Systemic Gaps and Missed Opportunities

Bogdán’s legacy highlights the potential for Roma communities to break free from poverty with the right leadership and a change in mindset. However, his approach remains the exception rather than the norm. National strategies often fail to incorporate grassroots leadership or adapt to the unique needs of Roma communities. Government initiatives frequently focus on short-term measures—such as public works programs—without addressing the underlying causes of

³⁴ FRA (2023) EU-MIDIS Survey II: Roma

³⁵ Hungarian Helsinki Committee Reports

exclusion. These programs, while providing temporary employment, do not foster long-term mobility or self-reliance.

h. Legal Environment and EU Framework

In terms of legal protections, Hungary has incorporated several international and EU-based anti-discrimination principles into its legal framework. The *Equal Treatment Act*³⁶ and the work of the Equal Treatment Authority have created formal avenues for addressing discrimination. However, enforcement remains inconsistent, and Roma communities often lack the legal awareness or access to representation needed to seek redress. Segregation in education persists, and despite several legal rulings, de facto separation of Roma children³⁷ in schools remains a widespread issue. The European Union has developed frameworks such as the *EU Roma Strategic Framework for Equality, Inclusion and Participation (2020–2030)*, which encourages Member States to adopt national Roma inclusion strategies. Hungary has participated in these programs, but with limited impact on the ground.

i. Use of Mother Tongue and Cultural Identity

Preserving Roma language and culture remains a challenge. While some educational and cultural initiatives promote the Romani language and traditions, these are often fragmented and underfunded. The lack of institutional support for bilingual education contributes to the cultural assimilation or loss of heritage within younger Roma generations.

j. Right to Fair Trial and Criminal Law Principles

Roma individuals also face disproportionate treatment within the justice system. Studies and civil rights reports show that Roma are more likely to be stopped by police, detained for minor offenses, and sentenced more harshly compared to the general population. Access to legal representation is often limited, and linguistic or cultural barriers further obstruct their ability to exercise their rights. Although Hungarian criminal law aligns with EU human rights standards on paper, in practice, Roma communities frequently encounter systemic bias and exclusion from fair trial guarantees.

k. Conclusion

³⁶ FRA (2023). EU-MIDIS Survey II: Roma

³⁷ Chance for Children Foundation Legal Cases

The situation of the Roma minority in Hungary illustrates the complex interplay between social exclusion, education, systemic neglect, and cultural identity. The story of László Bogdán proves that transformation is possible—even with minimal resources—when there is strong leadership and a focus on empowerment. Yet, without broader institutional change, the challenges facing Roma communities will remain deeply entrenched. To truly address these issues, Hungary and other EU countries must shift from temporary, symbolic gestures to comprehensive, long-term strategies that empower Roma individuals and communities. These strategies must include equal access to education, inclusive public services, support for cultural identity, and protection of fundamental rights³⁸ under both national and European law.

³⁸ European Court of Auditors (2021) Special Report on Roma Inclusion Funding

4. Investigatory phase – by Bettina Lajer

a. Introduction

The situation of the Roma community in the Hungarian criminal justice system has been an important issue in the enforcement of human rights for decades. Research conducted by civil society organizations has consistently shown that the proportion of Roma among suspects, defendants, and convicts is several times higher than their share of the population, which points to structural disadvantages and discriminatory practices in criminal proceedings. The investigation phase is a particularly sensitive stage in this process, as it is at this stage that decisions are made about which coercive measures will be applied against a person and whether charges will be brought. According to lots of research by Hungarian civil society organizations, Roma people are more often stopped, detained, or questioned as suspects by the police than non-Roma citizens, often under identical circumstances. In addition, several civil society organizations and ombudsman reports have pointed out that police measures disproportionately affect Roma communities, and that prejudiced communication, stereotyping, and mistrust can also be observed during proceedings. Structural inequalities can be observed not only in police practices but also in prosecutorial decisions. For example, the requirement of equal treatment is often not upheld in the assessment of complaints or in decisions to terminate investigations. Discrimination in the early stages of an investigation can trigger a chain reaction throughout the entire criminal proceeding, as suspicion, pre-trial detention, and even the subsequent verdict may be distorted by prejudiced treatment. As a result, members of the Roma community distrust law enforcement agencies and often refuse to cooperate with the authorities, which further reinforces social distance and existing stereotypes. The aim of the research is to explore how the principle of equal treatment is applied in the investigative phase of criminal proceedings and in what forms discrimination against the Roma community manifests itself. The investigation of the investigative phase of the thesis is mainly based on legal analysis and domestic and international human rights reports, and examines the effectiveness and enforcement of legal guarantees in practice.

b. Hungarian legal regulations

In the investigative phase of the Hungarian criminal justice system, the examination of the situation of Roma can be derived primarily from constitutional fundamental rights, the rules of criminal procedure law, and international human rights obligations. Numerous international treaties, EU law, Hungary's Constitution, domestic criminal procedure rules, and related court practice form a

system of norms that imposes clear obligations on authorities to exclude all forms of racial discrimination, but in many cases this is not implemented in practice.

Several provisions of the Hungary's Constitution together provide the constitutional framework that establishes mandatory standards of conduct and procedure for authorities, in particular the police and investigative authorities. These rules clearly prohibit all forms of discrimination and guarantee human dignity, personal freedom, and fair administrative procedures. **Article I (1)** of the Constitution stipulates that *“respect for and protection of the inviolable and inalienable fundamental rights of the individual is the primary obligation of the state”*.³⁹ This general protection clause directly governs all state interventions, including police measures and investigations. This obligation is particularly important in cases where there is a risk that the target of the measure will be disadvantaged on the basis of a protected characteristic. This protection is specified in **Article II** of the Constitution, which states that *“human dignity is inviolable”*.⁴⁰ Respect for dignity extends to all stages of official proceedings, so coercive measures applied to individuals, the manner of communication, and the quality of treatment must all be in line with this requirement. The constitutional principle of equality is enshrined in **Article XV (1)**, which states that *“everyone is equal before the law and has legal capacity”*.⁴¹ **Article XV (2)** expressly prohibits *“the state, including the police or any authority, from discriminating against any person on the basis of race, color, sex, disability, language, religious, political or other opinion, national or social origin, property, birth or other status”*.⁴² This prohibition covers both direct and indirect discrimination, thus prohibiting any practice that is apparently neutral but in fact leads to ethnic-based disadvantage. Finally, **Article XXIV (1)** sets out the requirement for fair administrative proceedings, according to which *“everyone has the right to have their case dealt with impartially, fairly and within a reasonable time, and the authorities are obliged to give adequate reasons for their decisions”*.⁴³ Impartiality and fair proceedings can only be achieved if the authorities treat everyone equally and their actions are free from discrimination based on origin, ethnicity, or other factors.

Code XC of 2017 on Criminal Procedure (hereinafter: CCP) establishes guarantees covering the entire criminal procedure that are particularly important for the protection of the rights of vulnerable social groups, such as the Roma. The rules of CCP on fair trial and equal treatment clearly prohibit discrimination on ethnic grounds and oblige investigating authorities to conduct

³⁹ Article I (1) of the Hungarian Constitution

⁴⁰ Article II of the Hungarian Constitution

⁴¹ Article XV (1) of the Hungarian Constitution

⁴² Article XV (2) of the Hungarian Constitution

⁴³ Article XXIV (1) of the Hungarian Constitution

their proceedings exclusively by lawful, necessary, and proportionate means. The fundamental principle derived from the Constitution is declared in Section 2 (1) of the CCP, which states that *“the human dignity of all persons must be respected during criminal proceedings”*.⁴⁴ This fundamental principle governs every aspect of the investigation and precludes any treatment by the authorities that is humiliating, unjustifiably disadvantageous, or in any way based on the ethnic origin of the person concerned. The requirement of equality under Section 2 (3) of the CCP also means that *“the authorities may not treat anyone less favorably during the investigation, so identity checks, house searches, arrests, interrogations, or the notification of suspicion cannot be based on race, ethnicity, or social origin”*.⁴⁵ The principle of fair trial is therefore not merely a formal requirement, but a substantive guarantee that prevents anyone from being disadvantaged on ethnic grounds during criminal proceedings.

The constitutional and legal framework for the operation of the police is set out in Act XXXIV of 1994 on the Police (hereinafter: Police Act), which clearly stipulates that police measures must not only be lawful but also in accordance with fundamental rights. Section 2 (1) of the Police Act expressly states that *“the police are obliged to respect and protect human dignity and to safeguard the rights of all persons”*. This provision also prohibits measures that would explicitly or implicitly discriminate against persons on the basis of their ethnic origin. The police's obligation to act impartially is regulated by Section 13 (2) of the Police Act, which stipulates *“that police officers must act impartially in accordance with the provisions of the law”*. This rule excludes the possibility of the authorities acting against a social group - such as the Roma - on the basis of stereotypes or prejudices. It is clear from the sources of law that the police may not carry out identity checks, arrests or other investigative acts solely or primarily on the basis of Roma origin. Such a practice would seriously violate the rule set out in Article XV of the Constitution, the protection of fundamental rights, and the above provisions of the Police Act. All police measures must be based on individual, objective, and specific circumstances and must never lead to ethnic discrimination or disproportionate disadvantage.

Act CXXV of 2003 on Equal Treatment (hereinafter: Equal Treatment Act) comprehensively and mandatorily prescribes the requirement of equal treatment for all state bodies, including the police and investigative authorities. The purpose of the Equal Treatment Act is to ensure that all persons, regardless of their ethnic origin, are treated with equal respect and consideration in official proceedings, with equal attention paid to individual circumstances. This principle is set out in

⁴⁴ Code XC of 2017 on Criminal Procedure Section 2 (1)

⁴⁵ Code XC of 2017 on Criminal Procedure Section 2 (3)

Section 1, which defines objective obligations applicable to the entire functioning of the state.⁴⁶ Section 8 of the Act defines the concept of direct discrimination and makes it clear that any provision or measure that results in a person being treated less favorably than another person in a comparable situation because of their actual or perceived race, nationality, or ethnicity results in less favorable treatment than that accorded to another person in a comparable situation.⁴⁷ Police questioning, arrest, or any investigative action may therefore be considered discriminatory even if it is not explicitly declared to be based on ethnicity, but in practice leads to such discrimination.

Article 14 of the European Convention on Human Rights (hereinafter: ECHR) clearly states that in exercising the rights and freedoms set forth in the “*Convention, there shall be no discrimination on any ground such as race, ethnicity, or origin*”. The prohibition of discrimination is not a separate right, but a related guarantee that permeates the enforcement of all rights enshrined in the Convention. This is supplemented by Additional Protocol No. 12, which extends equal treatment beyond the “*Convention to all legal relationships guaranteed by state power, including police measures and the investigation phase*”.⁴⁸

c. Forms of discrimination

a. Ethnic profiling

Ethnic profiling is one of the most serious and complex fundamental rights issues in modern law enforcement practice, which, as a result of prejudice and structural distortions manifested in official measures, adversely affects social groups that, due to their real or perceived ethnic affiliation, are subject to increased control, fines, or police action due to their real or perceived ethnic affiliation.⁴⁹ In Hungary, this phenomenon is not theoretical, but an everyday experience for Roma communities. For more than a decade, domestic and international civil rights organizations have been documenting cases and statistical patterns that show that police practices discriminate against Roma without any real, objective public safety justification. The severity of the problem becomes particularly apparent when we examine the proportions of police measures and administrative and misdemeanor fines: in several municipalities, the vast majority of fines imposed affect the Roma

⁴⁶ Act CXXXV of 2003 on Equal Treatment Section 1

⁴⁷ Act CXXXV of 2003 on Equal Treatment Section 8

⁴⁸ European Convention on Human Rights Additional Protocol No.12

⁴⁹ M. Tóth Balázs (2010): Az etnikai profilalkotás a bűnüldözésben. *Buksz* 22, Vol. 4, No. 353

population, even though they represent only a fraction of the total population.⁵⁰ From a statistical point of view, this is so significant that it can hardly be explained by mere coincidence, let alone actual crime rates or subcultural characteristics. Rather, it is a sign that the functioning of the authorities is based on implicit and sometimes explicit assumptions and stereotypes that treat Roma people as a potentially suspicious group that regularly breaks the rules.

The Hungarian Civil Liberties Union (TASZ) played a significant role in exposing discriminatory practices by the authorities, collecting data and case studies in several municipalities on the extent to which police measures are concentrated in areas with Roma populations. It has been observed that in some villages and towns, up to three-quarters of fines imposed for "violations of community coexistence rules" affected Roma, while the same behaviors were much less likely to trigger a response from the authorities among the non-Roma population.⁵¹ This practice occurs in a situation where the law, in particular the Police Act and municipal regulations, already provides the authorities with a wide margin of discretion. Although the law itself is formally neutral, the manner of its implementation can be distorted, turning it into an instrument of discrimination. The application of discretionary powers without safeguards leaves considerable scope for decisions to be based on the subjective impressions and prejudices of police officers or municipal officials, or on their perceptions of social patterns that portray Roma as a group "requiring law enforcement attention".

Proving discrimination is particularly difficult. The authorities typically deny that they make decisions based on anyone's origin, claiming that they "cannot determine" the ethnic origin of the person concerned or that all measures were taken solely on the basis of objective circumstances. In reality, however, identification based on visual impressions is a common and integral part of law enforcement work, even if the police officer does not declare it. This is precisely why indirect evidence is so important, as it uses statistical data, comparative analysis, and case studies to demonstrate that the application of the same rules disproportionately affects the Roma population.⁵² In the Hungarian legal environment, the law on equal treatment provides a framework for combating discrimination.⁵³ Under the CCP, public authorities, such as the police and local governments, are required to comply with the requirement of equal treatment and are liable for

⁵⁰ Kazarján Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság No. 24.

⁵¹ Egyenlő esélyek: Útmutató a diszkriminációmentes bánásmód elősegítéséhez a büntetés - végrehajtásban

⁵² Kúria Büntető-Közigazgatási-Munkaügyi és Polgári Kollégiumai Joggyakorlat-Elemző Csoport: Összefoglaló vélemény - Az ítéleti bizonyosság elméleti és gyakorlati kérdései – No. 36.

⁵³ Act CXXV of 2003 on Equal Treatment Section

violations even if the disadvantage is not the result of intentional conduct. The 2019 CERD report noted that both the Equal Treatment Authority and the Commissioner for Fundamental Rights dealt with cases of racial discrimination.⁵⁴ However, it expressed concern that the investigation of discrimination in criminal proceedings involving Roma was not sufficiently independent, particularly with regard to the position of the deputy commissioner responsible for the protection of national minority rights. The Committee also criticized the lack of clarity regarding which state bodies are competent to investigate reports relating to criminal proceedings, in particular the bringing of charges, and the lack of data showing the factors taken into account in the bringing of charges, judgments or penalties, broken down by ethnicity or nationality. The committee emphasized that the low number of complaints does not necessarily indicate that racial discrimination does not exist; it may also indicate that those affected face obstacles in exercising their rights, for example due to a lack of trust in the authorities and the justice system. The Independent Law Enforcement Complaints Board plays a key role in examining the legality of police measures.⁵⁵ In several decisions, it has found that regular checks in Roma neighborhoods and road checks in places where the population does not even own motor vehicles give the impression that the police select the subjects of their measures on the basis of ethnicity rather than actual circumstances. The consequences of structural discrimination go far beyond the immediate financial burden of fines. The constant police presence and excessive official control create an atmosphere in Roma communities that erodes trust in the police, reduces willingness to cooperate, and in the long term weakens the social foundations of the rule of law.⁵⁶ When a group experiences its members being regularly and unjustifiably targeted by the authorities, it also discourages the community from seeking justice. In addition, frequent fines place a disproportionate burden on already disadvantaged Roma families, leading to the reproduction of poverty and further limiting social mobility.

b. Distrust during the investigation phase

The issue of trust between the police and members of the Roma community has long been a source of serious social tension. Although many people may view this phenomenon as the result of individual prejudice, experience shows that the problem is much more deeply rooted in institutional

⁵⁴ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary, UN Doc. CERD/C/HUN/CO/18-25, 6 June 2019, 8, 12.

⁵⁵ Kazarján Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság

⁵⁶ dr. Kádár András Kristóf – Körner Júlia – dr. Moldova Zsófia – dr. Tóth Balázs (2008): Szigorúan ellenőrzött iratok – A magyar igazságszolgáltatási gyakorlat hatékonyságáról és etnikai aspektusairól.

cultures, organizational habits, and structural deficiencies that shape the way the police operate in a manner that Roma communities perceive as discriminatory. Institutional discrimination often does not involve conscious hostility, but rather a situation in which the everyday practices of an organization are unable to adequately address the specific circumstances of the members of society most in need of protection.⁵⁷ In such circumstances, even well-intentioned police officers unwittingly engage in practices that breed mistrust. Looking back at the period of political transition, the police were one of the first state institutions in Hungary where it was possible to speak openly about the presence of institutional racism.⁵⁸ However, this does not mean that the entire police force is consciously extreme or hostile, but rather that the mechanisms characteristic of the organization as a whole, such as communication, informal norms, and procedural routines, preserve prejudices that determine the framework of individual police behavior. Often, when reporting theft, assault, or other crimes, Roma complainants receive condescending or dismissive responses, and local police officers may suggest vigilante justice instead of filing a report. The indifferent or cynical attitude of the authorities naturally deepens the distrust of Roma communities, which also hinders cooperation with the authorities. The slowness of the authorities' response, the unnecessary risk to victims, and the impression that the police do not take reports involving Roma seriously further reinforce the fears of the Roma community.⁵⁹ In many cases, police action is only taken when those reporting crimes threaten to go public. In smaller towns, personal acquaintance between police officers and local Roma often deepens the divisions.⁶⁰ When questioning Roma suspects, police officers often use derogatory and offensive language, often in such a natural, everyday manner that they themselves do not perceive the problematic nature of their behavior. This kind of normalized, everyday racism not only violates the dignity of Roma, but also severely undermines trust in the authorities. The armed attacks against Roma in 2008–2009 and the related police failures caused particular trauma to the Roma community.⁶¹ The handling of the series of attacks revealed serious professional shortcomings in several respects: there was a slow recognition that the attacks were related, the flow of information between the secret services and the police was inadequate, and in some cases the securing of the scene was so flawed that evidence

⁵⁷ A nemzeti és etnikai kisebbségi jogok országgyűlési biztosának állásfoglalása a Nemzeti Társadalmi Felzárkózási és Roma Stratégia című tervezetről. <http://www.kisebbségiombudsman.hu/hir-702-nemzeti-es-etnikai-kisebbségi-jogok.html>

⁵⁸ Kazarián Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság

⁵⁹ Helsinki Bizottság (2015): gyakorlati szakemberek kapacitásfejlesztése gyakorlatorientált képzéssel a rasszista, homofób és egyéb gyűlöltbűncselekmények üldözése érdekében - 2015. március 3. <https://helsinki.hu/kapacitasfejlesztes-gyulolet-buncselekmények-uldözese-erdekeben-2015-2016/>

⁶⁰ Kazarián Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság

⁶¹ Bűnügyi Szemle (2017): A 2008-2009-es romagyilkosság sorozat nyomozása Vol.65. No.7-8

was destroyed. These events led to a deep and long-lasting loss of trust among the public and Roma communities. The events in Devecser were a particularly stark example of this: the police did not break up the march, which was punctuated by violent anti-Roma demonstrations, and even after the violent acts, only minimal accountability ensued.⁶² The complainants eventually brought the case before the European Court of Human Rights, which ruled that the Hungarian authorities had failed to conduct a thorough and detailed investigation.⁶³ According to the court, the police's actions may have conveyed the message to the public that the state tolerates the intimidation of Roma. This finding underscores not only the gravity of the case, but also the systemic nature of the crisis of confidence. The difficulties in enforcing the law during criminal proceedings further increase mistrust. There are Roma defendants who take decisive action to ensure that discriminatory comments are recorded in the minutes, but this is by no means the norm. Many Roma people affected are unaware of their rights or are not confident enough to be similarly consistent. Lawyers often find that the language used in the minutes is so sophisticated that the defendants do not actually understand what they are signing.⁶⁴ Procedural problems such as this fundamentally undermine the credibility of the proceedings. That said, there are also many positive practices. There are police officers and police units that demonstrate particularly sensitive, fair, and professionally correct behavior.⁶⁵ Large urban environments, especially Budapest, often have police forces that are more open-minded, better trained, and less burdened by prejudice. However, the situation of police officers of Roma origin is particularly complex. Roma police officers often act more strictly than their non-Roma colleagues. This may be due to the pressure to conform, the need to distance themselves from their own community, and racism within the institution. At the same time, the number of Roma police officers has been increasing in recent years, which is a positive trend. Members of the Roma community often react differently when confronted by an authority figure who is familiar with the characteristics and communication patterns of their community. However, the success of recruitment depends largely on the financial and social conditions associated with police status: low salaries, the burden of commuting, and prejudice within the organization can lead to significant attrition. Integration could also be facilitated by assigning more young Roma to a single place of service, as this would reduce their sense of vulnerability.

