



# **VIOLENT ATTACKS AGAINST ROMA IN HUNGARY**

**TIME TO INVESTIGATE  
RACIAL MOTIVATION**

**AMNESTY  
INTERNATIONAL**



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*Cover photo:* The yellow house in Tatárszentgyörgy, Hungary, February 2010, where Róbert Cs. and his five-year-old son were killed on 23 February 2009. They were shot as they fled from the house following a reported arson attack.

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# GLOSSARY

CERD Committee on the Elimination of Racial Discrimination

ECHR European Convention for the Protection of Human Rights and Fundamental Freedoms

ECtHR European Court of Human Rights

ECRI European Commission against Racism and Intolerance

ERRC European Roma Rights Centre

ETA Equal Treatment Authority

EU European Union

EUMC European Monitoring Centre on Racism and Xenophobia

FRA European Union Fundamental Rights Agency

HCC Hungarian Helsinki Committee

ICERD International Covenant on the Elimination of All Forms of Racial Discrimination

IPCB Independent Police Complaints Board

NBI National Bureau of Investigation

NEKI Legal Defence Bureau for National and Ethnic Minorities

NGO Non-governmental organization

NSO National Security Office

OSCE Organization for Security and Co-operation in Europe

OSCE's ODIHR: the OSCE's Office for Democratic Institutions and Human Rights

TASZ Hungarian Civil Liberties Union

6 Violent attacks against Roma in Hungary  
Time to investigate racial motivation

**MAP OF HUNGARY**



**Series of attacks 2008-2009**

- |                     |  |
|---------------------|--|
| 1. Galgagyörk       | 21 July 2008, several shots were fired at three houses of Romani people.   |
| 2. Piricse          | 8 August 2008, Molotov cocktails were thrown at two houses of Romani people.   |
| 3. Nyíradony        | 5 September 2008, Shootings at a house of Romani people.   |
| 4. Tarnabod         | 29 September 2008, Molotov cocktail attacks and gunfire at five houses of Romani people.                             |
| 5. Nagycséc         | 3 November 2008, a Molotov cocktail was thrown into the house of a Romani family.                                    |
| 6. Alsószolca       | 15 December 2008, shots fired at a woman (not injured) and a man (received life threatening injuries).               |
| 7. Tatárszentgyörgy | 23 February 2009, Róbert Cs. and his 4-year-old son were killed.   |
| 8. Tiszalök         | 22 April 2009, a 54-year-old Romani man was shot dead.   |
| 9. Kisléta          | 2 August 2009, murder of M.B., a widow living with her 13-year-old daughter K.B. who survived with serious injuries. |

**Other cases mentioned in the report**

- |               |   |
|---------------|---|
| Szigetvár     | 22 January 2008, a Romani woman and her daughter attacked by a group of five young people.  |
| Fényeslitke   | 15 June 2008, a 14-year old Romani boy K.H. was stabbed to death and his cousin F.N. suffered serious injuries.   |
| Olaszliszka   | Place of pilgrimage for anti-Roma groups after the killing of a non-Roma teacher by a group of local Roma, following the near miss road accident involving a Roma girl. |
| Kiskunlacháza | November 2008, 14 year-old girl murdered, mayor makes statement that she was killed by Roma.  |

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# 1. INTRODUCTION

**“It does not matter what we do, how we try to prove to the majority of the society and to ourselves that we can get along. The only thing that matters is that we were born Gypsy.”**

Ágnes Kóka, relative of a victim killed in Tiszalök

Since 2008 Amnesty International has received reports of a number of violent attacks against Roma and their properties in Hungary. These reports described, among others, a series of nine attacks against members of the Romani communities across Hungary which occurred in 2008 and 2009 and which claimed six lives.

The Hungarian authorities have a duty to prevent discrimination and ensure redress for victims of hate crimes. Amnesty International’s research into some of the nine attacks and other reported incidents indicates that the Hungarian authorities failed to identify and respond effectively to violence against Roma in Hungary, including by not investigating possible racial motivation. This report details the shortcomings in the responses of Hungarian criminal justice system in relation to hate crimes. Although there are existing provisions to combat hate crimes they are not being properly implemented, including because the police lack capacity to recognize and investigate hate crimes and lack training to enhance such capacity. There are no guidelines for police offices on how to investigate hate crimes and how to treat alleged victims – and neither are there guidelines for prosecutors on how to oversee these investigations. The assistance and support provided by the state for victims of hate crimes are also inadequate. In terms of prevention the authorities lack effective measures to map the nature and scale of the issue, including because they do not collect disaggregated data on hate crimes, thereby hampering their ability to identify trends and craft relevant policy responses.

The report concludes with recommendations to the authorities to ensure that effective and human rights compliant measures are taken to prevent racially motivated attacks in Hungary in the future and that any such incidents are promptly, independently, impartially and thoroughly investigated; those responsible for criminal conduct are brought to justice in fair proceedings; and the victims are treated with dignity and receive adequate reparation, in a manner that is consistent with the authorities’ obligations under international human rights law.

Hungary is bound, as a party to a range of international human rights treaties<sup>1</sup> to take

effective measures to prevent discrimination, and protect people from violent attacks such as those that were committed in 2008-2009 or any other new attacks against Roma. When such incidents occur, the authorities are required to initiate prompt, effective and independent investigations, which must be thorough. If there are indications or allegations that an act of violence or other crime has been motivated by racist attitudes, the authorities must investigate this and their response must be vigorous, reasserting society's condemnation of racism and racial hatred. Hungary's duties under international law to ensure respect for the rule of law without discrimination also require that the authorities take steps to ensure that minorities have confidence in the ability of the authorities to protect them from threats of racist violence.<sup>2</sup>

Under the OSCE Office for Democratic Institutions and Human Rights definition, hate crimes are criminal offences carried out against people or their property because of their real or perceived connection, attachment, affiliation, support or membership of a group. A group may be based upon characteristics such as real or perceived race, national or ethnic origin, religion, mental or physical disability, sexual orientation, or other similar factor.<sup>3</sup>

This report focuses on the authorities' responses to hate crimes committed against Roma. The terms "racism" and "racist motivation" used in this report are understood in a broader sense. They include phenomena such as xenophobia, anti-Semitism and intolerance. The terms "racially-motivated crimes" and "hate crimes" here are used interchangeably. However, the structural shortcomings identified in the Hungarian system go beyond the crimes carried out against Roma, and have an impact on the other groups affected by hate crimes.<sup>4</sup>

## METHODOLOGY

The report is based on research carried out during visits by Amnesty International delegates in February and March 2010 in five Romani communities affected by violent attacks by private individuals (known as non-state actors). Amnesty International delegates interviewed families directly affected by the attacks; other members of the communities; representatives of local Roma self-governments<sup>5</sup>; representatives of local governments; police officers at the county and local levels; county prosecutors and county judges. The research involved interviews with authorities at the national level including the Deputy Minister of the then Ministry of Justice and Law Enforcement; the chairperson of the parliamentary Human Rights Committee; the Chair of the parliamentary inquiry into the work of the National Security Office; representatives of the Office of the Prosecutor General; representatives of the National Police, including the National Bureau of Investigation, which carried out the investigation into the series of attacks against Roma in 2008 and 2009; representatives of the Independent Police Complaints Board and the Parliamentary Commissioner for the Rights of National and Ethnic Minorities. Amnesty International delegates also interviewed staff of NGOs working in the fields of human rights and anti-discrimination, Roma activists and lawyers working on behalf of victims of the attacks.

Information on individual cases set out in this report is based on interviews with victims' families and their legal representatives, interviews with the police, NGOs, and information from court documents. Other sources of information include: position papers of the Hungarian government; police statistics; reports of monitoring bodies, including the Parliamentary Commissioner for the Rights of National and Ethnic Minorities; and findings of the Independent Police Complaints Board.



## 2. BACKGROUND

Since 2006, Hungary has been going through political upheaval culminating in the resignation of the socialist Prime Minister Ferenc Gyurcsány in March 2009. To compensate for the budget deficit and mitigate the deepening economic crisis, Hungary took out a €20 billion emergency loan from international financial institutions and the EU in 2009. The receipt of these funds was conditional among other things on cuts in public sector wages, pensions, social benefits and other government spending.<sup>6</sup>

Roma in Hungary are severely affected by poverty. According to the 2005 World Bank report, poverty among Roma reached 26.3 per cent – seven times the poverty of non-Roma which amounted to 3.6 per cent.<sup>7</sup> The Romani community in Hungary is severely affected by marginalization and discrimination in access to education, housing and employment. Romani children are frequently placed in special education designed for children with mental disabilities and are segregated in separate Roma-only classes and schools. Discriminatory rules and practices of local authorities towards Romani families impede their access to social housing.<sup>8</sup> The unemployment rate of Roma is estimated to be 70 per cent, more than 10 times the national average.<sup>9</sup>

In its report on the violent incidents against Roma in Hungary published in June 2010, the OSCE-ODIHR noted that Roma were more susceptible to become “scapegoats” and blamed for the country’s existing socio-economic problems, as a larger proportion of them depended on state support.<sup>10</sup> An increase in the number of racist attacks was acknowledged by the Deputy Minister of the Ministry of Justice and Law Enforcement, András Turi. One of the reasons for this increase, he told Amnesty International in February 2010, was the prevailing strong anti-Roma sentiment. In a statement in February 2009, the European Commissioner for Employment, Social Affairs and Equal Opportunities, Vladimír Špidla, expressed concern about attacks against members of the Romani community in Hungary; he considered that in some cases, Roma were being made scapegoats for wider societal problems.<sup>11</sup>

Since 2006, international human rights monitoring bodies, national officials, NGOs and research institutions have expressed their concerns over an increase of racial prejudice and intolerance in Hungarian public discourse.<sup>12</sup> In his 2006 Report, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities quoted a 1997 report of the Hungarian Gallup Institute, according to which “every second Hungarian adult openly declared that they were averse to Gypsies. According to the 2005 TÁRKI analysis... 80 per cent of the Hungarian adult population thinks that the problems of the Roma would be solved if they would finally start working, and 62 per cent agrees with the statement that the criminal tendency is in the blood of Roma.”<sup>13</sup> In his analysis of the findings of public opinion surveys, the Parliamentary Commissioner warned that in Hungary, anti-Roma prejudices were not considered “unfit for polite society”.

In August 2007, the radical right-wing Hungarian Guard was established. In July 2009 the Budapest Court of Appeal banned the organization. In its judgment the Court of Appeal concluded that the activities of the Hungarian Guard overstepped its rights as an association and curtailed the rights and freedoms of the Roma. Between its establishment and December

2009, when the ban was confirmed by the Supreme Court, the Hungarian Guard members, dressed in uniforms, held rallies and demonstrations throughout the country, including in villages with large Romani populations, and called for the defence of “ethnic Hungarians” against so-called “Gypsy crime”.<sup>14</sup> One of the Hungarian Guard demonstrations “against Roma crime” was organized in Tatárszentgyörgy on 9 December 2007. According to the media, speakers at the rally demanded a policy of segregation and called for the scrapping of all affirmative action for Roma.<sup>15</sup> The Hungarian Guard has close ties to Jobbik, a political party established in 2002 which frequently uses strong anti-Roma and increasingly anti-Semitic rhetoric<sup>16</sup>, which currently holds three out of 22 seats Hungary has in the European Parliament. In the April 2010 general elections, the party received 12 per cent of the votes and 47 seats thus ending up as the third biggest party in the Hungarian Parliament<sup>17</sup>.

Widespread prejudice against Roma reproduced and strengthened through the “Gypsy crime” narrative has been adopted, to varying extents, by both the media and the political establishment. The narrative makes a link between crime and ethnicity despite the fact that ethnically disaggregated data on criminality are not collected in Hungary. As illustrated by the two following cases, this anti-Roma sentiment is increasingly colouring discussions on crime.

