

**EXPLORING ROMANI PARTICIPATION: ROLE OF CIVIL SOCIETY IN HUMAN
RIGHTS MECHANISMS FOR AN INCLUSIVE EDUCATION IN HUNGARY**

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Vienna, 15.06.2025

Nora Gulyas

Abstract

School segregation in Hungary persists despite the widespread condemnation by international human rights mechanisms. As the Hungarian government tries to silence civil society organizations (CSOs), CSOs turn to what Keck and Sikkink call ‘transnational advocacy networks’ (TANs) to exert political pressure on the state ‘from outside’. However, this engagement has not yet yielded to significant results. Inquiring about the effectiveness and accessibility of judicial and soft law mechanisms, in this paper, I explore whether and why CSOs engage in human rights mechanisms in their desegregation advocacy. Addressing the scholarly critique that these mechanisms, as well as CSOs partaking in them, are often detached from the ‘lived experiences’ of Romani people, I explore whether and how CSOs, by acting as a bridge between ‘rights holders’ and human rights mechanisms, ensure Romani participation. While doing so, I am inspired by Julius Rostas’s work that analyzes Romani participation via Arnstein’s 1969 model on ‘civil participation’. As a practical component for my capstone thesis, I assisted a pro-Roma CSO with conducting background research for a study report on Romani children’s access to quality education.

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List of Abbreviations

CSOs - Civil society organizations

CERD - Committee on the Elimination of Racial Discrimination

CoE - Council of Europe

CJEU - Court of Justice of the European Union

CRC - the Committee on the Rights of the Child

ECtHR - European Court of Human Rights

EC - European Commission

ECRI - European Commission against Racism and Intolerance

EU - European Union

TANs - Transnational advocacy networks

OSCE - Organization for Security and Co-operation in Europe

UN - United Nations

Introduction

Arguably, the most harmful and extreme form of discrimination in public education is school segregation. By segregation, this paper means practices and circumstances that deny Romani children's access to inclusive education. Segregation can take many forms: from the effectuate physical separation of Romani students from non-Romani students leading to their overrepresentation in school classes or entire institutions; and 'white flight' where non-Romani parents transfer their children to mainstream institutions;² to 'spontaneous' segregation resulting from spatial segregation.³ Another common separating practice is classifying Romani children as having 'learning difficulties' and, thus, transferring them to 'special needs institutions' and creating majority Romani institutions under the guise of freedom of religion.⁴ Segregation is a harmful practice for multiple reasons. It interferes with Romani students' societal integration, exacerbates stereotypes, and the racist attitudes of the majority society', thereby further widening the societal gap between Roma and non-Roma.⁵ Furthermore, research has shown that segregated institutions lack resources and expertise for modern, quality education, further increasing Romani children's disadvantages vis-à-vis the majority and diminishing their chances of continuing their studies after the compulsory school.⁶

Albeit being prohibited by Article 27 para. 3(a) of the Equality Treatment Act of 2003 and the principle of discrimination and the right of children to access to quality and equal education being enshrined in several international human rights instruments Hungary is a signatory party

² Adél Kegye, 'Áldott szegregáció' in BJ Fejes and N Szűcs (eds), *Én vétkem: Helyzetkép az oktatási szegregációról* (Motiváció Oktatási Egyesület 2018) 235

³ OSCE, 'Fourth Status Report - Implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area' (OSCE/ODIHR 2023) 40

⁴ Kegye (n 2)

⁵ Kegye (n 2) 235

⁶ Roma Civil Monitor, 'Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion, and participation' (Publications Office of the EU 2023) 19; The compulsory school age in Hungary is sixteen.

to, segregation affects many students still.⁷ Demonstrating the severity of the issue, the Fundamental Rights Agency's 2021 report found that 44% of Hungarian children 'attend schools where all or most pupils are Roma'.⁸

Given segregation's harmful nature, holding the Hungarian authorities accountable and pushing for a well-functioning legal and policy framework is pivotal. Being party to international human rights mechanisms, Hungarian authorities are subject to rigorous legal scrutiny on their compliance of granting access to equal and quality education for Romani children. These include judicial and quasi-judicial mechanisms, such as the European Court of Human Rights (ECtHR) which conducts legally binding judicial review on state compliance with the European Convention on Human Rights. It also includes soft law mechanisms such as reports and recommendations of the European Commission against Racism and Intolerance (ECRI), the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Rights of the Child (CRC), the Organization for Security and Co-operation in Europe (OSCE), and the policy frameworks and recommendations of the European Commission (EC). Finally, it entails political mechanisms such as the infringement procedure of the EC as enshrined in Article 258 of the Treaty on the Functioning of the European Union, to be discussed later.⁹

The difference between judicial and non-judicial mechanisms lies in enforceability. While ECtHR judgements are binding, hence they must be implemented, soft law mechanisms do not have a binding force. Still, they can serve as an interpretive guide for courts and can inspire national legislation.¹⁰ In addition, all the listed mechanisms may put a (varying) degree

⁷ Act on Equal Treatment and the Promotion of Equal Opportunities 2003

⁸ EU Agency for Fundamental Rights, *Roma in 10 European Countries: Main Results: Roma Survey 2021* (Publications Office of the European Union 2023) 40

⁹ Consolidated Version of the Treaty on the Functioning of the European Union [2008] OJ C 115 art. 7

¹⁰ Olivier Michéle, 'The Relevance of "soft Law" as a Source of International Human Rights' (2002) 35 CILSA 289, 299

of political and diplomatic pressure on the violating state. In the present case, however, neither legal nor political pressure have yielded to results. The listed mechanisms have condemned school segregation on multiple accounts, calling out Hungary to develop policy and legal frameworks that address the issue,¹¹ yet, they have not translated into an increasingly inclusive education system.

Despite this discrepancy, civil society organizations (CSOs) from local to the international level increasingly engage in the international political arena, such as human rights mechanisms, relying on their legal and political power to hold the government accountable.¹² This engagement may be beneficial for both sides - human rights mechanisms can benefit from the ‘on the ground’ data and expert input of CSOs given that they are in close contact with affected communities,¹³ - although this should be critically assessed as this paper demonstrates. As for the CSOs, in Hungary, relying on international human rights mechanisms may be of particular importance, as the current *Fidesz* government, since its accession to power in 2010, envisions an ‘anti-pluralist’, ‘illiberal’ version of democracy.¹⁴

Following from the government’s vision, it is not surprising that state authorities have demonstrated a lack of willingness to cooperate with CSOs, due to which, CSOs increasingly engage in what Keck and Sikkink calls ‘transnational advocacy networks’ (TANs).¹⁵ TANs include norm-driven actors from local to the international level who exchange information,

¹¹ See, for instance, European Commission against Racism and Intolerance, ‘ECRI Report on Hungary (Sixth Monitoring Cycle)’ (Council of Europe 2023)

¹² Paul Nelson, ‘New Agendas and New Patterns of International NGO Political Action.’ (2002) 13 VIJVN 377, 377.; See also European Union Agency for Fundamental Rights, *Civic Space in the EU* (Publications Office 2023) <<https://data.europa.eu/doi/10.2811/127034>> accessed 14 June 2025; Office of the UN High Commissioner for Human Rights, *Manual on human rights monitoring* (United Nations 2011)

¹³ Dániel Mikecz, ‘Civil Society, Social Movements and Political Participation in Hungary’ in Ellen Bos and Astrid Lorenz (eds), *Politics and Society in Hungary* (Springer Fachmedien Wiesbaden 2023) 131 <https://link.springer.com/10.1007/978-3-658-39826-2_7> accessed 16 June 2025.

¹⁴ Krisztina Arató, Anikó Farkas and Richárd Franczel, *A magyar politikai rendszer: negyedszázad után* (András Körösenyi ed, Osiris 2015).

¹⁵ Margaret E Keck and Kathryn Sikkink, ‘Transnational Advocacy Networks in International and Regional Politics’ (1999) 51 *International Social Science Journal* 89.

advocate for policy change and pressure domestic forces through transnational structures.¹⁶ As ‘domestic political or judicial arenas’ become restricted and the government becomes unresponsive, Keck and Sikkink argue that international allies can ‘amplify’ the demands of CSOs and pressure the state from outside.¹⁷ This framework, thus, is useful to understand the current Hungarian legal, social and political reality.