⁶² HVG 82015): Elítélték a devecseri romaellenes tüntetés egyetlen vádlottját – 2015.06.03.-
https://hvg.hu/itthon/20150603_Elitatek_a_devecseri_romaellenes_tuntete

⁶³ Király és Dömötör kontra Magyarország, Ítélet, 10851/13, 2017. jan. 17.

⁶⁴ Kádár András Kristóf – Bárdits Anna – Novoszádek Nóra – Simonovits Bori – Vince Dániel – Szegő Dóra (2014): Utolsó az egyenlők között – Sérülékeny csoportok törvény előtti egyenlősége a büntető igazságszolgáltatásban

⁶⁵ Egyenlő esélyek: Útmutató a diszkriminációmentes bánásmód elősegítéséhez a büntetés-végrehajtásban

c. *Lack of procedural guarantees*

It is often the case that investigative files unreasonably frequently mention the Roma origin of the defendants, which is usually unrelated to the merits of the case.⁶⁶ In addition, there are striking differences in how defendants came to the attention of the authorities: non-Roma defendants were caught in the act much more often, suggesting that they had a better chance of avoiding prosecution if they were not caught. In the case of Roma defendants, however, identity checks predominate, which are not always linked to a specific crime, thus creating structural inequality in itself by making them more likely to be involved in proceedings. The task of the court proceedings would be to correct investigative errors, but it has been observed that these errors typically carry over into later stages of the proceedings.⁶⁷ Although there are generally no significant differences in sentencing based on the ethnic background of the defendants, the final outcome is largely determined by what happens in the early stages. If procedural irregularities occur during the investigation that affect the content of the statements or the course of the proceedings, these are not remedied by the court. If the statement made during the investigation differs from that made during the trial, the former is usually accepted as authoritative, even if procedural guarantees were violated during its recording. This particularly affects those who made statements during the first interrogation without legal representation or in the presence of a formal but ineffective defense attorney. Investigating authorities often fail to notify the defense counsel of procedural actions, or do so only after a delay; it is not uncommon for them to receive notification less than an hour before the interrogation, which makes it practically impossible for them to appear.⁶⁸ This particularly affects Roma defendants, as most of them rely on court-appointed defense counsel. There are also serious problems with the work of court-appointed defense attorneys, as in many cases they do not appear at interrogations, do not consult with their clients, arrive at the trial unprepared, and are minimally active. The vast majority of defendants only have a court-appointed lawyer, and only a small proportion of them are represented by their lawyer at the first interrogation. In recent years, a new appointment system has been introduced with the aim of making access to defense more

⁶⁶ Kazarján Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság

⁶⁷ dr. Kádár András Kristóf – Körner Júlia – dr. Moldova Zsófia – dr. Tóth Balázs (2008): Szigorúan ellenőrzött iratok – A magyar igazságszolgáltatási gyakorlat hatékonyságáról és etnikai aspektusairól.

⁶⁸ Kazarján Annie – Kirs Eszter (2020): A romákat érintő diszkrimináció a magyar büntető igazságszolgáltatásban – Magyar Helsinki Bizottság

predictable and free of corruption.⁶⁹ Appointments are no longer made by the investigating authority, but by the bar association on a random basis, ensuring an even rotation of defense attorneys. Although the reform is promising, in practice it has not brought the desired results. The police continue to appoint substitute defense lawyers who are expected to offer little resistance or activity, and the performance of appointed defense lawyers continues to vary widely, often falling short of the level provided by authorized defense lawyers.

d. *Prejudicial treatment*

The situation of the Roma minority in the criminal justice system has long been a prominent issue in international human rights discourse. Although the legal systems of European states are formally based on the principle of equal treatment, numerous international reports, non-governmental organizations, and research institutes point out that in practice there are still significant disparities in police action and criminal proceedings against Roma. Among these trends, the investigation phase is particularly noteworthy, as this procedural process is one of the most sensitive points in the criminal justice system. The measures taken during the investigation, from police checks and interrogations to the evaluation of evidence, fundamentally determine the position a person will find themselves in during the later stages of criminal proceedings, whether charges will be brought, and the likelihood that they will be able to exercise their rights. Consequently, structural biases or stereotypes can have extremely serious consequences during the investigation phase. However, in the case of many Roma individuals, social disadvantages such as lower levels of education, limited knowledge of the law, language difficulties, or distrust of the authorities hinder effective enforcement of their rights. Although immediate access to a lawyer is guaranteed by law, in practice suspects often do not receive meaningful legal advice, or are assigned a public defender who is unable to represent their interests adequately due to overload or lack of preparation.⁷⁰ Linguistic and cultural differences also pose a serious problem: for some Roma groups, the use of administrative language or the interpretation of legal terms is difficult, while in other cases, police officers or officials are not prepared to use a mode of communication that is tailored to the needs of the persons concerned. As a result, Roma suspects often do not fully understand why or on what grounds they are being prosecuted, what their rights are during questioning, and what the consequences of their statements may be.

⁶⁹ 2017. évi XC. törvény a Büntetőeljárásról, 46. § (1) bekezdés

⁷⁰ Kádár András Kristóf – Bárdits Anna – Novoszádek Nóra – Simonovits Bori – Vince Dániel – Szegő Dóra (2014): Utolsó az egyenlők között – Sérülékeny csoportok törvény előtti egyenlősége a büntető igazságszolgáltatásban

Interrogation techniques also give rise to irregularities that make Roma individuals particularly vulnerable.⁷¹ Members of low-status or marginalized groups are more likely to give in to police pressure and make statements that do not correspond to reality, either because they fear the consequences or because they believe that "cooperating" with the police will make their situation easier. If interrogations are not conducted by trained, accountable officers who strictly adhere to legal safeguards, there is a risk that confessions will be obtained through manipulative questioning techniques or psychological pressure. These methods are problematic in the case of all suspects, but they affect Roma people in particularly high proportions, given that structural social inequalities often make them less able to resist such situations. The situation of Roma victims during the investigation phase also raises specific problems. The police take reports from Roma victims less seriously or do not investigate them thoroughly enough, especially when the victim claims that the motive was ethnic hatred. The authorities often do not specifically investigate suspected hate crimes, which undermines the confidence of victims and discourages the entire community from reporting crimes.⁷² Members of the Roma community cannot count on protection or justice from the authorities, which in the long term undermines public safety and hinders the investigation of crimes. In light of this, it is crucial to examine what legal and institutional safeguards are in place to protect against ethnic-based discrimination. At the European level, a significant normative framework ensures equal treatment, but the gap between practice and law remains significant in many countries. For example, the issue of collecting ethnic data comes up regularly.⁷³ While data protection concerns are valid, many experts believe that properly anonymized and voluntary data collection is essential to reveal the disproportionate nature of certain measures. In the absence of independent complaint mechanisms, investigations into police misconduct are often ineffective; internal investigations in many countries lack transparency and do not ensure adequate accountability. The effects of biased treatment during the investigation phase extend far beyond individual cases. When members of a community are consistently treated less favorably, it not only undermines legal certainty, but also deepens ethnic tensions and perpetuates social exclusion. Excessive criminalization, stigmatization, distrust of the police, and institutional rejection combine to create a process that reproduces disadvantages across generations. Comprehensive and coordinated reforms are needed to reduce prejudicial practices. One of the most important elements is the modernization of police training. Programs are needed that, in addition to

⁷¹ Egyenlő esélyek: Útmutató a diszkriminációmentes bánásmód elősegítéséhez a büntetés-végrehajtásban

⁷² Kádár András Kristóf – Bárdits Anna – Novoszádek Nóra – Simonovits Bori – Vince Dániel – Szegő Dóra (2014): Utolsó az egyenlők között – Sérülékeny csoportok törvény előtti egyenlősége a büntető igazságszolgáltatásban

⁷³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016

sensitizing police officers, provide practical tools for non-discriminatory work. Reforming data collection and accountability systems could ensure that police actions become more transparent and that discriminatory patterns can be identified in a timely manner. It is also important to strengthen victim protection and maintain ongoing dialogue with communities so that the Roma population can participate as genuine partners in public safety and justice processes.

5. Court Practice – by Xenia Denes

a. How accessible is legal representation for Roma defendants?

Act XC of 2017 on Criminal Procedure provides that the accused has the right to an effective defense at all stages of criminal proceedings in Hungary.⁷⁴ The right of legal representation is mentioned in Article XXVIII Paragraph (3) of the Fundamental Law of Hungary as an element of the right to a fair trial. This means that every defendant, regardless of their gender, religion, ethnicity, has the right to be protected effectively by an attorney, who can be authorized by the defendant or appointed by the authorities. On the other hand, the State has an obligation to appoint someone if no one has been authorized.⁷⁵

According to the Act V of 2013 on the Civil Code, "discrimination (...) constitutes a violation of the rights of the person".⁷⁶ The Act CLXXIX of 2011 on the Rights of Nationalities also stipulates that "it is prohibited to violate the requirement of equal treatment in any way on the grounds of belonging to a national minority".⁷⁷

Favor defensionis is a legal principle that serves to protect the rights of the accused in criminal proceedings. It refers to the idea that in doubtful cases the legal system should favour the defence rather than the prosecution. This principle ensures that the accused is treated fairly and that his rights, such as the right to legal representation, the presumption of innocence and the benefit of the doubt, are respected.⁷⁸

As the above demonstrates, there are number of legal provisions requiring effective protection for all. According to these, minorities should also have the right to an effective defence in criminal proceedings, but unfortunately this is not necessarily borne out by practice. Based on interviews with various professionals, we try to answer the question of the availability of legal representation for Roma defendants.

A judge practising in Eastern Hungary said that, to his knowledge, in most cases, the lawsuits

⁷⁴ Act of 2017 on Criminal Procedure, Paragraph 3

⁷⁵ Fundamental Law of Hungary, Article XXVIII, Section 3

⁷⁶ Act V of 2013 on the Civil Code., Section 2:43

⁷⁷ Act CLXXIX of 2011 on the Rights of Nationalities, Section 7

⁷⁸ Blaskó Béla, In: Polt Péter, Miskolczi Barna, Vida József, Karner Zsanett (szerk.): Nagykomentár a büntetőeljárásról szóló 2017. évi XC. törvényhez

are conducted in an arrogant manner if the defendant has a Roma ethnic background. Despite this, a person conducting a trial should remember that all defendants should be given the same respect regardless of their ethnic, financial situation, gender or any other factor.⁷⁹

A lawyer from Székesfehérvár, who has been practicing for 19 years, primarily represents Roma clients in criminal cases—around 70 to 80% of the time—not as a legal aid attorney but as a contracted defender. He notes that earning the trust of Roma individuals in the criminal justice system is challenging, as many perceive legal professionals, including their own lawyers, as part of the state apparatus.

According to another lawyer, some attorneys distinguish between wealthy Roma clients and those who even struggle to afford legal representation. In the former cases, clients' money is often "taken" without receiving legal services of adequate quality. Others refuse to represent Roma defendants altogether, fearing potential harm to their reputation. In law firms located in multi-apartment buildings, some lawyers worry that visits from Roma clients might lead to a "bad" reputation among neighbours.

Given these experiences, it is unsurprising that many Roma interviewees expressed disappointment and distrust toward lawyers. As for legal aid attorneys, they are often perceived as mere extensions of state authorities—taking on cases solely for financial gain without putting in the necessary effort.

Another example could be the interview of an attorney, who specialised in the protection of human rights. He noted that many Roma individuals who sought their help frequently complained about the services provided by legal aid attorneys, so called *ex officio* lawyers. He speculated that the poor quality of representation might be linked to the low fees these lawyers receive from the legal aid system.

Two Roma interviewees from Fejér County expressed their distrust, stating, "The lawyer is just like the police—he was there [at the trial hearing] only to collect his money." Another Roma interviewee from Székesfehérvár recalled that the co-defendant's court-appointed lawyer spent the trial "drawing," did nothing, and then simply "took the money and said goodbye."⁸⁰

⁷⁹ Annie Kazarján-Eszter Kirs: *Discrimination against Roma people in the Hungarian Criminal Justice System*, p.26

⁸⁰ Annie Kazarján-Eszter Kirs: *Discrimination against Roma people in the Hungarian Criminal Justice System*, p.27

Another Roma interviewee from Tiszavasvári also voiced skepticism about legal aid lawyers, saying, “It depends on who the lawyer really works for. If he’s siding with the police, he might even push for imprisonment—whether it’s necessary or not.”

A Roma defendant from Vécs, who had been involved in seven criminal cases, was represented by ex officio appointed lawyers each time. However, he felt that only in one of those cases did his lawyer make any effort to defend him. Reflecting on the others, he remarked, “Whenever something came up, if a comment needed to be made, it was me who had to raise my hand and notify the judge. [...] At the very least, I expected my lawyer to stand up and support me—but that never happened.”

In 2014 a research project, so called „Last among equals” was carried out by the Hungarian Helsinki Committee (HHC). They analysed around 70 criminal case files. Out of the 67 defendants, only one had a retained attorney from the very beginning of the proceedings. An additional 15 defendants (22%) were able to either replace their legal aid lawyer with retained counsel or later retain their originally appointed lawyer. The legal aid system and the quality of ex officio appointed lawyers' work faced widespread criticism.⁸¹

One of the most significant issues was that court-appointed lawyers were less likely to be present during the first interrogation compared to retained attorneys. Even retained lawyers, however, were sometimes unable to attend this procedural step due to police failing to notify them in a timely manner. Moreover, the research revealed additional important findings. Defense lawyers were present during the first interrogation in only 16 out of 59 cases where records of their participation were available—just over a quarter of the cases.⁸²

Recently, there was a reform carried out about the legal aid system. The main aim was to improve the defence provided to the defendants in the criminal procedure. Regional bar associations were entitled to nominate legal aid lawyers by an automatic system. This new method would give the opportunity for attorneys to rotate. The disadvantage of the previous practice was the lack of the effective defence, because certain authorities appointed the same lawyers, which indicated collaboration between them.⁸³

⁸¹ In:<https://helsinki.hu/en/towards-the-equality-of-roma-defendants-before-courts-and-in-penitentiaries-2010-2013/>

⁸² Uo.

⁸³ Act XC of 2017 on the Criminal Procedure, Article 46 (1)

The truth is that on the practical side this reform is not working as perfectly as in the theoretical one. Most of the attorneys expressed their disappointment. The authorities still appoint those lawyers with whom they are familiar. Usually, Roma defendants cannot pay for their representation in criminal cases, hence they will not receive effective representation. On the other hand, legal aid lawyers send their trainees to represent them. These trainees treat them like objects and they do not care about these cases.⁸⁴

A prosecutor was interviewed about the legal aid system, who said, although legal aid lawyers are usually present in criminal cases, they often lack awareness of their responsibilities and the details of the defendants they represent. It is also common for assigned lawyers to miss the first hearings. Furthermore, legal aid attorneys frequently arrive just minutes before trials—or even late—without any case documents, sometimes requesting interrogation minutes right before or during the trial.

One of the lawyers interviewed recalled frequently encountering situations where the police, the prosecutor, or even fellow lawyers would make remarks such as, “I understand that you’re representing a Roma client, but only because it’s your job,” or, “We can agree that humans are white, right?” When he expressed his disagreement, he was labeled as someone who was “taking the side of Romas.

b. How do sentence lengths compare between minority and non-minority offenders for similar crimes?

As previously mentioned, the Fundamental Law of Hungary enshrines the principle of equality before the law. This provision serves as a safeguard for legal certainty and guarantees that the accused is subjected to a legal procedure conducted without any kind of discrimination.⁸⁵ Therefore, Roma prisoners are entitled to equality before the law just like anyone else. Taking into account published data from the Hungarian Central Statistical Office for the census data of 2022, 210,000 people identified themselves as Roma.⁸⁶ This figure is not accurate, as many people are afraid to declare their nationality because of the atrocities they have suffered. Due to data protection rules, none of the institutions are allowed to keep records of the percentage of Roma

⁸⁴ Annie Kazarján-Eszter Kirs: Discrimination against Roma people in the Hungarian Criminal Justice System, p.28

⁸⁵ the Fundamental Law of Hungary Art. XV.

⁸⁶ In: https://www.ksh.hu/nepszamlalas/tablak_nemzetiseg (Last opened: 12th April 2025)

origin of the defendants in the cases they receive, and therefore the research can rely mostly on the recollections of the interviewees and officials.⁸⁷

In considering prejudices, it is worth starting from the idea of US researchers in the 20th century that "*belonging to a group determines one's social identity and its social value, that the individual benefits from the symbolic and material gains of his group and its social status, that he is interested in the success of his group and that he is biased against his group in relation to all other groups. Competition leads to conflict between groups, for real material goods as well as for status or even for ideological and value dominance*". If we take the mentioned as a starting point, it can be stated that people of lower status are despised by members of other groups.⁸⁸

Unfortunately, I can refer to an older research, carried out more than 20 years ago, as an example that can serve as an answer to the question raised in the research. In 2002, the Hungarian Helsinki Committee carried out a survey on the equality before the law in Hungarian criminal proceedings in the case of Roma defendants.

146 criminal cases were the subject of the research. Violations of equality before the law were considered to be "acts in which, because of the characteristics of a person indicating that he or she is a Roma, the person who is acting in his or her case is subjected by the official to a more severe legal sanction than that which is required by law, possible, normal, or expected on the basis of a documented assessment of the situation, or a distinction is made against such a person which is disadvantageous to him or her. In the cases examined, the defendants were prosecuted for theft and robbery."⁸⁹

It can be noticed that the custody for the crime of theft is 62 days more for Roma offenders and for the crime of robbery almost twice as much, one year more than the penalty for non-Roma offenders. No significant difference is found for the custody for the crime of theft.⁹⁰

The "Last among equals" research project was carried out by HHC in 2014. In the first phase, the project, at a time when the HHC still had access to inmates within correctional institutions, the

⁸⁷ Eszter Bodza Órsi: The application of the principle of equality before the law in criminal proceedings against Roma and non-Roma defendants (A törvény előtti egyenlőség elvének érvényesülése a büntetőeljárásban cigány és nem-cigány terhelték esetén), In: Comparative Law Working Papers, Volume 8. No. 2, 2024, p. 1

⁸⁸ Mátyás Bencze: Hate crimes and "judicial populism", In: Fundamentum, Volume XVIII No 1-2., p. 3-4.

