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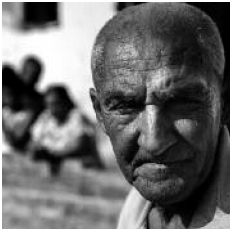


Building trust in equality: Enhancing access to justice for Roma in Hungary and Serbia

P R A X I S

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Portrait of a Roma man in Rudabánya, Hungary.
Róbert Bordás

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About the organizations

Minority Rights Group Europe (MRGE) is registered as a not-for-profit company under Hungarian Law. Based in Budapest since 1996, Minority Rights Group Europe is the European regional partner of Minority Rights Group International (MRGI), with the aim of promoting and protecting the rights of minorities and indigenous peoples across Europe and Central Asia. MRG Europe does this through capacity building, international advocacy, media advocacy and networking.

Praxis is a national non-governmental organization (NGO) established in 2004 in Belgrade which protects human rights by providing legal protection and advocating for the elimination of systemic obstacles in access to rights. Praxis acts in the fields of status and socio-economic rights, anti-discrimination, gender equality, migration, child rights and public administration reform. In addition to providing free legal advice and support, Praxis achieves its goals through monitoring public policies, research, analysis, and advocating for systemic solutions and the elimination of obstacles to accessing rights. It does this by raising awareness of the problems faced by marginalized and socially excluded communities attempting to integrate, through educational outreach, publishing reports and providing expert support for reforms, as well as through networking and cooperation.

Idetartozunk Association was registered in 2017. Its aim is to support the social movement of Roma communities in Hungary and the Roma emancipation movement. Its main goal is to maintain an open network based on volunteering, which is capable of meaningful, long-term cooperation, of formulating perspectives and of manifesting in social actions. Idetartozunk Association promotes active civic behaviour in matters affecting Roma communities and other social issues, therefore it is often a commentator, participant and generator of social events.

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István Nagy, a local Roma activist has been the president of the local Roma minority council in Hajdúszovát since 2014. He is also the director of Romano Drom, a local NGO that aims to support local Roma families and youth, and to conduct advocacy at the local level.

Dezső Vagyon, a Roma activist used to work as an Assistant for the national Roma minority council and as a Roma consultant for the District Office in Gyomaendrőd.

István Raffael, is a Roma activist and a social worker. He has been supporting the Roma community in the southern Transdanubia region.

Legal counselling in Hungary

Gábor Csűri works in Békés County, in the south-eastern part of Hungary. He used to work as a member of the national network of equal treatment officers managed and run by the former Equal Treatment Authority.

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Emese Balogh has also cooperated with various NGOs in discrimination cases and currently she works in the north-eastern part of Hungary.

This report is dedicated to the memory of Jenő Setét, a Roma civil rights activist and founder of Idetartozunk Association, who devoted his life to fighting racism and empowering Roma.

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Executive summary

The purpose of this report is to summarize the outcomes of the field visits and the legal work conducted in the framework of the 'Roma Equality through Increased Legal Access' (REILA) project funded by the European Union. The report serves as a follow-up to our baseline reports produced at the beginning of the project, mapping the different areas of discrimination and the obstacles to access to justice faced by Roma in Serbia and Hungary. The report summarizes the lessons learned from the fieldwork based on mediators' own experiences and compiles discrimination cases in both countries, including their resolution. It also maps how field visits and legal work contributed to raising awareness among Roma about their rights and supported them in eliminating obstacles to their access to justice. Furthermore, the lessons and outcomes of the field visits and legal work in the two target countries can potentially be applied and implemented in other European contexts where Roma face similar difficulties in their access to justice in discrimination cases.

In Serbia and Hungary, Roma routinely experience discrimination, usually fuelled by negative attitudes and prejudices, in a variety of areas of their lives from an early age. Despite the high number of occurrences, incidents of discrimination typically go unreported. Roma often have to accept discrimination against them as part of their daily lives and are reluctant to report cases to the authorities out of fear of retaliation or because they lack faith in the effectiveness of the justice system. In Hungary, the complicated regulation of legal representation, the protracted nature and uncertain outcome of discrimination cases, as well as the limited preventive effect of judgments, further contribute to the reluctance of Roma to report discrimination. In both countries, Roma are in need of legal support since they often lack knowledge of the legal definition of discrimination, the available legal remedies and the legal fora they could turn to. They are also discouraged by the inefficient nature of the legal system and the various barriers they face once they choose to report it. Therefore, the number of cases reported to the national equality bodies (the Commissioner for Protection of Equality in Serbia and the Directorate-General of Equal Treatment in Hungary – CPE and DGET respectively) only represent a small proportion of the actual discrimination Roma face. Even

in those cases which are reported to the national equality body, positive decisions or recommendations are adopted only in a small number of cases.

The legal work of the REILA project, by raising awareness of Roma communities about their rights and the available legal remedies through mediators, free legal counselling and support in reporting their cases to the national equality body, aimed to address the obstacles that Roma face in their access to justice. In this way, project partners aimed to encourage Roma to use the national system of institutions established for protection against discrimination to seek legal remedies and to ensure that discrimination cases do not stay unreported and invisible.

In the framework of the project, lawyers, Roma civil society organization (CSO) staff and other Roma activists were trained on the national anti-discrimination legislation, the available legal remedies, and the functioning and competencies of the relevant legal fora. After the training was concluded, partners engaged three mediators in Hungary and Serbia who started to conduct regular field visits in various regions of the two countries. The mediators' role was diverse: they not only raised awareness about discrimination and the available legal remedies in the Roma community, but also mapped and identified incidents of discrimination in the field. In these cases, they provided advice for those discriminated against, or mediated between the parties until they found a solution for the situation. In other, more complex cases, they referred the clients to a trained lawyer or to Praxis/Idetartozunk (the partners) who provided them with legal counselling or reported the case to the equality body.

In Serbia, most of the identified discrimination cases occurred in the field of employment, either when job seeking or at work. Other cases concerned access to rights before local institutions and health care, while humiliation and insults were also reported to the mediators. Many instances of discrimination at school were identified by the mediators by interviewing Roma families in the field, but in most of these cases the incidents and discriminatory behaviour were resolved between the parents and teachers through mediation. In Hungary, the identified discrimination cases were mainly related to education, employment and housing. Mediators received information from parents on various occasions that their children were treated inappropriately in the kindergarten, but no further

steps were taken in these cases as the parents were afraid that their children would be treated even less favourably if they submitted an official complaint.

The initial training provided the mediators with the necessary skills and knowledge so they could give support for Roma who experienced discrimination. By conducting regular field visits, mediators were able to share this knowledge with members of the local Roma community and raise awareness about discrimination and the available legal remedies. In addition, the training helped mediators to better navigate legal challenges and to develop potential solutions in discrimination cases. As a consequence, mediators could differentiate between discrimination cases and other types of human rights violations, meaning they only asked for the lawyers' or the partners' help or advice in more complex discrimination cases. Furthermore, in Hungary, mediators played a crucial role in conducting fact-finding for discrimination cases that were then reported to the equality body. They also approached schools, employers and other perpetrators of discrimination and tried to mediate between them and the clients.

In Serbia, according to the mediators' experience, Roma were reluctant to speak about discrimination and usually needed further support and a tailored approach to enable them to discuss their experiences openly, while others simply ignored discrimination or could not distinguish between discrimination and other human rights violations. Mediators also provided emotional support for Roma and improved trust in institutions, thereby encouraging Roma to seek legal remedies. Unlike in Serbia, Hungarian mediators found that Roma opened up easily and did not mind sharing their experiences with them. They considered their continuous and regular visits to the community of utmost importance in building trust so that community members felt comfortable sharing their experiences, even if no immediate resolution could be achieved. On the other hand, despite readily sharing their experiences, many Roma did not want to report incidents as they did not believe that the situation would change.

The provision of legal counselling was organized differently in the two target countries. In Serbia, Praxis provided counselling in discrimination cases, while in Hungary, three lawyers who attended and successfully completed the online training were engaged in the legal work of the project. Once mediators identified an incident of discrimination, Praxis in Serbia and the lawyers in Hungary picked up the case. Besides providing free legal counselling to clients, they checked the available documents, drafted submissions and mediated between the parties when it was necessary. In Serbia, most cases where legal counselling was provided were concerned with employment and health care, while in Hungary the

majority related to employment, housing and access to services. Clients were not aware of the possibility of seeking protection against discrimination in these cases, or did not know who to turn to for assistance. Adequate legal support and counselling proved important for clients to understand their rights better and how they could protect them. In addition, legal support proved to be essential as clients would not be able to seek legal remedies on their own, either due to lack of knowledge of the procedures or because of their low level of education. Legal assistance also proved valuable in further promoting the national equality bodies and the protection they can provide.

