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FLASH REPORT

Country:	Hungary
Title:	First instance court decision on damages for segregation in education
Date:	18 February 2019
Expert:	András Kádár
<u>Context</u>	
Issue at stake:	Whether damages are payable to individual victims of educational segregation to compensate for the disadvantages they suffered as a result of the segregation
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Education
Source:	National court decision
Applicable law:	Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, Act LXXIX of 1993 on Public Education, Act CX of 2011 on National Public Education, Act IV of 1959 on the Civil Code

Content

Case development: In March 2015, the Curia (Hungary's Supreme Court) concluded in an *actio popularis* lawsuit launched in 2011 by the Chance for Children Foundation (CFCF) that the Roma pupils in the Néksei Demeter elementary school of Gyöngyöspata (Northern Hungary) had been segregated. In each grade there were two classes: one with practically only Roma pupils and one where there were hardly any Roma children, although the proportion of Roma children within the student population was around 50%. The Roma and the non-Roma classes were separated physically too (being placed on different floors of the school), and the Roma children were provided with lower quality education than their non-Roma peers. The basis of the judgment was an on the spot monitoring visit (April 2011) and its follow up inspection (December 2011) by the Minorities Ombudsman, who concluded in December that neither the school nor the maintaining municipality had taken any measure to remedy the situation disclosed in April, nor had they complied with any of the Ombudsman's recommendations.

Based on the Curia's final and binding decision, in February 2016, with the help of CFCF and pro bono lawyers, 63 Roma pupils educated in the segregated classes of the Néksei Demeter school launched a lawsuit for damages against the school, the Municipal Council of Gyöngyöspata and the Klebelsberg School Maintaining Center (KLIK, the state body that – as of 1 January 2013 – became the municipality's legal successor as a result of the national centralisation of school management) for the long-term disadvantages they had suffered as a result of their substandard education (e.g. the loss of the real possibility to succeed in the labour market). Each former pupil claimed HUF 500,000 (EUR 1,560) per school year that he/she spent in segregated classes. The respondents, including KLIK requested the court to reject the claim. In their view, at the maximum, 10% of the claim (i.e. EUR 156 per claimant) would be realistic and the responsibility of the individuals for

their failure in education and employment should also be taken into account when a decision on damages is made.

Decision of the court: On 16 October 2018, the Eger Regional Court delivered a first instance judgment in the case. The court concluded – in line with the previous Curia judgment – that the respondents had violated the claimants' right to equal treatment by segregating them and providing them with education of lower quality than that of their non-Roma peers. The court eventually adjudicated the claims of 62 claimants after individually examining the history and circumstances of each and every one of them, including the number of schoolyears they had spent in segregated education and how the discrimination they had suffered impacted their lives (schooling, employment). It rejected the claim of two claimants, fully granted the requested compensation in 12 cases, and granted a part of the requested compensation in 48 cases. The claimants originally claimed altogether HUF 290 million (EUR 906,250) as damages, which they later modified to HUF 143 million (EUR 447,900). Out of this, the court granted them altogether HUF 89 million (EUR 278,120). The lowest amount a plaintiff received was HUF 200,000 (EUR 635), the highest amount HUF 3.5 million (EUR 10,940). The aggregate number of school years with regard to which damages were granted was 226.

Key points of analysis: While this is not the first case in which damages are granted for segregation (in 2010, five Roma children litigated successfully claiming damages for having been segregated for a full school year each), the number of the litigants and the volume of the compensation granted makes the case unique. The court sanctioned a decade-long failure of the school, the municipality and the State to take any action against segregation and laid down guidelines on how the individual impact of discriminative education can be assessed.

Internet link sources:

<https://birosag.hu/aktualis-kozlemenyek/egri-torvenyszek-itelet-gyongyospatai-szegregacios-ugyben> (press release of the Eger Regional Court);

<https://168ora.hu/itthon/tortenelmi-itelet-karterites-jar-a-gyongyospatai-gyerekeknek-a-szegregacio-miatt-157638> (press report on the decision).