⁸⁹ Annie Kazarján-Eszter Kirs: Discrimination against Roma people in the Hungarian Criminal Justice System, p. 25-26

⁹⁰ Eszter Bodza Órsi: i.m. p. 3

HHC interviewed around 400 prisoners, and in the second phase, it analysed the criminal case files of 70 prisoners. None of them were repeat offenders, they were not sentenced consecutively, they did not have multiple convictions, and they did not have to be sentenced in cumulative sentences. Of these 70, around 30 offenders were of Roma nationality.⁹¹

From 87% of the investigative documents the 17% of the court documents contained references belonging to the Roma minority. In three quarters of the cases, no defence lawyer attended the first interview with the suspect, due to late notification or even no notification at all. In the case of the 67 defendants, only one defendant had an authorised defender from the beginning of the proceedings, the others had only a court appointed defender due to financial difficulties. In the end, only 15% of the defendants were able to appoint a public defender or even another defender.

The rate of pre-trial detention points to the disadvantageous treatment of Roma defendants, as they spent 50 days more in pre-trial detention than in the investigation and court phases combined. Furthermore, the court took 18 days longer to hand down a definitive sentence in their case. As regards the analysis of sentencing, it can be observed that, when comparing first and second instance sentences, that almost the same length of custodial sentences were imposed on Roma and non-Roma defendants.⁹²

Another project connected to the examined theme was carried out in 2020. The most pronounced bias was observed within the police organisation, not only in criminal proceedings but also, for example, in the case of infringement. In the same place and for the same offence, non-Roma offenders were not prosecuted, while Roma were.

There was a judge who, in the reasons for her judgment, described the Roma defendant as the following: "adherents of a certain workaholic way of life, of a moral concept that does not respect private property and the norms of coexistence. "An ethics investigation was launched against the judge, in which it was established that her behaviour was unethical, but no further legal consequences were imposed.⁹³

⁹¹ In: <https://helsinki.hu/en/last-among-equals-the-equality-before-the-law-of-vulnerable-groups-in-the-criminal-justice-system-2014/> (Last opened: 12th April 2025)

⁹² Uo.

⁹³ Eszter Bodza Órsi: i.m. p5

Another telling example highlighting subtle forms of bias within the justice system can be found in the context of trial hearings. An attorney from Székesfehérvár recently shared observations of biases within trial hearings that are not always immediately apparent but are nonetheless concerning. While he noted that he could not recall instances of judges or prosecutors making explicitly biased decisions, he did point to subtler forms of mockery and prejudice.

In one case, for example, the court referred to horses and chariots as the valuable assets of a Roma defendant—an arguably mocking characterization. He also recounted remarks made by a prosecutor outside the courtroom. Upon seeing the pregnant wife of a Roma defendant, the prosecutor reportedly asked, 'When do they even have time to have kids if they're always in prison?' In another instance, a prosecutor stated, 'I don't care, let him go home—just one request: please, don't have any more kids, okay? We don't need them.'⁹⁴ Another Roma client of the lawyer mentioned shared his experience during his criminal case: "I often felt it was pointless to speak because no one listened to me anyway. I wasn't treated as a person. From the start, they had already decided I was guilty—my past convictions mattered more than anything I said."

The absence of legal counsel was even more pronounced for Roma suspects, with lawyers missing in 77% of their cases compared to 69% for non-Roma suspects. This disparity is likely due to authorities failing to properly notify defense lawyers.⁹⁵

Additionally, in 65% of Roma cases and 40% of non-Roma cases, the defense lawyer was notified less than an hour before the interrogation. Such short notice—especially when communication is done via fax rather than by phone—often prevents lawyers from attending or adequately preparing.

Non-Roma defendants were also in a relatively better position when it came to longer notification times. Whether lawyers were informed between one and five hours before the interrogation or more than five hours in advance, non-Roma defendants benefited from earlier and more effective notifications.⁹⁶

c. Analysis of specific cases

Judicial impartiality and consistency are fundamental pillars of the legal system. However, in high-profile cases, courts can be subject to intense public and media scrutiny, which can influence

⁹⁴ Annie Kazarján-Eszter Kirs: Discrimination against Roma people in the Hungarian Criminal Justice System, p.26

⁹⁵ Annie Kazarján-Eszter Kirs: i.m. p.27

⁹⁶ Uo. p. 27-28

judicial behaviour and, as a consequence, lead to decisions that depart from the principle of legal certainty.

The increased expectations placed upon courts and presiding judges by society and the media often result in procedural actions that, when compared to other cases with significantly similar facts and circumstances, appear excessive and fail to uphold the principle of legal certainty. This phenomenon is observable not only in criminal proceedings but also in civil and administrative cases.

This phenomenon occurs when judges, knowingly or unknowingly, hand down disproportionately harsh sentences in line with public expectations. Although such cases are relatively rare, they nevertheless raise serious concerns about equal treatment before the law.

As a striking example of this phenomenon, I would like to cite the sentencing differences between two murder cases with strikingly similar factual elements: the case of murder in Olaszliszka in 2006, involving Roma defendants as well, and a 2014 homicide in Budapest against a homeless man. The contrasting outcomes in these cases suggest that factors outside the judiciary may have influenced the severity of sentences imposed.

A telling example of this is the murder committed in Olaszliszka in 2006 by Roma individuals, and another homicide committed in Budapest in 2014 against a homeless person. In the Olaszliszka case, eight individuals were suspected of murder committed with particular cruelty, while in the Budapest case, the same charge was brought against four defendants.⁹⁷

Of the Roma perpetrators in the Olaszliszka case, two minors were sentenced to ten years in prison each, whereas the minors in the Budapest case received six-year prison terms. Among the adult Roma defendants in the Olaszliszka case, three were sentenced to life imprisonment and the others to 15, 15, and 17 years respectively. In contrast, the adult perpetrators in the Budapest case received prison sentences of eight years each. Judicial populism is not a widespread phenomenon, but it is all the more damaging for that very reason.⁹⁸

On the other hand, cases can also be examined on the basis of interviews given by the accused and their lawyers. A Roma interviewee from Heves County shared two experiences of pre-trial

⁹⁷ Veronika Munk: Representation of Roma in the media from the 1960s to nowadays (A romák reprezentációja a többségi média híreiben az 1960-as évektől napjainkig), In: Médiakutató, 2013, p. 95

⁹⁸ Eszter Bodza Órsi: The application of the principle of equality before the law in criminal proceedings against Roma and non-Roma defendants (A törvény előtti egyenlőség elvének érvényesülése a büntetőeljárásban cigány és nem-cigány terheltek esetén), In: Comparative Law Working Papers, Volume 8. No. 2, 2024, p. 2

detention. In one case, he was detained for 30 days after eating a Túró Rudi in a grocery store without paying. One of the reasons cited for his detention was his prior criminal record.

In another case, which he felt was unjust, he was accused of stealing a wallet, though he claimed to have simply found it on the street. Despite the lack of clear evidence, he was sentenced to six months in prison, with his prior record being the primary factor in the decision. As he put it, “If you are Roma and have a past conviction, you can be arrested and convicted easily, just on suspicion of being a criminal.”

A human rights activist from Baranya County shared another case involving four high school students who threatened a classmate and forcibly took their cellphone. Among the defendants, three had darker skin and were of Roma origin, while the fourth had blonde hair, blue eyes, and a non-Roma name. Despite all four being equally involved in the crime, only the Roma students were placed in pre-trial detention and later convicted, whereas the blonde student faced no real consequences. After reviewing the case files, the human rights defender found significant disparities in how criminal responsibility was attributed to the four defendants.⁹⁹

Additionally, a legal professional interviewee shared details about a case involving multiple young Roma suspects. One incident concerned a 13-year-old Roma boy who participated in an armed robbery alongside three older juveniles. Although the boy had dark skin like the others, the lawyer emphasized key differences: he was a diligent student with strong grades, actively involved in the student council, and had no prior encounters with the criminal justice system. Despite these factors, the prosecution disregarded his personal circumstances.

After all, the 13-year-old received probation, while the other defendants were given suspended sentences. However, the prosecutor appealed, seeking actual prison sentences for all. This case is particularly relevant to the debate on lowering the age of criminal liability to 12. According to the lawyer handling the case, such a policy disproportionately affects marginalized Roma youth, who already face financial and social hardships. Had the young Roma defendant been sent to a correctional facility, he would have been exposed to older offenders, potentially hindering his personal development and reducing his chances of rehabilitation.

The cases discussed above reflect a worrying pattern in which Roma defendants are disproportionately treated more harshly than their non-Roma counterparts, even when the facts

⁹⁹ Annie Kazarján-Eszter Kirs: i.m. p. 26.

and legal circumstances are strikingly similar. Although judicial populism and institutional bias are not always systemic, a few examples are nevertheless sufficient to lose public confidence in the fairness and impartiality of the legal system. These examples also show how factors such as ethnicity, previous convictions and public perception can unduly influence decisions on pre-trial detention, sentencing and prosecutorial discretion.

6. Court practice – analysis of specific cases – comparison between Hungarian/Slovak and Romani cases – by Gergő Nagy

This research aims to highlight the differences between the treatment of Roma and non-Roma individuals in Hungary, mainly focusing on empirical evidence and case studies. It investigates the discriminative term of the so-called „Gypsy crime” and gives an explanation regarding the nature of these said crimes. This research contains specific court cases from Miskolc, Gyöngyös and Újszentmargita. The study illustrates patterns of discriminative bias (disproportionately harsh sentences, extended pretrial detentions).

Who are the gypsies? According to a study made by Kemény István, Janky Béla and Lengyel Gabriella: „The environment considers brown-skinned people and, beyond that, people of Gypsy origin to be Gypsies. It considers those whose parents are Gypsies to be Gypsies. It usually also considers half-Gypsies to be Gypsies, but the point is that it defines Gypsies by origin. In this sense, an intellectual remains a Gypsy if his environment knows that he is the child of Gypsy parents, even if he does not declare himself to be a Gypsy, or even denies that he is a Gypsy. Of course, there are people whose environment does not know that they are Gypsies and who can hide their Gypsy origin. These are exceptions. There are also white-skinned Gypsies who, under exceptional circumstances, can also hide their Gypsy origin. These are also exceptions. However, origin is generally the determining factor.”¹⁰⁰

The term „gypsy crime” originates from criminology of the Kádár-era in Hungary. In today’s understanding it carries a discriminatory meaning.¹⁰¹ So where does discrimination come from? According to the general belief, it comes from prejudice. The term prejudice according to one study means: „ Prejudice is a natural knowledge-replacement and knowledge-supplementing tool of human cognition, which helps to navigate in human and social relations that are not yet known. However, it can also appear in the form of an adverse or hostile emotional attitude towards a person, thing or other phenomenon. In the relationship between people, its basis is mostly simply that the person belongs to a given group, and as a result, it is assumed that he also possesses the negative qualities attributed to the group. The most important aspect of the phenomenon of prejudice is the emotional, superficial, and impression-based judgment about the characteristics

¹⁰⁰ Kemény I, Janky B, Lengyel G, (2004) *A magyarországi cigányság*. Budapest: Gondolat -MTA Etnikai-nemzetiségi Kisebbségkutató Intézet 12-13. p Unofficial translation by the author.

¹⁰¹ Wikipedia. (n.d.). *Cigánybűnözés*. Wikipedia.
<https://hu.wikipedia.org/wiki/Cig%C3%A1nyb%C5%B1n%C3%B6z%C3%A9s>
Unofficial translation by the author.

and social status of the group or the individual belonging to the group, without prior knowledge. Prejudices often arise from unreliable, derivative knowledge and hearsay, but they resist experience and sound considerations, and we cling to them even if these refute the validity of the prejudice.”¹⁰²

When looking at the most frequent crimes committed by Roma individuals, we can see a definite pattern regarding the goal and implementation of the crimes. The most common types of offenses according to an internal affairs inspection made by Csaba Tóth, are „among the crimes against property, the following are thefts of small value, burglary, sneak theft, looting (marking), theft of non-ferrous metals and certain types of robberies, usury crimes and other crimes appearing in parallel with them (violation of personal freedom, coercion, assault, “parasitic crimes”: exploitation of elderly, defenseless, sick people, “scamming”); crimes related to prostitution (violation of personal freedom, coercion, assault, criminal trespass) and crimes related to drugs (in the capacity of consumer, acquirer and transferor).”

Most of the time, the Roma perpetrators seek short-term financial gain, or a way to free themselves from the burdens of everyday struggles with substances. Moreover, according to the study, they tend to solve personal conflicts with physical aggression rather than negotiation. The Roma individuals are aware of the social rules and the consequences of their actions, however their view on life makes it harder for them to avoid said crimes.¹⁰³

In the nation of Hungary, when examining the length and severity of sentences, we can see a pattern regarding ethnicities in criminal justice. Thorough studies and reports indicate that Roma individuals receive much harsher sentences for the same crimes compared to their ethnic Hungarian counterparts.

For example, if we look at a case study that was made in 2020 by the Hungarian Helsinki Committee we can see a sentence that was too harsh compared to the severity of the crime. In this instance the Roma defendant was sentenced to 2 years and 4 months in prison for a theft of 200.000 forints. In the meantime, his “white” Hungarian friend, who committed the same type of crime, with four previous sentences, got the same treatment as the Roma individual, who was a first time perpetrator. In another instance, one Roma individual talked about a case regarding his friend,

¹⁰² Bócz, E. (2015). *A romákról és a „cigánybűnözés”-ről mint szakkefejezésről. Magyar Rendészet, 15(1)*, pp. 80. Source: <https://folyoirat.ludovika.hu/index.php/magyrend/article/view/3773> Unofficial translation by the author.

¹⁰³ *Cigány bűnelkövetők vagy „cigánybűnözés”?*. (2014). *Belügyi Szemle, 62(4)*, 54-75. pp. 69-70 <https://doi.org/10.38146/bsz-ajia.2014.v62.i4.pp54-75> Unofficial translation by the author.

although he relapsed, which is a mitigating circumstance,¹⁰⁴ was given 9 months in custody and then 18 months behind bars for taking a salami out of its protective packaging.¹⁰⁵

Miskolc, which is the third largest city in Hungary, has been openly hostile towards its Roma inhabitants. Various organisations and even the Hungarian Ombudsperson found out that Miskolc, which is the third largest city in Hungary, has been openly hostile towards its Roma inhabitants. and the city has been discriminating against them.¹⁰⁶

The first-instance court's ruling reveals that last year, during the incidents known as the Roma murders, members of the Gypsy community engaged in racially motivated attacks against individuals from the majority society. This occurred while members of the majority society were going through the Miskolc ghetto in a darkened vehicle in the middle of the night. The property damage and some minor epithelial injuries accumulated to nearly forty years in prison.

The court ruling reveals that the attack was made by an armed group, which is considered an aggravating circumstance in the Hungarian legal system.¹⁰⁷ The crime against the safety of transportation and the misdemeanor of vandalism was also present according to the court ruling. These in cumulation can make up a sentence of 11 years behind bars. In the first instance, the fifth defendant received the longest sentence, which was a 6-year prison sentence (as well as a 6-year ban from public affairs). The second most serious sentence was given to a relative of the fifth defendant, who received a sentence of 5,4 years in prison. One of his other relatives received the third harshest sentence, which was 5,2 years behind bars. All these perpetrators had previous criminal records, which could be an explanation to these harsh sentences. The prime accused, who according to the prosecution, hit the right window of the car with a shovel, got 4,4 years in prison, also had a previous criminal record. The maker of Molotov-cocktail and his partner both got a suspended sentence of 1 year.¹⁰⁸

¹⁰⁴ Act C of 2012 on the Criminal Code, Available: <https://njt.hu/jogszabaly/2012-100-00-00>

¹⁰⁵ Kazarján A. & Kirs E., 2020. *A romákat érő diszkrimináció a magyar büntető igazságszolgáltatásban*, pp. 38.o., Elérhető: <https://helsinki.hu/a-Romanikat-ero-diszkriminacio-a-magyar-bunteto-igazsagszolgáltatásban-2020/>

¹⁰⁶ 2017. *Anti-discrimination Lawsuit Against the Leadership of a Hungarian City*. [online] Available: <https://hclu.hu/en/articles/anti-discrimination-lawsuit-against-the-leadership-of-a-hungarian-city-1> [Access date: 2025.04.03.]

¹⁰⁷ Act IV of 1978 on the Criminal Code, Available: <https://njt.hu/jogszabaly/1978-4-00-00>

¹⁰⁸ Gaal I. (2010. december 2.). *Rasszizmusért elítelt miskolci romák - Az önmaga ellen fordult törvény*. Date of download: 2025.04.03.:Name of website: https://magyarnarancs.hu/belpol/rasszizmusert_elitelt_miskolci_Romanik_-_az_onmaga_ellen_fordult_torveny-75090

The Hungarian Civil Liberties Union (TASZ) acting as a public interest claimant, sued the Heves County Police-headquarters based on the law of equal treatment,¹⁰⁹ regarding Romani individuals from Gyöngyöspata. The aim of the lawsuit was a judicial pronouncement, that the police discriminated against the Roma people and failed to step up against the radical groups located in Gyöngyöspata.

The Eger Court of First Instance, using a fundamental rights approach determined, that the police discriminated against the Roma individuals by fining them in a disproportionately large number and failing to protect them against the discriminative patrolling. The court also stated that the police „was also burdened with a positive obligation in connection with the legal relationship in the lawsuit, it had a constitutional obligation to protect the members of the Roma community, who were not indisputably intimidated.”

In line with the position of the TASZ, the first instance court stated: “the defendant’s failure to initiate the aforementioned infringement and criminal proceedings, which would have at least created the possibility that the equal human dignity of the members of the Gyöngyöspata Roma community would not be violated, can be assessed as a violation of personal rights and harassment. This failure of the defendant can be traced back to the fact that he did not actually fulfill his obligation to protect fundamental rights.”

The Eger Court, through an accurate interpretation of the Equal Treatment Act, established a significant principle that: “The fact that a practice may also violate the requirement of equal treatment is significant because a practice followed may result in a violation of the requirement of equal treatment even if the individual concrete measures forming part of the practice were equally lawful.”¹¹⁰

The Debrecen Court of Appeal, in its review as a second-instance court, reached a fundamentally different legal conclusion based on the same set of facts. The court determined that the police had no lawful way of stepping up against the radicalists, so the police is not negligible in this regard. The court stated: „During the period that was the subject of the lawsuit, the legal provisions in force did not define an express prohibition regarding the activities of the registered vigilante

¹⁰⁹ Act CXXV. of 2003, on Equal treatment and the promotion of equal opportunities, Available: <https://njt.hu/jogszabaly/2003-125-00-00.16>

¹¹⁰ Jovánovics E. (2016. 05. 09). *Gyöngyöspata per: Az alapjogi bíraskodástól az alapjogok kifordításáig III.* Date of download: 2025.04.04. Source: Name of website: [ataszjelenti.blog.hu](https://ataszjelenti.blog.hu/2016/05/09/gyongyospata_per_az_alapjogi_biraskodastol_az_alapjogok_kiforditasaig_i_ii): https://ataszjelenti.blog.hu/2016/05/09/gyongyospata_per_az_alapjogi_biraskodastol_az_alapjogok_kiforditasaig_i_ii Unofficial translation by the author.

association that were not in coordination with the police and that caused alarm in the protected group and were claimed to be for the purpose of protecting public order: the legislator subsequently introduced public law restrictions, primarily as a result of the events that occurred in the settlement.”

