Eger Regional Court
12.P.20.065/2013/128.szám

In the action brought by the **plaintiff,** represented by Dr. Péter Erdey, lawyer (address of the party1), against the **defendant**, represented by Dr. Albin Péró, legal adviser (address of the party2), represented by the defendant, for **infringement of personality right,** the Egri Regional Court has rendered the following

J U D G M E N T :

The Tribunal finds that the defendant, by failing to take measures, as part of its policing obligations, against the members of the association name1, the association name2, who were in the municipality name1, during the period from 1 March 2011 to 1 May 2011, committed harassment against members of the Roma community in the municipality name1, in violation of their right to equal treatment.

The Tribunal finds that the defendant, through its misdemeanour procedural practices in the municipality of Name1 between 1 May 2011 and 30 November 2011, directly discriminated against members of the Roma community in Name1, in violation of their right to equal treatment.

The Court orders the defendant to publish the operative part of this judgment on its website within 15 days and to communicate it to the Hungarian Telegraphic Agency within 15 days.

The Court of First Instance **rejects** the applicant's action as to the remainder.

An appeal against the judgment may be lodged within 15 days of service of the judgment at the Debrecen Court of Appeal, but may be lodged in triplicate at the Egri Court of First Instance.

The court informs the parties that legal representation is mandatory for the party lodging an appeal (cross-appeal) against the judgment in the proceedings before the Court of First Instance. The acts and statements of a party in proceedings

without legal representation shall be null and void unless the party has applied for leave to be represented by a lawyer acting in an advisory capacity or the court is obliged to reject the application for other reasons. If the party in the appeal proceedings has no legal representation or fails to arrange for the replacement of the legal representation which has ceased to exist despite having been summoned to do so, the court shall dismiss the appeal of its own motion.

The court informs the parties that the court of appeal may decide the appeal out of court if

- jointly requested by the parties before the expiry of the time limit for appeal,
- if the appeal concerns only the payment of interest, the payment or amount of costs, the payment of unpaid fees or costs advanced by the State, or only the provisional enforceability, the time limit for performance or the authorisation of payment by instalments, or if it is directed only against the grounds of the judgment and the appellant has not requested a hearing in the appeal.

If the appellant party, either in the appeal or at the request of the court of appeal, or the opposing party at the request of the court of appeal, requests a hearing, the appeal shall be heard at a hearing.

R e a s o n i n g :

The Tribunal, on the basis of the testimony of the witnesses name1, name of witness2, name of witness3, name of witness4, name of witness5, name of witness6, name of witness7, name of witness8, name of witness9, name of witness10, name of witness11, name of witness12, name of witness13 and name of teacher14, the images and audio material on the DVDs attached by the applicant and the documentary evidence at its disposal, found the following facts.

The name of the small town at the foot of the Mátra Mountains1 falls within the jurisdiction of the Police Station of the town2.

The municipality has a population of 2,800, of whom around 450 are of Roma origin.

In 2011, the municipality1 was still a village with two district officers on duty until 1 October 2010.

There is now a police station in the municipality of Name1, but between 1 October 2010 and 1 April 2011 there was only one district officer in the municipality.

In 2011, the municipality had 24 members as a member organisation of the Citizen's Association Name1, the Citizen's Guard Name2 and the Citizen's Guard Name3.

Between 3 October 2010 and 10 April 2011, the municipality had a mayor, Witness Name13, who resigned as mayor.

In the mayoral by-election held on July 17, 2011, the municipality elected the name of the organization's candidate, Witness12, as mayor.

The County Court of the County of County entered the name of the social organization called association1 with its seat in the name of the municipality3 in the register of social organizations under the batch number of the court case number by order of the court dated 23 March 2010 under the batch number of the batch number.

Chapter II, point 1/b of the statutes of the social organisation operating as a public benefit organisation states that the organisation does not engage in direct political activity, is independent of political parties, does not provide or accept financial support from them.

Witness12 was already the president of the organisation's name at the beginning of 2011.

Witness name10 Lieutenant Colonel of Police, Head of the Police Station of the municipality name2 and witness name6 Major of Police, Head of the District Officer Subdivision of the Police Station of the municipality name2 signed by the police case number pseudo, 28 February 2011. According to the report dated 28 March 2011, on the same day, Witness12, the President of the Association of the Name of the Municipality1 of the Name of the Municipality, appeared in person at the Police Station of the Name of the Municipality2 and announced in person that, as of 1 March 2011, the Association Name1 would provide public security services with a minimum of two weeks with an estimated 10-15 people due to the Roma situation in the Name of the Municipality1.

The same report also recorded the fact that the two police chiefs asked Witness 12 to contact the leaders of the association 1 in order to have the leader of the unit of the social organisation on duty in the municipality 1 go to the Police Station 2 the next day for further consultation.

Witness name15 was present at the Police Station of the municipality name2 on 1 March 2011 as the leader of the unit of the association name1 on duty in the municipality name1 and announced the fact of the increased patrols to be held by the association name1.

The police report dated 28 February 2011 also states that Witness Name12 informed that on 6 March 2011, the organisation of the organisation Name of the municipality Name1 will hold a commemorative parade in the municipality.

On March 1, 2011, the defendant's name was that of a manager, witness name11, who also has a law degree.

On the same date, witness name16 was a Police Colonel who was the Director of Law Enforcement of the Respondent name, to whom the Police Report dated 28 February 2011, the Articles of Association name1 and the Order of Registration of the County Court name1 were both sent by the Head of the Police Station of the municipality name2.

This 2nd day of March 2011, a declaration signed by the name of witness 12 as the organiser of the event.

The announcement stated the aim of the event, or rather the agenda of the event, as the reduction of the increased crime in the name of the municipality1 and the elimination of offences.

The document also dated March 2, 2011, entitled "Notification of an event addressed to the Police Station of the municipality name2" was also signed by the name of a witness12 as the president of the Jobbik Gyöngyöspata organization, in the latter notification addressed to the Police Station of the municipality name2, he is already the main organizer, and states that they are demonstrating at the request of the residents of Gyöngyöspata, who have been terrorized by the local gypsy population living from crime.

On 3 March 2011, the head of the Police Station of the municipality of the name of the municipality2 informed the president of the organisation of the municipality of the name of the organisation, witness name12, that, having examined the notification made by him, he had established that the event fell within the scope of Act III of 1989 on the right of assembly, the holding of which was acknowledged by the authority he headed.

The Police Station of the municipality name2 has taken note of the march demonstration that the organizers have planned to hold on Sunday, March 6, 2011, from 5 p.m. to 9 p.m., on Sunday, March 6, 2011, with the speeches to be held on

the stage to be set up in the main square in front of the catering establishment name, and the planned route of the march, street name1, street name2, street name3 and street name4.

At the end of the noted event, the main organiser wished to hand over a petition to the President of the Roma Minority Self-Government of the municipality of municipality 1, in front of the property at street 3.

In 2011, the streets name 4 and name 5 in the municipality name1 were inhabited exclusively by Roma residents, while the streets name 3, name 6, name 7 and name 8 had a mixed population.

The name of the street affected by the march4 is a dead-end street where car traffic was minimal during the period of the lawsuit.

Name of witness13 as name of the municipality1 Mayor of the municipality, name of the municipality 1 On behalf of the Municipal Council of the Municipality, a petition was submitted to the National Police Chief, which was filed at the National Police Headquarters on 23 March 2011.

In this petition, witness name 13 appealed to the National Police Commissioner for sustained and appropriate professional assistance because of tensions between the local Roma and non-Roma population, which were seriously threatening public safety.

In his submission, the mayor of the municipality referred to the fact that a police station had been operating in the municipality since 1994 and expressed the demand, on behalf of the local community, that a police station should be reopened in the municipality1.

In his submission to the national police chief, witness name13 referred to the fact that public safety in the village has deteriorated significantly in recent times, he feels that the population of the village has been left alone in the current untenable situation, and since he has not received effective help from elsewhere, he has turned to the association name1, which in turn has provoked the indignation of the Roma population of the village and has further exacerbated the already high level of tension in the village.

On 6 April 2011, the Public Order Protection Department of the National Police Headquarters ordered the Director of Law Enforcement of the defendant to submit a report in connection with the information provided by the Mayor of the municipality, which was filed on 11 April 2011.

Starting from the 1st of March 2011, the members of the association name1 patrolled the municipality name1 continuously for more than two weeks, with 20-50 people patrolling the municipality every day.

The members of the association name1 who patrolled the municipality wore the uniforms of the association (boots, black trousers, white shirt, black vest with the name of the association name1 on the back, the coat of arms with the Árpád stripes and the Citizen Guard inscription).

The uniforms worn by members of the association name1 resembled the uniforms of members of the disbanded association name2, and many members of the local Roma community believed that "guards" had arrived in the village.

This assumption was confirmed by the fact that after the members of the association name1 appeared on the 1st of March 2011 in the name1 of the municipality of witness name 12, a flag with the name2 of the association name1 was displayed on the family house of the president of the association name1 of the municipality of the municipality of witness name1.

The patrols by members of the association called1, aroused fear in members of the local Roma community and led to the arrest of the Roma community on 2 March 2011. At a meeting organised by the Police Headquarters of the municipality of Name2 on 21 March 2011, which was attended by Witness15, the head of the unit of the association Name1 on duty in Name1, the leaders of the Roma Minority Municipality of Name1 specifically requested that the members of the association leave the municipality because of the fear of the Roma community members, but despite this request, the members of the association Name1 remained in Name1 and continued their increased patrols.

The association name1 was founded by former members of the dissolved organisation name2 and in 2011 the leader of the social organisation name17 was the former County Chief of the organisation name2.

The members of the association1 patrolled the commune between 1 March 2011 and 18 March 2011, during which time they marched continuously and regularly in small groups in the commune's public areas, and occasionally followed members of the local Roma community to the shop and underage members of the local Roma community to school.

The members of the association called1 patrolled the streets inhabited by Roma in the municipality late at night and during the night, singing and chanting.

Because of the above, a march took place on 6 March 2011 in a tense and heated

atmosphere, organised by the organisation Name of the Municipality1.

The statutes of the association name1 do not mention event insurance as an activity, but the demonstration, which was attended by nearly 2000 people, was insured by members of the association name1.

The Police Headquarters of the municipality of the municipality2 has prepared an action plan under police number pseudo for the implementation of police security for the event covered by the Act on the Protection of Assemblies.

The action plan stated that the reason for the police guarantee was that the march would affect streets inhabited by Roma, one of which is a dead-end street, and that if any level of verbal or physical conflict were to arise there, it would not be possible to prevent or interrupt it without adequate police preparedness.

The police station of the municipality of Neve2 legally recorded the march, but this has since been destroyed.

The police officer in charge of the march was police captain Witness 18, head of the traffic police subdivision, who also prepared a report on the implementation of his activities as police officer under police number pseudo, which shows that no police action was taken at all during the event, including in connection with the verbal statements made on the road in front of the property at the name of the municipality1, street number 12, when the petition was read out and handed over by the main organizer Witness 12.

After the 1st of March 2011, members of the two radical far-right organisations, the association name2, appeared in the name of the municipality1.

The Parliamentary Commissioner for National Ethnic Minority Rights initiated an investigation on the basis of the request of the President of the Roma Minority Self-Government of the settlement name1 and other specific complaints, and the report on the events in Gyöngyöspata in March 2011 and similar phenomena, which he prepared, was dated 19 April 2011.

Between 29 March 2011 and 31 March 2011, the staff of the Parliamentary Commissioner for National and Ethnic Minority Rights also visited the names of the municipalities1 and the police stations concerned.

The name of the association3 was dissolved by the Budapest Court of Appeal by a final judgment, this final judgment was upheld by the Supreme Court in the review proceedings by its judgment of 15 December 2009.

At the time of the events in Gyöngyöspata that were the subject of the lawsuit, the factual and legal grounds for these two court decisions were already known, and the Police Station of the municipality2 referred to them, pseudo police number acknowledging the march as an event. The information sent to the main organiser of the event, witness name12 , which also informed the main organiser of the event that the exercise of the right of assembly must not result in the violation of the rights and freedoms of others, and that, pursuant to Article 12 (1) of Act III of 1989 on the Right of Assembly, if the behaviour of the participant of the event endangers the legality of the event and order cannot be restored otherwise, the organiser is obliged to disperse the event.

On 22 March 2011, the Office of the County Prosecutor of the County of Name opened a legal investigation into the operation of the association of Name1 and, in a statement of claim dated 22 August 2011, filed with the County Court of Name County, the defendant, as plaintiff, requested the dissolution of the association.

However, the Gyula General Court dismissed the plaintiff's action by its judgment of 25 July 2012 under the serial number of the court case.

However, on the basis of an appeal filed by the General Prosecutor's Office of the County of Szeged, the Szeged Court of Appeal, by its order under the case number of the Court of First Instance, set aside the judgment of the court of first instance and ordered the court of first instance to conduct a new trial and issue a new decision.

In the course of the repeated proceedings, the Gyula Court of First Instance again dismissed the plaintiff's action by its judgment of 24 March 2014 under the serial number of the court case number, however, the plaintiff, on the basis of an appeal filed by the County Prosecutor's Office, in the course of the repeated second instance proceedings, the Szeged Court of Appeal, by its final judgment, dissolved the association named1.

The members of the Roma community in Gyöngyöspata, the members of the association name1, the members of the association name2 who were in the village, very often could not be distinguished, despite their partly different uniforms, they were clearly afraid of these people, they felt that they appeared in the village with an anti-Roma purpose.

