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The appeal court confirmed the illegal education of Romani children in special classes at a primary school in Hermanovce. The state authority also bears responsibility

Three Romani children from the village of Hermanovce were illegally educated at a local primary school in special classes for children with mild intellectual disabilities. The Regional Court in Prešov as an appeal court has finally ruled in its judgment, a written copy of which was delivered to the complainants this week. It confirmed the judgment of the Prešov District Court of November 2021. In addition to the school and the sued centre for special pedagogic counselling, the appeal court also confirmed the liability of the Ministry of Education for discriminating against the complainants. This is the first ever final decision of the Slovak courts in favour of Roma children who were illegally educated in the special education system in Slovakia.

Free legal representation in the court proceedings was provided to the injured children by our NGO, the Center for Civil and Human Rights (Poradňa). A lawyer working with us filed an anti-discrimination lawsuit on behalf of the aggrieved children in court in 2016. The complainants argued that as a result of inadequate psychological diagnostics by the Private Centre for Special Pedagogic Counselling in Prešov, they were illegally educated in special classes for children with intellectual disabilities. The psychological re-diagnostics, which the children completed at the request of their parents with an independent psychologist, did not confirm the children's intellectual handicap. The legal action was also directed against the local primary school. The complainants argued that the school had, contrary to the law, educated them according to the curriculum for children with mild intellectual handicaps and, moreover, in a segregated manner - outside the main school building. They also objected to the liability of the State, represented by the Ministry of Education, for their discrimination. For defending the rights of the injured children in this lawsuit, we as an NGO received the Roma Spirit award in 2022 in the category of Act of the Year.

In November 2021, the Prešov District Court substantially [upheld the lawsuit](#). It ruled that both the defendant Centre for Special Pedagogic Counselling in Prešov and the defendant primary school had discriminated against the complainants in education on the grounds of their Roma ethnicity.

Both defendants appealed against the judgment. Since the district court dismissed the legal action against the State, represented by the Ministry of Education, the applicants have appealed against that part of the judgment.

The Regional Court in Prešov as an appeal court, [in a judgment](#), a written copy of which was received by the legal representative this week, confirmed that the defendants, the Centre for Special Pedagogic Counselling in Prešov and the primary school in Hermanovce, had discriminated against the complainants on grounds of ethnicity. It thus dismissed the defendants' appeals.

On the contrary, it upheld the complainant's appeal and held that the State, represented by the Ministry of Education, was also liable for discrimination against the complainants.

The Regional Court held that the Ministry of Education, as the state authority guaranteeing state education policy, had not sustained the burden of proof in the court proceedings. Referring to the

[landmark judgment](#) of the Supreme Court of the Slovak Republic on the segregation of Roma children at the school in Stara Ľubovňa, reached in December 2022, the appeal court emphasized that the state and the local government must take effective measures to prevent discrimination against Roma children in education.

According to the appeal court, the Ministry of Education, together with the legislature, failed to proactively create mechanisms to limit the violation of the rights of aggrieved children to access an adequate education. According to the appeal court, the state of the complainants' education in this case is irreversible, and each of the defendants has undoubtedly contributed to that state of affairs.

The appeal court also found that the defendants' conduct had also infringed the children's right of access to an adequate education under Article 42 of the Constitution of the Slovak Republic.

In addition to an apology, the defendants must jointly and severally pay compensation for non-pecuniary damage in the amount of EUR 5 000 to each of the aggrieved children.

The judgment is final and cannot be appealed.

Valentína Čonková - one of the complainants commented on the court's decision: *"I am happy about the court's judgment. I believe that what happened to me will not happen again. They ruined my life. The state must do everything it can to ensure that our Roma children are not segregated and that they have a chance for a better education."*

"The Regional Court made the right decision. I hope this will not happen to other Roma children again. Because children from special schools have a hard time getting a job, just like it happened to me," **added Sebastián Červeňák, another of the complainants.**

"Together with other mothers, we decided to file this lawsuit in 2016. We are glad that the court gave us the right decision. We hope that other parents whose children are wrongfully in special schools will decide to deal with this, as we did, and not just leave it at that. Our children have the right to a better future," said the mother of one of the complainants.

Commenting on the ruling, a lawyer Vanda Durbáková working with the Center for Civil and Human Rights and legal representative of complainants said:

"I see the judgment as historic. It is very important that the appeal court has clearly named the state's responsibility for discriminating against the aggrieved children in education. At the same time, in its reasoning, it also pointed out that the problem of segregation of Roma children in special education is systemic and affects a large number of Roma children. I hope that the Ministry of Education will reflect this judgment carefully and will finally start to act decisively and take effective measures to eliminate discrimination against Roma children in special education."

We would like to thank all those who support our strategic litigation, and we especially thank the Open Society Foundations, Sigrid Rausing Trust, and ACF - Slovakia, whose financial support enabled us to achieve this important court decision.

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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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