#### Olaszliszka

An emblematic case of what is supposed to represent “Gypsy crime” and what is often used often in anti-Roma discourse happened in 2006 in Olaszliszka village in eastern Hungary. According to the media reports, Lajos Szögi, a non-Roma teacher was driving through the village and almost ran over a Romani girl. A group of local Roma surrounded the car, pulled Lajos Szögi out and murdered him. During the trial that followed the investigation, one man was sentenced to life imprisonment for murder, five people were given 15-year prison sentences, and two others were given 10 years in a juvenile detention centre. Since then, Olaszliszka has become a place of pilgrimage for different anti-Roma groups, including the Hungarian Guard.

#### Kiskunlacháza

Following the murder of a 14-year-old girl in November 2008 in Kiskunlacháza in central Hungary, the local mayor’s interventions created the public impression that the perpetrators were Roma although the police had never made such a claim.<sup>18</sup> The local government held a demonstration following the killing ‘for life against violence’, where the mayor, József Répás made a speech implying that the killers were Roma. Seven months later, a non-Roma man admitted to have committed the murder. Almost a year later, at a demonstration organized by Jobbik attended by 300 members of the banned Hungarian Guard, the mayor read out his letter written to the Prime Minister, in which he wrote: “The government did everything to ban the Hungarian Guard, claiming that they create fear. But why do they not ban the free Roma troops that, being armed, hold entire counties in terror and can even attack police officers without consequences?”<sup>19</sup> On 19 January 2010, the Equal Treatment Authority<sup>20</sup> declared that the mayor violated the Act on Equal Treatment and called on him to abstain from unlawful, harassing and discriminatory oral and written statements and ordered that the decision be made public.

The perception of Roma as a source or a potential source of crime has been identified in research by Hungarian Helsinki Committee (HHC) into ID checks carried out in 2007 and 2008. One of the findings was that Roma were disproportionately targeted by the “stop-and-search” practice by the police. According to the HHC report, Roma are three times more

likely to be stopped for ID checks than non-Roma.<sup>21</sup> Notwithstanding the absence of data on the ethnicity of perpetrators or victims, media, politicians and representatives of police speak regularly about “Roma perpetrators”. For example, on 30 January 2009, the head of Miskolc Police Headquarters, Albert Pásztor, told the press that all the robberies in the preceding months had been committed by Roma. He also said that it was the duty of the police to raise awareness of the inhabitants concerning the Roma issue, and advised that Hungarians should refrain from attending bars in parts of the town to avoid becoming victims of Roma perpetrators.<sup>22</sup> Although the National Police Headquarters initially suspended Albert Pásztor for these comments, following support expressed by the local and regional police branches and demonstrations, the Head of the National Police lifted the suspension two days later. This decision was approved by the Minister of Justice and Law Enforcement.

In May 2009 Jobbik signed a cooperation agreement with the Independent Police Trade Union, a group with almost 6,000 members which is about 13 per cent of the Hungarian police force<sup>23</sup>. Under this agreement, Jobbik – if it becomes part of the government – reportedly committed itself to represent various proposals made by the trade union as a “key point in coalition negotiations”, including the reintroduction of the death penalty. The Union, on the other hand promised to actively participate in drawing up the party’s programme on public order and employment policy questions.<sup>24</sup> The agreement raised concerns over the spread of anti-Roma sentiments and anti-Semitism in the Hungarian police force. Media sources reported that an investigation by Hungary’s Chief Public Prosecutor’s Office had concluded that the cooperation agreement should be cancelled as the Union’s president and general secretary had not been legally authorized to sign the document.<sup>25</sup>

OSCE-ODIHR noted that hate crimes arise from specific social, political and economic conditions that foster stereotypes and prejudices. The importance of these contextual conditions have been recognized by states – including Hungary – which have repeatedly made commitments to counter prejudice and stereotypes<sup>26</sup> and expressed their concerns over “racist, xenophobic and discriminatory public discourse”.<sup>27</sup>

Given the level of prejudice towards Roma in Hungary, it is necessary to examine what mechanisms exist to prevent and prohibit discrimination in Hungary, and what mechanisms there are in the Hungarian criminal justice system to respond to racially motivated incidents and crimes in a manner which ensures the victims’ access to justice and reparation without discrimination. For example, what happens in situations when members of the Romani community – perceived as a source of crime – become victims of crime?

## **VIOLENT ATTACKS AGAINST ROMA 2008 TO 2009**

Between January 2008 and August 2009, members of the Romani community in Hungary were subjected to a series of Molotov cocktail attacks and shootings in which six people died, as well as numerous other attacks that did not hit the headlines.<sup>28</sup> These attacks against Roma in Hungary deeply traumatized both the individuals affected and their community.

## **SERIES OF ATTACKS AGAINST ROMANI COMMUNITIES 2008 – 2009**

According to the police<sup>29</sup>, there were nine attacks against Romani communities in 2008 and 2009 which bore similar characteristics. The perpetrators used Molotov cocktails and firearms; there were usually two people shooting from very close range using shotguns. Although the victims of the attacks lived in various places across the country, their houses were mostly located on the peripheries of settlements close to motorways. The attacks caused fear among the Romani community throughout the country. The police reacted by taking several measures within a programme that was supposed to enhance community safety. Initially, the measures were taken in counties where the attacks were carried out. In April 2009 they were extended to “vulnerable settlements” where police believed similar attacks could be expected. These areas were patrolled at night and in early morning hours.

Amnesty International was told by a representative of the National Bureau of Investigation (NBI), an agency within the National Police focusing on serious crimes, that after the fifth incident in November 2008 which resulted in the killing of two people in Nagycsécs, the NBI started investigating the five incidents which had already occurred as a series of crimes with possible racial motivation. A slightly different perspective was given in April 2009 by the Hungarian Embassy in the USA when summarizing measures taken by the Hungarian authorities to address the violent crimes committed against members of the Romani community. According to this summary, the investigations into the killings in Nagycsécs and Tatárszentgyörgy were “still under way. However there was no sign (inscription, flyer, etc.) that would have indicated a clearly racist motive, and neither...[was] there any extremist or illegal organisation, which would have ‘assumed responsibility’ for the act.”<sup>30</sup>

The following nine incidents are considered by the police to have formed part of this series allegedly carried out by the same perpetrators:

Shortly after midnight on 21 July 2008, several shots were fired at three Romani houses in Galgagyörk. Nobody was injured. During the police investigation the police considered racial motivation and inter-community violence. A few weeks before the incident there had been clashes between the Hungarian Guard and the Romani community in the village.

On 8 August 2008 Molotov cocktails were thrown at two Romani houses on the outskirts of the village of Piricse. After the Molotov cocktails were thrown, the perpetrators started shooting. As a result, one person suffered life-threatening injuries.

There were two attacks in September 2008 in which no one was injured: one attack involved shots fired at the house of a Romani family in Nyíradony on 5 September, and in the other attack Molotov cocktails were thrown and gunshots were fired at five houses of Romani families in Tarnabod on 29 September.

During the night of 3 November 2008, a Molotov cocktail was thrown into the house of a Romani family in the village of Nagycsécs. Two people were shot and killed when they tried to escape the house after it was set on fire.

A Romani man suffered serious and his partner minor injuries in Alsószolca as a result of two shots on 15 December 2008.

Róbert Cs.<sup>31</sup> and his four-year-old son were shot dead on 23 February 2009 in Tatárszentgyörgy after they attempted to leave their house which had been set on fire by Molotov cocktails. The initial police investigation treated the case as an accident. The autopsy later confirmed that the victims died of gunshot wounds (see detailed description of the case in Chapter 7).

A 54-year-old Romani man was shot dead on 22 April 2009 in Tiszalök when he was leaving for work. The then Prime Minister described the killing as a “disgraceful, sinister and shameful assassination”.

The ninth attack in the series was carried out in the village of Kisléta on 2 August 2009 and resulted in the murder of M.B., a widow, and serious injury to her 13-year-old daughter K.B. who survived. The attack has been condemned by government officials, and the then Prime Minister said that “this new inhuman attack targeted Roma, but the murderers attacked the whole nation”.

Victims of this series of violent attacks against Roma in Hungary in 2008-2009 included a couple in their forties, an elderly man, a father and his four-year-old boy, and a single mother with a 13-year-old girl, all living in villages throughout the country. The police grouped these nine attacks and investigated them as a series of organized crimes against Roma. The investigation was led by the National Bureau of Investigation (NBI). Other crimes carried out against members of the Romani community during the same period of time were grouped under “sporadic, unorganized attacks” and were not investigated by the NBI.<sup>32</sup> In November 2008, the police created a special investigation unit with the NBI consisting of 50 members, established specifically to investigate the series of attacks. The unit was then strengthened in April 2009 to 100 members. On 21 August 2009 NBI officers arrested four people in Debrecen – the suspected perpetrators of the series of organized crimes.<sup>33</sup> In late June 2010, the police announced that they had completed the investigation and concluded that the four suspects should be charged on the grounds of multiple coordinated homicide, robbery and abuse of weapons as well as vandalism. Of the four, three are charged on the basis of DNA and weapons analysis; the fourth individual is being treated as an accomplice.<sup>34</sup> In September 2010 the Pest County Prosecutor submitted the indictment in the case of the series of attacks against Roma. Under the indictment, three men are now reportedly being charged with multiple homicide for “base reasons”<sup>35</sup>. The fourth suspect is being charged for giving assistance to the crime of pre-meditated multiple homicide.<sup>36</sup>

### 3. HATE CRIMES = TRAUMATIZING CRIMES

“To this day [18 months after the killing], I’m considering suicide. I cannot get it out of my head... Several times I went to the rail tracks [thinking of jumping under the train]. It is very difficult for me, but also for my wife and the entire family.”

József H., father of Romani boy who was stabbed to death in Fényeslitke in June 2008

Under the OSCE definition, hate crimes are understood as “criminal offences, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a group.”<sup>37</sup> The European Court of Human Rights (hereafter European Court) has underscored that racial violence – a specific form of hate crime, motivated by racial hatred – is an affront to human dignity and requires special vigilance and vigorous reaction.<sup>38</sup>

Hate crimes affect society as a whole as well as the individuals subjected to them and their communities. They are sometimes referred to as “criminal manifestations of prejudice” in which victims are assaulted both physically and emotionally as such crimes attack the core of their identity.<sup>39</sup> Victim impact studies recognize that victims of hate crimes experience intense feelings of vulnerability, anger and depression, as well as difficulties in interpersonal relations which are symptoms of post traumatic stress disorder. According to research by the American Psychological Association, hate crimes victims need more time to overcome their ordeal than victims of non-bias crime.<sup>40</sup> Moreover, hate crimes also affect the community or group to which the victim belongs. “Members of the same group are victimized... Victims of hate crimes, and the groups to which they belong, may avoid particular businesses... and adjust their daily routines... for fear of being targeted.”<sup>41</sup> The impact of hate crimes, however, goes beyond an individual and the community to which he/she belongs to – they violate societies’ values of equality among citizens. As the European Court stated in *Nachova and others v. Bulgaria*:

*“Racial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for*

*this reason that the authorities must use all available means to combat racism and racist violence, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of its enrichment.*"<sup>42</sup>

The series of crimes carried out between January 2008 and August 2009 targeting Roma and their property has created an atmosphere of fear in the Romani community. During interviews with members of the Romani community in affected towns and villages, Amnesty International was told that they do not feel safe:

*"After this [killing of M.B. in Kisléta] happened, I no longer sleep next to the door."*<sup>43</sup>

Relative of M.B.

*"Fear spread to other villages and other counties. Roma were afraid everywhere, they felt that the police are not able to protect them."*

Representative of the Roma Self Government in Kisléta

The fear of further attacks and the belief the authorities were not taking sufficient protection measures, led some Romani communities to organize voluntary patrols in an effort to provide safety for their members.

