

**THE RACIALIZED CONSTRUCTION OF DISABILITY AND  
EDUCATIONAL SEGREGATION IN POST-SOCIALIST HUNGARY**

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Anna Ványa

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## **ABSTRACT**

This thesis explores the educational segregation of Romani pupils in the Hungarian education system, particularly their overrepresentation in special needs education, under the label of mild intellectual disability. This research is grounded in critical disability studies, and it aims to explore the mechanism of racialization of disability in Hungary. It focuses on landmark juridical cases such as *Horváth and Kiss v. Hungary* to *Szolcsán v. Hungary* to tackle how the social and political context influences the educational inequalities, and how the articulation of disability changes over time and context. It builds on Crip of Color critique, and the biopolitics of debility, as articulated in the work of Jasbir Puar, to work through the tensions that arise at the intersection of racialization and disability.

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## INTRODUCTION:

When I started my Bachelor's program in special needs education and disability studies in 2019/20, the news was all about a recent case of educational segregation of Romani students in Gyöngyöspata, a small town in northeastern Hungary. I was anxiously following the news about the case, the battle between the government and the representatives of the Romani community, and the protests organized in solidarity. “Gyöngyöspata” was becoming the new buzzword of the governing right-wing populist party Fidesz, but then the news about the COVID-19 outbreak took everything by storm and attention quickly shifted away from the case. Still, I remember it well and how strange I found it that during our university courses on disability and education, we rarely addressed the issue of ethnic segregation, or the disproportionate representation of Romani students in classes for students with mild intellectual disability, even though this phenomenon was well-known to everyone.

Now that I have more space for a thorough analysis in my master thesis, I chose the topic of educational segregation. I am interested in diving into the complex issue of overrepresentation of Romani students in the Hungarian special needs education system. This phenomenon has a long tradition, and most of the data on the extent of this practice is from the state socialist period. During the school year of 1974/75, 11.7% of Romani students attended special needs education, and this number grew in the following years. By the year 1984/85, it reached 17%, while among the non-Roma population, only 2% attended special needs classes (Havas & Kemény & Liskó, 2001). The most recent data I found was in the report from 2024 to the Rosa Parks Foundation done by researchers Adél Kegye and Ágnes Kende. They focused on Romani pupils who received the classification of having “special educational needs.”, and they were interested to see whether the practice of labelling the children with intellectual disability is still a viable mechanism of



segregation. As they write, there is a lack of fresh data on national level, but an exception from that would be Heves County in north-eastern Hungary, where in compliance with a recent ruling, the Ministry collected data in 2021, which revealed that in the county, 23% of pupils with special educational needs (SEN) are Romani, and this percentage has remained stable in the past three years. In the school year of 2021/22, 11% of Romani students had SEN, in contrast to 3% of non-Romani students.<sup>1</sup> However, there was no data available on how many percent of the students with SEN receive integrated or segregated education. When looking at the different categories under the collective label of SEN, it appears that Romani students are most overrepresented in the category of mild intellectual disability, where they constitute 43% of those diagnosed. Interestingly, within the other disability categories, the proportion of Romani students is strikingly low. Of course, the situation and numbers might look different in other counties, but overall, these statistics could be indicative of the fact that Romani pupils are more likely to be considered having SEN than non-Romani pupils. The data reveals that the overrepresentation of Romani students in special education, and specifically under the category of mild intellectual disability, is still an existing issue, but the extent of it changed over time.

Acknowledging this data, it seems there are different mechanisms of racialization for different categories of disability. My research was guided by the following questions: How has the concept of intellectual disability been racialized and employed as a tool to segregate Romani students in Hungary? How do regional differences play a role in the process of racialization? As a sub-question, I am also interested to see what processes are behind the changing extent of the special

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<sup>1</sup> This data was based on perception (third-party identification).

education segregation. How have the political and social changes in the recent decades affected the question of educational segregation?

In my first analytical chapter, I will focus on how intellectual disability has become so heavily intertwined with racialization of the Romani communities, and what steps were taken in Hungary to reduce this phenomenon. In my second chapter, the contemporary processes of racial segregation will be investigated, and how the neoliberal transformation and the later turn to the right-wing has affected the mechanisms of educational segregation.

What strikes me most is that despite the large amount of literature and the intense scholarly interest in the topic, it has not been adequately addressed from the intersection of racialization and disability. In fact, it seems that (maybe strategically) scholarship and advocacy work related to Romani segregation do not engage with the question of disability, and on the other hand, disability studies scholarship in the region is yet to meaningfully engage with race and racialization as analytical categories. There seems to be tension within the fields, and the way disability has been employed as a category to further dehumanize racialized populations made it more difficult to create an intersectional analytical framework. I am interested in working towards resolving some of the tension, or to see a way through which the fields can engage more meaningfully with one another, as I believe that new insights can be gained when the analysis considers both race and disability together—in the spirit of the claim that “critical analyses of race that do not attend to questions of disability and debility as well as critical analyses of disability that do not attend to questions of race and racialization are doomed to theoretical and empirical oversights” (Reynolds, 2022, p. 50).

While I understand that the topic of educational segregation has been dissected many times in academic research, I hope that through my theoretical framework, which builds on the works of

feminist and queer scholars, I can participate in expanding feminist analyses of structural inequalities. While I focus more on the aspect of racialization and disability, the concept of gender is not completely tossed aside. For instance, generally speaking, boys tend to attend special needs education in larger numbers than girls. However, it is hard to find data on gender differences among racialized populations in special education. The exception would be a report from 2010 by Open Society Institute on Roma children in Serbia (cite), which says that at both the primary and secondary education levels, Roma boys are overrepresented in special schools compared to Roma girls. In the 2007–2008 school year, girls made up 43% of Roma students in special education, while boys accounted for 57%. The following year, girls comprised 38% and boys 50%, with gender data unavailable for 12% of students. The lower proportion of girls may partly be explained by the fact that some Roma girls do not attend school at all due to early marriage. This trend appears even more pronounced at the secondary level, suggesting that early school dropout among Roma girls may contribute to their underrepresentation in special education. Interestingly, in the cases I analyze throughout the thesis, the applicants who challenged their diagnosis were all Romani men, but there is not much conclusion to be drawn from that. I rather see the problem that in statistical data, the approach is rarely intersectional, as they mostly focus on gender or race as separate categories.

