BÁCS-KISKUN COUNTY COURT
KECSKEMÉT
No 12.P.20.392/2008/21.

IN THE NAME OF THE REPUBLIC OF HUNGARY!

The County Court K. represented by Dr. Lilla Farkas, Attorney-at-Law (**attorney's address**) representing **name of the First Plaintiff**, residing at address of the First Plaintiff, including house number (authorized legal representative: **name of authorized legal representative of the First Plaintiff** guardian residing at the same address), **name of the Second Plaintiff** residing at address of the Second Plaintiff, including house number, **name of the Third Plaintiff**, residing at address of the Third Plaintiff, including house number (authorized legal representative: **name of the Third Plaintiff's authorized legal representative**, guardian, residing at the same address). The plaintiffs are represented by Dr. Marianna Pelsőczi Kovács Spádáné, Attorney-at-Law (**attorney's address**), and the director of XW institution, representing **name of the First Defendant**, residing at address of the First Defendant, including house number, **name of the Second Defendant**, residing at address of the Second Defendant, including house number, also represented by Dr. Marianna Pelsőczi Kovács Spádáné, Attorney-at-Law (**attorney's address**). In the case initiated for the establishment of a violation of personality rights, compensation, and related claims, during the hearing held, the court has issued the following

J U D G M E N T:

The court rejects the plaintiffs' claim.

The court orders the plaintiffs to individually pay HUF 10,000 (ten thousand) to the first defendant and HUF 60,000 (sixty thousand) to the second defendant within 15 days as litigation costs.

The unpaid procedural fee of HUF 180,000 (one hundred eighty thousand) and the expert fees of HUF 129,000 (one hundred twenty-nine thousand) incurred are to be borne by the state.

An appeal against this judgment may be submitted within 15 days of its delivery to the County Court of K. in four copies, addressed to the Szeged Court of Appeal.

The parties may, before the expiration of the appeal deadline, request in a joint submission that the appeal be adjudicated without a hearing. The appellate court shall adjudicate the appeal without a hearing if the appeal concerns only the allocation or amount of litigation costs, the unpaid procedural fees, the reimbursement of costs advanced by the state, issues related to preliminary enforceability, deadlines for performance, or requests for instalment payments, or if the appeal pertains solely to the reasoning of the judgment. In such cases, the appellant may request a hearing in their appeal.

R E A S O N I N G:

The court found the following facts:

The court established the following facts:

The first defendant is an educational institution specializing in the education of children with special needs, operating under a pedagogical program approved by the local municipal council.

The plaintiffs (I-III) attended this institution for several years. The first plaintiff was enrolled based on the initiative of their guardian, the second and third plaintiffs based on recommendations from their previous educational institutions, and the third plaintiff additionally based on parental enrolment following the second defendant's expert committee's recommendation.

Currently, the first plaintiff is in the 8th grade of the first defendant's school, the second plaintiff is in the 3rd grade at **Vocational School I**, and the third plaintiff has been attending the preparatory year for **Vocational School II** since the autumn of 2007. The third plaintiff was admitted without an entrance exam under an integrated education program but needs to repeat the school year.

The first expert examination of the first plaintiff was conducted at age
5; 6 upon the request and participation of their grandparent. Prior observations by the **X. Hospital’s special education specialist** indicated the need for “special development under specific preschool conditions” due to asthma-related issues since infancy. The plaintiff had not received institutional care prior to being recommended for enrolment in the first defendant's school by the second defendant. Their

educational status remained unchanged through mandatory control reviews, and no requests for a change were made by their legal representative. Current assessments indicate that the first plaintiff falls into the mild intellectual disability range. The ability structure shows consistent, comprehensive delays, and compared to age-appropriate normative values, the average developmental level of the first plaintiff corresponds to that of a 9-year-old. The weakest developmental area is in verbal working memory-executive function, corresponds to
5; 3-year old's level. Of the ability domains, only spatial reasoning achieved a performance in line with his age. His cognitive motivation is low.

The second plaintiff initially enrolled in a regular elementary school, but their first-grade studies were interrupted in the second semester. At age 8, they restarted first grade and repeated third grade. During the third repetition of the third grade, the first expert evaluation was conducted, which recommended continued progression in regular elementary school based on borderline intellectual performance. However, it was noted that if further academic progress remained unsuccessful, they should be transferred to a special curriculum elementary school following end-of-year failure. The second plaintiff repeated the third grade three times and, at age 11, was transferred to the fourth grade of the first defendant's school based on the second defendant's recommendation. Under the alternative curriculum, they consistently achieved excellent results. Subsequently, the plaintiff began a specialized vocational training program, pursuing studies as a house painter.

