

Comprehensive investigation: the practice of joint inspections coordinated by Miskolc Municipality Police, the local housing decree, other Miskolc Municipality measures affecting housing, and decree amendments by other municipalities in the Miskolc metropolitan area.

Summary to joint report number “AJB-1474/2014.”

1. The Hungarian Civil Liberties Union and the Legal Defense Bureau for National and Ethnic Minorities filed a joint complaint to the Ombudsman for Fundamental Rights in which they framed fundamental rights pleas in regards to the practice of joint inspections coordinated by Miskolc Municipality Police (MMP) and conducted in collaboration with partner agencies.

As they reported, MMP conducted inspections in segregated neighborhoods of Miskolc in collaboration with various agencies and institutions. The inspections involved checking compliance with the obligation of registering a home address; with animal-keeping regulations; existence of waste disposal agreements, renting agreements, and documents proving ownership. Public cleanliness inspections, public guardianship agency inspections, public utility inspections, and social administration inspections were also conducted. According to the authorities, the objective of these inspections was the protection of municipal property. The inspections targeted segregated areas, or low-status ghettoized streets and neighborhoods densely inhabited primarily by people of Roma ethnicity. At some of the locations, authorities returned multiple times to conduct repeated inspections. The various authorities usually sent large inspection teams to the targeted sites. In some cases, members of the teams opened the refrigerator and even searched the lavatory and the bathroom.

According to the complainants, residents of the inspected neighborhoods felt threatened and harassed by the repeated, coordinated, raid-like joint inspections by official personnel.

According to the complaints, the legal basis for the inspections was the decree ‘about fundamental rules of cohabitation and the legal consequences of breaking them’ which has recently been enacted in Miskolc. Inspections typically checked compliance with regulations in this decree. The complainants raised concerns about the decree regulations being against the Fundamental Law; they exceed the boundaries of the mandate assigned to authorities by the Municipality Law. This is why they filed for the Ombudsman’s legislative investigation.

The inspections were conducted upon diverse legal grounds, but by joint teams, which raised suspicions of fundamental rights violations. Based on the above, the Ombudsman for Fundamental Rights and the Deputy Ombudsman responsible for protecting the rights of ethnic minorities in Hungary initiated a comprehensive ex officio investigation.

After this comprehensive investigation had been initiated, we received new input from the complainants. They rebuked the May 8, 2014 amendment of the local housing decree of Miskolc Municipality, which adversely affected the predominantly Roma residents renting low comfort

level municipality-owned dwellings. The amendment allowed for low-status residents in deep poverty, mostly Roma, to be relocated outside city limits. The complainants filed for the Ombudsman to appeal the amendment in the Constitutional Court.

In yet another filing, complainants also pointed out the illegal practices of Miskolc Real Estate Management Plc. (MIK), and the obligations of the municipality to provide housing, basic needs services, and child-protection services.

Subsequently, the European Roma Rights Center and the Chance for Children Foundation filed a new joint complaint to the Ombudsman for Fundamental Rights. In this complaint, they criticized the local police and other municipal agencies for singling out the Roma through these discriminative practices. The amendment of the municipal decree and other, related actions of the municipal authorities raised suspicions of further fundamental rights violations. As a result, the scope of the joint ex officio investigation of the Ombudsman and the Deputy Ombudsman was extended to include these suspected violations.

In January, 2015, complainants filed a new petition which also concerned the amendment of the Miskolc housing decree. They found other Miskolc-area municipality decrees to be unlawful. These decrees affect underprivileged people who use subsidies from other municipalities to move within city limits by restricting their access to social, municipal services, municipal rental rights, and public employment. Thus, the petitions requested the Ombudsman to appeal such decrees in the Constitutional Court. Since these decrees also raised suspicions of fundamental rights violations, the ex officio investigation was extended to include them. During their investigation, the Ombudsman and the Deputy Ombudsman reached out to all authorities and institutions involved in the questioned inspection practices. Their team also conducted widespread local visits to collect additional data and information on all issues under investigation. They contacted the authorities who had conducted the inspections and met residents of the segregated neighborhoods in-person. In their report, the Ombudsman and the Deputy Ombudsman emphasized the constructive-critical and cautionary aspects of their findings in addition to fundamental rights concerns.