In the following sections, I will contextualize my research and provide a short overview of the historical and social context.

### **The concept of race in Eastern Europe**

The categories of race and racialization play an important part of the analysis in this thesis. While they reflect global power hierarchies, such concepts rarely have been employed as an analytical

lens in the field of Eastern European studies with exception in the work of scholars like Anikó Imre, Ivan Kalmar or Catherine Baker and others. In the following section, I will explore different historical, societal and political factors to understand this lack of engagement, and to provide an argument, that despite the “popular” belief, race has indeed played (and continues to play) an important role in the formation of national identity and belonging in the region. As my thesis will also show, the formation of non-Roma privilege and white supremacy have such strong systemic effects that they should be always kept in mind during analytical work, even if one’s research does not explicitly center around them.<sup>2</sup>

Overall, the lack of engagement with race and racism as analytic concepts is not limited to Eastern Europe, but to the whole of Europe, although there are further complications in Eastern Europe. Böröcz (2021) recalls a presentation in Budapest about the situation of Romani communities in Europe, where the presenter from a Scandinavian university avoided to use the terms race and racism. When he was asked why he did not engage with them, since his examples could be understood as textbook illustrations of them, he answered: “We don’t have “race” in Europe. That is an American concept.” This answer is far from a unique standpoint. But how did Europe come to construct and maintain an image of itself as “raceless”?

I share Böröcz’s (2021) argument that it is not true that “there is no race” in Europe, but rather there is a refusal to accept its existence in social and global power hierarchies. Dismissing race as a merely “American concept” serves the denial of its West European origins and the centrality of Western Europe in the long history of colonialism. Some scholars attribute the contemporary silence on race to its problematic history and association with scientific racism, eugenics and the

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<sup>2</sup> To give an example, while the current pronatalist policies in Hungary attract significant scholarly interests, the underlying white supremacist and anti-Roma design of them have rarely been acknowledged.

Holocaust. Möschel (2007) explains that in Europe after the end of World War II, a colorblind approach to race took over, as the horrors of the Holocaust and racism were now seen as part of history, and it was ensured that something like this should never occur again in the territory. However, this post-war color blindness also did not appear in a vacuum. As Böröcz (2021) writes, Europe has a long history of colonial violence and racial hierarchy (which then also brutally manifested in the genocidal logics of nazism and fascism) and it created a discomfort around the very concept of race, and the following several generation-long “mind cleansing” from explicit racial aggression made it difficult to address the continued existence of race. In Eastern Europe, due to the period of socialism and the semi-peripheral position of the region, the relationship to race and racism is even more complicated.

The way “whiteness” has been operating slightly differently in Europe’s east has been observed in some scholar’s work. It has been described as “dirty whiteness” (Böröcz, 2021), “white but not quite” (Kalmar, 2022) or the recent book on whiteness and Eastern Europe is titled “off-white” (Baker, Iacob, Imre & Mark, 2024). All these terms reflect the ambiguous racialization that comes with being in the position of the semi-periphery.

Feminist scholars working on state socialist Eastern Europe, such as Miglena S. Todorova, Vera Sokolova and Celia Donert, have made attempts to incorporate race/ethnicity into their analysis to highlight power structures. As historian, Miglena S. Todorova (2021) writes, during the period of state socialism in Eastern Europe, there was certain a contradiction in state ideology when it came to race: while the state supported anti-racist and anti-colonial movements worldwide, it portrayed the Roma population as threat to the nation, and as an “obstacle” in building the perfect socialist state. While the socialist states were committed to racial and social equality, they also constructed a universalist socialist citizen, who was racially white and culturally, morally specific to European

modernity. Todorova (2021) refers to these contradictions as socialist racialism. While building her theory, she referred to the words of Audre Lorde, Black feminist from the United States, who visited the Soviet Union in 1976. After her visit, she said that Black people were outside of the rhetoric of solidarity, and Soviet socialism communicated double messages; on the one hand, it promoted collectivist economy, mass education, material progress and social equality, but on the other, it privileged white European identities. As Todorova (2021) concludes, that socialist racialism operated differently from racism (for instance) in the United States; racism produces violence through exclusion and division, socialist racialism caused violence by seeking togetherness and inclusion. That meant targeting Roma and Muslim communities, and while they received state support for housing, education and employment, this operated by violently erasing their identities and it required assimilation. By creating the universalist citizen, and the state's commitment to racial equality, the notion of racism was seen as a problem of elsewhere, as the socialist society was seen as inherently non-racist, as Alamgir (2013) writes. In that sense, any attack against ethnic and racial minorities was seen as justified, as if they provoked it by their behavior. The notion of non-racist society made it difficult to report and tackle racist atrocities.

Overall, this vision of “non-racist” society still persists in the region, and it makes it very difficult to point out and target the pervasive racism. Instead of employing an intersectional analysis, in Hungary for instance, strategic frameworks often equate Romani communities with poverty, and target the issue only on the basis of economic ground. A good example for this would be the Hungarian social integration strategy from 2011-2020, which was titled “Extreme poverty, child poverty and the Roma” (Fényes, 2019). This lack of regard to racial discrimination and to the role race continues to play in access education, also shows up in ways related to the overrepresentation of Romani students in special education. As mentioned before, due to the lack of centralized data,

it is hard to accurately assess the extent of the issue. As Kende and Kegye (2024) in their report also write, the category of multiply disadvantaged (HHH) was indicative of the attendance of Romani children, until 2013, when the criteria of this category was changed, and now the changed legislative environment has less interest in the data collection (after 2013, there was a decrease in the number of children who were considered disadvantaged). The lack of reliable statistics also makes it difficult to create educational policies that effectively target disadvantaged students. In another note, reducing the educational segregation of Romani students to solely economic disadvantage further constitutes the idea that race does not play a role in creating inequalities.