Regarding the second plaintiff's general intellectual abilities, they fall into the normal range but close to the threshold of mild intellectual disability. Their cognitive profile is highly uneven, with relatively stronger but still below-normative levels (3-4 years delayed) in memory functions, both verbal and spatial dimensions, and in knowledge applied in a "routine manner." However, tasks requiring more complex, integrative functions, such as situational recognition, interpretation, knowledge application, analogical reasoning, or causal thinking, reveal a lack of flexibility for knowledge transfer. Their thinking remains rigid, unable to exit the "mechanical channel," making it challenging to reorganize existing knowledge to meet novel situations. At concrete and clearly defined activities, they perform relatively well in activities, but for simple yet unconventional tasks requiring abstraction, they often avoid direct answers and request interpretive assistance.
In terms of social and adaptive behaviour, the second plaintiff demonstrates potential for smooth societal integration concerning social norm acquisition. However, intellectual limitations hinder them from acquiring higher levels of knowledge. A control committee opinion based on a personal evaluation was issued for the second plaintiff in 2004. During subsequent periodic control evaluations, their educational

status remained unchanged, with no requests from their legal representatives or expert recommendations for modifications.

The general intellectual abilities of the third plaintiff fall below average and within the spectrum of mild intellectual disability. From a special education perspective, they are considered to have learning difficulties and require special support to achieve successful and capable learning. Their thinking is tied to concrete matters, relying more on practical experiences than on seeking causal relationships. In verbal expression and personal independence, their performance is relatively better compared to tasks related to cognitive abilities.

Due to their mild intellectual disability, progress under a differentiated curriculum was justified during their education, and they also require additional special assistance for further vocational training. In terms of social participation, significant limitations are not expected due to their good adaptability in practical situations; however, their limitations manifest in the success of learning processes.

In September 2005, during a ten-day camp in **Y. City**, **the name of the psychologist,** with their two public education expert and special education colleagues examined several children. In their summarized opinion, all three plaintiffs were deemed to be of normal intelligence and suitable for education in regular school classes.

During the control examinations conducted by the second defendant, in addition to the previously noted cases, questionnaires were completed based on input requested from the first defendant's educational institution without personal examinations. These questionnaires indicated the areas where development had been effective, whether further development was needed, and in what areas, along with the teacher’s opinion on whether the child's educational status required any changes. Based on document analysis, the second defendant prepared an expert recommendation, the results of which were communicated in writing to the plaintiffs' legal representatives. The legal representatives of the plaintiffs did not receive written information about the possibility of legal remedies against the expert recommendations prior to initiating the present case. However, in most cases, the legal representatives signed the questionnaires that confirmed the unchanged educational status of the children, and it was recorded in the expert recommendations that the parents or legal representatives agreed with them.

The recommendations from the control examinations concerning the plaintiffs were appropriate given their current conditions, and they were placed in educational institutions suited to their abilities.

The Budapest Binet Test, which was used in the examination of the first plaintiff, is less influenced by cultural factors, as it primarily assesses elementary practical knowledge. For the second plaintiff, the widely used culture-free Cattell Intelligence Test was employed, which measures intellectual functions independently of school knowledge and the influence of the social environment. For the third plaintiff, the nonverbal Raven's Coloured Progressive Matrices, a culture-appropriate procedure, was used.

In the case of the plaintiffs, when selecting and evaluating the measurement methods, the social background and Roma characteristics were not separately evaluated, but no negative discrimination occurred.

The first defendant began and continued the education, training, and development of the plaintiffs in accordance with the expert opinions. The plaintiffs continuously participated in development aligned with their grade levels and as determined by the school.

The first plaintiff received rehabilitation-focused development sessions annually as part of the rehabilitation development framework, which remains ongoing. According to diary entries, the second plaintiff progressed in their studies according to the curriculum requirements. During the last two academic years spent at the first defendant’s educational institution, they were not named in rehabilitation development. The third plaintiff received individual or small group rehabilitation development every school year.