CSOs engaged in TANs have been critiqued, however, for being ‘detached from reality’.¹⁸ Taken that human rights mechanisms are increasingly informed by CSOs’ input, it is crucial to examine how much grassroots Romani narratives are included in CSOs’ work. In principle, CSOs should amplify affected Romani people’s narratives and propose policy solutions accordingly. However, their legitimacy to represent and advocate for Romani people must be critically analysed, as only the active inclusion of Romani narratives can capture the interests of affected Romani people in the fight for desegregation.¹⁹ Only real participation can lead to successful policies.²⁰

In the Hungarian context, ‘participation’ has been a point of contention between Roma and pro-Roma CSOs, as CSOs demonstrate varying efforts to it in their work. By Roma CSOs, I refer to organizations which have a majority Romani leadership, whereas by pro-Roma CSOs, I mean organizations which work with Roma-rights advocacy but do not have a majority Roma leadership. To understand how Romani participation plays out in desegregation advocacy, I use the conceptual framework of Romani participation by Iulius Rostas, a three-tier model towards ‘full participation’ inspired by Arnstein’s 1969 model.

¹⁶ Keck, Sikkink (nr 15)

¹⁷ *ibid.* 93

¹⁸ Srilatha Batliwala, ‘Grassroots Movements as Transnational Actors: Implications for Global Civil Society’ (2002) 13 *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 393. 395

¹⁹ Iulius Rostas, ‘Roma Participation: From Manipulation to Citizen Control’ (2012) 1 *RRJ* 5.

²⁰ *ibid.* 3

This paper takes the following structure. First, I explore literature on human rights mechanisms' ability to serve justice and their accessibility to marginalized communities, ultimately situating the discussion in the Hungarian context, which I argue has been characterized by threats on the independence of judiciary, the rule of law and civic space. Then, I offer a scholarly discussion on how CSOs can 'bridge the gap' between affected groups and high-level human rights mechanisms by engaging in TANs, arguing, however, that their legitimacy to represent Romani people and amplify their 'lived realities' must be scrutinized. I show how Romani interests are often spoken on behalf of and not with Romani people within civil society, undermining Roma agency and reproducing existing inequalities. Then, to see how TANs and Romani participation play out in the desegregation advocacy in Hungary, I ask the following two research questions: (1) whether and how Roma and pro-Roma CSOs rely on international human rights mechanisms to hold the Hungarian government accountable for its persistent violation of Romani children's rights to equal and quality education; (2) how CSOs involve affected Romani people in their advocacy process and does this address critiques that 'transnational advocacy' is detached from reality? As a method of inquiry, the research relies on interviews conducted with nine CSOs active in desegregation advocacy. It reaches the conclusion that while TANs facilitate dialogue and information exchange between CSOs and human rights mechanisms, their effectiveness is limited in the Hungarian context due to the ongoing democratic backsliding. Furthermore, while Romani participation through CSOs' leadership is high, representation of local Romani interests and participation of local Romani groups in both CSOs and the human rights mechanisms is limited.

1. Literature Review and Theoretical Framework

1.1. *Civil Society and Roma Participation in Human Rights Mechanisms*

1.1.1. Limitations and Opportunities of Taking Legal Action

Questioning law's 'taken-for-granted' nature as a moral authority embedded in equality and fairness and vested in the power to serve justice to citizens, scholars have explored whether 'justice is [even] possible through law'²¹. One of the main critiques being that law and legal procedures 'reproduce [] structured inequalities rather than equal treatment'.²² Law has come to be understood in a more nuanced way, as 'a space of engagement [but also] repression, and resistance'.²³ The conception of its empowering nature as a force 'enact[ing] human agency' has been challenged.²⁴ Human rights mechanisms, being of legalistic nature, have been similarly scrutinized for their - some argue - limited ability to serve justice, especially for historically marginalized groups. The main points of critique that this paper engages with is (1) their focus on individual violations instead of systemic problems, (2) the presumption of existence of rule of law and the independence of judiciary, (3) as well as their limited accessibility. This scholarly discussion is relevant for this paper in so far as it shows the opportunities and limitations of judicial human rights mechanisms which later informs the analysis on CSOs engagement in legal action for desegregation in Hungary.

Regarding the first point of critique, Matache and Bhabha argue that although judicial human rights mechanisms prohibit discrimination, they mostly address violations on an

²¹ Susan S Silbey, 'AFTER LEGAL CONSCIOUSNESS' (2005) 1 Annual Review of Law and Social Science 323 325

²² *ibid.*

²³ *ibid.* 346

²⁴ *ibid.* 352

individual basis.²⁵ They demonstrate this with the example of Romani people in Europe, whose discrimination, oppression and domination, they argue, are the symptoms of anti-Roma racist ideology that persists to this day in the form of school segregation and forced sterilization.²⁶ Even though anti-Roma racism is systemic, violations are repaired individually through monetary compensation, but not collectively.²⁷ Therefore, collective reparations are not formulated which means that justice is not served to the affected group. Also, systemic redress and social transformation that would prevent future violations do not take place. Spinner-Halev calls this the failure of ‘liberal justice’ which focuses on individual rights and monetary compensations but cannot address forms of ‘enduring injustice’.²⁸ That is, injustices that affect groups collectively and are rooted in the past but persist in the present.²⁹

Lawyers engaged in strategic litigation would argue otherwise, however. ‘Movement-lawyers’ use litigation strategically - as a judicial tool to draw courts’ (such as the ECtHR) attention to systemic violations and push for social change.³⁰ They work under the premise that courts are regarded as ‘arbiters of truth and rights’.³¹ Therefore, even if the remedies remain focused on the individual, due to the force of a binding judgement, courts are seen as an effective body to drive social transformation. Sys, however, argues that a binding judgement is not enough on its own, especially not in ‘hostile socio-political environments’.³² It must be

²⁵ Jacqueline Bhabha, Margareta Matache and Caroline Elkins (eds), *Time for Reparations: A Global Perspective* (University of Pennsylvania Press, Inc 2021) <<http://www.jstor.org/stable/10.2307/j.ctv1f45q96>> accessed 16 June 2025. 261-262

²⁶ *ibid.* 255

²⁷ *ibid.* 262

²⁸ Jeff Spinner-Halev, ‘From Historical to Enduring Injustice’ (2007) 35 *Political Theory* 574. 576

²⁹ *ibid.*

³⁰ Alexi Freeman, Jim Freeman, ‘It’s About Power, Not Policy: Movement Lawyering For Largescale Social Change’ (2016) 23 *CLR* 147

³¹ Helen Duffy, ‘Strategic Human Rights Litigation: ‘Bursting the Bubble on the Champagne Moment’ (Leiden University 2017) 4 Retrieved from <https://hdl.handle.net/1887/59585>

³² Filip Sys, ‘D.H. v. Czech Republic: Roma Educational Equality and the Vulnerability of Strategic Litigation’ (2020) 20 *AUC STUDIA TERRITORIALIA* 71. 76

coupled with ‘extra-legal activism’ – such as awareness raising and empowerment of affected Romani communities - on the ground to be effective.³³

Indeed, the premises that a single binding judgement has far-reaching social effects, as well as the presumption that courts are ‘arbiters of truth and rights’ must be scrutinized in the Hungarian context. Since its accession to power, the *Fidesz* government has pushed for a series of changes to the judiciary, due to which its independence cannot be taken for granted. To name a few, they modified the judicial review of the Constitutional Court and added ‘political allies’ to its leadership; fired a mass of the judges in the ordinary judiciary by lowering the retirement age; created a National Judicial Office elected by the parliament (where *Fidesz* has supermajority) which has the power to appoint new judges; and expended the powers of the administrative courts to ‘politically sensitive cases’.³⁴

It is not just the judiciary, which is under attack, however. Institutions like the EU and the Council of Europe’s Venice Commission have criticized the Hungarian government for the declining rule of law standards; and the adoption of the new Fundamental Law of Hungary and legislative acts that attack independent media, civil society, and more.³⁵ Since 2018, Hungary has been under the Article 7(1) procedure of the Treaty of the European Union (TEU) which ‘restricts the treaty rights for member states that systematically violate EU values’ mentioned in Article 2 of the TEU³⁶, such as ‘human dignity, freedom, democracy, equality, the rule of law and respect for human rights’.³⁷ Thus, it is to see how much the opportunities of strategic

³³ *ibid.*

³⁴ Kriszta Kovács and Kim Lane Scheppele, ‘The Fragility of an Independent Judiciary: Lessons from Hungary and Poland—and the European Union’ (2018) 51 *Communist and Post-Communist Studies* 189. 191-193

³⁵ Robert Csehi and Edit Zgut, “‘We Won’t Let Brussels Dictate Us’: Eurosceptic Populism in Hungary and Poland’ (2021) 22 *European Politics and Society* 53. 58

³⁶ Etienne Hanelt, ‘Getting Article 7 Done: Coalition-Building against Hungary in the European Parliament’ [2024] *Journal of European Integration* 1. 1

³⁷ Consolidated Version of the Treaty of the European Union [2012] C 326/13 art. 2

litigation as well as ‘extra-legal activism’ manage to put legal and political pressure on the government.