### **Anti-Roma Racism and neoliberal transformation**

Several research and ethnographic work revealed how the neoliberal transformation negatively affected the Roma population, in terms of shrinking job and educational opportunities in Eastern Hungarian villages. As inequalities increased since 1989, the tension between the Roma and non-Roma population has also risen. For example, Judit Durst (2002) start her work by highlighting that after 1989, demographic behavior also changed in Hungary: fertility rate decreased, and age of childbirth rose among those who are middle-class, while in poorer Romani communities the opposite was typical: the age of childbirth decreased significantly and also the fertility rate increased. There were many alternate theories created to explain this shift, some of them pointed out “traditional Romani culture” while others focused on “inherited biological factors” within the community to make sense of this difference between the middle-class non-Roma and the impoverished Romani population. However, Durst argues that none of these theories are true. Rather, this shift in reproductive behavior was brought about by the neoliberal transformation which foreclosed the possibility of upward social mobility for the Romani communities who live

in smaller towns and villages. As educational and job opportunities shrunk, giving birth at a young age became the way to be part of the local adult society.

It is crucial to understand how the transformation to neoliberal capitalism affected Romani communities and racial inequalities. The unemployment rate heightened drastically among Roma communities in the years following the transition, which led to heightened ethnic tensions. These circumstances also affected the situation of educational segregation.

### **The Changing role of NGOs**

As NGOs play an important role in the cases I analyze, it is important to see the context they emerged in and what they came to represent in the public's consciousness. Public life after 1989 was divided. Gagyí (2016) explains the polarization of the post-socialist elite in Hungary, by showing the main divide between conservatives and the coalition of the liberals and socialist. After the regime change in 1989, the conservatives (the FIDESZ party for instance, which actually started out as liberal in 1988, then shifted to conservative ideology a couple years later) claimed to defend the "national interest" from the old communist power and foreign capital, invoking national identity. On the other hand, the socialist and liberals positioned themselves as in the side of democracy which needs to be defended against the conservatives' idea of "national interest" which they claimed to be antisemitic. It associated "democracy" with the establishment of Western-style market and democratic institutions, and if needed, even against local resistance, and with the support of Western dominant figures. The expression of economic dissatisfaction was stigmatized under the label of irresponsibility and immaturity, and was associated with the conservative side's popular nationalism, seen itself as a threat to democracy. This rhetoric allowed the conservative side to rely on the liberal's dismissal of economic dissatisfaction and their



belittling of the local population, and to present themselves on the side of the average Hungarians against the Western interest.

This type of reasoning is still recognizable in the rhetoric of the current, FIDESZ-led government. They position themselves as protector of the nation's sovereignty from foreign actors, which are identified as the European Union ("Brussels"), the Soros-network and different civil society organizations. Timmer and Docka-Filipek (2018) write that the number of NGOs tripled after 1989 in Hungary, and financial support was widely available for them, as they were seen as vital elements in the transition from "dictatorship" to "democracy". After 2004, the year when Hungary with many other countries from the former Eastern Bloc, the interest moved elsewhere, as the transition to liberal democracy deemed to be succeeded.

Timmer and Docka-Filipek (2018) examine how the roles of NGOs changed during the current right-wing populist government. In 2015, when an increased number of asylum seekers entered Europe, humanitarian organizations and NGOs mobilized to help refugees and meet their needs. The Hungarian government took a xenophobic turn and issued anti-immigration legislations. When NGOs continued their work and advocated for refugee rights, they started to be portrayed as enemies of the nation. In such turn, the organizations came to see themselves as fighters against fascism, and their role in the eyes of the government and wider public changed, even though their activities remained the same.

### **Romani Rights NGOs and Neoliberalism**

When Hungary was in the process of joining the European Union, there was an increased attention paid to Romani rights. Timmer and Docka-Filipek (2018) refer to political scientist Robert Jenkins who claimed that Romani rights became a point on which the prospective member states could be measured and critiqued. Jenkins claims that Hungary was in a favorable economic and political

state in 2004, but the Roma minority faced adverse conditions. Consequently, Hungarian NGOs shifted their attention to Romani rights, providing job training and afterschool educational programs. By doing this, they enabled the government to persist with its no-policy approach towards the Roma minority.

As Kóczé and Trehan (2009) write, “Roma rights movement” emerged in the region at a time of overwhelming neo-liberal policy consensus in post-socialist Europe, and one of its development was the marketization of human rights, through the intervention of human rights entrepreneurs. Several organizations, that play vital role in the analyzed cases in this thesis, namely the European Roma Rights Centre and the Chance for Children Foundation are both affiliated with the Open Society Institute (OSI) (now Open Society Foundation), founded by billionaire George Soros. Along with other organizations, the ones supported by OSI form the backbone of the Roma rights movement in the region (Kóczé and Trehan, 2009). These organizations seek justice through legal means, strategic litigations being one of their tactics, following examples from in the United States. Kóczé and Trehan (2009) point out that through these means, a power imbalance is created between the (usually non-Romani) lawyers and their Romani clients whose case are taken up by the NGO for the purpose of strategic litigation.

Kóczé and Trehan (2009) highlighted that within the movement which is dominated by such organizations, advocacy leadership is largely dominated by Western (mostly US American) human rights entrepreneur, followed by the Eastern European non-Roma elites, moving down to the Romani elites (urban, highly educated Roma) and to the local Romani communities. As the authors argue, this hierarchical structure reflects postcolonial racism, which is shaped not only by material resource disparities, which would be the influence of American philanthropists who have positioned themselves as key actors in the Romani cause, but also by systemic power dynamics.

These dynamics reinforce the perception of "Eastern otherness" as subordinate to "Western normality" (Kóczé and Trehan, 2009, p. 71).

There is more to this contrast than the material advantages of the US American donors. At that moment in time, in the late 1990s, when the NGOS emerged, the region of formerly socialist Europe was emboldened with the vision of "cruel optimism" as Kolářová (2014) puts it. The alleged failure of socialism/communism served as a projection to the imagined success of capitalism. At the time, the region was (and still is, to some extent) also marked by the notion of "catching up" to the West.

To illustrate how such NGOs interact with the local communities, I will rely on an example provided by Kóczé on the work of an NGO, specifically targeting Romani women. Kóczé (2016) writes that many Romani women in the region of Central and Eastern Europe are employed by different NGOs, under the guise of "women empowerment", and a number of Roma NGOs specifically target Romani women. The concept of Romani women empowerment reflects the ideology of neoliberalism, which promotes "self-responsible" subjects, as many projects targeting specifically Romani women are simply a "compensation" to the lack of welfare and shrinking social benefits. An example for that could be the Roma Mothers Centres in Hungary, financially supported by the Open Society Foundation. The purpose of these centres was to function as self-help groups for mothers to ease access to services (healthcare, childcare, education, etc.) and to significantly contribute to community development through shared activities. The goal was that, over time, it could aid in Roma self-organization efforts and foster the development of advocacy abilities and social inclusion. After around 3 years, all Roma Mother Centres shut down due to lack of funding from the Open Society Foundation. These centres, based on the mother's involvement, were there to address the lack of social, educational and health services available for

Roma communities. However, they relied on the low-income mothers to do voluntary work to sustain the centre, and the program promoted an individual responsibility for systemic racialized and gendered oppression.

