

Manual for Roma about combating racism, reporting and redress

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Introduction

The Roma Matrix program was started in the autumn of 2013 with the support of the Fundamental Rights and Citizenship Funding Programme of the European Union, one of whose purposes is to reach out to Roma activists who work on behalf of their communities.

As part of the program, the community representatives and advocates were given the opportunity to carry out their activities for the assistance of the community more effectively. This manual commits to provide useful and understandable information for community facilitators and help navigate among the sometimes difficult rules of the various areas of law.

In the selection of topics of the handbook, special attention was paid to the to cover the problems affecting the Roma in their everyday lives. These include administration, equal treatment, education, rules governing NGOs, as well as a few basic principles of civil and criminal procedures and the misdemeanor appeals available in police and offence procedures. The information on individual topics that have been included in the manual are those with which the Roma people can approach their community facilitators every day. The calculation of deadlines in a decision, the possibilities for appeal or complaint, or the rules of a civil demonstration are noted to help reduce the vulnerability of the Roma people.

We hope that facilitators will actively use this handbook, and can substantially help many people in need.

I. Non-governmental organizations and the rights of assembly and association

Active citizenship:

*The education for democratic citizenship is **becoming an increasingly important goal worldwide**. The management of political and social changes requires **responsible and active participation** of citizens, openness to participation and **effective collaboration in public affairs**.*

*Citizens have to become able to **exercise and protect their democratic rights and responsibilities** in their societies, to appreciate diversity and to actively participate in democratic life, in order to promote and protect democracy and the rule of law.*

*The **active citizen** is therefore **NOT A SUBJECTS** who merely acknowledges the decisions of those with institutional or political power, but **interprets and analyzes everything that happens to them, their group, environment and community, voice their opinion on this and take actions**.*

The active citizen

- has an opinion on public affairs, on issues that matter to them and their group,
- expresses their opinion in some way,
- influences events with their opinion and actions.

The active citizen takes action:

- in support of specific issues involving them and their community,
- against specific issues or decisions involving them and their community.

Activists do this consciously and in a planned manner, making use of the tools of active citizenship.

Activists are effective when they activate others, i.e. when they carry out their activities organized in groups, in collaboration with their community:

- they regularly liaise with their community,
- they ask for their comments,
- they jointly plan their actions,
- they share responsibilities,
- they act together to achieve a particular goal.

Community collaboration:

- is not valuable because of the number of members; it can be started by a few people only,
- is aiming at getting as many people involved as possible,
- by providing information to outsiders, gives them opportunity to join.

The Roma communities are largely left out of giving their opinions on and have their say in the decisions that that affect (also) them; those who have little real co-operation with members of their community often speak in their name. Roma people have used the power of their community few times so far, even though a significant portion of their problems can only be resolved or moved forward if they start working together more widely, that is if they consult and come to a common agreement and jointly act to address their common affairs.

Without active citizenship they remain only passive subjects of the issues, while conscious and active behavior can significantly influence their outcomes.

Active citizens / activists have the right to:

- voice their opinion on the matters related to them or that are of public concern,
- individually or as a group,
- orally or in writing,
- communicate it to stakeholders and decision-makers,
- put forward submissions,
- formulate questions and suggestions, either individually or jointly,
- request public information,
- be present at the meetings of the local government council (except in cases which are regulated by law, typically when personal issues are being discussed) individually or as a group (in a group it is more efficient),
- draw up a protest,
- gather supporters and collect signatures,
- organize a petition,
- contact their elected Members of Parliament or members of the local government, submit questions or requests to them (even if they have voted for another person or party),
- organize community / social action, events or demonstrations,
- organize in order to achieve their goals, to create non-governmental organizations, e.g. associations.

Feel free to try out these methods:

- be proactive in your community, initiate cooperation with others, decide on the most important issues affecting your community,
- arrive to a common position,
- based on your common position, propose a solution to the decision-makers or to those who have jurisdiction over the issue in question,
- contact members of your local government or Members of Parliament,
- go together to the meeting of the local government council or to a committee meeting,
- based on your common position collect signatures to support your cause locally,
- represent your matters personally or in groups in public forums and in your representatives' office hours,
- create local associations.

- The association is
 - a common
 - durable
 - legal entity
 - consisting of its registered members
 - established to continuously achieve the objectives set out in its Statute.