Another point of critique is that litigation’s accessibility is restricted for those marginalized groups who would need protection the most.³⁸ Accessing legal mechanisms as redress has several prerequisites: one must be aware of their rights, have trust in the system and be familiar with legal terminology and procedures.³⁹ This is a task that demands resources and expertise, which socio-economically oppressed groups, such as Romani people, are the least likely to possess.⁴⁰ Such obstacles multiply for complex international human rights mechanisms. In the Hungarian context, while there are several CSOs who offer pro bono legal assistance to marginalized communities, their financial capacity is limited and waiting lists are long.⁴¹ Due to this complexity and restricted accessibility to affected groups, critics have described ‘lawyer-led processes’ as detached from the lived experiences of communities and as ‘a distraction from more effective struggles’, although Duffy argues that this depends on by whom and how litigation is done.⁴²

1.1.2. CSO Engagement: Bridging the Gap Between Grassroot and Transnational

Apart from litigation, CSOs engage in a variety of other activities through which they aim to create a bridge between human rights mechanisms and affected communities. For instance, a publication of the UN High Commissioner for Human Rights says that due to their ‘field presence (...), knowledge of the local context and direct access to rights holders’, CSOs can be

³⁸ EU FRA (nr 11) 36; Silbey (nr 21) 353

³⁹ Emilio Lehoucq and Whitney K Taylor, ‘Conceptualizing Legal Mobilization: How Should We Understand the Deployment of Legal Strategies?’ (2020) 45 Law & Social Inquiry 166. 179

⁴⁰ Silbey (nr 21) 353

⁴¹ Kinga J. Király, Gábor Bernáth, Jenő Setét, *Romák Magyarországon: A diszkrimináció kihívásai* (MRGE 2021) 19.

⁴² Duffy (nr 31) 9

an important source of information for human rights mechanisms' monitoring activities.⁴³ When doing so, in a way, they embody a 'watchdog' role, as they monitor authorities' activities and provide critical input to international mechanisms.⁴⁴ From the point of view of affected groups, in principle, CSOs can 'amplify[] their voice at the international level', and give them direct or indirect agency in the decisions-making of domestic and international policies enacted upon them.⁴⁵

As for CSOs, international engagement may yield multiple benefits. Firstly, Batliwala argues that as international institutions possess a growing power to adopt policies and legal reforms that affect the everyday realities of people, civil society must "check" on their activities.⁴⁶ Secondly, in Hungary, relying on international human rights mechanisms may be crucial for CSOs, as the current *Fidesz* government portrays them, especially those receiving foreign funds, as 'agents trying to undermine Hungary's sovereignty'.⁴⁷ Fidesz has passed several measures undermining civic space. For instance, measures introduced can control which projects receive government funding and can monitor CSOs deemed as 'disloyal'.⁴⁸ The government is selective in applying them with a strong bias towards those CSOs that remain 'loyal and uncritical'.⁴⁹ A recent proposed act, although for now only as a draft, further radicalizes this narrative: the so-called 'transparency in public life law' would allow authorities to 'monitor, restrict, penalise and ban' foreign funded CSOs that jeopardize state sovereignty.⁵⁰

⁴³ the UN High Commissioner for Human Rights (nr 12) 16

⁴⁴ Mikecz (nr 13) 131

⁴⁵ the UN High Commissioner for Human Rights (nr 12) 5; EU FRA (nr 12)

⁴⁶ Batliwala (nr 18) 395

⁴⁷ András Bíró- Nagy, 'Illiberal democracy in Hungary: the social background and practical steps of building an illiberal state' (2017) CIDOB 31-44. 39

⁴⁸ Nataliya Novakova, 'Civil Society in Central Europe: Threats and Ways Forward' (October 2020) GMFUS 21. 5

⁴⁹ *ibid.* 6

⁵⁰ Euronews, 'Hungary delays vote on 'transparency law' targeting foreign-funded NGOs and media until autumn', (2025) <https://www.euronews.com/2025/06/04/hungary-delays-vote-on-transparency-law-targeting-foreign-funded-ngos-and-media> Accessed: 15.06.2025 ; Draft of 'Transparency Law' T/11923 <https://www.parlament.hu/irom42/11923/11923.pdf>

Therefore, for Hungarian CSOs, engaging with human rights mechanisms can be a way to counterbalance domestic hostility.

Nevertheless, transnational engagement's limited accessibility for marginalized groups has also been raised by scholars. Batliwala points out that actors within 'transnational movements' differ greatly in 'levels of power and privilege in shaping the debate, speaking for the affected, and gaining an entry into the policy-making arena'.⁵¹ Imbalance in power and resources, as well as the 'growing sophistication and complexity of global policy debates' often marginalizes the voices of those grassroots organizations that are the closest to affected groups or are themselves directly affected.⁵² She, thus, argued that a critical lens must be taken on the degree to which CSOs which are present 'at the international public policy level' represent marginalized communities' interests and involve them in their work.⁵³

With the emergence of Roma and pro-Roma CSOs in Europe, debates have arisen on their legitimacy to represent Romani people. Attempting to trace 'the voice of Roma' in EU policies, in her 2010 study, Ram highlights that although a great number of mostly international pro-Roma NGOs are pushing for better protection of the rights of Romani people, local Roma participation in these movements remains limited.⁵⁴ Similarly, Rostas criticized EU institutions' lack of efforts to 'engage Roma in a meaningful way'.⁵⁵ While Romani participants are invited to consultative forums, such as the EU Roma Platform, their involvement is 'most often individual in character, rather than institutional' and is limited to uncritical voices.⁵⁶

⁵¹ Batliwala (nr 18) 395

⁵² *ibid.* 397

⁵³ Batliwala (nr 18) 395-397

⁵⁴ Melanie H Ram, 'Interests, Norms and Advocacy: Explaining the Emergence of the Roma onto the EU's Agenda' (2010) 9 *Ethnopolitics* 197. 201

⁵⁵ Rostas (nr 19) 6

⁵⁶ *ibid.*

Moreover, Romani participants do not possess real bargaining power, they ‘are [only] invited to listen to discussions’.⁵⁷

This problem does not only start on the level of international policymaking. Kóczé and Rövid point out that professional, often pro-Roma CSOs are also detached from the realities of marginalised Romani communities.⁵⁸ ‘Solidarity can easily turn into hegemony’: while some more resourceful CSOs gained prominence, ‘grassroots Romani associations remain weak and fragmented’.⁵⁹ How do these CSOs claim to represent Romani people’s interests then? What are even Romani interests and how and who can define them?

1.1.3. Roma Identity, Interest and Roma Participation in CSOs

Defining Roma identity is a rather complicated task due to the diversity of this group. Even within Hungarian Roma, we find three sub-groups: *Beas*, *Olah* and *Romungro*. While all three groups speak Hungarian fluently, the first two, *Beas* and *Olah*, speak a second language (Romani or other), which is often their mother tongue.⁶⁰ McGarry describes Romani people as ‘extremely heterogenous and house diverse communities, each with their specific culture and interests’.⁶¹ Accounting for this diversity, scholars have argued that Roma identity should not be defined based on cultural, linguistic or even historical attributes. McGarry sees Roma identity as mostly shaped by the collective experience of oppression and marginalization.⁶² This experience, he argues, creates ‘an ethnic group identity with the purpose of articulating [] shared interests’ and a connecting social and political movement in favour of emancipation.⁶³

⁵⁷ *ibid.*

⁵⁸ Angéla Kóczé, ‘Depletion of Social Capital: Shrinking Civil Society Involvement of Roma’ (2012) RRJ 19-20; Angéla Kóczé and Márton Rövid, ‘Pro-Roma Global Civil Society: Acting for, with or Instead of Roma?’ in Mary Kaldor and others (eds), *Global Civil Society 2012* (Palgrave Macmillan UK 2012) <http://link.springer.com/10.1057/9780230369436_7> accessed 14 June 2025. 117

⁵⁹ Kóczé, Rövid (nr 59) 120

⁶⁰ RCM (nr 6) 24

⁶¹ Aidan McGarry, ‘Ethnic Group Identity and the Roma Social Movement: Transnational Organizing Structures of Representation’ (2008) 36 Nationalities Papers 449. 449

