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NEWS REPORT

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| Country: | Hungary |
| Title: | Checking only a Roma passenger's train ticket on the railroad platform amounts to discrimination |
| Date: | 5 January 2018 |
| Expert: | András Kádár |
| <u>Context</u> | |
| Issue at stake: | Whether selecting a person of Roma origin as the only passenger whose ticket is to be controlled is discrimination based on ethnicity |
| Ground of discrimination: | Race/ethnic origin |
| Source: | Decision EBH/29/2017 of the Equal Treatment Authority (7 February 2017) as upheld by the Metropolitan Administrative and Labour Court (in December 2017) |
| Field: | Goods and services |
| Applicable law: | Act CXXV of 2003 on Equal treatment and the Promotion of Equal Opportunities (ETA), Articles 4 and 8 |

Content

Case: A passenger of Roma ethnicity wanted to travel by train. He claimed that his ticket had been controlled by the ticket inspector on the platform even before he got on the train, whereas the other, non-Roma passengers' tickets were not controlled on the platform (although the train spent five minutes in the station). He claimed that the reason for the differential treatment had been his Roma ethnicity. The railway company argued that per its general business rules ticket inspectors are authorized to check the tickets on the platform. The company added that all the other passengers on the platform were waiting for another train that was arriving from the opposite direction, and the claimant was the only passenger getting on that specific train. Based on the claimant's statement and the ticket-sales data, the Equal Treatment Authority found that numerous other passengers had been waiting for the same train as the complainant, and that those passengers were in a comparable situation with him. In its decision EBH/29/2017 of February 2017, the Authority pointed out that even though the general business rules of the company indeed allow ticket inspection on the platform, when applying those rules, the requirement of equal treatment shall be met. Therefore, it concluded that the railway company had discriminated against the claimant on the basis of his Roma ethnicity. It banned the company from future violations, ordered that its decision be published for 30 days and imposed a fine of 100.000 HUF (approximately 325 EUR) on the company. The railway company requested a judicial review of the decision.

Decision of the court: In December 2017, the Metropolitan Administrative and Labour Court upheld the equality body's decision and found that the claimant had suffered a disadvantage when he was the only person whose ticket had been checked on the platform and that a clear causal link existed between his Roma ethnicity and the act of the ticket inspector.

Key points of analysis: The interesting issue in the case was whether being singled out in the course of the formally lawful action of controlling the ticket (i.e. essentially a violation of dignity connected to one's affiliation with an ethnic group) will be regarded as a disadvantage under the ETA. In this case, both the Authority and the court concluded that such a selective exercise of otherwise existing rights falls under that category.

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