The adult members of the Roma community also found it difficult to cope with the situation, but their minor children were very affected by the events, and many of them needed medical help.

During the period in question, not only the police officers of the Police Headquarters of the municipality2 and of the other municipal police headquarters of the defendant and the county2 were on duty in the municipality, but also the police officers of the County3 and County4 Police Headquarters, as well as members of the Standby Police.

During the period of the lawsuit, police officers of the County Police Headquarters3 and the County Police Headquarters4 and the Standby Police were also under the command and control of the defendant, and every day a commander of the defendant's staff with at least the rank of head of department briefed the police officers in the municipality1.

When justified and when a managerial decision was required, operational decisions were taken by the head of the Police Station of the municipality name of the witness10 who kept his superior, the head of the police station name of the witness11 name of the defendant, informed.

During the period of the trial, the witness was Lieutenant General of Police 20, the head of the National Police Headquarters, who was kept informed by the head of the defendant about the events in Gyöngyöspata.

Between 1 March 2011 and 1 May 2011, the number of police officers in the municipality varied daily according to the situation, but was very significant, and in this first period the municipality had the largest concentration of police officers in the country.

After the periodic elections of the mayor, the tension in the municipality decreased and the situation began to normalize, so the head of the defendant continuously reduced the number of police officers in the municipality, but only after consulting with the head of the National Police Headquarters did the head of the defendant decide to reduce the number of police officers in the municipality to the level of the period before the events of the lawsuit.

On 6 March 2011, the day of the march was the day of the largest police presence in the municipality, with nearly 200 police officers covering the demonstration.

The holding of the march further increased tensions in the municipality, and the fears of the members of the Roma community in the municipality were exacerbated by the fact that the far-right radical organisation Association2 wanted to organise an open camp for basic military training in the municipality on 22-24 April 2011.

Of the persons who arrived at the camp, the police officers of the Police on

Standby arrested a total of 8 persons and detained them for the offence of disorderly conduct, but the Municipal Court of the municipality2 terminated the offence proceedings for disorderly conduct by its orders under the offence number and the serial number of the offence number.

Another far-right, radical organisation, the members of the association Name2, also acted in a fearful way against members of the local Roma community, and on 10 March 2011, one of the members of the association Name2 was arrested for harassment.

On the 14th day of July, 2011, witness Major 5 of the Police Department of the Police Station of the municipality 2, acting Head of the Public Order and Traffic Police Department, informed the Head of the Criminal Investigation Department of the Criminal Investigation Directorate of the defendant 1 that between the 1st day of March, 2011 and the 18th day of March, 2011, 27 members of the association 1, 7 members of the association 2 and 4 members of the association 3 were stopped by the police in the municipality 1.

In the first period between 1 March 2011 and 1 May 2011, on 26 April 2011, tensions in the village were so high that a confrontation took place between a large group of the local Roma community and a small group of non-Roma persons in the village, which led to criminal proceedings for group assault.

On 13 January 2012, a report on the public security situation in the municipality1 was prepared under the police number pseudo, which includes the number of offences and crimes committed in the municipality in 2010 and 2011.

According to a report prepared by the Name of the Municipality2 Police Station, 43 offences were detected and sanctioned by the police in the Municipality1 in 2010 and 176 in 2011.

This report also states that the increasing number of offences is due to the increased police presence and the continued increased monitoring.

In 2010, only 14 offence proceedings were opened for minor road traffic offences, while in 2011, 90 proceedings were opened for the same offence.

Lieutenant General of Police Teacher's name20 In the month of January 2012, after receiving the report of the Parliamentary Commissioner for National and Ethnic Minority Rights on the follow-up investigation of the municipality name1 concerning the conditions of public employment, the practice of the authorities in the field of offences and education, the National Police Chief sent in writing to the municipality name21 his comments on the findings of the follow-up

investigation report, the defendant name 2011. Name of the municipality1 during the period March to October 2011, which was referred to the police.

The table annexed to the information on the police case number pseudo is the table which also contained the names of the offences committed in the municipality during the period in question and the amount of the fine imposed.

In its preparatory document No 101, the defendant presented its detailed factual and legal position in relation to its infringement proceedings between 1 March 2011 and 1 May 2011 and between 1 May 2011 and 31 December 2011, by attaching three annexes to its preparatory document.

In this preparatory document, the defendant made separate statements in respect of the infringement reports and the on-the-spot fines, by indicating separately for each infringement which police body acting in the name of the municipality1 under the command and control of the defendant, and also separately for each infringement the name of the offender and the facts of the infringement.

The defendant also annexed to the same preparatory document anonymised documentary evidence of both the fines imposed and the infringement reports.

The documents containing the on-the-spot fines imposed by the members of the Emergency Police on duty in the municipality of the municipality1 have already been scrapped and were not attached by the defendant in the personal lawsuit.

1 March 2011 and 1 May 2011. In the period from 1 May 2011 to 31 May 2011, the police officers on duty in the municipality under the defendant's command and control imposed two spot fines in the area of the municipality concerned by the plaintiff's application 13 infringement reports were filed for infringements under police jurisdiction, 12 infringement reports were lodged for offences not falling within the police's jurisdiction, i.e. a total of 27 offences were either the subject of an administrative fine or an infringement report in the first period of the proceedings.

However, in the second period of the case, between 1 May 2011 and 31 December 2011, the police officers on duty in the municipality name1 of the defendant's administrative subordination imposed 32 fines and 54 infringement reports in the administrative area of the municipality name1, i.e. a total of 86 infringement cases in which the above police measures were applied.

Of the 86 infringement cases initiated between 1 May 2011 and 31 December 2011, 25 were against non-Roma and 61 against members of the local Gyöngyöspata Roma community.

Before the hearing was closed, the applicant amended and clarified its claims in its preparatory document No 110 and requested that the defendant be granted the following relief.

The applicant requests the Tribunal to declare that the defendant violated the right to equal treatment of the members of the Roma community of the municipality of Name1 between 1 March 2011 and 1 May 2011 by harassing them through its failure to take action in the course of its public security activities, and to declare that the defendant violated the right to equal treatment of the members of the Roma community of the municipality of Name1 between 1 March 2011 and 1 May 2011. declare that the defendant, in the period between 1 March 2011 and 1 May 2011, by its police and law enforcement practices against Roma in the Roma settlement of Name1, harassed the members of the Roma community of Gyöngyöspata and thereby also infringed their right to equal treatment.

In the alternative, in the event that the Tribunal does not see any possibility to determine the two claims described above separately, the applicant requests, in place of these claims, that the Tribunal declare that the defendant was liable for the damage suffered by the applicant on 1 March 2011 and 1 May 2011. that, by failing to take measures to protect the public from members of extremist groups in the municipality of Name1 during the period from 1 March 2011 to 31 May 2011 and by its police and police procedural practices against Roma in the Roma area of the municipality, the defendant harassed members of the Roma community in Name1, thereby infringing their right to equal treatment, and that the defendant also failed to take measures to protect the public from members of extremist groups in Name1 during the period from 1 March 2011 to 31 May 2011 and that the defendant's actions in the area of the municipality of Name1 were in breach of the right to equal treatment of Roma in the area of the municipality of Name1. the defendant, by its misconduct in the period from 1 May 2011 to 30 November 2011 in the municipality of Name1, directly discriminated against members of the Roma community in the municipality of Name1 and, by its abusive misconduct against Roma, harassed the Roma community of Gyöngyöspata, thereby violating their right to equal treatment.

In the alternative, the applicant requested the court to declare that the defendant had directly discriminated against the members of the Roma community of Gyöngyöspata by its procedural practice in the name of the municipality1 in the period between 1 May 2011 and 30 November 2011, thereby violating their right to equal treatment.

The applicant also requested the court to prohibit the defendant from further infringements and to order the defendant to develop a strategy for the police

management of anti-Gypsy extremist movements within 6 months of the judgment becoming final and to present it at a briefing to the heads of the police stations and police districts under its authority, and to develop a control mechanism for the application of the strategy in case of need, and to send the strategy and the audit documents to the applicant within 15 days of their approval by the management, and to require the defendant to make the strategy and the audit reports containing the findings of the audit concerning its application, where necessary, available to the staff on its internal intranet system.

The applicant also requested that the court order the defendant to inform the heads of the police stations and police districts under its jurisdiction of its infringement procedure by means of a briefing within 15 days of the judgment becoming final, the requirement of equal treatment and the violation of fundamental rights by ethnic profiling, and order the defendant to develop a control mechanism for this within 6 months of the judgment becoming final, to carry out an annual audit of the compliance with the requirement of equal treatment from an ethnic point of view in the practice of the staff of the subordinate police stations and police districts in respect of infringements, fines and denunciations and to carry out an annual audit on that basis and, accordingly, to make the report on the findings of the audit available to the staff on its internal intranet system and to publish it on its website.

The applicant also asked the Court to order the defendant to require the members of its staff serving in the municipality of Name1 to attend sensitisation and anti-discrimination lectures given by professionals provided by the Equal Treatment Authority for two days within one year of the judgment becoming final.

The applicant requested that the Court also order the defendant to publish on its website the provisions of the judgment establishing the infringement and prohibiting the infringement, as well as the additional objective sanctions, and to communicate these provisions of the judgment to the Hungarian Television Agency within 15 days.

The applicant also sought an order that the defendant pay the costs.

In its cross-application, the defendant sought the dismissal of all the applicant's claims and an order that the applicant pay the costs.

The applicant's action is partly well founded.

I.

The new Civil Code, Act V of 2013, entered into force on 15 March 2014.

The subject matter of this action is the events that took place in the municipality of Name1 between 1 March 2011 and 31 December 2011.

Pursuant to Section 8 (1) of Act CLXXVII of 2013 (Civil Code), the provisions of the new Civil Code on sanctions for the violation of personality rights shall only apply to violations committed after its entry into force, therefore, subject to the provisions of Section 8 (2) of the Civil Code, the court had to apply the relevant provisions of the old Civil Code in force at the time of the violation in the personality action.

Under the old Civil Code, Article 75 (1), everyone is obliged to respect the rights of the person, which are protected by law.

Article 76 of the Civil Code mentions by way of example the rights of the person protected in particular, and from 27 January 2004 also the violation of equal treatment.

The elimination of discrimination and the extension of equal opportunities have been regulated by 8 Community directives, and the creation of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities (Ebtv.) served to harmonise the law with Community law.

However, even before this law was enacted, the Constitutional Court had already ruled in its decision No. 61/1992 that the State, as a public authority, is obliged to ensure equal treatment for all persons residing in its territory and cannot discriminate between them in this context.

One of the 8 Community law directives concerned by the harmonisation is Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Article XV(2) of the Fundamental Law of Hungary states that Hungary guarantees fundamental rights to all without distinction of any kind, such as race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or other status.

At the same time, Article XV (4) of the Fundamental Law also states that Hungary shall promote equal opportunities and social inclusion through special measures.

In the context of the legal relationship in the case, the applicant had legal legitimacy pursuant to Section 20 (1) c) of the Civil Procedure Act, and was therefore legally entitled to bring an action in the public interest.

However, in the personal lawsuit, the tribunal also examined whether the defendant, the name of the defendant, had passive legitimacy in the lawsuit, whether the plaintiff sued a good defendant, and in this context, the tribunal found that, based on the testimony of the police witnesses heard, that, at the time of the events in question, the defendant's name was under the command and control of police forces from other counties and members of the Standby Police, who were acting in the name of the municipality1 , and that therefore, in the personal lawsuit, which sought a declaration of violation of the requirement of equal treatment, the court also held that the defendant's name alone was justified as a defendant in the legal view.

In the civil action for infringement of the right to privacy, the parties' political references were irrelevant for the assessment of the civil case, while in the personal injury action the court only assessed the legal facts that were actually relevant for the assessment of the legal relationship, and ignored the parties' political references.

In the personal injury action, the plaintiff alleged that the defendant harassed and directly discriminated against members of the Gyöngyöspata Roma community.

Since harassment is a form of direct discrimination regulated in its own right and the legal definition of harassment corresponds to the definition set out in Article 2(3) of Directive 2000/43/EC and Article 2(3) of Directive 2000/78/EC, the tribunal in the personality proceedings, in addition to the practice of the Constitutional Court, took into account the Community legislation on the legal relationship at issue and also assessed the case law of the European Court of Human Rights.

The court applied the special rules of evidence set out in Article 19(1) and (2) of the Code of Civil Procedure in the personal lawsuit brought by the plaintiff on the basis of his public interest claim, and informed the parties by order No. 71 of the special rules of evidence applicable in the lawsuit.

The Ebtv. lays down special rules on the protection of persons in the context of employment, public education and the provision of goods and services, therefore the general rules on protection under Article 7(2) of the Act may only be applied if the Act itself does not provide for different, stricter or less stringent rules.

In light of the subject matter of the case, the special exculpatory rules could not apply, but Section 7(3) of the Act does not allow the application of the general exculpatory rules in cases of direct discrimination, therefore, since the defendant had clearly stated at the hearing held on 3 September 2015, before the trial was

closed, that the plaintiff had been able to comply with its obligation of probable cause, the court also found that the plaintiff had complied with the provisions of the Ebtv.19(1) of the Civil Procedure Act, and therefore the burden of proof was on the defendant pursuant to Article 19(2) of the Civil Procedure Act to prove that it had complied with the requirement of equal treatment in the context of the legal relationship in the litigation.