The County Court established the above facts based on the personal statements of the parties to the dispute and their representatives, the testimonies of **Witness I, Witness II, Witness III, Witness IV, Witness V, Witness VI, and Witness VII**, the submitted expert recommendations, expert opinions, and control examination questionnaires, the pedagogical-psychological expert opinions dated September 15, 2005, concerning all three plaintiffs, and the repeatedly supplemented expert opinions of the National Expert and Rehabilitation Committee of the Eötvös Loránd University Practice Special Education Service Center, appointed as forensic expert, as well as other procedural data.

In their claim, the plaintiffs initially requested a finding that the first defendant and the Municipality of **Z.** City with County Rights, previously a second defendant in the case, had violated their obligations under Section 30 of the Public Education Act, as in force at the time of the decisions or omissions by the defendants. They requested that the defendants be ordered to pay HUF 1,000,000 in non-pecuniary damages per plaintiff, along with statutory interest from the date of submission of the statement of claim, and litigation costs.

Subsequently, the plaintiffs withdrew their claims based on liability for damages in an administrative capacity and against the second defendant. Consequently, in its order no. 15, the court terminated the case concerning the Municipality of **Z.** City with County Rights and, as a result of the plaintiffs' subsequent inclusion, the **second defendant** in the case continued to be referred to as the second defendant.

The plaintiffs, in their amended claim, requested a declaration that the second defendant failed to comply with the applicable legal provisions during the conduct and communication of expert evaluations. Furthermore, they alleged that the repeated issuance of incorrect expert recommendations led to the plaintiffs being recommended for placement in institutions providing education that did not align with their abilities, thereby violating their personality rights. Additionally, they claimed that the first and third plaintiffs were directly discriminated against based on their ethnic origin, as they were classified not as normal but as mildly intellectually disabled.

The plaintiffs additionally requested a declaration that the first defendant is jointly liable with the second defendant for providing education that was not suited to the plaintiffs' abilities. They sought to require the defendants jointly, at their own expense, to eliminate the harmful situation in accordance with Section 84(1)(d) of the Civil Code by restoring the situation prior to the violation through the plaintiffs' catch-up education.
Furthermore, they requested the defendants be jointly required to pay non-pecuniary damages of HUF 1,000,000 per plaintiff, along with statutory default interest from the date of filing the claim, in accordance with Section 77(3) of the Public Education Act, Section 84(1)(e) of the Civil Code, and Sections 339 and 348 of the Civil Code. This claim was based on the infringement of their right to equal treatment, as well as for damages caused exclusively by the first defendant within the context of public education. The plaintiffs also requested that the defendants be jointly ordered to pay litigation costs.
To substantiate their claim, the plaintiffs referenced the judgment of the Grand

Chamber of the European Court of Human Rights in D.H. and Others v. Czech Republic, dated November 13, 2007, emphasizing that the second defendant's employees failed to consider the differing needs arising from the plaintiffs' ethnic backgrounds during assessments and evaluations. They argued that ethnic discrimination was evident, and that insufficient parental awareness or consent did not exempt the defendants from the obligation to ensure equal treatment.

The defendants' counterclaim sought the complete dismissal of the plaintiffs' claims and an order requiring the plaintiffs to bear the litigation costs.
The first defendant argued that the plaintiffs were enrolled in its institution based on expert recommendations, and it fulfilled its obligations in full compliance with applicable regulations, pedagogical methods, and expectations. It asserted that the plaintiffs received appropriate education and suffered no damages on any legal basis. The first defendant agreed with the findings of the expert opinions, noting that the plaintiffs were students with learning difficulties and special educational needs who were taught with appropriate expertise and differentiated development tailored to their abilities.
The second defendant contended that the plaintiffs, due to their mild intellectual disabilities, were classified as students with special educational needs and attended the institution best suited to provide the necessary specialized education. As a result of the education and development provided, their skills improved, their knowledge increased, and their personalities developed positively, which the second defendant attributed to the pedagogical activities conducted at the first defendant's institution. It also noted that the educational institution attended by the plaintiffs issued certificates equivalent to those from regular elementary schools, ensuring that the plaintiffs could continue their education at secondary schools based on their individual capabilities. The second defendant emphasized that the plaintiffs' parents or legal representatives were aware of the type of institution their children attended, did not seek legal remedies against it, and had never requested integration, transfer, or a review for relocation. The second defendant denied that the plaintiffs suffered discrimination based on race, nationality, or ethnicity, or that they experienced any violation of personality rights.

