Although the head of Gyöngyös Police Department did not consider it justified not to acknowledge the announced event due to the violation of constitutional rights, the information mentioned above did not contain a warning that the right of assembly should not commit a crime or invitation to a crime or cause a violation to the rights and freedom of others pursuant to Section 2(3) of Act III of 1989.

According to Section 8(1) of the Assembly Act, the police may prohibit holding an event subject to notification in a specific location or time stated in the notification within 48 hours of the receipt of the notification by the authority if holding the event subject to notification threatens the undisturbed operation of the representative bodies or the courts or if the traffic cannot be ensured on another route.

In the view of the court, it is a relevant circumstance in relation to the potential applicability in the legislative provisions referred to above that Gyöngyös Police Department prepared an action plan under No. 10.031/2011ált. on the implementation of securing the marching demonstration, which also recorded the fact that police security was justified by the fact that the demonstration involved streets populated by the Roma, one of which was a dead end, and that verbal or violent conflict of any level could not be prevented or stopped without appropriate police preparedness.

Before the head of Gyöngyös Police Department made a decision on acknowledging the holding of the event falling under the Assembly Act, a consultation was held on March 2, 2011, between the Police Department of Gyöngyös and Oszkár Juhász, the organizer of the event, of which minutes were taken.

According to the minutes, János Antal, police chief staff ensign, suggested as a member of the authority that the petition should not be handed over to the president of the Roma Minority Self-government at Gyöngyöspata, Bem út 13., but in or in front of the mayor’s office on Fő út in Gyöngyöspata instead, but the minutes show that Oszkár Juhász, the organizer of the event declared that he insisted on the specified location and wanted to hand the petition over at the building at Bem út 13.

It is the view of the court that the respondent’s obligation to protect fundamental rights also involved responsibly considering whether it could apply the legal possibility set out in Section 8(1) of the Assembly Act in order to secure the equal human dignity of the members of the Roma in Gyöngyöspata.

The court takes the view that respondent should have lawfully considered the application of Section 8(1) of the Assembly Act not only in relation to the location defined in the notification, but also the time appearing therein. This is supported by the color images prepared by the press photographer of Heti Világgazdaság the applicant annexed to its preparatory writ No. 56, which, in the opinion of the court, prove that the mass had to march in Hegyalja utca (the dead end) in full darkness late in the evening.

The color photo No. 10/1 was taken in broad daylight at the start of the marching demonstration, while the color photos No. 10/2, 10/3, 10/4 and 10/5 were taken in the dark.

Tibor Balogh, head of Gyöngyös Police Department declared during his hearing as a witness that it was difficult to identify anyone by voice in such dark. The court takes the view that it followed from the respondent’s obligation to protect fundamental rights that it should have considered the applicability of Section 8(1) of the Assembly Act also in terms of whether the violation of the constitutional rights in the location and time in question or the protection of the equal human dignity of the members of the local Roma community justified prohibiting the holding of the event.

Nevertheless, the head of Gyöngyös Police Department acknowledged the holding of the event falling within the scope of the Assembly Act, and the marching demonstration was held under the organization of Jobbik’s unit in Gyöngyöspata.

The respondent prepared an action plan for the implementation of the police security of the event falling within the scope of the Assembly Act.

In addition, the security officer of the marching demonstration drew up a report on the implementation of his activity as security officer. It can be concluded based on the action plan and the report that the respondent took all necessary measures on its behalf to lawfully secure the event.

According to Section 11(1) of the Assembly Act, however, the organizer shall provide for securing the order of the event, and Section 11(2) of the Assembly Act sets out that the police and other competent bodies shall cooperate in securing the order of the event upon request and assist in removing persons who disturb the order of the event.

In his written notification dated March 2, 2011, Oszkár Juhász, the organizer of the event announced that the smooth arrangement of the event would be secured by 10-15 stewards, and the reasons for the decision of the head of Gyöngyös Police Department acknowledging the holding of the event dated a day later, that is, on March 3, 2011, also included that the smooth arrangement of the event would be secured by 15 stewards and police force of the number determined by him.

Oszkár Juhász, the organizer of the event, told during his hearing as a witness that the event was secured by Szebb Jövőért Polgárőr Egyesület and that he personally requested them to secure the event.

Thus the head of Gyöngyös Police Department acknowledged the holding of an event that was secured by members of the subsequently dissolved Szebb Jövőért Polgárőr Egyesület, namely, members of the Szebb Jövőért Polgárőr Egyesület who were patrolling in the villageMarch 1, 2011.

It is the view of the court that it is justified to evaluate this circumstance as well in the context of personal law infringement.

At the hearing held on December 4, 2014, Oszkár Juhász, the organizer of the event, said that the main subject of the event was a peaceful demonstration against the forms of crime committed by Gypsies.

The court took the view that if was justified to evaluate the statement of the organizer of the event in relation to the personal rights violation, namely, the one he expressed as a witness more than three years after the marching demonstration was held and which, in the court’s opinion, shows the anti-Roma purpose of the demonstration, as the organizer of the event associated certain forms of crime with a particular nationality.

It is a fact beyond doubt that the event covered by the Assembly Act was not disbanded and the report prepared by the security officer of the event shows that no police action at all was taken during the event.

The Metropolitan Court of Appeal referred to the co-called “captive audience” in the explanation of its judgment No. 5.Pf.20.738/2009/7 on the dissolution of Magyar Gárda Hagyományőrző és Kulturális Egyesület.

The applicant claimed that after the police acknowledged the holding of the event, it should have disbanded the event because it clearly violated the equal human dignity of the Roma community in Gyöngyöspata.

Section 14(1) of the Assembly Act declares that the police shall dissolve the event if the exercise of the right of assembly is contrary to what is laid down in Section 2(3).

Based on the statutory provision, the police are therefore obliged to dissolve an event covered by the Assembly Act, during which the participants of the event exercise their constitutional right in the context of exercising their right of assembly in a way that they violate the rights and freedoms of others.

In the decision acknowledging the holding of the marching demonstration, as an event falling within the scope of the Assembly Act, the head of Gyöngyös Police Department provided detailed information to the organizer of the event about the facts defined in the Criminal Code and the Petty Offenses Act in respect of which he considered the information necessary, including Section 174/C and Section 212/A of the Criminal Code and Section 152/B of the Petty Offenses Act.

The same decision refers to the judgment delivered by the Metropolitan Court of Appeal in the context of the dissolution of the Magyar Gárda, and referred to Section 2(3) of the Assembly Act as well, according to which the exercise of the right of assembly may not result in the violation of the rights and freedom of others.

