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FLASH REPORT

Country: Hungary
Title: Prime Minister calls damages granted to Roma pupils for decade-long segregation “unjust” during pending court case
Date: 7 February 2020
Expert: Kádár, András
Update of flash reports: [Hungary - First instance court decision on damages for segregation in education \(PDF 89 kB\)](#) and [Hungary - Second instance court decision on damages for segregation in education \(PDF 86 kB\)](#)

Context

Issue at stake: Prime minister and other prominent politicians conduct concerted campaign questioning the justification of awarding damages to Roma pupils for decade-long segregation
Grounds of discrimination: Racial or ethnic origin

Field of application:

Source: Education
Policy development
Applicable law: n/a

Content

Development: In March 2015, the Curia (Hungary’s highest court) concluded in an *actio popularis* lawsuit launched in 2011 by the Chance for Children Foundation (CFCF) that the Roma pupils in the Nekcsei 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 with hardly any Roma children. The Roma and the non-Roma classes were separated physically too, and the Roma children were provided with lower quality education than their non-Roma peers. Based on this decision, in February 2016, 63 former Roma pupils launched a lawsuit for damages against the school, the Municipal Council of Gyöngyöspata and the Klebelsberg School Maintaining Centre (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).

On 16 October 2018, the Eger Regional Court delivered a first instance judgment in the case (under the number 12.P.20.489/2015/402). The court concluded 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 and ordered the payment of compensation to most claimants. In its decision no. Pf.I.20.123/2019/16. (16 September 2019), the Debrecen Appeals Court modified the first instance court decision (it increased or decreased the amount of damages with regard to some of the claimants), however, in essence it upheld the decision that non-pecuniary damages were to be paid to the victims of segregation. The respondents requested an extraordinary review from the Curia. The case is still pending.

In early January 2020, high ranking politicians of the government and the incumbent Fidesz party started a concerted campaign questioning the legitimacy of the court judgment and discrediting CFCF by claiming that the case was nothing but the 'liberal Soros network's attempt to pursue a wicked political agenda'.¹ On 4 January, László Horváth, the Fidesz MP for the region where Gyöngyöspata is located published a Facebook post with the title: *'Gyöngyöspata is not tolerating the Soros network's money-snatching actions'. The post stated that '[t]he court decision may be in accordance with the law, but it is unjust, biased, excessive and destructive. [...] With the millions [of HUF] thrown among the Roma families, the past years' continuous [...] development, the hard-won peace may disappear. Gyöngyöspata refuses to become a battlefield [...]'.*

Five days later, Prime Minister Viktor Orbán said at a press conference that there were two cases that violated the Hungarian people's sense of justice. One was the Gyöngyöspata judgment. *'I'm not from Gyöngyöspata, but if I were to live there, I would ask how it is possible that members of an ethnic group who live with me in the same community [...], receive a significant amount of money without performing any work while I would have to work for the same amount for I don't know how many hours, days or year.'* He stated that this was unfair and that *'I don't know yet exactly what to do, but it can't stay this way. We need to give justice to the people of Gyöngyöspata'*. He also said that it was not clear what could be regarded as segregation in Hungary, and that this issue was a subject of internal political battles, *'not to mention the swooping of the EU'* onto the matter.

On 15 January, Fidesz MP László Böröcz claimed that the political and final manipulations of the Soros-network were behind the Roma of Gyöngyöspata who were 'incited' by a Soros-financed organisation to launch the lawsuit. *'For money and power they [the Soros organisations] are even willing to turn a village's life upside down and create enormous tensions'*. The MP is reported to have said that *'the Soros-network's real objective is to seize the power and replace the Government of Hungary with its own puppets. This is why 'they keep manufacturing cases against Hungary', and referring to these cases they claim in EU and international fora that Hungary is not a rule of law country.'*

On 17 January, in his weekly radio interview, the Prime Minister said the following: *'My starting point is the Hungarians' sense of justice. [...] The Hungarians accept if we provide working opportunities instead of social aid. If we spend the taxpayers' money on kindergartens which provide catching up programmes, free meals [...]. The Hungarians are not racists, they do not automatically reject the Roma', but 'there is a line that Hungarians feel should never be crossed: to give money for nothing'*. It is possible that there was segregation or *'a failed catch up attempt'*, but *'we cannot remedy the trouble by giving money'*. It is better *'to provide services, instead of giving money into their hands, which the Hungarians will never accept.'* Orbán reiterated that the Soros-network was behind the case: *'I think this whole thing is just provocation'*.