- It is authorized to perform economic activities directly related to the objectives of the association.
 - It can use its assets properly, its property shall not be divided among the members, and it may not generate profit for the members.

Associations, foundations, civil organizations are all non-governmental organizations (NGOs).

NGOs:

- represent the views of their members,
- collect donations,
- submit project proposals,
- implement programs,
- establish institutions,
- form opinions on public matters or actively participate in processes,
- are based on the active participation of their members.

Creating an association

1. Adoption of the Statute
2. The mutual consent statement of at least 10 persons is required.

Members' rights, obligations:

A member is entitled to:

- participate in activities,
- the rights and obligations of the members are the same,
- membership rights can only be exercised in person,
- membership fee is to be paid, but members are not liable with their own assets.

The association bodies:

General meeting or deputy meeting

1. There is a meeting at least once a year.
2. It decides in all matters relating to the Statute: termination, merger, transformation, budget and the election of executive officers.

Executive officers

- board members or executives
- three members of board for a maximum of five years
- can be elected only from among the members of the association
- administrative management

Foundation:

A foundation is

- a legal entity
- established to continuously achieve
- the long-term goals set out in the Statute.

Its assets are allocated by the founder (it can not be established with an economic purpose but it can pursue economic activities).

More persons jointly can also establish a foundation.

The assets of the foundation

It is necessary that the founder confer at least the assets needed to start the foundation until the submission of the registration application.

Assets must be handled and used in accordance with the manner set out in its Statute.

Non-profit status of NGOs

Adequate resources are available to the organization,

if in respect to the previous two completed financial years at least one of the following conditions is met:

- the average annual income exceeds one million HUF, or
- the aggregate result after tax of the two years (for the current year) is not negative, or
- the personnel expenses -- excluding the benefits of executive officers -- reaches a quarter of the total expenditures.

Adequate social support can be demonstrated

in an organization if in respect to the previous two completed financial years at least one of the following conditions is met:

- a) the portion of the personal income tax conferred to the organization according to the allocation of tax payers reaches at least two percent of the total revenue, or
- b) the costs incurred for non-profit activities and expenditures reach half of the total expense in the average of two years, or
- c) at least ten volunteers are continuously engaged in assisting in the non-profit activities (on average of two years) according to the LXXXVIII law from 2005.

Freedom of assembly

In the framework of the exercise of the right of assembly, peaceful gatherings, marches and demonstrations may be held, in which the participants can express their views freely.

(Not included are:

- electoral assemblies
- religious ceremonies
- cultural and sporting events
- family events).

Notification requirement

The organization of outdoor events have to be reported to the police station competent for the location, in Budapest to the Budapest Police Headquarters, in writing at least **three days** before the scheduled time of the meeting. **The organizer of the event is required to notify the police.**

The written notification shall include:

- the expected time, location and path of the scheduled event;
- the purpose and program of the event;
- the expected number of participants at the event and the number of organizers ensuring the secure conduction of the event;
- the name, address, telephone number and e-mail address of the organizing body or person authorized to represent the organizers of the event.

The organizer is responsible for order at the event.

The participants of the event are required to leave the event venue at the time included in the notification as the time of the completion of the event.

Forbidding an event

If you the event would seriously jeopardize the smooth operation of public representative bodies or courts, or if no alternative route of transport can be provided, the police can prohibit the event within 48 hours.

1. The decision of the police must be communicated in writing to the organizer within 24 hours.
2. Within three days of communicating the decision, the organizer may seek a judicial review of the administrative decision. The application shall be accompanied by the decision of the police. There is no appeal against the final decision of the court.

The police and other competent authorities cooperate in sustaining order on the request of the organizers; they remove persons disrupting the event.

Retention of the event

- If the behavior of the participants at the event threatens the legitimacy of the event, and if order cannot be restored by other means, the event organizer is obliged to dismiss the meeting.
- The participants of the event are not allowed to be armed.
- Representatives of the police are allowed to be present at the event.

Parties

- are created voluntarily,
- are self-governing organizations,
- are formed for the purposes specified in the Statute,
- have registered membership,
- organize their members' activities in order to achieve the objectives of the party,
- have at least ten members
- have only individual members (not legal entities).