However, the decision of the police referred to the legal regulation in Section 14(1) of the Assembly Act, that is, the obligation to dissolve the event, not in relation to the content of Section 2(3) of the Assembly Act, but defined the legal obligations of the organizer and the participants of the event and included a reference, namely, that in case the organizer and the participants of the event fail to comply with the above-mentioned legal regulations than the police will dissolve the event under the authorization in Section 14(1) of the Assembly Act.

The court also considered the fact that the members of Szebb Jövőért Polgárőr Egyesület were patrolling in the village from March 1, 2011, and that the leaders of the Roma Minority Self-government of Gyöngyöspata expressly stated at the consultation organized by Gyöngyös Police Department on March 2, 2011, that the members of the Roma community were frightened and would like to see members of the civil organization leave the village. So in case the police acknowledged the holding of the event, it would have been justified if the police had informed the organizer of the event making a clear reference to Section 2(3) of the Assembly Act in the reasons for its decision, namely, that the police would dissolve the event in case the participants of the event exercised their constitutional rights provided in Section 1 of the Assembly Act in a way violating the equal dignity of the Roma community in Gyöngyöspata.

The commander of the policy security of the event was Tibor Balogh, head of Gyöngyös Police Department. The tribunal established based on the testimony of Dr. Attila Ormosi, head of Heves County Police Department, that the head of Gyöngyös Police Department was the commander who, acting as the commander of the police security, was entitled to decide on site if it justified to disband the event.

The head of Gyöngyös Police Department said during his hearing as a witness at the hearing on March 10, 2014, that he thought it was likely or he was sure that he had read the judgment dissolving the Magyar Gárda and guessed that the captive community the applicant referred to was the Roma minority. Nevertheless, he thought that nobody was prevented by the demonstrations from leaving their homes.

The court took the view that it can be concluded from the testimony of the head of Gyöngyös Police Department that he did not have full in-depth knowledge about the national and international legal provisions or the case law of the national courts and the European Court of Human Rights, based on which he could have decided on dissolving the demonstration with a view to the obligation of the police to protect fundamental rights.

Section 14(1) of the Assembly Act does not provide a right of discretion to the police commanders, so if the participants of an event exercise their constitutional right that ensures their right of assembly in a way violating the rights and freedom of others, they are obliged to give the order to disband the event.

The circumstances to which the police officer witnesses referred to, namely the possible consequences of dissolution in the given place and time (nearly two thousand persons participated in the event and it was almost totally dark at the end of the event), are totally irrelevant from the legal point of view, as the head of Gyöngyös Police Department acknowledged the event falling under the scope of the Assembly Act in the given place and time, and the police had a clear obligation on the basis of Section 14(1) of the Assembly Act to disband the event in case the statutory condition allowing the dissolution of the event, that is, the violation of the rights and freedom of others, prevailed.

With regard to the reasons of decision No. 95/2008. (VII. 3.) of the Constitutional Court, captive audience means when somebody expresses his/her extreme belief in a way that a person being a member of the offended group is forced to listen to it in terror and does not have the possibility to evade the communication.

The 4 color photos taken by the press photographer of Heti Világgazdaság, attached as the appendix to the applicant’s preparatory writ No. 56, prove that the marching demonstration ended in total darkness. The police did not apply the provisions of Section 8(1) of the Assembly Act, but acknowledged the holding of the event in the given place and time. Therefore, the opinion of the head of the Gyöngyös Police Department as a witness, namely, that nobody was prevented from leaving their homes on the date of the demonstration, is not acceptable.

It is the opinion of the court that the event violated the right to equal human dignity of the Roma community in Gyöngyöspata already during its actual time, since they were forced to leave their homes only in order to allow the participants of the event to exercise their right of assembly.

According to the view of the court, the fact that sick and old people and families with small children were unable to exercise their right to freely decide whether they listened to an opinion they did not like or left their homes, should have been considered by the respondent based on its obligation to protect fundamental rights.

The court took the view that holding the event and the fact that the head of Gyöngyös Police Department had acknowledged the holding of the event, and expressly in the place and time in question, resulted in the members of the Roma community being unable to freely decide whether or not to leave their homes in the knowledge of the fact that members of the Szebb Jövőért Polgárőr Egyesület were patrolling the village since March 1, 2011, and they were experiencing that situation with fear.

Based on the evidence in the proceedings, the court also concluded that many of the participants at the event were chanting when Oszkár Juhász, the organizer of the event, read out his petition, and there were verbal statements that clearly violated the equal human dignity of the members of the Roma community of Gyöngyöspata.

This fact is clearly confirmed by the testimony of the witness Györgyné Baranyi, who stated that they pushed two cabinets against the door and another cabinet in front of the window during the marching demonstration so that they could not hear anything. But they pushed the cabinets there in vain as they heard phrases like

"Stinking dogs, you should die and soap should be made from you!” yelled during the demonstration.

During his hearing as a witness, Tibor Balogh, head of Gyöngyös Police Department declared that the expression “Gypsy crime” was used during the marching event and also heard that the organizers of the event were chanting that “you should work rather than steal”, but he did not hear any threatening verbal statements like “we will kill you” and, as a result, the police did not have to take action against anybody during the event in relation to verbal statements.

Based on the evidence taken in the personal rights case, the court could not take a stand on whether or not the disbanding of the event was justified. Nevertheless, it could establish beyond doubt based on the evidence taken that there were participants at the event who clearly violated the human dignity of the members of the local Roma community. The statement mentioned by Györgyné Baranyi in her testimony, which was chanted by a section of the marching persons, harshly violated the equal human dignity of the members of the Roma community in Gyönyöspata.

No action was taken by the police at all in the context of the marching demonstration and no criminal or petty offense procedure was initiated ex officio against any participant at the event in relation to the verbal statement mentioned by Györgyné Baranyi that harshly violated the equal human dignity of the members of the Roma community of Gyöngyöspata.

The respondent lawfully made video and audio recordings of the marching demonstration, which have been destroyed in the meantime.

As the respondent prepared these video and audio recordings, it created the possibility to examine retroactively if the participants at the event had committed a crime or petty offense during the event, and had the opportunity to initiate such proceedings *ex officio* within the limitation period if the subsequent examination of the video and audio recordings revealed the committing of any crime of petty offense.

During his hearing as a witness, Tibor Balogh, head of Gyöngyös Police Department declared that it was difficult to identify anybody in such a dark crowd based on their voice.

However, the court takes the view that since the respondent did not see a possibility to prohibit holding the event in order to protect the equal human dignity of the members of the Roma community in Gyöngyöspata, which was expected based on its obligation to protect fundamental rights, it should have done its best to enable the commander of the police security on the site, in the light of all the relevant legal provision supporting the decision, to decide whether it was justified to give the order to disband the event in case the participants of the event violated the equal human dignity of the members of the local Roma community or, in case dissolution of the event was not justified, but the participants of the event committed any crime or petty offense, to detect the committing of the same in the worst scenario subsequently based on the video and audio recordings lawfully prepared, and initiate such proceedings *ex officio* based on the well-founded suspicion of that crime or petty offense.