Praxis and Idetartozunk assisted clients in reporting discrimination to the respective national equality bodies on a number of occasions. In Serbia, out of the seven cases reported to the CPE, five were related to legal status or residency registration and two were related to discrimination in employment. In Hungary, out of the three reported cases, two concerned harassment against the Roma clients, while the third case was related to discrimination in access to a sport facility. In total, ten cases were reported to the national equality body in the two countries, and four cases are still pending. In the six remaining cases, one decision was positive, while four were negative and in one of them the issue was resolved while the case was still pending. In Serbia, in some cases, it can be assumed that the fact that they were reported to the CPE led to a positive outcome, despite a negative decision or the fact that the case was still pending. It seems that the fact that the cases were reported to the CPE put pressure on the perpetrator and eventually resulted in a positive resolution of the cases.

Key barriers in access to justice:

- Roma often accept discrimination as part of their lives; they are reluctant to report it out of fear of retaliation or because they lack faith in the effectiveness of the justice system.
- Roma often lack the knowledge necessary to proceed with a legal case.
- They are also discouraged by the inefficient nature of the legal system and the various barriers they face once they choose to report it.
- In Hungary, the complicated regulation of legal representation, the protracted nature and uncertain outcome of discrimination cases as well as the limited preventive effect of judgments amounts to further barriers.

Key findings:

- Awareness-raising in the Roma community about anti-discrimination legislation and the available legal remedies is crucial to increase their willingness to report discrimination cases to the equality body and to pave way for future empowerment.
- Beyond raising awareness in the community about discrimination, Roma mediators have an important role in resolving more straightforward cases through mediation between the parties or by assisting those who have experienced discrimination in drafting submissions or other documents.
- Encouraging those affected by discrimination to report their case is essential. The more positive decisions the equality body delivers in discrimination cases, the more trust Roma will have in the system and institutions for protection against discrimination.

1 Introduction

This report was produced in the framework of the ‘Roma Equality through Increased Legal Access’ (REILA) project.¹ The project has been running since September 2020, jointly overseen by Minority Rights Group Europe (MRGE), Praxis (Serbia) and Idetartozunk (‘We Belong Here’) Association (Hungary). The aim of the project is to promote and protect the rights of Roma subject to human rights violations and discrimination by raising awareness across society and among stakeholders, enhancing implementation of non-discrimination legislation, and empowering Roma to seek legal remedies in Hungary and Serbia. In the framework of the project, partners conducted research in autumn 2020 about the different fields of discrimination against Roma and the obstacles they face in accessing justice. The outcome of the research was outlined in reports in both countries that served as a baseline study for the rest of the project implementation.² The research was followed by a series of training events, held in the autumn of 2021, for lawyers, Roma activists and CSO representatives on national and international anti-discrimination legislation and the available legal remedies and relevant case law. After the training sessions, partners engaged three experienced Roma mediators who conducted regular field visits from November 2021 in both countries. Mediators identified and monitored discrimination cases in the Roma community, and they reported such cases to partner CSOs and trained lawyer who provided those affected with legal counselling and free legal support. Partners provided continuous coaching for Roma mediators, advising them on the relevant legislation as well as victims’ support. With this expert support Roma mediators were able to advise Roma who had experienced discrimination on the most appropriate channels to follow to tackle violations. The aim of this report is to summarize the positive outcomes of the fieldwork and legal support, to disseminate the lessons learned and to encourage Roma who have experienced discrimination to report their cases by providing them with best practices and good examples from the field.

According to the 2011 Census, there were 147,604 Roma in Serbia.³ However, their number is assumed to be higher, and other research data shows that at the beginning of the twenty-first century there was a total of 201,353 domiciled Roma and 46,238 Roma displaced from Kosovo.⁴ According to the baseline report, Roma

most often face discrimination in their daily contacts with neighbours, colleagues at work, and while performing routine social activities. Although Roma focus group participants pointed out various situations when they were insulted or belittled, faced aggression or hate speech because of their skin colour or ethnicity,⁵ incidents of discrimination most often go unreported. Although most focus group participants accepted discrimination as ‘normal life’ and avoided reporting as they were afraid of retaliation or because they lacked faith in the effectiveness of the justice system, they agreed that these cases should be reported to improve the system of prevention and protection from discrimination.⁶ Research found that Roma are in need of legal support since, in addition to their lack of knowledge of procedural matters, they are discouraged by the fact that the legal system is inefficient, the onerous process of proving discrimination, and the various barriers they encounter when reporting a case.⁷ As a result, only a small number of complaints are filed by Roma with the CPE or at a court.⁸ In 2021, 12.7 per cent of the total number of complaints were based on nationality and ethnicity, making it one of the top five grounds for discrimination, with the majority (77.1 per cent) of these cases reported by Roma. The report further states that the work of the CPE suggests that negative attitudes and prejudices towards Roma are frequently repeated, occurring in various local environments, for instance through graffiti on walls and via social networks.⁹

According to a survey carried out by the University of Debrecen between 2010 and 2013, Roma represent approximately 9 per cent of the Hungarian population, amounting to 876,000 individuals. This is significantly higher than the results of the population census in 2011, where only 315,583 individuals declared themselves to be Roma.¹⁰ According to the baseline report, beyond discrimination in education, public employment, access to health care and public services, Roma are also disproportionately affected by police brutality and the removal of children from their families.¹¹ Based on community interviews, very few people have ever sought legal remedy, and there was an almost complete lack of confidence in whether it was worth reporting cases of discrimination. Focus group participants considered that everyday encounters with prejudice and humiliation could not be addressed by legal measures. Furthermore, there is

also little confidence in winning a case when discrimination arises from private companies' employment practices or when it is committed by the local government. Victims of such discrimination are often reluctant to seek legal remedies as they are dependent on public housing or public employment provided by local authorities.¹²

In 2019, while 44 Roma applicants reported incidents of discrimination to the Equal Treatment Authority, their claims were considered in only seven cases.¹³ Based on the statistics, one might conclude that Roma suffer from discrimination typically (and only) in the field of services. However, various research projects have revealed that discrimination prevalent in other areas (such as education, employment or child protection services) is a much graver problem that unfortunately remains hidden from the Equal Treatment Authority or, if not, still makes up many of the cases closed without a condemnatory decision. Up until 2019, no disaggregated data was available about the protected characteristics of applicants; however, it can be established that 0.5 per cent of the total number of complaints were filed by Roma applicants, and an even smaller proportion of cases from among these ended with the conclusion that their right to equal treatment was violated. This number is especially negligible given that close to a tenth of the national population may be Roma.¹⁴ The baseline report identified various obstacles in the access to justice of Roma victims of discrimination. They often do not know any civil society stakeholder or competent government agency where they can seek guidance, and only a few are aware that there is legislation in Hungary prohibiting discrimination.¹⁵ The complicated regulation of legal representation, the protracted nature and uncertain outcome of discrimination cases, as well as the limited preventive effect of judgments further contribute to a lack of willingness among Roma to report discrimination cases.

Based on our initial research conducted in the framework of the projects in Serbia and Hungary, we can

conclude that discrimination against Roma is widespread and can affect various areas and aspects of their life from an early age. However, only a limited number of these cases are reported, and in even fewer cases does the equality body deliver a positive decision or adopt recommendations. The legal work of the REILA project, by raising awareness among Roma about their rights and the available legal remedies through mediators, free legal counselling and support in reporting their cases to the national equality body, aimed to address the obstacles that they face in their access to justice. In this way, project partners aimed to encourage Roma to use the national system of institutions established for protection against discrimination to seek legal remedies and to ensure that discrimination cases do not stay unreported and invisible.

The purpose of this report is to summarize the outcomes of the field visits and the legal work conducted in the framework of the project. Mediators started the fieldwork in November 2021 and concluded in August 2022. The report presents cases from 1 November 2021 to 21 May 2022, although some of the cases were identified prior to this period when Praxis conducted field visits in the framework of the project. It serves as a follow-up to our baseline reports produced at the beginning of the project mapping the different fields of discrimination and the obstacles to accessing justice for Roma in Serbia and Hungary. In particular, it revisits the lessons of the fieldwork based on the mediators' own experiences and compiles the discrimination cases in both countries, including their resolution. It also maps how field visits and legal work contributed to raising awareness among Roma about their rights and supporting them in eliminating obstacles in accessing justice. The lessons learned and outcomes of the field visits and legal work in the two target countries can also be applied and implemented in other European contexts where Roma face similar difficulties in accessing justice in discrimination cases.

2 Mapping and identifying discrimination cases in the community

Mediators

Although training events were planned to be held in person, due to the severity of the Covid-19 pandemic in both Hungary and Serbia, the project partners decided to convert the materials into an online training programme. The online courses for Roma activists were held in September–October 2021, and provided theoretical and practical information on national anti-discrimination legislation, the available legal remedies, and the functioning and competencies of the relevant legal fora. The online course not only comprised theory and exercises but also a series of online role-play case studies based on real-life incidents of discrimination, where participants could apply their knowledge in practice, seeing how clients should be interviewed and provided with counselling, and how discrimination cases could be resolved in various ways depending on the client's wishes. Role play proved particularly useful for participants as they could prepare themselves for real-life situations.

Role plays were excellent. During the exercises I could test my knowledge. I made mistakes, but I liked the fact that I could do them again. Graphics were excellent and interesting. (Serbian Roma activist)

The online course was complemented with an online discrimination workshop where participants could go through real discrimination cases with the guidance of the partner's legal expert. This comprehensive training provided Roma activists with the necessary skills and knowledge to be able to conduct field visits to Roma communities to map and identify discrimination cases and to provide victims of discrimination with support.