Pursuant to Section 4(d) of the Equal Treatment Act, law enforcement agencies are obliged to comply with the requirement of equal treatment in their procedures and actions, and since the provision of the law on the scope of the Act, Section 6, does not define the legal relationship in the litigation as one that is not covered by the Act, the court took the legal position that the defendant legal person was obliged to comply with the requirement of equal treatment in the context of the legal relationship in the litigation, which was not disputed by the defendant.

In the light of the above, the court, when ruling on the plaintiff's claims in the personal injury action, examined whether the defendant had been able to fulfil its duty to excuse by the testimonies of witnesses and the documentary evidence submitted, and whether it had successfully proved that it had complied with the requirement of equal treatment in the context of the exculpatory evidence.

Following the extensive evidence, the plaintiff clarified and amended its claims in its preparatory document under No. 110, this preparatory document contains the objective sanctions in respect of which the plaintiff requested the decision of the court based on the provisions of Article 84 (1) a), b), c) and d) of the Civil Code.

The personality suit could not be used to adjudicate on a dispute in another field of law, since the personality suit itself could not serve as a general or special forum for legal remedies, and the court hearing the personality suit could not, therefore, comment on the legality of other proceedings or review them.

However, in the personal lawsuit, the court could examine on the merits whether the defendant violated the right to equal treatment of the members of the Roma community of the municipality of Name1, whether the defendant harassed or directly discriminated against the members of the Roma community of the municipality of Name1.

The requirement of equal treatment is essentially a negative obligation, requiring the debtor to refrain from any conduct which, on the basis of certain characteristics, would violate the equal human dignity of individuals or groups of individuals.

In the personal lawsuit, the plaintiff wanted to prove that the defendant was under a positive obligation to protect the fundamental rights of the Roma community in the context of the legal relationship in question, and therefore, on the basis of the free evidence, the plaintiff submitted as an annex to its preparatory document 59/1. The amicus curiae brief, prepared by the Open Society Justice Initiative, refers to international legal norms that prohibit discriminatory ethnic profiling, racial discrimination, against members of law enforcement agencies.

In the personality case, the tribunal conducted extensive evidence, heard 14 witnesses, obtained and evaluated documentary evidence relating to the events at issue that were relevant to the outcome of the case, and also viewed and admitted into evidence DVDs with images and audio documenting the events at issue.

The Tribunal heard as witnesses, inter alia, witness 10, the head of the Police Department of the municipality 2, witness 5, the former head of the Public Order and Traffic Department of the Police Department of the municipality 2, witness 2, the head of the District Commissioner's Subdivision of the Police Department of the municipality 2, witness 11, the head of the defendant 1, and witness 1, the former president of the Roma Minority Self-Government of the municipality 1.

The plaintiff also claimed in its amended and clarified action that the defendant violated the right to equal treatment of the members of the Gyöngyöspata Roma community in two respects, harassing and directly discriminating against them, therefore, the court examined the merits of the case in relation to both periods in question, whether the specific acts and practices of the defendant identified by the plaintiff were infringements of personal rights, whether they constituted harassment or direct discrimination.

II.

The actions for a declaration of infringement brought in relation to the period between 1 March 2011 and 1 May 2011, based on Article 84(1)(a) of the Civil Code.

Harassment

The applicant submitted a primary and a secondary application in his preparatory file under number 110, but these applications both sought a declaration from the court that the defendant had committed harassment against the members of the

Gyöngyöspata Roma community through its failure to take measures in the course of its public security protection activities and through its stop and search and infringement procedures, thereby violating their right to equal treatment.

On the basis of the evidentiary proceedings carried out, the Tribunal found the applicant's action to be partially well-founded on this ground, stating that the defendant had failed to fulfil its obligations between 1 March 2011 and 1 May 2011. the defendant, by its failure to take action in the course of its public security activities against members of the association name1, the association name2, in the municipality name1, harassed members of the Roma community in the municipality name1, but dismissed the applicant's action as unfounded, took the view that the defendant's exculpatory evidence had led to a result, and that, in relation to the first period of the proceedings, it had not committed harassment against members of the Roma community of Gyöngyöspata by its practices of stopping and prosecuting offences, for the following reasons.

In the operative part of its judgment, the Court of First Instance considered it appropriate to establish clearly and precisely that the defendant had committed harassment against members of the Roma community in the municipality of Name1 by his failure to take action to protect the public safety of the members of the association Name1, who were in Name1, and of the association Name2, in the legal view of the Tribunal, the term 'extremist groups' is not sufficiently specific and the Tribunal was entitled to define clearly the persons against whom the defendant's failure to take action was considered capable of causing harassment to members of the Roma community of the association in name1 and thus infringing their right to equal treatment.

In the personality case, the court did not examine the applicability of the term harassment as a general term often used in everyday life, nor was the fact of harassment as defined in the Criminal Code relevant, but the court specifically examined whether the defendant's practice of taking measures or failure to take measures was a violation of personality, whether in this context he had committed harassment against members of the Roma community in the municipality of Nám1.

Section 222 of the Criminal Code defines the legal definition of harassment, which, due to the above, was not relevant at all in the context of civil law, personal law.

At the same time, the Criminal Code also places harassment among the crimes against human dignity and certain fundamental rights.

Pursuant to Article 10 (1) of the Equal Treatment Act, harassment is conduct of a

sexual or other nature that is offensive to human dignity, which is related to a characteristic of the person concerned as defined in Article 8 and which has the purpose or effect of creating an intimidating, hostile, humiliating, degrading or offensive environment towards a person.

However, harassment is considered direct discrimination under the CXXV of 2003. However, the statutory conditions of direct discrimination and harassment differ in part, since direct discrimination as a legal offence is clearly based on the fact that the person or group in question is treated less favourably than a person or group in a comparable situation, while the other legal offence of harassment does not include this element in the statutory definition, the finding of harassment is therefore based solely on the existence of a protected characteristic and the existence of conduct having the purpose or effect of intimidating, hostile, degrading, humiliating or offensive conduct, and the Tribunal did not therefore need to examine the existence of that statutory condition in the context of the applicants' claims based on harassment as a cause of action.

The first sentence of the preamble to the Constitution states that Parliament recognises the right of every person to live as a person of equal dignity.

The requirement of equal treatment implies an obligation with a fundamentally negative content, and point 4 of the commentary to the preamble of the Equal Treatment Act emphasises that the requirement of equal treatment requires the duty to refrain from any conduct that would result in direct discrimination or harassment of certain persons or groups of persons on the basis of their specific characteristics, i.e. the duty not to violate the equal human dignity of others.

Pursuant to Section 4 a.) of the Ebtv., the Hungarian State is also obliged to comply with the requirement of equal treatment.

Article 1(1) of Act XXXIV of 1994 on the Police, in force between 1 March 2011 and 1 May 2011, defined the tasks of the police as, inter alia, the protection of public safety and public order, and Article 2(1) of the same Act.§ Paragraph 1(1) of that same article, in force during the first period of the proceedings, clearly stated that the police were to protect against any act directly threatening or causing harm to life, limb or property, and to respect and protect human dignity and human rights.

Chapter VIII of the Constitution (Act XX of 1949), in force between 1 March 2011 and 1 May 2011, contains the legal provisions on the Hungarian Defence Forces and certain law enforcement agencies, and Article 40/A(2) of the Constitution also states that the fundamental task of the police is to protect public safety and public order.

However, Article 54 (1) of the Constitution also clearly states that in the Republic of Hungary every person has the inherent right to life and human dignity, of which no one may be arbitrarily deprived.

At the same time, the statutory provision of Article 8(1) of the Constitution, which was in force during the first period of the proceedings, clearly established as the primary duty of the State the protection of the inviolable and inalienable fundamental rights of the individual, including human dignity, recognised by the Republic of Hungary in the Constitution.

This legal provision of the Constitution constitutes the constitutional basis for the obligation to protect the fundamental rights of the State and its law enforcement body with its own legal personality to protect the rights of the defendant.

According to the legal position of the Tribunal, in the period between 1 March 2011 and 1 May 2011, the defendant was also under a positive obligation in relation to the legal relationship in the case, and had a constitutional duty to protect the members of the Roma community who were undeniably intimidated.

According to the legal position of the court, in the first period of the proceedings, the defendant, as a law enforcement body of the state, the Republic of Hungary, with its own legal personality, was not only under a legal obligation to examine the applicability of certain provisions of the Criminal Code and the Misdemeanour Act, but also under a fundamental legal obligation to ensure that the highest level legislation, in addition to the provisions of the Constitution, also took into account the provisions of international treaties signed by the Republic of Hungary.

Article 2 of Decree-Law No. 8 of 1969, proclaiming the International Convention on the Elimination of All Forms of Racial Discrimination, adopted in New York on 21 December 1965, provides as follows:

1 The States Parties condemn racial discrimination and undertake to pursue without delay and by all appropriate means a policy of eliminating all forms of racial discrimination and promoting understanding among all races:

(a) Each State Party undertakes not to initiate any act or practice of racial discrimination against groups of persons or institutions and to ensure that all its national and local authorities and public institutions act in conformity with this obligation.

b.)each State Party undertakes not to promote, protect or assist any form of racial discrimination by any person or organisation.

(c) Each State Party shall take effective measures to review its national and local government policies and to amend, repeal or abolish any law or legislation which has the effect of creating or perpetuating racial discrimination in any field.

(d) Each State Party shall prohibit and eliminate local discrimination by any person, group or entity by all appropriate means, including, where necessary, by legislation.

(e) Each State Party undertakes to support, where appropriate, integrationist, racially mixed organizations and movements and other means of eliminating racial barriers, and to oppose any action which tends to reinforce racial divisions.

According to the legal position of the Tribunal, the Constitutional Court's practice also leads to the conclusion that the defendant was under an obligation to protect the members of the Roma community who were intimidated in the name of the municipality1, since the Constitutional Court's decision 53/2009 (V.6.(53.2) AB decision also stated that the state is not only obliged to refrain from infringing fundamental rights, but must also promote their enforcement by positive measures, thus the Constitutional Court also clarified that the state is also under an obligation to protect fundamental rights and institutions.

In addition, the Supreme Court, by its judgment of 15 December 2009, upheld the final judgment of the Metropolitan Court of Appeal in the review proceedings, by which it dissolved the name of the association3, so the legal justification for these judgments was already known to the law enforcement authorities.

The tribunal also examined, in light of the above, whether the defendant had committed a violation of personality between 1 March 2011 and 1 May 2011 in the name of the municipality1, whether he had committed harassment against members of the Gyöngyöspata Roma community, i.e. the tribunal also took into account in its decision how the defendant had fulfilled his obligation to protect fundamental rights.

In connection with the facts of unlawful segregation, which also violates the requirement of equal treatment, as defined in Section 10 (2) of the Equal Treatment Act, the judicial practice has taken the position that the local government maintaining the institution and the primary school also realize the violation of personality by maintaining unlawful segregation without any activity, by not taking action against the spontaneous segregation that has developed independently of their intentions (case number of the Debrecen Court of Appeal, Debrecen).

Therefore, unlawful segregation, as a breach of equal treatment, can be effected not only by intention but also by omission.

The legal position of the Tribunal is that harassment, as a breach of equal treatment, can also be committed, not only intentionally but also by omission.

The court took the legal position that the defendant, by failing to maintain the intimidating, hostile, humiliating, humiliating and offensive environment that had undoubtedly developed towards the members of the Roma community in the settlement of Gyöngyöspata, subjected the members of the Roma community in Gyöngyöspata to harassment, since the defendant could have committed the harassment as a civil personal rights violation by its active failure to act, even without its activity. Article 10.§ Therefore, by its failure to maintain an intimidating, hostile, humiliating, degrading and offensive environment that violates the human dignity of the members of the Roma community in the municipality of Name1, the defendant has subjected them to harassment, since the defendant did not need to have racist intent to do so, because of the substantive legal condition, However, the defendant's failure to do so had the effect and effect of maintaining an intimidating, hostile, humiliating, degrading and offensive environment, which was undeniably already in place in the municipality of Roma, which was undeniably an affront to their human dignity.

The Tribunal, when it found that the defendant had committed harassment against members of the Roma community in the municipality of Name1 between 1 March 2011 and 1 May 2011, assessed the evidence available to it as follows.

The Tribunal found that it was proved beyond reasonable doubt that after the 1st of March 2011, when the members of the association name1 appeared in the municipality name1, an environment violating the human dignity of the members of the Roma community was created, i.e. the statutory conditions set out in Article 10 (1) of the Ebtv. were not undisputedly met.

This fact is clearly confirmed by the official note of the head of the Police Station of the municipality of Name2, attached as an annex to the defendant's preparatory document under number 60, made by the witness name10 on 26 April 2011, which states that it is clear that the local Roma are afraid and the piquancy of the situation is that when they see a policeman they are afraid and it makes them tense.

This assessment of the situation by the Head of the Police Station of the municipality of Name of Witness10 was clearly supported by the testimonies of the witnesses heard and by the other documentary evidence available to the Tribunal, and the Tribunal therefore also clearly found that, after the 1st March 2011. 1, the situation gradually escalated and a clearly hostile, humiliating,

humiliating and offensive environment was created in the municipality of Name1, which, according to the legal view of the Tribunal, violated the human dignity of the members of the Roma community of Name1, since the provisions of the Ebtv. 8.§ of the Law, their belonging to the Gypsy (Roma) nationality.

By signing the New York Convention on the Elimination of All Forms of Racial Discrimination, promulgated by Decree-Law No. 8 of 1969, Hungary, as a State Party, also undertook to prohibit and eliminate, by all appropriate means, local discrimination by any person, group or organisation, by legislation if necessary.