The court could not take a position, either, on the issue of whether the participants at the event committed a crime or a petty offense during the marching demonstration on March 6, 2011. Nevertheless, it could examine whether the following facts could be evaluated in the context of the harassment: that no such procedure was initiated at all; that the event ended in a way that no action was taken by the police during the event and that no criminal or petty offense proceedings were initiated ex officio against the participants of the event subsequently.

The application of the measures to protect personal rights is independent of criminal capability, imputation or the good or bad faith of the conduct of the violating person or his mistake, as a violation of personal rights must also be remedied if the violation was not attributable to anyone.

It is the opinion of the court that the applicant proved in relation to harassment, as the legal title in the personal rights claim, that the failure of the respondent resulted in an intrusion in the privacy of the members of the Roma community in Gyöngyöspata protected by the law and adversely affected the right to equal treatment of the members of the Roma community in Gyöngyöspata.

**In relation to the violation of personal rights, the court considered it a failure of the respondent, resulting in the violation of the equal human dignity of the members of the Roma community in Gyöngyöspata, that the event announced by the president of Jobbik’s unit in Gyöngyöspata as the organizer, which was a non-dissolved event falling within the scope of the Assembly Act, was held in a way that no criminal or petty offense proceedings were initiated *of officio* either on the site or subsequently against any participant at the event in relation to the verbal expressions that obviously and harshly violated the equal human dignity of the members of the Roma community in Gyöngyöspata.**

The court evaluated the following evidence in relation to the incident that took place in the village on April 26, 2011:

The last event during the first period which is the subject of the case, that is the period from March 1,2011 to May 1,2011, was the incident that took place on April 26, 2011, which further increased the tension in the village. Thereafter, tempers slowly calmed and the number of police staff deployed in Gyöngyöspata was gradually decreased.

On April 26, 2011, the head of Gyöngyöspata Police Department drew up an official memo intended to explore the root causes and context of the situation that evolved in Gyöngyöspata.

This official memo described Véderő and Betyársereg as groups close to the national right and as groups expressing extremist views, and the official memo also included the conclusion that, in contrast to the civil guards, these groups, in particular members of Betyársereg, arrived in the village mostly likely with a provocative intention.

The members of Szebb Jövőért Polgárőr Egyesület were not present in the village after March 19, 2011, so they actually patrolled Gyöngyöspata during the period from March 1, 2011 to March 18, 2011.

Since the events in Gyöngyöspata were widely publicized, the members of Betyársereg arrived in the village on March 10, 2011, and marched the streets of the village inhabited by the Roma in an intimidating manner already the same day. It is a non-disputed fact that a member of Betyársereg was arrested on March 10, 2011, due to the misdemeanor of harassment.

According to the anonymized police documents annexed to the respondent’s preparatory writ No. 105, the last action of the police took place on March 15, 2011, when police action was taken against seven members of Betyársereg present in the village. The members of Betyársereg were not present in the village in the second half of March 2011, *either*, but the mitigation of the tension that had developed and the fear of the members of the Roma community was increased by that Véderő, a radical far-right organization, wanted to organize an open camp for training basic military skills in Gyöngyöspata from 22 to 24 April 2011.

It is not disputed that of the people arriving in the camp, the policemen from the staff of the Intervention Police arrested and detained 8 persons due to the misdemeanour of breach of the peace.

According to information dated July 14, 2011, which is annexed to the respondent's submission No. 105, the members of Véderő were already present in the village during the period from March 1, 2011 to March 18, 2011, and the police took action against four of its members.

In its submission No. 105, the respondent stated that although some members of Betyársereg were arrested, Gyöngyös Town Court discontinued the criminal proceedings that were initiated against them due to the misdemeanour of harassment.

It is a non-disputed fact that Gyöngyös City Court also discontinued the petty offense proceedings brought against the members of Véderő who were previously arrested for petty offense.

The court took the view that notwithstanding the mere fact that the courts discontinued certain petty offense and criminal proceedings against the members of Véderő and Betyársereg for different reasons, the available evidence does not prove that the respondent fully complied with its public security protection activity, in relation to its obligation to protect fundamental rights, during the period covered by the case and did not fail in its obligations, which can be considered a violation of personal rights in the context of civil law, more specifically, privacy.

The police report annexed under No. A/15 to the respondent’s submission No. 76 was prepared in relation to the events that took place on April 26, 2011. The applicant commented it in its preparatory writ No. 86, and proposed in the same writ that the DVD recording that documented the events on April 26, 2011, should be viewed.

It is a non-disputed fact that criminal proceedings were initiated due to breach of the peace committed as a group in relation to what happened on 26 April 2011.

The court takes the view that the failures of the respondent in the course of its public security protection activity also contributed to an intimidating, hostile, degrading and offensive environment evolving against the members of the Roma community in Gyöngyöspata, which no doubt had developed much earlier, but continued during the period in question and lead to significant incidents between a large number of the members of the local Roma community and a smaller group of non-Roma people present in the village.

On the basis of the evidence taken, the court concluded that the itemized evidence listed in the applicant’s preparatory writ No. 116 supported the claim of the applicant, namely, that the respondent committed harassment against the members of the Roma community living in Gyöngyöspata by means of the measures it failed to take in the course of its public safety protection activity with respect to the members of Szebb Jövőért Polgárőr Egyesület, Véderő and Betyársereg during the period from March 1, 2011 to May 1, 2011, and violated their right to equal treatment thereby.

Although the court established, based on the evidence taken, that the respondent committed harassment through its failure to take measures in the context of its public security protection activity in respect of the period from March 1, 2011 to May 1, 2011, it found that the claim of the applicant, namely that the respondent committed harassment against members of the Roma community in Gyöngyöspata by means of its identity check and petty offense practice against the Roma in the area of Gyöngyöspata inhabited by the Roma during the first period covered by the case and violated their right to equal treatment thereby, was groundless.

It is the legal position of the court that the respondent successfully provided evidence for its excuse in respect of that claim by the applicant.

The applicant claimed that the perception, namely the nationality of the persons against whom they took action, affected the identity check and petty offense practice of the policemen under the control and command of the respondent during the first period covered by the case. However, the court found that such actions of the police, if any, may not be considered a violation of personal rights or harassment, as the intimidating, hostile, humiliating or intimidating environment against the members of the Roma community in Gyöngyöspata developed independently of the possible actions of the policemen, further, that the respondent maintained such an environment by failing to take certain public security measures in breach of its obligation to protect fundamental rights, rather than by its identity check and petty offense practice contested by the applicant.