After the training was concluded, partners engaged three mediators in Hungary and three in Serbia, who began to conduct field visits regularly. In Serbia, all three mediators were activists who already had experience working in the local Roma community. Between 1 November 2021 and 31 May 2022, Serbian Roma mediators conducted a total of 48 field visits in the municipalities of Stara Pazova, Bor and Obrenovac. In parallel, Praxis also conducted regular field visits to various municipalities.

In Hungary, the three mediators also had great experience in working with the local Roma community. Between 1 November 2021 and 31 May 2022, Hungarian Roma mediators conducted a total of 29 field visits in Békés, Tolna and Hajdú-Bihar county.

Cases

Serbia

In Serbia, between 1 November 2021 and 31 May 2022, 13 incidents of discrimination were identified (Praxis discovered six cases while mediators identified seven cases) in which further counselling was provided. Prior to the mediators' fieldwork, Praxis had identified three more discrimination cases in the framework of the project (bringing the total number of cases to 16). Mediators also identified other instances of discrimination, mainly related to discrimination against Roma pupils in education, but these occurred a long time ago or had been previously resolved.

Most cases of discrimination occurred in the field of employment (a total of eight identified cases).¹⁶ Roma community members believed that they were discriminated against because of their ethnic origin either when in search of employment or while employed. The cases related to employment concerned, *inter alia*, a Roma woman who, despite working as a cleaner at a health institution for nine years, had only been contracted on a temporary basis while her non-Roma colleagues were on permanent employment contracts. In another case, a Roma woman who worked at a boutique was dismissed because of the colour of her skin. Another Roma woman has constantly been rejected during her search for employment, even in cases where no qualifications have been required. Another case of discrimination concerned four Roma employees of a sports facility who were dismissed, while the only colleague who was able to keep their job was a non-Roma person. Mediators further identified a case in which a Roma man was discriminated against at a job interview where the company was looking for strong young men;

although the applicant complied with the requirements, he was rejected. In a further case, a Roma man with a disability was trained as a baker but was unable to find a job as he was constantly rejected. In yet another case, a Roma woman was subject to discrimination at work, as her boss did not trust her and constantly supervised her, believing she would steal something, reflecting her prejudice that Roma are disposed to stealing.

In other cases, two Roma men faced problems in accessing their rights before local institutions when their requests for registration of permanent residence had constantly been rejected, therefore they could not obtain an ID card. In another case, a Roma woman was discriminated against by the Ministry of Foreign Affairs, who rejected her request for the ministry to obtain a birth certificate from abroad, arguing that she could not prove her citizenship status, even though both her parents were Serbian. Similarly, in two other cases, two public notaries refused to recognize the rights of a lawyer to represent two Roma individuals in processes regarding their personal status and the obtaining of personal documents, because they did not have any document to prove their identity.

In one case, discrimination was in the field of health care, where a pregnant Roma woman was asked to pay a fee for health examinations which otherwise should have been free of charge for not having a health booklet.

In another case, residents of a Roma settlement were insulted and humiliated by workers who were supposed to build a sewerage network but who refused to work on the construction site located near their community.

While at school Roma children often face humiliation or discrimination, only one case was identified in the stated period, even though mediators identified many instances of discrimination through interviewing Roma families in the field. However, in most of these cases, the incidents and discriminatory behaviour were resolved at the school between the parents and teachers.

Hungary

In Hungary, between 1 November 2021 and 31 May 2022, 14 discrimination cases were identified, mainly related to discrimination cases in the fields of education, employment and housing.

The mediator in Hajdúszovát was contacted by a Roma mother whose daughter was threatened and insulted by teachers in front of their peers. The girl felt so humiliated that she did not want to go to school any more. The parents tried to contact the school principal, but under the pretext of Covid-19 restrictions, they were not allowed to enter the school. The parents expected some mediation between them and the school staff. The mediator invited both the parents and the school principal to a meeting

where they agreed that the principal would ensure that the Roma girl would not be insulted by her teachers any more. As a follow-up to the case, the mediator spoke to the parents on various occasions, and they confirmed that no similar case had happened since then.

In another case in Hajdúszovát, the parents of two school children complained that in class their theology teacher praised the ruling political party and that she campaigned among the children. The mediator, in consultation with the lawyer, wrote a formal complaint letter to the school principal in which he requested an immediate investigation and some sanctions against the theology teacher. Later, the mediator was informed that the case had been investigated and that the theology teacher had been warned.

In another case, one of the mediators was contacted by various families from Kisvaszar who moved into the houses built within the framework of a project funded by the European Union. They signed a contract with the municipality which granted that they would be given the property at a token price, once they had no debts and had sufficient financial resources to be able to pay the rent for a period. Despite some families complying with the requirements, they had not been granted ownership of the houses. The mediator put the clients in contact with the contracted lawyer who took over the case.

In Gyomaendrőd, the mediator identified another case in which an employee was regularly humiliated and belittled by one of his colleagues, who called him 'little Gypsy'. The mediator informed the management who intervened in the case and warned the employee. Since then, the complainant has not been harassed.

Mediators received information from parents that on various occasions their children were treated inappropriately in the kindergarten, but no further steps were taken in these cases as the parents were afraid that their children would be treated even less favourably if they submitted an official complaint.

These cases are described in more detail in Chapter 3 on legal counselling.

Victim support

In both countries, mediators found the training that the project partners organized prior to the fieldwork very useful as it expanded their knowledge about discrimination.

In Serbia, they particularly appreciated that the fieldwork gave them the opportunity to share their knowledge with their local Roma communities. They all particularly praised the role plays, as they helped them understand how to approach people in the field, what questions to ask in order to identify a discrimination case, and what advice they could provide to the victims.

In Hungary, the online course not only helped mediators to better navigate legal problems, but also supported them in developing potential solutions in discrimination cases. Thanks to the training, mediators could differentiate between discrimination cases and other types of human rights violations, therefore they only asked for the lawyers' help or advice on discrimination cases, while they provided assistance in other cases.

I use the knowledge gained in the fieldwork, I can recognize and identify a discrimination case through conversation with people and can advise them how to act if they find themselves in a similar situation again. For example, if a person was discriminated against various times in search of employment, at a job interview, I advise them what rights they have as per the law, what the Law on Prohibition of Discrimination states, what legal remedies are available, and that they should not suffer discrimination in any form and that they can complain and to whom. All this so that it is not repeated in the future, because no one should experience discrimination, and everyone should have equal rights.

(Milica Stankovic, Roma mediator, Obrenovac)

Role plays were, perhaps, the most useful, as I could learn on actual examples when and in what way to approach a discrimination case.

(Milana Radu, Roma mediator, Stara Pazova)

The acquired knowledge was particularly useful in conversation with Roma in the field, as I knew exactly what questions to ask and how to collect the obtained information.

(Marina Salić, Roma mediator from Bor)

In Hungary, mediators also supported Roma by providing them with information about their rights, evaluating and assessing the cases, and providing them with advice. Mediators not only listened to Roma carefully, but they also conducted fact-finding and encouraged victims of discrimination to provide them with written proof and other documentation that could be used to support their case. They also approached the schools or authorities that discriminated against Roma and tried to look for a solution together with the victim – taking into consideration what they learned on the online course.

I found the methods of recognizing [discrimination] cases very useful which I can apply.

(Dezső Vagyón, Roma mediator, Békés county)

The training was important as it provided significant help in navigating the legislation. Exercises that described specific cases were useful.

(István Raffael, Roma mediator, Tolna county)

I have used the role plays during my work as they offered more potential solutions in one case. They have been very useful for me so far.

(István Nagy, Hajdú-Bihar county)

Lessons from the fieldwork

According to the experience of the mediators in Serbia, Roma were reluctant to speak about discrimination and usually needed further support and a tailored approach to encourage them to talk openly about their experiences, while others simply chose to ignore incidents of discrimination when they occurred. Furthermore, the mediators realized that Roma often spoke generally about difficulties but did not specifically recognize discrimination. According to mediators, after the initial contact had been established and trust gained, Roma start speaking about their problems and experiences. Once the concept and the scope of discrimination was explained to them through actual examples, they began to come up with examples from their own lives and gradually, during the conversations, shared their own experiences. The mediators concluded that Roma were often reluctant to speak about discrimination, fearing that it would only lead to further incidents in future. In other cases, if they dared to share their experiences about discrimination, for example in search of employment, they were afraid that people might talk, and they would then be even less likely to succeed at their next job interview.

The Serbian mediators found it particularly challenging to encourage Roma to speak about their experiences and required more time to approach people and gain their trust. The general lack of trust in state institutions made it even more difficult for mediators to persuade victims of discrimination to seek legal remedies.

Mediators in Serbia considered their work very important as they raised people's awareness of discrimination in its different forms, where it occurred most frequently, and how and where to seek protection. Mediators also provided emotional support for Roma and improved their trust in institutions, thereby increasing their willingness to seek legal remedies and fight for their rights.