The plaintiffs' claims were unfounded.

In the present case, the County Court primarily had to determine whether the plaintiffs suffered any violation of personality rights due to the defendants, whether as a result of improper application of relevant legal provisions or other omissions, the plaintiffs received education at institutions unsuited to their abilities, and whether this education had adverse consequences for them. Additionally, the court examined

whether the violation of the plaintiffs' right to equal treatment could be established, taking into account the considerations outlined in the referenced Strasbourg judgment.

The court clarified that it was not tasked with addressing general questions of education and social policy (e.g., whether integrated or segregated education is more effective for children with special educational needs, a topic with varying professional and public opinions). Moreover, in accordance with Articles 13 and 41 of the European Convention on Human Rights, domestic courts are authorized and obligated to adjudicate rights violations based on national law. Judgments of the European Court of Human Rights are not binding on Hungarian courts as statutory law, as cases before the Strasbourg Court involve the Hungarian State as a party, and the judgments are issued against the State. Thus, such judgments influence Hungarian law through legal harmonization but are not directly applicable by Hungarian courts (as established in the Budapest Court of Appeal Judgment No. 5.Pf.20.961/2007/6).

This does not mean that the court does not consider Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on November 4, 1950, and promulgated by Act XXXI of 1993, which prohibits discrimination, as guiding in this legal dispute. However, in adjudicating the claim, the court must apply the harmonized Hungarian legal rules consistent with the Convention, including the rules on the burden of proof derived partly from substantive law provisions and partly from Section 164(1) of the Code of Civil Procedure.

In the present case, the Strasbourg judgment submitted by the plaintiffs regarding the burden of proof states that if the applicant demonstrates a difference in treatment, the burden shifts to the government to justify itself (paragraph 177). Statistical data alone cannot reveal discriminatory practices (paragraph 180), and indirect discrimination cannot be proven solely through statistical data (paragraph 188). If it is proven that a specific law has a discriminatory effect, it is unnecessary to demonstrate, even in the context of public education, that the competent authorities acted with discriminatory intent. If the evidence presented by the applicants is deemed adequate, reliable, and substantial enough to establish a strong presumption of indirect discrimination, the burden of proof shifts to the government, which must demonstrate that the difference in effect caused by the legal provisions stemmed from objective factors unrelated to ethnic origin (paragraphs 194, 195).

The County Court holds that, in light of the above, it cannot disregard the fact that,

in this case, the defendant is not the Hungarian State but institutions participating in the public education system. These institutions must perform their duties within the framework of the applicable legal provisions and under existing material and human resources.

Liability can only be established based on specific violations of the law committed by the defendants concerning the plaintiffs.

Under Section 75(1) of the Civil Code, everyone must respect personality rights, which are protected by law. According to Section 76(1) of the Civil Code, a violation of personality rights includes, among other things, breaching the requirement of equal treatment.

A person's rights are not violated by conduct to which they have consented, provided that such consent does not harm or endanger societal interests (Section 76(3) of the Civil Code).

The guarantees for the enforcement of students' educational rights are provided by the provisions of Act LXXIX of 1993 on Public Education (hereinafter: Public Education Act) and Decree No. 14/1994 (VI.24.) MKM on compulsory education and pedagogical services.

Section 4(7) of the Public Education Act obliges those involved in organizing, managing, operating, and executing tasks in public education to consider the child's best interests above all else in their decisions and actions. This includes ensuring the child receives all the support necessary to develop their abilities, talents, and personality and to continuously update their knowledge (point b).

Section 4/A of the Public Education Act, effective from January 27, 2004, also requires these participants to adhere to the principle of equal treatment. This principle ensures that every child and student in public education has the right to the same quality of care under the same conditions as others in comparable situations.

Section 10(3)(a) of the Public Education Act states that every child and student has the right to education and training that matches their abilities, interests, and aptitudes and to continue their studies in accordance with their abilities. Under point (f), they are entitled to specialized care appropriate to their condition and personal characteristics, such as special care or rehabilitation, and may seek assistance from pedagogical service institutions, regardless of their age.

Section 13(1) of the Public Education Act grants parents the right to freely choose the educational institution for their child. However, under Section 14(2), parents are

also obliged to take necessary measures to ensure their child's rights are upheld.