It follows from this obligation, which Hungary also undertook in an international treaty, that the defendant, the defendant name, as a defendant with its own personality, was not only under an obligation, which was expressed by the head of the defendant name11 during his hearing as a witness, to try to follow all events well, but also under an obligation to protect the fundamental rights of the members of the Roma community in the settlement name1 who were intimidated during these two months.

In the legal view of the Tribunal, the defendant could have fulfilled this obligation to protect fundamental rights if it had fully explored the legal context, the legal context provided by national law and Community law, in which it could actually fulfil its obligation to protect fundamental rights.

For the above reasons, in the legal view of the Tribunal, the law enforcement body of the defendant could not, in relation to these two months, merely examine whether a historical fact it had discovered also constituted a legal fact, whether it could be established on the basis of national law, the commission of a criminal offence or an infringement of the law, because the defendant, as the law enforcer, had to examine in a broader context in these two months how it could protect the members of the Roma community in the municipality of Nám1, which was undoubtedly intimidated, on the basis of its obligation to protect fundamental rights.

On the basis of the evidentiary proceedings conducted, the Tribunal found that it was justified to investigate the three events that were clearly the three most important and most offensive to the equal human dignity of the members of the Gyöngyöspata Roma community during this period, whether the defendant had in fact fulfilled its duty to protect fundamental rights or whether, in the course of its public security activities, it had committed an omission which amounted to harassment of members of the Roma community in the municipality of Gyöngyopolásposito1 in that the defendant's omission had the effect of maintaining an environment which was intimidating, hostile, humiliating, degrading, humiliating and offensive to the human dignity of the members of that

Roma community.

On the basis of the above, the tribunal assessed the following events in particular in the context of the first period of the trial:

-The patrolling activities of the members of the association dissolved during the personality lawsuit1 for more than two weeks,
-The march organised by the name of the organisation on 6 March 2011,
-A clash on 26 April 2011 between a large group of the local Roma community and non-Roma people in the village,

In the legal view of the tribunal, although this two-month period had to be examined as a whole, in the context of whether the defendant had committed harassment against members of the Roma community in the municipality of Name1, the most important factor was whether the defendant had been able to fulfil its obligation to protect fundamental rights in relation to the three events that mainly determined this period.

The applicant summarised its factual and legal position in its preparatory document No 116, on the basis of which it sought a declaration that the defendant had committed harassment against members of the Roma community in the municipality of Name1.

On the basis of the evidentiary proceedings conducted, the court found that, on the one hand, the members of the Roma community in the municipality of Name1, the members of the association Name1, the members of the association Name2, who were in the municipality, could not always distinguish between them, despite their different uniforms, and were equally afraid of these people, because they felt that they appeared in Name1 with an explicitly anti-Roma purpose, on the other hand, the tribunal also found that the members of the association Name1, which appeared for the first time in the municipality, could reasonably have been regarded by members of the Roma community as "guards" at first, since the earlier anti-Roma activities of the association Name3 were widely reported in local and national newspapers, as well as on public and commercial television. This is also supported by the fact that witness name11, when questioned by the court, stated that the patrolling activities of association name3 were the time that led to a new situation compared to the one he had alleged.

Thus, on the one hand, the leader of the defendant's name indicated the patrolling activity started in the village on 1 March 2011 as the one that started the process that led to the creation of an environment that, in the opinion of the Tribunal, violated the equal human dignity of the members of the local Roma community, as defined in Article 10 (1) of the Ebtv. Even at the hearing on October 28, 2014,

i.e. more than three years after the events in the case, the defendant could not indicate who had actually patrolled the municipality of Name1 for more than two weeks, this spontaneous slip of the witness only confirms the fact that the defendant's position was not in line with the provisions of the law, that in order for the defendant to be able to fully comply with its obligations under its duty to protect fundamental rights, it was essential for the county police authorities to be fully aware of the merits of the judgment of the Court of First and Second Instance and the Curia in the civil proceedings pending before them in connection with the dissolution of the organisation.

However, during the hearing of witness 11, the manager of the defendant, who has a law degree, said that he could not say why the name of the organisation had been dissolved by the court, but had read the judgment itself.

In the Tribunal's view, the testimony of Witness Name11 led to the conclusion that the first period of the trial, from 1 March 2011 to 1 May 2011, was the period of the first trial. The Tribunal considered that he did not have sufficient knowledge of the substantive legal content of the judgments of the courts, which were clearly available and accessible at that time and which essentially determined the scope of the law enforcement body's legal action, that the defendant was unable to fulfil its fundamental rights protection obligations in those two months, that it was unable to protect the human dignity of the members of the Roma community in the municipality of Name1, because the defendant did not take all the measures which it was entitled to take and which could have ensured the equal human dignity of the members of the local Roma community.

The above is also supported by the fact that witness name 11 also testified as a witness in response to a question from the court that, although he had been the defendant's legal adviser during the period in question, he did not need his help because of his legal education, and he was able to evaluate legal matters independently and make independent decisions.

However, as the head of the defendant also testified that the police was a central organisation and that it had continuously reported on the events of the case to the head of the National Police Headquarters20 , the court considered that it would have been justified for the head of the defendant, despite the fact that he had a legal degree, to have used his legal knowledge, and international law, which would have enabled the defendant, in a situation where an environment had been created which was prejudicial to the equal dignity of the members of the Roma community in the municipality of Name1, to take the necessary and justified measures to put an end to it, in the light of the legal provisions available to it and applicable.

For the above reasons, the tribunal did not share the view of the witness, Witness Name11, that the defendant had done what he was legally entitled to do.

The tribunal assessed the following evidence in relation to the patrols of the members of the association called1.

In the personal injury action, the defendant consistently argued that there was a legal vacuum, that it had no legal means to prevent the patrolling activities of the members of the association in name1.

It is not disputed that Article 1 of Act XL of 2011 introduced the new 174/B/A of the old Criminal Code (Act IV of 1978), which is regulated as a new form of violence against a member of the community, with effect from 7 May 2011.

Although the explanatory memorandum of the amendment does not refer to the events in the settlement name1, which are the subject of the lawsuit, it cannot be disputed on the basis of the textual justification of the amendment and the coincidence of the dates that the Parliament reacted to the situation in the settlement name1 on 2 May 2011, which, in the legal opinion of the Court, violated the equal human dignity of the members of the Roma community when it amended the Penal Code as described above.

The applicant stated in his preparatory document, number 5, which legal provisions of the old Criminal Code would have justified the defendant's initiation of criminal proceedings ex officio in the first period of the proceedings.

In connection with the above, the applicant pleaded the offences of violence against members of the community, misdemeanour harassment and misdemeanour and disorderly conduct.

Since the personality proceedings cannot be used to adjudicate on disputes in other areas of law, nor can the courts hearing the personality proceedings comment on the legality of other proceedings or, by implication, review them, the court could not rule on the question whether the patrolling activities of the members of the association in name1 constituted one of the three statutory and one misdemeanour offence alleged by the applicant, however, when the Tribunal examined whether the defendant had committed harassment against members of the local Roma community, it assessed that the defendant, by failing to initiate these proceedings ex officio, which could be considered as an omission in the context of the violation of personality, had perpetuated the gradual creation of an environment that violated the equal dignity of the local Roma community.

From the fact that in the retrial the Szeged Court of Appeal only ruled on the 8th

October 2014. It did not follow that the defendant could not initiate criminal proceedings ex officio against certain members of the social organisation, could not take the legal position that the members of the then still legally operating association Name1 patrolling the village had committed a crime or an offence and that it would at least initiate criminal proceedings ex officio against them.

In the Tribunal's legal view, the obligation to protect the fundamental rights of the defendant clearly required it to initiate these proceedings of its own motion.

During these two months, the defendant was clearly in a position to investigate continuously and consistently whether the members of the association name1 had committed a crime or an offence, as witness name10, the head of the Police Station of the municipality name2, stated as a witness that the association announced every day by telephone in the morning where they would be moving and how many people would be moving that day.

The defendant was therefore clearly assured of the possibility that the police officers under the defendant's command and control would detect in a timely manner the crimes or offences committed by the members of the association when they were committed.

The Tribunal found, on the basis of the evidentiary procedure carried out, that the police officers under the command and control of the defendant did not initiate any ex officio infringement or criminal proceedings against the members of the association name1 in the period between 1 March 2011 and 18 March 2011, specifically in connection with patrols in the name of the municipality1.

The Tribunal, when finding that the defendant had committed harassment against members of the Roma community in the municipality of Name1 between 1 March 2011 and 1 May 2011, assessed the evidence available to it as follows.

The court found that it was proved beyond reasonable doubt that after the 1st of March 2011, when the members of the community name1 appeared in the municipality, an environment was created in the municipality name1 which was also offensive to the human dignity of the members of the Roma community, and that the legal conditions set out in Article 10 (1) of the Ebtv. were met.

According to the legal view of the Court of First Instance, it was the defendant's duty to protect fundamental rights to initiate at least those infringement and criminal proceedings which national and Community law provided for the possibility of initiating in order to protect the equal human dignity of the members of the Roma community in the municipality of Name1.

For the above reasons, it was of no legal relevance at all in the personality case why the rights defenders, including the plaintiff, did not file more complaints, or that some members of the Roma community in the municipality of Name1 may have made unfounded reports to the police.

It is not disputed that the association name1 has not concluded a written cooperation agreement with the police, despite the fact that Article 36 of Act LXXXIV of 2009 introduced a new rule on the mandatory cooperation agreement and its written reservation as of 1 September 2009.

Act LII of 2006 on Vigilance 2.§ (5) of the Liii Li Li Li Lii Act of 2006, the association name1 would have been legally obliged to initiate the conclusion of a cooperation agreement with the police, if the association name1 as a legal person had exercised this right in good faith and in accordance with its purpose, the defendant or the Police Headquarters of the municipality name2 could have considered whether the conclusion of this written cooperation agreement would violate its fundamental rights protection obligation, whether there is a legal possibility to prevent the patrol itself.

In addition, Act LII of 2006 on Vigilance No 3.§ (2) also stated in the first period of the proceedings that the uniform worn by the vigilante in the course of his/her activities cannot be misleading because of its similarity to the uniform of members of the Hungarian armed forces, law enforcement agencies or other authorities, from this provision of the law and from the fact that, the fact that, at the time when the patrols began, the very detailed and authoritative factual and legal reasoning of the judgments in the civil proceedings pending in the case of the dissolution of the association3 was already clearly known to the defendant law enforcement authority, it may be concluded that the defendant's compliance with its obligation to protect fundamental rights would have required it to initiate, at least ex officio, the proceedings for the protection of the rights of the defence under the Law on the Protection of the Constitution of the Republic of Finland in force at that time.152/(1) and (2) of the legislation in force at that time.

The Tribunal considered that the existence of a reasonable suspicion of the commission of these offences was supported, in addition to the clothing of the patrols, by the fact that, after the members of the association name1 had appeared in the municipality on 1 March 2011, witness name12 had placed a flag with the name of the association name1 on the family house of the president of the association name1's organisation in the municipality name1.

However, on the basis of the evidentiary procedure carried out, it can be concluded that only some members of the two radical far-right organisations were actually prosecuted ex officio.

In its reasoning of the judgment of the court in the civil case on the dissolution of the association name1, the Gyula Court of First Instance stated that wearing uniforms, marching in uniform, public marching, singing, which is a lawful activity arising from the freedom of assembly, does not in itself infringe the rights and freedoms of others, even if it causes disapproval from some onlookers.

However, on the basis of the evidentiary proceedings conducted in the personality proceedings, the court found that the old Civil Code, Article 5.1.1 of the old Civil Code, must also be taken into account as a constitutional limitation of any fundamental constitutional right, such as the rights of the members of the association1 at the time of the patrol.The legal provision of § 5 (2) of the old Civil Code that the exercise of any fundamental constitutional right may not be directed to an end incompatible with its social purpose, nor may it infringe the right of others, including the members of the Roma community of the municipality of Neve1, to equal human dignity.

On the basis of the evidentiary proceedings conducted, the Tribunal found that the members of the association name1, in the context of their patrols in the settlement name1, exercised the constitutional and other rights to which they were otherwise not entitled in a manner that violated the equal human dignity of the members of the Roma community in the settlement name1, and therefore constituted a violation of personality, the defendant's failure to initiate the infringement and criminal proceedings which would at least have created the possibility that the equal human dignity of the members of the Roma community of the municipality of Neve1 would not have been violated, can be assessed as harassment, and the defendant's failure to do so is due to the fact that it did not actually fulfil its obligation to protect fundamental rights.

<u>The Tribunal assessed the following evidence in relation to the march demonstration on 6 March 2011:</u>

On 6 March 2011, the march organised by the organisation neve1 of the municipality of neve1 clearly took place in a tense, heightened public atmosphere, as members of the association neve1, which had been dissolved in the course of the personality lawsuit, had been patrolling the municipality for almost a week.

The Tribunal considered that the relevant circumstance in the context of the violation of personality was that the members of the intimidated Roma community, based on their experience of the association's patrols in the name of the association1, clearly felt that the mass demonstration was not aimed at condemning the perpetrators of specific crimes, but at stigmatising the Roma community as a whole.

