



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

### FLASH REPORT

<b>Country:</b>	Hungary
<b>Title:</b>	First instance court decision on the harassing practices of the Municipality of Miskolc
<b>Date:</b>	26 February 2019
<b>Expert:</b>	Kádár, András
<b>Update of news report:</b>	<a href="#">Hungary - Ombudsman's report on housing discrimination in Miskolc and neighbouring towns (PDF 91 kB)</a> (2015) and <a href="#">Hungary - Court upholds Equal Treatment Authority's decision on failure to adequately plan and prepare the winding up of segregated Roma neighbourhood (PDF 66 kB)</a> (2016)
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Whether harassing municipal practices targeting the Roma population amount to a violation of the Roma victims' human dignity
<b>Grounds of discrimination:</b>	Racial or ethnic origin
<b>Field of application:</b>	Housing, other field
<b>Source:</b>	National court decision
<b>Applicable law:</b>	Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, Act IV of 1959 on the Civil Code

### **Content**

**Case:** In **March 2014**, two NGOs (Hungarian Civil Liberties Union – TASZ – and Legal Defence Bureau for National and Ethnic Minorities – NEKI) filed a complaint with the Commissioner for Fundamental Rights (Hungary's Ombudsman) complaining about the recurring and concentrated inspections carried out by the municipal authorities (public health, child protection, social administration authorities, etc.) of Miskolc (North-East Hungary) in the segregated, mainly Roma neighbourhoods, which, according to the complainants, amounted to racially based harassment.

In **May 2014**, the Municipal Council of Miskolc amended its Decree No. 25/2006. (VII.12.) on Social Housing. The amendment was very clearly aimed at driving out indigent (mainly Roma) residents of social housing from the municipality by offering them compensation for the termination of the social housing contracts only if they undertook to move out of Miskolc. Subsequently, HCLU and NEKI extended their complaint to the decree too.

The municipality of Miskolc also started to systematically terminate the social housing tenancies of persons living in a highly segregated, low comfort part of the town, called the "Numbered Streets" without taking any measures to provide the tenants with alternative housing and thus exposing them to the threat of homelessness.

In its decision Köf.5003/2015/4 (**13 May 2015**), the Curia (Hungary's Supreme Court) concluded that the amendment of the Miskolc municipal decree discriminated against persons living in low comfort social housing, so the Curia quashed the amendment.

In his **5 June 2015** report, the Ombudsman stated that the amendment of the housing decree amounted to direct discrimination on the basis of financial situation, and indirect discrimination on the ground of race. He warned that due to the severe decrease in the numbers and proportions of social housing and the evictions, it can be established that the municipality had failed to comply with its obligations concerning the promotion of social protection and housing, and had created a situation that posed the threat of mass homelessness. The Ombudsman also severely criticised the practice of concentrated administrative inspections in segregated neighbourhoods. He formulated a number of recommendations, including the termination of concentrated inspections and cooperation with NGOs and professional bodies in a number of areas, such as the solving of the problem of social housing.

In its decision of **15 July 2015** (no. EBH/67/22/2015) the Equal Treatment Authority (Authority) established that the municipality of Miskolc subjected the residents of the Numbered Streets to the threat of homelessness or having to move to other segregated areas, and by doing so, discriminated them on the basis of their social status, financial situation and Roma origin. The Authority also obliged the municipality to put an end to the discriminative situation by developing an action plan (by 31 December 2015) detailing on where within Miskolc, how and from what sources it can provide the tenants of the Numbered Streets with adequate housing. The Authority also called on the municipality to stop its ongoing discriminative practice until the action plan is prepared. Furthermore, the Authority obliged the municipality to prepare (by 30 September 2015) another action plan on how it will provide those with adequate housing who have already become homeless or face a direct threat thereof because of the discriminative practices. Finally, the Authority imposed a fine of HUF 500,000 (EUR 1,670) on the municipality. The municipality requested a judicial review of the decision, however, in its decision of **25 January 2016**, the court rejected the municipality's request for review and upheld the Authority's decision in every aspect.

However, the elimination of the "Numbered Streets" did not come to a halt, and while the action plans were adopted by the municipality, the process of driving the poor Roma population out of town continued. After these antecedents, HCLU and NEKI submitted an *actio popularis* civil law claim to the Miskolc Regional Court.

**Decision of the court:** In its decision of 12 December 2018, the Miskolc Regional Court concluded that through the raids held in the Roma neighbourhoods, the elimination of social housing without providing adequate guarantees against homelessness and the manner in which the municipality communicated the issue to the public, the Municipality of Miskolc and the Miskolc Municipal Law Enforcement Body had violated the human dignity and the right to non-discrimination of the Roma of Miskolc, as these practices and this form of public communication amounted to harassment based on ethnicity. The court obliged the respondents to publish an apology on the municipal website, and through the Hungarian news agency, and also obliged the respondents to pay a so-called public interest fine of HUF 10 million (ca. EUR 31,000). The municipality submitted an appeal against the decision and the mayor declared publicly that he had absolutely no intention of changing his policies. Among others, he said the following: "I have some bad news for HCLU and NEKI: [...] they will not be able to tell us, residents of Miskolc, where and with what intensity we should take action to guarantee our own security. As we have done until now, we will continue to decide it for ourselves, even if HCLU and NEKI stand on their heads. They may object to this, they may bring lawsuits, we will pay the fines if we must, like we have done in the past, but it is not HCLU and especially not NEKI who can tell us what we must do in Miskolc to protect public safety. We will see them in court!"

**Key points of analysis:** The case concerned one of the most large scale discrimination cases in Hungary. The Miskolc municipality's very systematic and conscious practices aimed at driving out the Miskolc Roma continued in spite of the numerous legal successes the human rights defenders achieved, and despite the repeated condemnation of the municipality's actions by different courts and official bodies. Miskolc is a sad example of how without real political will for integration, the legal obligations and tools aimed at enforcing the principle of non-discrimination may not yield lasting results.

**Internet link source:**

[https://nepszava.hu/3018359\\_szamozott-utcak-az-orszag-legnagyobb-diszkriminacio-ellenes-peret-nyerte-meg-a-tasz](https://nepszava.hu/3018359_szamozott-utcak-az-orszag-legnagyobb-diszkriminacio-ellenes-peret-nyerte-meg-a-tasz) and  
<https://borsodihir.hu/helyben-jaro/2018/12/miskolc-polgarmestere-elkuldte-a-jogvedoket-a-fenebe>.