*"We still [get] signals... that [Roma] organized voluntary patrols and these volunteers illegally stopped strangers' cars and... tried to check their identity."*

Gábor Kicsa, Hungarian National Police

## 4. INTERNATIONAL LAW AND STANDARDS ON HATE CRIMES

As a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the authorities in Hungary are obliged to “prohibit and bring to an end, by all appropriate means, including legislation..., racial discrimination by any persons, group or organization.”<sup>44</sup> ICERD defines racial discrimination as:

*“...any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or other field of public life.”<sup>45</sup>*

Hungary is also a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Under the ECHR, Hungarian authorities have obligations to respect and protect a range of rights without discrimination, including the right to life and the right to be free from torture and other ill-treatment, of people within their jurisdiction. The authorities are also required to ensure that prompt, independent, impartial and adequate investigations are carried out into cases of alleged violations of the right to life and the right to be free from torture or other ill-treatment, whether the alleged perpetrators are state or non-state actors.

The European Court of Human Rights has clarified that the duty to protect the right to life not only enjoins authorities of the state to refrain from the intentional and unlawful taking of life but also to take appropriate steps to safeguard the lives of those within its jurisdiction.<sup>46</sup> This includes the duty to put in place effective criminal law provisions punishable by appropriate penalties to deter the commission of offences against the person, which are backed up by law enforcement machinery for the prevention, suppression and sanction of breaches of such laws. It also requires the authorities in certain well-defined circumstances to take preventative measures to protect an individual whose life is at risk from another individual.<sup>47</sup>

The European Court of Human Rights has also clarified the requirements for investigations into violations of the right to life.<sup>48</sup>

- The requirement to conduct an **adequate investigation** means that investigation must be capable of leading to the identification and punishment of those responsible. It involves among other things ensuring that ‘all reasonable steps’ have been taken to secure the evidence concerning the incident, including eyewitness testimony and forensic evidence. Any deficiency in the investigation which undermines its ability to identify the perpetrator or perpetrators will risk falling foul of this standard.<sup>49</sup>

- **Prompt investigation** requires, among other things, that immediate steps are taken to gather evidence and that it is completed within a reasonable time and, in any case, conducted with all the necessary diligence.<sup>50</sup>



- **Transparency** requires that the investigation or its results be open to a sufficient amount of public scrutiny, to secure accountability, maintaining public confidence in the authorities' adherence to the rule of law and to prevent any appearance of collusion in or tolerance of the unlawful acts.
- The Court has also clarified that in all cases, the next-of-kin of the deceased must be **involved** in the procedure to the extent necessary to safeguard his or her legitimate interests.<sup>51</sup>

When it comes to hate crimes, the Hungarian authorities have a duty under the ECHR to prohibit and diligently investigate possible incidents of racially motivated violence and to bring to justice those responsible. These obligations have been clarified by the European Court in several judgments including *Nachova and others v. Bulgaria* referred to above. When investigating violent incidents, the authorities have a duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the event. The obligation to investigate possible racial motivation of attacks applies to attacks believed to have been carried out by state and non-state actors alike. In the case of *Šečić v. Croatia*, concerning police investigations into a racist attack against a person of Roma origin by individuals suspected of belonging to a skinhead group, the European Court underlined that “[t]reating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights”.<sup>52</sup>

If members of an ethnic group are specifically targeted because of the fact that they belong to the given group, violent attacks against them are a form of discrimination and thus need to be investigated as such. In the *Stoica v. Romania* judgment the European Court underlined that when investigating possible racist crimes the authorities must actively consider whether a racist motive existed:

*“[W]hen investigating violent incidents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events... A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention.”*<sup>53</sup>

The obligation of Hungary to effectively implement comprehensive and clear legislation to combat racism has been reiterated by the EU Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law.<sup>54</sup> It is designed to ensure that the same types of behaviour constitute an offence in all EU member states, and that “effective, dissuasive and proportionate” sanctions are imposed. The Member States are bound to criminalize certain behaviours and to take the necessary measures to ensure that racist and xenophobic motivation of crimes is considered an aggravating circumstance.

The European Commission against Racism and Intolerance (ECRI) of the Council of Europe has addressed the role of the police in combating racist offences and monitoring racist incidents, which it defines as any incident which is perceived as racist by the victim or any other person. In its General Policy Recommendation No. 11, ECRI calls on the governments of Council of Europe member states to:

- ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account;
- establish and operate a system for recording and monitoring racist incidents, and the extent to which these are brought before prosecutors and are eventually qualified as racist offences;
- encourage victims and witnesses of racist incidents to report such incidents.

As a practical measure that would allow implementation of the recommendations, ECRI emphasizes the need for states to adopt the broad definition of racist incidents, and to ensure that police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account (General Policy Recommendation No. 11, III/66).

## 5. PROHIBITION OF HATE CRIMES: LAW AND PRACTICE

The Hungarian Criminal Code criminalizes incitement to hatred against any national, ethnic, racial group or certain groups of population (Article 269), which is punishable with imprisonment up to three years. The use of “symbols of despotism” such as a swastika, an arrow-cross, hammer and sickle<sup>55</sup>, etcetera are punishable with a fine (Article 269/B).

Article 174/B of the Criminal Code criminalizes assaults committed because of a victim’s actual or perceived belonging to a national, racial, ethnic or religious group:

*“Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial, [or] religious group, or certain groups of the population, or compels him by applying coercion or duress to do, not to do, or to endure something, is guilty of a felony punishable by imprisonment for up to five years.”<sup>56</sup>*

While under article 174/B (1) such assaults are punishable by up to five years’ imprisonment, under 174/B (2) such crimes are punishable by between two to eight years if the crime is committed: a) by force of arms; b) with a deadly weapon; c) causing a substantial injury; d) with cruelty towards the injured party; e) in groups; f) in a criminal conspiracy.

In addition, as ECRI noted, some articles of the Criminal Code, including those covering murder or grievous bodily harm, expressly grant judges discretion in the sentencing of offenders to take account the offender’s “base motivations”, where these are alleged. The sentence for homicide<sup>57</sup> and bodily harm<sup>58</sup> with a “base” motivation is higher than for homicide and bodily harm without such motivation. While a judge may consider racist motivation as a “base motivation” which constitutes an aggravating circumstance, ECRI has raised a concern that, racial motivation is not specifically mentioned in the law as a form of “base” motivation and that Hungarian law does not include general provisions under which, for all ordinary criminal offences, racist motivation constitutes an express aggravating circumstance. ECRI has noted that: “as a result, it is practically impossible to monitor the situation with respect to racially motivated offences in Hungary.”<sup>59</sup>

Table 1 summarizes the number of cases in which the police investigation established the commission of a crime punishable under provisions of the Criminal Code that specifically address crimes motivated by hatred.

Table 1

Criminal Code	2004	2005	2006	2007	2008	2009
Article 174/B Violence against member of a community <sup>60</sup>	7	7	8	9	12	6
Article 269 Incitement to hatred against a community	17	4	5	5	5	6
Article 269/B Use of symbols of despotism (SS-symbol, swastika, etc.)	66	57	82	64	207	70

Source: Hungarian National Police

These statistics from the Hungarian National Police of crimes which police investigated and identified as motivated by hatred appear to be at odds with the higher number of such incidents of violence committed mainly against members of Roma community reported by NGOs.<sup>61</sup> However, the Committee on the Elimination of Racial Discrimination (CERD), the body of independent experts that monitors states implementation of the ICERD, to which Hungary is a party, warned that in general, the absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination in a country may not necessarily indicate a low number of hate crimes, but may rather reflect underreporting and structural shortcomings of a criminal justice system:

*“It may also reveal that victims have inadequate information concerning their rights, or that they fear social censure or reprisals, or that victims with limited resources fear the cost and complexity of the judicial process, or that there is a lack of trust in the police and judicial authorities, or that the authorities are insufficiently alert to or aware of offences involving racism.”<sup>62</sup>*

Amnesty International is concerned that fear may be a contributing factor to underreporting of hate crimes in Hungary. For example, a father of a Romani boy who was stabbed to death in Fényeslitke in June 2008 told Amnesty International:

*Everyone is afraid. So no matter what harsh things happen to you, you don't dare tell the story because you are scared."*

József H., father of Romani boy, K.H. who was stabbed to death in Fényeslitke in June 2008

It has been recognized by the experts on hate crime that despite legislation being in place in the EU member states there is a gap between the law and the actual prosecution of racially-motivated crimes.<sup>63</sup> The gap between the legislation and its implementation in practice in Hungary has been identified by NGOs<sup>64</sup> as well as the Parliamentary Commissioner of the Rights of National and Ethnic Minorities who observed in 2008 that the law enforcement authorities were not prepared to investigate hate crimes.<sup>65</sup>

## WHO DECIDES ON THE LEGAL CLASSIFICATION OF THE CRIME?

In Hungary, the initial decision makers on the legal classification of the offence are police officers. There is an investigative body at each police station – a crime department – whose head is responsible for deciding whether a given incident violates any section of the Criminal Code, and for determining the classification of the offence. Once the police finish the investigation, they decide – based on the information, data and facts collected – whether the case is suitable for indictment. After the police issue the indictment proposal, the prosecutor examining the case decides whether to bring charges or discontinue the case. The final decision on the indictment of the defendant is within the discretion of the prosecutor, but according to an analyst<sup>66</sup>, he/she usually follows the police's determination of the nature of the criminal offence in question. During the investigation, the role of the prosecutor is to provide oversight. This should involve control over the direction of the investigation; ensuring that the investigation covers essential facts; and ensuring that the investigation is carried out in accordance with the law. The prosecutor should thus be informed about the progress of the investigation and direct the case from an early stage of investigation. However, when it comes to the capacities of the prosecutors to oversee the investigation of crimes that might be racially motivated, Amnesty International was informed that there are no specific units within the prosecution service which focus on hate crimes, and the prosecutors do not receive an in-service training on racially motivated crimes.<sup>67</sup>

## HOW IS A CRIME ESTABLISHED?

There is no specific procedure in the Hungarian criminal justice system to guide a determination of whether a crime was racially motivated. Neither are there special units with an expertise and competency over racially-motivated (and other hate) crimes within the Hungarian police.<sup>68</sup> The lack of clear guidelines for the establishment of racial motivation is considered to be one of the causes for the low number of recognized racially motivated crimes in Hungary.<sup>69</sup>

## WHAT DATA ARE AVAILABLE ON HATE CRIMES?

When it comes to developing a policy response for addressing hate crimes, it is important to have data available that would identify the trends and assess the vulnerability of individual communities in the country. This information is also important for the development of victim protection and assistance programmes and community support<sup>70</sup>. However, from the data collected within the Hungarian criminal justice system it is not possible to identify the vulnerable groups as the data do not show to which group or community the victim belonged, or was perceived to belong to.

