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NEWS REPORT

Country: Sweden
Title: Roma registration was discrimination
Date: 17 June 2016
Expert: Per Norberg
Update of flash report nr: (SE-32, SE-33 and SE-38)
Context
Issue at stake: Police Roma Registration regarded as discrimination
Ground of discrimination: Ethnicity
Source: Municipal court case
Field: Policing
Applicable law: Article 14 of the European Convention of Human Rights

Content

Previous development:

The famous Roma registration case started September 2013 when it was revealed that the police had been registering more than 4000 Roma persons or persons having a relationship with a Roma person.

The majority of those persons have been awarded 5000 SEK (550 Euros each) by the Chancellor of Justice as compensation for the police violation of Section 48 of the Data Protection Act.¹ The main criticism was that it was impossible to see if a person was not suspected of any crime and it was also impossible to remove people once registered.

Throughout this process the Police statement that it never had done any ethnic registration has been accepted – or at least not proven wrong – by all the involved authorities, most of them making their final decisions in 2013-2015.² All of them have viewed it as a register practise in violation of the Data Protection Act, but nothing more. It started from three criminal families and grow into a very extensive “tree” of families and friends. The decision on economic compensation of the Chancellor of Justice was set at the same level that a Swedish Non-Roma person would have received in the same situation.

Eleven persons have been helped by the Civil Right Defenders to bring a case before the Stockholm Municipal Court. The decision of the Court was delivered on 10 June 2016.³

¹ Chancellor of Justice, decision 2014-05-07 dnr 1441-14-47.

² Commission on Security and Integrity Protection (decision in December 2014) <http://www.sakint.se/dokument/rapporter-och-uttalanden/Uttalande-PM-Skaane-Uppfoeljning-Kringresande.pdf> Equality Ombudsman (decision in February 2014) <http://www.do.se/Documents/granskningar/Beslut%20GRA%202013-617.pdf> Public prosecutor (decision in December 2013) <http://www.aklagare.se/Upload/Media/Nyheter/131220%20Beslut%20AM%20139971%2013.pdf>

The Parliamentary Ombudsman (decision in March 2015) <http://www.jo.se/PageFiles/6353/5205-2013.pdf>.
³ Stockholm Municipal Court, Case T 2978 (and ten more cases), Fred Taikon (and ten more plaintiffs) v. Swedish State through the Chancellor of Justice (judgment 2016-06-10).

Decision of the Court:

The claimants were awarded 30 000 SEK (3 000 Euro) in addition to the damages already awarded by the Chancellor of Justice. The important difference is that while the Chancellor of Justice found only a violation of the Data Protection Act not connected to the ethnic background of the individuals, Stockholm Municipal Court found that the only reason for the registration was the ethnicity.

The Court applied a shared burden of proof. Given that the eleven claimants had proved the existence of the register and that people were registered because they were friends or relatives of three criminal Roma families or friends of friends, it was obvious that these eleven persons were registered because they were Roma (ten persons) or married to a Roma (one person). It was then up to the State to prove that there was also another valid reason not connected to ethnicity to register the persons. Nobody could remember why these eleven persons were registered in 2011 and thus the State failed to prove a valid reason not connected to ethnicity.

Criminal law does not fall under the Discrimination Act. The amount of 30 000 SEK was set as a violation of Article 14 of the European Convention on Human Rights. The Municipal Court pointed to the long historic discrimination of Roma persons as a reason to set the amount higher compared to what it would have done if the ethnic group had been Danish or another group with no history of discrimination.⁴

Key points of analysis:

All other authorities dealing with this case have failed to find any discrimination. They have been very critical of the Police but they have abstained from going further than saying that ethnic profiling by the Police cannot be ruled out (Equality Ombudsman). Using a shared burden of proof regarding discrimination according to Article 14 of the ECHR in the same way as it would have done under the Discrimination Act was the key to this outcome.

Internet link source:

The case is only available on subscription data bases. This link goes to a summary:

<http://www.stockholmstingsratt.se/Om-tingsratten/Nyheter-och-pressmeddelanden/Staten-far-betala-ytterligare-skadestand-for-Kringresanderegistret/>

⁴ See above p. 17f.