Although the applicant has requested in its application to declare that the respondent committed direct discrimination against the members of the Roma community in Gyöngyöspata by means of its petty offense practice in Gyöngyöspata during the period from March 1, 2011 to May 1, 2011, and violated their right to equal treatment thereby, after the receipt of the respondent’s preparatory writ No. 101, the applicant requested the court declare that the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata through its identity check and petty offense practice against the Roma people living in the area of Gyöngyöspata inhabited by the Roma only on the basis of harassment as the legal title with respect to the period from March 1, 2011 to May 1, 2011, but no longer considered the identity check and petty offense practice of the policemen under the control and command of the respondent as direct discrimination at the same time. Therefore, the court had to take a view in relation to the first period covered by the case only on the issue whether such identity check and petty offense practice represented harassment.

III.

**Reliefs sought in relation to the declaration of the violation of paragraph a) of Section 84(1) of the Civil Code concerning the period from March 1, 2011 and May 1, 2011**

Given that the applicant had already enforced a claim under two legal titles in respect of the second period covered by the case, the court had to take a view on the issue whether the police officers under the control and command of the respondent conducted an identity check and petty offense practice from May 1, 2011 to November 30, 2011, which represented harassment against the members of the Roma community in Gyöngyöspata and, at the same time, directly discriminated against them, violating their right to equal treatment thereby.

**1. Harassment**

In relation to the period from May 1, 2011 to November 30, 2011, the applicant requested the court declare that the abusive petty offense practice of the respondent against the Roma represented harassment against the Roma community in Gyöngyöspata and thereby violated their right to equal treatment.

In its statement of claim, the applicant declared that the period from May 1, 2011 to December 31, 2011, was the second period covered by the case. However, after the respondent submitted the anonymized petty offense documents annexed to its submission No. 101, the applicant stated in its preparatory writ No. 109 that the end of the second period covered by the case was November 30, 2011, instead of December 31, 2011, as the information to hand show that no fines were actually imposed in December 2011.

In preparatory writ No. 110, in which the applicant clarified its claim, the applicant stated that the latter date was the end of the second period reviewed in the case, thus the court assessed the period between May 1, 2011 and November 30, 2011, in relation to both legal titles, that is, harassment and direct discrimination.

On the basis of the evidence taken, the court concluded that harassment, as a violation of personal rights, cannot be declared based on the abusive petty offense practice alleged by the applicant for the following reasons.

Section 13(1) of Act XXXIV of 1994 on the police, in force during the second period covered by the case, sets out that the police officer shall take or initiate measures if he/she finds, or is made aware of, a fact, circumstance or action that breaches or threatens public security, public order or the order of the state border.

The police officers under the control and command of the respondent who were on duty in Gyöngyöspata during the period between May 1, 2011 and November 30, 2011, were therefore under the obligation to take measures in case they detected the committing of a petty offense.

The applicant claimed in its statement of claim that the respondent’s petty offense practice was abusive during the second period covered by the case.

As regards the harassment committed by the respondent in relation to the second period covered by the case, the applicant summarized its position concerning the facts and the law in preparatory writ No. 109. Accordingly, it took the view that the respondent violated the human dignity of the members of the Roma community in Gyöngyöspata in a way that it had an enhanced presence in the streets inhabited by the Roma people as well, which was demonstrative and harassing, further, that it regularly imposed fines on Roma people living in deep poverty due to petty offenses that were hardly harmful to the society and, in many cases, it disregarded the objective external factors that justified the committing of the petty offense.

In addition, it was present at an increased degree in the streets inhabited by the Roma as well without any legitimate reason from August, and monitored these streets in an unnecessary and disproportionate way, and such practice further increased the intimidating and fearful atmosphere against the members of the Roma community that had developed earlier.

However, Dr. Attila Ormosi, head of Heves County Police Department with a law degree, declared in his testimony that he could not tell why the court had dissolved the Magyar Gárda even though he had read the judgment itself.

It is the view of the court that it is a technical issue falling within the expertise of the police to decide how many police officers were on duty in Gyöngyöspata on each day during the second period covered by the case on the basis of the specific decision of the competent police commanders who were authorized to make operational decisions.

The court is not entitled to subsequently take a position in the personal rights case as to how long an increased police presence was justified in the village and whether the way the police monitored the streets of the village populated by the Roma was unnecessary and disproportionate.

On the other hand, the applicant did not dispute in its submission No. 109, either, that enhanced police presence in the village could be justified until July 17, 2011, that its, the date of the mayor election.

The legal facts of harassment as a violation of personal rights are defined by Section 10(1) of the ETA.

Based on the evidence taken, the court concluded that the police officers under the control and command of the respondent took measures due to a total of 86 petty offenses in the village over the period from May 1, 2011 and November 30, 2011.

In its submission No, 109, the applicant stated that measures were taken against the members of the Roma community of Gyöngyöspata in 61 petty offense cases.

However, neither the applicant claimed nor was there any other information that they did not actually commit the petty offenses in question. -

Due to the above and given that the police officers who took measures were under a statutory obligation to take measures, their conduct did not infringe human dignity.

Although the applicant stated in its submission No. 109 that the respondent’s conduct violating human dignity increased the fearful atmosphere against the members of the Roma community in Gyöngyöspata that had developed earlier, the court concluded based on the evidence taken that the conduct of the police officers, namely, that they detected the committing of petty offenses and fulfilled their statutory obligation with respect to persons who actually committed petty offenses and imposed an on-the-spot fine or reported the petty offense, did not violate the right to equal dignity of the members of the Roma community in Gyöngyöspata or result in the maintenance of an intimidating, hostile, degrading, humiliating or offensive environment.

In its preparatory writ No. 109, the applicant claimed that the respondent added to the fearful atmosphere that had developed earlier, but the facts of harassment do not include increasing an intimidating and fearful atmosphere as a legal condition, but allow the declaration of harassment, as a violation of personal right, only if an intimidating, hostile, degrading, humiliating and offensive environment prevails. ·

The court did not establish even in respect of the first period covered by the case that the intimidating, hostile, degrading, humiliating or offensive environment against the members of the Roma community in Gyöngyöspata was created by the respondent, but only established that the measures it failed to take in the context of its public security activity had the effect that the intimidating, hostile, degrading, humiliating or offensive environment, which had actually developed independently of the respondent’s objective or intention, prevailed.

The respondent’s petty offense practice itself between May 1, 2011 and November 30, 2011, did not, in the opinion of the court, affect how the members of the Roma community experienced the same with fear.

On the other hand, the court took the view, that in the second period covered by the case and particularly after July 17, 2011, that is, the date of the mayor election, there was clearly no intimidating, hostile, degrading, humiliating and offensive environment in the village, which would have allowed the declaration of harassment as a personal rights infringement.