## 6. FAILURE TO ACKNOWLEDGE RACIAL MOTIVATION

“[The] task of classifying and identifying... is a powerful one.”<sup>71</sup>

Jeannine Bell

The role of the police in Hungary includes the recording, investigating and establishing of crime, as well as crime prevention.<sup>72</sup> Despite the existing legal provisions on hate crime, Hungary has been criticized for failing to implement the provisions. The low levels of prosecutions of racially-motivated crimes have been attributed to the reluctance of the police, prosecutors and courts to investigate and acknowledge racial motivation in violent and non-violent crimes against Roma.<sup>73</sup> ECRI has repeatedly found the Hungarian authorities to be unwilling to acknowledge the racial and anti-Semitic motivations of attacks, which leads to the infrequent prosecution of these attacks as hate crimes.<sup>74</sup> In its third report on Hungary, ECRI noted that the police and the prosecutors preferred to consider such offences as common offences.<sup>75</sup>

Lawyers who represented Roma who were victims of attacks,<sup>76</sup> as well as human rights activists<sup>77</sup> told Amnesty International that the police frequently excluded the possibility that the crime had been committed with racist motivation from the outset of an investigation. This concern has also been raised by NGOs and the Parliamentary Commissioner for the Rights of National and Ethnic Minorities.<sup>78</sup>

*“I understand that it may be difficult to prove racial motivation of crimes, not least because the offenders either deny it or change their statements, but it should not be excluded at the initial stage of investigation.”*

Miklós Kárpáti, legal representative of the victims in Tatárszentgyörgy

### “OVERHASTY REMARKS”

On 18 November 2008 a hand grenade was thrown through the window of a family house in Pécs. Two Romani adults who lived in the house were killed as a result of the attack. The spokesperson for the Baranya County Police Headquarters told the news agency MTI on the same day that the victims were Roma, but that according to the information from the investigation at the time, the police did not consider that the attack was motivated by the victims' ethnicity. The Parliamentary Commissioner for the Rights of National and Ethnic Minorities expressed the opinion that the immediate exclusion of a racist motive in such a serious crime was unacceptable. The national police commander acknowledged that the police spokesperson had been “overhasty” in his remarks.<sup>79</sup>

In order to strengthen the response of the law enforcement agencies to hate crimes, and crimes against Romani communities in particular, the OSCE recommends that states among other things:

- develop policies and procedures to ensure an effective police response to racially motivated violence against Roma and Sinti people;
- elaborate practical guidance manuals and training programmes;
- document all types and cases of discrimination.<sup>80</sup>

## GUIDELINES

In order to take “all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the event”<sup>81</sup> the police first need to be able to record an incident and include possible indicators of racial motivation. According to the comparative analysis of the European Monitoring Centre on Racism and Xenophobia (EUMC) Policing Racist Crime and Violence,<sup>82</sup> recording practices can vary – and can be based on:

- any racist characteristics or motives reported by the victim or any other party;
- indicators established by the police officer.

## DATA

In line with international standards on the protection of personal data, the police in Hungary are obliged to refrain from “any kind of involuntary official classification of ethnicity” of individual victims and perpetrators of crime.<sup>83</sup> Under the Hungarian Data Protection Act, “sensitive data” are understood as “personal data revealing racial, national or ethnic origin”. However, standards intended to protect personal privacy should not be read to prevent authorities from collecting data that are disaggregated by ethnicity and gender. For example, the European data protection laws distinguish between the collection of individual personal data and anonymous aggregate data.<sup>84</sup> Moreover, the Council of Europe's Convention on Data Protection explicitly provides that the collection of personal data on racial origin and the like may be routinely collected and processed when necessary for the protection of public safety or the suppression of crime.<sup>85</sup> As a state party to CERD, Hungary has undertaken to prevent all forms of racial or ethnic discrimination and to address incidents of discrimination when they do occur. To do so effectively, it must collect data in a form that enables it to identify and address discrimination. To that end, the Committee on the Elimination of Racial Discrimination asks states to report “relevant information on the demographic composition of the population.”<sup>86</sup> These international and regional obligations are not contradictory. As a European Commission report on data collection in the context of implementing the EU equality law stated: “[c]ontrary to widespread belief, the international, European and national rules on the protection of privacy data do not categorically prevent the collection of data in relation to discrimination.”<sup>87</sup> And under customary international principles governing the interpretation of treaties, binding international instruments should be read in harmony whenever possible.<sup>88</sup> In short, European privacy standards do not prevent Hungary from

collecting disaggregated data on racial and ethnic discrimination, and Hungary's international obligations require the collection of these data.

## TRAINING

ECRI has recommended that Hungarian authorities continue and further develop police training in order to combat prejudice, raise awareness and to ensure equal treatment of groups in society.<sup>89</sup> According to the 2005 EUMC report on Policing Racist Crime and Violence, police training in Hungary on hate crimes focused on Roma cultural characteristics and "Roma criminality" rather than specifically on racist crime and violence against Roma.<sup>90</sup> Curricula at the Police Academy and medium-level in-service police training currently include subjects related to human rights and tolerance. However, the Hungarian Helsinki Committee (HHC), an NGO working among other things in the area of police training and accountability, told Amnesty International that according to information available to them as of August 2010 there was no specific training for the police on hate crimes.

The lack of guidelines and training on hate crimes has been raised by Hungarian NGOs consistently and reiterated in the aftermath of the series of violent attacks against the Romani community. In an effort to receive an authoritative interpretation of the legal provisions on hate crimes, the Hungarian Civil Liberties Union (TASZ) requested in February 2010, that the Prosecutor General provide an interpretation of Article 174/B of the Criminal Code which deals with violence against a community. In response the Office of the Prosecutor General stated their view that there was no need for issuing a general guideline on the implementation of Article 174/B as the current legislative provisions adequately covered it.<sup>91</sup> TASZ argued that it had documented cases in which police and prosecutors failed to take into account racist, anti-Semitic, homophobic or other motivations fuelled by hatred and had failed to apply the law (Article 174/B on the crimes against community and Article 269 incitement against a member of a community).

The cases documented by TASZ, as well as other NGOs (see chapter 7 below) illustrate that officials often failed to recognize racial motivation in crimes, in spite of the fact that it was highly likely that the perpetrators attacked the victims because of their ethnicity, religion or sexual orientation, or that the police initially qualified the crimes as not motivated by hatred and only investigated the possible hate motivation after being pressured to do so by human rights NGOs.

*"[T]he law enforcement authorities are not sufficiently prepared to investigate hate crimes, while the spread of hatred against racial, ethnic, religious groups and other minorities can be strongly felt."*

Balázs Dénes, Chair of the Hungarian Civil Liberties Union



## 7. FAILURE TO INVESTIGATE, PROSECUTE AND PUNISH

Hungary is bound under international human rights law to ensure the security and personal integrity of persons within its jurisdiction, without any discrimination and otherwise in a manner that is consistent with respect for human rights. It is required to adopt measures to prevent, investigate, punish and ensure reparation, including redress, for racially motivated attacks by non-state actors. These obligations require, among other things prompt action by the police, the prosecutors and the judiciary in the event of such attacks.<sup>92</sup>

ECRI has stated that as soon as a racist incident (which it defines as an incident which is perceived to be racist by the victim or any other person) is reported, the police must be required to pursue that line of investigation thoroughly.<sup>93</sup>

As noted above (chapter 6), in hate crime cases in Hungary the police play a critical role as the criminal justice gatekeeper. In the prosecution of hate crime cases, since the prosecutor needs to provide evidence of a hate-related motivation, the ability of the police to secure and provide such evidence is essential for the hate crimes to be established. The police task is thus twofold: investigate what happened and why it happened.

### **TATÁRSZENTGYÖRGY KILLING**

In the early morning of 23 February 2009 a double murder was carried out in Tatárszentgyörgy (Pest County). The victims were a 27-year-old man, Róbert Cs. and his four-year-old son Robika who were both shot dead when they attempted to escape a house set on fire by Molotov cocktails. The Director of the National Bureau of Investigation (NBI) said that there were similarities between this attack and the other attacks within the series of crimes committed against Romani communities. However, the initial police investigation treated the case as a fire caused by an improper, illegal connection to the power grid.<sup>94</sup>

Mrs. Márton P., a neighbour of the Cs. family heard the shots being fired and called the ambulance, police and fire services. The police officers who lead the on-site investigation reportedly claimed after the initial examination that the injuries were not caused by shootings but by an explosion triggered by the fire.<sup>95</sup> Mrs. Márton told Amnesty International that the fire fighter who arrived at the scene questioned her about whether she heard shots or an explosion and that she had confirmed that she had heard shots.

The autopsy later confirmed that the victims in fact died of gunshot wounds.

During the initial investigation, the police treated the case as an accident not as a criminal offence. In the morning of 23 February the Pest County Police Headquarters issued a public statement in which they stated that the fire in Tatárszentgyörgy, in which two people died, was caused by a short-circuit. At about 9:30am, Viktória Mohácsi, then a Member of the European Parliament, arrived at the scene and called on the NBI to intervene in the case. The NBI investigators arrived to the Tatárszentgyörgy in a short time, and found the bottles used for the Molotov cocktails, as well as lead shot and shot cartridges.<sup>96</sup> On the same day, the police report was changed after the results of the autopsy which confirmed that Róbert Cs. and his son were shot

dead. The Independent Police Complaints Board (IPCB) issued a decision and thus violated the victims' rights to fair proceedings guaranteed by the Constitution. The head of the National Police, József Bencze issued an administrative decision in February 2010 in which he approved the findings of the IPCB and noted that internal disciplinary procedures had been initiated against two police officers who were held accountable for the failures.<sup>97</sup> Details of the disciplinary procedure were not made public.

The complaint to the IPCB was filed on 2 March 2009 by Viktória Mohácsi, on behalf of Róbert Cs. 's partner, Renáta, against the manner in which the police conducted the on-site investigation in Tatárszentgyörgy. The complaint alleged that the police did not secure the crime scene and were unwilling to take into account and record crime-related pieces of evidence found by the family and neighbours at the scene.

The IPCB concluded that the police initially treated the murder as an accident and failed to secure the crime scene. The IPCB found that these failures had hindered the investigation and led to a serious violation of the rights of the victims.<sup>98</sup> The IPCB investigated whether the police fulfilled its obligation under the law to secure the scene which is a precondition for effectiveness of the investigation, and concluded that the police met this obligation only partially. According to the IPCB the police treated the incident as a fire based on information gathered at the scene and information given to them by the fire brigade and the physician on duty. Despite having detected and recorded pieces of evidence and circumstances raising suspicion of a crime, the police officers failed to initiate a crime scene investigation.

The senior police officer of the Pest County Police told Amnesty International: “[T]he major mistake was made – for which we held... the lead scene investigator responsible –... was that [he] disregarded a very important rule of investigation: If the visibility and weather conditions are not satisfactory they have to suspend the scene investigation. He did not suspend the investigation in spite of the fact that it was still dark and the visibility conditions were not good. Had he done so and the police securing the scene had not left the scene they would have seen the pieces of evidence at the scene as the sun rose... If he had complied with this rule, the mistake of leaving the scene unattended for 90 minutes would not have happened, for which he was held responsible.”