⁶² *ibid.* 450

⁶³ *ibid.* 450

Similarly, Vermeersch views Roma identity as a product of political mobilization.⁶⁴ Rövid and Kóczé use the word 'Roma' as a 'category of ethno-political practice', that is, the process through which 'Roma' become part of 'global civil society'.⁶⁵

Taken that Roma identity is a product of political mobilization, Vermeersch argues that Romani interests are not given; they are shaped and reconstructed by stakeholders (activists, NGOs etc.).⁶⁶ He argues that before establishing interests, we need to define a problem⁶⁷ - what the global civil society often calls the 'Roma issue'.⁶⁸ Van Baar have raised concerns about this 'problematizing' narrative; arguing that by emphasizing Roma 'problems', one creates the impression that Roma presence in society is the problem.⁶⁹ Fejzula argues that more often than not 'assimilation' or 'integration' projects led pro-human rights NGOs operating on the local level are seen as the solution.⁷⁰ In her view, these projects tend to identify the root of the 'problem' in Romani culture instead of inquiring about the broader social structures and racist attitudes that led to marginalization in the first place.⁷¹ Similarly, Maeso calls these initiatives 'civilising and disciplinary programmes' which aim to correct Roma identity.⁷²

However, not only does a problematizing narrative shape and limit Roma identity, but it also influences Roma agency; especially since as a marginalized and racialized minority, Romani people are subject to constant external framing. Therefore, these narratives, which emphasize 'Roma problems' and Romani vulnerability often explained by socio-economic

⁶⁴ Vermeersch Peter, *The Romani Movement: Minority Politics and Ethnic Mobilization in Contemporary Central Europe* (NY Berghahn Books 2006) 43. Retrieved from <https://hdl.handle.net/2027/heh34643.0001.001>.

⁶⁵ Kóczé, Rövid (nr 59) 113

⁶⁶ Vermeersch (nr 65) 20

⁶⁷ *ibid.*

⁶⁸ Kóczé, Rövid (nr 59) 110

⁶⁹ Andria D Timmer, 'Constructing the "Needy Subject": NGO Discourses of Roma Need' (2010) 33 *PoLAR: Political and Legal Anthropology Review* 264. 265; Huub Van Baar, 'Europe's Romaphobia: Problematization, Securitization, Nomadization' (2011) 29 *Environment and Planning D: Society and Space* 203.

⁷⁰ Sebijan Fejzula, 'The Anti-Roma Europe: Modern Ways of Disciplining the Roma Body in Urban Spaces' (2019) 10 *Revista Direito e Práxis* 2097. 2105-6

⁷¹ *ibid.* 20105-6

⁷² Silvia Rodríguez Maeso, "'Civilising" the Roma? The Depoliticisation of (Anti-)Racism within the Politics of Integration' (2015) 22 *Identities* 53. 53

misery,⁷³ can legitimize ‘paternalistic’, ‘good will’ policies that affect Romani people’s ability to claim agency.⁷⁴ This is of particular importance for a group that, due to processes of racial ‘othering’, is not expected to speak for themselves, but to be explained ‘by the owners of knowledge and power’.⁷⁵

Therefore, to avoid problematizing, belittling and paternalistic narratives, it is important to ‘reproduce knowledge with Roma and not only about them’,⁷⁶ which underscores the cruciality of Romani participation in human rights mechanisms.

1.2. *Concepts and Methods*

Now that I have demonstrated the importance of CSO’s engagement in human rights mechanisms and Roma participation within such processes, I lay out the theoretical and conceptual framework of this paper. To understand CSO’s engagement with human rights frameworks in desegregation advocacy, I rely on Keck and Sikkink’s framework of ‘transnational advocacy networks’ (TANs).

The framework of TANs is particularly useful to understand desegregation advocacy in the Hungarian context, given that TANs emerge more when ‘the links between state and domestic actors are severed’.⁷⁷ As a result of hampered links, CSOs seek ‘international allies’ to pressure the government to change its behaviour - what Keck and Sikkink calls the ‘boomerang pattern’.⁷⁸ The discussion on the *Fidesz* government’s efforts to undermine civic space, the judiciary and the rule of law in Hungary demonstrates that this, unfortunately, applies to Hungary.

⁷³ Kóczé, Rövid (nr 59) 120

⁷⁴ Sara Araújo, Laura Brito, ‘Tensions between institutionalised political justice and experienced (mis)recognition: Portuguese case study on the experiences of Roma communities’ (2018) *ETHOS* 4

⁷⁵ *ibid.*

⁷⁶ *ibid.* 25

⁷⁷ Keck, Sikkink (nr 15) 93

⁷⁸ *ibid.*

Additionally, Sikkink and Risse argue that TANs play a pivotal role in the diffusion, and thus the ‘socialization of international human rights norms’, as they connect domestic actors to international human rights regimes.⁷⁹ They assist the internalisation of such norms by putting pressure on ‘norm-violating’ states from the bottom and from the top.⁸⁰ It is to see how much this pressure yields results in the Hungarian context.

While TANs provide ‘multiple access routes to policy-making arenas’, which can mean that they create communication channels to local as well and international stakeholders, in practice, the resources between grassroots and ‘elite, expert’ organisations differ greatly.⁸¹ This restricts accessibility to grassroots the most.⁸²

To critically assess CSO’s efforts of ensuring Roma participation in their work, I follow Rostas’s article who applied Arnstein’s 1969 model on ‘citizen participation’ to the Romani case (see Table 1).⁸³ Rostas calls for a critical assessment of ‘Roma participation’ in policy-making, as the term, he argues, is often misused as an ‘empty slogan’ to check the “participation box” but it does not aim to meaningfully include Romani people in decision-making. “Real” Roma participation, in his view, is much more than merely having Romani participants – “realness” depends on who gets to participate, how they participate and to what extent, and through which mechanisms they do so.⁸⁴ “Real” participation treats Romani people as subjects

⁷⁹ *ibid* 2; Thomas Risse and Kathryn Sikkink, ‘The Socialization of International Human Rights Norms into Domestic Practices: Introduction’ in Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), *The Power of Human Rights* (1st edn, Cambridge University Press 1999) <https://www.cambridge.org/core/product/identifier/CBO9780511598777A009/type/book_part> accessed 16 June 2025. 5

⁸⁰ Risse, Sikkink (nr 79). 5

⁸¹ Kathrin Zippel, ‘Transnational Advocacy Networks and Policy Cycles in the European Union: The Case of Sexual Harassment’ (2004) 11 *Social Politics: International Studies in Gender, State & Society* 57. 66

⁸² *ibid*. 65

⁸³ Rostas (nr 19)

⁸⁴ *ibid*. 3

rather than objects, relying on their insights and needs, acknowledging that sustainable and successful policies are only created through their engagement.⁸⁵

Citizen power	8. Citizen Control = Romani people have full control over a 'policy or institution' and have bargaining power. Examples: full charge of a program or institution.
	7. Delegated Power = Romani people acquire dominant power over certain issues ('veto power'). Examples: specified powers and clear majority of seats over a plan or program. ⁸⁶
	6. Partnership = Roma and non-Roma share responsibilities and decisions in institutions governed by clear rules safeguarding their equality. Examples: joint policy boards, planning committees. ⁸⁷
Tokenism	5. Placation = Few Romani people are placed as in a committee to represent the Romani minority, but not accountable to the community and can easily be outvoted. Example: advisory committees ⁸⁸
	4. Consultation = Gives Romani people the opportunity to express their interests and demands, however, there is no guarantee that they will be considered in decision-making. Examples: attitude surveys, meetings, public hearings. ⁸⁹
	3. Informing = Romani people are informed about their 'rights, responsibilities and options' but the information flows 'one way' - there is no platform through which feedback can be channelled back. Examples: posters, news media, responses to inquiries. ⁹⁰

⁸⁵ *ibid.*

⁸⁶ Sherry R Arnstein, 'A Ladder Of Citizen Participation' (1969) 35 Journal of the American Institute of Planners 216. 222

⁸⁷ *ibid.* 221

⁸⁸ *ibid.* 220

⁸⁹ *ibid.* 219

⁹⁰ *ibid.*

Nonparticipation	2. Therapy = Romani people perceived as mentally ‘ill’, and thus powerless, thereby their agency is denied. Participation focuses on ‘curing’ this pathology. Examples: group therapy. ⁹¹
	1. Manipulation = Romani people may be placed in advisory bodies, but the aim is to ‘educate’ and (implicitly) to persuade rather than to involve. Examples: advisory groups, councils. ⁹²

1.Table: Romani participation based on Arnstein’s ‘citizen participation’ model

As for data, I conducted semi-structured interviews with three pro-Roma and six Roma CSOs which operate from local to the international level. The categorization of these organizations as *local*, *national*, or *international* are rather arbitrary – I created them based on CSOs’ primary operational scope and the scale of issues they address. However, this categorization does not necessarily reflect their engagement in international human rights mechanisms, nor does it preclude collaboration across different levels.