The ombudsman stated: “In my opinion, the police are following a wrong understanding of the law in this regard, because the intimidating presence or movement of a paramilitary organization in a given settlement cannot be qualified as “guarding” in the sense of law enforcement, monitoring and signaling service, or danger prevention. (...) I must emphasize that despite the contradictions and gaps in the legal regulation, it would have been possible for the police to take “more decisive” action in order to resolve ethnic tension.”¹¹¹

The basis of Hungarian law is the lack of discrimination. During the trial, the judge must not consider the ethnicity of the defendants.¹¹²

One of the most important tasks of the modern state is guaranteeing social integration, which, as we can see below, is not always the case.

When analysing sentence lengths in Hungary, it is important to pinpoint that according to the criminal code, „the punishment shall be imposed within the framework specified in this Act, keeping in mind its purpose, in such a way that it is adjusted to the objective gravity of the crime, the degree of guilt, the dangerousness of the offender to society, and other mitigating and aggravating circumstances.”¹¹³

Comparing the lengths of sentences in Hungary between minority and non-minority people is quite a difficult task, given that, thanks to the legislation protecting private information and equal treatment, the ethnicity of the offender is not published.

While equal treatment is the base of the Hungarian jurisdiction, we can see some examples, where the discriminative measures shine the brightest. To begin with, when looking at a case from the year 1999, we find ourselves with a sentence that was too harsh given the lack of proof.

¹¹¹ Jovánovics E (2016. 05. 03, para 11-13; 15-16). *Gyöngyöspata per: Az alapjogi bíráskodástól az alapjogok kifejtéséig I*. Date of download: 2025.04.03. Source: Name of website: https://ataszjelenti.blog.hu/2016/05/03/gyongyospata_per_az_alapjogi_biraskodastol_az_alapjogok_kiforditasaig_i Unofficial translation by the author.

¹¹² The Fundamental Law of Hungary, Article XV, Available: <https://njt.hu/jogszabaly/2011-4301-02-00>

¹¹³ Act C of 2012 on the Criminal Code, Available: <https://njt.hu/jogszabaly/2012-100-00-00>

On the 4th of March, a man was murdered and robbed in the village of Újszentmargita in northeastern Hungary. Sometime before the incident, Mr. Ferenc Burka Jr. and his father, Mr. Ferenc Burka Sr. had a few drinks in a bar located in the village on the same dreadful night. The two men were arrested the following day and an investigation was initiated against both of them. Given that there were only two witness statements, the indictment of the father and son was quite shocking. The first testimony came from the bartender, who stated that the two Roma men had seen a large amount of money in the victim's possession that day, which made them, according to the bartender, compelled them to act out this heinous crime. The other testimony came from a villager, who reportedly saw the two Roma men walking in the direction of the victim's house, where he was robbed and murdered.

The investigation of the Burkas only produced circumstantial evidence, however, in this case, this seemed sufficient enough for a sentence to be carried out against these two individuals. One of the officers of the local police department stated during one of the court hearings: „I immediately thought of Ferenc Burka. It was intuition. I thought he was probably the perpetrator." During the trial, the prosecutor said that Ferenc Burka Jr. had burnt and buried the boots of his father, which according to him is "a common perpetratorial behaviour of Gypsies when they commit a murder and robbery". In spite of that, no buried boots were found. The prosecutor, dissatisfied with this, took the fact that only one pair of boots was found in the house as undeniable evidence for his/her claim. Moreover, the prosecutor referred to the "suspicious" fact that, at the time of the arrest, the Burkas had washed their clothes and hung them out to dry. The police even disregarded the fact that they discovered a red hair in the victim's hand, while both the Burkas both have black hair.

On 2 April 2002, having been found guilty by the court, Mr. Ferenc Burka Sr was given a 15 years imprisonment sentence, while his son got 13 years behind bars. They began serving their sentences on March 16, 1999.

Fortunately, on the 9th of July, 2005, the two men were released from prison, after another man stated he was the actual perpetrator and he carried out the deed given that he thought the victim stole construction tools from him.¹¹⁴

When looking at the court practice regarding Roma people, it is important to note that under no circumstance should the jurisdiction take the ethnicity of the defendant into consideration. Despite

¹¹⁴ European Romani Rights Centre (2005.08.01., para 21-25). *Hungarian Court Acquits Two Romani Men after 2100 Days in Prison* Name of website: https://www.errc.org/press-releases/hungarian-court-acquits-two-Romani-men-after-2100-days-in-prison?utm_source=chatgpt.com

that, a study made by 4 Hungarian researchers, namely Csorba József, Farkas Lilla, Loss Sándor and Lőrincz Veronik shows quite the opposite. They made their examples from the offense of theft, the crime of theft and the crime of robbery. „The start of the procedure was calculated from the date of ordering the investigation. Where this data was not included in the file, the date of filing the report was taken into account. Among the reasons for ordering a preliminary investigation, we found the following typical circumstances: the objective gravity of the crime that appears to be about to be committed, its increased social danger, inappropriate lifestyle, the risk of escape or hiding, the possibility of intimidating the victim, an unfavorable past history, the risk of collusion, no permanent occupation, homeless, unemployed, based on his previous lifestyle, it can be assumed that he supports himself by committing crimes, the conditions for preliminary arrest are met, etc.”

They came to the conclusion that Roma individuals on average spent 5 more months in pretrial detention. The time spent in court also shows a significant difference between Roma and non-Roma people. When analysing each individual case, we can see that the offense of crime shows the least amount of difference, „only” 18 days. However, the crime of theft and robbery show much more radical results. On average it takes 8 more months for the court to make a decision if it involves Roma individuals, regarding the crime of theft and 10 more than their Hungarian counterparts regarding the crime of robbery. When they took a look at the amount of court hearings, they came to the conclusion that there is a lot of time passing between each individual hearing, when „nothing is happening”, given that on average, there are only 2,7 hearings for each Roma individual.

The most drastic difference regarding prison sentences between Roma and non-Roma individuals can be seen with the crime of robbery. On average, a Roma perpetrator spends nearly twice as much time as a non-Roma for this same crime. The offense of theft „only” shows roughly 2 months of difference in favor of non-Roma people. Interestingly the crime of theft shows the opposite, where the non-Roma perpetrators on average got sentences 4 days longer.¹¹⁵

My research clearly highlights the different treatment of non-Roma and Roma individuals and demonstrates that although it is forbidden for the jurisdiction to hand out sentences and treat perpetrators based on their ethnicity, we can still see signs of prejudice all around us. My goal with

¹¹⁵ Csorba, J., Farkas, L., Loss, S., Lőrincz, V., *A törvény előtti egyenlőség elve a büntetőeljárásban : egy kutatás problematikája* . - In: Fundamentum, ISSN 1417-2844 , 2002. (6. évf.), 1. sz., 125-136. p, Source: <https://matarka.hu/egy-kozlemeny-oldala.php?MatarkaID=237909> - Unofficial translation by the author.

this research was to bring awareness to the mistreatment of minorities in Hungary. The way I see it, their affinity for committing crimes comes not from their ethnicity, but by their social and economic background. Given that they are often denied jobs thanks to their ethnic background, it makes it very hard for them to escape their low-class lives. With no hope of being given a job, they often resort to violence or petty crimes. This creates a vicious cycle, as these crimes aggravate the majority of society and in retaliation they offer less job opportunities to the Roma and we are back to the start. Many programs were created to help the integration of the Roma people, however it was quite a failure, thanks to Roma individuals being skeptical of the majority society. The jurisdiction often associates Roma people with crime, so they are more likely to get charged for the same evidence present, or charged for more time behind bars.

7. Court practise : Population ratio, court errors, conviction rates, language barriers and cultural misunderstandings – by Ivett Nagy

Discrimination against the Roma population has unfortunately long been present in the public consciousness, regardless of the fact that Article XV (2) of the Fundamental Law of Hungary declares that “Hungary shall guarantee fundamental rights to everyone without discrimination on the grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status.”

In 2012, the far-right party Jobbik, alongside other extremist groups, organized a demonstration in the town of Devecser, targeting so-called “Gypsy crime” and advocating violence against Roma people.¹¹⁶ The speakers claimed that Roma individuals were genetically predisposed to criminality. Hundreds participated in the protest, which escalated to violence: demonstrators marched into a predominantly Roma-populated area, shouted racist slogans, and threw stones, bottles, and concrete at residents.

A video on the Hungarian Helsinki Committee’s webpage contains footage related to the subsequent legal proceedings, which were initiated in response to police inaction. Authorities had a legal obligation to disperse the gathering but failed to do so. Furthermore, no legal consequences followed the hate speech voiced at the event. Only one individual was prosecuted—someone who struck another person with a stone. In its reasoning, the Curia (Supreme Court of Hungary) asserted that the violation of fundamental rights did not constitute a defining feature of the assembly, and since the situation did not escalate further, there was no need to declare it a breach of the peace. On this basis, the court concluded that police intervention had not been necessary.¹¹⁷

In pursuit of data relevant to my research—such as the ratio of Roma to non-Roma among detainees, convicted persons, perpetrators, and victims—I encountered significant difficulties. When I contacted the Hungarian Prison Service for assistance, they replied that they do not record ethnic data on detainees.

Eventually, I located the 2022 national census data on the website of the Hungarian Central Statistical Office (KSH), which—although self-reported and therefore inherently limited in reliability—provides a breakdown of the Roma population by county. The KSH website also

¹¹⁶ https://helsinki.hu/wp-content/uploads/EJEB_Kiraly_es_Domotor_kontra_Mo_osszefoglalo.pdf

¹¹⁷ <https://helsinki.hu/strasbourgi-gyozelmeink/>

contains a variety of statistical information on reported crimes, offenders, and victims, with quarterly breakdowns for recent years. One such table, also from KSH, formed the basis of my further calculations.

By combining census data with crime statistics from 2022¹¹⁸, I estimated—by county—the approximate number of crimes committed by Roma individuals, the number of Roma perpetrators, and victimizations affecting Roma. It must be emphasized that the following figures are strong estimates based solely on 2022 census data. The method used involved applying the proportion of the Roma population to the total number of reported crimes in each county. This, of course, does not reflect reality and may result in distortions. However, in the absence of more precise or disaggregated data, these figures are for informational purposes only.

The available statistics reflect the number of crimes committed during the fourth quarter of 2022 in various Hungarian counties, with particular attention to the proportion of Roma residents and the estimated number of crimes committed by Roma individuals. In terms of total reported crimes, Budapest stands out with over 13,000 cases. Although the Roma population in the capital is relatively low (0.8%), the estimated number of Roma offenders is 109—attributable to the city's size and high level of criminal activity.

However, the highest estimated numbers of Roma-perpetrated crimes are not found in Budapest, but in several counties in Eastern Hungary. For instance, in Borsod-Abaúj-Zemplén, the estimated number is 234; in Szabolcs-Szatmár-Bereg, 141; and in Heves County, 111. These regions have a Roma population share between 4.8% and 6.1%, exceeding the national average. These areas also face economic and social hardships, which may influence crime indicators.

It is essential to stress that these figures are based solely on estimates and must not serve as a basis for any direct conclusions about the propensity for crime within Roma communities. The purpose of such statistical analysis is rather to highlight regional disparities, which often have complex underlying social causes. Interpreting these data requires a cautious and empathetic approach, as the statistics do not merely represent numbers, but human beings, communities, and societal realities. The estimated number of Roma offenders is derived by multiplying the total number of recorded crimes by the proportion of the Roma population in each county. As previously mentioned, these figures are not based on police records but are statistical approximations; they

¹¹⁸ Quarterly data on registered crimes, offences, and victimizations by county and region, https://www.ksh.hu/stadat_files/iga/hu/iga0012.html

are therefore informative only and must be treated with particular care—especially in light of prevailing social prejudices.

Based on the data presented, it becomes clear that the highest estimated number of Roma offenders is found in the capital and in more densely populated counties with greater criminal activity. Interpreting such statistics requires a critical perspective and an awareness of methodological limitations, as the criminalization of Roma communities carries not only professional but also severe societal consequences.

Roma people in Hungary have long been subjected to prejudice. Their distinct language, traditions, and lifestyle have often led to mistrust from the majority of society. These prejudices emerged long ago and, regrettably, have grown stronger over time. Around the turn of the 19th and 20th centuries, state authorities attempted to regulate the Roma population's nomadic way of life. In 1944, however, Roma people faced brutal persecution that claimed thousands of lives—an event now recognized as the Roma Holocaust.

Following 1945, some important advances were made, including the formal recognition of Roma as full citizens. Nevertheless, many lost their previous agricultural livelihoods, having been excluded from land reforms. During the era of industrialization, Roma employment increased, although primarily in low-skilled physical labor.

In 1957, the Cultural Association of Roma in Hungary was established with the aim of supporting Roma culture and improving living conditions. However, state policy failed to recognize Roma as an independent nationality, instead promoting assimilation, encouraging them to adopt the lifestyle of the majority society at the expense of their own culture.

A nationwide survey on Roma living conditions was conducted in 1971. At that time, over 300,000 Roma people lived in Hungary. While most spoke Hungarian as their native language, many still resided in segregated settlements on the peripheries of towns and villages. Although a majority of Roma men were employed, housing problems persisted. Increasing numbers of Roma children attended school, though often in segregated classes or special education institutions—frequently without proper justification. Despite these limitations, this period saw the emergence of the first generation of Roma intellectuals, especially in the arts and cultural life.

State initiatives aimed at improving housing conditions often led to new problems. Roma families were sometimes placed in poorly maintained or unfamiliar homes, which they were not always able to maintain adequately, reinforcing negative stereotypes.

In the 1980s, anti-Roma sentiment intensified. Extremist groups such as skinheads emerged, openly inciting hatred and in some cases committing violent acts against Roma individuals.

After the political transition, Roma communities were particularly hard-hit by the economic transformation. Due to low levels of education and qualifications, many were the first to lose their jobs. Social prejudices intensified, and living standards in many Roma families declined. Discrimination became increasingly apparent across various sectors—education, housing, and employment, among others.

At the same time, Roma communities began to participate more actively in public life. Roma representatives appeared in Parliament, and the number of civil organizations grew rapidly. These organizations play an essential role in advocacy and community support, though their operations are often hampered by financial difficulties. Nevertheless, this newfound civic engagement has helped bring issues affecting Roma communities more clearly and openly into public discourse.¹¹⁹

From the 1960s through the 1980s, sociological and criminological research in Hungary increasingly pointed out that a significant portion of the Roma population lived under severely disadvantaged conditions and was overrepresented in the prison system. Statistics separately recorded crimes committed by Roma individuals, reinforcing the false stereotype of “Gypsy crime.” However, researchers demonstrated that criminal behavior was not linked to ethnicity but rather to socio-economic status, noting that Roma individuals were disproportionately part of Hungary’s low-income, undereducated social strata. In other words, elevated crime rates were a consequence of structural disadvantage, not ethnic origin.

Some studies revealed that in certain large Roma families, criminal behavior appeared to be “inherited” and became a way of life, which further intensified public prejudice. During the 1980s, racist graffiti (e.g., “Gypsy-free zone”) became more visible, and skinhead groups began actively targeting Roma, Arab, and African individuals. While prosecutors often pursued these incidents as hate crimes, courts typically classified them as lesser offenses, such as breach of the peace.

Since the early 2000s, the economic situation of many Roma communities has deteriorated further due to persistent unemployment. Rising social tensions were exploited by certain political actors

¹¹⁹ Bócz Endre: A romákról és a "cigánybűnözés"-ről mint szakkifejezésről, *Magyar Rendészet* 2015/1., p. 83.-85.

who repeatedly invoked the concept of “Gypsy crime.” This rhetoric contributed to the hostile climate that culminated in the ethnically motivated series of killings in 2008–2009.¹²⁰

Between 2008 and 2009, Hungary witnessed an unprecedented wave of ethnically motivated murders targeting Roma individuals. Six people of Roma descent—among them Róbert Csorba and his six-year-old son—were killed. The perpetrators murdered with hatred and premeditation, shaking public opinion to its core. They were later apprehended and sentenced, but society has yet to fully process and reckon with the events. Although overt physical violence has since declined, this is primarily due to increased law enforcement measures, not greater societal acceptance. Racist aggression has largely shifted to social media platforms, which now serve as dangerous arenas for hate speech. Given that history has repeatedly shown how hate speech precedes acts of physical violence, it is imperative that values such as tolerance, human dignity, and inclusion be protected not only in real life but also in online spaces. Preventing such tragedies from recurring—whether against the Roma or other minority communities—is a shared societal responsibility.¹²¹

The case described above was only part of the series of attacks now collectively referred to as the “Roma murders.” Between July 2008 and August 2009, four men carried out a sequence of targeted assaults, using firearms and Molotov cocktails to kill six Roma individuals. Some of the perpetrators were connected to the Debrecen skinhead scene. Their stated goal was to retaliate for crimes allegedly committed by Roma and to incite further anti-Roma hatred. They were apprehended in August 2009, with criminal proceedings beginning in 2011 and sentencing delivered in 2013. Three of the defendants received life imprisonment, while the fourth was sentenced to 13 years.¹²²

According to legal analyses, the Roma murders represent a national tragedy, revealing that Hungary still has not truly confronted the systemic problems faced by the Roma minority. Two opposing narratives exist: the majority society often views Roma people through the lens of prejudice, while liberal human rights advocates attribute the core issue to exclusion and lack of social inclusion. A sustainable solution is likely to be found somewhere between these extremes.

Efforts to improve the situation are hampered by a lack of reliable data concerning Roma communities, as ethnic affiliation constitutes sensitive personal data that cannot be collected

¹²⁰ Id. p. 90.-92.

¹²¹ AJBH, Emlékezés a romák elleni gyilkosságsorozat áldozataira a tatárszentgyörgyi tragédia napján, <https://www.ajbh.hu/web/njbh/-/2681089-43>

¹²² Sivadó, M. (2022). A romák elleni sorozatgyilkosság néhány aspektusának kriminológiai elemzése. *Erdélyi Jogélet*, (3), p. 103.

without consent. Pre-transition statistics were unreliable, while the current absence of ethnic data makes it nearly impossible to design effective, targeted affirmative action programs.

In contrast, in the United States, racial and ethnic data are recorded during law enforcement interactions, allowing for a detailed understanding of how different groups are treated within the criminal justice system. These data have supported successful social policy interventions, which have contributed to the development of a substantial African American middle class. A similar step toward effective Roma integration in Hungary would begin with the systematic collection of reliable data.¹²³

The video referenced earlier presents a more comprehensive account of the initial case I mentioned. With support from the Hungarian Helsinki Committee, two individuals affected by the events brought their case before the European Court of Human Rights in Strasbourg. The Court found a violation of fundamental rights, concluding that Hungarian authorities had acted improperly. Their investigation into a clearly racist and violent protest was inadequate, allowing it to proceed without consequences. As a result, the Court awarded the applicants €15,000 in compensation.¹²⁴

This judgment raises a critical question: if the Strasbourg court recognized a fundamental rights violation, why did the Hungarian courts fail to do so? Did they truly not perceive the hate speech directed at Roma individuals or the violent intent of the protest? Or did they simply choose to ignore these aspects due to other, potentially discriminatory, reasons?