PUBLIC ADMINISTRATION

Public administration operates on the basis of written documents!

Make sure to:

- submit all requests in writing,
- submit a copy of the applications petition or complaint ASKING FOR A RECEIPT or send it as REGISTERED POST,
- all applications, submissions, complaints need to get answers, each answer has to have a file number,
- requests are responded to in decisions in which the legal basis for the decision and the legal place have to be designated; feel free to check this, look it up, read it to see if it actually contains the referenced legislation,
- decisions have to indicate the possibility of appeal,
- if submitting an appeal, in all cases refer to the file number of the decision,
- the appeal is valid even if all you are writing, indicating the file number, is I WISH TO APPEAL.

A mandatory part includes the possibility of an appeal, and the DEADLINES.

Missing the deadline ► preclusion

The deadline to appeal is typically 15 days, but it can be eight or three days too.

Local government affairs

- The local government acts in local public affairs, performs mandatory and voluntary public affairs.
- Bodies of the local government:
 - local government council and its bodies

- mayor
- committee of the local government council
- mayor's office
- notary
- associations

Competences of the local government:

- development of the settlement
- the management of the settlement (cemeteries, lighting, roads, parks, parking)
- basic health care
- public cleanliness
- pre-school care
- cultural services
- social and child welfare services
- home - and space management
- care for homeless
- water and water damage management
- local public employment
- minority affairs
- public safety
- waste management
- water utility service

Second-level administrative decision

- *Appellate procedure*
 - approves
 - alters
 - annuls and requires the first instance authority to conduct a new procedure
- *Judicial review*
 - within 30 days
 - referring to a violation of law

II. Requirement of equal treatment

Hungary's constitution / basic law and other legislation recognize and affirm that all people have equal rights and equal dignity and that all people are entitled to the right to equal treatment regardless of their origin, property status, world view of other circumstances. Certain groups are more vulnerable regarding the requirement for enforcement of equal treatment, and these are specified in the Law on equal treatment. In case of violation of the requirement of equal treatment, one can file a complaint to the Equal Treatment Authority, which

- has an officer for equal treatment at the authority of each county, they are to be found in the county seats in the judicial services of the county government

agencies,

- the officers have office hours on district levels too, which are noted on the Equal Treatment Authority's website: www.egyenlobanasmod.hu,
- in proceedings before these authorities it is not necessarily to have a lawyer,
- associations and foundations can also act in front of these authorities,
- the applicant has to demonstrate that: 1. he/she has a feature protected by the law, and that 2. he/she was discriminated against,
- in matters before the authority the burden of proof is reversed, i.e. the accused has to prove that he/she has not discriminated against the applicant,
- **complaints have to be made to the authority within one year after the incident!**

Protected groups:

- gender,
- race,
- skin color,
- ethnicity,
- national or ethnic minority,
- mother tongue,
- disability,
- health;
- religious belief or worldview,
- political or other opinion,
- marital status,
- maternity (pregnancy) or fatherhood,
- sexual orientation,
- gender identity,
- age,
- social origin,
- property status,
- employment status or part-time or definite-term nature of employment,
- interest group membership,
- other status, attribute or characteristics.

The concepts of discrimination in the Law on equal treatment:

Direct discrimination:

A provision as a result of which a person or group is being treated, have been treated or would be treated less favorably than another persons or groups in a comparable situation because of real or perceived (protected) feature or characteristics.

Indirect discrimination:

Provisions that do not constitute direct discrimination, seemingly complying with the requirement of equal treatment, which put persons or groups with protected

characteristics to a significantly less favorable position to what the position of other persons or groups in a comparable situation has been, is or would be.

Harassment:

Conduct that violates human dignity, of sexual or other nature, which is related to the protected feature of the person concerned, and whose purpose or effect is creating an intimidating, hostile, degrading, humiliating or offensive environment.

Unlawful segregation:

Conduct which separates a person or group of persons from others on the basis of their protected characteristics -- without having an explicit legal basis for it.

Retaliation:

Conduct that causes, is directed at or threatens to cause the encroachment of rights of the person having objected, having started a procedure or having participated in a procedure for the infringement of the requirement of equal treatment.

The effect of the law:

All state and local government bodies, institutions, employers, entertainment facilities, public advertisements, public and educational institutions.