[Mediators' work] is important because it gives people the opportunity to share their stories of discrimination and to know that they can oppose and protect.

(Marina Salić, Roma mediator, Bor)

I think that my work as a mediator on the project is important, because people obtain new information. First of all, they know who they can turn to, what rights can be endangered and violated, people's awareness is spreading, trust in institutions is growing, they know that they are not alone and that they can get the help they need.

(Milana Radu, Roma mediator, Stara Pazova)

[Mediators' work is important] to give [Roma] the necessary support, to know that they are not alone in this, that they are not the only ones who have been discriminated against, that discrimination often occurs, to help them be safer, more relaxed and most importantly not to be afraid if they find themselves in such a situation.

(Milica Stankovic, Roma mediator, Obrenovac)

In contrast to their counterparts in Serbia, the Hungarian mediators found that Roma opened up easily and did not mind sharing their experiences with them.

They considered their continuous and regular visits to the community of utmost importance to build trust so that people felt comfortable sharing their cases, even if no immediate solutions could be offered to them. On the other hand, despite their readiness to discuss incidents of discrimination, most Roma did not wish to report them formally as they had little faith that the situation would change. One of the mediators mentioned a case where a Roma man wished to seek legal remedies and expressed interest in cooperating with the mediator in the fact-finding, but when the mediator visited the village, he ultimately decided not to pursue the case out of fear of reprisals. Like their Serbian peers, the Hungarian mediators also mentioned that many Roma did not even realize when they faced discrimination, while others believed that the situation could not be changed anyway.

It is important for the victims to have someone they trust to whom they can tell what has happened to them and feel that they can count on their help.

(Dezső Vagyon, Roma mediator, Gyomaendőd)

3 Legal counselling

Legal experts

The provision of legal counselling was organized in different ways in the two target countries. In Serbia the partner organization, Praxis, provided counselling in discrimination cases while in Hungary, lawyers who attended and successfully completed the online training course were engaged in the legal work of the project.

Praxis has been providing free legal assistance to Roma since its creation, focusing on the defence of their status and socio-economic rights and on protection from discrimination since 2009, when the Law on Prohibition of Discrimination first came into force. Praxis legal staff have completed training relating to the legal framework for protection against discrimination and possess relevant experience in the field. Praxis monitors the access to rights of Roma with relevant institutions, identifying human rights violations as well as discrimination in the proceedings of the competent institutions, and discrimination by other perpetrators.

In Hungary, ten lawyers completed the online course on national and international legislation, the available legal remedies and victim support. Out of these six lawyers applied to the open call published by Idetartozunk Association in the framework of the project. Finally, three of them were contracted to provide legal counselling in discrimination cases for 10 months (between November 2021 and August 2022).

Once mediators identified a discrimination case, it would be picked up by either Praxis in Serbia or the lawyers in Hungary. Besides providing free legal counselling to clients, they checked the available documents, drafted submissions or mediated between the parties when necessary. The lawyers found the online course of high quality and very useful for improving their professional skills and knowledge.

Cases

Mediators in both countries conducted regular field visits in their municipalities and regions, and once they identified a discrimination case, they either advised clients themselves based on the knowledge gained through the online course, or they referred the case to Praxis staff (in

Serbia) or to the trained lawyers (in Hungary). In this chapter, legal cases are described in detail together with the legal advice provided in each of them.

Serbia

Z.B. is a Roma woman who has been working for nine years as a cleaner in the local health institution in Kragujevac. She is employed on the basis of temporary contracts for occasional jobs, and cannot obtain a regular employment contract like other workers in the same position. Z.B. was informed about the available legal remedies by Praxis legal staff, but she decided not to file a complaint.

I work, but under less favourable conditions than my co-workers. I have been employed for nine years on a temporary contract, only me. I have no right to sick leave or annual leave, I work four hours a day, and I have the same amount of work as my colleagues who work eight hours. And I finish everything, I must. On the other hand, I am paid four times less than they are, with a monthly salary of only 8,000 RSD (57 GBP). Everyone who knows me says I am a good worker, hardworking, I am never late, I do things which are not my responsibility, making coffee, whatever is needed, but they can never hire me on an employment contract. New colleagues arrive regularly; they are hired under an employment contract, I have been there for nine years and nothing. I am the only Roma woman among the staff. They promised to give me an employment contract, and then they gave up on that. [...] With this contract I won't even have years of service calculated to be able to retire and have a pension.

(Roma woman from Kragujevac, Serbia)

S., a Roma woman, was dismissed from a local boutique due to discrimination. After the initial interview with the owner of the boutique, she got the job and worked there on a probational period for two weeks. However, after the owner's wife turned up in the boutique, S. was dismissed the next day under the pretext that sales had reduced, even though they had remained the same. The owner's wife allegedly stated that S. was not suitable for the boutique because of her looks and the

colour of her skin, and that she needed someone who was 'whiter'. Despite receiving legal advice from Praxis, she decided not to report the case.

Another Roma woman with limited formal education stated that she had constantly faced discrimination when searching for employment, even for positions where no qualifications had been required, and that she believed this was because she is Roma. She was particularly discriminated against when applying for roles in local shops and was specifically told that customers were used to being served by a person of Serbian ethnicity. She was provided with legal advice but decided not to pursue any legal remedies. Unable to find a job, she expressed her desire to learn a foreign language and go abroad where she might have more chances of finding employment. Finally, she moved to Austria.

N.V., a Roma man, complained that he had been discriminated against during a job interview in a local construction company. Even though the advertisement did not stipulate any particular requirements, when he showed up at the interview, the employer insisted that he was looking for strong young people and that the beneficiary did not meet the criteria, even though he was 40 and healthy. Although N.V. was provided with legal advice about available legal remedies, he decided not to report the case as he was worried that reporting this experience of discrimination would reduce his chances of getting another job in the future.

A. faces intersectional discrimination in finding employment because he is a Roma man with a disability. Even though he is trained as a baker, he has been rejected wherever he has applied. Despite receiving legal advice, he decided not to take any action for fear of further consequences, and out of concern that he might not be able to find a job.

Another case¹⁷ involved discrimination in the health care sector. E.B., a pregnant Roma woman, was told by a health institution that she would have to pay several thousand dinars for health examinations as she did not have a health booklet. This was contrary to the law, since pregnancy and childbirth are part of primary health care, and medical assistance is provided free of charge, even if a person does not have health insurance and a health booklet. The health institution intimidated E.B. because she was a Roma woman without documentation and was not aware of her rights. Praxis assisted the beneficiary in accessing health insurance and obtaining a health booklet, so that she could secure health care without problems, but also prepared a letter for the Gynaecological Service to raise awareness about the beneficiary's rights as per the law and enable her to access health care without problems until she has obtained the necessary documents. The problem of documentation, lack of education and

knowledge of procedures are challenges particularly affecting Roma in Serbia.

In another case, residents of a Roma settlement in Zemun Polje, Belgrade, were discriminated against, insulted and humiliated by workers employed by a company that was building a sewerage network near a Roma settlement but refused to work on the construction there. Residents of the Roma settlement united and addressed the municipal administration together, after which the construction started in the settlement as well. Despite Praxis providing them with legal advice, they decided not to report the case for fear of suffering any negative consequences in future.

Hungary

In September 2021, a Roma woman was contracted by a company for three months to work as a rig operator at the company's thermal-well drilling site in Békéscsaba. In November, during a fertility examination, she discovered that she was expecting a baby and was diagnosed with a seven-and-a-half-week pregnancy. Within an hour, she happily told the good news to her supervisor and asked her to keep the news confidential, because she was afraid to lose her job as she was on probation until the end of November. A couple of days later she went on sick leave, but as soon as she came out of the doctor's office, she received her dismissal by email and was called by her supervisor to sign the termination papers. She then called the manager later that day, who told her on the phone that there was no problem with her work, but that 'it was practical from the company's point of view', literally saying 'the only reason is that you are pregnant'. The woman was worried that she would not have any income and that, now being pregnant, she would not find another job. The lawyer attended the hearing where a favourable settlement was reached, and the complainant was reinstated in her job with very good pay.

In 2006, in Kisvaszar, nine houses were built in the Roma settlement in the framework of a project called 'Model programme for Roma settlements'¹⁸ that ran between 2006 and 2016. The municipality signed a contract with nine Roma families who moved into the houses, stating that they would be offered the properties at a token price once they had no debts and had sufficient financial resources to pay rent for a period. According to the unanimous declarations of the families, back in 2006 the tenants had not received either the originals or copies of the contracts, meaning the contents of the original agreements could not be reconstructed. The tenants unanimously stated that the original contracts were for three years and that the tenants would have acquired ownership after this fixed period. After the expiry of the

fixed term, the tenants lived in their houses from 2009 until 2021, when new leases were signed in autumn 2021, without any contracts. The Roma self-government body complained about the content and duration of the new leases and the fact that the families who were able to live independently had not become owners of the houses after the agreed period. After the lawyer initiated several exchanges of correspondence and a personal meeting with the mayor, it was agreed that four families would be given ownership of their properties and that the others would be given favourable tenancy agreements.