## NO SPECIFIC PROCEDURES FOR HATE CRIMES INVESTIGATION

The Hungarian police do not use special procedures for cases in which there is an indication that the crime under investigation is motivated by hatred. This raises concerns in particular about the capacities and ability of the police to investigate racially induced violence thoroughly and not to overlook possible racial motivation. The explanatory memorandum to ECRI's General Policy Recommendation no. 11 outlines that such investigation would require among other things a specific approach to identification and questioning of witnesses, identification of possible links with organized racist groups, and sensitivity towards the victim.<sup>99</sup> Despite this recommendation, according to an interview with a representative of Pest County Police, an investigation into possible hate crimes does not involve any specific approach and does not differ from investigation of any other crime.<sup>100</sup>

*“If a crime happens, based on the rules of criminal investigation the police carry out the necessary investigative steps at the scene and collect, record and document all evidence. And if based on the whole picture, based on all materials, evidence and documents collected*

*at the scene it can be established that the motivation might be racist or the victim was attacked because the victim belongs to an ethnic minority – because he is a Roma, Romanian, Slovak or German, etcetera – in that case the police would initiate an ex-officio investigation into the motivation of the perpetrator.”*

A representative of Pest County Police

According to Amnesty International’s research, in Hungary in order for an incident to be considered a crime of violence against a community (punishable under Section 174/B of the Criminal Code), or a crime aggravated by a “base reason” (such as racial motivation), some evidence of the element that the crime was motivated by the belief that the victim belonged to an ethnic, racial, national or religious group or other community would need to be raised at some point during the investigation. In an interview with Amnesty International, representatives of the Office of the Prosecutor General considered that this evidence would require either the victim to state that he or she has been attacked because of their ethnicity, or the perpetrator to give this as a reason for the attack.<sup>101</sup> However, the police operate in a legal framework that can be interpreted restrictively when it comes to the identification of ethnicity of the victim – whether real or perceived – which might affect the readiness of the police officers to focus on possible racial motivation during the investigation. Moreover, reliance on the victim or perpetrator only is not consistent with international standards under which a racially-motivated incident is one perceived to be racist by the victim or *any other* person.<sup>102</sup>

*“[T]he police do not and cannot register who is Roma and who is not Roma. We have only perpetrators, victims and witnesses. In the criminal justice system we don’t have gypsies, Jews etcetera.”<sup>103</sup>*

A representative of Pest County Police

However, the Hungarian police may establish the racial motivation of a crime or an offence of violence against a community (Art. 174/B of the Penal Code) based on other available evidence supporting racial motivation. An indicator of a possible racial motivation might be the victim’s self-identification as a member of community. However, according to the police themselves, this is not very common:

*“I have been a police officer for over 20 years and I would need to think really hard to find a case during my career when a victim claimed in his complaint that he had been attacked because he belonged to a community. This simply wasn’t typical and still isn’t. This has never been a problem in Hungary... Even the anti-discrimination clause in the Ethical Code [of the police] was included to comply with European...[standards]... The police officer is not interested in the ethnic background of the victim—he cannot be interested. There is only one thing on his mind: the victim...which ethnic group the victim belongs [to] is a low-level issue for him. We don’t examine whether someone is Jewish, German, Romanian, Armenian or Romani. There is only one thing: the victim. And we do everything in our power with the vigour of the Criminal Code to catch the perpetrator, regardless of the ethnic origin of the victim.”*

A representative of Pest County Police

Amnesty International is concerned that the police’s lack of particular attention to and recording of the ethnicity of the victim, coupled with lack of guidelines and training, could be

an obstacle in examining possible motivation of bias for the crime.

The EUMC has recommended that states include on standard crime report forms a question asking whether the crime is racially-motivated.<sup>104</sup> According to a representative of the Pest County Police, in Hungary, when a person makes a complaint, *“there are detailed methodological rules describing what a complaint must include and most of our colleagues know these, so they register all of these necessary data.”* However, according to information received by Amnesty International there is no ‘racial incident form’ that would outline indicators to assist Hungarian police with the identification and investigation of racially-motivated crimes.

Guidelines on the investigation of a hate crime are considered vital for an effective investigation both by international human rights agencies such as ECRI or OSCE-ODIHR<sup>105</sup>, and experts on policing.<sup>106</sup> These guidelines should involve a list of criteria to help police officers to identify whether a crime was motivated by racial, religious or other identity-based prejudice; rules on notification of police officers’ supervisor; and consultation with a specialized unit.

The law enforcement officers – notably the on site police investigators – are the primary contact points for many victims of hate crime. The OSCE-ODIHR emphasizes that being ‘in the front lines’, the police officers need to:

- Understand how hate-motivated crimes differ from similar crimes that are not motivated by bias and to take such reports seriously;
- Understand how police/victim interaction can influence whether a victim reports a hate crime or not (due to fear of police, embarrassment, or belief that the incident will not be taken seriously).<sup>107</sup>

## **M.K.’S CASE**

M.K. and her family are all Romani. According to information received from the NGO, NEKI, the family lived in a house divided into several flats and shared a common garden with neighbours. In 2008, one of the neighbours had reportedly been harassing them on several occasions because of their Roma origin. The children were psychologically affected and were afraid to leave the flat. The neighbours reportedly called them “dirty Gypsies”, placed cat droppings in front of their entrance and once attacked the husband physically, pushing him into a glass window which resulted in him incurring serious injuries. After this incident M.K.’s family reported the harassment to the police and an official procedure started. The victims were offered legal aid by NEKI, which represented them during the proceedings. The police soon closed the investigation, saying that no crime could be established. The legal representative of the victims lodged a complaint against the decision and asked the prosecutor to order a renewal of the investigation. She also pointed out that the police completely neglected the motives behind the actions and did not examine the racial motivation at all. The complaint therefore included a request to extend the investigation to a hate crime under Article 174/B of the Criminal Code. The prosecutor’s office dismissed the complaint stating that the reason for the incidents was not the victims’ ethnic origin but animosity originating from a dispute between neighbours.

## USING EVIDENCE ON RACIAL MOTIVATION IN COURT

As noted above (chapter 5), the Hungarian Criminal Code includes specific hate-motivated offences (e.g. violence against a member of a group Article 174/B), and contains provisions which permit judges to take into account racial motivation as an aggravating circumstance in sentencing for some crimes, including murder and grievous bodily harm (on grounds of “base motivation”).<sup>108</sup> In such cases the motivation of the perpetrator needs to be proved. As proof of such motivation can be a difficult hurdle in a prosecution, some, including András Kádár (a human rights lawyer and the co-chair of HHC) believe that police and prosecutors in Hungary instead frequently opt for categorizing a crime under a provision of the criminal code that is easier to substantiate in a court of law: “‘Bodily harm’ instead of ‘violence against a member of an ethnic group’ is a safer option.” With a view to ensure protection from violence and discrimination, the Hungarian authorities need to meet their obligation to unearth racist motives in appropriate circumstances. The duty to prevent and protect people from racist violence and other forms of discrimination includes the duty to adopt such measures as data collection for the purposes of development of policies that will prevent the occurrence of such violations of human rights.

Proving racial motivation is not easy:

*“The main reason for this is that motivation usually needs to be concluded from other evidence. In this case [Szigetvár, described below], the perpetrators were young, between the ages of 18 and 21. And such behaviour is very typical of teenagers...It was very hard to differentiate whether what they did was some kind of youngsters’ behaviour [or it was racially motivated.]”*

The Appellate Judge of the Baranya County Court, Béla Wirth

Recognizing the difficulties that law enforcement agencies face when dealing with hate crimes, international human rights bodies emphasize the need for guidelines and measures that would enable effective investigation of these crimes. CERD underscored the need for states to establish national strategies aimed at the elimination of structural racial discrimination which would include guidelines for prevention, recording, investigation and prosecution of racist or xenophobic incidents.<sup>109</sup> In its Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, the OSCE has recommended that Participating States (of which Hungary is one) “[e]laborate, where appropriate and in close partnership with international organizations and Roma NGOs,... codes of conduct, practical guidance manuals and training programmes” in order to translate the existing legislation into practice.<sup>110</sup>

The OSCE-ODIHR recommended in 2010 that such Guidelines related to racially motivated crimes should ensure that “evidence of the element of ethnic motivation is properly collected so that it can be presented and admitted at court. While all front-line police officers should be able to conduct initial investigations, the guidelines may foresee that they refer the cases to special investigation staff...”<sup>111</sup>

In order to meet the obligation to carry out a thorough and effective investigation into crimes with a possible racial motivation, the Hungarian authorities have to take reasonable steps to collect and secure the evidence, discover the truth in a manner that respects and protects human rights and deliver fully reasoned, impartial and objective decisions.<sup>112</sup> The following case is an example of one in which the first instance court excluded the aspect of racist motivation for the crime, although it had been identified in the context of the investigation

and the indictment (which charged the suspects under Article 174/B with violence against a member of community).

## **SZIGETVÁR CASE**

On 22 January 2008, a Romani woman and her daughter were attacked by a group of five young people on their way home in Szigetvár. The attackers kicked the victims with their steel boots. The police started looking into a possible racial motivation only after the suspects raised it themselves. The Appellate Judge of the Baranya County Court, Béla Wirth told Amnesty International in March 2010: “When the police initially interrogated the perpetrators [they] did not suspect them of this offence [violence against a member of group], they were suspected of public nuisance. [It was only when...] the two perpetrators told the police with pride... that [racial motivation] was the reason why they committed the offence... [A]t that point, the police suspended the interrogation and called their lawyers in.”

Once the perpetrators consulted their lawyers, they withdrew their initial statements that they assaulted the women because they were Roma, and claimed that they simply wanted to beat somebody up.

The investigation concluded that the suspects had come to Szigetvár to attack Roma. According to the results of the investigation, the suspects wore clothes that revealed their inclination to far-right ideologies, and one of them had a poem with a strong anti-Roma language tattooed on his back.<sup>113</sup> They were indicted under Article 174/B for violence against a member of a community. However on 27 November 2008, the Pécs City Court found them guilty of causing bodily harm (Article 170) and public nuisance (Article 271). According to information available to Amnesty International, the Court heavily relied on the changed statements of perpetrators and the statements of witnesses from which it concluded that racial motivation could not be substantiated. The prosecutor appealed the verdict, convinced that the investigation had revealed substantial evidence that the case involved a racial motivation.

On 28 April 2009, the Second Instance Court re-qualified the crime and found the defendants guilty of violence against a member of a community. In its decision, the court took into consideration all the evidence together, including both statements and other sources of evidence.

## 8. FAILURE TO PROVIDE REMEDIES

It is widely recognized that following a crime, victims may suffer a range of physical and psychological effects and their financial situation may also suffer.<sup>114</sup> International standards require states to ensure adequate reparation to victims of crime, in an effort to ensure not only restitution but also compensation, rehabilitation, access to justice and redress. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Declaration), for example calls on states to ensure victims of crime:

1. access to the mechanisms of justice and to redress;
2. reparation for the harm suffered, including fair and just compensation;
3. material, medical, psychological and social assistance.

### ACCESS TO JUSTICE

Both UN and Council of Europe standards alike indicate that support services should cover all stages of the criminal justice process: during and after the investigation and any legal proceedings.<sup>115</sup> Adequate advice and support from the police to the victims is considered to be an important factor that can contribute to the willingness to report or to act as witness to hate crimes incidents.<sup>116</sup>

- States should ensure that victims have access to information of relevance to their case and necessary for the protection of their interests and the exercise of their rights. It should include information on the services available to them, and on the investigation and criminal justice processes.<sup>117</sup> The victims should be further advised on their rights in these processes and to reparation, as well as on how to access these services and rights. He or she should be informed about the progress of the investigation and, unless they request not to receive it, on the detention or release of a suspect.<sup>118</sup>
- During legal proceedings related to the crime, the victim and their family should be informed of their role and the scope, timing and, upon their request, the progress and the disposition of such proceedings. They should be provided with assistance and when appropriate protection both throughout such proceedings, and after them. The views and concerns of victims should be presented and considered at appropriate stages of the proceedings where their personal interests are affected, in a manner that is consistent with the rights of the accused to a fair trial.
- Support, assistance and protection measures should be offered to the victim and their family where appropriate, not only during all stages of the criminal justice process, but even after the case has been closed.<sup>119</sup>

The Recommendation (2006) 8 of the Committee of Ministers of the Council to member states on assistance to crime victims and the *UN Handbook on the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* both highlight the need for training for the police. The UN Handbook warns that lack of adequate

training regarding the impact of violent crime on victims and methods of ensuring that victims are informed of their rights have in the past led in several countries to situations in which “police have often been insufficiently sensitive when coming into contact with emotionally distraught victims, which has impaired victim satisfaction and undermined the confidence of victims and their willingness to participate in the criminal justice process.”<sup>120</sup> The training should cover areas such as the trauma of victimization, empathizing with victims, as well as special needs of victims due to the nature of the harm inflicted or factors such as race, ethnic origin, colour, sex, and so on. According to the information available to Amnesty International however, there is no special training for the victim support officers within the police.<sup>121</sup>

In Hungary, the number of indictments and convictions on charges of an attack against community appears quite low in comparison to the number of reports of such attacks reported by NGOs.<sup>122</sup> According to the data provided by the Office of the Prosecutor General, there were six indictments under Article 174/B (violence against a member of a community) in 2009. In 2008 there were eight, in 2007 six, in 2006 two, in 2005 four and in 2004 five indictments under this provision. This raises concerns about possible underreporting of crimes motivated by hatred and also concerns about victims’ access to justice. Underreporting of racially-motivated crimes is considered to be an outcome of several factors including the reluctance of some victims to pursue the issue, as well as the failure of the police and the prosecutors to take into account the racist motive of offences.<sup>123</sup> In its 2009 periodic report on Hungary, ECRI reported that “in some instances, even when there was strong enough evidence of racist motivations to support an indictment for racist violence, the offence was finally treated by the courts as having arisen solely out of a conflict situation rather than as having had racist motivations.”<sup>124</sup>

The law in Hungary<sup>125</sup> provides for legal aid to individuals who are acknowledged as victims by the victims support service and who apply for such service within six months of the date of the crime. Legal aid is provided free of charge to those whose income falls below €480<sup>126</sup>. The aid involves legal advice and assistance to help the victim to get the remedy for the crime.