In the court's view, it is also relevant in the context of the violation of personality that the police officers under the defendant's command and control had the opportunity to monitor and legally assess the activities of the members of the association patrolling the municipality of neve1 for 5 days and, taking into account the intended purpose of the report, could clearly consider whether the exercise of the right of assembly would not result in the violation of the equal dignity of the Roma community of neve1. The statutory provision of § 1 of Act III of 1989 on the Right of Assembly (Gytv.), which existed at the time of the march, stated that the right of assembly is a fundamental freedom for everyone, which the Republic of Hungary recognises and ensures the unhindered exercise of, but that § 2 of the same Act did not provide for the right of assembly.§ Paragraph 2(3) of the same article also clearly stated that the exercise of the right of assembly must not constitute a criminal offence or an incitement to commit a criminal offence, nor must it be prejudicial to the rights and freedoms of others.

For the above reasons, in the legal view of the Tribunal, the defendant's duty to protect fundamental rights clearly required it to recognise, assess and consider that the authorisation of the march organised by the organisation Name of the municipality1 could not result in the violation of the equal human dignity of the members of the local Roma community.

However, on 3 March 2011, the head of the Police Station of the municipality name2 informed the organiser of the event covered by the Law on Assembly, witness name12, the president of the organisation of the organisation name of the municipality name1, that the organisation of the event announced by him was acknowledged by his authority.

Although the head of the Police Station of the municipality of Name2 did not see any reason not to take note of the event announced in writing on the grounds of a conflict of fundamental constitutional rights, the information referred to did contain a statement that, pursuant to Article 2 (3) paragraph 3 of Act III of 1989 on the Right of Assembly, the right of assembly may not constitute a criminal offence or an incitement to commit a criminal offence, nor may it infringe the rights and freedoms of others.

Pursuant to Paragraph (1) of Article 8 of the Gytv., if the holding of an event subject to notification would endanger the smooth functioning of the representative bodies or the courts, or if traffic cannot be ensured by other routes, the police may prohibit the holding of the event at the place or time indicated in the notification within 48 hours of receipt of the notification by the authority.

The Tribunal considers that the relevant circumstance in the context of the

possible applicability of the provision of the legislation referred to is that the Police Station of the municipality2 with the pseudo-police number. had drawn up a plan of action for the implementation of police security for the march, which also stated that the police security was justified by the fact that the march concerned streets inhabited by Roma, one of which was a dead-end street and that, if a verbal or physical conflict of any kind were to arise there, it would not be possible to prevent or interrupt it without adequate police preparedness.

Before the Head of the Police Station of the municipality of Name2 decided whether to accept the holding of the event covered by the Law on Assembly, a conciliation meeting was held on 2 March 2011 between the Police Station of the municipality of Name2 and the organiser of the event, Witness Name12, and a record was made.

According to this record, witness name21 police sergeant major as a member of the authority recommended that the petitioner not be named by the name of the municipality1, street name house number. but at the mayor's office or in the area in front of the office on the street name of the street name of the settlement1, name of the street to the President of the Roma Minority Self-Government, however, according to the minutes, witness name12 the organizer of the event stated that he wanted to hand over the petition at the place he had indicated, at the street name of the street number.

In the court's view, it also followed from the defendant's obligation to protect fundamental rights that it should also responsibly consider the possibility of whether it could lawfully make use of the legal option provided for in Section 8 (1) of the Gytv.in order to ensure the equal human dignity of the members of the Roma community in the municipality.

In the court's view, the defendant could have lawfully considered the application of the Gytv.8This is confirmed by the colour photographs taken by a photojournalist from the Heti Világgazdaság and attached as an annex to the preparatory document under No 56, which, in the view of the Tribunal, prove that the crowd had to pass through the street called Street and the dead-end street in total darkness late at night.

The colour photo under number 10/1 was taken in the light at the beginning of the march, while the colour photos under numbers 10/2, 10/3, 10/4 and 10/5 were taken in the dark.

During the hearing of witnesses, the head of the Police Station of the municipality of Name2 stated that in such a dark crowd it would be difficult to identify anyone by voice, and the legal view of the court was that the defendant's obligation to

protect fundamental rights would have meant that the Gytv.8§ 8 (1) also in the context of whether the conflict of fundamental constitutional rights and the protection of the equal human dignity of the members of the local Roma community at the given place and time might justify the prohibition of the event.

However, the head of the Police Station of the municipality name2 took note of the holding of the event under the Assembly Act, and the march was organised by the organisation of the organisation name of the municipality name1.

The defendant has prepared an action plan for the implementation of the provision of the event covered by the law on assembly.

In addition, the police commissioner of the march demonstration also prepared a report on the implementation of his activities as police commissioner, and on the basis of the action plan and the report it can be concluded that the defendant took all necessary measures on his part to ensure that the event was lawfully secured.

However, according to Paragraph (1) of Article 11 of the Gytv., the organiser is obliged to ensure the order of the event, and according to Paragraph (2) of Article 11 of the Gytv., the police and other competent authorities shall assist in ensuring the order of the event at the request of the organiser, and shall take measures to remove persons disturbing the event.

In his written notification of 2 March 2011, the organiser of the event, Witness Name12, stated that the smooth running of the event would be ensured by 10-15 police officers and the reasoning of the decision of the Head of the Police Station of the municipality Name2, dated 3 March 2011, which acknowledged the holding of the event, also stated that the smooth running of the event would be ensured by the number of police officers specified by the organiser, in addition to the 15 police officers.

Witness name12, during the hearing of the event organiser, stated that the association name1 provided the event, and that he personally asked them to provide the event.

The head of the Police Station of the municipality of the name of the municipality2, therefore, took note of the holding of an event that was provided by members of the association name1, which was later dissolved, members of the association name1 who had been patrolling the municipality since 1 March 2011.

In the Tribunal's view, this circumstance was also justified in the context of the personality offence.

As a witness at the hearing on 4 December 2014, the organiser of the event gave the name of witness12, who said that the main subject of the event was a peaceful demonstration against the criminality of the Roma.

In the Tribunal's view, it was justified to assess the organizer's presentation, which he gave as a witness more than 3 years after the march, and which, in the Tribunal's view, revealed the anti-Roma purpose of the demonstration, since the organizer of the event associated certain forms of crime with a particular nationality.

It is not disputed that the event, which is covered by the law on assembly, was not dispersed and the report of the police commissioner of the event shows that no police action was taken at all.

In the context of the dissolution of the association's name3, the Metropolitan Court of Appeal also referred to the so-called captive audience in its reasoning of its judgment under case number 3.

According to the applicant, the police should have dispersed the march, once they had taken note of the event, because it was a clear violation of the equal dignity of the members of the Roma community in the municipality of Name1.

Paragraph (1) of Article 14 of the Gytv. states that if the exercise of the right of assembly violates the provisions of Paragraph (3) of Article 2, the police shall dissolve the event.

Thus, according to the legal provision, the police are obliged to dissolve an event covered by the law on assembly if the participants of the event exercise their fundamental constitutional right to assembly in a way that violates the rights and freedoms of others.

The head of the Name2 Police Station of the municipality, in his decision, in which he took note of the march demonstration as an event subject to the Assembly Act, informed the organiser of the event in detail about the criminal and misdemeanour offences in connection with which he considered the information necessary, referring, inter alia, to the Criminal Code.174/C.§, § 212/A.Btk.§ and § 152/B.Sztv.§.

The same decision also refers to the judgment of the Metropolitan Court of Appeal in connection with the dissolution of the name of the organisation and also refers to the provisions of Article 2 (3) of the Gytv., according to which the exercise of the right of assembly may not result in the violation of the rights and freedoms of others.

The police decision, however, does not refer to the legal provision of Article 14(1) of the Gytv.and the obligation to dissolve the event in connection with the provisions of Article 2(3) of the Gytv.but refers to the legal obligations of the organiser and the participants of the event and contains the reference that if the organiser and the participants of the event do not comply with the legal provisions referred to, the police will dissolve the event on the basis of the authorisation received under Article 14(1) of the Gytv.

In the court's view, also taking into account the fact that the members of the association1 had been patrolling the municipality since 1 March 2011 and that the members of the association had been on patrol since 2 March 2011. At a meeting organised by the Police Headquarters of the municipality of Name of the Municipality2 on the day of March 2011, the leaders of the Roma Minority Municipality of Name of the Municipality1 expressly stated that the members of the Roma community were afraid and would like the members of the social organisation to leave the municipality, it would have been reasonable in any event that, if the police had taken note of the holding of the event, it would have clearly referred to the Gytv. 2.§(3) of the Gyöngyöspata Roma community, that if the participants of the event exercise the right to freedom of expression in violation of the Gytv.1§.§ of the Györgypolska Györgypolska event, the police will disperse the event.

The commander of the police coverage of the event was the head of the Police Station of the municipality name2, witness name10, and based on the testimony of the head of the Police Station of the defendant name11, the court found that the head of the Police Station of the municipality name2 was the police commander as the commander of the police coverage, who was entitled to decide on the spot whether the event was justified to be dispersed.

During the hearing of witnesses at the hearing held on 10 March 2014, the head of the Name2 Police Station of the municipality stated that he considered it likely, he was sure that he had read the judgment that dissolved the name of the organisation, he probably assumed the Roma minority as the captive community in the reference of the plaintiff, but he believed that on the day of the demonstrations no one was prevented from leaving their homes.

In the court's view, the testimony of the head of the Police Station of the municipality of Name2 also leads to the conclusion that he did not have full and sufficiently in-depth knowledge of the domestic and international legal provisions, the case law of national courts, European human rights courts and constitutional courts, which would have enabled him to decide whether it would have been justified to disperse the demonstration, taking into account the police's obligation to protect fundamental rights.

Paragraph (1) of Article 14 of the Gytv.does not give police officers any discretionary power, if participants in an event exercise their constitutional right to assembly in such a way that they violate the rights and freedoms of others, they are obliged to issue an order to disperse the event.

The circumstances referred to by the police witnesses, as to what the consequences of a possible dispersal order could have been at the given place and time, since the event was attended by nearly two thousand people and it was completely dark at the end of the event, had no legal relevance, since the head of the Police Station of the municipality of Name2 took note of the event subject to the law on gatherings at the given place and time and the Gytv.14(1), the police had a clear legal obligation to take legal and professional action to disperse the event if the legal condition for dispersing the event, i.e. the violation of the rights and freedoms of others, existed.

A captive audience, in the light of the reasoning of the Constitutional Court's decision 95/2008 (VII.3.) AB, can be said to exist when someone expresses his or her extreme convictions in such a way that a person belonging to the victim group is forced to listen to it in intimidation and has no way to avoid the communication.

The 4 colour photographs taken by the photojournalist of Heti Világgazdaság and attached as an annex to the preparatory document under number 56 of the plaintiff's application prove that the march demonstration ended in complete darkness, the police did not use the Gytv.8§ (1) of the Police Act, and took note of the holding of the event at the given place and time, therefore the position of the head of the Police Station of the municipality of Name2, presented as a witness, that no one was prevented from leaving their home on the day of the demonstration, cannot be accepted.

The Tribunal held that, taking into account the actual duration of the event, it would have violated the equal dignity of the members of the Roma community of the municipality of Name1 if they had been forced to leave their homes just to exercise their right to assemble.

In the Tribunal's legal view, the defendant should have considered the fact that, in particular, elderly sick adults and families with young children will not be able to exercise their right to choose freely whether to listen to a dissenting opinion or to leave their home, in the light of their fundamental rights obligation to protect their rights.

According to the Tribunal, the holding of the event, the fact that the head of the Police Station of the municipality name2 had taken note of the holding of the

event, and specifically at the place and time in question, had the consequence that the members of the Roma community were not free to choose whether to leave their homes, given the fact that the members of the association name1 had been patrolling the municipality since 1 March 2011 and had experienced this situation with fear.

On the basis of the evidentiary proceedings conducted, the Tribunal also found that when the organiser of the event read out the petition of the event in the name of witness12, several of the participants of the event chanted and made verbal statements that clearly violated the equal human dignity of the members of the Roma community in the municipality of Neve1.

This fact is clearly supported by the testimony of Witness Name8, who said that during the march they put two lockers by the door and one by the window during the march to keep the protesters from hearing anything, but they put the lockers there in vain, and they heard the protesters shouting "Stinky dogs, you must die, we have to make soap out of you!"

During the hearing of witnesses, the head of the Police Station of the municipality of Name2, witness name10, stated that he heard the term "gypsy crime" being used during the march and that he also heard the organisers of the event chanting it, to go to work, not to steal, but he did not hear any verbal threatening statements such as "we will kill you", and therefore the police did not have to take any action against anyone during the event in connection with the verbal statements.

In the personal lawsuit, the court could not take a position on the question of whether the dissolution of the event would have been justified, but on the basis of the evidentiary procedure conducted, it was established beyond doubt that there were participants of the event who clearly violated the human dignity of the members of the local Roma community, the statement made by witness name8 and chanted by some of the marchers grossly violated the equal human dignity of the members of the Roma community of the municipality of Neve1.

No police action was taken at all in connection with the march demonstration, and no criminal or misdemeanour proceedings were instituted against any of the participants of the event, including in connection with the verbal statement made by the witness8 that grossly offended the equal dignity of the members of the Roma community of the municipality of Nave1.

The defendant legally recorded images and audio recordings of the march, which have since been destroyed.

Since the defendant had made this image or sound recording, it also created the

possibility to investigate ex post whether the participants of the event had committed a crime or an offence during the event and the defendant clearly had the possibility to initiate these proceedings ex officio within the limitation period if it subsequently discovered the commission of a crime or an offence on the basis of the image or sound recording.

During his interview with witnesses, the head of the Name2 Police Station of the municipality, Witness Name10, said that in such a dark crowd it would be difficult to identify anyone by voice.