However, given that the tempers cooled down only slowly and gradually in the village, the members of the Roma community of Gyöngyöspata could have a subjective sense that the environment they felt to be intimidating, hostile, degrading, humiliating and offensive did not cease. However, examining based on the legal facts of harassment as a personal rights violation, the court found that this legal requirement did not prevail during the second period assessed in the case.

# 2. Direct discrimination

On the other hand, the court concluded based on the evidence taken that the respondent committed direct discrimination against the members of the Roma community living in Gyöngyöspata by means of its petty offense practice during the period from May 1, 2011 to November 30, 2011, and violated their right to equal treatment because of the following.

Pursuant to paragraph e) of Section 8 of the ETA, all dispositions as a result of which a person or a group is treated or would be treated less favourably than another person or group in a comparable situation because of his/her actual or presumed origin of national or ethnic minority, are considered direct discrimination.

Given that paragraph d) of Section 4 and Section 6 of the ETA required the police to observe the requirement of equal treatment by means of its petty offense practice in Gyöngyöspata during the period from May 1, 2011 and November 30, 2011, the court examined whether the respondent could fulfil its obligation to provide an excuse and evidence for rectification in the light of the special rules on the burden of proof, and proved if the police officers under its control and command also considered the requirement of equal treatment.

On the basis of the evidence taken, the court concluded that the respondent failed to provide evidence for rectification and the respondent violated the personal right to equal treatment of the members of the Roma community in Gyöngyöspata during the second period covered by the case as well, as directly discriminating them as follows.

According to Section 13(2) of Act XXXIV of 1994 on the police, measures in accordance with the law without any bias.

Section 13(1) of the same Act imposes an obligation on police officers to take measures, however, they shall fulfil such obligation in a way that they take measures without any bias.

Paragraph d) of Section 4 of the ETA provides that the principle of equal treatment shall be observed by the armed forces and the law enforcement bodies in the course of their proceedings. Regardless of the foregoing, Section 13(2) of Act XXXIV of 1994 on the police, which is a lex\_ specialis, also defined the obligation of police officers to take measures without bias.

It is the legal position of the court that it clearly follows from the provisions of the two Acts referred to above that police officers are under an obligation to take measures in case they detect the committing of a petty offense. On the other hand, they are required to fulfill the legal obligation to take measures in a way that they take measures against everyone in all cases they detect the committing of a petty offense.

The court examined in the personal rights case whether the police officers under the control and command of the respondent fulfilled their legal obligation in the course of their petty offense practice applied in the second period covered by this case, and took measures without bias and observing the requirement of equal treatment.

Given that, compared to harassment, the legal facts of direct discrimination include treatment less favourably than another person or group in a comparable situation and that the respondent fulfilled the obligation imposed in ruling No. 100 in its preparatory writ No. 101, the parties evaluated the information disclosed by the respondent in its submission No. 101, including the numbers, in relation to that legal title in their preparatory writs submitted after March 12, 2015.

Given that, based on the evidence taken in the proceedings, the court concluded that the police officers, who took measures in Gyöngyöspata during the second period discussed in the case, were under the control and command of the respondent, it used and examined the aggregated data in chart A/2 annexed to its preparatory writ No. 101, and decided on whether or not the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata by discriminating against them directly.

Submission No. 101 of the respondent stated that the documents of the Intervention Police concerning on-the-spot fines were discarded in the meantime, so the respondent was unable to make them available to the court.

Therefore, the court examined in the personal rights case the petty offense procedures initiated based on the reports of the Intervention Police, as well as the specific measures of the police officers from the staff of Heves County Police Department, Borsod-Abaúj-Zemplén County Police Department and Nógrád County Police Department, who were also under the control and command of the respondent and took measures in Gyöngyöspata, and concluded based on the data of the chart No. A/2 annexed to the submission No 101 that the police officers under the control and command of the respondent imposed 32 on-the-spot fines and reported 54 petty offenses in Gyöngyöspata during the second period covered by the case, that is, from May 1, 2011 to November 30, 2011, thus the court examined and assessed a total of 86 petty offense cases in terms of whether the respondent directly discriminated against the members of the Roma community in Gyöngyöspata.

In its submission No. 101, the respondent stated the first name and last names and the home address of the individuals affected by the 86 petty offense cases, as well as the time of committing of the offense, the description of the facts of the petty offense, the place of committing of the offense and, finally, the police body in the staff of which the police officer who took the measure was.

The parties in the personal rights case did not request that János Farkas, the former president of the Roma Minority Self-government, be summoned as a witness once more in relation to whether the fact of being a member of the Roma nationality can be established in respect of the individuals subjected to the procedures in the 86 petty offense cases.

There can be no doubt that the respondent did not have any legal possibility to keep records of the nationality affiliation of the individuals undergoing the procedures during the period from May 1, 2011 to November 30, 2011, either.

However, the investigation report of the Parliamentary Commissioner for National and Ethnic Minority Rights of April 19, 2011, and the follow-up report prepared in December 2011, were available to the court.

Although the investigation report defined 4 aspects based on which students can be regarded as being members of the Roma nationality from the perspective of segregation in schools in relation to students, the court took the view that these aspects could be taken into account in respect of those subjected to the petty offense procedures, particularly because the respondent did not dispute the numerical proportions defined in the applicant’s submission No. 109. These aspects were the following:

- Last name of the student and his/her mother,

- If the student is multiply disadvantaged,

- Actual place of residence of the student,

- First name of the student.

Two of these four aspects, that is, the last name and the actual place of residence of the prosecuted individual, were disclosed by the respondent in respect of the 86 petty offense cases, so the court established that 61 out of the 86 prosecuted individuals were of Roma origin during the period from May 1, 2011 to November 30, 2011.

Regarding the numerical, factual and legal arguments set out in submission No. 109 of the applicant, the respondent summarized its detailed position regarding the facts and the law in respect of its petty offense practice applied during the second period covered by the case in its submission No. 114.

In that preparatory writ, the respondent made it clear that the measures of the police officers sanctioned the violations of law regardless of any racial, ethnic or other affiliation and, in case the violations of law detected by the police occurred in a larger number among the Roma population, then there was a larger number of reports and fines, as the police did not act proportionately to the number of the population in respect of the violations.

On the other hand, the respondent’s legal representative declared in his remarks before the adjournment of the hearing, that if certain police officers did not take measures on specific days although they detected certain petty offense facts, these individual failures in themselves should not lead the court to the conclusion that the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata, as no generalization should be deducted from these individual failures.

The court established the following in relation to these arguments of the respondent.

Section 7(2) of the ETA sets out the forms of conduct, measures, conditions, omissions, instructions or practices that do not violate the requirement of equal treatment if that Act does not provide otherwise.

*A contrario*, it clearly follows from this legislative provision that certain practice can also violate the requirement of equal treatment.