Many of the Romani victims of crime and their family members whom Amnesty International spoke to in Hungary were not aware of their entitlement to legal aid services. Thus despite the provision in the law, legal assistance does not appear to be easily accessible to the victims of hate crimes. The need to address this problem and make legal aid more accessible to the victims has been emphasized by Hungarian NGOs involved in providing *pro bono* legal aid. This would require an efficient system of informing the victims of what services are they entitled to shortly after they report the crime, and assisting them in applying for these services.

The case below illustrates a situation of a victim who has not been provided with appropriate assistance during the investigation of a crime.



## LACK OF SUPPORT IN ACCESS TO JUSTICE

On 15 June 2008, a 14-year old Romani boy K.H. and his cousin F.N. were stabbed by a 40-year old man following a verbal argument in a pub in a village of Fényeslitke. According to the judgment of the first instance court in Szabolcs-Szatmár-Bereg County, the man started an argument with the victims because he resented the fact that F.N. had turned his back to him while the man was standing at the bar. K.H. and F.N. decided to leave the pub. Once they reached the door, K.H. allegedly told the man: "If you want something, let's go out." The man took out a 11 cm-long and 2.5 cm-wide pocket knife and stabbed K. H. three times in the chest. He then stabbed also F.N. in the chest and fled. K.H. died at the scene as a result of the stab wounds. F.N. suffered life-threatening injuries but timely professional medical treatment prevented his death.

F.N.'s and K.H.'s families were reportedly not provided with adequate advice and support during the investigation. The legal assistance they received during the trial of the accused was provided for free by the NGO, Movement for Desegregation Foundation.

The legal representative of K.H.'s family alleged that racial motivation was not pursued during the investigation.

During the trial, the offender admitted that he was guilty and he claimed he suffered a temporary memory loss due to the combined effect of alcohol and his medication. He also claimed that he saw deformed faces who wanted to kill him. In the verdict, the first instance court stated that "during the court proceedings no evidence was revealed that would have suggested the conflict was racially motivated" and sentenced the offender to 11 years' imprisonment on 2 June 2009. The verdict was upheld by the second instance court in October 2009.

When interviewed by Amnesty International, the father of K.H. said that he attempted to raise the issue of racial motivation of the offender during the trial phase but it was not accepted by the court. The victim's legal representative told Amnesty International that he identified two witnesses who claimed they heard the offender saying he would carry out the crime because "No Roma should turn his back on him". The judge said it was hard to reconstruct the motivation.

Amnesty International is concerned that the case illustrates the impact of inadequate support and assistance for the victim throughout the criminal proceedings on their right to access justice and redress.

## REPARATION AND COMPENSATION

Under the European Convention on the Compensation of Victims of Violent Crimes (1998), victims who sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, or the dependants of persons who have died as a result of such crime are entitled to compensation that shall cover, according to the case, at least the following items: loss of earnings, medical and hospitalization expenses and funeral expenses, and, as regards dependants, loss of income.

In Hungary, a victim of crime or their direct relative may apply for monetary compensation, compensation and legal aid under the Act on Crime Victim Support and State Compensation (CXXXV/2005). The monetary aid should cover a victim's extraordinary expenses in connection

with housing, clothing, nutrition and travel, medical and funeral expenses.

## **TATÁRSZENTGYÖRGY CASE**

The family of Renáta J., the partner of Róbert Cs. and the mother of the four-year-old Robika who were killed in Tatárszentgyörgy in February 2009 (see the case described in Chapter 7), were offered psychological support and received financial compensation. However, they told Amnesty International that they did not receive adequate advice and support from the state to help them to access the remedy.

The parents of Róbert Cs., whose house was next to Róbert's, were not offered any psychological support. The family received monetary aid from the National Roma self-government and the mayor to cover funeral expenses. During Amnesty International's visit in February 2010 they told Amnesty International that they felt abandoned by the authorities. They said their children were still terrified during the night.

## **KISLÉTA CASE**

The family of M.B. – victim of the killing in Kisléta (the last killing within the series of the nine attacks against Romani communities) – received monetary support as well as psychological support available through the state. The legal assistance received by the family was arranged free of charge by an NGO, Movement for Desegregation Foundation, not by the state.

## **MATERIAL, MEDICAL, PSYCHOLOGICAL AND SOCIAL ASSISTANCE**

*"I took the medication several times. I was also in the hospital once. Honestly, I must say that I am considering suicide even to this day. I cannot get it out of my head. But I have four children, and that is what keeps me from doing it. I don't know for how long I can put up with this. I think of committing suicide more and more often. I tried several times. I went to the railway. It is very difficult for me, but for my wife as well, and of course for my whole family."*

Father of a Romani a 14-year old boy who was stabbed in village Fényeslitke in 2008 (see case in Chapter 8, section Access to Justice)

The UN's Handbook on the Use and Application of the Declaration defines the goals of victim assistance programmes:

*"assist victims in dealing with emotional trauma, participating in the criminal justice process, obtaining reparation and coping with problems associated with the victimization."*

## **K.H. AND F.N. CASE**

The public Victim Support Service paid the funeral-related expenses of the family of K. H., the victim of the Fénylitke stabbing (see the case described in the section Access to Justice of this chapter). The father of K.H. who was killed told Amnesty International that he was suffering from trauma and was suicidal after his son's death but had received no psychological counseling.

## **ZERO SUPPORT**

On 27 May 2009 in the town of A., C.P. and his wife were woken up in the middle of the night when a stranger entered their house through the window. They describe how the man attacked the Romani couple with a razor, and attempted to cut C.P.'s throat. C.P. told Amnesty International that he was cut in seven places. The attack also woke up C.P.'s parents who also lived in the house; they called an ambulance and the police. They reportedly called a brother of C.P. who arrived at the house while the confrontation was ongoing. According to the Romani family, the attacker was tall and physically strong.

After the incident, C.P., his wife and his child were taken to hospital where they received treatment. On the way home, they were taken to the police station, where they gave statements to the police. The man who attacked C.P.'s family was injured during the fight and was taken to the hospital after the incident. Taking into account his injuries, the police have also started an investigation into an alleged assault carried out by C.P.'s family against the man. At the time of writing of this report both cases were under investigation.

The victims of the razor attack were allegedly not informed of their rights to legal and other assistance.

## 9. MONITORING HATE CRIMES

As a state party to CERD, the Hungarian authorities are obliged to adopt positive measures designed to eradicate discrimination. A key precondition for the development and adoption of effective preventative measures is information on the existence and extent of hate crimes, derived through – among other things – a system of data collection and through monitoring.<sup>127</sup> The Committee on the Elimination of Racial Discrimination has recommended that state parties to ICERD collect “comprehensive statistical or other information on complaints, prosecutions and convictions relating to acts of racism and xenophobia, as well as on the compensation awarded to the victims of such acts, whether such compensation is paid by the perpetrators of the offences or under State compensation plans financed from public funds.”<sup>128</sup> Similarly, ECRI has suggested that such monitoring requires the police and other authorities receiving reports of racist incidents to “gather detailed information on each report”, as well as the prosecuting authorities and the courts to set up monitoring systems that “include readily available information on investigations carried out, charges brought and sentences handed down in these cases.”<sup>129</sup>

The Office of the Prosecutor General in Hungary collects data on proceedings under individual articles of the Criminal Code – the data include numbers of halted investigations, numbers of cases in which an indictment was prepared by the prosecutor, and numbers of cases where the conclusion of the investigation was classified as “other”. The data, however, do not identify the group or community which the victim belonged to or was perceived to belong to.

To effectively evaluate the application of the hate crime provisions in the Hungarian Criminal Code, the authorities would need to collect data on the number of incidents reported to the police in which hate might have been a motive, the number of hate crime offences prosecuted and the outcome of such cases, as well as the reasons for non-prosecution of such crimes (under hate crime provisions or at all).<sup>130</sup> The data should be disaggregated by the group affected by the crimes. The EUMC called on the EU member states to “install a reporting system for racist crimes that is clear, consistent and accessible” and that involves maintaining statistics on the treatment of the racist crime in the criminal justice system from the police to the courts”.<sup>131</sup> In a report in 2007, the Fundamental Rights Agency (which took over the role of the EUMC)<sup>132</sup> identified Hungary among the EU member states that have a ‘limited’ data collection mechanism in place to record racist crime.<sup>133</sup>

Amnesty International considers that this lack of disaggregated data may be an impediment to the effective prevention of hate crime, including against Roma, in Hungary.

# CONCLUSION AND RECOMMENDATIONS

Building on the international human rights standards and the European Court of Human Rights jurisprudence, this report aimed to show how racially-motivated crimes have a specific impact on individual victims, communities, as well as a society as a whole. Accordingly, the ways in which hate crimes are identified and addressed must also differ.

Amnesty International is concerned that Hungarian authorities are failing to take necessary steps to prevent and respond to violence against Roma effectively due to shortcomings and gaps in the criminal justice system.

- The provisions on hate crimes that exist are not being thoroughly implemented: there is a lack of procedures to guide investigation, including the determination whether the crime was possibly motivated by hatred. There is also a lack of specialized units with expertise on hate crimes in the Hungarian police;
- The victims do not receive adequate reparation despite the provisions in the law, support and assistance do not appear to be easily accessible to the victims of hate crimes;
- There is a lack of disaggregated data on hate crimes to monitor the situation, identify trends and outline policy responses.

## **Amnesty International recommends**

### **ON NON-DISCRIMINATION MEASURES**

*The Government of Hungary must:*

- Ensure that members of Romani community, as well as members of other vulnerable groups are protected from violence and attacks;
- Ensure the message is clear: racist comments by public officials, including law enforcement and administrative officials, are not tolerated in Hungary;
- Ratify and implement Protocol No. 12 to the European Convention on Human Rights, which sets out a general prohibition of discrimination;
- Develop an action plan and take urgent measures to combat and prevent racist incidents and hate crimes.

## ON IMPLEMENTATION OF HATE CRIME LEGISLATION

*The Government of Hungary must:*

- Ensure that racially motivated violence and other hate crimes are fully and effectively investigated and that those reasonably suspected of responsibility are prosecuted/brought to justice under laws providing for sanctions which reflect the gravity of the human rights abuses;
- Establish and operate a system across the country for recording and monitoring racist incidents and hate crimes;
- Develop and disseminate guidelines for police officers and prosecutors on recording the crimes against community under Article 174/B;
- In co-operation with NGOs, community-based organizations and representatives of the minorities outline and implement measures that would encourage reporting of racist and other hate-related incidents, such as establishing specialized agencies with trained personnel to which the hate crimes can be reported.

*The Ministry of Interior should:*

- Develop and implement guidelines for police officers on investigation of crimes against community under the Article 174/B of the criminal code and other hate crime offences;
- Introduce a system of comprehensive monitoring of all incidents that may constitute hate crimes, in particular racist offences. The monitoring should cover all stages of proceedings, including complaints lodged, charges brought and convictions recorded.