Participants provided informed consent under varying degree of anonymity: (1) no anonymity – consent to disclose both their name and their organization’s name; (2) partial anonymity – consent to disclose only the organization’s name; and (3) full anonymity - neither the participant nor the organization can be identified. I use pseudonyms for each CSO that asked for anonymity. LPR requested full anonymity, as they rely on government funding, thus an openly critical stance would jeopardize their operation – this reflects Hungary’s current sociopolitical climate. I also use full anonymity with regards to LR2 and IR2, as naming the CSOs would potentially reveal the participant’s identity which they did not give consent to.

⁹¹ *ibid.* 218

⁹² *ibid.*

	Roma	Pro-Roma
Local*	1. Hátrányos Helyzetű Családok Országos Egyesülete ⁹³ (HHCsOE) 2. LR2 3. Dr. Ámbédkar Iskola ⁹⁴ (Ambedkar)	4. LPR
National**	5. Roma Parlament Polgárjogi Mozgalom (Roma Parlament) ⁹⁵	6. Autonómia Alapítvány ⁹⁶ (Autonomia) 7. Rosa Parks Alapítvány ⁹⁷ (RPF)
International**	8. Europea Roma Rights Center (ERRC) 9. IR2	

2. Table: CSOs interviewed.

Local* = based in the countryside; focused on micro-issues and dynamics, concentrates on the locals of one or a few villages; *National* =based in the capital; projects take place in multiple cities; does not only focus on segregation in education; ****International* = based in the capital or in another European city; executes projects in multiple European countries; focuses on more issues.

While all interviewees participated as representatives of their respective CSOs, their personal perspectives and biases were present during the interview – affecting some topics more than others. It is also important to acknowledge that the participants’ ability to represent the CSOs varies depending on their institutional role and position. Also, when it comes to approaches to Romani participation, perceptions may vary depending on whether the interviewee identified as Romani. To ensure full transparency, I include a table showcasing the position and identity of the participants.

⁹³ In English (translated by author): National Association of Disadvantaged Families

⁹⁴ In English (official name): Dr. Ambedkar School

⁹⁵ In English (translated by author): Roma Parliament Civil Rights Movement

⁹⁶ In English (official name): Autonomia Foundation

⁹⁷ In English (official name): Rosa Parks Foundation

	Romani	Non-Romani
Leader position	HHCsOE Roma Parlament IR2 LR2	LPR Ambedkar RPF
Not a leader position	ERRC	Autonomia

3. Table: Interviewees' position in the CSO and their ethnicity

2. Analysis and Discussion: Desegregation Advocacy in Hungary

2.1. CSO Engagement in International Human Rights Mechanisms

In the first part of the analysis, drawing on the interviews, I discuss the judicial, quasi-judicial and soft law mechanisms that CSOs engage in in relation to combatting segregation in Hungarian education. I explore why they engage in these mechanisms, and what they perceive of their effectiveness.

2.1.1. Judicial and Quasi-Judicial Mechanisms

ECtHRs – Individual Remedy Paid, But No Systemic Change Yet

Starting off with formal mechanisms, participants from ERRC, RPF and HHCsOE shared that they have used judicial procedures as means to hold the government accountable for segregation of Romani children – both on the national and European level, the latter being used only once national judicial remedies have been exhausted. With regards to European-level cases, RPF and ERRC have mentioned *Horváth and Kiss v. Hungary* and *Szolcsán v. Hungary* – in both cases the ECtHR found a violation of Article 14, right to non-discrimination, of the European Convention of Human Rights. To give more context, in 2013, in the case of *Horváth and Kiss v. Hungary*, the ECtHR found that Hungary violated two Romani applicants' rights by misdiagnosing them as 'persons with mental disabilities', thereby disregarding their 'special needs as members of a disadvantaged class'.⁹⁸ The Court has also called on the state to 'undo a history of racial segregation in special schools'.⁹⁹ Ten years later, in the case of *Szolcsán v. Hungary*, the ECtHR found that Hungary violated the rights of a Romani applicant by

⁹⁸ *Horváth and Kiss v. Hungary* App no. 11146/11, para. 127

⁹⁹ *ibid.*

subjecting him to an education in a segregated class ‘without taking adequate measures with a view to correcting the inequalities’.¹⁰⁰ They called on the state to ‘develop a policy against segregation in education and take steps to eliminate it’, thereby establishing positive obligations.¹⁰¹ In both cases, the Court emphasized that ‘as a result of their turbulent history and constant uprooting, the Roma have become a specific type of disadvantaged and vulnerable minority’.¹⁰²

Nevertheless, the interviewee from HHCsOE shared that domestic courts rarely reference and apply these two cases in the reasoning of their judgements, therefore their ability to create precedent remains weak. In addition, although the Hungarian government has paid just satisfaction to the Romani victims concerned, which is a binding legal obligation, they are less willing to fully execute the judgement’s non-binding part, that is, the Committee of Ministers’ - the body that oversees the supervision of the execution of ECtHR judgements - policy recommendations.¹⁰³ Affirming Matache and Bhabha’s critique on human rights mechanism’s focus on the individual rather than the structural¹⁰⁴, thus, the judicial remedy stayed on an individual basis for now. Final remarks on how much the litigation led to ‘real’ social change, however, can only be drawn once the execution of the judgement concludes.

Commission’s Infringement Procedure – Hungary Has No Yield to Political Pressure

Another procedure that the interviewee from HHCsOE referred to is the ongoing infringement procedure launched by the EC against Hungary. The infringement procedure, as stated in Article 258 of the Treaty on the Functioning of the EU (TFEU),¹⁰⁵ was initiated after

¹⁰⁰ *Szolcsán v. Hungary* Application no. 24408/16, para. 57

¹⁰¹ *Horváth and Kiss v. Hungary* para. 102; *Szolcsán v. Hungary*, para. 69.

¹⁰² *Horváth and Kiss v. Hungary* para. 102; *Szolcsán v. Hungary*, para. 69. 47

¹⁰³ Committee of Ministers, ‘Execution of Horvath and Kiss v. Hungary’ 11146/11
<https://hudoc.exec.coe.int/eng?i=004-10905>

¹⁰⁴ Matache, Bhabha (nr 25)

¹⁰⁵ Consolidated Version of the Treaty on the Functioning of the European Union [2008] OJ C 115 art. 7

the Hungarian Supreme Court's ruling in April 2015 which effectively enabled segregation when it is done by a religious school in the name of freedom to exercise one's religion.¹⁰⁶ The Commission argued that Hungarian equal treatment laws and educational policies are not in line with the Racial Equality Directive (Council Directive 2000/43/EC).¹⁰⁷ Thus, with the infringement procedure, they called on the Hungarian state to 'ensure that Roma children enjoy access to quality education on the same terms as all other children'.¹⁰⁸

Although the Commission has not yet referred the case to the Court of Justice of the European Union (CJEU), thus the procedure is only in the political and not yet in the enforceable legal phase, the interviewee from HHCsOE argued that it puts pressure on the Hungarian state to demonstrate more of a political will for desegregation. Nevertheless, Article 28 para. 2 of the Law CXXV. on the Equal Treatment and Equal Opportunities still includes 'religious schools' as an exception to the prohibition of segregation.¹⁰⁹ Therefore, the 'boomerang pattern', according to which TANs can exert international political pressure on to the state to change its behaviour,¹¹⁰ has not yet pushed the Hungarian government to change its legislation.

Limited Effectivity – Decline in Judicial Independence

When being asked to reflect on strategic litigation's effectivity in the current political and legal reality, RPF and HHCsOE both shared that they have a rather diminishing faith in its success. Firstly, they told me that the recent judicial transformations restrict the legal

¹⁰⁶ Kegye (nr 2) 75.