Due to the above, the court could examine in the personal rights case whether the petty offense practice of the respondent during the second period in the case violated the right to equal treatment of the members of the Roma community in Gyöngyöspata.

The issue that certain practices can also violate the requirement of equal treatment is important because certain applied practice can also result in the violation of the requirement of equal treatment if the specific concrete measures that are a part of the practice were lawful.

With regard to the fact that the respondent’s petty offense practice during the second period in the cased was evaluated both by the applicant in its submission No. 109 and the respondent in its submission No, 114, based on the fact that 61 out of the 86 petty offenses committed during the period from May 1, 2011 to November 30, 2011, were committed by persons of Roma origin, and 25 petty offenses were committed by non-Roma persons, the court accepted these facts based on the concordant statements of the parties, and examined the merits based on these numerical proportions to find out whether the members of the Roma community of Gyöngyöspata were treated less favourably due to their presumed affiliation with the Roma nationality in the context of the respondent’s petty offense practice, as opposed to the non-Roma residents of Gyöngyöspata during the same period.

On the basis of the evidence taken, the court concluded that the applicant did not dispute the fact, either, that the individuals prosecuted in the 61 petty offense cases did actually commit the petty offenses attributed to them.

Due to the above, the police officers lawfully took measures in these 61 cases against the perpetrators that are members of the Roma community, as they detected that petty offenses were committed and they were under an obligation to take measures. They fulfilled this legal obligation by imposing on-the-spot fines or reporting the petty offenses.

Act CXXV of 2003 on equal treatment and the promotion of equal opportunities is a general anti-discrimination law, which provides adequate procedural provisions against violations.

Section 12 of the ETA sets forth that claims arising from the violation of the principle of equal treatment can be enforced in the scope of the procedures described in the act on the general rules of administrative procedures and services or in separate legal acts, particularly in the scope of personal rights lawsuits, labour law lawsuits, as well as in the course of the procedures by the consumer protection, labour or petty offense authorities.

The Petty Offense Act was not amended after the entry into force of the ETA. Neither the previous Petty Offense Act in force when the events in Gyöngyöspata discussed in this case took place, nor the new Petty Offense Act currently in force contains a specific provision based on which claims due to the violation of equal treatment could be enforced in the course of the procedure of the petty offense authority.

Due to the above, the individuals, being members of the Roma nationality, who were prosecuted in the specific petty offense cases did not even have the opportunity to claim that the police officer in question did not take measures in an unbiased way and violated their right to equal treatment.

The court took the view that it could examine the substance in this personal rights case launched based on an action in the public interest if the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata by means of the petty offense practice it applied.

The legislative provisions in force enable the individuals to enforce a claim indirectly, and they may find the violation of their right to equal treatment prejudicial as members of the Roma community of Gyöngyöspata.

Thus the members of the Roma community in Gyöngyöspata could find the petty offense practice of the respondent prejudicial, however, the court could examine only the existence of the legal conditions defined in Section 8 of the ETA in relation to the violation of personal rights based on direct discrimination, but the social situation of the persons undergoing the petty offense procedures could not obviously have any legal relevance.

It is not disputed, either, that Article 70/A(3) of the Constitution in force at the time the events in Gyöngyöspata occurred, defined positive discrimination, as a measure eliminating unequal treatment, as a duty of the state.

On the other hand, the Constitutional Court clearly stated in decision 650/B/1991.AB that one may not refer to any defined form of positive discrimination as a personal right and no constitutional demand or claim may be based thereon.

According to the legal position of the court, it can be concluded in relation to the petty offense procedures and the official procedures conducted by the law enforcement bodies that although the police officers who detect a petty offense and take measures are obliged to respect the requirement of equal treatment, positive discrimination ensuring the promotion of equal treatment cannot prevail in any manner in the course of their procedures since they are under a legal obligation to take measures.

On the other hand, the respondent also stated that if a police officer detects the committing of a petty offense he/she may not proceed proportionately to the number of the population. Accordingly, if the police detect a larger number of cases occurring among the Roma population, then a larger number of on-the spot fines will be imposed and reports will be made.

By contrast, the applicant clearly declared in its submission No. 109 that, in its opinion, the abnormally significant proportional discrepancy cannot be explained by the residents of non-Roma nationality of Gyöngyöspata committing so significantly fewer petty offenses.

The village had 2,800 inhabitants during the period from May 1, 2011 to November 30, 2011, of whom 450 were members of the Roma nationality.

The applicant based its claim, namely, that the local inhabitants affiliated to the Roma nationality were sanctioned 4 and a half times more compared to their proportion within the population, on this proportion established on the grounds of the joint statement of the parties.

It is the view of the court that it cannot be concluded in relation to the petty offense practice of certain period whether the practice applied by the police was suitable for violating the right to equal treatment merely on the basis of numerical proportions, even if they are proven.

Although the assumption, namely, that the members of a group in a comparable situation did not commit any petty offense during a given period, may not be precluded based on the rules of logic, it would be obviously unreasonable.

On the other hand, it is not possible to make a general finding and there is no automatism in the sense that persons who, based on the application of Section 8 of the ETA qualify as a group in a comparable situation with each other, would commit petty offenses proportionately to the number of the population.

In itself, therefore, neither over-representation or under-representation may be interpreted in relation to direct discrimination as a form of personal rights violation. It must be examined in every case whether the explored numerical proportions, which theoretically allow the declaration of direct discrimination, have developed in an objective way or the evolution of such proportions also includes obviously subjective reasons as well, namely, that the members of a group with a protected characteristic defined in Section 8 of the ETA, which was real or possibly assumed by the police officers who took measures, namely, their affiliation to the Roma nationality in this case, were treated less favorably than the members of a group in a comparable situation, that is, the inhabitants of the village of non-Roma affiliation.

In relation to its obligation to substantiate, the applicant attached the amicus curiae submission of the Open Society Justice Initiative to its preparatory writ No. 59, which set out an evaluation of the international, European and national case law not only in the context of the obligation of the state to protect fundamental rights, but also in regards to discriminatory ethnic profiling.

The amicus curiae submission defined the term discriminative ethnic profiling in a way that it is a form of discrimination, which occurs when the members of the law enforcement bodies use ethnic, racial, religious or national affiliation as the only or decisive basis for exercising their powers to take measures, make arrests, investigate or bring a charge.

The court concluded in the personal rights case that the police commanders drew attention to respecting the requirement of equal treatment at the briefings, and the documentary evidence produced by the respondent in relation to the measures of the police also included the need to respect the requirement of equal treatment. Yet, the court concluded based on the evidence taken that the police officers under the control and command of the respondent applied a petty offense practice in Gyöngyöspata during the second period covered in the case, which violated the right to equal treatment of the Roma community in Gyöngyöspata as follows.

The court concluded that the respondent’s petty offense practice applied during the period from May 1, 2011 to November 30, 2011, violated personal rights based on the assessment of the following evidence.