*The Police should:*

- Take measures to ensure that independent and impartial investigations are initiated promptly and are thoroughly carried out without undue delay;
- Ensure that all police officers receive in-service training on the nature of hate crimes and the role of the police in combating them;
- Work with Roma self-governments, NGOs and human rights organizations to implement measures to encourage Roma and other victims to report hate crimes and to ensure their protection from reprisal when they do.

## ON RECORDING CRIMES COMMITTED AGAINST MEMBERS OF COMMUNITY

*The Ministry of Interior should:*

- Strengthen the data collection on hate crimes, in a manner that ensures respect for human rights including the prohibition of discrimination, so that it can be used to identify

trends;

- Publish the data collected;
- Ensure that the data collected on the application of provisions of the Criminal Code, including provisions expressly criminalising hate based violence such as Article 174/B of the Criminal Code, are disaggregated by the different groups to which the victim of each such groups belongs. Ensure that any collection of such data is in line with the international standards on the protection of personal data.

*The Police should:*

- Establish specialised units or designated police officers at the county and local police with specialized training to identify and investigate hate crimes.

## ON VICTIM SUPPORT

*The Ministry of Justice should:*

- Ensure that the victims of hate crimes have effective access to the mechanisms of justice and to redress, including through ensuring their access to appropriate support and assistance for each stage of any criminal justice processes, and where appropriate after them. The support and assistance should be provided even in cases in which the perpetrators are not identified, prosecuted or convicted;
- Provide for the training for the police to ensure the needs of the victims of hate crimes are met and the victims rights to dignity and privacy are met;
- Ensure that the victims of hate crimes, and where appropriate their families, are informed, offered and have effective access to support, assistance and protection including counselling and legal assistance throughout any investigation and criminal proceedings, continuing after the case has been closed;
- Develop programmes and projects to empower Roma to improve their reporting of hate crimes.

# ENDNOTES

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1 Including the European Convention of the Protection of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination.

2 *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005/VII

3 OSCE-ODIHR, *Combating Hate Crimes in the OSCE Region*. Warsaw, 2005, p. 12.

4 See: Explanatory Memorandum to ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

5 The Hungarian Constitution authorizes national and ethnic minorities to create local self-government bodies. They are directly elected by the members of the minority and exist parallel to the local governments. The local self-government representatives have the right to provide input on all public policy matters through guaranteed access to local council committee meetings. For a local self-government to be created 30 people in a given municipality from the same minority group must register to participate in the elections. See: National Democratic Institute and OSCE-ODIHR "The Hungarian Minority Self-Government System as a Means of Increasing Romani Political Participation", 2007.

6 IMF Executive Board Approves €12-billion Stand-by Arrangement for Hungary, IMF Press Release No. 08/275, 6 November 2008

7 Dena Ringold & Mitchell A. Orenstein & Erika Wilkens, "An Overview of Roma Poverty and Welfare", *Roma in an Expanding Europe: Breaking the Poverty Cycle*, The World Bank, 2005, p.31. The poverty line is equal to 50 per cent of median of per capita expenditure.

8 ECRI, *Fourth Report on Hungary*.

9 Minority Rights Group International, "World Directory of Minorities and Indigenous People – Hungary : Roma", August 2009, available at <http://www.unhcr.org/refworld/docid/49749d143c.html>

10 OSCE- ODIHR, "Addressing violence, promoting integration. Field assessment of violent incidents against Roma in Hungary". p. 44.

11 Statement by Vladimír Špidla, 26 February 2009, <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=464>

12 European Commission against Racism and Intolerance 2009 Report on Hungary, 4th monitoring cycle. CRI (2009)3, p.24.

13 Annual Report of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities 2006. <http://www.kisebbségiombudsman.hu/hir-271-annual-report-of-the-parliamentary.html>

14 European Commission against Racism and Intolerance 2009 Report on Hungary.

15 Budapest Sun, 12 December 2007.

16 ECRI, *Fourth Report on Hungary*, p. 26, OSCE-ODIHR, "Addressing violence, promoting integration. Field assessment of violent incidents against Roma in Hungary". p 31.

17 BBC News Online '24 April 2010.

18 Amnesty International interview with the Pest County Police, Budapest, 26 March 2010.

19 Fejér Megyei Hírlap, "A Jobbik szervezett demonstrációt Kiskunlacházán", 27 September 2009. [http://www.fmh.hu/belfoldi/20090927\\_jobbik\\_demonstralt\\_kiskunlachazan.aspx](http://www.fmh.hu/belfoldi/20090927_jobbik_demonstralt_kiskunlachazan.aspx)

20 Specialized independent organization set up by the government to promote equality of opportunities and combat discrimination. ETA can receive and deal with individual and public complaints about unequal treatment.



- 21 Kádár, A, Körner, J, Moldova, Z, Tóth, B "Control(led) Group". Final Report on the Strategies for Effective Police Stop and Search Project, Hungarian Helsinki Committee, Budapest 2008, p. 36.
- 22 Hungarian Helsinki Committee, "Briefing Paper for the Council of Europe Commissioner for Human Rights", 29 September 2009.
- 23 US Department of State: "2009 Human Rights Report: Hungary". Available at: <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136035.htm>
- 24 The Budapest Times: "Police union-Jobbik ties not kosher: ORFK", 3 June 2009.
- 25 Politics.hu: "Police union banned from cooperating with Jobbik, party defiant", 4 June 2009.
- 26 Council of Europe Framework Convention for the Protection of National Minorities, ETS No. 157
- 27 OSCE Ministerial Council Decision No. 13/06, "Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding", Brussels, 5 December 2006.
- 28 See, e.g. Interview with Tara Bedard, the programme director of European Roma Rights Centre in *Deutsche Welle* 18 May 2010.  
<http://www.dw-world.de/dw/article/0,,5583163,00.html>
- 29 Amnesty International interview with the National Bureau of Investigation, Budapest, 5 February 2010.
- 30 Embassy of Hungary – Washington D.C., 27 April 2009.  
[http://www.huembwas.org/Z\\_News/20090427\\_Hungarian%20Roma%20Policy/Hungarian%20Roma%20Policy.htm](http://www.huembwas.org/Z_News/20090427_Hungarian%20Roma%20Policy/Hungarian%20Roma%20Policy.htm)
- 31 Amnesty International is withholding the identities to protect the victims and victim's families.
- 32 OSCE, "Addressing violence, promoting integration. Field assessment of violent incidents against Roma in Hungary". June-July 2009. Warsaw 15 June 2010. p 5.
- 33 As of June 2010, the suspects were held in the pre-trial detention. The Hungarian Act on Criminal Proceedings distinguishes between custody – a period of maximum 72 hours –, and a pre-trial detention which can be ordered by a court under certain conditions (Article 129, Section 1). The overall period of pre-trial detention may not exceed one year after the court order.
- 34 MTI – Hungarian News Agency, "Police conclude investigation of Roma killings", 7 July 2010.
- 35 For further details on "base motivation" see chapter 5. Prohibition of Hate crimes: Law and Practice.
- 36 Index/MTI, "Romagyilkosságok: benyújtották a vádiratot", 8th September 2010.
- 37 OSCE: "Combating Hate Crimes in the OSCE Region". OSCE Office for Democratic Institutions and Human Rights, Warsaw, 2005. p. 12.
- 38 ECtHR, *Nachova and others v. Bulgaria*, Grand Chamber judgment, 6 July 2005. nos. 43577/98 and 43579/98, § 145, ECHR 2005/VI
- 39 Lawrence, F.M. "Racial violence on a small island", in: Iganski, P., *The Hate Debate*. Profile books, 2002, pp. 36.-53.
- 40 American Psychological Association, *Hate Crimes Today: An Age-Old Foe in Modern Dress*, Psychology Examines the Issues, Washington, 1998.
- 41 OSCE 2005. Combating Hate Crimes on the OSCE Region. p. 12.
- 42 *Nachova and Others v. Bulgaria* [GC]
- 43 M. B. – the last victim in the series of attacks was killed in her house in Kisléta.
- 44 CERD, Article 2 (1d).
- 45 CERD, Article 1 (1).
- 46 *LCB v the United Kingdom*, judgment of 9 June 1998 at para 36.

## 42 Violent attacks against Roma in Hungary Time to investigate racial motivation

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- 47 *Osman v The United Kingdom*. judgment of 28 October 1998 at para 115 .
- 48 *Kelly and others v. the United Kingdom* (Application no. 30054/96) and *Shanaghan v. the United Kingdom* (N° 37715/97), ECHR 2001-V
- 49 *Ramsahai and Others v. the Netherlands* (no. 24746/94), judgment of 15 May 2007 [Grand Chamber], para. 324
- 50 *Kukayev v. Russia* (no. 29361/02), judgment of 15 November 2007, para. 95.
- 51 *Ögur v. Turkey* judgment of the Grand Chamber of the European Court of Human Rights, Application no. 21954/93, § 92, ECHR 1999-III, *Güleç v Turkey*, judgment of 27 July 1998 § 82, *McKerr v. the United Kingdom* (Application no. 28883/95), ECHR 2001-VIII
- 52 *Šečić v. Croatia*, judgement of the European Court of Human Rights, para. 67-69.
- 53 *Stocia v Romania* , judgment of the European Court of Human Rights at para 119.
- 54 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, Official Journal of the European Union L 328, 06 December 2008, pp. 55 –58.
- 55 Arrow-cross was a symbol of Hungarian national-socialist party from the World War II period; hammer and sickle is a symbol of communism.
- 56 Article 174/B of the Criminal Code: Violence Against a Member of a Community.
- 57 If a person commits a homicide, he shall be punished with imprisonment of 5 to 15 years, but if the homicide is committed for a base reason or purpose, it is punishable with imprisonment from 10 to 20 years, or life imprisonment. (Article 166, Section 1 and 2c of the Criminal Code).
- 58 If someone causes bodily harm that heals within eight days, he shall be punished with imprisonment up to two years, public labour, or a fine, but if the offence is committed for a base reason or purpose, it is punishable with imprisonment up to 3 years. (Article 170, Section 1 and 3 of the Criminal Code). Similarly, if a person causes grievous bodily harm, he shall be punished with imprisonment up to 3 years, but if the offence is committed for base reason or purpose, it is punishable with imprisonment of 1 to 5 years. (Article 170, Section 2 of the Criminal Code).
- 59 ECRI 2009 Report on Hungary, Fourth monitoring cycle, 24 February 2009, p. 14.
- 60 The title of the article: "Violence against a member of a national, ethnic, racial or religious group" was amended in February 2010 to: "Violence against member of a community".
- 61 ECRI, Third Report on Hungary, Adopted on 5 December 2003, CRI (2004) 25, p. 10.
- 62 CERD General Recommendation No. 31 – I, A 1 (b)
- 63 Goodey, Jo, "Racist Crime in the European Union: Historical Legacies, Knowledge Gaps, and Policy Development". In: Goodey, J & Aromaa, K, 2008, p. 18.
- 64 Response of Hungarian Civil Liberties Union to the Prosecutor General on the issue of guidelines on applicability of Section 174/B of the Criminal Code. 14 April 2010.
- 65 Report on the Activity of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities 2008.
- 66 Papp, A. "Human Rights and Ethnic Data Collection in Hungary", in: Human Rights Review (2008) 9, p. 118.
- 67 Amnesty International Interview with the representatives of the Office of the Prosecutor General, Budapest, 3 February 2010.
- 68 Letter of the Head of the Department for Crime Prevention and Victim Support to Amnesty International, 27 May 2010.
- 69 Papp, A, "Human Rights and Ethnic Data Collection in Hungary", in: Human Rights Review (2008)9.
- 70 OSCE 2005, Combating Hate Crimes on the OSCE Region, p 26.
- 71 Bell, Jeannine, "Policing Hatred: Law Enforcement, Civil Rights, and Hate Crime," New York University, 2002, p.12.