## **METHODOLOGY, POSITIONALITY AND REFLEXIVITY**

This thesis employs a critical, interpretive methodology to examine how disability is constructed, racialized, and deployed as a mechanism of governance in the educational segregation of Romani children in Hungary. I approach both race and disability as politically, historically and socially constructed categories. Following Julie Avril Minich's call for "disability as methodology" (Minich, 2016), I am interested in shifting disability from a noun — a stable identity category — to a verb, a mode of critical analysis rather than an object of study. In this methodology, disability studies involve not only looking at mental and bodily impairments, but also at the social and political structures and norms that define particular attributes as impairments. In this framework, if we are concerned with the politics of difference, the reach of the field broadens, and it extends to include even what is not immediately recognized as disability. Minich (2016) understands this shift from noun to methodology as a process that brings the field closer to its original commitment to social justice work. The commitment to movements of liberation does not only involve the US disability rights movement, but other liberation movements for people whose mind and bodies have been devalued and pathologized but might not identify as disabled. This understanding of the field is particularly relevant for the topic of this thesis, as it would be counterproductive to try to define a subject of analysis, or to apply a medical or identity-based approach to disability. Similarly, I am also interested in turning back to the original commitment of the field, to liberation movements, which can identify the violence of institutions and systems and thus critique them,

instead of the “normalization” practices and approach that are prevalent in neoliberal inclusionism. Minich (2016) also argues that the recognition of liberation movement is critical due to the lack of engagement with the question of race from disability studies scholars.

The research is grounded in critical discourse analysis, focusing on legal cases that have directly challenged segregation — including *Horváth and Kiss v. Hungary* and *Szolcsán v. Hungary*. I chose these cases because they are the most accessible and influential. Since they both have been represented at the European Court of Human Rights, they are seen as the ones that best exposed the violation of rights. I also note that they are not individual and isolated cases, but rather representatives to highlight the systemic nature of segregation and show the continuum of practices that uphold it. I find critical discourse analysis particularly useful for examining how discourse not only reflects but reinforces and shapes social power hierarchies.

I approach critical discourse analysis as analytical research to study the way social inequalities and power are reproduced, legitimized and resisted through text and talk in the social and political context (van Dijk, 2015). As van Dijk writes, critical discourse analysis is not a singular method, but rather relevant methods in the humanities and social sciences may be used. Rather than generating new empirical data, this thesis reinterprets existing cases and documents to ask how systems of segregation adapt when traditional diagnostic mechanisms are no longer politically tenable. I focus on the discursive, institutional, and legal mechanisms through which exclusion is legitimized, and on how race shapes access to disability rights and services in contemporary Hungary. This methodology allows for a critical interpretation of not only what is said or written about Roma students and disability, but also how categories like disability itself are employed to legitimize exclusion and to uphold existing power structures.

This research does not involve interviews or direct engagement with vulnerable populations; it relies solely on publicly available legal texts, policy documents, and published reports. However, ethical care has been taken in the framing and representation of the Romani community. I also intentionally wanted to shift a focus to the legal and educational system, due to the fact that many research that is concerned about the segregation of Romani communities focuses on “the segregated, not the segregator” (Fényes, 2019) and tries to find an answer to the hardships in “Roma culture”.

### **Positionality And on the Role of The Teacher**

The topic of educational segregation and the overrepresentation of Romani children under the category of intellectual disability has long been on my mind, ever since I started my first year of my bachelor's degree in special needs education in a university in Hungary. My decision to choose this topic for my master's thesis has been informed by the responsibility I feel as a now graduated special needs teacher, because the representators of this profession have played a crucial role in the process of educational diagnostic measures, and overall, in the educational segregation of Romani students. I think that this role and the responsibility that comes with it have not been addressed properly (or at all) within the “society” of special needs educators.

Bánfalvy (2003) examined some common characteristics of the so-called “special education society”, and I more or less fit into these categories. First of all, teaching professions or any profession that involves care work are heavily gendered in Hungary. More than 90% of special needs teachers are women, although the proportion of men is higher in senior lead positions. I also identify as a woman, and I noticed throughout my time in the university and in various educational institutions where I interned how the profession continues to be gendered via interactions and the

dynamics at the workplace. I highlight it here, because the image of special educators as highly feminine and caring professionals influences the way their roles have been examined and approached in the segregation processes.

Secondly, Bánfalvy (2003) notes that most special needs teachers come from a middle-class background. Many of them have parents who have worked in a similar field (teachers, special needs teachers, public administration, public servants, health care workers, etc.). There are relatively few of them whose parents are unskilled manual workers, but also few of them have highly qualified managerial intellectual parents. Similarly to that, both of my parents worked as teachers, who encouraged me to pursue further studies. Like many other special needs teachers, I also come from a smaller town but moved to the capital city during my university studies. Although Bánfalvy does not mention the ethnic background, it is safe to assume that most special needs teachers are non-Roma. I find it important to include this short summary here on the general characteristics of the profession to portray the power structures within which the professionals operate in relation to the Romani population whom they work with. As I mentioned earlier, I approach disability as a socially constructed category, and in this construction, special needs teachers play a very important role. The idea of what constitutes “deviant” or “having special needs” is approached through the social positionality of the special needs teacher. Similarly, as I have been also trained in this profession, I absorbed the values of the field. I approach this project with the aim of critically examining the often-presumed neutral and objective position of my profession. Most importantly, however, I wanted to highlight my role as a non-Roma researcher writing on a topic that largely concerns the situation of Romani people in Hungary. It would be irresponsible of me to say that I have not benefited from my non-Roma privilege. I have had access to spaces without anyone questioning my abilities. Right now, I am pursuing a higher education degree

abroad, which already puts me in a very privileged position. While anti-Roma racism runs deep in Hungary, our position as the “white majority” often goes unquestioned. While writing this thesis and attending classes in critical Romani studies, I realized how rarely I have been invited to reflect on what my whiteness as property does for me in my life and how it influences my perception of the world.