Barbara Mohácsi, a lecturer at the Department of Criminal Procedure and Correctional Law at ELTE Faculty of Law and a staff member of the Constitutional Court, addresses procedural errors in criminal proceedings in her paper entitled *“Correcting Relative Procedural Errors in Criminal Trials.”* She identifies the requirement of fair procedure as one of the most frequently violated rights. This is enshrined in Article XXIV (1) of the Fundamental Law, which states: “Everyone shall have the right to have their affairs handled impartially, fairly, and within a reasonable time by the authorities.”¹²⁵

There are numerous cases in which authorities appear to treat Roma individuals worse than what would be expected under the law. One such example is a 2024 incident in Zagyvarékas, where

¹²³ Id., 112.-113.

¹²⁴ Hungarian Helsinki Committee, <https://helsinki.hu/strasbourg-elmarasztalta-a-magyar-allamot-a-devecseri-szelsojobbaldali-demonstracioval-kapcsolatban/>

¹²⁵ Mohácsi Barbara: A relatív eljárási hibák "korrekciója" a büntetőeljárásban (MJ, 2023/2., 90-93. o.)

József Zsákai died during a police operation. According to early reports, after a car chase and brief struggle, the 40-year-old Roma man lost consciousness and could not be resuscitated—neither by the police officers nor by paramedics who arrived nine minutes later.

In edited footage broadcast on television, one officer can be heard yelling, “Stop, you motherfucker!” while the video shows officers chasing, wrestling with, and handcuffing Zsákai as he shouts, “I’m sick, I can’t bear it!” The only reason for the fatal pursuit and arrest was that police knew Zsákai was driving without a valid license.

In its complaint, the European Roma Rights Centre (ERRC) expressed grave concern over the available information, suggesting that Zsákai’s death may have resulted from the use of unnecessary and disproportionate force by the police—violating the principle of proportionality enshrined in both Hungarian and international law.

The ERRC has called for an effective, independent investigation, and reminded state authorities of their heightened obligation: “*when investigating deaths at the hands of State agents, to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events.*”

The Jász-Nagykun-Szolnok County Police Department concluded its investigation with unprecedented speed. In a statement issued on 8 January 2025, it declared that the man had died during a lawful police intervention. The prosecution had been notified, an internal investigation was launched, and it concluded that the officers had acted lawfully. An expedited autopsy found that “*that the man's death was not caused by police action, especially unnecessary violence.*”

The ERRC complaint also criticizes the police’s assertion that the intervention was lawful and unrelated to Zsákai’s death, calling it premature and highlighting concerns about the independence and impartiality of the investigation. The fact that the inquiry was conducted by the same county police department involved in the incident, rather than by an independent body, is troubling. Furthermore, the officers involved were not suspended during the investigation.¹²⁶

In her article *The Causes and Consequences of Faulty Investigations*, published on the Jogi Fórum legal portal, Réka Mócza explores various types of investigative errors. Drawing from the internal classification of criminalistics, she distinguishes between tactical, technical, and methodological

¹²⁶ European Roma Rights Center, ERRC demands independent investigation over fatal police action in Hungary, 2025.02.04. <https://www.errc.org/news/errc-demands-independent-investigation-over-fatal-police-action-in-hungary>

errors. Other approaches differentiate based on the level of risk associated with the error, or by procedural stage—investigative, intermediate, or judicial.

As illustrated by the examples above, errors can be categorized along multiple dimensions. Mócza analyzes them from two primary perspectives, irrespective of the procedural stage or specific investigative act.

She first examines errors stemming from human factors, then turns briefly to procedural irregularities. Among investigative mistakes, she highlights the phenomenon where police, in an effort to quickly “solve” a case, become fixated on a version of events they deem correct. Instead of reconstructing the incident based on evidence, they attempt to fit the available evidence into a pre-established narrative, excluding alternative scenarios or interpretations.

This approach severely undermines the discovery of factual truth, as relevant information is often ignored or overlooked. As a result, evidence may end up supporting a fictional sequence of events, calling into question the legitimacy of the proceedings.

It is also important to note that this result-oriented mindset is not only fueled by individual ambition but also by the increasingly statistical approach dominating the criminal justice system. This perspective places significant pressure on investigators, making it unsurprising that such thinking surfaces in actual cases.

In addition, the overburdening of investigative authorities can have serious consequences: hasty, careless, or delayed actions are frequently observed during criminal procedures. These issues often lead to neglecting procedural requirements, both formal and substantive, which further contributes to errors.

These systemic conditions likely underlie the many procedural errors occurring in cases involving Roma individuals. In the aforementioned case, the key issue was the failure to conduct a thorough investigation. The same police department reviewed the incident, seemingly with the aim of quickly “disposing of” the matter.¹²⁷

In recent years, criminal policy in Central and Eastern Europe has increasingly focused on severity, law enforcement, and exclusion, rather than integration or social support. In this region, authorities

¹²⁷ dr. Réka Mócza: Elhibázott nyomozások okai és következményei, Jogi Fórum, 2017.08.09, <https://www.jogiforum.hu/publikacio/2017/08/09/elhibazott-nyomozasok-okai-es-kovetkezményei/>

often prioritize imprisonment and other forms of control, while Western countries tend to emphasize welfare-based approaches and social inclusion.

There is a growing tendency for criminal justice systems not only to respond to individual acts but also to function as instruments for protecting national identity. This attitude is characterized by the state using coercive measures—such as deportation or criminalization—against groups perceived as threats to social order. In this way, criminal justice becomes a tool for defending the national community.

This mindset gained traction particularly after the democratic transition, as it helped address the uncertainty created by sudden societal change. Political leaders may not have deliberately sought to revive nationalist traditions, but these ideas nonetheless regained strength and became instruments of national cohesion. Historical experience in the region also played a role: opportunities for sovereign national existence had long been limited, and following the transition, many countries sought to reinforce their nation-state identities—often by excluding those who did not fit the desired image.¹²⁸

Hungary's political system remained relatively stable for a long time, but a major shift occurred in 2010 when voters decisively turned toward the political right, giving Fidesz a two-thirds parliamentary majority. Since then, the government has gradually distanced itself from the framework of liberal democracy—a move openly affirmed by the Prime Minister in his references to building an “illiberal state.” Power became increasingly centralized, particularly during the pandemic, when the government began ruling by decree—a practice that remains in place.

Criminal policy also underwent major changes. In the post-2010 years, the slogan of “order” became dominant, accompanied by increasingly stringent regulations. Criminal sanctions were tightened, life imprisonment without parole was reintroduced, and new laws were enacted, such as allowing the prosecution of children as young as 12 for serious crimes. The separate juvenile justice system was almost entirely dismantled.

Rather than addressing the root causes of social problems, the government has chosen to rely on harsher laws and stricter punishments. This marks a shift toward a “neoclassical” approach to

¹²⁸ Kerecsi, K. (2025). Büntető populizmus vs. büntető nacionalizmus: Kriminálpolitika Kelet-Közép-Európában. *Magyar Rendészet*, 24(6), p. 106.-108.

criminal justice—emphasizing deterrence, catering to populist demands, and enacting legislation that often responds not to real challenges but to perceived or symbolic threats.¹²⁹

The criminal justice and social policies affecting Roma people in Central and Eastern Europe clearly demonstrate how exclusion and control have become tools of security policy. Rather than addressing the underlying social issues facing Roma communities, the approach is to “manage” them: physically separating them from the majority society through segregated settlements and symbolically excluding them from full civic equality.

Although the freedom of movement within the European Union formally applies to everyone, Roma people and poor citizens of Eastern European countries are often treated as “migrants” or “welfare tourists.” Discrimination against them partly stems from a securitizing logic that frames social problems as threats and seeks to counter them with physical or legal barriers.

This mindset was also evident in how countries in the region responded to the 2015 migration crisis: restrictive and repressive measures were quickly introduced, reviving political reflexes centered on national borders. Within this logic, Roma—despite being citizens of their own country—are viewed as “internal foreigners,” subjected to the same tools and discourses used against external migrants.¹³⁰

The invocation and political instrumentalization of the concept of “Gypsy crime” are closely linked to the historical and legal processes of criminalization and stigmatization of the Roma, as discussed in previous sections. Public opinion polling and political discourse often serve to amplify anti-Roma prejudices, which, at various levels, contribute to the social exclusion of Roma communities and their unequal treatment within the legal system. The expression “Gypsy crime” not only reinforces stereotypes regarding the alleged unlawful behavior of Roma individuals but also conflates entire communities with criminality—an association that is fundamentally misleading and offensive.

According to a public opinion survey conducted by the Nézőpont Institute that addressed the topic of “Gypsy crime,” and as reported in an article including the response of Orbán Kolompár, President of the National Roma Self-Government (OCÖ), Kolompár stated that the term “Gypsy crime” appears neither in the legal system nor in criminological literature, and that equating Roma people with criminal behavior is manipulative and inflammatory. This position reinforces

¹²⁹ *Id.*, p. 112.-113.

¹³⁰ *Id.*, p. 119.-120.

arguments outlined in earlier sections: that prejudices and discrimination against Roma people—whether manifest in criminal proceedings or social attitudes—stem from distortions in public perception that are often manipulated for political purposes. The concept of “Gypsy crime” is thus not merely a legal fiction but a powerful rhetorical device in public and political discourse, influencing how Roma are perceived and treated, and shaping legal practice itself.

Such discourse and the arguments in support of the concept of “Gypsy crime” are dangerous, as they deepen misconceptions about the alleged criminality of Roma communities and contribute to increased discrimination within the legal system. Furthermore, political tensions and inflammatory rhetoric against Roma are directly linked to their status as one of the most vulnerable and marginalized groups in society—often scapegoated for economic and political problems. This discourse threatens the legal protections of Roma communities and severely undermines their prospects for social integration.¹³¹

In his article *Roma Offenders or “Gypsy Crime”?*, Csaba Tóth highlights that the term “Gypsy crime” initially emerged within Hungarian criminology as a technical term used primarily by law enforcement, particularly in the pre-transition period. At the time, the term was not imbued with explicit ethnic or racist connotations, and both the media and public tended to treat it as a professional criminological concept. During the socialist era, policies aimed at integrating Roma populations primarily targeted the elimination of nomadic lifestyles and their assimilation into mainstream society—often through tools of affirmative action rather than with discriminatory intent.

However, in contemporary public discourse, the expression “Gypsy crime” carries heavily distorted, stigmatizing, and prejudicial connotations. Its usage has extended far beyond its original criminological context and has become a tool of ethnic scapegoating. This not only damages the social perception of Roma individuals but also poses a broader threat to social cohesion.¹³²

Tóth provides a detailed account of how the term “Gypsy crime” entered public and political discourse in Hungary, and how it contributed to the construction of a societal image that attributes collective guilt to Roma offenders. According to the author, the 2006 lynching in Olaszliszka marked a turning point: the brutal murder of a schoolteacher in front of his children, perpetrated by Roma individuals, drew national attention to the perceived link between Roma identity and

¹³¹ MTI, A "cigánybűnözésről" érdeklődik egy közvélemény-kutatás, HVG, 2008.08.27, https://hvg.hu/itthon/20080827_ciganybunozes_kozvelemeny_kutatas

¹³² Cigány bűnelkövetők vagy „cigánybűnözés”? (2024). *Belügyi Szemle*, 62(4), p. 54.-55.

criminality. Following the incident, not only did the expression “Gypsy crime” gain wider traction in everyday language, but public calls for the reinstatement of the death penalty also re-emerged.

Tóth’s analysis underscores the growing emphasis on ethnicity in crime reporting, particularly in the radical right-wing media, such as *kuruc.info*, which systematically compiled news stories involving Roma perpetrators into a separate category. The author argues that this media phenomenon contributed significantly to the criminalization of Roma communities and the reinforcement of negative public attitudes toward them.

Tóth also discusses how the political party Jobbik—The Movement for a Better Hungary—built its campaign strategy around these societal tensions, explicitly opposing “Gypsy crime” and establishing the Magyar Gárda (Hungarian Guard) in alignment with this narrative. The central message of this political platform was that the state had failed to protect its citizens from Roma perpetrators, and that civilians must therefore organize their own defense.

The author cites further examples—such as the Veszprém “Cozma case” and the murder of Kata Bándy—to demonstrate how public reactions to crimes became increasingly ethnicized when the perpetrators were perceived as Roma. These incidents not only intensified prejudices against Roma communities but also shifted public discourse toward viewing criminality through an ethnic lens, while ignoring structural factors or nuanced interpretations of individual responsibility.¹³³

In analyzing the concept of “Gypsy crime,” it is crucial to consider its historical background, linguistic features, and criminological implications. The compound term originally encompassed two meanings: first, crimes committed by Roma individuals, and second, offenses that statistical data suggested were more commonly committed by Roma. While such categorization may have been tolerated during the socialist period for investigative purposes, it has become outdated in the present day. Given the realities of globalization, increasing social mobility, and the evolving nature of crime, ethnically based categories are no longer valid—since the causes of criminal behavior are primarily social, economic, and related to upbringing, rather than ethnic origin.

When it comes to other social groups, we do not apply such collective labels—no one speaks of “politician crime” in response to corruption scandals, nor of “Hungarian crime” in the case of non-Roma offenders. Yet generalized terms applied to Roma perpetrators persist in public discourse and, in many cases, in media rhetoric, despite their lack of legal or professional justification.

¹³³ *Id.*, p. 65.-67.

It is not in dispute that criminal activity exists within Roma communities, just as it is true that these groups are also disproportionately affected by victimization. However, these phenomena are not rooted in biological or racial causes, but rather in conditions of deep poverty, lack of education, unemployment, and the resulting social vulnerability. For criminology, understanding such socio-cultural factors may be relevant to effective law enforcement, but it must never justify the creation of ethnic labels that stigmatize an entire population.

Historical and sociological research clearly shows that the Roma in Hungary live in severe structural disadvantage, a situation that has only deepened with the post-socialist economic transition. Roma individuals do not commit crimes because they are Roma, but because they live in environments where internalizing social norms and learning lawful behavior is made significantly more difficult—or at times nearly impossible.

From this it follows clearly: crime is not an ethnic, but a structural problem. Instead of ethnic labeling, the focus must shift to addressing the inequalities that lie behind criminality. The term “Gypsy crime” is not only scientifically indefensible but socially dangerous, as it reinforces prejudices against Roma communities and obstructs objective, systemic dialogue about their situation.¹³⁴

As a result of prevailing prejudices, certain types of crimes are frequently and automatically attributed to presumed Roma perpetrators. In addition to more common, lower-value property crimes—such as burglary, theft, scrap metal theft, or certain forms of robbery—offenses related to loan sharking are also prominent, including unlawful restraint, coercion, or bodily harm. These crimes are often driven by existential necessity or a desire for quick and easy profit, compounded by socio-cultural disadvantages and a tendency to resolve interpersonal conflicts through aggression. Crimes linked to prostitution or drug-related activities are also frequent, as are violent offenses stemming from emotional instability or impulsivity.

A significant proportion of perpetrators come from marginalized subcultural environments where personal development and the formation of emotional and social competencies are often hindered. Individuals from such backgrounds frequently live segregated lives, have weaker moral inhibitions, and maintain fragile social ties. Psychiatric care—when available—typically occurs in foster homes or correctional facilities, yet its effects often fall short of their preventive aims, particularly when patients adhere to prescribed medication inconsistently or excessively. This can lead to substance

¹³⁴ *Id.*, p. 67.-69.

abuse, which may then fuel further crimes—typically property-related or linked to prostitution—as a means of sustaining addiction.

The cycles of extreme poverty and criminality often reproduce themselves across generations, particularly in communities where most Roma people reside. Cultural representations—such as certain popular songs, Roma language textbooks, or folk tales—may portray lifestyles that reinforce, rather than dismantle, majority stereotypes. As a result, society increasingly adopts the oversimplified conclusion that individuals from disadvantaged Roma backgrounds are inherently more prone to criminal behavior.

Yet this generalization is demonstrably false. There are many types of crimes—such as financial fraud, tax evasion, or embezzlement—that require a level of social capital and expertise inaccessible to those living in deep poverty. In the realm of “white-collar” crime, individuals perceived as Roma are underrepresented. Nonetheless, smaller-scale, localized offenses tend to provoke greater public outrage than large-scale crimes with broader societal harm.

Social injustice and material deprivation facilitate the intergenerational transmission of certain criminal lifestyles, while repeated penal sanctions and criminal policy responses often fail to break this cycle. While statistical overrepresentation of Roma in certain types of crime may exist, it does not imply that the Roma people as a group are collectively responsible for societal problems. It is the duty of the majority society to replace existing prejudices and stigmatizing narratives with nuanced interpretations that consider socio-economic context.¹³⁵

As explored in *Police Ethnic Profiling in Hungary — An Empirical Research: Ideals of Systemicity and Axiomatisability between Utopianism and Heuristic Assertion* by Kádár and Pap, racial profiling has proven to be practically ineffective, despite its initial plausibility rooted in statistical reasoning. The core issue lies in its structural inaccuracy: such profiling is simultaneously over-inclusive and under-inclusive. It is over-inclusive in that many—indeed, often the majority—of individuals who fit the profile are entirely innocent. Conversely, it is under-inclusive because those who do not match the profile but nonetheless engage in criminal or terrorist activity may escape detection altogether.

In addition to its inefficacy, there exists a broad consensus that racial profiling constitutes a form of discrimination, and is thus incompatible with international and European legal standards. A number of prominent institutions—including the UN Committee on the Elimination of Racial Discrimination, the Council of Europe’s Committee of Ministers, the European Commission

¹³⁵ *Id.*, p. 70-72.

against Racism and Intolerance (ECRI), the European Parliament, the OSCE High Commissioner on National Minorities, and the EU Network of Independent Experts on Fundamental Rights—have all issued recommendations urging lawmakers, policymakers, and law enforcement officials to take concrete action to combat ethnic profiling.

Empirical data collected in the study further underscore these concerns, particularly in relation to Roma youth. The findings reveal that Roma adolescents are disproportionately subjected to identity checks: during the project period, 32% of Roma individuals aged 14 to 16 were stopped and checked—substantially exceeding their overall representation within the sample (22%). This disparity should be interpreted in light of demographic trends; for example, Roma aged 15–19 account for approximately 10.3% of the total Roma population, compared to only 6.4% of the general population.

The data also indicates significant discrepancies in the stated grounds for stops. In the category labeled “other grounds,” the proportion of Roma was 28%, compared to 22% across the general sample. When traffic stops are excluded, this figure rises to 30%. The vagueness of the “other” category affords law enforcement officers considerable discretion, increasing the likelihood that stereotypes inform decisions. This overrepresentation of Roma in loosely defined stop categories raises serious concerns regarding the discriminatory application of police powers.¹³⁶

According to the *Civil society monitoring report on implementation of the national Roma integration strategies in Hungary*, minor offenses that are subject to fines imposed by the police or other authorities typically involve lesser violations of regulations. However, longstanding experience shows that Roma individuals are disproportionately targeted in such cases. Authorities tend to fine Roma cyclists or residents of segregated Roma communities more frequently, effectively placing an undue burden on them and creating untenable circumstances. Although these procedures may appear lawful and justified on the surface, everyday practice suggests a different reality. To draw attention to this issue, the Roma Press Centre organized a public awareness campaign.

