



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

### NEWS REPORT

**Country:** Sweden  
**Title:** 11 Roma persons request civil damages in connection with the police registration scandal  
**Date:** 10 March 2015  
**Expert:** Per Norberg  
**Update of flash report nr:** 1620-SE-32-FLASH REPORT Sweden -Roma registrationand 1673-SE-33-Roma registration update

#### Context

**Issue at stake:** Civil damages for alleged ethnic discrimination by the Police  
**Ground of discrimination:** Ethnic origin  
**Source:** Miscellaneous (National court proceedings started)  
**Field:** Other (Police and crime fighting methods)  
**Applicable law:** Data Protection Act, Instrument of Government (for instance Chapter 1 Section 2) European Convention on Human Rights (Article 14).

#### Content

**Policy development:** In September 2013 it was revealed that the police had been registering more than 4000 Roma persons or persons having a relationship with a Roma person (see flash report 1103-SE-32).

Several governmental authorities dealt with the case. The task of the Swedish Commission on Security and Integrity Protection was to investigate the registration practice according to the Data Protection Act. Their first statement in November 2013<sup>1</sup> described seven main errors of the registration system. In December 2014 the Commission closed the case with a public statement that the Police had addressed all seven problems and that the Police's current use of the new register is legal.<sup>2</sup> The new register is reviewed once a year and it is clearly marked if persons in it are not suspected of any crime. A copy of the old register is kept in order to answer the public's questions, but it is planned to be destroyed.

The main task of the Public Prosecutor was to decide whether or not charges should be brought against the two individual police officers in Lund involved in the daily operation of the register. In December 2013 the Public Prosecutor dropped the charges towards the two officers.<sup>3</sup> The decision of the Prosecutor stated that it could not be proved that the basic culprits were these two individuals rather than systematic errors within the whole national police organisation, i.e. the seven main errors described by the Commission on Security and Integrity Protection (see flash report 1156-SE-33).

<sup>1</sup> <http://www.sakint.se/dokument/rapporter-och-uttalanden/Uttalande-2013-Kringresande.pdf>.

<sup>2</sup> <http://www.sakint.se/dokument/rapporter-och-uttalanden/Uttalande-PM-Skaane-Uppfoeljning-Kringresande.pdf>.

<sup>3</sup> <http://www.aklagare.se/Upload/Media/Nyheter/131220%20Beslut%20AM%20139971%2013.pdf>.

The task of the Parliamentary Ombudsman is to look at all levels of the national police organisation and to decide whether or not there are one or more persons who are responsible for the systematic errors to such a degree that a crime has occurred. The Ombudsman adopted its decision on 17 March 2015.<sup>4</sup> The Ombudsman is like all other authorities very critical of the outcome. A large number of persons from a vulnerable ethnic group have had its rights violated. The damage done to the trust of the police is great especially within the Roma group. It was the police station in Lund and the regional office of Scania that were mainly responsible for the errors. Some individuals were singled out for critical comments. However the main conclusion of the Parliamentary Ombudsman is the same as those of the other authorities. The critical comment against certain individuals does not amount to criminal offences. According to the Ombudsman the Police are allowed to keep the register if they reform it as they have done.

The fourth authority dealing with the case is the Chancellor of Justice. One of the three main functions of the Chancellor of Justice is to represent the state when somebody requires damages against it. So far 2751 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. It regards persons who ought to have been taken out of the register all together or whose information in the register ought to have been completed with a mention that they were not under suspicion of any crime. In Sweden a violation that is regarded as less severe results in normal damages of 3000 SEK. The information in the register was not dispersed outside the police and no person suffered a loss due to that information, therefore the violation was considered to be marginally more than "less severe" and worth 5000 SEK.<sup>5</sup>

The Equality Ombudsman has also made an investigation. Throughout this process the Police statement that it had never done any ethnic registration has been accepted by all the involved authorities. Sometimes the wording has been carefully chosen like the Parliamentary Ombudsman saying that the wrongdoing affected a vulnerable ethnic group or the Equality Ombudsman stating that ethnic discrimination could not be ruled out.<sup>6</sup> Thus all of them – although with reservations – have viewed it as a violation of the Data Protection Act, but nothing more. It started with an investigation of three Roma families breaking into homes, and their relatives and friends were registered. The Police could not know if the friends were Roma or not. Three "ethnically Swedish" families could have been registered the same way if they were involved in the same criminal activity. The 2751 people who were awarded 5000 SEK received the same amount as an "ethnically Swedish" person would have received for the same violation of the Data Protection Act.

A human rights group called Civil Right Defenders has decided to assist 11 Roma persons in going to court and asking for 30.000 SEK (3.300 Euro).<sup>7</sup> They consider the basic finding of all the governmental authorities currently involved to be wrong. Thus, they consider that it was not merely a case of bad practice with regard to registers that happened to violate the rights of a large number of Roma persons and their friends. Instead, the fact that the investigation started with three Roma families made the Police use registered information in a way they would not have done had the investigation concerned three "ethnically Swedish" families involved in the same criminal activities.

This is a separate legal process. However, if the Civil Right Defender wins a higher award for the 11 persons, the Chancellor of Justice is likely to make a new decision and give all other affected persons the same amount.

#### **Key points of analysis:**

- Alleged Ethnical Discrimination in the form of ethnic registration by the police;
- Comparable situation between Roma and "ethnic Swedes";

<sup>4</sup> <http://www.jo.se/PageFiles/6353/5205-2013.pdf>.

<sup>5</sup> <http://www.jk.se/sv-SE/Beslut/Skadestandsarenden/1441-14-47.aspx>.

<sup>6</sup> <http://www.do.se/Documents/granskningar/Beslut%20GRA%202013-617.pdf>.

<sup>7</sup> <http://www.civilrightsdefenders.org/sv/featured/we-sue-the-swedish-state-for-the-police-register-of-roma/>.

- Burden of Proof – According to Swedish rules the Civil Right Defenders will have to provide full civil law proof of the treatment that would have been given to an ethnically Swedish person in the same situation.

**Internet link source:**

<http://www.civilrightsdefenders.org/sv/featured/we-sue-the-swedish-state-for-the-police-register-of-roma/>