Contacts of the Equal Treatment Authority:
Address: 1013 Budapest, 39/b Krisztina krt.
Phone: +36-1-795-2975, +36-1-795-0760
Website: www.egyenlobanasmod.hu
E-mail: ebh@egyenlobanasmod.hu

III. Equal treatment in public education

With respect to the requirement for equal treatment, public education is a highly sensitive area, as it is often the field of discrimination and ethnic segregation. Among the NGOs the Chance for Disadvantaged Children Foundation is the most experienced in action against these matters. Their contact: www.cfcf.hu,

Phone: +36 - 1 - 323-0882

Fax.: +36 - 1 - 323-0883

E-mail: cfcf@cfcf.hu

Law on national public education

Public education sections

- kindergarten
(mainly organized by districts of residence or where the parents work)
- primary school
- grammar school
- secondary school
- vocational school

Public education bridging programs

■ Bridging program I

1. The student has completed the eight grades of primary school.
2. They were not admitted to further education.
3. It replaces the knowledge needed for further study.
4. Schools can take initiative for it.
5. It lasts for one academic year.
6. At the end the students complete an entrance examination.
7. At the end students receive a certificate.
8. If 70% of the students enter further education, the teacher receives a salary supplement.

■ Bridging program II

1. The school-aged student has no primary education.
2. They have completed 6 grades of primary school.
3. When they are 15 years of age.
4. The school initiates it.
5. Lasts for two years.
6. If 70% of the students enter the second grade, the teacher receives a salary supplement.

APPEALS AGAINST SCHOOL DECISIONS

- Decisions are usually in writing
- Have to be communicated to the parent and the student
- It is possible to initiate the process within 15 days after the decision
- It is not possible to appeal against decisions based on behavior, diligence or the evaluation and assessment of the studies.

COMPULSORY EDUCATION

- Until 16 years of age
- School attendance
- On parent's request as a private student

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS:

- Parents decide to which institution to enroll their children - **the opinion of the committee of experts is needed for it!**
- The district office may require the parent to appear in the examination and enroll their child to the appropriate school
- Appeal against the decision: government agency
- The cost of the examination is covered by social insurance.

Unlawful segregation:

Conduct which separates a person or group of persons from others on the basis of their protected characteristics -- without having an explicit legal basis for it.

TYPES OF UNLAWFUL SEGREGATION

- Classification into streams
- Day-care provision
- Separate floor
- Swimming lessons
- Separate meals
- Separate building
- Lower quality education
- Lower quality teaching aids

Cases that can be made

- Court proceedings
Privacy lawsuit
Requesting the establishment of segregation
Its termination
Desegregation plan
- Proceedings before ETA
Fines

COMMISSIONER FOR EDUCATIONAL RIGHTS

Anyone can file a complaint in individual cases

If legal remedies have been exhausted

If the decision infringes educational rights

Complaint in writing or orally

All complaints are investigated

If conciliation fails, then the Commissioner for Educational Rights has to initiate the termination of the infringement.

OFFICE OF THE COMMISSIONER FOR EDUCATIONAL RIGHTS

1055- Budapest, 10-14 Szalay Street

Phone/Fax: (06-1) 473-7097, 332-6727

E-mail: panasz@oktbiztos.hu

IV. PROCEDURES

OFFENCE PROCEDURES

A fine of between 5,000 and 150,000 HUF, in exceptional cases 30,000 HUF.

In case of spot fine the maximum is 50,000 HUF. If one does not agree with or doesn't acknowledge the fine on the spot, then an offence procedure is conducted, where the pursuer's rights can be argued and proved, but the fine can be even higher than the fine on the spot.

For non-recovery of fines, it is changed to court imprisonment.

Public work only if the offender asks the change of fine to public work at the public employment service within three working days after the payment deadline (it is 30 days).

If the defendant does not agree with the decision of the authority brought in the offence procedure, he/she may object **within eight days**. The objection must state the reason of the disagreement with the decision of the authority. **If the authority does not change its decision, the court decides on the complaint.**

INDEPENDENT POLICE COMPLAINT BOARD:

A body performing civil control of the police.