However, in the court's view, the defendant could be expected, on the basis of its duty to protect fundamental rights, to do everything in its power to ensure that, if it did not see any possibility to prohibit the event in order to protect the equal dignity of the members of the Roma community in the municipality1, the commander of the police security of the event, if the participants of the event did violate the equal dignity of the members of the local Roma community, could take a decision in the light of all the relevant legal provisions on which the decision was based, whether it is justified to issue an order to disperse the event, or, in the event that the dispersal of the event is not justified but the participants of the event commit a crime or offence during the event, to detect the commission of such a crime or offence, in the worst case, afterwards, on the basis of the legally recorded images or audio recordings, and to initiate such proceedings ex officio on the basis of a reasonable suspicion of a crime or offence.

The tribunal could not rule on the question of whether the 6 March 2011. whether the participants in the march demonstration on 6 March 2011 had committed a criminal offence or possibly an infringement, but it could examine whether, in the context of harassment, it was possible to assess the fact that those proceedings had not been brought at all, that the event had ended without any police action being taken during the event and that no ex officio criminal proceedings or proceedings for infringement had subsequently been brought against the participants in the event.

The application of personality rights protection measures is independent of the culpability, imputability and good or bad faith of the infringer and of any mistake he may have made, because the infringement of personality rights must be remedied even if the infringement was not attributable to anyone.

In the personal injury action, in the context of harassment as a cause of action, the court found that the plaintiff proved that the defendant's failure to act constituted an intrusion into the legally protected and expressly personal interests of the members of the Roma community of the municipality of Name1, and that the personal rights of the members of the Roma community of the municipality of

Name1 to equal treatment were adversely affected.

The court considered the fact that the undismantled event, which was announced by the president of the organisation of the Roma community of the municipality of Name1, as the organiser, and which was subject to the law on assembly, took place in the context of the violation of the right to personality, as a failure of the defendant to act, resulting in the violation of the equal dignity of the members of the Roma community of Name1, that no criminal or administrative proceedings were instituted, either ex officio on the spot or subsequently, against any of the participants in the event, even in connection with verbal expressions which clearly and very grossly violated the equal dignity of the members of the Roma community of the municipality of Name1.

The tribunal assessed the following evidence in connection with the altercation that took place in the village on 26 April 2011:

The last event of the first period covered by the lawsuit, from 1 March 2011 to 1 May 2011, was the clash of 26 April 2011, which further increased tensions in the municipality, after which the tension slowly subsided and the number of police officers in the municipality gradually decreased.

On 26 April 2011, an official note was issued by the Head of the Police Station of the municipality of the municipality of the name of the municipality2, in order to identify the root causes and the context of the situation in the municipality of the name of the municipality1.

This official record identifies the association name2 as a group close to the national right but with more extremist views and the official record also states that, unlike the vigilantes, these groups, mainly members of the association name2, had come to the settlement with presumably provocative intentions.

The members of the association name1 were no longer present in the municipality as of 19 March 2011, so they were actually patrolling the municipality name1 between 1 March 2011 and 18 March 2011.

After the events of association name1 were widely publicised, on 10 March 2011, members of association name2 appeared in the municipality, who fearlessly marched through the Roma streets of the municipality on the same day.It is not disputed that on 10 March 2011, one of the members of association name2 was arrested for harassment.

According to the anonymised RC sheets annexed to the previous document under

number 105, the last police measure was dated 15 March 2011, when the seven members of the association in the municipality of Name2 were subjected to police measures by the court. In the second half of March 2011, the members of association name2 were no longer present in the municipality, but the gradual easing of the tensions that had developed was prevented and the fears of the members of the local Roma community were increased by the fact that the radical far-right organisation name2 wanted to organise an open camp for basic military training in the municipality name1 between 22 and 24 April 2011.

There is no doubt that 8 of the persons arriving at the camp were arrested and detained by the police officers of the Standby Police for the offence of disorderly conduct.

According to the information dated 14 July 2011, annexed to the defendant's preparatory document No 105, the members of the association name2 were already in the municipality between 1 March 2011 and 18 March 2011, and four members of the association name2 were taken into police custody.

In his preparatory document No. 105, the defendant claimed that although the member of the association name2 had been produced, the criminal proceedings against him for the offence of harassment had been terminated by the Municipal Court of the municipality name2.

There is no doubt that the misdemeanour proceedings against the members of the association name2 who were previously detained for misdemeanours have also been terminated by the Municipal Court of the municipality name2.

In the view of the Tribunal, the mere fact that certain infringement proceedings and certain criminal proceedings were terminated by the courts for various reasons against the members of the association named in the name of the association2 does not, on the basis of the available evidence, mean that the defendant fully complied with its duty to protect fundamental rights in the context of its public security activities during the period in question and did not commit any omission which could not be assessed as a breach of personality in the context of civil law, including the right to privacy.

In connection with the events of 26 April 2011, a police report was drawn up, annexed to the defendant's preparatory document No 76, under No A/15, in connection with which the applicant made observations in its preparatory document No 86 and also requested in the same preparatory document to view the DVD recording of the events of 26 April 2011.

It is not disputed that criminal proceedings have been launched for collective

assault in connection with the events of 26 April 2011.

The Tribunal found that the defendant's failures in the course of his public security activities also played a role in creating an intimidating, hostile, humiliating and offensive environment towards members of the Roma community in the municipality of Name1, which had undoubtedly led to serious confrontations between a large number of members of the local Roma community and a small group of non-Roma persons residing in the municipality, which had already occurred long before, but which persisted even during this period.

On the basis of the evidentiary procedure carried out, the Tribunal found that the evidence set out in detail in the plaintiff's preparatory document No 116 supported the plaintiff's claim that the defendant had failed to pay the costs of the proceedings between 1 March 2011 and 1 May 2011. by failing to take action in the course of its public security activities against members of the association name1, the association name2, while residing in the municipality name1, the defendant harassed members of the Roma community in the municipality name1, thereby violating their right to equal treatment.

On the basis of the evidentiary proceedings carried out, the Tribunal ruled on the case of 1 March 2011 and 1 May 2011. Although the Court of First Instance found that the defendant had harassed the members of the Roma community of the municipality of Name1 by its failure to take action in the course of its public security activities, it found the applicant's claim that the defendant had also harassed the members of the Roma community of the municipality of Name1 by its police and police procedural practices against Roma in the first period of the proceedings and had thus also violated their right to equal treatment to be unfounded.

In the legal view of the Tribunal, the defendant has successfully discharged its burden of proof of exculpation in relation to this claim of the applicant.

The plaintiff claimed that the perception of the nationality of the person under investigation influenced the police officers under the defendant's command and control in the first period of the litigation, but the court held that this possible police conduct could not be assessed as a violation of personality or harassment, because, quite independently of that possible conduct of the police officers, an intimidating, hostile, humiliating and intimidating environment had already been created in the municipality towards members of the Roma community in the municipality of the municipality1 , which the defendant maintained by failing to take certain measures to protect public safety in breach of its fundamental rights,

and not by the practice of stopping and searching which the applicant complains of.

Although the plaintiff also sought a declaration in its application that the defendant, through its infringement proceedings in the municipality of Name1 between 1 March 2011 and 1 May 2011, had also directly discriminated against members of the Roma community in Name1 and had thus also violated their right to equal treatment, the defendant's 101. In its preparatory application No 110, lodged after receipt of the preparatory document No 110, the applicant, in relation to the first period of the proceedings, from 1 March 2011 to 1 May 2011, claimed that the Roma were not equal in the following periodIn respect of the period from 1 March 2011 to 31 May 2011, the applicant seeks a declaration that the defendant, by its practice of carrying out stop and search procedures against Roma in the Roma-inhabited area of the municipality of Name1, infringed the right to equal treatment of members of the Roma community of Name1, but the stop and search practices of the police officers under the defendant's command and control were no longer also assessed as direct discrimination, so the Tribunal had to rule only on the question of whether those stop and search practices constituted harassment in the context of the first period in the case.

III.

The actions for a declaration of infringement brought in relation to the period between 1 May 2011 and 30 November 2011, based on Article 84(1)(a) of the Civil Code.

Since the applicant had already brought two claims before the courts in relation to the second period in the proceedings, the Tribunal had to rule on the question whether the period from 1 May 2011 to 30 November 2011 was not a period of time which was not fixed by the Court of First Instance. whether, in the period between 1 May 2011 and 31 November 2011, the police officers under the defendant's command and control engaged in an infringement procedure which, in addition to harassing members of the Roma community in the municipality of Name1, also directly discriminated against them, in breach of their right to equal treatment.

1. Harassment

In respect of the period between 1 May 2011 and 30 November 2011, the applicant sought a declaration that the defendant, through its abusive and irregular procedural practices against Roma, harassed the Roma community in the

municipality of Name1, thereby violating their right to equal treatment.

In its application, the plaintiff still referred to the period from 1 May 2011 to 31 December 2011 as the second period in the proceedings, but after the anonymised infringement documents were annexed to the defendant's preparatory file under No 101, the plaintiff now refers to the period from 1 May 2011 to 31 December 2011 under No 109. In its preparatory document under No 101, the defendant stated that it was fixing the end of the second period of the proceedings at 30 November 2011 instead of 31 December 2011, because, on the basis of the information received, no fines had actually been imposed in December 2011.

In his preparatory document under number 110, in which he clarified his maintained claims, the applicant also defined the end of the second period of the proceedings as the latter date, and the Tribunal therefore assessed the period between 1 May 2011 and 30 November 2011 in relation to both the harassment and direct discrimination claims.

On the basis of the evidentiary proceedings conducted, the Tribunal took the legal position that, based on the abusive procedural practice alleged by the applicant, harassment as a personal infringement could not be established for the following reasons.

Paragraph 13(1) of Act XXXIV of 1994 on the Police, in force during the second period of the proceedings, stated that a police officer, acting within his powers, is obliged to take measures or initiate measures if he observes or is informed of facts, circumstances or acts that violate or endanger public security, public order or the order of the state border.

Thus, the police officers who were on duty in the municipality of the defendant's command and control during the period from 1 May 2011 to 30 November 2011 were obliged to take action if they detected the commission of an offence.

In the second period of the proceedings, the defendant's infringement procedure was considered abusive by the applicant in his application.

With regard to the second period in the present action, the applicant's factual and legal position in relation to the harassment by the defendant is based on the provisions of Article 109. In its view, the defendant had committed an offence against the human dignity of members of the Roma community in the municipality of Name1 by being increasingly present in a harassing and demonstrative manner in the streets inhabited by Roma and by regularly fining Roma citizens living in deep poverty for offences which were of very low danger to society, in several cases, without taking into account the objective external

circumstances justifying the offence, and, moreover, since the beginning of August, without any legitimate reason, it has increased its presence in the streets inhabited by Roma, carrying out unnecessary and disproportionate checks on these streets, thus exacerbating the climate of humiliation and fear that had previously existed towards members of the Roma community in the municipality of Nome1.

Witness name11 The chief of the defendant's name stated as a witness that the number of police officers in the municipality was constantly changing during the series of events in the case and that the number of police officers in the municipality was always adjusted to the current events and the operational situation.

The Tribunal considered that it was a question of police professionalism that, on the basis of the specific decision of the police commanders with decision-making powers, who were entitled to take operational decisions, exactly how many police officers were on duty on each day in the name of the municipality1 during the second period of the litigation.

In the personality case, the court could not even take a position afterwards on the question of how long the increased police presence in the municipality was justified, nor on the question of whether the increased police surveillance of the streets of the municipality, which were also inhabited by Roma, was unnecessary and disproportionate.

However, the applicant himself did not dispute in his preparatory document No 109 that an increased police presence in the municipality could be justified until the date of the election of the mayor, 17 July 2011.

The definition of harassment as a personal infringement is set out in Paragraph (1) of Article 10 of the Ebtv.

On the basis of the evidentiary procedure carried out, the Tribunal found that between 1 May 2011 and 30 November 2011, a total of 86 offences were committed in the municipality by police officers under the command and control of the defendant.

The applicant stated in his preparatory document No 109 that action had been taken against a member of the Roma community in the municipality of Name1 for 61 offences, but the applicant did not allege, nor was there any other evidence, that the offences had not in fact been committed.

For the above reasons, since the police officer who took action was under a legal

obligation to take action, his conduct did not violate human dignity.

The applicant bar 109. in its preparatory document under No. 109, the court stated that the defendant's conduct, which was also offensive to human dignity, had exacerbated the climate of fear and humiliation that had previously existed in the municipality towards members of the Roma community in the municipality of Name1, by detecting the commission of the offence and fulfilling his legal obligation to impose a fine or report the offence to the person who had actually committed the offence, did not violate the equal dignity of the members of the Roma community of the municipality of neve1, nor did it result in the maintenance of an intimidating, hostile, humiliating, degrading and offensive environment.

In his preparatory document No 109, the plaintiff claimed that the defendant had further intensified the humiliating atmosphere of fear that had previously developed, but the definition of harassment does not mention the intensification of the humiliating atmosphere of fear as a legal condition, but only allows harassment to be established as a personal infringement in the case of an intimidating, hostile, humiliating, humiliating and offensive environment.

The tribunal did not find that the defendant had created an intimidating, hostile, humiliating, degrading, humiliating and offensive environment towards the members of the Roma community in the municipality of Name1, but only that, that its failure to act in the course of its public security activities had the effect and consequence of perpetuating an intimidating, hostile, humiliating, degrading and offensive environment which had already been created, irrespective of the defendant's purpose and intentions.