A Roma client complained that in the two Roma settlements in Karcag there has been no waste collection for a long time, only two containers placed at the end of the street that were insufficient to store all the local waste and rarely emptied. Since waste collection falls under the responsibility of the municipality, it is obliged to ensure that waste is collected and transported properly. Shortly after the lawyer made an enquiry to Karcag Municipality, she was informed that garbage would be collected in the two Roma settlements from spring 2022. When the mediator returned to follow up, most houses had garbage bins and the collection was also resolved.

On 1 January 2022, on www.olt.net, a long article was published with the title 'Demographic disaster – by 2030, there will be more people of Roma origin, no matter how the Hungarians try to be Hungarian'. The lawyer submitted a complaint on the website of the National Media and Infocommunications Authority (NMHH).¹⁹ The NMHH informed the lawyer that the original source of the article was another media outlet called www.azonnali.hu from which olt.net republished the article. Furthermore, she was informed that the case should be submitted to the Media Council of the Authority. The case is still pending.

In another case, two children from a Roma family were placed in state care because living conditions in their apartment were inadequate. The parents upgraded and restored the apartment to the best of their ability. Meanwhile, the wife had given birth to her third child in a hospital, which wanted to release the mother without her baby despite no decision having been made by the guardianship authority. After the lawyer provided the family with legal advice, one of their friends became the child's temporary guardian, and the parents were able to take the child home.

Lessons learned from the legal counselling

In all the above-described cases, clients could not access their basic rights due to discrimination. In Serbia, for example, they had previously been trying to address

the competent institutions to resolve their cases (e.g. for residence registration or to obtain personal documentation) either in person or through a proxy, but they failed. They were not aware of the possibility of seeking protection against discrimination in those cases, nor did they know who to turn to for assistance. One client contacted the local Ombudsman, but when that failed, she did not know that she could also address the CPE at the national level. In that sense, adequate legal support and counselling proved important for clients to understand their rights better and how they could protect them. In addition, legal assistance proved to be essential as clients would not be able to seek legal remedies on their own, either due to lack of knowledge of the procedures or because of their low level of education. Legal assistance also proved valuable in further promoting the national equality bodies and the protection they may provide.

However, in other cases identified in the field, clients were reluctant to seek protection from discrimination for fear of further victimization or because they could not distinguish between discrimination and other human rights violations. Roma victims of discrimination often do not understand their rights or the procedures well, which prevents them from seeking remedies. Adequate and timely support and legal counselling are extremely important for beneficiaries to understand their rights better.

A Hungarian lawyer highlighted that state institutions are much more responsive and take complaints more seriously when a legal representative approaches them. Another lawyer expressed concerns about the functioning of the Directorate-General of Equal Treatment (DGET) that was established in January 2021, when the Equal Treatment Authority (functioning until then as the main bastion of legal support in cases of discrimination) was merged with the Office of the Commissioner for Fundamental Rights. She also observed that it is difficult to navigate and submit a complaint at the website of the Media Council of the NMHH: two separate complaints she made there about racist media content got lost, and she needed to follow up on the phone to have a case number assigned to the complaints, significantly delaying the procedure. Later the Media Council informed the lawyer that the complaint was forwarded to the competent experts. The Equal Treatment Authority (ETA) would initiate the procedure at its discretion and if the ETA decided not to launch the procedure, the complainant would be notified about it in 30 days. When the 30 days had passed, the lawyer called the ETA on the phone, but she was informed that the case was still pending and that she would be informed about the decision.

The lawyer also mentioned that clients often do not make a distinction between discrimination and other

human rights violations, or problems which do not necessarily have any legal aspect. Therefore, both mediators and lawyers play a crucial role in raising awareness among Roma about their rights and explaining the different types of discrimination and its legal aspects. According to the lawyers' experience, beyond mediators' support, local Roma CSOs and the Roma self-government body also helped them in fact-finding and providing them with evidence for the cases. Some clients did not have sufficient financial means to pay for legal counselling or legal representation, therefore the provision of free legal support played a crucial role in ensuring access to justice. The Roma mediators' work was indispensable in

connecting the lawyer with the community and in disseminating information about the possibility of free legal support. In this way, clients who otherwise would not have had access to legal representation and counselling could seek legal remedies and find solutions for their cases.

Without free legal support, anything can be done to the Roma community and its members, who have little capacity to advocate, rights violations will not come to light, so they will not be judged or compensated. There is also a deterrent force in having a human rights NGO behind the community.
(Zsuzsa Ammann, Hungarian lawyer)

4 Reporting cases to the equality body

In many cases, partners or the mediators identified discrimination cases during their fieldwork and clients decided to report them to the national equality body. In these cases, mediators together with the partner and the client conducted fact-finding and collected all the necessary documentation for the case. The submissions were prepared by the partners' legal staff who were in touch with the equality body and followed up on the cases.

The national equality bodies

Serbia

In Serbia, the CPE is an independent, specialized state authority established on the basis of the Law on Prohibition of Discrimination in 2009. The task of this state authority is to prevent all forms of discrimination, to defend the equality of natural persons and legal entities in all spheres of social relations, to oversee the enforcement of anti-discrimination regulations, and to improve the protection of equality.

The CPE can receive and consider complaints of discrimination, issue opinions and recommendations in concrete discrimination cases, and stipulate measures defined by the law. In addition, the CPE is obliged to inform the complainant about his or her rights and the possibility of initiating a court procedure or another protection measure, including a reconciliation procedure. The CPE is also authorized to file complaints requesting protection from discrimination, with the approval of the person who is being discriminated against. Furthermore, the CPE can file offence reports on discrimination prohibited by the anti-discrimination regulations. The CPE is authorized to warn the public about the most common and severe cases of discrimination, to monitor the enforcement of laws and other regulations, to initiate adoption or amendments of regulations with the aim of making them more enforceable and improving protection from discrimination, and to recommend measures for achieving equality to public authorities and other parties concerned. A part of the CPE's competencies is to monitor the situation related to the protection of equality. This is also the topic of the CPE's annual report, submitted to the National Parliament. In its work, the

CPE is obliged to establish and maintain collaboration with authorities responsible for achieving equality and human rights protections in the territories of the Autonomous Province and local council.

The procedure before the CPE is initiated by a complaint being submitted. The procedure is free of charge, regardless of the outcome. Upon receipt of a complaint, the CPE has 90 days to proceed. After establishing the facts, the CPE issues an opinion on whether discrimination has occurred. If the CPE establishes this, it will issue a recommendation to the perpetrator against whom the complaint was filed, stating how the violation of the right to equality should be removed. The person or entity to whom the recommendation has been addressed has 30 days to proceed as per the recommendation, to address the violation and inform the CPE about the measures undertaken. If the perpetrator fails to do that, the CPE may inform the public about it. However, even if it possesses information about discriminatory behaviour, the CPE cannot initiate a procedure *ex officio*. Also, if the person or body responsible for the violation refuses to act as per the recommendation, the CPE is not authorized to punish the perpetrator.

Hungary

In 2021, the former Equal Treatment Authority was merged with the Office of the Commissioner for Fundamental Rights and it became a separate organisational unit called Directorate-General for Equal Treatment. The DGET acts as an administrative authority in cases of discrimination. Anyone who believes that their right to equal treatment has been violated, that is, that they have been the victim of discrimination, can bring proceedings before it. The aggrieved party will then become the applicant, while the perpetrator of the infringement will be the subject of proceedings. No costs are charged to the applicant in the administrative procedure. The hearings will be held in the applicant's place of residence or in the nearest suitable place for holding a hearing. The time limit for the authority's proceedings is 75 days, with a maximum of 45 days for cases involving children. During the official procedure, the authority may request to hear the applicant or a witness in

the absence of the person concerned. Proceedings may not be brought before both the authority and the courts at the same time (as parallel proceedings are prohibited). In the proceedings, the applicant may be represented by an NGO specifically advocating for the interests of the protected group involved in the proceedings. At the end of the procedure, a reasoned decision is issued, which may either find an infringement or reject the application. A negative decision may be appealed against within 30 days of receipt, on the grounds of infringement of the law, to the Metropolitan Court, where legal representation is mandatory. In the case of a decision finding an infringement, the authority may order the cessation of the infringing situation, prohibit future infringements and impose a fine (ranging from HUF 50,000 to HUF 6 million). The authority may also order the publication of its decision. It must initiate proceedings within one year of becoming aware of the infringement but may do so within a maximum of three years of the infringement taking place.

Cases reported to the equality body

Serbia

In Serbia, seven discrimination cases were reported to the CPE by Praxis within the framework of the project.