2. In the summary of their report, the Ombudsman and the Deputy Ombudsman underlined that the various authorities and institutions set up joint teams to conduct the inspections on a pre-determined date and route under directions of the municipality's public safety agent and the leaders of Miskolc Municipality Police. The raid-like inspections were conducted by large, coordinated teams of various authorities with varying profiles and inspections rights. The report concluded that there was no legal mandate for this coordination between authorities which per se defies the fundamental principles of the rule of law and legal security.

Furthermore, the practice of conducting the inspections violated or posed the direct risk of violating several fundamental rights. Given that the inspections were based on incomplete or incorrect interpretations of regulations to start with, affected citizens were unable to understand

and follow at an acceptable level the regulatory background and legal basis of these procedures. All this resulted in the violation of the right to fair procedure and the right to appeal.

The inspections had a threatening effect; they were of a preventative nature; they were secured by police with no appropriate justification; and they were often repeatedly conducted by large teams. The Ombudsman and the Deputy Ombudsman opined that these characteristics of the inspections disproportionately restrict the right to a private sphere for needy, disadvantaged, and predominantly Roma residents, superfluously and without constitutional justification.

In line with the position of Hungarian National Authority for Data Protection and Freedom of Information, the report also ascertained the violation of the residents' right for informational self-determination.

The investigation ascertained the coordinated nature of the joint inspections and their planning, organization, and execution violated the principle of equal treatment. According to available documentation and data, more than 90% of these joint inspections in Miskolc took place in segregated neighborhoods where residents are financially disadvantaged, live in poverty, and are predominantly of Roma ethnicity. The comprehensive report therefore concluded that the unjustified, repeated inspections which singled out the segregated neighborhoods of Miskolc resulted in indirect ethnic, social and economic discrimination.

The report states that it is the Ombudsman's and the Deputy Ombudsman's firm opinion that the planning and execution of these practices fundamentally violate the right to equal dignity and the right to fair procedure. As a result, the democratic rule of law dictates that these practices, coordinated across several municipal agencies, must stop immediately. The only constitutional means to address the complex issues of poverty and segregation is through public policy. Accordingly, the Ombudsman and the Deputy Ombudsman emphasized the importance of ascertaining that such coordinated municipal actions will not be allowed in any Hungarian locality.

The investigation also revealed that two municipal decrees in Miskolc raised severe constitutional and legal concerns. As a result, the Ombudsman and the Deputy Ombudsman deemed it necessary to initiate an investigation by the competent government office, and to appeal to the Curia after the office declared the investigation ineffectual. Passing and sanctioning community rules violating the privacy of the members of an already disadvantaged community is reprehensible from a constitutional standpoint, and it violates the right to equal dignity.

In the case of municipal housing, procedures designed to link municipal payments to the purchase of real estate outside the boundaries of the municipality after the legal relationship between tenants and the municipality expires is also unconstitutional, if it refers to tenants of low-income housing only. (Following the actions of the competent Government Office, the Curia deemed the relevant provisions of the local decree illegal and annulled them in a ruling on 28 April 2015.) The Ombudsman and the Deputy Ombudsman were also concerned that in certain

cases, the municipality remedied some of the practices violating fundamental rights with similarly unconstitutional municipal decrees.

3. The Ombudsman and the Deputy Ombudsman addressed the Municipality with a comprehensive list of recommendations, initiating the following actions by the City Council.