I wanted to reflect on the problematic role non-Roma scholars have played in the field of Romani studies, and on the question of why, despite being aware of this, I chose this topic for my thesis as a non-Roma researcher. Matache (2017) highlights the ways Romani scholarship has been colonized via terminology, power hierarchies and representations. For so long, non-Roma scholars have been seen as the objective “expert” about the situation of Romani people, and knowledge generated by Romani scholars has been disregarded as “too emotional” or too overly involved. Furthermore, research on Romani communities has often had further racializing and Orientalizing effects. Essentialized “Romani culture” has been portrayed as backward and has been blamed for the hardships Romani people face. Fortunately, the field of Romani studies has been growing, and lately more and more scholars employ reflexivity in their research, and there is an awareness of the knowledge contribution of Romani scholars and communities

The reason I still decided to engage in this research was informed by my frustration with how rarely we, as white majority in Hungary engage with the topic of white privilege and how it informs the education system, welfare or even disability policies. I believe we do have a huge amount of responsibility in critically examining our positions and starting a discussion on how white supremacy operates in Hungary. As anti-Roma racism is a very deep systematic issue in Hungary, I find it important that everyone takes their responsibility in dismantling it.



## **Limitations**

As this thesis is based on secondary data and discourse analysis, it does not capture the full spectrum of lived experiences of Romani students and families. It also does not include ethnographic or interview-based research that might offer deeper insight into forms of resistance, resilience, or everyday negotiation of exclusion. Furthermore, the question of how disability and racialization can intersect is far more complex than what this thesis could offer due to its time constraints and limited access to data. For example, while the question of overrepresentation in the category of intellectual disability is explored, the simultaneous underrepresentation of Romani pupils in other disability categories is beyond the scope of this thesis, and further research is required to fully understand such complexities.

## LITERATURE REVIEW

### Linking Race and Intellectual Disability

Although in Hungary, the discourses on race and intellectual disability still remain unexplored, there is a significant amount of literature on the topic, mostly from the United States. Historically, the concept of intellectual inferiority has been linked with racial populations in order to uphold the order of white supremacy. Intelligence testing was employed in the name of scientific racism.

One of the most influential work to debunk the myth of intelligence testing and scientific racism is by Stephen Jay Gould from 1981, titled *The Mismeasure of Man*. Gould is historically analyzing the ideas of mental testing and its relation to racial hierarchy. He shows that such “scientific” methods were often manipulated to support the preconceived ideas of racial inferiority. For instance, he mentions French neurologist Paul Broca, who conducted research about skull sizes and came to the conclusion that white people were superior in intelligence. However, Gould points out that Broca was selective in what he measured. With his research he wanted to confirm his pre-existing values, so whenever the data did not fit into that, he simply changed the guidelines by which he interpreted them.

Alfred Binet, a French psychologist was skeptical of Broca’s methods, as he did not find significant difference in skull sizes, or what differences were there, did not support Broca’s claim. Binet was later tasked by the French government to develop a test to see which students are in need of educational support, he came with a new idea of intelligence measuring. He developed an exam to see the students’ reasoning skills, in which he gave students a single number based on the difficulty level of the task which they could solve. This number was then divided by actual age to produce the number of intelligence quotients. However, even Binet was aware that intelligence is a far too

complex notion to be simply measured like that. Nonetheless, his test was later brought to the United States, where it was used to prove hereditarianism, which is the belief that traits are solely determined by genetics. Gould argues that this is a flawed concept about such a complex measure, like intelligence. The results from this test then were used to support eugenics and racial movements.

Here I also want to emphasize that at the same time, the segregation of Roma pupils has been noted in contemporary Hungarian disability studies and special education scholarship, but often times, the word “Roma” is not used, but instead the notion of “socially disadvantaged” position or poverty is emphasized. There is fewer attention paid to the intersection of racialization and disability, notably in the work of sociologist Csaba Bánfalvy. In his book, *Sociology of Special Education* (2003), he notes the labelling of Romani and other marginalized groups as disabled, so he distinguishes between people with “actual” disabilities and those who have been “disabilitated” (fogyatékosított). He does not go further into causality, but rather he works with Goffman’s concept of stigma to explore the discrimination against these groups. Further in his analysis he does not differentiate between these two “types” of disabilities.

In his other work on the educational integration of student with disabilities, he writes: "Because while the number of children with disabilities in normal schools is increasing, the number of children with “learning disabilities”, mostly gypsies, in segregated special education schools (not proven to be intellectually disabled) is also rising rapidly. Inclusion and exclusion are thus taking place in parallel” (Bánfalvy 2009, p 12). He explains that those disabled students (mostly with physical or sensory disabilities) who come from a socially advantageous background, are the ones who are getting integrated into majority schools, while students from poor economic background, and mostly Roma, are getting overrepresented in the segregated schools.

## **Racial minorities in special needs education**

Celia Donert (2017) refers to the practice of segregation of Roma students as a “notorious legacy of socialism in Eastern Europe” (Donert, 2017 p. 70), but while recent scholarship focused on the process of desegregation, there is very little knowledge about the origin of this practice. In her paper, Donert (2017) mentions a case from the 1950s in Czechoslovakia, when social workers, special needs teachers and Communist party members together helped to build a “special school” for Roma children. At an internal meeting later, the official from the Education Ministry said that this was a temporary measure to help integrate those children into normal schools.

The overrepresentation of racial minorities in special education is far from a unique problem in Hungary and Eastern Europe. In the United States, African American students in particular, but Latino and Native American pupils are also at risk of being overrepresented. The phenomenon has been theorized among scholars, but unfortunately the idea that the reason behind it lies in different family and cultural values persists. For instance, Walker (2008) examined the overrepresentation of African American students in the United States and compared it with the overrepresentation of Romani students in Romania. Walker sees the similarities between these two situations, as she writes that students in both cases enter the education system unprepared. However, she lists several factors she believes behind this phenomenon: such as family values, material support for child education, evaluation team members’ and teachers’ perceptions and expectations, insufficient student and parent guidance, and institutional racial/ethnic discrimination. Similarly to that, Grzymała-Moszczyńska, Barzykowski, Grzymała-Moszczyńska, Kosno and Dzida (2019) in their article, titled Discrimination or not? Romani children in Polish special schools and diagnoses of intellectual disability, argue that cultural differences between Romani culture and Polish culture play a role in the pupils’ educational success. For instance, they write that formal school education

is not seen as a way to gain knowledge in Romani culture, and the importance of school education should be demonstrated to Romani families. Furthermore, they claim that the gender roles in Romani culture are what keeps many young Roma women out of education, as they are “trained” for their roles of wives and mothers from a young age.