Discrimination cases related to legal status

In January 2021, F.B., a Roma woman from a municipality in Central Serbia, submitted a request to the Ministry of Foreign Affairs to obtain a birth certificate from Italy, which was rejected by this authority in February, with the explanation that she had not submitted proof that she was a citizen of the Republic of Serbia, and that she was a minor at the time of submitting the request. In May, F.B. applied again to the Ministry of Foreign Affairs to obtain a birth certificate on the international form required in these circumstances. Along with the request, she enclosed a photocopy of a one-time travel document with a photograph issued by a foreign body and a photocopy of birth certificates and certificates of citizenship of her parents, to prove her identity and her citizenship of the Republic of Serbia. In May, the Ministry of Foreign Affairs informed F.B. that it was not able to act upon the request, because she had failed to submit proof of citizenship or identity. F.B. was born abroad in 2003 to parents who were Serbian citizens at the time of her birth. F.B. had the right to acquire the citizenship of the Republic of Serbia based on origin, but she could not formally prove her citizenship until it was registered in the registry of citizens. In order to register her citizenship, F.

needed an excerpt from the birth certificate issued by the competent foreign registry office, which is why she addressed the Department for Consular Affairs of the Ministry of Foreign Affairs, which asked F. to enclose proof of her citizenship and identity. By acting in this way, the Ministry of Foreign Affairs of the Republic of Serbia put F.B. in a less favourable position in relation to citizens born abroad, who can formally prove their citizenship status and identity.

In June 2021, Praxis filed a complaint to the CPE. The CPE gave a positive decision in the case, issuing an opinion that the Ministry of Foreign Affairs violated the Law on Prohibition of Discrimination by failing to obtain a birth certificate for F.B. The Ministry of Foreign Affairs was recommended to take all measures within its competence so that F.B. could be handed a birth certificate from the Republic of Italy, and not to violate anti-discrimination regulations in the future.

S.B., a Roma woman from another municipality in Central Serbia, could not receive financial assistance aimed at mitigating the consequences of the Covid-19 pandemic, since the conditions for obtaining this assistance stipulated that she must have residence in Serbia and an ID card. However, through no fault of her own, the client could not obtain the latter because her request for residence registration had been continuously rejected by the police station responsible.²⁰ This situation unjustifiably excludes potential beneficiaries who do not have a registered address of permanent residence and an ID card, although providing financial assistance to mitigate the consequences of the Covid-19 pandemic is intended for all adult citizens of the Republic of Serbia. In June 2021, Praxis filed a complaint to the CPE against the National Assembly of Serbia. The CPE stated in its response that the National Assembly did not violate the regulations prohibiting discrimination by prescribing the conditions that an adult who was a citizen of the Republic of Serbia must have residency and a valid ID. The CPE also stated that the Ministry of Finance was sent recommendations for measures to find a solution for persons without registered residence, to exercise the right to financial assistance by amending the law or adopting a special regulation, stipulating specific measures for the said persons.²¹ This might be seen as a positive outcome of the initiative. On the other hand, the CPE recognized that problems with registration of residence mainly affect the Roma population, and in the procedure Praxis also filed a complaint against the police department for discrimination in the residence registration procedure. While the procedure before the CPE was pending, the client finally managed to register her residence and obtain an ID card, as the police department all of a sudden responded positively to the client's earlier request, of

which it informed the CPE. Due to these new circumstances, the CPE suspended the procedure against the police department. It may be assumed that the complaint submitted to the CPE against the police department affected the final resolution of the client's case, to her benefit, even though discrimination by the police was not established. It will, however, serve as a good example and have a preventive effect, reminding the authorities that such behaviour by the police is discriminatory and prohibited by law.

I was invisible for five years, no one wanted to help me for five years. Just because I came from abroad, they [the police department] thought I didn't belong here. I would never have had an ID card, had we not submitted the complaint against them and pointed out that they behaved badly. Now I am satisfied, when I walk down the street, I no longer need to be afraid. Earlier, the police stopped me without an ID card, warned and threatened me with punishment. Now I am free to move. (S.B., from Belgrade)

A.B., a Roma man, was deported from Belgium to the territory of Kosovo and Metohija in August 2017 with his wife and six children. In November 2017 he moved to in the municipality of M. with his family. Ever since, he had repeatedly requested the police department to register his residential address but was always refused by the police, who assumed that A.B. had no intention of permanently residing in the place where he lived and stating that there was no evidence to suggest that the reason for submitting the request was the registration of permanent residence. Although A.B. complied with all the police department's requests, his requests continued to be rejected with the justification that the applicant intended to abuse the right. In order to examine the merits of the request and determine the intention of permanent residence, the police department conducted field inspections, during which the complainant was found at the address where he lived. In addition, A.B. was requested to give a statement regarding the submitted request. In his statements, A.B. stated the reasons for submitting the request for registration of the address of permanent residence: 'The reason why I apply for registration of address of permanent residence in M. is that I am living there and since I came to Serbia I have not gone anywhere, except when I went to City of Nis to get an ID card, but I didn't do anything, because they told me that I don't have the right to apply to them.'

In its actions, the police department drew conclusions based on prejudice and acted under the influence of stereotypes about Roma. Beyond submitting a request to the police department on behalf of A.B., in parallel Praxis

reported the case to the CPE in February 2022. At the beginning of May 2022, the CPE was informed that A.B. registered his permanent residence address and obtained an ID card, as the police had finally and positively resolved his case.

In two different cases, two public notaries in separate municipalities refused to recognize the right of the lawyer to represent B.A. and S.K., both of whom were Roma, in the procedures for regulating their personal status and obtaining personal documents, because they did not have any document to prove their identity. Lack of personal documents is yet another problem that mainly affects Roma in Serbia, especially the most vulnerable ones who often have low levels of education and no knowledge of the legal procedures needed to be able to initiate the procedures for obtaining personal documentation on their own. Thus, being deprived of the possibility of obtaining legal representation in these cases, these persons are left at the margins of society, without access to justice and legal remedies.

In January 2022, Praxis submitted a complaint to the CPE in both cases. In May 2022, the CPE issued conclusions in both cases, suspending the procedures. The CPE stated that, since no formal decision was issued by the public notaries which would clarify the reason for refusal, the CPE could not determine exactly what had happened and why the notaries did not conduct did not verify power of attorney for the legal representatives to the complainants. Given the above circumstances and evidence, the CPE concluded that no connection could be established between the personal characteristics of the complainants and the actions of the public notaries, and that in these particular cases it could not be proved that the complainant was not provided with service due to their personal characteristics.

Cases related to discrimination in employment

M.V. and V.M., two Roma women who worked as cleaners in a local sports facility in a municipality in Central Serbia, were among a group of four Roma women who were constantly exposed to discriminatory treatment during work and whose employment was terminated by their employer in a discriminatory manner. As one of the complainants explained:

Earlier, during the previous administration, we got along as a family, not even a hint of discrimination – we were all equal. Since the new administration came, we have not been allowed to make coffee, there was no more coffee pot in the kitchen, they moved the coffee, they removed it ... as they removed us ... On 3 December, we were told that we no longer had jobs.. That morning, they did not want to tell us personally

while we were at work, but they called us on the phone when we left, saying: you no longer need to come, we no longer need you. We already knew that we were fired because we are different, because we are Roma. In every way they wanted to move us away. It was not discrimination – discrimination is a nice word – they humiliated us there – they looked at us with humiliating looks.

The employer stated that they no longer needed these women's services, while they retained a gardener, who was non-Roma and was employed at the same time as the Roma women. Thus, out of the five people once employed, those who were fired were all Roma. Praxis submitted a complaint to the CPE in these two cases in April 2022.

In May 2022, in one of the cases, the CPE required additional evidence, requesting the names of the individuals at the sports facility who were committing discrimination, and delivery of the statements of witnesses confirming the allegations in the complaint or their contact details so the CPE could contact them for a statement. Praxis submitted a response and provided the CPE with information on those who were discriminating against the Roma women, the statements of three witnesses confirming the allegations in the complaint, as well as contact information for the fourth witness so that the CPE could contact him for a statement.

In the other case, occurring some time after the first incident, the CPE also requested additional evidence – information on the individuals who had committed discrimination, and the contact details of witnesses so that the CPE could contact them for a statement regarding the allegations stated in the complaint. What is striking in both cases is the fact that, even though the burden of proof should have been on the perpetrators, the additional supporting evidence was requested from the victims. At the time of writing this report, both cases were still pending.

They passed us, as if we did not exist, they ignored us. Nobody said or did anything concrete to us, but we felt bad, we felt that they were looking at us differently. We didn't want to stay longer than we had to, we were looking to finish the job as soon as possible and leave.
(V.M., Roma woman from K.)

We are happy that we are not alone, that someone recognized the injustice and stood by us. We did not want to remain silent, we wanted to say publicly what happened. For the sake of ourselves and others, for the community to understand that such behaviour is wrong and that it should be fought against.
(M.V., Roma woman from K.)

Hungary

In Hungary, three discrimination cases were reported to the DGET by Idetartozunk within the framework of the project.