Roma individuals are often fined for actions that rarely lead to penalties for non-Roma people, such as jaywalking or riding bicycles without full equipment. In Budapest, for example, riding minimally equipped bikes is common among university students, yet there are no known cases of them being fined—unlike many Roma cyclists. In certain settlements, residents are fined so

¹³⁶ Kádár, A., and Pap, A. (2009). Police ethnic profiling in Hungary — An empirical research: Ideals of systemicity and axiomatisability between Utopianism and Heuristic assertion. *Acta Juridica Hungarica* 50, 3, 253-267, Available From: AKJournals <https://doi.org/10.1556/ajur.50.2009.3.2> [Accessed 19 April 2025]

frequently that the total amount exceeds their income. In several instances, families have been unable to pay these fines, resulting in some members serving prison time to settle the debt. Not all municipalities provide the option of performing community service as an alternative method of payment. In one settlement, 97% of individuals fined for bicycle-related offenses were Roma. There have also been cases where elderly women were fined in winter for collecting firewood, treated as theft.

Additionally, police often fail to respond to requests for assistance from Roma communities. Residents have not been protected during threatening far-right marches in towns such as Gyöngyöspata (2011), Tiszavasvári (2012), and Szúcs (2015). Racial profiling is also a recurring issue, with Roma individuals disproportionately subjected to checks concerning the ownership of personal property.¹³⁷

According to the study *Roma/Gypsy Youth Empowerment And Romani Language: Case Study Of Hungary* by Katya Dunajeva and Heather Tidrick, Hungary's Roma population is primarily composed of three ethnic subgroups—Romungros, Beash, and Vlach Roma—each associated with distinct language traditions: Romani and Beash. These languages are unrelated to each other and to Hungarian. Accurately counting the Roma population is challenging and often unreliable. While subgroup identities have traditionally been tied to language, assimilation into Hungarian as a mother tongue is increasingly common across all groups.¹³⁸ In Hungary, many Roma do not speak the Romani language, highlighting the linguistic diversity within Roma communities and challenging the common assumption that Romani is their universal mother tongue.

International and national NGOs in Hungary promote the teaching of the Romani language as a means of supporting Roma inclusion and educational success. They argue that recognizing Roma cultural heritage, including language, can help reduce prejudice, improve access to education, and aid social integration. However, at the local level, negative attitudes persist, and many believe that shedding Roma identity, including the language, is essential for success. The popular assumption

¹³⁷ European Commission, Association of Roma Minority Representatives and Advocates of Nógrád County, Autonómia Foundation, Directorate-General for Justice and Consumers, Eger Foundation of SZETA, Együtt Közösen Egymásért Association, Idetartozunk Association, Khetanipe Association, Motiváció Educational Association, National Association of Roma Police Officers, Pro Cserehát Association, Romaversitas Foundation, UCCU Roma Informal Foundation, (2018) *Civil society monitoring report on implementation of the national Roma integration strategies in Hungary : focusing on structural and horizontal preconditions for successful implementation of the strategy*. Publications Office., p. 33.-34. <https://data.europa.eu/doi/10.2838/034974>

¹³⁸ Annie Kazarján – Eszter Kirs, Discrimination Against Roma People In The Hungarian Criminal Justice System, Hungarian Helsinki Committee, p. 9-10. [https://helsinki.hu/en/wp-content/uploads/sites/2/2021/03/Discrimination against Roma people in the Hungarian criminal justice system.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2021/03/Discrimination%20against%20Roma%20people%20in%20the%20Hungarian%20criminal%20justice%20system.pdf)

is that Roma cannot “catch up” or integrate into Hungarian society if they are held back by their own language. For example, the director of one school expressed concern that offering Gypsy language classes would hinder integration. As a result, the possibility that pride in one's ethnic background, including the Romani language, might contribute to social integration is rarely considered. Most local authorities do not see teaching Romani as a means to help Roma children view their language as a positive cultural marker.¹³⁹

Dr. Ernő Kállai, a Roma social scientist and former minority ombudsman, highlighted that linguistic assimilation through the education system is a crucial step in the process of Roma integration into Hungarian society. In the 1950s and 60s, many Vlax and Beash families still spoke their native languages at home, but today most Roma are bilingual or exclusively speak Hungarian. While this shift is seen as a rational adaptation to the dominant society, Kállai points out that, despite the erosion of certain aspects of Roma culture, full integration has not been achieved. He also notes that while there is a declared policy of Roma integration, some state-level decisions seem to contradict these efforts.¹⁴⁰

Due to the widespread adoption of the Hungarian language within Roma communities, particularly through education and societal adaptation, there are few, if any, cases where Roma individuals struggle due to not knowing Hungarian. Over time, most Roma have become bilingual or exclusively speak Hungarian, which has significantly reduced language barriers. As a result, language is no longer a major obstacle for Roma individuals when it comes to communication or integration into Hungarian society.

¹³⁹ *Id.* p. 14.

¹⁴⁰ *Id.* p. 17.

8. Within the Prison Walls – by Netti Madai and Péter Pribula

a. Introduction

Imprisonment was already a known concept in Hungary during the Middle Ages; however, modern prisons and penitentiaries were primarily developed during the 19th century. Currently, more than 30 correctional institutions operate in the country.

b. Crime and Punishment

According to the *Human Rights Dictionary* of the **Hungarian Helsinki Committee**, imprisonment is defined as: *"This punishment serves to isolate the offender from society, prevent further crimes, and encourage respect for the law."*¹⁴¹

The Committee also highlights that the number of inmates in Hungary is notably high today. One of the most striking statistics in recent years was recorded on the last day of 2022, when more than 19,000 people were incarcerated.¹⁴²

The frequency of criminal activity may be closely related to the disadvantaged social conditions affecting a significant portion of the population. This is especially true for the Roma minority. This ethnic group appeared in Hungary around the 14th–15th centuries, and their exact population is difficult to determine, as it depends on how many identify as Roma during the national census held every ten years. What is certain is that they are frequently subjected to prejudice and discrimination.

A clear example of this is the term *"Gypsy crime"*, which carried a discriminatory connotation and became widespread during the socialist era, particularly under the Kádár regime. According to a study published on the website of *Hungarian Law Enforcement*,

*"The spread and use of the term 'Gypsy crime' stems from a lack of understanding of the differences between the various criminological sciences."*¹⁴³

¹⁴¹ <https://helsinki.hu/emberi-jogi-szotar/bortonbuntetes/>

¹⁴² <https://helsinki.hu/az-elmult-33-evben-nem-voltak-enyien-bortonben-magyarorszagon/>

¹⁴³ <https://folyoirat.ludovika.hu/index.php/magyrend/article/view/3946/3207>

The author, János Bársony, also points out that crime is a phenomenon inherent to humanity, and it cannot be collectively attributed to any ethnic group. Rather, individual responsibility is what determines criminal acts.

c. Treatment of inmates

"The way we treat criminals is one of the most unfailing tests of any country's civilization." – Winston Churchill

As subjects of penal enforcement, inmates possess numerous rights and obligations. Strict rules apply to everyone in the prison to ensure proper operation. At the same time, certain fundamental conditions must be guaranteed for inmates. These include constitutionally defined human rights that may not be violated during incarceration. Among them are the right to human dignity and the prohibition of cruel or inhumane treatment.

As stated in the Article 3 of the European Convention on Human Rights: *"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."*¹⁴⁴

Basic conditions to be ensured include adequate hygiene and minimum cell space. Violations of these rights depend on contextual factors such as the inmate's physical or mental state, or the duration of improper treatment. If the state fails to meet these requirements, it may be held accountable.

In addition to international regulations, domestic reforms have also been implemented, such as the 2014 decree of the Minister of Justice on the detailed rules for the execution of imprisonment, detention, pre-trial detention, and detention replacing fines.¹⁴⁵

d. The Roma minority in prison

When it comes to Roma inmates, there is a lack of accessible data on their actual numbers in prison. The last survey on the ethnic composition of convicted individuals was conducted during socialism, in the late 1990s. Since then, such statistics have not been made available, as data protection laws prohibit it.

¹⁴⁴ EJEE - 1993. évi XXXI. törvény az emberi jogok és az alapvető szabadságok védelméről szóló, Rómában, 1950. november 4-én kelt Egyezmény és az ahhoz tartozó nyolc kiegészítő jegyzőkönyv kihirdetéséről - Hatályos Jogszabályok Gyűjteménye

¹⁴⁵ 16/2014. (XII. 19.) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbíróság helyébe lépő elzárás végrehajtásának részletes szabályairól - Hatályos Jogszabályok Gyűjteménye

According to Act LXII of 1992 on the protection of personal data and the publicity of public interest data:

*"(5) Only state or municipal bodies may process criminal personal data for the purposes of law enforcement, crime prevention, administrative, and judicial functions, as well as data related to misdemeanors, civil litigation, and non-litigious proceedings."*¹⁴⁶

As a result, we do not receive exact data on the ethnic composition of the prison population. However, it can be established that Hungarian prisons are characterized by overcrowding, and a significant number of inmates belong to the Roma minority.

In individual cases, information about the Roma origin of detainees can sometimes be found in various documents, such as witness testimonies, court decisions, or when the detainee refers to their own origin. However, these references are not very common. In these documents, **discriminatory** remarks occasionally appear, hinting at the offender's origin and suggesting that crime is habitual within this ethnic group. Numerous studies, reports, and personal accounts inform us that, just like in other areas of life, discrimination is also present in prisons. It is generally assumed that disadvantaged social status is associated with this group, and their involvement in crime is not seen as surprising. Such views can also affect the principle of equal treatment.

In a study by the Helsinki Committee called "*Last Among Equals*", it is reported that among Roma detainees — those who identified themselves as such — it was primarily women who perceived discriminatory treatment. The study also reveals that the younger generation perceives less discrimination.¹⁴⁷

It is a general principle that prison staff must know how to treat all detainees properly and should serve as role models (in appearance and hygiene, for example), thereby building trust. Patience and communication are also key factors. The high number of detainees compared to the low number of staff also affects the quality of treatment, as the heavy workload and administrative duties often leave little opportunity for prison staff to get to know the detainees personally.

¹⁴⁶ <https://njt.hu/jogszabaly/1992-63-00-00>

¹⁴⁷ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

Thus, in terms of treatment, we see that although both the staff and the detainees must cooperate according to established rules and possess numerous rights and obligations, members of the Roma minority may still experience discrimination. The reason for this lies in the prejudices people have developed concerning the lifestyle and behavior of the Roma minority. Discriminatory treatment can manifest verbally, through the use of certain racist expressions, but also through harsher physical violence applied by prison guards. Experience shows that disciplinary proceedings are initiated more frequently against Roma inmates, which leads to additional punishments. In some prisons, it may also occur that they are placed in separate wings, further exacerbating conflict situations.

e. Prison culture – how Roma people’s personalities are affected by prisons and how they fit into the place

In Hungary, Roma people who are detained and imprisoned are heavily affected by the nature of these prisons. In 2021, there were around 19,000 people imprisoned in Hungary, which was one of the highest rates in the European Union (relative to the country’s population).¹⁴⁸¹⁴⁹ A lot of these prisoners were of Roma ethnicity, and therefore faced issues like overcrowding and substandard detention conditions.¹⁵⁰ Physical conditions in Hungarian prisons are often subpar, and reflect older, outdated methods when compared to the rest of the European Union, which very often causes psychological problems for all of the people there, causing them to become even more aggressive and very often devoid of any hope about their future. It is not just the physical conditions of prisons that’s problematic, though – the treatment of prisoners has many issues as well.¹⁵¹ ¹⁵²

One of the problems that is often emphasised by journalists and human rights activists is the way of thinking by prison management. When compared to prison systems in Portugal and Spain for example, in Hungary, it is often strongly emphasised by guards and other staff members that these prisons are not „hotels”, which reflects a more traditional way of thinking about how people detained should be treated.¹⁵³ Another huge issue is the lack of contact with family members – whereas many other countries (like the aforementioned Portugal) often allow prisoners to keep in

¹⁴⁸ <https://index.hu/kulfold/2024/05/01/europai-unio-eu-fogvatartas-fogvatartott-borton-rab-arany-statisztika-eurostat-magyarorszag-lista/>

¹⁴⁹ https://www.ksh.hu/stadat_files/iga/hu/iga0007.html

¹⁵⁰ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁵¹ http://epa.oszk.hu/02700/02705/00024/pdf/EPA02705_bortonugyi_szemle_1995_4_059-064.pdf

¹⁵² https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁵³ Ibid.

touch with their family members, even while being detained, in Hungary, chances for this are a lot more limited. Contact with prisoners, even by family, is often prohibited, especially physical contact, which very often leads to psychological issues. It is shown that reintegration into society is a lot harder when there is a lack of contact with family members for a long time.¹⁵⁴¹⁵⁵ This disproportionately affects Roma prisoners, as studies show that every fifth person in prisons who is of Roma origin has three children or more, while for white prisoners, this is only the case for every tenth person.¹⁵⁶ Another problem is that Roma prisoners are often younger than other prisoners, so for those who don't have children yet, keeping in contact with parents would still be crucial and important, but they often lack the access and possibilities for it.

While the aforementioned issues do affect Roma prisoners a lot, many of these problems also apply for other people detained. However, there are specific issues affecting minorities in prisons as well, that are very much affecting them a lot more than they do the other inmates. It's been continuously shown that prison staff often treats Roma prisoners in a much more racist and discriminatory way compared to non-Roma people. A lot of racist remarks are stated behind people's backs, not openly, although they can be very severe (in one case, a staff member made a statement about how „Hitler did not select the main target group well”). However, there are many indirect references towards them, like „you cannot behave like normal people” (obviously referring to the race of the perpetrators). Other, more direct statements, like „you, dirty gypsy” are also common.¹⁵⁷ A huge issue related to these is that while this doesn't always manifest itself in the form of direct violence or open threats, it sets a precedent and makes it much harder for minorities to integrate in their environment, as they are very often treated differently than other prisoners with similar crimes. It is a big problem that there isn't any training for staff members about how they should verbally communicate with Roma inmates, even with these verbal issues. This causes Roma people to be even more intimidated and feel neglected and targeted in prisons, causing a sense of „further punishment” in prisons, which doesn't only affect them disproportionately compared to other inmates, but also causes a big issue, because it makes their reintegration into society a lot harder, and allows prisons to treat people like they are further punishing them, away from the original purpose.

¹⁵⁴ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁵⁵ <https://helsinki.hu/az-elmult-33-evben-nem-voltak-ennyien-bortonben-magyarorszagon/>

¹⁵⁶ https://www.sulinet.hu/oroksegtar/data/magyarorszagi_nemzetisegek/romak/ciganyok_es_idegenek/pages/008_magyar_es_cigany_bunelkovetok.htm

¹⁵⁷ <https://helsinki.hu/wp-content/uploads/A-DISZKRIMIN%C3%81CI%C3%93-ELLENI-K%C3%9CZDELEM-M%C3%93DSZEREI.pdf>

Studies on the discipline and rewards of prisoners also confirm that Roma prisoners are in a more difficult situation than others. A 2014 study by the Hungarian Helsinki Committee confirmed this, and this situation has probably not changed significantly since then. Although ethnicity generally did not influence the number of disciplinary cases prisoners had, it was shown that belonging to the Roma ethnicity did influence the number of days spent in solitary confinement: Roma prisoners spent more days in solitary confinement than others.¹⁵⁸ Roma origin also influenced the number of rewards: Roma prisoners received fewer rewards than others.¹⁵⁹ This has precedents even outside prisons: the same research also showed that even in the initial stages of criminal proceedings, during the investigation, measures are applied to Roma in a higher number than to other members of society: they are checked more often, they are informed later about their rights to a lawyer, and thus receive legal assistance later, they are detained for longer periods, and fewer measures are applied to them – house arrest, ban on leaving their homes – that cause less harm.¹⁶⁰

All of these do not meet the requirements in which, according to experts, they should prevail: non-discriminatory treatment does not mean that everyone should be treated exactly the same. Equal treatment that does not take individual circumstances, characteristics, or situations into account can also lead to discrimination. Equal treatment means that special needs must be paid attention to, which also means special treatment. In addition, efforts should be made to ensure that members of disadvantaged groups have the same chances in a given area. So, existing stereotypes should not be reinforced, but rather eliminated.¹⁶¹

Although there is no known detailed analysis that would examine how detention affects the personality of Roma convicts, this clearly follows from the previous characteristics. In general, it cannot be concluded that the domestic prison system is suitable for strengthening the integration of prisoners into society and the avoidance of committing crimes in the future. In fact, years spent in prison tend to increase social exclusion and reinforce the perception that the only possible solution is to continue a criminal lifestyle.¹⁶² This is especially true in the case of social groups where integration is not yet possible and, whether intentionally or unintentionally, they are linked to a criminal lifestyle even by those who should be fighting against it. Thus, the feeling of exclusion in most imprisoned Roma increases and they are very likely to come into conflict with the law again

¹⁵⁸ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁵⁹ https://www.sulinet.hu/oroksegtar/data/magyarorszagi_nemzetisegek/romak/ciganyok_es_idegenek/pages/008_magyar_es_cigany_bunelkovetok.htm

¹⁶⁰ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁶¹ 1993. évi XXXI. törvény az emberi jogok és az alapvető szabadságok védelméről szóló Egyezmény kihirdetéséről

¹⁶² http://epa.oszk.hu/02700/02705/00024/pdf/EPA02705_bortonugyi_szemle_1995_4_059-064.pdf

soon after their release.¹⁶³ The extraordinary work of a few dedicated prison staff and probation officers may create an exception to this: however, there are few of them, they are poorly paid, and their training conditions are inadequate – this can only be changed with long-term work in the future.¹⁶⁴

¹⁶³ https://helsinki.hu/wp-content/uploads/MHB_Utolsok_az_egyenlok_kozott_2014.pdf

¹⁶⁴ http://epa.oszk.hu/02700/02705/00024/pdf/EPA02705_bortonugyi_szemle_1995_4_059-064.pdf

9. What challenges do minorities, particularly Roma face in reintegrating into society after serving their sentences? – by Kata Nóra Veres

a. Reintegration

Minorities, coming from already disadvantaged backgrounds and continuously facing prejudice, are more likely to have a harder time reintegrating after serving their sentences. It can be attributed to several factors, ranging from the unfair treatment they experience while being incarcerated to the unwelcoming attitude of society towards them once they are released. It affects numerous areas and leaves a lasting impact on the ex-convicts putting even more strain on the challenging process of rejoining society. In a 2015 Hungarian survey, most ex-offenders admitted experiencing more serious hardships than expected before their re-entry.¹⁶⁵ Nevertheless, it should be of the interest of the correctional institutions that they not only punish, but also discipline their prisoners in a more humane way and prepare their inmates for life outside prison, and for society to accept them, or at least give them a more equal chance at starting over. The more smoothly the reintegration goes, especially during the first year after release, the slimmer the chance is for recidivism, as it occurs during that time with the highest chance.¹⁶⁶

One of the most crucial areas that is highly disregarded in prisons is the inmates' mental health. Some criminals already suffer from mental distress, which in many cases can be one of the contributing factors why they turn to crime. Particularly in the case of minorities, many of them come from underprivileged living conditions, where striving to come by is a pressure they suffer from on a daily basis. Unless their mental health is properly taken care of during imprisonment, there is no guarantee that later it will not stand in the way of their reintegration, especially when released back into the same disadvantaged environment. In many instances convicts' mental health even deteriorates due to the depressing conditions in prisons. Research carried out by the Helsinki Committee in 2013 revealed that inmates of Roma background are generally placed in cells that are more run-down and more crowded compared to inmates belonging to the ethnic majority. Verbal and physical atrocities towards minority groups are also more frequent, coming from not only other inmates, but also from the workers of correctional facilities.¹⁶⁷ Consequently, it cannot be a surprise

¹⁶⁵ https://szociologia.tk.hu/uploads/files/2015/albert_borton.pdf

¹⁶⁶ https://scholar.utc.edu/cgi/viewcontent.cgi?params=/context/mps/article/1194/&path_info=uc.pdf

¹⁶⁷ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszkr_utmutato_by_2014.pdf

that it has also been revealed that Roma inmates are mainly in a worse state regarding both physical and mental health.¹⁶⁸ Although these above-mentioned abuses are typically characteristic towards minority groups, captivity in general takes a heavy toll on one's mental health. Based on recent data, issued by the World Health Organization in 2023, one third of prisoners in Europe struggle with mental health problems, listed as the leading medical condition among people in jails. The situation is so severe, that the number one cause of death in prisons is suicide, with a substantially higher rate than outside prisons. Furthermore, not only is their mental health neglected during incarceration, but correctional institutions in half of the WHO member states also fail to ensure community health service for them after their sentences are up.¹⁶⁹ This hits especially disadvantaged minority groups hard, who have no means to access support services, unless they are provided to them.

