



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Hungary
<b>Title:</b>	Government Office examines potentially discriminative municipal decree in Ózd
<b>Date:</b>	13 August 2015
<b>Expert:</b>	András Kádár
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Whether conditions of access to social housing as defined in municipal decree amount to indirect discrimination based on ethnicity
<b>Ground of discrimination:</b>	Race/ethnic origin
<b>Source:</b>	Other (municipal legislation)
<b>Field:</b>	Housing
<b>Applicable law:</b>	Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities; Act LXXVIII of 1993 on certain provisions pertaining to the Renting out and Selling of Apartments and Non-residential Real Estate

### Content

**Case:** On 7 May 2015, the Municipal Council of Ózd adopted Municipal Decree 8/2015 on the renting out of housing and other real estates owned by the municipality.<sup>1</sup> At the council's session the town's Mayor affiliated with the far-right Jobbik party stated that the new decree would make the conditions for access to social housing and living in such housing stricter. He said that tenants in social housing owed the municipality close to HUF 64 million (EUR 206,450), while 136 persons were on the waiting list. He presented the draft of the decree as a step to guarantee that everyone living in such housing shall pay the rent, to impose strict rules on how such housing may be used and to set clear consequences for non-payment. The representative of the local Roma self-government raised the complaint that although many Roma families live in such housing, the municipality had not involved the self-government in the drafting process. The mayor replied that the issue was not seen as related to ethnicity, but purely as a "professional" matter. (This term means that the mayor wishes the steps to be seen as having nothing to do with ethnic minorities, and being simply aimed at reforming the system of social housing on the basis of considerations that are strictly related to the financial, economic aspects of municipal housing.) The decree was passed with 9 yes votes and 5 abstentions.<sup>2</sup>

On 21 May 2015, the NGO "Legal Defence Bureau for National and Ethnic Minorities" (NEKI) filed a complaint with the Borsod-Abaúj-Zemplén County Government Office (competent to overview the legality of municipal legislation) motioning the office to

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<sup>1</sup> [http://www.ozd.hu/content/cont\\_4d7752e1c7b088.85910224/lakasrendelet\\_2015\\_05\\_07\\_egys\\_szerk.pdf](http://www.ozd.hu/content/cont_4d7752e1c7b088.85910224/lakasrendelet_2015_05_07_egys_szerk.pdf)  
Last accessed 12/08/2015

<sup>2</sup> <http://www.ozd.hu/news.php?id=3244> Last accessed 12/08/2015

require the municipality to withdraw some provisions of the decree, which are deemed discriminatory. The main points of the NGO's complaint are the following:<sup>3</sup>

- Those whose tenancy has earlier been subject to immediate termination are excluded from access to social housing. Since most often the reason for immediate termination is the failure to pay the rent, this provision is very detrimental to the most underprivileged, unemployed families, given that they are excluded from access even if they subsequently pay the arrears and otherwise they would meet the criteria for social housing.
- Social housing may not be provided if the ground surface per person would not exceed 8 square meters. This provision (which is similar to the one that was found unconstitutional by the Ombudsman in relation to the Miskolc decree on housing) excludes large families from social housing. Since the Roma are overrepresented among large and indigent families these two provisions are highly likely to amount to indirect discrimination based on race or ethnicity.
- Another point criticised by NEKI was that persons who "can be proven to have damaged municipal housing" are also excluded from social housing. NEKI points out that such a provision only meets constitutional requirements if it concerns persons about whom a final and binding court decision establishes that they have caused damage. NEKI adds that even such persons should be exempted from the ban if they have served their sentence and/or paid the damages they have caused.

It can also be added that while the management of social housing is done by the competent company of the municipality, the mayor has an unrestricted right to appoint the tenant for such housing if the concerned person meets the general requirements and provides a certificate of a clean criminal record. Members of the municipal council also have this right with the limitation that they may exercise it no more than 5 times a year and only with regard to non-comfort housing. This opens the way to the arbitrary distribution of social housing.

According to information shared with the media by the Mayor and published on 14 July by a news portal,<sup>4</sup> the Government Office called on the Municipal Council to amend one and withdraw five provisions of the Decree. The Mayor did not specify which were the concerned provisions and the Government Office failed to respond to the national news agency's request for the specification of the problematic provisions. The Mayor told the media that the Municipal Council will decide what to do about the Government Office's warning after discussing the matter from a "professional" point of view. (With regard to the meaning of the term "professional", see what is said above.)

According to another news portal, evictions have already started in the town (no specific information is provided in this respect by the article).<sup>5</sup>

**Key points of analysis:** The Ózd decree fits in a line of municipal decrees attempting to push Roma out of towns through restricting access to social housing: It needs to be seen what the basis of the Government Office's warning is, and whether issues of discrimination are considered in the proceeding. If the municipality does not comply with the warning, this case will also end up before the Curia.

**Internet link source:** Links have been provided as footnotes so that it could be followed which piece of information comes from which source.

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<sup>3</sup> <http://dev.neki.hu/torvenyessegi-felulvizsgalatot-kert-a-neki-az-ozdi-lakasrendelet-miatt/> Last accessed 12/08/2015

<sup>4</sup> <http://vs.hu/kozelet/osszes/az-ozdi-lakasrendelet-tobb-pontjat-kifogasolta-a-kormanyhivatal-0714#!s0> Last accessed 12/08/2015

<sup>5</sup> [http://index.hu/belfold/2015/05/21/neki\\_torvenytelen\\_az\\_ozdi\\_lakasrendelet/](http://index.hu/belfold/2015/05/21/neki_torvenytelen_az_ozdi_lakasrendelet/) Last accessed 12/08/2015