Szentpétery-Nagy (2023) conducted a discourse analysis to see how Romani people represented in the Hungarian journal of special education, called *Gyógypedagógiai Szemle*. She found that Romani people mostly appear in the context of socio-cultural disadvantage, and Romani “subculture” is portrayed as a risk factor which can lead to deficit in skills. Special education interventions aim at adapting “universal” social and cultural norms to ensure successful integration.

Unfortunately, this approach to ethnic segregation, which aims to explain the segregation by finding defects in the targeted group, is not uncommon. Fényes (2019) pointed out that many policies in Eastern Europe regarding the education, extensively target the Romani families, defining the problem as the parents’ ignorance towards the school system rather than addressing the racism present in the education system. Furthermore, the idea of “Roma culture” is extensively mentioned in both policies and academic work, without a clear definition what it entails. Ultimately, this “Roma culture” is blamed for the systematic segregation. Fényes (2019) proposes that policies and academic research should focus on “the segregator and not the segregated, the excluder and not the excluded who should be targeted in the first place” (p. 17).

Dragos (2022) explore the resistance and responses of Romani students in segregated schooling in Romania against the deficit-based discourses that are employed against them by the majority society. The findings indicate that teachers often relied on deficit-based narratives concerning Romani students’ families, cultural backgrounds, cognitive abilities, and potential. These narratives shaped both their pedagogical approaches and how they explained Romani students’ so-

called “school failure.” In response, students actively challenged these assumptions through various forms of resistance — including counter-narratives, openly naming discriminatory practices, disrupting classroom norms, and rejecting institutional expectations like homework. Dragos argues that these acts of resistance reveal the students’ critical consciousness and agency. Overall, the study emphasizes an urgent need to reform teacher education and educational policy in Romania to confront and dismantle these entrenched biases. Furthermore, she aims to contribute to the development of RomaniCrit, as a localised and contingent critical theory.

### **Overview of educational segregation in Hungary**

Over the years, different forms of educational segregation emerged in Hungary. The mechanisms shifted over time with the changes in the political context. It is important to note that the segregation of Romani students into special needs schools is only one facet of the mechanisms. Most research that engages on educational segregation in Hungary, emphasizes the differences after socialism, and what has the neoliberal transformation brought, which worsened the situation. The free choice of school by the family created huge differences between schools even in the same towns. This created “elite schools” and “Roma schools”. This phenomenon is explored in the book called *Én vétkem* (My sin), edited by Fejes József Balázs and Szűcs Norbert from 2018. In their opening chapter, Fejes and Szűcs give an overview of the situation of educational segregation at the end of 2010s. According to available data, school segregation in Hungary has been increasing both along socioeconomic and ethnic lines. Between 2010 and 2013, the segregation index — which measures the percentage of missed contact opportunities between disadvantaged and non-disadvantaged students due to school separation — slightly rose. For disadvantaged students, the index increased from 27.2 to 32.9, and for multiply disadvantaged students, from 29.2 to 34. Segregation of Roma students has also intensified. Based on national competency assessments, the

proportion of “Roma-majority schools” — where over 50% of students are Roma — has steadily grown since 2008. By 2016, 14% of primary school sites had a Roma population over 50%, and another 9.7% had 30–50% Roma students. Initially, the legal definitions of “disadvantaged” and “multiply disadvantaged” students were established in the 1993 Public Education Act and remained mostly unchanged until 2013. During this time, various support programs were developed for students in these categories, and their classification served as a key indicator for tracking segregation. However, a 2013 legislative change shifted these definitions into child protection law, narrowing the eligibility criteria. As a result, the number of students categorized, and thus supported, as disadvantaged dropped significantly, even as child poverty continued to rise in Hungary.

Church-run primary schools in Hungary have contributed to the intensification of educational segregation, in part because they are not required to have designated enrollment zones — a policy meant to preserve religious neutrality. The absence of such zones discourages applications from families with low socioeconomic status, who often lack access to information about the potential advantages these schools might offer. Financial constraints also prevent many of these families from meeting special application requirements, such as regular church tax payments. Additionally, the admissions criteria are often opaque, so even those who overcome these barriers are not guaranteed admission. While many church-run schools technically have catchment areas — necessary for receiving state funding — they operate under different regulations (per the 2011 Education Act), which allow them to select students with minimal restrictions. In recent years, church schools have played an increasingly significant role in reinforcing segregation, driven by both their growing share of the school system (a 68% increase between 2010 and 2014) and government policies that favor religious institutions. After 2010, many public schools —

especially in disadvantaged regions and small towns — were transferred to church control. Despite operating in less affluent areas, these schools primarily serve children from more advantaged families, facilitating “white flight” from state schools.

Despite the extensive literature on the topic, collaborations between fields, or interdisciplinary approaches are somewhat missing.

### **Legal Discourses on Roma Segregation in Educational Contexts**

As strategic litigation by different Romani rights NGOs became a widespread practice to fight against segregation, there has been a scholarly interest to analyze their effectiveness. The case, *Horváth and Kiss v. Hungary* from 2013, which will be analyzed in-depth in the first analytical chapter, was an influential one, as much as its predecessor, *D.H and others v. Czech Republic*. These two cases are often referred to as “landmark” cases, as they were the first ones to set an example of successful litigation in the case of educational segregation. I shortly review here what has been written on the cases and their implications.

From the field of legal studies, there has been interest to see what implications the cases (and successful litigation in general) can have in the educational and legal system. Some scholars are optimistic about the effect of a legal victory. Strupek (2008) argues that the case of *D.H and others*, and generally cases about educational segregation, in their core are based on the theory of indirect discrimination, which means that the open racism and direct intention of the special needs teachers and directors (and other actors participating in intelligence testing and selection of the pupils) could not be obviously proved. Strupek believes that the case has the possibility to influence the law, in European level as well, but mostly at the Czech Republic, when it comes to indirect discrimination.