Section 30(1) of the Public Education Act provides that children and students with special educational needs have the right to receive pedagogical, special education, and conductive pedagogical services appropriate to their condition as part of special care from the moment their entitlement is established. Special care must be provided according to the expert opinions of the expert and rehabilitation committees defined in Section 35(2) of the Public Education Act and may include early development and care, preschool education, school education and training, and developmental preparation, depending on the child's age and condition.

According to Section 30(3) of the Public Education Act, educational institutions involved in special education or conductive education must have the personal and material conditions necessary to provide health and pedagogical rehabilitation services for children and students with special educational needs. The parent selects the educational institution based on the expert opinion of the Learning Ability Assessment and Rehabilitation Committee or the National Expert and Rehabilitation Committee.

Under Section 14(1)(l) of Decree No. 14/1994 (VI.24.) MKM, effective from September 12, 1998, the expert opinion prepared by the Expert and Rehabilitation Committee must inform the parent that if they do not agree with the expert opinion, they may initiate a review procedure with the notary of the municipality, city, city with county rights, or district in Budapest responsible for their child's place of residence or, if absent, place of stay. As of June 29, 2004, Section 15(1) of the same decree requires the expert opinion to be shared with the parent, and a copy must be provided or sent to them. During this presentation, the parent must be informed that the implementation of the expert opinion's recommendations can only occur if they agree and confirm their agreement in writing. Additionally, the parent must be informed that if they disagree with the expert opinion, the head of the Expert and Rehabilitation Committee is required—under Section 18(b) of the decree—to notify the notary responsible for the child's residence or stay. The notary will then decide on the fulfilment of compulsory education requirements within the framework of administrative procedures. The parent may appeal this decision to request changes to the expert opinion.

The earlier version of the same regulation, effective June 24, 1994, required informing the parent that in the absence of their agreement, the Expert and Rehabilitation Committee would initiate a procedure with the notary under Section

30(4) of the Public Education Act in the student's interest. Since September 12, 1998, the regulation has stated that parents disagreeing with the expert opinion could initiate a procedure with the competent notary to request changes to the expert opinion, and this must be communicated to the parent.

The 2003 Act XXV on Equal Treatment and Promotion of Equal Opportunities (hereinafter "Equal Treatment Act") specifically enshrines the principle of equal treatment for public and higher education institutions in Section 4(g). Sections 8(b), (c), and (e) define direct discrimination as treating someone less favourably than a comparable person or group based on race, skin colour, national or ethnic origin. According to Section 27(2)(a) of the Equal Treatment Act, the principle of equal treatment must particularly be upheld in connection with education regarding the conditions for participation and the evaluation of admission applications.

In this case, procedural deviations included the lack of documented written information provided to the legal representatives of the plaintiffs regarding potential legal remedies. Furthermore, during control reviews, the legal representatives' signed consent to the expert opinions was not documented. However, it is a fact that the legal representatives accepted and agreed with the expert recommendation regarding the school status of the second defendant. For more than a year after the expert opinion recommending normal school education, dated September 15, 2005, no legal proceedings were initiated to challenge it.

The court, essentially based on the mutual request of the litigants, appointed the National Expert and Rehabilitation Committee of the Eötvös Loránd University Practice Special Education Service Center as an expert in this case.

The five-member committee, composed of a senior child psychiatrist, a child protection expert, a special education teacher specializing in oligophrenia and speech therapy, a psychologist, an expert in public education, a special education teacher specializing in speech therapy and pedagogy for students with learning difficulties, a psychologist, a special education teacher specializing in the pedagogy of intellectually disabled individuals and somatic pedagogy, a therapist, a specialized pedagogue, and other experts, reviewed the complete case file, including documents related to the plaintiffs' previous school education and expert evaluations. The committee conducted a comprehensive educational-psychological-medical personal examination of all three plaintiffs. The expert opinion covered previous records, anamnesis, psychological assessment, perception and memory, expressive speech,

learning motivation, pedagogical and medical examinations, addressing the questions posed by the court and the parties, including the plaintiffs' requested supplements.

In the repeated procedure, the expert evidence extended to the examination of documents provided on-site by the first defendant, including the educational program affecting the plaintiffs, the local curriculum, registration logs, institutional control procedures, reports submitted to the maintaining authority, and documents related to the plaintiffs' development (such as school records, activity logs, individual development logs, and individual progress reports for health and educational and rehabilitation).

