



human rights *first*

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**Human Rights First Submission to the Human Rights Committee on its Consideration of the Fifth Report by the Government of Hungary under the International Covenant on Civil and Political Rights (ICCPR) 98th Session, March 8-26, 2010.**

**In its consideration of the periodic report of Hungary, the Human Rights Committee should address as a matter of priority the problem of hate crimes against Roma, which have been a growing problem throughout Hungary.**

In Hungary over the last two years, there has been an apparent rise in the incidence of violent acts against Roma that in many cases appear to be motivated by bias against the victim's ethnicity. NGO monitors have documented a disturbing pattern of such cases, ranging from severe beatings in broad daylight to murders by arson or shootings. This racist violence, which can be described also as violent hate crime, has occurred in the context of a broader spectrum of violence toward Roma, including by law enforcement officers.

Although the most serious crimes are reported by the media, many cases of such violent attacks often go unreported and/or undocumented. Instances of police ill-treatment and discrimination against Roma—recognized by the European Commission against Racism and Intolerance (ECRI) as problematic in Hungary—contribute to the high levels of distrust of authorities among Roma communities, and thus to the severe underreporting of racist and other violent acts. This sentiment of distrust is all the more confirmed in a recent survey published in 2009 by the European Union Fundamental Rights Agency across 27 EU countries where “18% of all the Roma surveyed considered that they were a victim of a racially motivated assault, threat or serious harassment in the previous 12 months. Given that the overwhelming majority of Roma respondents indicated they did not report their victimization, one can assume that the level of officially recorded racist crime significantly undercounts the real extent of the problem.”<sup>1</sup>

Violence against Roma in Hungary is occurring against a backdrop of widespread marginalization of Roma communities, discrimination, and anti-Roma rhetoric expressed by some public officials. The rise of right-wing groups that espouse racist, antisemitic, and xenophobic views is another major concern because their rhetoric and actions have

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contributed to a climate of animosity toward certain minority groups, the Roma principal among them.

The Hungarian authorities have undertaken a number of efforts aimed at solving the problem of violent hate crime against Roma. Among other actions, senior political leaders have publicly spoken out against the most serious cases of anti-Roma violence, and the government has committed significant law enforcement resources to investigations of some of these cases and has sought out expertise from the United States Federal Bureau of Investigation in these cases. In August 2009, the Hungarian Prime Minister Gordon Bajnai confirmed publicly that the authorities would create joint Police and Roma patrols to help prevent Roma hate crimes. Hungarian law enforcement personnel have also taken part in training in combating violent hate crimes provided by the OSCE's Office for Democratic Institutions and Human Rights.

However, these efforts have not yet significantly increased the level of accountability for violent crimes against Roma. On the contrary, there is still a general climate of impunity for these attacks. The importance of a thorough investigation and prosecution of violent attacks against Roma – particularly where racism may have been a motivating factor – has been highlighted in several cases of the European Court for Human Rights. Attached is a list of some instances of violence in 2008-2009 in which in many cases the perpetrators have yet to be identified and/or prosecuted before a court of law. Indeed, in all cases where violence against Roma is committed, we call on the law enforcement authorities to ensure the swift identification and prosecution of the perpetrators. They should also ensure that racist and other bias motivations are duly identified and registered and that prosecutors press charges accordingly.

More generally, efforts to strengthen responses to violent hate crimes can be made more effective through the establishment of comprehensive monitoring systems, an adequate legal framework for prosecuting them as the more serious crimes that they are, as well as programs for training law enforcement officials in responding promptly to suspected hate crimes, recording evidence of bias motivations, and bringing evidence before the courts. At present there is no effective system for collecting data on violent hate crimes, or that permits even the identification of the ethnicity of the victim of a crime. This impedes policymakers from seeing and understanding the full scope of the problem. According to the European Union Fundamental Rights Agency, which assesses the criminal justice data collection systems among EU member states, Hungary is in a lower tier of countries that collect and makes available only limited data on racist violence and crime.

Similarly, the current legislative framework could be enhanced. Article 174(B) of the Hungarian criminal code, which does allow for certain violent crimes committed with a bias

motivation to be prosecuted as a separate offense, is rarely used. Furthermore, the Hungarian criminal code does not expressly allow for bias motivations to be considered as an aggravating factor in sentencing in other crimes of violence such as murder, contrary to the requirements of the recently adopted EU Framework Decision on Racism and Xenophobia and to longstanding Council of Europe recommendations.

**Human Rights First respectfully submits that the Human Rights Committee should make the following recommendations with respect to the situation with bias-motivated attacks in Hungary:**

- Senior government officials, as well as local mayors, should speak out against violence against Roma or the members of any other group whenever such acts occur and ensure that there is a rapid response of the law enforcement and the criminal justice authorities.
- Law-enforcement agencies should publicly commit to investigate such crimes, as well as allegations of bias motivations in specific violent crimes committed against any individual, including Roma, and to provide regular public updates into the investigation and prosecution of such crimes.
- The Ministry of Justice and Law Enforcement should ensure that law enforcement officials have clear guidelines to vigorously address crimes – including those committed against Roma – that are motivated in whole or in part by racism or other forms of bias.
- The Ministry of Justice and Law Enforcement and other relevant ministries should commit to collecting and publishing data on the incidence and response to violence against Roma, including hate crimes, as well as to other violent hate crimes. Data collection systems should be inclusive and include disaggregated data on violent crimes committed because of the victim’s race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities. In developing such systems, guidelines on confidentiality developed by the Council of Europe may be helpful.
- The Hungarian authorities should ensure adequate training for police and prosecutors in identifying and recording bias motivations, and in bringing evidence of bias motivations before the courts. They should commit to take advantage of training opportunities offered by international organizations, e.g., the OSCE’s Law Enforcement Officer Program on Combating Hate Crimes, and on a bilateral basis, e.g. through the United States Department of Justice.

- Law enforcement officials should take steps – including by reaching out to community and other nongovernmental groups – to increase the confidence of crime victims from marginalized groups such as Roma to report crimes to the police. The authorities should ensure thorough investigations and prosecution of any reports of police harassment of victims of crime.
- The Hungarian authorities should pass legislation to strengthen the criminal law on violent hate crimes. In particular, authorities should develop and enact provisions that establish enhanced penalties for violent crimes committed because of the victim’s race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities. The systematic use of such penalty enhancement provisions in appropriate cases will send a strong message of condemnation of hate crimes.

### **About Human Rights First**

Human Rights First is a leading human rights advocacy organization based in New York City and Washington, D.C. Since 1978, we have worked in the United States and abroad to create a secure and humane world – advancing justice, human dignity, and respect for the rule of law. All of our activities are supported by private contributions. Human Rights First protects people at risk: refugees who flee persecution, victims of crimes against humanity or other mass human rights violations, victims of discrimination, those whose rights are eroded in the name of national security, and human rights advocates who are targeted for defending the rights of others.

Since 2002, Human Rights First’s Fighting Discrimination Program has sought to reverse the tide of racist, anti-immigrant, anti-Roma, antireligious, homophobic violence and other bias crimes across Europe, North America, and the Former Soviet Union. Human Rights First has been particularly concerned by the proliferation of violent hate crimes in Russia and by the inadequate government response to these heinous acts. Human Rights First has also long worked to defend the rights and freedoms of human rights activists and independent journalists in Russia, who have come under increasing pressure from the government and have been subject to violent attacks for which few, if any, perpetrators have been held accountable.

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<sup>1</sup> The European Union Minorities and Discrimination Survey, Data In Focus Report “The Roma”, 2009.