The applicant annexed to its statement of claim, as documentary evidence, the settlement agreement between the Hungarian Helsinki Committee and Nógrád County Police Department in an earlier procedure before the Equal Treatment Authority.

The Equal Treatment Authority opened a procedure after allegations were made that fines were imposed due to the incomplete accessories of bicycles almost exclusively against persons of Roma origin in Rimóc.

Section 33(1) of the ETA provides that the implementation of the requirement of equal treatment shall be monitored by the Equal Treatment Authority.

The Equal Treatment Authority concluded in the official proceeding it conducted, which served as the basis for the settlement agreement, that even though the individual measures of the police officers who took measures in Rimóc were lawful, their petty offense practice as a whole violated the right to equal treatment.

The court concluded on the basis of the documentary evidence available in relation to the respondent’s petty offense practice applied in the second period covered in the case that of the 61 petty offenses committed by persons affiliated with the Roma nationality, on-the-spot fines were imposed in 23 cases, while the police officers reported the petty offenses in 38 cases.

Evaluating the 61 petty offenses committed by persons affiliated with the Roma nationality, the applicant stated that 19 cases were petty offenses committed by pedestrians and there were at least 14 petty offenses involving a bicycle. In addition, the committing of 4 petty offenses concerning public hygiene by persons being members of the Roma nationality could be established. Persons affiliated to the Roma nationality also committed some so-called trifling petty offenses that were hazardous to society to a lesser degree, a part of which involved petty offenses involving motor vehicles (the procedure was initiated due to the absence of a helmet, first-aid box or child seat). The applicant also claimed that petty offense procedures were initiated against persons being members of the Roma national minority due to the absence of or damage to the ID card, or because of listening to loud music, which constituted a disturbance.

The applicant also explained in its preparatory writ No. 109 that procedures based on certain petty offenses were initiated exclusively against persons affiliated to the Roma national minority during the second period in this case, and referred to petty offenses involving pedestrian, bicycles and the public hygiene in this respect.

Police officers, including the police officers under the control and command of the respondent deployed in Gyöngyöspata during the second period were under the obligation to take measures on the basis of Section 13(1) of Act XXXIV of 1994 on the police. In order to comply with this legal requirement, they were obliged to disregard not only the social situation of the person who committed the petty offense, but also whether the offender committed a petty offense that was dangerous for society to a greater or lesser degree.

It is the obligation of police officers to initiate petty offense proceedings based on their obligation to take measures in case they detect any conduct that represents the facts of any petty offense, even if it is dangerous to society to the least degree.

The witness Tibor Kiss said that it was obvious that the sidewalk was too narrow and impassable compared to the size of the stroller, so they could use the street only, and the witness Györgyné Baranyi said that the sidewalk was in such a condition that she had to use the street if she did not want to break her ankle.

The court took the view that the police lawfully took measures in respect of the two petty offenses covered by the witness testimonies as well, further, that they could not evaluate the individual circumstances of the petty offense case due to their obligation to take measures as, in the opinion of the court, there circumstances may only be evaluated by the court if a petty offense case is taken to the phase where a judicial decision is necessary.

So the court took the view that the individual police measures were lawful, however, the court concluded based on the evidence taken in the procedure that the petty offense practice of the respondent applied in the second period covered by the case nevertheless violated the right to equal treatment of the members of the Roma community in Gyöngyöspata for the following reasons.

In light of the provisions of Section 13(2) of Act XXXIV of 1994, the police officers under the control and command of the respondent in Gyöngyöspata during the period from May 1, 2011 to November 30, 2011, were not simply under the obligation to take measures, but were also obliged to fulfill their obligation to take measures without bias.

According to the court's legal position, a police officer who takes measures in a petty offense case fulfills his/her legal obligation and takes measures in an unbiased way without violating the requirement for equal treatment only if he/she fulfills his/her obligation to take measures in every petty offense case he/she detects and selects the persons affected by his/her measure unbiased by observing the requirement of equal treatment.

There can be no doubt that, during the second period covered in this case, petty offense procedures for petty offenses involving pedestrians were only initiated against persons being members of the Roma nationality, while no procedure was initiated against any person who was affiliated to any nationality other than the Roma.

Based on the testimony of the unbiased witnesses Tibor Kiss and Sándor Szőke, the court concluded beyond doubt that local residents affiliated to other groups comparable with the members of the Roma community in Gyöngyöspata also committed this petty offense during the second period covered in this case, the police officers failed to fulfill their obligation to take measures even though they undoubtedly detected the committing of the petty offense.

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The witness Sándor Szőke said that persons who were not members of the Roma nationality were not even halted by the police. And Tibor Kiss declared that the police officers even greeted the non-Roma persons leaving the church although they were walking in the middle of the road.

The court concluded on the basis of the evidence taken in the procedure and the evidence at hand that the over-representation of the prosecuted persons being members of the Roma community during the second period covered by the case was not due to the mere fact that they committed a larger number of petty offenses compared to the proportion within the population during the period from May 1, 2011 to November 30, 2011. On the contrary, the court concluded that the over-representation of the persons being members of the Roma nationality could be traced back in relation to the petty offense case to the police officers under the control and command of the respondent in Gyöngyöspata failing to take measures unbiased in all cases by observing the requirement of equal treatment, further, that it is proven that they did not take measures on a number of occasions against members of a group comparable to the members of the Roma community in Gyöngyöspata.

Since there is currently no possibility to enforce a claim for the violation of equal treatment based on Section 12 of the ETA in the procedures of the petty offense authorities, reference to the violation of equal treatment, as a constitutional right, in relation to the events in Gyöngyöspata could only be made in the personal rights case.

Based on the action in public interest, the court established relying on the wide range of evidence taken that the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata because it applied direct discrimination against the members of the Roma community in Gyöngyöspata through its petty offense practice applied during the period from May 1, 2011 to November 30, 2011.

IV.

# Claims based on paragraph b) of Section 84(1) of the Civil Code, aimed at prohibition from further violations

The applicant maintained its claim in its preparatory writ No. 110, namely, that the court should prohibit the respondent from further violations.

The applicant did not dispute that there is no permanent violation, but declared that, in its opinion, the occurrence in future of past violations may not be ruled out.

In its submission No. 110, the applicant referred to Article 15 of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, namely that the sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive.

Although the Community Directive requires that the sanction imposed due to discrimination, including the violation of equal treatment, should be effective and dissuasive, the court took the view that there is no reason to believe that past violations will recur in the future, further that the relations referred to in the applicant’s submission No. 110 were based on assumptions only, rather than proven facts, so it is the legal opinion of the court that it was not justified to prohibit the respondent from further violations and, therefore, rejected this groundless claim of the applicant.