The conclusions of the supplemented expert opinion determined that all plaintiffs were placed in educational institutions appropriate to their abilities. The recommendations of the control examination opinions were deemed accurate in light of their current conditions. No negative discrimination occurred regarding the methods of measurement employed by the defendants. The opinions based on documents requested from the first defendant were interpreted as tracking development progress. The textual interpretation of the psychometric indicators in the defendants' opinions adhered to professional standards (there is no legal provision requiring personal examination for control reviews in the plaintiffs' cases). All three plaintiffs exhibited comprehensive cognitive impairments, explaining the persistent learning difficulties observed in school skills. Consequently, subject-specific catch-up to the level of their age group was not feasible.

No evidence indicated that the first and third plaintiffs were disadvantaged due to their ethnic origin or Roma background, whether in terms of measurement methods or any other factor. According to the first defendant's institution head, no records are kept on students regarding such factors. **Witness III** also testified to the use of neutral methods irrespective of origin.

The control examination opinions lacked specific identification of development areas, though the questionnaires used to issue the opinions specifically addressed areas requiring pedagogical support. At the first defendant's school, the plaintiffs progressed steadily and met the institution's curriculum requirements according to their abilities. They received development appropriate to their abilities and justified on professional grounds.

The students at the first defendant's educational institution were provided education

and care in accordance with legal regulations. The first defendant commenced and continued the plaintiffs' education, care, and development as described in the expert opinions. Over the years, all three plaintiffs were educated and developed in line with the expert opinions and the external and internal regulatory criteria of the specialized curriculum school.

The plaintiffs attached pedagogical-psychological expert opinions dated September 15, 2005, as annexes to their statement of claim to support their arguments and provide an objective investigation. They also requested the testimony of psychologist **Witness VI** to this end. However, the County Court evaluated these opinions not as direct statements from the plaintiffs but as unspecified evidence.

The private expert opinion cited was based on a personal examination conducted over a short period, while the court-appointed expert opinion was prepared using a comprehensive methodology. This included a review of the plaintiffs' multi-year school progress beyond personal examinations.

The County Court accepted the testimony of **Witness VI**, who did not personally know the plaintiffs, that complex diagnostics tailored to a child's characteristics, cultural, and linguistic background best meets professional expectations. Nevertheless, the evidence and the supplemented expert opinion showed that complex monitoring occurred during the plaintiffs' pedagogical development. In the developmental environment, signs of poor performance caused solely by social circumstances would have surfaced. No such indication was found in the plaintiffs' cases (**expert's name** expert testimony, Transcript No. 7, Page 11).

In the repeated procedure, **Witness VII**, Deputy Head of the Equal Opportunities Department of the Ministry of Education and Culture, gave a general statement about children unjustifiably classified as disabled and placed in special schools, citing the segregation of Roma children as one such form.

Witness VII stated that since 1993, there have been no official statistics on ethnicity-based records (a point confirmed by the head of the first defendant's institution for practical reasons). However, research results indicate that the proportion of Roma students among those classified as disabled has significantly increased. Witness VII did not have data specific to county **K**, noting that the county is not among those with a high concentration of Roma population.

Reports from the European Commission against Racism and Intolerance (ECRI) on Hungary (No. P.7/F/1) mention the redirection of Roma children to schools for children with intellectual disabilities as a general problem. The reports suggest

stricter rules based on culturally appropriate IQ tests to ensure that only children with genuine intellectual disabilities are placed in special schools. The ECRI report of June 18, 1999, also stated: "Despite repeated tightening of the rules for placement in such institutions, Roma children still make up half of the students in these schools, which do not provide opportunities for further education or employment."

This issue was highlighted in the sociological research materials referenced by the plaintiffs, expert materials prepared by the Roma Education Fund, the "Fairness in Education" publication provided by **Witness VII**, and data from the Ministry of Education's "From the Back of the Class" program.

However, the County Court found that these claims did not provide sufficient basis to establish an overrepresentation of Roma students in the first defendant's institution in County **K** that would shift the burden of proof onto the defendants regarding the plaintiffs' claims.

Additionally, the Strasbourg judgment submitted by the plaintiffs applies less stringent rules of evidence to the state, not to its institutions with limited responsibilities and capabilities. In the present case, no evidence suggested that the plaintiffs were placed in the first defendant's institution due to social disadvantages (paragraph 170), nor was any difference in treatment based on ethnicity or other factors demonstrated (paragraph 177). Furthermore, there was no indication that the plaintiffs were treated disadvantageously without objective and reasonable justification (paragraph 183).

