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PRESS RELEASE

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Breakthrough judgment: The Slovak court ruled that educating Romani children in special classes for intellectually disabled was illegal

By a judgment of 24 November 2021, the District Court in Prešov upheld the anti-discrimination lawsuit of three Roma children from the village of Hermanovce (eastern Slovakia), who were illegally educated at a local primary school in special classes for children with mild intellectual disabilities. According to the court, the defendant Private Center for Special Pedagogical Counseling in Prešov, which performed psychological diagnostics of children, as well as the primary school in Hermanovce, discriminated against them on the ground of their ethnicity. The first instance court ordered the defendants to apologize to the discriminated children and to award each of them financial compensation of 5,000 euros. Roma children were provided with free legal representation in court proceedings by the Slovak NGO Center for Civil and Human Rights (Poradňa) within its strategic litigation program.

An attorney working with our NGO filed an anti-discrimination lawsuit on behalf of the applicants in 2016. They argued that due to insufficient psychological diagnostics by a Private Center for Special Pedagogical Counseling in Prešov, they were illegally educated in special classes for children with mild intellectual disabilities. The psychological re-diagnostics that the children completed at the request of their parents by an independent psychologist, did not confirm the intellectual disability of the children.

The lawsuit also targeted the local primary school. The complainants argued that the school illegally educated them according to the educational plan for children with intellectual disabilities and, moreover, in segregated settings - outside the main school building, separately from the majority children. The lawsuit also pointed to the alarming fact that at the time of its submission in the 2015/2016 school year, the vast majority of school age Roma children from the nearby segregated Roma community in the village were educated in special classes for children with intellectual disabilities. The lawsuit also emphasized the responsibility of the state authorities for the situation, so it also targeted the Slovak Ministry of Education.

The court upheld the lawsuits to a substantial extent. It ruled that the defendant Center for Special Pedagogical Counseling in Prešov had discriminated against Roma children in education on the ground of their Roma ethnicity. According to the court, the overall disproportionately high proportion of Roma children who were educated in special classes at the school in Hermanovce also indicated shortcomings in the psychological diagnostics.

According to the court, the defendant primary school also discriminated against the aggrieved children, ignoring the fact that a large number of Roma children were placed in special classes and did not take any remedial action, for example by checking their psychological testing at another psychological center.

In addition, the court confirmed the school's responsibility for segregating Roma children in special classes, which were located outside the main school building and attended exclusively by Roma children.

In their lawsuit, the applicants also emphasized the State's responsibility for their discrimination and pointed out that the State had not taken effective measures to prevent them from being discriminated against in special classes. However, the court did not agree with their arguments and dismissed the lawsuit in this part.

The court ordered the defendants to apologize to the discriminated children in writing and to grant each of them financial compensation of 5,000 euros.

The judgment is not final and can be appealed.

Sebastián Červeňák - one of the complainants said in response to the judgment:

"The court ruled fairly. I believe that, thanks to this decision, there will be a change in other schools as well, and Roma children will be given a chance at a good education. We all need this for life, because without a good education we Roma do not have a chance to get a good job."

"I want everyone to know how the Roma in our community are treated. Almost all Roma children go to a special school. That's wrong. They have to take us equally so that we too have a chance to prove something in life," adds another of the complainants.

Vanda Durbáková, the attorney cooperating with Poradna who represented applicants before the court said:

"This is the historically first ever court decision in favor of Roma children who have been illegally educated in the special education system in Slovakia. Finally, the Slovak court has sent a clear signal that the excessive number of Roma children in special schools and classes is a serious problem in our society that we cannot ignore. It thus joined the courts from Hungary and the European Court of Human Rights in Strasbourg, which have ruled in similar cases in the past.

"It is important that the Slovak court finally recognized the responsibility of the school and the psychological counseling center for the illegal situation at a particular school. However, it is also necessary that the court acknowledges the responsibility of the State for specific shortcomings in this area. To achieve a real change the state authorities have to introduce effective measures, in particular the Ministry of Education. That's also why we appeal against the part of the judgment by which the court rejected our action against the state," Durbáková added.

Štefan Ivanco, Program Coordinator of Poradna reacted:

"Many Roma children have been and continue to be educated in special schools and classes illegally. Although the Slovak Ministry of Education recognizes this problem and the need to address it does appear in government documents, a real systemic effort to bring about change is still not visible. I am convinced that psychological diagnostics in schools should be used primarily to identify the individual educational needs of children, who would be educated together with all other children in an inclusive school environment. And it shouldn't move children to special schools and classes. State institutions must act swiftly in this regard."

The judgment is available in Slovak language to [download here](#).

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The Center for Civil and Human Rights (Poradňa) is a non-governmental organization based in Slovakia focused on the protection of human rights with particular emphasis on the rights of minorities and protection from discrimination. Poradňa has for a long time worked on the issue of discrimination against Roma ethnic minority in various areas of public life. It has also been active in the protection of reproductive rights and protection from police brutality. Poradňa employs strategic litigation to combat discrimination and human rights abuses against minorities. Poradňa offers free legal advice to victims of discrimination and in selected cases free legal representation to victims of discrimination before courts. It also conducts monitoring in the field, advocacy, and educational activities on the topic of protection from discrimination for lay and expert audiences. Visit us at www.poradna-prava.sk

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