- Terminate the coordinated inspections, conducted jointly by a large number of municipal authorities and public utility companies immediately; ascertain that their direction and oversight, as well as the practices and procedures of all municipal authorities under their jurisdiction be in accordance with the relevant legislative directives and government regulations.
- Repeal the municipal decrees regulating the life of the community that are deemed unlawful by the Government Office, and are under appeal by the Curia.
- Cooperate with the Hungarian Charity Service of the Order of Malta, currently active in segregated Roma areas, and work with the policy arm of the Municipality. Further, coordinate the services of the relevant local agencies and organizations to prevent evictions under way in segregated areas.
- Develop an action plan for the placement of the families who have lost their homes as a result of the above practices, and make arrangements to consolidate their living conditions. In developing the action plan, work together with the Hungarian Charity Service of the Order of Malta, and the competent social and family welfare agencies and institutions.
- Participate in the drafting of the complex government program and agenda initiated by the Ministry of Human Capacities, together with the relevant supporting municipal organs and the Hungarian Charity Service of the Order of Malta to eliminate the existing segregated urban settlements and prevent their renewal.

The Ombudsman and the Deputy Ombudsman requested the Minister of the Prime Minister's Office to conduct an investigation and assessment into all other local authorities currently implementing similar inspections and practices involving the coordinated actions of several municipal bodies, and to initiate their immediate termination.

The Ombudsman and the Deputy Ombudsman appealed to the City Councils of Sátoraljaújhely and Szerencs to repeal their unlawful and discriminative decrees linking municipal payments to relocation to other localities.

The Ombudsman and the Deputy Ombudsman appealed to the Minister of Human Capacities to conduct an investigation into the state of segregated settlements and the living circumstances of their inhabitants in Miskolc, in light of the concerns expressed in the report. They suggested that the Minister, together with the Municipal Government, develop an action plan including a timeline and budget to eliminate the city's segregated urban settlements, prevent their renewal,

and stop the processes causing increasing segregation in Miskolc. Finally, they called on the Minister to consider amending relevant legislation, and to initiate the implementation of measures to establish the general conditions of competent welfare delivery for children and youths at schools.

4. In the report, the Ombudsman and the Deputy Ombudsman warned about the dire living conditions of the inhabitants of segregated settlements, and the consequences of living in these conditions. The number of municipal housing units suitable for human habitation is decreasing; in the meantime, the eviction rate among disadvantaged families is increasing, despite the moratoria in effect.

For the effective prevention of mass homelessness and the protection of the rights of children at risk to become homeless, the relevant public bodies must immediately engage in a dialogue to coordinate actions and welfare measures. The report unequivocally states that beyond the previously mentioned constitutional concerns, neither the joint, recurring actions of local bodies, nor the evictions under way are suitable measures to eliminate the segregated settlements in Miskolc.

The investigation confirmed the conclusions of the Ombudsman's previous report on the subject. The fundamental rights of local inhabitants, and especially of disadvantaged children, Roma children in particular among them, are gravely violated as a result of the prevailing conditions of habitation, employment, and education in segregated settlements. The report states it as a fact that people living in extreme poverty and segregation cannot change their living circumstances unaided due to the complex set of problems they are facing. It also pointed out the State's duties regarding the systemic and continuous improvement of the state of segregated populations on the grounds of the State's duty to guarantee their right to equal dignity. Every government decree on the integration of the Roma population since 1997 has contained provisions on improving the living conditions of settlement populations. The National Social Development Strategy established a 10-year timeline to establish the medium-term challenges, objectives and interventions regarding the integration of low-income populations into the labor force, notably among the Roma.

Based on the investigation, the Ombudsman and the Deputy Ombudsman concluded that the 13 segregated settlements place considerable burdens on the city. The municipality will not be able to eliminate these settlements in the absence of government partners. It is clearly beyond the capacity of the municipality to address these complex issues. Policing and remedying housing problems with eviction and relocation will not solve, but only deepen local conflicts. In the interest of an effective resolution, Miskolc will inevitably have to rely on the State's expert assistance and targeted financial support, and the active and constructive presence of the NGO sector.