Whether or not society can accept freshly released ex-convicts can also influence the outcome of their rejoining. Naturally, being secluded from the outside world results in a loss of social and work-related skills to a certain extent, making re-entry hard as it is.¹⁷⁰ But an added obstacle can be the stigmatization of ex-offenders as 'criminals'.¹⁷¹ The so-called labelling theory explains that people often accept the labels other people bestow upon them as true to themselves. It involuntarily becomes part of their self-identity and thus act accordingly. For this reason, those ex-convicts labelled as 'criminals' may engage in more risky behaviour and even return to pursuing illegal activities to feel aligned with their 'criminal' self-identity. The connection between labelling and recidivism has also been supported by research in 2007.¹⁷² When people are already distrusting towards someone with a criminal record, it only further increases, when that someone also comes from an ethnic background. Even though discrimination goes against the law, it is still not completely eradicated in practice, as prejudices about minorities, including Roma people are deeply enrooted into society. The Hungarian society is no exception, as 29% of Hungarians would not accept a Roma coworker, 43% of them a Roma neighbour and 76% could not imagine someone as their romantic partner, who is of Roma origin based on the research of Marketing Centrum.¹⁷³ Moreover, another phenomenon adds to the negative perception of Roma people, which is that they automatically associate the Roma with crime. As a result, harmful stereotypes, unreasonable

¹⁶⁸ https://epa.oszk.hu/00600/00691/00244/pdf/EPA00691_mt_2003-01_099-111.pdf

¹⁶⁹ <https://www.who.int/europe/news/item/15-02-2023-one-third-of-people-in-prison-in-europe-suffer-from-mental-health-disorders>

¹⁷⁰ <https://www.ebsco.com/research-starters/law/re-entering-society-prison>

¹⁷¹ https://scholar.utc.edu/cgi/viewcontent.cgi?params=/context/mps/article/1194/&path_info=uc.pdf

¹⁷² <https://www.ebsco.com/research-starters/law/re-entering-society-prison>

¹⁷³ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszk_utmutato_by_2014.pdf

mistrust, and offensive expressions like ‘Gypsy crime’ are born. Despite that fact that in Hungary the proportion of Roma people is far higher in prisons (~30%) compared to their proportion in society (~8%), it is not a direct result of their ethnicity, rather the consequence of their disadvantaged social status characterised by poor living conditions, low level of education, unemployment, etc.¹⁷⁴¹⁷⁵

When most of society is hostile towards ex-offenders, the role of their two most important support systems become even more essential in their transition back to life outside prison. These two support systems are their family and friends, who were also affected by the imprisonment. Especially, when the incarcerated family member is a male, it is often the case that the family experiences financial hardships by losing one of, or their sole breadwinner. Besides struggling to make ends meet, the family members also have a higher chance at encountering school failure, behavioural, physical, and mental issues.¹⁷⁶ That being said, ex-convicts often return to a family, which is in a much worse state than it was before their incarceration. Meanwhile, the ex-offender strongly relies on their most vital support system in their vulnerable period of transition. It can be emotional, financial support, or providing shelter for them. Based on the above-mentioned difficulties it could be concluded that most families do not wish for their return and would go at great lengths to help them reintegrate. While it may be true in some of the situations regarding Roma people, it is also prevalent among them that their family and friends have the opposite effect on them, and they continue to pursue their previous lifestyles. Around 70-80% of offenders of Roma origin come from a subculture saturated with crime. It is not uncommon to include the whole family in the process, hence the large number of perpetrators, who are women and children. This pattern is often passed on from generations to generations, making it practically impossible to break away from.¹⁷⁷ Regardless of the impact of family after release from prison, maintaining contact with them while being behind bars is crucial for the inmates’ mental health and establishing a support system that helps them navigate their new life once outside of the cells. Statistics indicate that Roma people receive substantially less rewards in prisons, therefore have less opportunity to access certain privileges, such as keeping in touch with loved ones. It is a particularly impactful factor, especially for inmates coming from traditional Roma communities, where the role of family is incredibly important.¹⁷⁸

¹⁷⁴ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszak_utmutato_bv_2014.pdf

¹⁷⁵ https://szociologia.tk.hu/uploads/files/2015/albert_borton.pdf

¹⁷⁶ https://scholar.utc.edu/cgi/viewcontent.cgi?params=/context/mps/article/1194/&path_info=uc.pdf

¹⁷⁷ https://epa.oszk.hu/00600/00691/00244/pdf/EPA00691_mt_2003-01_099-111.pdf

¹⁷⁸ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszak_utmutato_bv_2014.pdf

The aspect of housing, finding a place to live after prison is an incredibly decisive one in reestablishing a new life after serving one's sentence. „It is often seen as the foundation for achieving ‘reentry success’” because housing allows one to secure jobs, take care of their family and provides a shelter where they can distance themselves from their old lifestyle. Many employers pay attention to their potential employees' address, and they might not be considered as suitable candidates for a job if an address of a shelter is given. Another example from the USA, stated by members of the African American minority, highlights the importance of a stable housing. Accordingly, in many instances, it was a key element of obtaining custody as well as for being released on parole. By gaining access to housing, they can also gain a new identity, free themselves from the stigma of being a 'criminal'.¹⁷⁹ As confirmed by studies, ex-offenders with stable housing are less inclined to recidivism, since they fear losing their freshly gained advantages of having an address.¹⁸⁰ Nonetheless, society's overall negative perception of ex-offenders of ethnic origin is reflected in housing too. The majority of prisoners of ethnic origin are released back into the same impoverished and segregated communities they came from and hardly ever have the chance or are willing to move to a new one.¹⁸¹ These segregated Roma communities can be described with violence, frequent petty crimes, noise, open drug-trade, lack of trust towards one's neighbours, and inadequate or non-existent water and electricity supply. On one hand, in spite of acknowledging their terrible living conditions, and the fact that they are being segregated and discriminated, some of them still feel a strong sense of belonging and therefore would not like to move away. On the other hand, they do not even see its possibility. They have no financial means to afford a place outside of their community whatsoever, and when it comes to applying for a loan or mortgage, they also frequently tumble into obstacles.¹⁸² In 2007, an experiment was conducted in the USA, to test whether White actors with fictitious criminal records would be treated differently when it comes to obtaining credit and accessing housing compared to Black actors. All actors were dressed in nearly identical clothes, were assigned the same credit scores, and work experience. The results showed that when Black actors were met with more hostility and suspicion, and they were told that the apartments were no longer available, or the advertisement was incorrect. On the contrary, White actors had a more welcoming experience, with a lot less judgement.¹⁸³ Roma people over Europe have reported encountering similar situations with the banking system. What is more, financial awareness among the Roma is extremely low. As discovered from surveys conducted in

¹⁷⁹ <https://pmc.ncbi.nlm.nih.gov/articles/PMC7449251/>

¹⁸⁰ <https://www.ebsco.com/research-starters/law/re-entering-society-prison>

¹⁸¹ https://scholar.utc.edu/cgi/viewcontent.cgi?params=/context/mps/article/1194/&path_info=uc.pdf

¹⁸² <https://hal.science/hal-04607610/document>

¹⁸³ <https://www.ebsco.com/research-starters/law/re-entering-society-prison>

Miskolc, most Roma people, who have some kind of loan, have no idea how much they owe to the bank and how much they have left from the maturity. Still, a major part of them have virtually no connection to the banking system and have never even sought to apply for a loan, as they have no permanent jobs, or addresses.¹⁸⁴

The above-mentioned hindrances that come with being an ex-offender significantly toughen, when one is also a member of a minority group. In the last paragraph, it has been hinted, that there is another indicator of successful reintegration, which largely affects accessibility to housing, and provides financial independence, the material basis for a fresh start. For this reason, securing a job after being released from prison is of key importance.

b. Searching for jobs

Needless to say, ex-offenders frequently have a struggle with finding a job after their release. It is only compounded if the ex-felon is of ethnic origin. They must overcome a range of difficulties, including the pattern they are surrounded with, generally low level of education, the lack of mobility, and the prejudice from employers. Despite the fact that the reintegrational system seems to fail to give enough support for the majority in this respect, securing a stable income must be achieved in order to prevent freshly released prisoners from having to turn to crime to make ends meet.¹⁸⁵

The way correctional institutions treat their Roma inmates only makes the matter worse. As stated before, Roma prisoners, even with the same level of qualification as members of the ethnic majority, are offered less rewards, less privileges, and it extends to work as well. Usually the more strenuous, worse kinds of job opportunities, with less payment are available for them, which is an international practice in prisons, even though officially such discrimination is prohibited.¹⁸⁶ Thus not only do Roma inmates normally enter prison with already lower levels of education, but they are also given less chance to decrease their disadvantage compared to the ethnic majority and prepare themselves for successfully entering the job market after serving their sentences. The issue is also supported by research, which showed that nearly 71% of Roma inmates did not, or only completed their studies in primary school. The number of those who did not finish primary school is ten times larger than that of the non-Roma inmates. Such a low level of education among Roma

¹⁸⁴ <https://hal.science/hal-04607610/document>

¹⁸⁵ <https://nkfih.gov.hu/hivatalrol/otka-kiadvanyok/elet-borton-utan>

¹⁸⁶ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszk_utmutato_by_2014.pdf

inmates hardly makes them suitable for socially acceptable jobs.¹⁸⁷ Unsurprisingly, only about one-third of Roma prisoners believe that they would be able to find a job after being released, while over half of non-Roma prisoners are of this opinion.¹⁸⁸

Without proper preparation provided by correctional facilities, if one is from an impoverished Roma community which is characterised by low rates of employment and education, and the lack of mobility, there is hardly an example to look up to and barely a chance to break the pattern. When moving back to their previous environments, ex-convicts tend to re-adopt their former lifestyles, the one they are surrounded with.¹⁸⁹ As reported by the Hungarian Central Statistical Office (KSH), in Hungary in 2022, nearly four-fifth of the Roma population only has primary level education, whereas it is only true for less than one-fifth of the non-Roma. Vocational qualification is also rather sparse among young Roma people. The absence of adequate education leads to their unfavourable position in the job market, holding less favourable positions and being severely underrepresented.¹⁹⁰ The lack of education also entails their lack of social skills required for holding a job. Skills like punctuality, rule-following, resolving conflicts take a longer time to be learned without enough education.¹⁹¹ These abilities might further erode in prison as a result of being secluded from society, including from those who could provide employment opportunities. Another obstacle connected to the segregated communities, is the lack of mobility, which affects almost 60% of Roma families.¹⁹² A substantial part of the Roma people live in parts of Hungary, where local job opportunities are scarce and the network of transportation is also underdeveloped.¹⁹³

The most obvious barrier in the way of acquiring jobs is the discriminatory approach of employers. Referring to an above-mentioned statistic, which highlights how dominant prejudice is in the workplace as well, 29% of Hungarians claimed that they would not accept a Roma coworker.¹⁹⁴ A 2007 study from the USA proved that „the effect of a criminal record on employment is further compounded by race”. The results demonstrated that even with the same level of experience and skills, a White man with a criminal record was more likely to be called in for an interview than a

¹⁸⁷ https://www.sulinet.hu/oroksegtar/data/magyarorszagi_nemzetisegek/romak/ciganyok_es_idegenek/pages/008_magyar_es_cigany_bunelkovetok.htm

¹⁸⁸ https://epa.oszk.hu/02700/02705/00024/pdf/EPA02705_bortonugyi_szemle_1995_4_059-064.pdf

¹⁸⁹ https://scholar.utc.edu/cgi/viewcontent.cgi?params=/context/mps/article/1194/&path_info=uc.pdf

¹⁹⁰ <https://ksh.hu/s/kiadvanyok/fenntarthato-fejlodes-indikatorai-2023/4-2-sdg-8>

¹⁹¹ <https://hrpwr.hu/cikk/milyen-lepesek-szuksegesek-a-roma-foglalkoztatasi-fellenditeseert>

¹⁹² <https://hrpwr.hu/cikk/milyen-lepesek-szuksegesek-a-roma-foglalkoztatasi-fellenditeseert>

¹⁹³ <https://ksh.hu/s/kiadvanyok/fenntarthato-fejlodes-indikatorai-2023/4-2-sdg-8>

¹⁹⁴ https://helsinki.hu/wp-content/uploads/MHB_egenlo_esely_antidiszkriminatori_utmutato_bv_2014.pdf

Black candidate, who had a clean Certificate of Conduct. It can be concluded from this data that a Black ex-felon has hardly any chance of finding employment due to the widespread judgement they face because of their race.¹⁹⁵

All things considered, prisoner reentry is already a vulnerable and complex transition, and when achieved successfully, in areas like mental health, community, housing and employment, the chances of recidivism significantly drop. Members of ethnic minorities undoubtedly have a harder time to reintegrate into society, due to factors for example unfair treatment in correctional institutions, low level of education, negative examples set by their surroundings, impoverished living conditions, and social judgement. For these reasons, more measures should be implemented with regards to their special circumstances, so that they would have a more equal chance at a fresh start in life.

¹⁹⁵ <https://www.ebsco.com/research-starters/law/re-entering-society-prison>

10. The Significance of Reintegration: The Application of Reintegration Objectives in the Hungarian Justice System – by Petra Márki

a. Introduction

The basic provisions of the Act CCXL of 2013 on the enforcement of penalties, measures, certain coercive measures and detention for minor offences outline the function and goal of imprisonment. According to Section 1 (2), “The system for executing punishments and measures must be established in a way that, beyond enforcing the disadvantages represented by the punishment or measure and the provisions for prevention, also supports the reintegration of the convicted person into society and the development of law-abiding behavior.” The reintegration process includes efforts to form and develop the convict's self-esteem and sense of responsibility, as well as to support their integration into the labor market and social life after release.¹⁹⁶

From this, the goal of imprisonment becomes clear: individuals released from the system should be capable of and willing to abide by societal norms. However, in practice, there is a stark contrast with this goal, as opposing trends have emerged. Hungary has been condemned multiple times for poor prison conditions.¹⁹⁷

I had an informal conversation with Petra Kovács, organizer of the “For Prisoners and Their Families” (FECSKE) group¹⁹⁸ and a co-worker of the Hungarian Helsinki Committee, about the situation of the Hungarian prison system, particularly regarding the treatment of minorities.

At the end of last year, the Council of Europe's Committee for the Prevention of Torture (CPT) released a report about the conditions in Hungarian prisons. Based on their findings, in some prisons, the staff physically abuse inmates, and violence among prisoners is common. There are also reports of physical abuse and verbal (e.g., racist) assaults by police officers.

¹⁹⁶ RANGA Attiláné – VÖRÖS Erzsébet: Knowledge of penal reintegration – Notes, Penal Organization Education, Training and Rehabilitation Center, 2019, 9.

¹⁹⁷ See also: Varga and Others v. Hungary, Application no. 14097/12, 2015.03.10.

¹⁹⁸ A network of former prisoners, their family members, and professionals was created to help released prisoners reintegrate into society and avoid reoffending. One way they do this is by making sure that prison is really just a place where people serve their sentences and get fair punishment, without any extra, sometimes inhumane, hardships. Petra is in daily contact with relatives, primarily women who have been left alone: she helps them with legal advice, attention, and emotional support.

**b. Is it a reasonable assumption that time spent in prison fundamentally determines the chances of reintegration into society?
How do such atrocities affect future reintegration?**

Yes, I believe that what happens during incarceration mostly defines the chances of a fresh start after release. In recent years, we have observed that the Hungarian penal system places greater emphasis on security than on maintaining quality human relationships. Yet the latter is vital to ensure that the released individual knows someone is waiting for them at home. This significantly reduces the likelihood of reoffending. FECSKE and the Helsinki Committee believe in humane detention, which must not include physical or verbal abuse of inmates. Nevertheless, the most recent reports confirm such abuse in places like Tiszalök and other institutions.

The reports received by the Helsinki Committee also confirmed this. External validation helps confirm these are real problems. We often hear stories of inmates being released at 5 a.m., pushed out the gate with no ID renewal, no one to pick them up, nowhere to go - many having lost their home and connections. Often, there is no help even with getting home from prison. Not to mention employment: without a clean criminal record, it can take years to find legal work. Even though Hungary is an EU member, released individuals cannot travel abroad while on parole/conditional release, making our regulations some of the strictest within the EU.

Those who have supportive families waiting for them or receive letters, packages, money, or personal visits are lucky. Equally fortunate are those who have a social worker or charity nearby. This is where the prison system and ultimately the Hungarian state should shift focus: not on isolating people, but on preparing them for reentry. If held in inappropriate conditions, they are released in a mental and physical state that prevents successful reintegration.

Public opinion may favor isolating offenders in filthy, barred cells. But people often forget that most prisoners will be released - and it is also important to consider the conditions in which they are released. No one should be subjected to physical or verbal abuse. We have also heard of people who entered prison in good health but left in worse condition, which makes their lives after release more difficult. Punishment should be the separation, not the addition of unnecessary hardship.

Well-planned and well-executed reintegration programs, education, and vocational training are necessary for society to rightly expect these people to become useful members of society after their release. In summary, preservation - without atrocities - is not enough on its own: the state must contribute to achieving this goal.

c. What experts are involved in the reintegration process?

Sociologists, criminologists, mental health professionals, social workers, and special education teachers help with job searches and housing. Legal experts provide guidance on rights and restrictions, such as forming a business entity (Limited Liability Company) or traveling abroad. Legal awareness is also part of their role.

True integration happens when employers accept ex-prisoners even without a clean criminal record. This is what reintegration looks like to me, though it can vary individually as to what helps each person. But when it comes to livelihood, what released prisoners need most is housing and work.

**d. There's a reintegration officer in prisons. Does it function properly?
My impression is that civil organizations do most of the work.**

Formerly known as "educational officers," these staff are now "reintegration officers." The penal system may not admit it, but there is a shortage of qualified staff and high fluctuation. If we read the job description of a reintegration officer, we can see that they have a lot to do. Reintegration officers perform a number of tasks, from distributing mail to collecting request forms. That is why, contrary to the title, they are overwhelmed with administrative tasks. The title sounds better, but in reality, an educational officer does not have the capacity or opportunity to perform tasks that would facilitate the reintegration of prisoners.