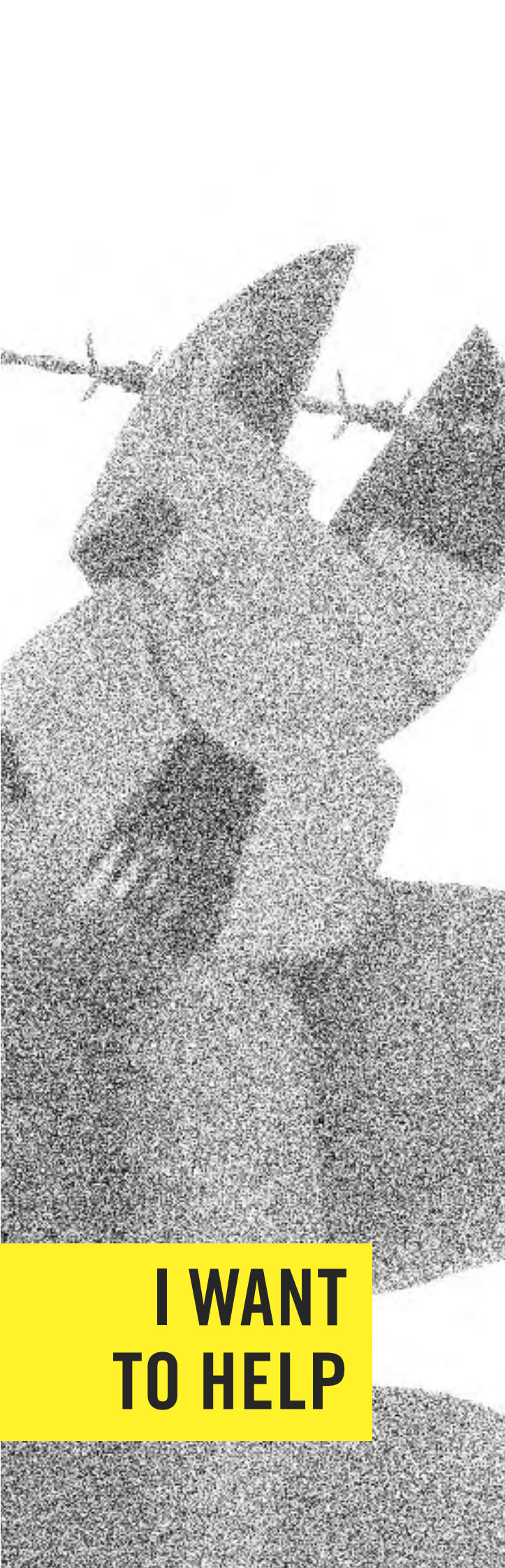
- 72 Oakley, R, "Policing Racist Crime and Violence: A comparative study". EUMC, 2005.
- 73 Oakley, R, "Policing Racist Crime and Violence: A comparative study". EUMC, 2005 p. 16.
- 74 ECRI, Second Report on Hungary, Adopted on 18 June 1999, CRI (2000) 5, p.6.
- 75 ECRI, Third Report on Hungary, Adopted on 5 December 2003, CRI (2004) 25, p. 19.
- 76 Amnesty International interview with Miklós Kárpáti, Budapest, 29 January 2010; Árpád Csonka Salgótarján 5 February 2010; Márton Udvary, Budapest, 24 March 2010.
- 77 Amnesty International interview with Viktória Mohácsi, 29 January 2010.
- 78 Report on the activity of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, 2008.
- 79 Report on the activity of Parliamentary Commissioner for the Rights of National and Ethnic Minorities 2008. p. 79
- 80 Decision No. 3/2003, Action Plan on Improving the Situation of Roma and Sinti, OSCE Ministerial Council. Maastricht 2003; Decision No. 4/2003 Tolerance and Non-discrimination, OSCE Ministerial Council. Maastricht 2003.
- 81 *Stoica v. Romania*
- 82 Oakley, R, "Policing Racist Crime and Violence: A comparative study". EUMC, 2005 pp. 11-16.
- 83 Papp, A. "Human Rights and Ethnic Data Collection in Hungary" ", in: Human Rights Review (2008)9.
- 84 Gray, Z., "The importance of ethnic data for promoting the right to education", in: Minority Rights Group, State of the World's Minorities and Indigenous Peoples.
- 85 Council of Europe, Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Art. 9(2a).
- 86 CERD, General Recommendation No. 4, Demographic composition of the population, 25/08/1973.
- 87 Timo Makkonen, Measuring Discrimination. Data Collection and the EU Equality Law, European Commission, 2007, p. 72.
- 88 See: Vienna Convention on the Law of Treaties, Vienna, 23 May 1969, generally understood as reflective of customary international law.
- 89 ECRI, Second Report on Hungary, p.8.
- 90 Oakley, R.: "Policing Racist Crime and Violence: A comparative study". EUMC, 2005. p. 27.
- 91 Letter of the Head Prosecutor to Balázs Dénes, the Chair of Hungarian Civil Liberties Union. 2 April 2010.
- 92 See: CERD, General Recommendation No. 27, Discrimination against Roma.
- 93 Explanatory Report to ECRI General Policy Recommendation No 11 on combating racism and racial discrimination in policing at paragraph 66, relating to paragraph 11 of the General Police Recommendation which recommends authorities "To ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account".
- 94 OSCE-ODIHR, "Addressing violence, promoting integration. Field assessment of violent incidents against Roma in Hungary". p. 12.
- 95 ERRC, TASZ, NEKI, "Report on the circumstances of the double murder committed at Tatárszentgyörgy on 23 February 2009 and conduct of the acting authorities"., 7 May 2009, Budapest. p. 5.
- 96 ERRC, TASZ, NEKI, "Report on the circumstances of the double murder committed at Tatárszentgyörgy on 23 February 2009 and conduct of the acting authorities".
- 97 ERRC, TASZ, NEKI "Hungarian Head of Police Acknowledges violation of the victim's right to fair procedure one year after the double murder

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- committed in Tatárszentgyörgy". Public statement, 18 February 2010. <http://www.errc.org/cikk.php?cikk=3064>
- 98 Independent Police Complaint Board, Opinion no. 366/2009 (Nov. 11), Ref. no. 101/2009/Pan.
- 99 Explanatory Report to ECRI General Policy Recommendation No 11. para 66.
- 100 Amnesty International interview with the Pest County Police., Budapest 26 March, 2010.
- 101 Amnesty International interview with the Deputy Prosecutor General of the Republic of Hungary, Budapest , 3 February 2010.
- 102 ECRI: General Policy Recommendation No 11 on combating racism and racial discrimination in policing , paragraph 14; EUMC: "Policing Racist Crime and Violence", recommendation 8.1 (f).
- 103 Amnesty International interview with the Pest County Police., Budapest 26 March, 2010.
- 104 EUMC: "Policing Racist Crime and Violence", recommendation 8.1 (g).
- 105 Explanatory Report to ECRI General Policy Recommendation No 11 on combating racism and racial discrimination in policing; OSCE- ODIHR, "Addressing violence, promoting integration. Field assessment of violent incidents against Roma in Hungary". p. 50.
- 106 Bell, Jeannine, Policing Hatred: Police Bias Units and the Construction of Hate Crime, in: Perry, Barbara (Ed.) ,*Hate and Bias Crime. A Reader.*, 2003, pp. 431-432.
- 107 OSCE 2005, Combating Hate Crimes on the OSCE Region, p. 37.
- 108 ECRI 2009, Report on Hungary, Fourth monitoring cycle, 24 February 2009, p. 14.
- 109 CERD General Recommendation No. 31 - I/2/B 5 (i)
- 110 OSCE: "OSCE Action Plan on Improving the Situation of Roma and Sinti in OSCE Area". 1 – 2 December 2003, Maastricht.
- 111 OSCE-ODIHR: "Police and Roma and Sinti: Good Practices in Building Trust and Understanding", Vienna 2010. pp. 58-59.
- 112 Nachova and Others v. Bulgaria [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005/VII; Shanaghan v. the United Kingdom, judgement of the European Court of Human Rights, no. 37715/97, § 90, ECHR 2001-III.
- 113 Amnesty International interview with the Baranya County Prosecutor, Pécs, 8 February 2010.
- 114 UN Office for Drug Control and Crime Prevention: Handbook on the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. New York, 1999.
- 115 Council of Europe Committee of Ministers Recommendation to member states (2006)8 on assistance to crime victims at 5.2; Principle 6 of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- 116 Oakley, R.: "Policing Racist Crime and Violence: A comparative study". EUMC, 2005, p. 21.
- 117 See case law of the European Court of Human rights cited at endnote 48 infra.
- 118 See Paragraph 6 of Council of Europe Committee of Ministers Recommendation to member states (2006)8 on assistance to crime victims.
- 119 Council of Europe Committee of Ministers Recommendation to member states Rec (2006)8 on assistance to crime victims at paragraph 5.2.
- 120 Handbook on the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, p. 64.
- 121 Letter of the Head of the Department for Crime Prevention and Victim Support to Amnesty International. 27 May 2010.
- 122 The Movement for Desegregation Foundation, an NGO led by a former Member of the European Parliament Viktória Mohácsi, registered about 50 attacks, and the European Roma Rights Centre (ERRC) recorded more than 40 attacks with a strong indication of racial motivation over an 18-month period in 2008 and 2009.

- 123 ECRI 2009, Report on Hungary, Fourth monitoring cycle, 24 February 2009, paragraph 22; ECRI, Third Report on Hungary, Adopted on 5 December 2003, CRI (2004) 25. para 19.
- 124 European Commission against Racism and Intolerance 2009 Report on Hungary, para 22.
- 125 Act on Crime Victim Support and State Compensation.
- 126 The income ceiling for eligibility of legal aid as of 2006.
- 127 OSCE: "Combating Hate Crimes on the OSCE Region". OSCE-ODIHR, Warsaw, 2005, p. 14.
- 128 CERD General Recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system.
- 129 ECRI General Policy Recommendation No 11 on combating racism and racial discrimination in policing.
- 130 ECRI 1999 Second Report on Hungary.
- 131 EUMC 2002 Racism and Xenophobia in the EU Member States: Trends, Developments and Good Practice in 2002, p. 89.
- 132 132 As of March 2007, EUMC was replaced by European Union Agency for Fundamental Rights (FRA).
- 133 European Union Agency for Fundamental Rights 2007. Report on Racism and Xenophobia in the Member States of the EU, Vienna, p. 121.



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# **VIOLENT ATTACKS AGAINST ROMA IN HUNGARY**

## **TIME TO INVESTIGATE RACIAL MOTIVATION**

Violent attacks against Roma, commonly believed to be racially motivated, are on the rise and have not been adequately investigated by the authorities.

Over a period of 18 months in Hungary, between January 2008 and August 2009, six Romani men, women and children were killed in a series of similar attacks in different parts of Hungary. Four men were arrested soon after the last killing. However, in the same period, local NGOs recorded over 40 separate attacks on members of the Romani community in Hungary.

At the same time, discriminatory attitudes towards Roma have been increasingly accepted in public discourse in Hungary since 2006. Abusive terms, initially used by far-right political groups, are now accepted in the mainstream media.

The report presents first-hand accounts from victims of these violent attacks that many in the community believe are motivated by racial prejudice. It highlights the Hungarian authorities' shortcomings in the investigation and prosecution of attacks against Roma and calls on them to ensure that members of the Romani community, as well as members of other groups, are protected from violence. It also recommends that the authorities improve the investigation and reporting of racially motivated crimes and ensure that their victims receive adequate support.

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