On the same day, Secretary of State Bence Rétvári from the Ministry of Human Capacities said at a press conference that while the government acknowledges that the segregation the Roma pupils of Gyöngyöspata suffered must be remedied, it would serve the people's sense of justice and the improvement of the situation of the 60 concerned claimants much better if instead of money they would receive in kind compensation in the form of IT and language trainings and assistance in combatting their integration difficulties and the trauma the segregation caused, as the payment of compensation *'is not suitable for*

¹ Since 2015, the Hungarian government has been conducting an intensive negative campaign against migration and migrants. The campaign depicts migrants as potential terrorists, harassers, and its central theme is that the force behind the migration crisis is Hungarian-born financier George Soros, who by flooding Europe with Muslim immigrants plans to undermine European and Christian values in order to realise his idea of an open society. As part of this 'Soros Plan' he finances 'fake' NGOs which under the disguise of human rights activities only work to realise the plan. The government launched a so-called national consultation on the 'Soros Plan', asking people to respond to a series of manipulative leading questions. In 2018, the Hungarian Parliament passed a law called 'Stop Soros', envisaging – among others – criminal sanctions for providing assistance to asylum seekers whose asylum claims are deemed unfounded.

handling the situation, it would just intensify the tensions'. He repeated the accusation that CFCF was using the case for political purposes to undermine Hungary's reputation through the charges of segregation and said that the NGO's activities were only hindering the peaceful cohabitation of the Roma and Hungarians.

István Hollik, Fidesz's Director of Communications said at a press conference on 18 January that Fidesz agreed with the government's recommendation to make the Roma pupils whole through in kind remedies and asked *'the Soros-organisations – who are primarily responsible for the situation at hand – to, if they really regard the cause of the Roma children important, put their political and financial objectives aside and refrain from hindering the acceptance and realisation of this good recommendation.'*

According to a recent article, at a meeting held on 18 January in the village, the large majority of the concerned Roma families decided to refuse the government's offer and launch execution procedures to enforce the decision and acquire the money. CFCF announced that they would not provide legal assistance in these proceedings as in their view, the families should wait for the Curia's decision in the case, since if the Curia changes the second instance judgment in any way after the enforcement has taken place, it may further complicate the situation (e.g. if the Curia reduces the amount of the compensation, the families would be obliged to pay the money – or part of it – back).

Key points of analysis: The developments are very worrying for a number of reasons: (i) the government and MP's (i.e. the legislature and the executive branch) put pressure on the judicial branch (the Curia) in an ongoing court case, expressing in very direct terms their expectations on what a just decision coinciding with the majority's sense of justice would be; (ii) these expectations cannot be met anyway, since the court is bound by the petition, so if the claimants claim damages, the court is not authorised to order the provision of in-kind compensation instead; (iii) the government's communication is based on the same logic of exclusion as the segregation itself: the Roma should not be allowed to decide for themselves what kind of remedy they wish to receive for an unquestionable violation of their fundamental rights, they should simply accept the form of compensation that the discriminator chooses for them; (iv) by claiming that the local Roma are being moved from behind by 'Soros-organisation', the government's communication questions their agency and that they would be able to make decisions for themselves; (v) by emphasising that 'the Hungarians' are being equitable to 'the Roma' (e.g. by accepting that their money is spent on kindergartens where Roma children go) and that they are not 'automatically' rejecting the Roma (which implies that there is rejection but it stems from the behaviour of the Roma), the Prime Minister drives a wedge between the majority population and the Roma, expressing a view that the Roma are not Hungarians; (vi) many of the claimants are grown ups with their own families now – requiring them to go back to school or participate in different trainings is completely unrealistic.

Internet link source:

[https://index.hu/belfold/2020/01/04/gyongyospata_hovath_laszlo_soros_halozat_dontes_kuria_penz_millio_roma_szegregacio/;](https://index.hu/belfold/2020/01/04/gyongyospata_hovath_laszlo_soros_halozat_dontes_kuria_penz_millio_roma_szegregacio/)

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[https://index.hu/belfold/2020/01/17/orban_engem_mar_nyolcszor_olt_meg_soros_haloz_ata/;](https://index.hu/belfold/2020/01/17/orban_engem_mar_nyolcszor_olt_meg_soros_haloz_ata/)

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