Although the court held that the respondent failed to fully comply with its obligation to protect fundamental rights during the period from March 1, 2011 to May 1, 2011, as it was unable to protect the equal human dignity of the members of the Roma community in Gyöngyöspata, the court took the view that the applicant did not even substantiate that there were grounds to believe that the personal rights violation would recur and the respondent would repeatedly fail to take any justified measures in the context of its obligation to protect public safety.

The court also concluded that the application of this objective sanction was not justified in relation to the petty offense practice of the respondent, either. However, if the applicant should in future follow a petty offense practice that results in the violation of the principle of equal treatment in a proven way, this provision of the judgment can already be used by the court to balance the justification of this objective sanction in a personal rights case to be initiated hereafter. The court evaluated the evidence at hand in a way that, for the time being, it is not possible to make a conclusion that there are grounds to believe that the respondent would continue its petty offense practice violating the requirement of equal treatment.

The applicant referred to paragraph b) of Section 84(1) of the Civil Code in the context of its claim defined in clauses 5, 6 and 7 of its preparatory writ No. 110, and maintained its claims based on these legal provisions as well.

According to the applicant’s position, in case the court did not fill the prohibition from violation with actual content supporting prevention, the dissuasive force of this objective sanction could not be guaranteed. Therefore, it is necessary that the court admits, in addition to future prohibition, the applicant’s claims clarified in clauses 5, 6 and 7 of its submission No. 110.

Given that the court did not consider it necessary to prohibit the respondent from future violations, it also rejected the claims based on paragraph b) of Section 84(1) of the Civil Code as well.

According to the opinion of the court, it was not justified to oblige the staff of the respondent on duty in Gyöngyöspata to attend anti-discrimination training.

The court also took the view that it was not justified, either, to oblige the respondent to prepare a strategy for the treatment of the anti-Roma movements of extreme organizations with the tools of the police or that the respondent should present this strategy to the heads of the police departments and police stations under its command in the context of briefings. The court also took the view that it was not necessary, either, to oblige the respondent to make available to its staff members the reports, including the findings of the audits for the implementation of the strategy developed.

In addition, the court did not consider it appropriate, either, to oblige the respondent to draw the attention of the heads of the police departments and police stations under its command in briefings to the requirement of equal treatment and the facts that ethic profiling violated the fundamental rights in relation to its petty offense practice. The court also found that it was not justified to oblige the respondent to develop a control mechanism to monitor whether the police departments and police stations under its control observe the requirement of equal treatment in ethnic terms in the course of their petty offense practice.

# V.

**Claims based on paragraph e) of Section 84(1) of the Civil Code, seeking reparation**

The applicant based the last term of its claim clarified in clause 6 of its submission No. 110 on paragraph e) of Section 84(1) of the Civil Code, and requested that the respondent be obliged to disclose to the public on its website its annual inspection report on whether the police departments and police stations under its control observed the requirement of equal treatment in ethnic terms in the course of their petty offense practice followed during the given year.

Since the court rejected the applicant’s claim to oblige the respondent to prepare a report on the above subjects every year, it obviously rejected the related claims of the applicant as well, namely those that were aimed at obliging the respondent to disclose such reports on its website every year.

On the other hand, the court obliged the respondent to publish the operative part of the judgment on its website at its own cost, and to disclose the same to the Hungarian Telegraphic Agency, as a part of the obligation to give reparation.

It is not disputed, either, and the applicant also referred in its submission No. 110 to the fact that events in Gyöngyöspata received not only national, but also international press coverage, so it was justified for the court to apply paragraph e) of Section 84(1) of the Civil Code.

On the other hand, assessing the evidence taken during the procedure conducted, the court obliged the respondent, in the context of giving reparation, only to disclose the operative part of this judgment on its website and to send it to the Hungarian Telegraphic Agency.

In the court’s view, this form of reparation is necessary and, at the same time, sufficient in relation to the violation committed by the respondent.

**VI.**

**Claims based on paragraph d) of Section 84(1) of the Civil Code, aimed at stopping the prejudicial situation**

In the alternative, the applicant referred to paragraph d) of Section 84(1) of the Civil Code in the context of its claim clarified in clauses 5, 6 and 7 of its preparatory writ No. 110.

As regards the applicability of this objective sanction, the applicant stated that the consequences of the personal rights violations of the respondent, that is, the offenses continued, and that the offenses against the members of the Roma community in Gyöngyöspata were not remedied in any way by the respondent, so the members of the Roma community in Gyöngyöspata were still under the influence of the events in Gyöngyöspata.

Although the objective sanction in paragraph d) of Section 84(1) of the Civil Code may in certain cases oblige the offender to specific action or certain active conduct, further, that the obligation to cease an unlawful situation and stop violations may also be a judgment provision serving as the basis of enforcement, the court did not consider it necessary to apply this objective sanction in the personal rights case because the applicant did not substantiate, nor has any specific information arisen that there was actual reason to believe that the respondent will repeatedly commit similar violations of personal rights, specifically against the members of the Roma community in Gyöngyöspata.

According to the opinion of the court, this judgment given in a personal rights case initiated based on an action in the public interest can also be evaluated as a kind of reparation, since the court declared that the respondent violated the right to equal treatment of the members of the Roma community in Gyöngyöspata in both periods covered in the case, even though based on different legal grounds, so the court took the view that the application of the objective sanction under paragraph d) of Section 84(1) of the Civil Code was not justified

The applicant submitted two documents as evidence annexed to its submission No. 110, but these documents were, in the court’s view, inappropriate to support the applicant’s claim that the members of the Roma community in Gyöngyöspata were still under the influence of the events that had taken place in Gyöngyöspata and, on the other hand, they did not justify the application of the objective sanctions in paragraphs b) and d) of Section 84(1) of the Civil Code, either, in relation to the respondent's petty offense practice. It is the opinion of the court that it was not possible to declare in this personal rights case that the petty offense practice followed by the respondent provided sufficient grounds to establish that one should be afraid of the continuation of the respondent’s petty offense practice violating the right to equal treatment of the members of the Roma community in Gyöngyöspata.

In addition, the court rejected the groundless claim of the applicant, which was aimed at obliging the respondent to send to the applicant the strategy developed and the reports prepared, as the court did not oblige the respondent to prepare such.

**VII.**

**Costs of proceedings**

With regard to the applicant and the respondent being eligible to full exemption from duties, the duty for the claim registered in this case, which is subject to the registration of duty due to its subject, will be borne by the Hungarian State under Section 1 of Decree 6/1986. (VI. 26.).

On the other hand, the court considered the proportion of success and failure in the case and concluded that each party will bear its own costs incurred in relation to their representation by their attorney-at-law/in-house counsel.

Eger, this September 17, 2015

In witness thereof:

(Sgd.) Dr. Tamás Román, judge at the court