Discrimination case related to one's ethnic origin and political opinion

In 2019, Cs.B. was elected as a member of the local Roma self-government body and as a member of the local council in Sz. municipality. At the interim local elections, held in 2020, Cs.B. supported another candidate and not the one who finally won the election to become mayor. Since his election, a series of problems have emerged in Cs.B. and the mayor's relationship. The mayor obliged Cs.B., as the only member of the Roma self-government, to call him 'Mr. Mayor' while other representatives addressed him in a more informal way. In addition, in 2020, Cs.B.'s temporary contract as a public worker ceased and the mayor did not authorize its extension; since then neither he nor his wife have been contracted as public workers. Cs.B. also attended a live-stream event on social media about public employment organized by the Roma self-government body. When he was asked how public employment had changed since the new mayor took office, he criticized the mayor. Later the mayor deducted 50 per cent of Cs.B.'s fee as a representative of the local municipal council for two months, arguing that he had violated the honour, authority and credibility of the municipal council, the mayor and the head of institution. Shortly after, the municipality issued payment orders against him for not paying certain local taxes and fees. Later the notary cancelled the unjustified payment obligation and the service provider confirmed that he did not have a debt.

Furthermore, in July 2021, the mayor stated in a public speech that 'it cannot be repeated what happened in the elections of 2019, namely that a Roma becomes the leader of the town and that Roma get in the council of representatives'. He further added that 'there is one representative with whom I cannot work', referring to Cs.B. The case was submitted by Idetartozunk to the DGET, stating that all these actions amounted to harassment of Cs.B. The submission was made in July 2021 and the DGET took till May 2022 to deliver a decision rejecting all allegations of discrimination. Cs.B. will appeal against the DGET's decision before the court.

The case could be precedent-setting, as the DGET has never before had a case in which a local councillor of Roma origin was the complainant. The case is of great importance because in an increasing number of municipalities Roma residents are being elected to the local council and thus are exposed to harassment, both because of their Roma identity and because of their

political opinions. In several cases, similar complaints have been received by the lawyers and mediators, which also means that this phenomenon is a problem at national level.

A lot of people are in a situation that they don't understand legal issues, that is what mayors take advantage of and they abuse it like it happened to me now. That's why it's important that there is someone who protects these people and can help them. In so many places, people live in fear of the mayor and the notary who completely make their life impossible.
(Cs.B., representative of the local council, Sz. municipality)

Discrimination case related to access to a sports facility

In 2021, Roma individuals established the D. sports club in B. municipality. Their aim was to play football in the third division of the county. For this, they needed a permit to be able to use a football pitch licensed by the Hungarian Football Federation. In B. municipality, there is only one such pitch operated by the local government. The president of the sports club contacted the local government and asked for permission to use the pitch. Orally, the mayor told them that they would get the permit, but later the municipality decided not to consent to the use of the pitch by the sports club. The justification of the decision of the municipality was that the football pitch was already very popular and that no more people could use it. However, this was not true as there were only matches every other week and the teams rarely used the pitch for training. Idetartozunk reported the case to the DGET who called the complainants to make a settlement offer if they so wished. The complainant only asked for permission to use the pitch. The municipality has not yet responded.

Wherever we asked for help, we didn't get it. You [Idetartozunk] are the last straw we can cling onto because we feel that we are right in this case. You are the only one to have helped us through legal support and we hope that the case will turn out well.
(S.L., president of the sports club)

Harassment

In the village of K., several houses were built, and two houses were to be renovated in the framework of a project funded by the European Union. V. and her son, L.V., lived in one of those houses and in 2018, they signed a contract with the municipality in which they donated their house to the municipality which in turn was obliged to renovate it.

For more than two years, nothing happened, while in 2020, instead of the full renovation of the house, as was stipulated in the contract, the municipality replaced the windows and the front door of the house, which was already in a deplorable state and was almost uninhabitable. Then V. and her son turned to one of their MPs for help. In 2021, the MP visited the village several times and shared the problems on social media as well. After that, the mayor constantly harassed the family. They were not able to participate in the public employment programme and when the municipality distributed potatoes among the families in need, they did not get any. Furthermore, they were fined for breaching the quarantine regulations when they stepped out in front of the house to get the family allowance from the postman. They had not been issued with any official requirement to quarantine, they only received that document some days later. In addition, whenever the family turned to the mayor, she rejected their requests saying that they should contact the MP instead. People in the village also started to make comments about them because of the MP's visit. Recently, on the eve of the parliamentary elections (2 April 2022), the local police arrested V. and her son, and at the police station they were asked whom they were going to vote for at the elections. In May 2022, Idetartozunk reported the case to the DGET.

No one helps us, only you [Idetartozunk]. We trust you. We asked for help from many people, and no one helped us.
(L.V., complainant from K. municipality)

In total, ten cases were reported to the national equality body in the two countries and four cases are still pending. In the six remaining cases, one decision was positive, while four were negative and in one of them the issue was solved while the case was still pending.

In Serbia, in the case of S.B. and A.B., we can assume that the fact that the cases were reported to the CPE led to a positive outcome, despite the CPE's negative decision or the fact that the case was still pending. Therefore, it seems that the fact that the cases were reported to the CPE put pressure on the police department and eventually resulted in a positive outcome in those cases. Even in those cases in which the CPE did not find discrimination or when the procedure was suspended, reporting the case was not in vain, as it contributed to build the practice of the CPE, challenging prejudices, and further encouraged Roma victims of discrimination and organizations to report cases more frequently.

In Hungary, Idetartozunk and the lawyer regret that the very knowledgeable staff of the former Equal Treatment Authority, who had much experience in discrimination cases, left when the former ETA was

Serbia		
Case	Rights at stake	Outcome
F.B.	Status	Positive decision: the CPE issued recommendations to the Ministry of Finance
S.B.	Status	The CPE did not find discrimination, but the case was solved as the police department finally registered the residence of the claimant
A.B.	Status	Suspended because while the case was pending, the police department finally registered the residence of the claimant
B.A.	Status	The CPE did not find discrimination
S.K.	Status	The CPE did not find discrimination
M.V.	Discrimination in employment	Pending
V.M.	Discrimination in employment	Pending
Hungary		
Case	Rights at stake	Outcome
Cs.B.	Discrimination case related to one's ethnic origin and political opinion	The DGET found that discrimination had not occurred
D. sports club	Discrimination case related to access to a sports facility	Pending
V. and L.V.	Harassment	Pending

merged with the Office of the Commissioner for Fundamental Rights in 2021 to become the DGET. The national network of equal treatment officers managed and run by the former ETA was also abolished, which makes it much more difficult for the complainants, particularly from the countryside, to reach the DGET with their cases. Although on the website of the former ETA, the cases are still searchable, other related reports and studies compiled by the authority are not accessible anymore.²² In the opinion of the legal staff, the attitude and the approach of the current DGET towards the complainants has changed for the worse: many of the submitted discrimination cases are either rejected or end with a negative ruling by the DGET. It is also concerning that in May 2022, the Office

of the Commissioner for Fundamental Rights has been downgraded from category A to B by the Global Alliance of National Human Rights Institutions (GANHRI), because it did not adequately address a number of human rights issues, including violations affecting marginalized ethnic minorities, LGBTQI+ people, refugees and migrants. Also, it did not turn to the Constitutional Court in certain politically sensitive cases which showed the lack of independence of the Ombudsman.²³ Reported discrimination cases not only contribute to the improvement of the access to justice of Roma by ensuring their rights per se, but also help to test the new equality body to ensure continued accountability and commitments to enforcing discrimination law.

5 Conclusion

Fieldwork

The fieldwork was very valuable in terms of raising awareness of the Roma community about discrimination and its manifestations, and acquainting them with the available legal mechanisms for protection of the right to equality. Interviews conducted with Roma by the mediators were also important as the problems they are facing are sometimes not discrimination but other human rights violations, and it helped both the mediators and the beneficiaries to distinguish between the two through actual examples. Thanks to the fieldwork, Roma are better acquainted with discrimination, but also with the competence and functioning of the equality body and the protection available to them, as well as understanding the importance of reporting discrimination.

However, particularly in Serbia, Roma were often reluctant to speak about discrimination, and it required some time to gain trust in the mediators and to share their experience. Furthermore, Roma often lack faith in institutions, not believing that reporting discrimination would improve their situation. They are also reluctant to report discrimination for fear of possible negative consequences in the future. However, even for those who do not wish to report discrimination cases at this point, the mediators' work has been beneficial in the long run, as Roma are better informed about discrimination and the protection mechanisms available to them, particularly if discrimination is repeated in the future. Raising awareness about discrimination, encouraging Roma to report cases, and increasing their trust in the mediators and in the institutions is a process that requires much time and that needs to be continued.

While all mediators successfully completed the online course on discrimination and attended the related workshop, they also received continuous coaching by the project partners during the fieldwork in relation to identification of cases and how to conduct interviews and provide support for victims. All mediators stated that this has been a valuable experience for them, both during the training and the fieldwork. It certainly helped that the complainants knew they could expect professional help. It was also important that the mediators attempted to advise on other cases or, if necessary, sought the help of lawyers.

Legal counselling

It also took some time for Roma community members to develop trust in the lawyer and legal staff. When project beneficiaries were finally willing to turn to a lawyer with their cases, it often turned out that the case was not discrimination but another type of human rights violation, or was not even a legal case. Legal counselling was also of particular importance as many Roma in need cannot afford to pay a lawyer, and in this way they were able to receive free legal assistance.