A complaint can be filed to the body if the complainant's fundamental human rights (such as the right to a fair trial, individual freedom, freedom of assembly, the right to human dignity, the right to physical integrity and personal security,

discrimination, degrading treatment) **have been infringed during one of the police actions below:**

- police measure or the lack of it, or its legality (especially identity check, examination of garments, baggage and vehicle, arrest, taking to custody, immigration measures, measures taken in private homes, traffic police actions, etc.),
- use of coercive means and their legality (especially physical force, handcuffs, chemical means, teaser, nightstick, roadblock, use of firearms, use of force team, crowd control, etc.),

If the Board finds a violation of law, it sends the report to the police authority concerned.

IMPORTANT!!!

It is not possible to turn to the Complaint Board if there is some other process in the case - either criminal or offence procedure.
Complaints must be made within TWENTY days after the occurrence of the incident, later it is not possible.

The contact of the Board:

Post: 1358 Budapest, 19 Széchenyi rkp.

E-mail: info@panasztestulet.hu

Fax: 06-1 / 441-6502.

CRIMINAL PROCEDURE

Protection:

One or more lawyers may act to protect the defendant.

Protection is obligatory

- if the accused is in custody,
- if for the offense the law provides a penalty of longer than five years,
- if the accused is deaf, blind or unable to talk,
- if the accused does not speak the language of the proceedings,
- if the accused is a minor.

In such cases if the accused has no authorized defense lawyer, then authority assigns them a public defender.

The accused can also request an assigned defense lawyer if their financial situation does not allow an authorized lawyer.

The defendant's adult family members may also give a warrant to the attorney!!!

The plaintiff's legal representation:

The plaintiff can also have a legal representative, however, they can only be authorized, the authority does not assign them a defense lawyer.

CIVIL PROCEDURE

Exemption of costs in civil proceedings:

If someone's material and financial situation makes it impossible to bear the costs of the lawsuit, it is possible to apply for a so-called full-cost personal exemption.

Exemption of costs is to be applied for on a form, which can be obtained from any court or downloaded from the <http://birosag.hu/allampolgaroknak/nyomtatvanyok-urlopok> website. The titles of the documents are: Declaration on personal data, Financial situation statement, Employment certificate, Tax certificate I, Tax certificate II.

Exemption of costs is granted mandatorily if the applicant has no assets and the income per capita does not exceed the amount of the minimum old-age pension (28,500 HUF in 2014).

It is possible in other cases too, but the court will look at whether the cost of the proceedings indeed threatens the applicant and his family's daily livelihood. This means that the application should be accompanied by certificates of permanent and regular expenses.

It is important that the application should be submitted before the first instance trial!

Legal Aid Service:

The Legal Aid Service is mainly used by those exempted from costs, asking to enable them a defense lawyer. If permission for it is received, the defendant can choose a lawyer from a list. The lawyer's charge is borne by the state in these cases.

It is possible to ask for a defense lawyer in other cases as well, in these instances the Legal Aid Service considers the need, the complexity of the case, the defendant's lack of knowledge about legal matters, and decides on the basis of these.

A Legal Aid Service works in government offices in each county. The contacts of the government offices: <http://www.kormanyhivatal.hu>

Public data request:

<http://atlatszo.hu/2012/05/29/kimittud-avagy-indul-a-kozerdeku-adatigennylo-masina/>

In functioning democracies timely access to public information is the cornerstone of social participation and civil control. **As members of civil communities, private companies or political movements, or as mere citizens of the state, in theory and according to the law, access to public information is guaranteed to all of us on equal terms.** In practice, however, many obstacles need to be overcome to actually gain access to public data.

We have all -- at least mentally -- asked about data of public interest. How much could the fireworks for the 20 August cost at my place of residence? How much does it cost in the local hospital to prepare the meals per capita and who is the supplier?

Data of public interest:

The new [Law on data protection](#) guarantees the publicity of the operation of state, local governmental and other bodies performing public services, which is a prerequisite for the [freedom of expression](#).

The scope of organizations and data required to apply to these provisions

Data of public interest: data that is incurred in relation to activities of, related to or created in relation to performing public administration by institutions or persons engaging in national or local governmental activities or performing other public services prescribed by the law, that does not fall within the definition of personal data, data or information recorded in any way, regardless of the mode of its disposal, its independent or collective nature, especially of its reach, competence, organizational structure, professional activity, its assessment including its effectiveness, the legislation regulating the types of data held and the operation and management of data, its management and the contracts signed.