In the court's view, the defendant's infringement procedure in the period between 1 May 2011 and 30 November 2011 did not in itself affect the way in which the members of the Roma community in the municipality of Name1 experience the fact that they cannot yet live without fear.

At the same time, the tribunal found that in the second period of the litigation, but from the date of the election of the mayor, 17 July 2011, there was clearly no environment in the municipality, no intimidating, hostile, humiliating, humiliating and offensive environment, which would have allowed the harassment to be established as a violation of personality.

Regardless, after tempers in the village had only slowly and gradually calmed down, there may have been a subjective sense among members of the Gyöngyöspata Roma community that what they perceived as intimidating, hostile and humiliating had not yet ceased, humiliating and offensive, but examined

objectively in the context of the legal situation of harassment as a violation of personality rights, the court found that this legal condition no longer existed in the second period of the case.

2.Direct, discriminatory discrimination.

However, the Tribunal found, on the basis of the evidentiary procedure conducted, that the defendant, through its infringement proceedings in the municipality of Neve1 between 1 May 2011 and 30 November 2011, directly discriminated against members of the Roma community in Neve, in violation of their right to equal treatment, on the following grounds.

Pursuant to Section 8(e) of the Equal Treatment Act, direct discrimination is deemed to be a provision which results in a person or a group being treated less favourably than a person or group in a comparable situation because of their actual or perceived nationality.

Since, pursuant to § 4(d) and § 6 of the Ebtv., the defendant is liable for the period from 1 May 2011 to 30 November 2011. the court examined whether the defendant was able to fulfil its obligation to excuse and provide evidence, taking into account the special rules of evidence, and whether it proved that the police officers under its command and control complied with the requirement of equal treatment.

The Tribunal, on the basis of the extensive evidence conducted, found that the defendant's exculpatory evidence was ineffective and that the defendant had violated the right to equal treatment of the members of the Roma community in the municipality of Name1 in the second period of the litigation, as it had directly discriminated against them on the following grounds.

Paragraph (2) of Article 13 of Act XXXIV of 1994 on the Police clearly states that the police officer is obliged to act in accordance with the provisions of the Act without bias.

Paragraph 13 (1) of the same Act provides for the duty of the police officer to take action, but he is obliged to fulfil this legal duty by taking action without partiality.

Section 4 (d) of the Police Act states that law enforcement bodies are obliged to comply with the requirement of equal treatment in their procedures and measures, however, the special legislation, Section 13 (2) of Act XXXIV of 1994 on the Police, also independently of this, states the duty of the police officer to take action without bias.

In the legal view of the Tribunal, it is clear from the two legal provisions referred to that if a police officer discovers that an offence has been committed, he is obliged to take action, but he is also obliged to fulfil his statutory obligation to take action by taking action against everyone in every case where he discovers that an offence has been committed.

The court examined whether the police officers under the defendant's command and control, in the course of their procedural practice in the second period of the litigation, had fulfilled their legal obligation to act in accordance with the requirement of equal treatment and without bias.

Since, in contrast to harassment, direct discrimination is an element of the offence of being treated less favourably than a person or group in a comparable situation and the defendant complied with the obligation imposed by the order under line 100 in its preparatory document under line 101, the parties assessed, in connection with this offence, the data provided in the defendant's preparatory document under line 101 in their preparatory documents filed after 12 March 2015, and also numerically.

After the Tribunal, on the basis of the evidentiary proceedings conducted, found that the police officers who were acting in the second period in the case at issue in the name of the municipality1 were under the command and control of the defendant, the defendant's name, the 101. The defendant based its judgment on the data summarised in table A/2 attached as an annex to the preparatory document under number 101, and assessed and examined these data to determine whether the defendant had infringed the right to equal treatment of members of the Roma community in the municipality of Name2 and had directly discriminated against them.

The defendant's preparatory document under number 101 contains the reference that the files of the Police on Standby concerning the spot fine have been discarded in the meantime, and therefore the defendant could not make them available to the Tribunal.

The Tribunal therefore examined the specific actions of the police officers, who were members of the Police Headquarters of the defendant, the County Police Headquarters3 and the County Police Headquarters4, but who were both under the command and control of the defendant, and who were acting in the name of the municipality1, in addition to the offences brought by the members of the Police Department on the basis of the complaint of misdemeanours, in the personal lawsuit and in the preparatory document A/2. in the second period of the lawsuit, between 1 May 2011 and 30 November 2011, the police officers under

the defendant's command and control in the municipality of Name1 imposed 32 fines and 54 reports of offences, i.e. a total of 86 offence cases were examined and assessed by the Tribunal in connection with whether the defendant directly discriminated against members of the Roma community in the municipality of Name1.

In the preparatory document under number 101, the defendant indicated the surname and place of residence of the individual concerned, the date of the offence, the offence, the place of the offence and the police service to which the police officer actually belonged in all 86 offence cases.

The parties in the personality suit did not request the re-call of the former president of the Gypsy Minority Self-Government as a witness1 in connection with the question whether the fact of belonging to the Roma nationality could be established with regard to the persons in the 86 cases of misdemeanour examined in the personality suit.

It is not disputed that in the period between 1 May 2011 and 30 November 2011, the defendant was not legally entitled to keep a record of the nationality of the persons subject to the infringement proceedings.

At the same time, the court had at its disposal the investigation report of the Parliamentary Commissioner for National and Ethnic Minority Rights of 19 April 2011 and the follow-up investigation report of 19 December 2011.

Although the investigation report in the context of school segregation defined 4 criteria in relation to pupils as to which pupils could be considered as belonging to the Roma nationality, the Tribunal considered that these criteria could be taken into account in relation to the persons subject to the infringement proceedings, simply because the defendant did not contest the figures set out in the preparatory document under No 109. These aspects were as follows:

-The surname of the student and his/her mother,
-a pupil's cumulative disadvantage,
-the student's actual place of residence,
-the student's first name.

Two of these four criteria were the surname and the actual place of residence of the offenders, which were provided by the defendant for all 86 offences, and the Tribunal therefore found that 61 of the 86 offenders were of Roma origin in the period from 1 May 2011 to 30 November 2011.

The defendant summarised its detailed factual and legal position in relation to the

applicant's numerical, factual and legal findings in its preparatory document No 114 in connection with its infringement proceedings in the second period of the proceedings.

In this preparatory document, the defendant stated that the police sanctioned infringements in the course of their actions, irrespective of race, ethnicity or other affiliations, and that if the number of infringements detected by the police was higher among the Roma population, the number of denunciations and fines was higher, since the police do not act in proportion to the number of the population.

However, in his substantive intervention before the end of the hearing, the defendant's legal representative stated that if, on certain days, certain police officers, despite having detected certain offences, did not take action, these individual omissions did not in themselves allow the court to find that the defendant had violated the right to equal treatment of members of the Roma community in the municipality of Name1, since no generalisation could be drawn from these individual omissions.

In relation to these pleas, the Tribunal found the following.

Paragraph 7(2) of the Equal Treatment Act specifies which conduct, measure, condition, omission, reference or practice does not violate the requirement of equal treatment, unless otherwise provided for in the Equal Treatment Act itself.

From this statutory provision, a contrario, it can be clearly concluded that a practice may also violate the requirement of equal treatment.

For the reasons set out above, the court in the personality proceedings was able to examine on the merits whether the defendant's infringement procedure in the second period of the proceedings violated the right to equal treatment of the members of the Roma community in the municipality of Name1.

The fact that a practice may also breach the requirement of equal treatment is relevant because a practice followed may result in a breach of the requirement of equal treatment even if the specific concrete measures that were part of the practice were equally lawful.

After the applicant, in its preparatory document No 109, and the defendant, in its preparatory document No 114, had assessed the defendant's procedural practice in the second period of the proceedings on the basis of the fact that the period from 1 May 2011 to 30 November 2011 was the same as that from 1 May 2011 to 30 November 2011. The Tribunal accepted those facts on the basis of the parties' joint submissions and examined the merits of the case on the basis of those figures,

whether, in the course of the defendant's infringement proceedings, members of the Roma community in the municipality of Name1 were treated less favourably on account of their perceived Roma ethnicity than the treatment received by the non-Roma inhabitants of the municipality of Name1 during the same period.

The Tribunal found, on the basis of the evidentiary procedure carried out, and this fact was not disputed by the applicant, that the person prosecuted in the 61 infringement cases had actually committed the infringement charged.

As a result of the above, in these 61 infringement cases, the police officers took legal action against the Roma offenders, as they detected the infringement and were obliged to take action, and they fulfilled their legal obligation by imposing an on-the-spot fine or filing an infringement report.

Act XXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities is a general anti-discrimination law that also provides adequate procedural provisions to deal with violations.

Article 12 of the Equal Treatment Act states that claims for breach of the requirement of equal treatment may be brought in the course of proceedings specified in the Act on General Rules of Administrative Procedure and Services or in special legislation, in particular in the course of proceedings by the authorities in the field of personal rights, labour law, consumer protection, labour law or the law enforcement authorities.

After the entry into force of the Administrative Offences Act, the Administrative Offences Act has not been amended, and neither the old Administrative Offences Act in force at the time of the events in Gyöngyöspata nor the new Administrative Offences Act currently in force contain any specific legal provisions on the basis of which claims for violation of equal treatment could be asserted in administrative offences proceedings.

For the above reasons, the persons of Roma nationality subjected to infringement proceedings in each specific infringement case did not even have the possibility to plead that the police officer concerned acted in an impartial manner, violating their right to equal treatment.

At the same time, in the legal view of the Tribunal, the Court of First Instance could already have examined the merits of the personal lawsuit brought on the basis of a public interest litigation, that the defendant had violated the right to equal treatment of the members of the Roma community in the municipality of Name1 by the infringement procedure it had followed.

The legal provisions in force allow individuals to claim indirectly, and they can complain of a violation of their right to equal treatment as a member of the Roma community in the municipality1.

The members of the Roma community in the municipality of Name1 could therefore complain about the infringement procedure followed by the defendant, but in the context of the personal infringement based on direct discrimination, the court could only examine the existence of the statutory conditions set out in Article 8 of the Ebtv., and the social situation of the persons subject to the infringement procedure could not be legally relevant.

It is not disputed that paragraph 70/A (3) of the Constitution in force at the time of the events in Gyöngyöspata defined positive discrimination as a state duty to eliminate inequality of opportunity.

At the same time, the Constitutional Court clearly stated in its decision 650/B/1991.AB that a specific form of positive discrimination cannot be invoked as a subjective right, nor can it be the basis of a constitutional claim or demand. According to the legal view of the Tribunal, in the context of the administrative procedure conducted by the law enforcement authorities, it can be stated that the police officer who detects and takes action against the violation of the law is obliged to comply with the requirement of equal treatment, but positive discrimination ensuring the promotion of equal opportunities cannot be applied in any context during his/her procedure, since he/she is under a legal obligation to take action.

At the same time, the defendant also argued that if a police officer detects an offence, he cannot act in proportion to the number of the population, if the number of offences detected by the police is higher among the Roma population, the number of fines and reports of offences is higher.

On the contrary, the applicant clearly stated in his preparatory document No 109 that, in his opinion, the reason for the blatantly significant difference in the proportion of offences committed by the non-Roma residents of the municipality of Name1 could not be that the proportion of offences committed by the non-Roma residents of the municipality of Name1 was so significantly lower.

Between 1 May 2011 and 30 November 2011, the municipality had 2800 inhabitants, of which 450 belonged to the Roma ethnic group.

On the basis of this ratio, established on the basis of the parties' joint submissions, the applicant claimed that the Roma residents were penalised at a rate of 4.5 times the rate of the Roma population.

In the view of the Tribunal, in the context of the procedural practice of the police in a given period, it is not possible to base a decision on the basis of the figures alone, even if they are proven, whether the practice followed by the police was capable of violating the right to equal treatment.

While logic does not rule out the possibility, it is clearly unrealistic to assume that members of a group in a comparable situation would not commit any offences at all in a given period.

At the same time, no general statement can be made, no automatism in the sense that persons who are in a comparable situation in the context of the wording of Article 8 of the Ebtv. would always commit offences everywhere in proportion to the number of the population.

Therefore, in the context of direct discrimination as a violation of personality rights, overrepresentation or underrepresentation cannot be interpreted in itself, it must always be examined whether the proportions of numbers that have been identified and theoretically allow the establishment of direct discrimination have been objectively formed or whether there is a clear subjective reason for the formation of these proportions, namely that the Ebtv. 8. of the EbiT, the members of the group with the protected characteristic mentioned in § 8 of the EbiT are actually treated less favourably than members of a group in a comparable situation, in the case at issue, the non-Roma members of the municipality, because of their actual or possibly only because of the protected characteristic perceived by the police officer taking action, in the case at issue, being of Roma ethnicity.

In relation to the obligation of probable cause, the applicant attached as an annex to its preparatory document No 59 the amicus curiae brief of Open Society Justice Intiaitve, which contained an assessment of international, European and national case law, not only in relation to the State's obligation to protect fundamental rights, but also in relation to discriminatory ethnic profiling.

The amicus curiae brief defined discriminatory ethnic profiling as a form of discrimination that occurs when members of law enforcement agencies use ethnic, racial, religious or national origin as the sole or decisive basis for exercising their powers of action, arrest, investigation and prosecution.

In the personality case, the tribunal found that the police officers had drawn attention to the need to respect the requirement of equal treatment during the briefings they gave, and the documentary evidence attached by the defendant in connection with the police actions also established the need to respect the requirement of the right to equal treatment, but nevertheless, the Tribunal found,

on the basis of the evidence adduced, that the police officers under the defendant's command and control in the second period of the proceedings in the municipality of Name1 engaged in a pattern of misconduct which violated the right to equal treatment of members of the Roma community in Name1 for the following reasons.