¹⁰⁷ European Commission, 'May infringements' package: key decisions' (2016) <https://ec.europa.eu/commission/presscorner/detail/en/memo_16_1823 / accessed 3 February 2025; Bernard Rorke, 'Seperate and Unequal in Hungary „Catching Up” and Falling Behind on Roma Inclusion (2015) <<https://www.errc.org/news/separate-and-unequal-in-hungary-catching-up-and-falling-behind-on-roma-inclusion> / accessed 3 February 2025

¹⁰⁸ EC (nr 106)

¹⁰⁹ Act on Equal Treatment and the Promotion of Equal Opportunities 2003

¹¹⁰ Keck, Sikkink (nr 15) 93

enforcement of discrimination-related decisions. As an example, RPF brought the incorporation of the former Equal Treatment Authority under the Ombudsman system which has made litigation in front of the ECtHRs more difficult. This is so, as decisions issued for Ombudsman complaints cannot be appealed, making the satisfaction of the admissibility criterion of ‘the exhaustion of domestic remedies’ under Article 35 of the ECHR not possible.¹¹¹ In addition, while there is an administrative judicial process available, the interviewee from RPF explained that their attitude towards Roma-related cases is antagonistic, thus many of the cases get dismissed based on minor details. In addition, they added that it is usually better to launch a public interest case on the national level, which, again cannot be taken to the ECtHR, as it only admits individual applications, thus, *actio popularis* would be declared inadmissible under Article 34 of the ECHR.¹¹²

Limited Effectivity – Democratic Backsliding and Decline in Rule of Law

Secondly, CSOs voiced concerns about democratic backsliding and the erosion of the rule of law in the country, which they argue undermines the effectiveness of litigation. The participant from HHCsOE explained that ‘there is no point in litigating when the court, the Equal Treatment Authority and other agencies are merged and from above they are told what is allowed and what is not’. In connection to the political climate in the country, the participant from Autonomia argued that ‘judicial means and tools are counterproductive’, ‘logs for the fire’ at a time when the Fidesz government portrays international institutions’ as ‘enemy of the Hungarian people’ whose ‘foreign’ input is an attack on Hungarian national identity. Here, they referred to the Fidesz government’s popular narrative of ‘We won’t let Brussels dictate us’

¹¹¹ *European Convention on Human Rights*, art 35 (1950)

¹¹² *ibid.* article 34

which identifies the EU and other international institutions as an ‘imperial power led by corrupt elite against the will of the [Hungarian] people’. ¹¹³

In this environment, thus, international human rights mechanisms are portrayed as ‘external enemies’ threatening national sovereignty rather than promoters of human rights. As such, instead of effectively pressuring Hungary, the ‘boomerang pattern’ of TANS becomes counterproductive. Moreover, as Kovacs and Scheppele noted, the restructuring of the judiciary indeed hampered judicial independence, as seen in desegregation litigation.¹¹⁴ Interestingly, the interviewee from ERRC did not express concerns about the efficiency of judicial mechanisms – which, stemming from its international base, could suggest a degree of detachedness from the ‘on the ground’ legal and political reality.

Financial Challenges – Limited Funding for Litigation

Thirdly, the participant from RPF highlighted the financial challenges of strategic litigation. Cases before European-level courts can take up to ten years, requiring stable long-term funding which is nearly impossible under current conditions. ‘EU funds directly distributed from the EC to CSOs cannot be spent on litigation and domestically redistributed EU funds are only given for short-term projects.’ They explained that even though their faith in litigation is shaken, they would still pursue cases if there was funding. The participant from ERRC did not, however, express concerns about accessibility.

Clearly, lack of funding poses a major obstacle for CSOs. It practically paralyzes strategic litigation - not just for grassroots organizations who manage a modest budget, as argued for in the literature, but for all national CSOs. As a result, only international CSOs, which benefit

¹¹³ Csehi, Zgut (nr 35) 54

¹¹⁴ Kovács, Scheppele (nr 34) 190

from different funding structures, can start litigation cases, reenforcing litigation's 'elitist' connotation.

Aftermath of Litigation – Increasing the Victim's Vulnerability

Finally, multiple CSOs voiced their concerns about the aftermath of judicial decisions, more specifically their implications on those Romani people who are already marginalized and vulnerable. The interviewee from RPF admitted that CSOs involved in strategic litigation do not have the means to support the victim(s) outside the scope of litigation. Yet, such judicial processes aggravate vulnerability: applicants often face psychological distress, but also political backlash or retaliation from local authorities. This happened in the infamous *Gyöngyöspata* case, in which, after the Debrecen Court of Appeal concluded that HUF80 million must be granted to the Romani children who had been unlawfully segregated for almost a decade, the Prime Minister of Hungary, Viktor Orban, publicly intervened saying that the decision 'violated people's sense of justice'.¹¹⁵ What followed was a 'tsunami of hatred' in the forms of propaganda directed towards Romani people living in *Gyöngyöspata* – the interviewee from RPF explained - which made the whole process 'not even worth it in hindsight'.

Another participant, from Autonomia, shared a similar insight. Although they are not involved in strategic litigation, they refrain from referring segregation cases to legal experts due to its risks on the victims. 'It poisons the environment even more, as outsiders go in, stir up the water and the locals gain nothing in the end', it only makes them the 'target of aggression and hatred'. Similarly, the interviewee from RPF argued that it is crucial to conduct a thorough risk assessment before litigation, especially since the cases are mostly initiated against local

¹¹⁵Bernard Rorke, 'Antigypsyism in Hungary: The Gyöngyöspata Case versus 'The People's Sense of Justice' in ANDREW RYDER, MARIUS TABA and NIDHI TREHAN (eds), *Romani Communities and Transformative Change* (1st edn, Bristol University Press 2021) 94 <<http://www.jstor.org/stable/j.ctv18gfz6v.10>> accessed 16 June 2025.

authorities – schools, low-level courts etc. who, as a punishment, often ‘counterattack’. Such ‘counterattacks’, they added, take advantage of the marginalized position and the low socio-economic status of the applicants. For instance, they ‘make the victims redundant from their already low-paid “public work”, take away the victim’s social housing or remove children from the family on grounds of poverty’.

A binding judgement, thus, does not seem enough to serve justice to the victims, quite the opposite. Without what Sys calls ‘extra-legal activism’ on the ground which supports affected Romani communities and raises awareness on the issue¹¹⁶, legal action can increase the victim’s vulnerability, and the judgement can be misinterpreted and misused, especially if weaponized by the Hungarian government’s populist narrative.

Due to the perceived decline in the effectiveness of formal legal mechanisms, interviewees from both HHCsOE and Autonomia told me that they opt for non-legal means, so called ‘out-of-court’ agreements’ such as informal and interpersonal negotiations with local authorities.

2.1.2. Soft Law Mechanisms

Next, based on the interviews, I discuss CSOs’ participation in soft law mechanisms. Similarly to the previous section, I explore what mechanisms CSOs take part in and how they evaluate their effectiveness and accessibility.

Engagement in Soft Law Mechanisms

Six out of the nine CSOs I interviewed engage in some form of soft law human rights mechanism. Interviewees from Autonomia, HHCSOE and IR2 engage with the EC by, for instance, submitting policy papers and recommendations on the implementation of policy

¹¹⁶ Sys (nr 32) 14

frameworks, such as the *EU Roma Strategic Framework for equality, inclusion and participation for 2020-2030*. The EU Roma Strategic Framework 2030 was adopted by the EC in 2020 as a response to the persistent discrimination, marginalization, racism and socioeconomic exclusion faced by Romani people all over Europe.¹¹⁷ It aims to 'shape an effective approach and equip [Member States] with the right tools' to drive real change for Roma. In the field of education, for instance, member states must 'cut[] at least in half the proportion of Roma children attending segregated primary schools'.¹¹⁸ As the national Roma strategic framework, the Hungarian government initiated the *Hungarian National Social Inclusion Strategy 2030*. As a 'feedback-mechanism', the Roma Civil Monitor 2021-2025 initiative was created to 1. 'strengthen[] the capacities of the Roma and pro-Roma civil society to provide independent monitoring, assessment and reporting on national strategies', 2. to support CSO's advocacy work, and 3. to empower Roma and pro-Roma CSO to 'engage in dialogue and cooperation with public authorities'.¹¹⁹

Another key engagement mechanism is the CoE – interviewees from LR2, RPF, ERRC and IR2 have all been in contact with them. For example, participants from LR2 and RPF submit recommendations to the Committee of Ministers' regarding the execution of *Kiss and Horváth v. Hungary* and *Szolcsán v. Hungary*. Meanwhile, ERRC participates in consultations with the ECRI, a quasi-judicial body within the CoE which monitors discrimination through periodic country reports. In their 2023 report on Hungary, they called for a more inclusive education system in Hungary; voiced concerns about the slow execution of two ECtHRs judgements; and

¹¹⁷ Commission Framework COM(2020) 620 final of 7 September 2020 on A Union of Equality: EU Roma strategic framework for equality, inclusion and participation 1.