The law precludes that a personal data is also data of public interest, but at the same time the public interest often requires the disclosure and knowledge of some personal or other information. Public data requests can be submitted in any topic.

When requesting data of public interest:

- anyone can verify the state,
- the law requires the respondents to provide data,
- the deadline is 15 days, which may be extended one time to 15 days,
- the procurement of data is based on applications, it is called data request,
- when requesting data one needs to determine:
 - What do we want to know and from whom.
- the question: in concise, exact, simple wording,
- the data request has to be signed,
- the data owner, from whom the data is requested, can not examine by whom, why and for what purpose the information is being requested,
- the data owner can be compelled by court to provide the requested data.

Activists and management of issues:

An activist can be a major player in and a contributor to individual or community affairs. In relation to the administration of these, it is important that the activist is prepared for this, and proceeds with caution.

Therefore activists should:

- collect all information in connection with the affairs, organize and evaluate them,
- obtain all documents and get to know them thoroughly, ensure to keep at least copies of them,
- control and check all information,
- share the information acquired, processed and evaluated with collaborators.

V. Combating extremism

Do you know what to do as the Roma community activist, if extremists march at the place of your residence?

In the followings we gathered important good advice and information:

I Do not be alone!

If there is a Roma minority government or organization in your place of residence, form a committee from its leaders and members who would cooperate with you.

II Explore the real facts!

Document them precisely, without emotions, so that later, if necessary, you can be able to argue with facts before the authorities and the media!

III Be sober-minded and calm!

Neither you, nor your collaborators who undertake to deal with the situation, shall lose their temper and make decisions out of passion!

IV Keep the peace!

Avoid physical conflict! Do all you can to preserve social peace in your place of residence and to remain non-violent. Do not let yourself be provoked! Convey the calm dignity of the Roma people with all your acts!

V Ask for help!

- from non-Roma supportive people (shopkeepers, doctors, teachers, etc.),
- from the police,

- from school principals, headmasters of educational institutions (if available),
- from priests,
- from local NGOs.

VI Set up an alert chain!

It may be necessary to seek help from the Roma community leaders of the neighboring settlements or of other places in your county. Make sure you have their contact details!

VII Document!

Much depends on how you document in such a situation! Later, almost everything depends on this!

- Record the events with photos, videos,
- make reminders, notes about the formal consultations,
- save the complaints filed and the protocols about events, conflicts and attacks,
- make a document about incidents and complaints that have been reported to the police,
- make a document and a protocol about the complaints filed against police officers.

VIII Constantly check with the community!

Communicate constantly with Roma families; inform them correctly and regularly. Try to reassure them and ask for their cooperation! Be careful not to spread erroneous information giving rise to panic among them. If possible, listen to everybody!

IX Deal with the media!

Involve the media into the conflict after consideration: it often does more harm than good. If you decide to include the media and make a statement, ask for the assistance of media specialists or Roma leaders experienced in liaising with the media. It makes a great difference when, by whom and what is being said! Every uttered word has weight and significance! Organize who would speak in your name, not anyone and everyone should talk on your behalf!

X Share the tasks!

Share the tasks! Who and when does what, who is responsible to whom? Who communicates with the police, who with the families, who with the media, and who is keeping in touch with other Roma organizations or other settlements? Make decisions together in all essential steps, and be available to each other. Everyone should share all information with other members of the committee!

XI Always use technical devices!

In such a situation many tasks need to be managed and many things need to be communicated. At the very beginning it should be ensured that you have:

- a functional car,
- a functional computer, if possible with internet connection,
- a charged cell phone,
- camera, video camera, voice recorder,

- if these are not available, then e.g. smartphones,
- printing, photocopying and postage costs.

XII Counter-protest and peaceful demonstration

Counter-protests also need to be announced in advance!

If you organize a counter-demonstration, make sure it is non-violent and preserve the public peace against the protesters! Have organizers who can help in this and prevent disruption and conflicts! Involve the non-Roma people too!

XIII Get some rest!

Divide the tasks so that everyone has the opportunity to relax too! In such situations, families often spend the nights awake. Exhaustion and lack of sleep make people irritable!