The role of the European Courts of Human Rights (ECtHR), which ruled in both cases, is also examined in the literature. Smekal and Šípulová (2014) see the ECtHR as an important strategic tool to push for systematic change, but the implementation of the judgement depends on several factors, such as the local national context (in this case, the popular antipathy towards Romani population in Czech Republic), and domestic professional interests. However, it is highlighted that the Court does not give a clear answer on what changes should be implemented to better the situation. New (2021) argues similarly in the case of Horváth and Kiss v. Hungary, that the Court's decision, although a positive development, fails to take into account the underlying systematic racism of the Hungarian educational system, which requires a radical change.

It can be said that scholars overwhelmingly see the ruling of the ECtHR as positive development in both cases. While the lack of clarity of the Court's suggestions is mentioned, the overall effectiveness of strategic litigation for social change is not questioned. Furthermore, the power relations between the actors remain unexplored. For example, the institution of ECtHR is often viewed as an influential and one of the most developed human rights courts, but its alignment with the notion of European modernity and European colonialism remains overlooked. For instance, the European Convention on Human Rights, which is overseen by the ECtHR, was established in 1950 when many members of the Council of Europe were still significant colonial powers. This dimension should be taken into account when the ECtHR rules in cases concerning racialized populations from Eastern Europe.

## THEORETICAL FRAMEWORK

### Crip of Color Critique

Feminist disability studies scholar Jina B. Kim (2017) and lays out the alliance between women-of-color / queer-of-color feminist and disability theorizing, what she terms as Crip of Color Critique. She starts by analyzing the essay “A Burst of Light” by Audre Lorde. (Minich (2016) suggests that this essay by Lorde could be understood as critical disability work.) The essay demonstrates the entanglements between disability and race, as it shows the disproportionate incidence of cancer among racialized and impoverished communities. In that sense, in Lorde’s work, cancer is no longer an individual property but an extension of violent systems that exploit the life of marginalized communities. A crip of color critique urges scholars to engage extensively with state sanctioned, and such engagement would shift to focus on disability as noun to verb. This critique urges to “consider ways in which the state operates as an apparatus of racialized disablement, whether through criminalization and police brutality, or compromised public educational systems and welfare reform” (Kim, 2017).

The shift from noun to verb is particularly relevant for my research. It is often emphasized by activists against the educational segregation of Roma children is that they are not “organically” disabled, hence their placement in special needs classroom is wrongful. While calling out segregation and this standpoint is just, it also suggests that there are “proper” disabled subjects, and at the same time, it reinforces the medicalization of disability. It would be counterproductive for this research to focus on creating a “proper” disabled subject or to think in terms of the dichotomy of disabled/non-disabled, instead I find it important to rely on focusing structures and systems that enforce marginalization, especially because there is also no such thing as a fixed

Roma identity, and frameworks that are concerned with identity are at risk of essentializing and further racializing Roma (Kóczé, 2020). Instead, Kóczé is arguing that we need to account for “the changes, continuity, and resistance of Roma in the various gendered and racialized orders.” (Kóczé, 2020, p. 8)

### **The Right to Maim and Decolonising Disability**

In her book, *The Right to Maim*, Jasbir Puar distinguishes between disablement and debilitation by describing the latter as “slow wearing down of populations instead of the event of becoming disabled.” (Puar, 2017, p. xiv) This debilitation happens through foreclosing the social, cultural and political translation into disability. In my research, debilitation operates through the misdiagnosis of Roma students with “mild intellectual disability”, reinforcing systemic racial hierarchies. Unlike the liberal framework of disability rights, where disabled people fight for political recognition and accommodations, Roma students in Hungary are debilitated through their forced inclusion into disability categories that forecloses the possibility of social mobility. This observation mirrors Puar’s theory but also moves apart from it. While the students are labelled as “disabled”, this does not translate into rights and protection that the status of disability should grant.

Puar starts her analysis by mentioning the summer of 2016 in the United States, when she witnessed the annual Disability Pride march, which was marketed as celebration, happening right next to the Black Lives Matter protest, as during the previous week, several police brutality against people of color took place. Shook by the separation of these two protests, she asks the question: “What kinds of biopolitical fissures produce a spectacle of disability empowerment and pride mere blocks from a movement protesting the targeted debilitation of an entire racialized population, contesting the production of disability that is central to state securitization practices?” (Puar, 2017,

p. xi-xii) The critique of the binary disabled/non-disabled and its translation to identity and empowerment is essential in Puar's critique. Puar develops her critique in the context of the settler colonial state of Israel and its occupation of Palestine. By referring to the restriction of mobility for Palestinians, Puar understands the occupation itself as disabling. By this understanding, Puar shifts the focus from a singular identification of disability to systems of oppression that are in themselves are disabling. What Puar calls the "right to maim" is a right expressive to sovereign power, and it is linked to "right to kill", but it is not the same. Maiming functions as a source of value extraction from population, and it is the most intensive practice of the biopolitics of debilitation, as maiming is a tactic of the settler colonial rule.

Both Puar and Meekosha (2011) confront the Euro-American biases in the field of disability studies. The central issue, the production of disability in the Global South through colonial violence, occupation, war, remains unexplored. Meekosha (2011) critiques the claimed universality of disability studies, because to understand the experiences of disabled people in the Global South, different set of methodologies and frameworks are needed that what is formulated in the Northern centre. While by this distinction, Hungary is situated in the Global North, its inner coloniality towards Romani communities should not be ignored. It is clear that racialized and impoverished communities, subjugated to the biopolitics of debility, relate to disability differently than the white and upper class population.

### **DisCrit**

Annamma et al. (2013) identify themselves as critical special educators, proposed a new theoretical framework to examine the intersection of race and disability in education. Their framework, called DisCrit combines aspects of both disability studies and critical race theory. "DisCrit recognizes

the shifting boundary between normal and abnormal, between ability and disability, and seeks to question ways in which race contributes to one being positioned on either side of the line.” (Annamma et al., 2013, p.10) Their theory is meant precisely to examine the overrepresentation of racial minorities in special education. In their theory, they propose seven tenets, where they emphasize the socially constructed nature of both race and disability, while acknowledging the material consequences of being labelled as disabled. They focus on a way that racism and ableism circulate interdependently to uphold notions of normalcy.