¹¹⁸ *ibid.* 5

¹¹⁹ Roma Civil Monitor, 'Roma Civil Monitor 2021-2025' Retrieved from <
<https://www.romacivilmonitoring.eu/>> Accessed 10 June 2026

urged compliance with *General Policy Recommendation No. 13*, which combats ‘antigypsyism’ - ‘specific form of [anti-Roma] racism’.¹²⁰

Interestingly, however, none of the CSOs mentioned the OSCE, despite its longstanding ‘Action Plan on Improving the Situation of Roma and Sinti’ (2003), and regular status reports – the latest released in 2023 - for which they rely on CSO input.¹²¹

Finally, though less prominently emphasized by the CSOs, ERRC, LR2 and RPF engage with UN’s human rights mechanisms. For instance, RPF explained that they have provided expert input to the UN Special Rapporteur on the Right to Education, an independent expert monitoring the compliance with Article 13 - on the right to education - of the International Covenant on Economic, Social and Cultural Rights.¹²²

Limited Impact of Soft Law Mechanisms

The CSOs I interviewed expressed limitations about the effectiveness of soft law mechanisms in exerting political or legal pressure on the Hungarian government. Albeit having been engaged in such mechanism in the past, Roma Parlament stopped to do so, as ‘they do not see the point’. They explained that these mechanisms are detached from reality - they use ‘empty panels’ and do not offer ‘real legal protection’. The participant from Autonomia also questioned human rights reports’ relevance, even though they regularly submit expert and policy input to the EC. They said that ‘no one takes these seriously and reads them in Hungary’.

¹²⁰ European Commission against Racism and Intolerance, ‘ECRI Report on Hungary (Sixth Monitoring Cycle)’ (Council of Europe 2023)

¹²¹ OSCE (nr 3) 13

¹²² UN General Assembly, *International Covenant on Economic, Social and Cultural Rights* (16 December 1966) United Nations, Treaty Series, vol. 993, art. 13
<<https://www.refworld.org/legal/agreements/unga/1966/en/33423> > Accessed on 16 June 2025

Even more skeptical, the interviewee from HHCsOE saw withdrawing EU funds as the only effective measure in enforcing legal and political cooperation from Hungary.

Nevertheless, while LR2 agreed that soft law instruments lack legal enforcement, reports can be ‘useful when transmitting values’. Reaffirming this critique, IR2 argued that soft law instruments identify important issues and policy goals which, to be effective, grassroots advocacy must raise awareness to ‘on the ground’.

To conclude the above, the effectiveness of TANs with regards to soft law instruments is perceived ambivalently by the participants. On the one hand, some interviewees dismissed their relevance on the national level entirely. In this regard, ‘the boomerang’ pattern of TANs, which uses transnational structure to pressure the state from outside, does not materialize.¹²³ In addition, the critique that human rights mechanisms are detached from reality was raised from a participant. This could be explained in many ways – hampered information flow between grassroots and international; lack of accountability within the network to affected communities; or the marginalization of grassroots voices within the transnational network, which Batliwala pointed out.¹²⁴

On the other hand, some interviewees argued that soft law instruments are good ‘tools’ to diffuse ‘human rights norms’ - affirming Sikkink and Risse’s idea that TANs play an important role in the process of ‘socialization of human rights norms’.¹²⁵ For the ‘norm diffusion’ to succeed however, interviewees highlighted that ‘extra-legal activism’ is needed, which although is used for litigation by Sys, can be a useful concept for soft law instruments too.

¹²³ Keck, Sikkink (nr 15) 93

¹²⁴ Batliwala (nr 18) 395

¹²⁵ Risse, Sikkink (nr 79) 5

Barriers to Participation: Elitism and Exclusion

My findings suggest that access to human mechanisms remains uneven, with grassroots organizations facing systemic barriers to participation. While well-resourced international CSOs like ERRRC always get an invitation for high-level meetings and face no difficulty attending them, the interviewee from ERRRC explained that participation criteria are often elitist and exclusionary. For instance, good English or legal skills are required, which usually excludes grassroots organizations with a modest budget and local expertise. LR2 reaffirmed this, as a grassroots organization, they expressed a desire to strengthen international cooperation and advocacy but they ‘require massive capacity which [LR2] lack’. Nevertheless, interviewee from RPF reckoned that international mechanisms are still more accessible than national ones, as ‘at home the government will not talk to us’.

Therefore, participation in human rights bodies’ consultations is more possible for CSOs with ‘power and resources’, whereas the voice of grassroots CSOs, which operate with a modest budget and capacity, are marginalized. This confirms Batliwala’s concern – ‘the growing sophistication and complexity of global policy debates’.¹²⁶ Still, however, TANs are useful in this context to connect CSOs with ‘international allies’,¹²⁷ as domestic authorities are reluctant to engage with CSOs.

Exchange of Good Practice and Expert Knowledge

Finally, despite their limitations, soft law mechanisms remain valuable tools for litigation, advocacy and exchange of expert knowledge and good practice, as highlighted by interviewees from RPF, LR2, Autonomia and Ambedkar. The participant from RPF uses UN reports and ECRI recommendations to underpin their arguments and ‘educate the judge’ during litigation.

¹²⁶ Batliwala, Srilatha (nr 18) 397

¹²⁷ Keck, Sikkink (nr 15) 93

Similarly, LR2 consults monitoring reports to design evidence-based desegregation advocacy strategies. In addition, interviewees from Autonomia and Ambedkar shared that they found transnational projects managed by human rights mechanisms or umbrella organizations useful as platforms to exchange expertise and good practice between CSOs from different countries. As such, in line with what Keck and Sikkink argue, TANs indeed seem to facilitate the flow of information ‘through dialogue and exchange’ between its members.¹²⁸

Having discussed why and how CSOs turn to human rights mechanisms and to what extent they benefit from TANs while doing so, I now critically reflect on Romani participation in these processes. I scrutinize whether and how human rights mechanisms are informed by the lived experiences of Romani people through CSOs, who, in theory, have ‘knowledge of the local context and direct access to rights holders’.¹²⁹ In the next section, I explore how Roma and pro-Roma CSOs perceive Roma participation and critically assess their efforts to ensure Roma voices are included in their work.

2.2. *Roma Participation in CSOs and Human Rights Mechanisms*

The participants I interviewed attached different weight to the importance of Roma participation in the fight for desegregation. The CSOs they represent are also informed by Romani knowledge to a different extent. Interviewees from Ambedkar, LR2, ERRRC, HHCsOE, IR2 and Roma Parlament, all Roma CSOs, emphasized strong support and efforts for the active inclusion of Romani voices in their work. Meanwhile, pro-Roma CSOs’ members like Autonomia and LPR were more skeptical about the relevance of a discussion on Roma and pro-Roma CSOs and the importance of Roma participation in their advocacy work.

¹²⁸ *ibid.*

¹²⁹ the UN High Commissioner for Human Rights (nr 12) 16

2.2.1. Participation through Leadership

Starting with Roma leadership, participants from Ambedkar, LR2 and Roma Parliament were critical of pro-Roma organizations which do not have Romani people among their directorate, as they make decisions on behalf of Romani people, and not with them. The participant from Ambedkar said that '[they] are relentless critics of [their] colleagues and peers' on this, as it is 'not right that a layer of [Roma] leadership is not produced in decision-making and professional work' who can represent the organization outside and can serve as an example for Romani youth. Similarly, LR2 referred to the 'nothing about us, without us' principle which they try to uphold on all levels of their work, from the grassroots – by delegating projects to local Romani activists - to the global - by ensuring Romani participation when working on engagements with international human rights mechanisms. While they acknowledge the importance of working together for the same goal - 'it is great if we find allies to our mission', but they say leadership must stay in Roma hands.

The interviewee from Roma Parliament also acknowledged that 'working together' is important, nevertheless, he strongly criticized pro-Roma CSOs who are although 'well-intentioned', they 'reproduce inequality by marginalizing Roma narratives'. He further added that the existence of pro-Roma CSOs which do not or barely have Romani members or leaders reflect the marginalized position of Romani people in society – 'there is no nation on Earth where it is conceivable that anybody would dare to make an organization without the consent of that nation'. When it comes to decision-making, the participant from the Roma Parliament said that 'the last word should be of a Romani person'.