The general conclusion is that individuals who are discriminated against are usually socially vulnerable, without knowledge of relevant procedures and available protection mechanisms, and the legal counselling provided to them in the identified cases was extremely important at various levels: in raising their awareness about discrimination and protection mechanisms; in reducing discrimination against Roma, particularly by the institutions; in increasing the trust of Roma in institutions; in increasing the number of discrimination cases brought by Roma; and ultimately in raising public awareness about what constitutes discriminatory behaviour.

Reporting discrimination cases

Despite legal counselling being provided in many instances, when victims of discrimination were advised on the available legal remedies and mechanisms, they frequently decided not to take any actions for fear of further victimization. Mostly, where clients decided to seek further protection from discrimination, it was in cases in which they had already tried but failed to access some right (for example, when attempting to access health care, employment, services, residence registration or personal documents). When it was explained that there might be grounds for reporting discrimination in their cases, which could further help them access these rights, they were willing to report discrimination. It may be concluded that provision of adequate legal counselling and the trust they had in partners' legal staff were extremely important in encouraging them to report the cases to the equality body. Furthermore, most Roma clients were not aware of the possibility of seeking protection from discrimination, and

also lacked knowledge of the relevant procedures and institutions that could provide protection, which further emphasizes the importance of the provision of free legal assistance. In Serbia, it is particularly important as, despite the recent adoption of the Law on Free Legal Aid, the free legal support system is not yet functional, and clients are not aware of the possibility to seek free legal support from municipal free legal support services, as there was no awareness-raising campaign following the entry into force of the law.

In Serbia, there were fewer cases where discrimination was obvious and direct, and where evidence was readily available. The counselling therefore required experienced staff to identify discrimination and provide legal assistance. In some cases, it was also difficult to argue that discrimination had occurred due to the clients' belonging to the Roma minority, even though problems with the registration of residence or obtaining personal documents particularly affect the Roma population. In such situations, Praxis' legal staff strove to make a connection between the discriminatory behaviour and the fact that these types of behaviour disproportionately impact Roma and aggravate their social position, leaving them on the margins of society.

In Hungary, the discrimination cases had a particular importance following the merger of the former Equal Treatment Authority into the Office of the Commissioner for Fundamental Rights. Given that the DGET is a relatively new institution, the discrimination cases could test how well the revised system of protection against

discrimination functions and what type of decisions the institution takes in various discrimination cases by creating its own jurisprudence.

Reporting discrimination is especially important when it comes to increasing the visibility of discrimination against Roma. From the point of view of those affected, reporting discrimination contributes to building trust in the institutions of the system for protecting against discrimination. Furthermore, it may serve to prevent or deter potential perpetrators by adopting recommendations (in Serbia) or by ordering the cessation of the infringing situation, prohibiting future infringing conduct or even imposing a fine (in Hungary).

Together, fieldwork, legal counselling and reporting discrimination cases significantly contributed to raising awareness among Roma about discrimination and the available legal remedies, thus increasing their access to justice by helping them resolve the situation either through mediation or by reporting the case to the equality body.

I trust that more and more of my Roma compatriots will stand up for themselves. Stand for their family, their community, for all Roma in Hungary. This programme gives them [Roma] faith and hope that human dignity and human rights are the most important and that they should believe in themselves and take action against the repressive power and system by all legal means.

(István Nagy, Roma mediator, Hajdú-Bihar county)

6 Recommendations

Serbia

- Strengthen citizen support systems in local self-governments, particularly in cases of discrimination, hate speech and human rights violations. Such a system should include information on the exercise and protection of fundamental rights, the prevention of discrimination and inclusive access to the exercise and protection of human rights.
- Increase involvement of Roma in the development of local policies at early stages, and in their adoption and implementation, so that the needs of the community can be incorporated into public policies, including anti-discrimination efforts.
- Enhance the capacities of institutions to address the needs and problems of vulnerable social groups, and the risk of discrimination they face.
- Increase the capacities of municipal providers of legal support and assistance to ensure the adequate provision of free legal help in accessing rights, and especially in protection from discrimination.
- Strengthen the capacity of CSOs dealing with the rights of the Roma for representation and provision of support to the community in discrimination cases.
- Organize an information campaign to raise awareness of the members of the Roma community about the right to equality and the protection mechanisms available, in particular the institution of the Commissioner for Protection of Equality, to increase its visibility.
- Raise public awareness about discrimination, especially among employers, bearing in mind that employment is a field in which the Roma are most exposed to discrimination, and promote a positive image of groups at risk of discrimination.

Hungary

- Re-establish the state's free legal assistance network, with local contact points where Roma and other victims of discrimination and other human rights violations could turn for free legal counselling.
- Restore the national network of equal treatment officers for the Directorate-General for Equal Treatment, where victims of discrimination residing in the countryside can also report their cases.
- Launch awareness-raising campaigns among Roma to disseminate information about the competence and functioning of the Directorate-General for Equal Treatment and the available legal remedies in discrimination cases.
- Ensure through appropriate legislation that CSOs are also able to represent clients in discrimination cases before the courts.

Notes

- 1 Project number: 881888 – REILA – REC-AG-2019 / REC-RDIS-DISC-AG-2019, funded by the European Union's Rights, Equality and Citizenship Programme (2014–20).
- 2 Bašić, G., *Roma in the Republic of Serbia: The Challenges of Discrimination*, London, MRG, 2021; Király, K.J., Bernáth, G. and Setét, J., *Roma in Hungary: The Challenges of Discrimination*, London, MRG, 2021.
- 3 Republic of Serbia, 'Census 2011: Population by nationality, sex, city and municipality', available at <https://www.stat.gov.rs/sr-latn/oblasti/popis/popis-2011/popisni-podaci-eksel-tabele/>
- 4 Goran, B. and Božidar, J. *Umetnost preživljavanja – gde I kako žive Romi u Srbiji*, Belgrade, Institut za filozofiju i društvenu teoriju, 2005.
- 5 Bašić, 2021, op. cit., p. 6.
- 6 Ibid., p. 7.
- 7 Ibid., p. 16.
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- 9 Commissioner for Protection of Equality, *Regular Annual Report of the Commissioner for Protection of Equality for 2021*, Belgrade, 2022.
- 10 János, P., Patrik, T. and Zoltán, P., 'Changes in the spatial distribution of the Roma population in Hungary during the last decades', *Területi Statisztika*, vol. 58, no. 1 (2018), pp. 21–2. Available at: <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>
- 11 Király, Bernáth and Setét, op. cit., pp. 5–7.
- 12 Ibid., p. 9.
- 13 Equal Treatment Authority, *Annual Report 2019, 2020*, Budapest pp. 6–9.
- 14 Király, Bernáth and Setét, op. cit., pp. 10–11.
- 15 FRA (European Union Agency for Fundamental Rights), *Second European Union Minorities and Discrimination Survey Roma – Selected Findings*, 2016, p. 41. Available at: <https://fra.europa.eu/en/publication/2016/second-european-union-minorities-and-discrimination-survey-roma-selected-findings>
- 16 The cases were identified in two municipalities, three by Praxis and five by Roma mediators.
- 17 The case was identified before 1 November 2021 by Praxis in the framework of the project.
- 18 ICSSZ 50826-1/2005-0803 RIF
- 19 https://english.nmhh.hu/article/190111/What_is_considered_racist_hateful_content
- 20 The case was identified before 1 November 2021 by Praxis in the framework of the project.
- 21 The CPE's recommendations for the Ministry of Finance: <http://ravnopravnost.gov.rs/preporuka-mera-ministarstva-finansija-2/>
- 22 The website can be reached at: <https://www.ajbh.hu/en/ebff-jogesetek>
- 23 <https://dailynewshungary.com/hungarian-ombudsman-demoted-by-his-foreign-colleagues/>

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Building trust in equality: Enhancing access to justice for Roma in Hungary and Serbia

In Hungary and Serbia, Roma routinely experience discrimination, typically fuelled by negative attitudes and prejudices, in a variety of areas of their lives. Despite the high number of occurrences, incidents of discrimination typically go unreported, with Roma themselves often reluctant to file complaints out of fear of retaliation or because they lack faith in the effectiveness of the justice system. In both countries, Roma are in need of support since they often lack knowledge of the legal definition of discrimination and the remedies available for them to seek redress.

The purpose of this report is to summarize the outcomes of the field visits and legal work conducted in the framework of the 'Roma Equality through Increased Legal Access' (REILA) project. It presents the lessons learned from the fieldwork, based on mediators' experiences, and compiles information about discrimination cases in both countries, including their resolution. It also maps how field visits and legal work contributed to raising awareness among Roma about their rights.

The legal work of the REILA project aimed to address the obstacles that Roma face in accessing justice, by raising awareness about their rights and the available legal remedies through mediators, and providing free legal counselling and support in reporting their cases to the national equality body. In this way, partners aimed to encourage Roma to engage with the national system of institutions established for protection against discrimination, to seek legal remedies, and to ensure that incidents of discrimination do not remain invisible. Furthermore, the project findings from these two countries can potentially be replicated in other European contexts where Roma face similar difficulties with regard to discrimination.

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