In this context, the probation supervision can also be mentioned. Experience shows that probation officers are those who have the capacity and expertise to better assist soon-to-be-released prisoners in matters related to housing, employment, and personal documents.

Some argue probation officers are too overloaded to provide quality assistance. The same goes for reintegration officers: sometimes one covers many floors. There are foreign inmates needing programs in other languages, yet staff can't even handle daily tasks. One person is expected to serve too many. As a result, only basic administrative work gets done.

The fundamental question is what we consider to be reintegration: if, for example, we consider a craft activity to be reintegration, these are not necessarily run by reintegration officers. There are places where they have the capacity to do so, but previously there were some external trainers used to offer such programs or similar ones via EFOP (European Structural Funds) before 2017. Back then, civil groups cooperating with prisons could fill these roles. But since 2017, civil society has been banned from prisons - only religious programs are allowed.

e. Can you name countries with better reintegration systems?

We attended a conference in Portugal a few years ago and visited a prison there. It physically looks like a school - we wrote about this in a blog post¹⁹⁹. It was a women's prison where children could stay until age five. There are no bars, inmates could attend university. Similar progressive models exist in Belgium and Ireland. Sadly, Hungary is lagging behind at the bottom of the list. Incidentally, whether civilians are allowed into prisons also says a lot about the system. Our blog post was titled "We Visited a Portuguese Prison Before a Hungarian One" A secretive, security-driven system breeds abuse.

f. A provocative question: isn't public outrage valid if, for example, a criminal gets to attend university while my child can't?

Recent years of Hungarian government rhetoric have widened the gap between prisoners and society. The government sets the agenda for public discourse, which is then reflected in people's minds.²⁰⁰ We try to counter this by sharing personal stories, reminding people that anyone can be

¹⁹⁹ "We Visited a Portuguese Prison Before a Hungarian One", 444.hu, 2023.04.25. (2025.06.03.)
<https://helsinkifyelo.444.hu/2023/04/25/hamarabb-latogathattunk-meg-egy-portugal-bortont-mint-egy-magyar>
(2025.06.03.)

²⁰⁰ See: around 2019-2020, government officials used the term "prison business" to criticize the compensation awarded to prisoners for inadequate detention conditions, based on the European Convention on Human Rights and Hungarian court rulings.

affected, even as a relative. Furthermore, we would like to emphasize that It's in everyone's interest that prisoners live in humane conditions, which are far from luxurious. When people are personally affected, they understand the need for support and sensitization.

**g. The Hungarian Helsinki Committee and the FECSKE Group -
When was the FECSKE Group established? What was the main
motivation behind it?**

After the National Penitentiary Headquarters cut ties with civil organizations, including the Hungarian Helsinki Committee, in 2017, we started brainstorming with others banned from prisons. At that time, a paradigm shift also began in terms of how to approach this topic in order to bring the issue closer to as many people as possible. As a result, much greater emphasis was placed on relatives. Not only because we recognized that they were also affected, but also because, with Helsinki banned, only relatives could reach us via phone, email, or social media. We continued to see the need for our work and therefore decided to establish a network based on civilians and affected persons.

FECSKE was founded in 2019. Members include the Helsinki Committee, former prisoners, and their families. We've shifted toward advocacy and building a grassroots, informal movement. We now have a subgroup called HÁZI Fecske (*Home Swallow*),²⁰¹ whose members are people who want to channel their pent-up tension, anger, and emotions into some kind of active activity.

Helsinki provides support through legal assistance. We continue to provide legal advice to prisoners who turn to us, and there are also prisoners whom we represent.

**h. Who was the driving force behind this initiative? How did you find
other civilians for the network?**

We had ties to the Prison Radio²⁰² and other civilians. We knew who had worked in prisons and began collaborating. Some have stayed with us ever since, while others have gone their separate

²⁰¹ The acronym FECSKE means "swallow" in Hungarian.

²⁰² The Adj Hangot (*Speak Up*) Association, which operates the radio station, has signed cooperation agreements with certain penal institutions. Under the terms of these agreements, the association's mentors provided radio

ways. This developed organically: as one activity ended, another need emerged to help this vulnerable group or segment of society after all.

i. Do you know of any other initiative in Hungary that helps convicted persons reintegrate to such an extent?

Yes, there is, for example, the Váltó-sáv (*Passing Lane*), which runs a Halfway House²⁰³ with the prison service and helps with employment. The Hazavárunk Foundation²⁰⁴ also works with families where a family member is in prison and they try to provide financial support to those left behind at home. Another organization worth mentioning in this context is Mécses Charity,²⁰⁵ which maintains correspondence with prisoners who have no one to contact them and often waits for these people after their release, trying to find short-term accommodation for them, but obviously cannot provide long-term housing for everyone.

These organizations help with reintegration, but the most effective support would come from having experts inside the institutions or at least if there was a willingness to cooperate. Greater openness from the prison system would enable better cooperation, but for now this is rarely the case.

j. Since 2017, Helsinki has fought to allow physical contact during visits. When was that achieved?

training to inmates, who, with the ongoing assistance of their mentors, produced their own programs for their fellow inmates. Source: HVG. https://hvg.hu/itthon/20171014_Elhallgatott_a_bortonradio_nem_kellenek_a_civilek 2017.09.14. (2025.06.02.)

²⁰³ The Halfway House Complex Reintegration Program is implemented in Budapest in cooperation with the Váltó-sáv Foundation and the National Penitentiary Headquarters. Within this framework, services are provided to released prisoners who face multiple disadvantages and have become marginalized, helping them to find suitable employment and assisting them in the process of starting work (job coaching), including the conclusion of employment contracts. Source: <https://bv.gov.hu/hu/felutas-haz-program> (2025.06.02.)

²⁰⁴ The Hazavárunk Foundation provides support to the children of parents serving prison sentences and their families while also working with prisoners and those who have been released. Source: <https://jozsefvarosujzag.hu/vegre-van-hol-fogadni-a-csaladokat-otthonra-talalt-a-hazavarunk-alapitvany/> (2025.06.03.)

²⁰⁵ A non-profit professional organization that provides spiritual/pastoral care and aftercare to inmates in Hungarian prisons from a Christian perspective. The Mécses National Correspondence Service maintains regular contact with prisoners who have no personal ties to the outside world. Source: <https://mecses.vaciegyszemelyseg.hu/php/index.php> (2025.06.03.)

Wall-to-wall plexiglass barriers appeared in 2017. Legal change only came in March 2025, so this was the result of a seven-year struggle, during which we also won a case in Strasbourg. It took many efforts to allow more open visits and family interactions this March.²⁰⁶ Now there are informal visits and more frequent opportunities for family discussions. Still, the situation isn't as good as before 2017. Even before COVID, procedures were becoming more security-focused rather than maintaining contact (they hadn't seen each other in person for almost two years), leading to installation of plexiglass.

k. Families likely suffer financially and socially when a loved one is imprisoned. If a family member is released from prison and remains unemployed during the initial period, how do they cope?

It's difficult, there are many things to contend with after release. We recently held a reintegration training. Often it's the male breadwinner who returns home. The woman and children must have coped alone: even during imprisonment, those on the outside often support those on the inside, so this is nothing new. Obviously, it depends on the family's financial situation, but I see that families may prioritize emotional reunion over immediate income. And if the goal is not to earn a daily living, then finding a job may be a secondary consideration.

But rejoining the workforce requires time to recover from prison. This is because, when leaving a very closed system, education, awareness, assertiveness, and various skills are necessary in order to start looking for work within a relatively short period of time. Adapting to the fast-paced world can take more time for some people. It is not certain that mastering the daily routine will be easy from one day to the next.

One blog post²⁰⁷ we described how inmates fall into debt because they can't work while imprisoned. The cost of imprisonment accrues, and criminal fees add up. Without legal income, they may spiral into financial debt.

²⁰⁶ Visiting prisons without plexiglass – case study, 2025.05.20. <https://helsinki.hu/latogatas-a-bortonokben-plexi-nelkul-esettanulmany/> (2025.06.05.)

²⁰⁷ “How does prison become a debt trap?” Source: <https://helsinkifigyelo.444.hu/2023/10/27/hogyan-lesz-adossagsapda-a-borton> (2025.06.04.)

1. The Situation of Roma in the Criminal Justice System - Although official statistics do not provide data broken down by ethnicity, several studies and estimates confirm that people of Roma origin are significantly overrepresented in Hungarian prisons. Do you think this relates to shortcomings in reintegration?

Possibly, but we must look deeper: poverty, lack of education, exclusion, xenophobia, rural disadvantage may also be contributing factors. All of these can fundamentally determine who will later become a criminal. Another reason for the overrepresentation of Roma in Hungarian prisons may be the family roles and patterns they carry with them. If they receive no education inside and are not given the tools to develop, then crime - and with it, conviction - will be reproduced.

I think the story doesn't start with someone getting out, but with why and how they got in. In Hungary we see that prison doesn't solve these social problems. Instead of thinking about comprehensive social solutions, they temporarily or superficially choose to lock people up. In this context, we can also talk about the criminalization of homelessness or the fact that a large number of people with disabilities end up in penal institutions. But it is also clear that those who enter the system at a young age are more likely to end up in prison.

m. In the case of members of the Roma minority, can you mention any factors that make reintegration more difficult for them?

For example, I am thinking of the fact that this community is less open to reconnecting with society due to the prejudices and stigmatization they face.

I'd say society stays closed off to them. Society stigmatizes those who are in prison from the outset. When someone is released, in many cases they fear that it will be written on their forehead that they were in prison. Even families rarely discuss it openly. This already alienates those affected from mainstream society.

This is even worse for Roma individuals. In the job and housing markets, they face more discrimination. Imagine a Roma individual who's also an ex-prisoner - opportunities shrink further

11. Rate of recidivism- legal side – by Kata Nóra Veres

As it has been explained in the previous sections, the rate of recidivism is significantly higher among those ex-felons, who have an ethnic background. In Hungary, the Roma people are exceedingly exposed to the danger of another incarceration. The reasons behind are incredibly versatile, but unfortunately little attention is paid to eliminate these obstacles as soon as possible after their release.

The need for urgency is supported by statistics that show that 44% of ex-convicts are already behind bars again after their first year of completing their sentences. It is the most vulnerable period, where most of the reoffending happens. Additionally, it has also been discovered that about 68% of released prisoners were arrested within 3 years, 79% within 6 years, and 83% within 9 years.²⁰⁸ Most of these people were found to be severely undereducated. Researchers have long been interested in the connection between the level of education and recidivism, and they have proved that there indeed is a link. According to a 2004 study: „the rate of recidivism decreased approximately 6% for every grade level of education completed”. By achieving at least secondary level education or vocational training, they have 20% less of a chance to recidivate than those who had not. As mentioned in earlier sections, ethnic minority groups are generally characterised by low level of education, thus being at a higher risk of recidivism.²⁰⁹ It is also reflected in the ratio of Roma recidivists in jails, which is 68%, the rest of the Roma inmates (32%) are serving their sentences for the first time. It is a substantial difference compared to non-Roma inmates, only 40% of them are recidivists.²¹⁰

The current Hungarian criminal law, the Act C of 2012 on the Criminal Code defines a ‘recidivist’ (Section 459) as someone, who is „the perpetrator of a crime of intent, if such person was previously sentenced to an executable term of imprisonment for a crime committed intentionally, and three years have not yet passed since the last day of serving the term of imprisonment or the

²⁰⁸ <https://bjs.ojp.gov/library/publications/2018-update-prisoner-recidivism-9-year-follow-period-2005-2014>

²⁰⁹ <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=9610&context=dissertations>

²¹⁰ <https://www.okri.hu/images/stories/kutatok/poczizsilveszter/ekonyvek/cigany%20integracios%20problemak.pdf>

day when it ceases to be enforceable until the commission of another criminal act.” It also differentiates three types of recidivism on the following basis:

„a) ‘habitual recidivist’ shall mean any recidivist who commits on both occasions the same crime or a crime similar in nature;

b) ‘repeat offender’ shall mean a person who has been sentenced to an executable term of imprisonment as a recidivist prior to the commission of a crime of intent, and three years have not yet passed since the last day of serving the term of imprisonment or the day when it ceases to be enforceable until the commission of another criminal act punishable by imprisonment;

c) ‘repeat offender with a history of violence’ shall mean a repeat offender convicted for violent crime against the person on all three occasions previously.”²¹¹

Stricter measures are imposed upon recidivists, indicating strong condemnation towards such behaviour, with the preventative aim of reducing any further recidivism in the future. It is illustrated by the next couple of regulations from the criminal law of Hungary:

- the concessions awarded for active repentance by the perpetrator shall not apply if they are a repeat offender or a habitual recidivist (Section 29 (3))
- „the minimum and the maximum duration of a fixed-term imprisonment shall be three months and twenty years” in case of recidivism, and must be served in a correctional institution (Sections 36, 37 (1) (2))
- release on parole from fixed-term imprisonment is only possible for recidivists later in their sentences, compared to first-time offenders; the earliest for recidivists is the day after three-quarters of their sentence has been passed, whereas it is two-thirds for first-time convicts (Section 38 (2))
- recidivists cannot be released on probation (Section 65 (2))
- work performed in amends may not be ordered for recidivists (Section 67 (2))
- normally, homicide is punishable by 5-15 years of imprisonment. But if it was committed by a habitual recidivist, the sentences increase to 10-20 years, or life (Section 160 (1), (2))²¹²

²¹¹ https://thb.kormany.hu/download/a/46/11000/Btk_EN.pdf

²¹² https://thb.kormany.hu/download/a/46/11000/Btk_EN.pdf

The concept of restorative justice might prove to be effective to reduce the rate of recidivism. The current, more traditional approach of criminal justice places emphasis on punishment and deterrence, while restorative justice centres around the restoration of the damages caused by the perpetrator by involving all parties affected. By doing so, more attention is paid to the needs of the victims, the accountability of the offenders, and the recovery and closure for everyone affected. The objectives of restorative justice are the reparation of damages and relationships, and the reintegration of prisoners into society. Methods proposed by the supporters of this system would contribute to lowering recidivism rate for instance making the perpetrators face their victims, and the damages and suffering caused by their actions.²¹³

In conclusion, the currently strict laws affecting recidivists serve the aim of preventing them from turning to crime again after their release. Nevertheless, the high rate of recidivists in correctional institutions, especially among Romani people, indicate that further measures need to be put into practice to successfully reintegrate ex-offenders into society.

²¹³ https://eucpn.org/sites/default/files/document/files/2501_HU_Toolbox_HU_Reducing%20recidivism_LR.pdf

12. Initiatives: revolutionizations in criminal law – by Nóra Kata Veres

The issue of discrimination towards minority groups is also prevalent within the walls of correctional institutions. It can take many forms ranging from having limited access to opportunities offered by correctional institutions and being placed in more crowded cells among worse conditions to even verbal and physical abuse. Some novel initiatives have already been put into practice in Hungary to ensure a fairer treatment for Roma people as well. However, in order to further minimise such mistreatment, practices from other, especially English-speaking countries, could also be adopted into the Hungarian system.

The most obvious form of discrimination that comes to mind is verbal and physical abuse, for instance hate speech, offensive jokes and gestures and humiliating treatment. As previously mentioned, it is a recurring problem not only between inmates, but also between the workers of the facility and the prisoners. The source of aggression and prejudice in these cases are singled out by negative characteristics that become associated with the whole ethnic group. During a research carried out by the Hungarian Helsinki Committee descriptions in official documents written by correctional institutions were found to include traces of prejudice towards Roma inmates. An example is a document about the interview upon being admitted into the correctional institution, which said (translation by the author):, "They have not been previously sentenced, but *following the tradition*, they have now began forming their career." Therefore, it would be important that, even though Hungarian correctional facilities already have trouble finding employees, the workers of such institutions should be carefully and professionally selected, and attract employees from minority and other more vulnerable groups to ensure more trust and understanding between them and the inmates. In the United Kingdom, not just the workers, but the inmates too take part in trainings where, based on accredited study material, they are taught about more equal treatment and the special needs of discriminated groups. Another initiative worked out by the British is how effectively they handle complaints on racial violence within prisons. The affected prisoners file their complaints directly to the management of the facility, who examine the case within short notice, while paying special attention to the notifier's protection, who would receive support from civil organisations. The complaints are regularly analysed, and conclusions are drawn from the data, which provide guidance for prisons on what types of violence they should look out for and to what rate should they reduce them. Even though, in Hungary the warden immediately files a report against the perpetrator in cases of serious crimes, such as physical violence, the system could also

be used for less grave situations as prevention. Furthermore, the personnel should also be able to report their colleagues in cases of discrimination, without fear of retaliation.

The segregation of inmates of minority groups is strictly forbidden. Based on international experiences, members of overrepresented minorities, especially those coming from already disadvantaged backgrounds, tend to be put in cells with more cell mates and of worse condition than those belonging to the ethnic majority. There are instances where ethnically homogenous cells are formed. Nevertheless, there is an ongoing debate about what practice to follow when it comes to placing prisoners and forming communities within the cells. Some suggest that prisoners coming from similar environments and cultural backgrounds should be enabled to form a connection with each other, just like members of the majority group are able to connect with each other. The United Nations Office on Drugs and Crime upholds Australia's example of allowing indigenous people to be placed in multiple person cells instead of the usual single person ones. It was a necessary measure, as indigenous people from traditional communities experienced substantial stress and mental difficulties while being alone in their cells.

It cannot be denied that a smaller range of opportunities are presented for ethnic minorities in correctional institutions. Whether it is regarding job opportunities, access to healthcare, trainings, pastime activities, or release on parole. During the Hungarian Helsinki Committee's research, it had been repeatedly reported by Roma inmates that they cannot access better, easier jobs in correctional facilities. It is an internationally well-known phenomenon that prisoners of the same level of qualification, but of different ethnicity are employed in less appealing fields of work and earn less for their efforts. Another problem is the fact the needs of ethnic minorities coming from traditional communities are often disregarded when it comes to trainings, programmes, and healthcare. Fortunately, there are a couple of instances that show an improving tendency in this matter. In Birmingham Roma prisoners can organise a monthly forum, cultural events, and can also publish their own newspaper. A similarly great example is the Authentic Traditional Music Festival, centred around Roma music and traditions, which is held annually at the prison of Tököl. When it comes to release on parole, minorities are often declined from such opportunities because they have been previously denied from work opportunities and rewards, and consequently cannot prove that they have earned their chance for it. In Australia indigenous prisoners are usually granted a parole in order to attend the funeral of their loved ones, as it is a culturally significant event for them, symbolising that they are still part of the family. A similar initiative could also be implemented in Hungary, particularly in the case of traditional Roma families. Since family is a major part of

Roma culture, keeping in touch with family members is especially important for Roma prisoners, as they also play a huge part in their reintegration into society after their release and whether they would contribute to the recidivism rates later or not. The UN suggests that correctional institutions should offer longer phone calls if the inmate's family lives further away and/or has more limited access to visit them. In Hungary, the fairytale programme of the Correctional Institution of Heves County provides a positive example. The idea is that the mothers record themselves reading fairy tales, which their children can listen at home. Some of them even had the opportunity to spend 10 days together.²¹⁴

Focusing on initiatives that can be introduced in correctional institutions would enable a more successful reintegration of prisoners. Particularly in the case of ethnic minority groups it is crucial to prepare them for starting over, as generally they have to overcome more difficulties after being released, due to the typically more impoverished circumstances they live among.

²¹⁴ https://helsinki.hu/wp-content/uploads/MHB_egyenlo_esely_antidiszkriminatori_utmutato_bv_2014.pdf

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