The tribunal considered the defendant's procedural practices between 1 May 2011 and 30 November 2011 to be infringements of the right to privacy, assessing the following evidence.

The applicant annexed as documentary evidence to its application the settlement agreement concluded between the Hungarian Helsinki Committee and the County Police Department in the proceedings before the Equal Treatment Authority.

The Equal Treatment Authority launched the procedure after suspicions arose that almost only people of Roma origin were being fined for not fitting bicycles in their municipality3.

Pursuant to Paragraph (1) of Article 33 of the Equal Treatment Act, the Equal Treatment Authority shall monitor the implementation of the requirement of equal treatment.

The Equal Treatment Authority found in a pending administrative case before it, which was the basis of the settlement, that the individual actions of the police officers in the municipality3 were lawful, but that their overall infringement practices violated the right to equal treatment.

In the context of the defendant's infringement procedure in the second period of the trial, the court found, on the basis of the documentary evidence available to it, that out of 61 infringements committed by persons of Roma nationality, 23 were punished with on-the-spot fines, while in 38 cases the police officers in charge of the case filed infringement reports.

The applicant, in his preparatory file No 109, evaluated 61 offences committed by persons of Roma nationality and stated that 19 of them were pedestrian offences and at least 14 were bicycle offences, in addition to 4 public order offences committed by persons of Roma nationality, and some minor socially dangerous so-called "public order offences" committed by persons of Roma nationality. Some of these were motor vehicle-related offences (lack of helmet, lack of medical kit and lack of child seat), but the applicant also claims that he was prosecuted for lack of or damage to an identity card and for listening to loud music in the afternoon, which constituted a breach of the peace.

The applicant also submitted in his preparatory document No 109 that, based on certain offences, proceedings for offences were brought against persons of Roma nationality only during the second period of the litigation, in this context he referred to the pedestrian and cyclist offences and the public order offence.

The police officer, including the police officers under the command and control of the defendant in the second period of the case, were under a duty to take action pursuant to Article 13 (1) of Act XXXIV of 1994 on the Police and in fulfilling this statutory duty they were obliged to take into account not only the social situation of the person who committed the offence, but also whether the offender had committed an offence that was more or less dangerous to society.

On the basis of the detection of any conduct constituting an offence, even if it is the least dangerous to society, the police officer is obliged to initiate the infringement procedure.

Witness name2 stated that he thought it was obvious that the sidewalk was narrow and impassable for the size of the stroller and that there was nowhere else for such a stroller to go but the roadway, and Witness name8 stated that the sidewalk was such that he had to go down to the roadway if he did not want to break his ankle.

In the court's view, the police officer concerned acted lawfully in connection with the offence facts covered by the two witness statements, and could not assess the individual circumstances of the offence case due to his legal duty to act.In the court's view, only the court is entitled to assess these individual circumstances if an offence case reaches the stage where a judicial decision is required.

According to the legal view of the Tribunal, the specific police measures were therefore lawful, but the Tribunal found, on the basis of the evidentiary procedure conducted, that the defendant's procedural practice in the second period of the case nevertheless violated the right to equal treatment of the members of the Roma community in the municipality of Neve1 for the following reasons.

Also in view of the provisions of Article 13(2) of Act XXXIV of 1994, the police officers under the command and control of the defendant, who were acting in the name of the municipality1 during the period between 1 May 2011 and 30 November 2011, were not simply under an obligation to take action, but were obliged to fulfil this obligation to take action without partiality.

<u>According to the legal view of the Tribunal, a police officer taking action in an infringement case fulfils his legal obligation to take action without bias, without violating the requirement of equal treatment, only if he fulfils his obligation to take action in all infringements he detects and, in compliance with the requirement</u>

of equal treatment, selects the persons concerned for action without bias.

It is not disputed that in the second period of the litigation, only persons of Roma ethnicity were prosecuted for pedestrian offences, and not members of the other group in a comparable situation, persons of non-Roma ethnicity from the municipality1.

However, on the basis of the testimony of witnesses name2 and witness name9, who were not interested, the Tribunal established beyond doubt that during the second period of the litigation, local residents belonging to another group in a comparable situation to the members of the Roma community in the municipality name1 had also committed this offence, but despite the fact that the police officers had undoubtedly detected the commission of the offence, they had failed to fulfil their statutory obligation to take action.

Witness 9 said that the non-Roma person was not even stopped by the police, while Witness 2 said that the police even politely said hello to the non-Roma person coming out of the church, even though they were in the middle of the road.

On the basis of the evidentiary procedure conducted by the Tribunal, after evaluating the evidence at its disposal, it concluded that the overrepresentation of persons of Roma nationality subject to the infringement proceedings in the second period of the proceedings cannot be attributed solely to the fact that the period between 1 May 2011 and 30 November 2011 was not the same as the period between 1 May 2011 and 30 November 2011. On the contrary, the Tribunal found that the over-representation of persons of Roma nationality in the context of the offences was also due to the fact that they were over-represented in the period between 1 May 2011 and 31 November 2011, the fact that the police officers on duty in the municipality of Name1, which was under the command and control of the defendant, did not always act impartially and in accordance with the requirement of equal treatment, and that it was proven that on several occasions they did not take action against members of a group in a comparable situation to members of the Roma community in Name1, despite the fact that they had observed the offences being committed.

Since it is currently not possible to assert claims based on the provisions of Article 12 of the Equal Treatment Act in the proceedings of the administrative authorities, it was only possible to invoke the violation of the constitutional right to equal treatment in the context of the events in the municipality in question1 in a personal lawsuit.

At the same time, on the basis of the public interest litigation, the court of law found, on the basis of the extensive evidence conducted, that the right to equal

treatment of the members of the Roma community of the municipality of Name1 was violated by the defendant, because the defendant directly discriminated against the members of the Roma community of the municipality of Name1 by its misdemeanour procedural practice in the period between 1 May 2011 and 30 November 2011.

IV.

Applications for injunctive relief based on Article 84(1)(b) of the Civil Code.

The applicant also maintained in its preparatory application No 110 that the Court should prohibit the defendant from further infringements.

The applicant did not dispute that there was no continuing infringement, but stated that it considered that there was a reasonable apprehension that a past infringement would occur in the future.

The applicant also referred in his preparatory document No 110 to Article 15 of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, according to which sanctions, which may include compensation to the victim, must be effective, proportionate and dissuasive.

Although the Community law directive requires that the sanction imposed for discrimination, and therefore for breach of equal treatment, must be effective and dissuasive, the Tribunal held that there was no reason to fear that the past breach would be repeated in the future, in the light of the applicant's claim under Article 110. In the Tribunal's legal view, therefore, it was not justified to prohibit the defendant from further infringements and therefore dismissed the applicant's action as unfounded.

In the court's view, although the defendant did not fully comply with its obligation to protect fundamental rights in the period between 1 March 2011 and 1 May 2011, and failed to protect the equal human dignity of the members of the Roma community in the municipality of Name1, the court nevertheless held that the plaintiff did not even have a reasonable expectation that the violation of personality would occur again, that the defendant would again fail to take justified measures in the course of its public security protection activities.

However, the Tribunal considered that the application of this objective sanction was not justified even in the context of the defendant's infringement procedure, but if the defendant were to continue to infringe the requirement of equal treatment in the future, this provision of the judgment could be the basis for such

a sanction, that in a possible subsequent action in personam proceedings the Tribunal would also consider the justification for the application of this objective sanction, but the Tribunal has assessed the evidence available to it to the effect that it cannot be concluded at present that there is any reason to fear that the defendant's infringement procedure in breach of the requirement of equal treatment will continue.

The applicant also relied on the provisions of Article 84 (1) (b) of the Civil Code in connection with the claims referred to in points 5, 6 and 7 of the preparatory document under No. 110, and maintained these claims based on this legal provision.

In the applicant's view, if the Tribunal does not give the prohibition of the infringement an effective, preventive content, the deterrent effect of this objective sanction is not guaranteed and it is therefore necessary that, in addition to the future prohibition, the Tribunal should also grant the applicant's requests for relief, as set out in points 5, 6 and 7 of the preparatory document, number 110.

Since the court did not consider it justified to prohibit the defendant from future infringements, it also dismissed the plaintiff's claims based on the provisions of Article 84 (1) b) of the Civil Code.

The Tribunal found that there was no justification for requiring the members of the defendant's staff serving in the municipality of the defendant's name1 to undergo anti-discrimination training.

In the court's view, it was also not justified to require the defendant to prepare a strategy for the professional management of anti-Gypsy movements by extremist organisations, nor to present this strategy at a briefing to the heads of the police stations and police districts under its authority. Nor did the Tribunal consider it appropriate to order the defendant to make the strategy drawn up and the reports containing the findings of the checks on its application available to the members of its staff.

In addition, the tribunal did not consider it justified to order the defendant to draw the attention of the heads of the police stations and police districts under its jurisdiction to the requirement of equal treatment and the violation of fundamental rights by ethnic profiling in connection with its procedural practice in the field of offences, The Court also did not consider it justified to oblige the defendant to develop a control mechanism to verify whether the requirement of equal treatment from an ethnic point of view is observed in the procedural practice of the police stations and police districts under its jurisdiction.

V.

Claims for satisfaction based on Section 84 (1) (c) of the Civil Code.

The applicant based the last turn of his claim, as set out in point 6 of the preparatory document under number 110, on the provisions of Article 84 (1) c) of the Civil Code, and also requested that the defendant be ordered to publish on its website its annual investigation reports on whether the members of the staff of the police stations and police districts under its authority had complied with the requirement of equal treatment from an ethnic point of view in the course of their procedural practices in the field of offences in the given year.

Having rejected the applicant's claim that the defendant should be obliged to produce the above-mentioned inspection reports every year, the Court of First Instance also rejected the applicant's related claim that it should publish those inspection reports on its website every year.

At the same time, the court ordered the defendant to publish the operative part of this judgment on its website and to communicate it to the Hungarian Telegraphic Agency.

It is an undisputed fact, as the plaintiff has also referred to in his preparatory document under No. 110, that the events in the municipality in question1 received not only national, but also international press coverage, and therefore it is justified for the court to apply the provisions of Article 84 (1) c) of the Civil Code.

At the same time, on the basis of the evidentiary procedure carried out, the court, evaluating the evidence available to it, merely ordered the defendant to publish the operative part of this judgment on its website and to communicate it to the Hungarian Telegraphic Agency.

The Tribunal considers that this method of satisfaction is necessary but also sufficient in the context of the defendant's personal infringement.

VI.

Claims based on the provisions of Article 84 (1) (d) of the Civil Code, aimed at the removal of the prejudicial situation.

In the alternative, the applicant also relied on the provisions of Article 84(1)(d) of the Civil Code in connection with its claims, as set out in points 5, 6 and 7 of the preparatory document under No 110.

In the context of the applicability of this objective sanction, the plaintiff argued that the consequences of the defendant's violation of personality, the injuries have continued, the injuries suffered by the members of the Roma community of the municipality of Name1 have not been reparated in any way by the defendant to date, and therefore the members of the Roma community of the municipality of Name1 are under the impact of the events of the municipality of Name1 in the present litigation.

A Civil Code 84§ (1) paragraph d.) may, in the court's opinion, also in certain cases, compel the infringer to take specific action, to demonstrate specific active conduct and, no doubt, to put an end to the harmful situation, an order to cease the infringement may also constitute a restraining order on the basis of which enforcement is sought, However, in the case of the personality proceedings, the Court of First Instance did not consider the application of this objective sanction to be justified, since the plaintiff had not established any probable cause or concrete evidence that there was a real reason to fear that the defendant would again commit similar violations of personality rights, specifically against members of the Roma community in the municipality of Nove1.

In the opinion of the Court of Law, the present judgment in the personal lawsuit brought on the basis of the public interest action can also be considered as a kind of reparation, since the Court of Law found that the defendant had violated the right to equal treatment of the members of the Roma community of the municipality of Name1 in both periods of the lawsuit, although on different grounds, and therefore the application of an objective sanction under Section 84 (1) d) of the Civil Code was not justified in the opinion of the Court of Law.

The applicant attached two documents as annexes to its preparatory document No. 110, but the Tribunal considered that these documents were not sufficient to support the applicant's claim that the members of the Roma community in the municipality of Name1 were still affected by the events in the municipality of Name1 and that the provisions of the Civil Code.84The Court of First Instance also found that, in the present case, there were no sufficient grounds to conclude, in the context of the infringement proceedings pursued by the defendant, that there was a risk of the continuation of the infringement proceedings complained of by the plaintiff, which violated the right to equal treatment of the members of the Roma community of the municipality of Name1, in the present personal injury action.

In addition, the court rejected the applicant's claim that the defendant should be obliged to send him the strategy and reports that had been drawn up, since the defendant was not obliged to prepare them.

VII.

Legal costs

In view of the complete personal exemption of the plaintiff and the defendant from the payment of costs, the State of Hungary shall bear the costs of the action recorded in the proceedings in which the right to the recording of costs is exercised pursuant to Article 14 of IM Decree 6/1986 (VI.26.).

At the same time, the Tribunal, taking into account the relationship between the winning and the losing parties, ruled that they should bear their own costs incurred in connection with the representation by a lawyer (counsel).

Eger, 17 September 2015

. Tamás Román
judge of regional court

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