


Hungary, Curia, Pfv.IV.21.556/2019/22. (Roma compensation case), supreme, 2020

Member State

 Hungary

Topic

Independence

Deciding Court Original Language

Kúria

Deciding Court English translation

Curia (Supreme Court)

Registration N

Pfv.IV.21.556/2019/22.

Date Decision

12 May 2020

Subject Matter

Hungarian courts, adjudicating under attack by the executive, awarded compensation for Roma students for the damages they suffered because of segregation and lower standard education.

Legal issue(s)

Judicial independence, political pressure on judicial decision-making, separation of powers

Request for expedited/PPU procedures

No

National Law Sources

Article 26 and 28 of the Fundamental Law;

Section 2(2) of the Act CLXI of 2011 on the Organization and Administration of Courts

Act IV of 1959 on the Civil Code

Facts of the case

From 2003 to the end of 2012 the elementary school of Gyöngyöspata segregated Roma students, placing them in classes separated from non-Roma students, and provided them lower-level education. Some of the Roma students filed a lawsuit against the school and the municipality for discrimination with the help of the Chance for Children Foundation and they were granted pecuniary compensation for the damages they suffered in their education. The school and the municipality appealed against the decisions arguing that they must be allowed to provide in-kind compensation, for instance education and training for the ex-students.

Prime Minister Viktor Orban, other high-ranking government officials and government MPs publicly criticised the judgments when the case was still pending before the Curia. They stressed that the pecuniary compensation violated the people's sense of justice.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

The Curia dismissed the respondents' claim and upheld the judgments of the lower courts. The Curia argued that the relevant legal framework allows only pecuniary compensation in cases where personality rights have been violated. In-kind compensation can only be the result of an agreement between the parties on a contractual basis, but the court cannot make such a decision.

The Curia, at the very beginning of the reasoning part, cited 3 provisions on the fundamental principles of adjudication without any further comment. First, Article 26(1) of the Fundamental Law was invoked which states that judges are independent and can only be subject to law, and they cannot be instructed in the course of the administration of justice. Also, the Curia referred to the cardinal act on courts to stress that courts ensure that laws are observed. Finally, Article 28 of the Fundamental Law was also referred to. This provision declares the rules for constitutional and statutory interpretation.

Impact on Legislation / Policy

After the final verdict was handed down by the Curia, PM Viktor Orban again condemned the judgment as unjust and anticipated that the decision would be overruled by legislation. As a response to these judgments, the Parliament amended the Act CXC of 2011 on National Public Education and put an end to the practice of awarding pecuniary damages for school segregation. According to the new law, only in-kind compensation (educational or training service) can be provided in similar cases.

(Link to) full text

<https://ukp.birosag.hu/portal->

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History of the case: (please note the chronological order of the summarised/referred national judgments.)

1. Decision no. P.20.489/2015/402. of the Eger Regional Court
 2. Decision no. Pf.I.20.123/2019/16. of the Debrecen Regional Court of Appeal
 3. Decision no. Pfv.IV.21.556/2019/22. of the Curia
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