Overall, the above participants of Roma CSOs argued for a mixture of 'partnership' and 'citizen power' participation on the level of decision-making. The CSOs where they worked upheld this principle in their work. Both forms are on the highest level of 'citizen participation'

as defined by Arnstein's model. Those arguing for a 'partnership' participation consider Roma and non-Roma as equal partners in decision-making¹³⁰, whereas those arguing for 'citizen control' believe in a full Romani leadership or 'the final word' belonging to Romani people.¹³¹

In contrary to strong support for 'citizen power' among Roma-led CSOs, interviewees from Autonomia and LPR were less convinced about the importance of Romani participation as a key to successful policies, an argument made by Rostas.¹³² Both participants' responses affirmed what Araujo and Brito suggested in their work – that Romani people are not expected to speak for themselves.¹³³ Thus, it is normalized that 'others', those assumed to be more knowledgeable and suitable to claim space and raise their voice, explain what 'should be done' for Romani people.

For instance, the participant from Autonomia argued that while 'anyone who stands up for [desegregation] must pay close attention to what the Roma community thinks', 'Roma desegregation advocacy is not a Roma privilege'. They did not, however, elaborate on how CSOs engaged in desegregation advocacy could ensure this. Thus, they rejected Rostas's argument that only participation under 'citizen power' can ensure the creation of successful projects for Romani people.¹³⁴

Similarly, although LPR told me that having Romani members who come from the community is important, as 'it empower[s] locals', pro-Roma and Roma discussion should not take place as 'we should not make a distinction between who is Roma and who is not'. In any case, when LPR is invited to a human rights mechanism's consultation, they send Romani colleagues, so that they 'do not have to engage in this debate'. I identify this as a form of

¹³⁰ Arnstein (nr 86) 221

¹³¹ *ibid.* 223

¹³² Rostas (nr 19) 3

¹³³ Araujo, Brito (nr 74) 4

¹³⁴ Rostas (nr 19) 3

‘placation’ participation within the category of ‘tokenism’ – a Romani person is placed to represent the CSO, however, their position depends on the decision of a CSO’s non-Romani leadership.¹³⁵

Neither participant expressed concerns about the implications that ‘tokenism’ or ‘nonparticipation’ might have on Roma agency in desegregation advocacy and, more generally, on Romani people’s identity and positionality within society. Taken that scholars argued that Romani identity is inherently political - as it is connected to a process of interest-articulation, along which Romani people claim space in institutions, political structures etc. towards full emancipation - not being given the space to ‘meaningfully participate’ goes against the essence of what pro-Roma advocacy claims to stand for, that is, Roma empowerment.

2.2.2. Debates on Legitimate Representation: Who can Define Romani Interests?

Participants, thus, had divergent views on who qualifies as a legitimate advocate for Romani interests. When asked to reflect on the lack of Romani participation within Autonomia, the participant argued that Roma representation in Hungary does not reflect genuine Roma interests, offering two key arguments. First, they criticized the so-called ‘Roma elite’ for being detached from the realities of segregated communities, arguing that their understanding remains purely theoretical due to a lack of firsthand experience. The participant from ERRC disputed this claim, highlighting that ‘legitimacy does not derive from closeness to the community, but from self-reflectivity and from being a Romani person who has been personally affected by systemic issues’.

Second, the participant from Autonomia asserted that the current political representation of Romani people in Hungary primarily serves the *Fidesz* government’s interests, which it exploits to secure votes. ‘One can call Roma participation those Romani people who are

¹³⁵ Arnstein (nr 86) 220

appointed by the government to leading positions, or the Roma national self-government, which they have full control over, or the network of NGOs such as CiKösz, which is quite close to the government'. 'It does not matter if a non-Roma or Roma says this, it is safe to say that these are not Roma interests', they added. Participants from HHCsOE and Roma Parlament agreed that the current Roma political elite is effectively controlled by *Fidesz*.

Overall, participants from Autonomia, HHCsOE and Roma Parlament agreed that Roma political representation remains crucial for Romani emancipation. This suggests a degree of consensus among the CSOs interviewed that collective Romani identity has been shaped by the experience of marginalization¹³⁶ – and that overcoming such marginalization requires visibility and agency. However, interestingly, the interviewee from Autonomia did not advocate for the relevance of such representation within their own organization. This discrepancy raises questions about how much CSOs reflect on the principle of Romani political empowerment within their institutional set-up – as in this case, a difference is being drawn by the participant from Autonomia between political participation and participation within CSOs.

2.2.3. Participation Through Involvement of Locals

A final aspect discussed by participants is how they facilitate the participation of local Romani people—those directly affected by school segregation. Participants from LR2 and ERRC emphasized the importance of local networks in their work, as these partnerships provide crucial research input and help planning and executing projects that target 'local realities'.

For example, LR2 includes local activists as members, offering them material support to carry out local initiatives. Similarly, the interviewee from ERRC shared that although they are not physically present locally, they have a broad network of grassroots organizations and activists. 'We cannot be present both on an EU and local level', they noted, 'so for the execution

¹³⁶ McGarry (nr 62) 450

of certain projects, we rely on grassroot organizations and activists - they know best the local realities, not me and my colleagues who work from Brussels'. They also criticized desegregation policies that take a 'top-down' approach and do not involve local perspectives, arguing that such policies are inherently ineffective.

IR2, however, highlighted an additional challenge: language barrier to participation. As an organization that executes many European, multi-country projects, they find it hard to include grassroots voices, as these events require a high level of English skills, which excludes many potential participants.

Overall, both LR2 and ERRC demonstrate efforts for meaningful engagement through 'delegat[ing] power' to local communities, which according to Arnstein is a tool which ensures one of the 'highest levels' of Romani participation.¹³⁷ Nevertheless, the fact that interviewees from many CSOs did not raise the issue of participation of local Romani voices suggests that this is not a priority for most. In addition, English being a barrier to participation demonstrates that the 'growing sophistication' and 'transnationalisation' of policy-making can marginalize those grassroot voices who are the most affected by policies, as argued by Batliwala.¹³⁸

¹³⁷ Arnstein (nr 86) 222

¹³⁸ Batliwala, Srilatha (nr 18) 397

Conclusion

In this paper, I explored the relationship and engagement between CSOs, human rights mechanisms and Romani people in the process of school desegregation advocacy. Studying the interconnectedness of these three ‘actors’ is relevant for the Hungarian context and beyond for multiple reasons.

Firstly, in many countries, human rights mechanisms’ actions have an increasing effect on the ‘lived realities’ of (Romani) people. Secondly, CSOs take more and more space in such mechanism through ‘transnational advocacy networks’, especially in countries like Hungary, where the ruling regime is reluctant to engage with international organizations and where access and effectiveness of domestic political and legal arenas have become limited for CSOs due to the regime’s ‘illiberal’ and ‘anti-pluralist’ vision. Given the growing popularity of right-wing politics in the world, the importance of such ‘transnational’ engagements will likely grow. Thus, it is crucial to assess who gets to participate, how they do so, and how much these engagements can initiate ‘real’ social change. Thirdly, by participating in human rights mechanisms, CSOs claim political agency in ‘Romani issues’– as they claim to advocate ‘transnationally’ for Romani interests. The degree to which they are informed by Romani voices and input differs, however, due to which CSOs’ legitimacy to speak on behalf of Romani people must be scrutinized. I follow Rostas’ work by arguing that ‘meaningful participation’ of Roman people is a means to claim legitimacy as a CSOs to represent Romani voices.

To reflect on the above questions and dilemmas, I analyzed interviews with participants from nine CSOs’ engaged in desegregation advocacy. I was curious to learn about their approach to and engagement with human rights mechanisms through TANs and their efforts to ensure ‘meaningful’ Romani participation while doing so.

My findings suggest that while TANs are useful for information exchange, dialogue and transmission of values, hampered judicial avenues and lack of political will restrict their ability to initiate social change. Often, non-legal remedies, such as local ‘out-of-court’ negotiations between schools, parents and CSOs seemed more effective tools for CSOs– they, however, fall outside the scope of TANs.

In addition, the access to TANs is the most restricted for those grassroots voices who are the most informed by the ‘lived experiences’ of Romani people. Local participation is further restricted by CSOs’ limited efforts to ensure participation of local Romani people. While Romani participation through CSOs’ leadership showed promising results, representation of local Romani interests and participation of local Romani groups in both CSOs and the human rights mechanisms is limited.

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