The County Court deemed the plaintiffs' requests for further supplementation of the expert opinion or the appointment of another expert unnecessary.

The supplementary expert opinion obtained in the repeated procedure, communicated by the **expert's name** on October 24, 2008 (No. 20), revealed that the expert investigation also included retrospective examination and verification of documents related to the plaintiffs' placement in the first defendant's school. The excellent results achieved by the second plaintiff in the 7th and 8th grades adequately explained why the individual development hours allocated to the group were not specifically designated for the second plaintiff during those years.

The County Court found the supplemented expert opinion to be credible and convincing, adopting it as the basis for its judgment. The court emphasized that procedural errors in the control reviews and the occasional omission of personal examinations did not call into question the appropriateness of the plaintiffs' enrolment in the first defendant's institution.

The court did not attribute significant legal relevance to the legal representatives' consent in its assessment of the case.

In view of all the above, the County Court did not find it proven or established that the defendants violated any of the plaintiffs' rights to education appropriate to their abilities or the requirement of equal treatment. Nor did it find evidence that the first and third plaintiffs were discriminated against by the defendants based on their ethnic origin or that the first defendant provided the plaintiffs with education inconsistent with their abilities.

The developments in the plaintiffs' academic progress since the initiation of the case—despite the learning difficulties encountered—along with the opportunities for further education provided by the first defendant's institution, which aligned with the plaintiffs' abilities and facilitated steps toward independent living, supported the validity of the defendants' arguments.

Section 77(3) of the Public Education Act contains a specific provision regarding the basis of liability for damages. It states that kindergartens, schools, dormitories, or practical training organizers are fully liable for damages caused to children or students in connection with kindergarten placement, student status, dormitory membership, or practical training, regardless of fault. The provisions of the Civil Code apply to compensation, with the additional stipulation that the educational institution or training organizer can only be exempt from liability if it proves that the damage was caused by an unavoidable event outside its operational scope. Damages do not have to be compensated if they were caused by the victim's unavoidable behaviour.

Under Section 339(1) of the Civil Code, which establishes the general rules for liability, the party seeking compensation must prove the unlawful conduct of the party causing the damage, the damage itself, and the causal link between the two. However, under the specific rule mentioned above, exemption from liability is possible if the party causing the damage can prove the existence of an unavoidable external cause.

Regarding non-pecuniary damage, the assessment of unlawful conduct is unique because such unlawfulness is based on the legal protection of personality rights. Judicial practice uniformly holds that the violation of personality rights alone provides grounds only for establishing unlawful conduct. Under Section 84(1)(e) of the Civil Code, the injured party can claim non-pecuniary compensation only if they prove the occurrence of harm that justifies such compensation (*Decisions Archive EBH2000.300*).

Based on the above, no violation of personality rights by the defendants, nor any related damage or disadvantageous situation, could be established for any of the plaintiffs in this case. Therefore, there was no basis for awarding damages or applying Section 84(1)(d) of the Civil Code.

Given the lack of legal grounds, the court did not conduct additional evidence gathering regarding the amount of damage, and the plaintiffs made no further evidentiary requests on this matter beyond the case data available. Nevertheless, the court believed that if any of the plaintiffs' claims had been substantiated, the claimed damages would not have been considered excessive and could have been decided through judicial discretion without further evidence.

For these reasons, the court dismissed the claims of Plaintiffs I-III and, under Sections 78(1) and 82(2) of the Code of Civil Procedure, ordered the unsuccessful plaintiffs to pay the defendants' legal fees as litigation costs in equal proportions. The legal fees were determined in accordance with Section 3(2)(a) of Decree No. 32/2003 (VIII.22.) of the Ministry of Justice, taking into account the VAT exemption of the defendants' legal representatives, the costs determined by the Szeged Court of Appeal for the appellate procedure, and the fact that the first defendant was only represented by a lawyer in the previous appellate and repeated procedures.

Due to the object of the case qualifying for fee deferment and the plaintiffs' entitlement to personal cost exemption, the unpaid procedural fees and expert costs advanced by the state were borne by the state under Sections 13(1), 13(2), and 14 of the amended Decree No. 6/1986 (VI.26.) of the Ministry of Justice.

Kecskemét, October 31, 2008

. Vajda László s.k.
Judge