### **The affective politics of post-socialism**

As I situate my research in postsocialist Eastern Europe, I want to understand the affective notion of “post-socialism” as part of my theorization. Kolářová (2014) shows how the transformation from socialism to neoliberal capitalism was filled with promises of cure and rehabilitation, and it was laden with what Lauren Berlant terms “cruel optimism.” This concept reflects the paradoxical promise of progress and a “thriving” society, which, in practice, relied heavily on curative metaphors that reinforced ableist hierarchies and ideals of health and normalcy. By framing socialism as a state of illness and neoliberal capitalism as its remedy, these narratives not only obscured systemic inequalities but also invalidated alternative forms of knowing and belonging, such as crip epistemologies. Kolářová (2014) highlights how these disability metaphors became tools to legitimize the transition, further alienating disabled individuals by rendering their political claims and identities unintelligible within the dominant neoliberal discourse. Kolářová’s insights offer critical tools to analyze the racialized and ableist logics underpinning the segregation of Roma children in education systems, as her work calls for reimagining crip and racialized identities not as sites of rehabilitation but as nodes of resistance that challenge linear progress narratives and enable transformative possibilities. “Crippling, disjuncting the normative forms of (linear) knowing

about the past-present-future, could offer resistance to the cruel hope that directs our desires into (an evacuated) future, while foreclosing the negotiation of difficult yet important relationships past and the present.” (Kolářová, 2014, p. 245) Kolářová builds her analysis in dialogue with queer theorists, such as Halberstam’s discussion on queer failure. In the context of post-socialist crip, the failure to remember would disrupt the dominant narratives of shame (about the past) and compulsory optimism of neoliberal futurity. This rejection of the curative future opens up a space for developing a more complicated relationship with the (failed) past.

## **FAMILIAL DISABILITY AND THE RACIAL POLITICS OF DIAGNOSIS**

### **Introduction**

In this chapter, I build my analysis around the case of *Horváth and Kiss v. Hungary* from 2013, which was a key moment in challenging the discrimination in the Hungarian state education system. While an earlier case from 2007, *D.H and Others v. the Czech Republic* (known as the Ostrava case), laid the groundwork for strategic litigation to expose structural discrimination against Romani pupils in Eastern Europe, I treat it here as a supporting context for understanding how similar arguments were articulated in the Hungarian case. Both cases were fought at the European Court of Human Rights in Strasbourg. In both cases, the Roma applicants were represented before the court by the European Roma Rights Centre (ERRC); in the Hungarian case, this was done jointly with the Chance for Disadvantaged Children Foundation (CFCF). Both the European Roma Rights Centre (ERRC) and the Chance for Disadvantaged Children Foundation (CFCF) have received support from the Open Society Foundation. Founded in 1996 by human rights lawyers and activists affiliated with the Foundation, the ERRC was the first strategic litigation organization focused on Roma rights in Europe. Originally based in Budapest, it relocated to Brussels in 2019 in response to increasing political pressure and hostility toward civil society actors in Hungary.

The case of *Horváth and Kiss v. Hungary* provides a great overview of the localized specificities in the conceptualization of disability, and the educational and advocacy context, as it also highlights earlier steps which were taken to reduce educational discrimination. What is noticeable is that in the efforts of fighting back against the overrepresentation of Romani children under the label of intellectual disability, the attention shifted towards the shortcomings of the diagnostic system and procedures. I start this chapter by summarizing the cases and their main arguments,

then I move on to examine the historical and conceptual development of familial intellectual disability, and the effect of Soviet defectology in the region to understand how disability and racialization became so intertwined in the Hungarian educational system.

### **D.H. and Others vs. Czech Republic or the “Ostrava case” as Precedent and Context**

In many ways, D.H. and Others vs. Czech Republic was a landmark case, as it challenged the systematic placement of Romani children in special needs schools, and it also became the centerpiece of the litigation strategy of the Romani rights movement (Goodwin, 2006). This case also served as a catalysator to start a similar process in Hungary, so I will provide a short summary of the case before moving on to discuss the main case in detail. The case was brought by applicants from the Ostrava region, which was once the flagship of the socialist Czechoslovak economy, but it experienced severe industrialization and job losses in the 1990s, and a wave of racism that escalated in neo-nazi demonstrations (Černušáková, 2017).

A total of eighteen applicants, (their names and identities have been removed due to confidentiality) were placed in special schools for children with learning difficulties, where they received an inferior education based on a diluted curriculum between 1996 and 1999. Some later transferred to basic schools after passing special exams, but this required extensive compensatory education provided entirely by NGOs, as the state failed to support their reintegration. These schools (*specialni skoly*) are a specialized category designed for children with intellectual disabilities who are deemed unable to attend regular primary schools. Under the law, placement in these institutions is determined by the school director, based on the results of an intellectual capacity test conducted by a psycho-pedagogical assessment and advisory center. Enrollment also requires the consent of a parent or legal guardian (ECtHR, 2007).



In 2000, the applicants filed a complaint with the European Court of Human Rights, arguing that their placement in special schools constituted discrimination in violation of Article 14, in conjunction with Article 2 of Protocol 1 of the European Convention on Human Rights. They claimed that the Czech authorities had denied them equal access to education by maintaining and failing to monitor a system that disproportionately segregated Roma children under the guise of special education.

According to the European Roma Rights Centre (2008), these are the main consequences of the court ruling: The European Court of Human Rights recognized patterns of racial discrimination, ruling that systemic practices, not just individual acts, can violate Article 14 of the European Convention on Human Rights. Article 14 refers to the prohibition of discrimination: “The enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” (Council of Europe, 1950).

The court ruling confirmed that segregation is racial discrimination, emphasizing that Roma children’s unequal access to education is a widespread issue across Europe. Furthermore, The Court clarified indirect discrimination, where a neutral policy disproportionately harms a racial or ethnic group, violating the Convention. Intent is not required; if a law produces unjustified discriminatory effects, it breaches Article 14 regardless of intent. Facially neutral laws can still be discriminatory if applied in a racially disproportionate manner. Statistics can serve as *prima facie* evidence but are not mandatory. The burden of proof shifts to the State once a claimant establishes a presumption of discrimination. Non-discrimination rights cannot be waived, and Roma, as a historically vulnerable minority, requires special protection (European Roma Rights Centre, 2008).

## **Horváth and Kiss v. Hungary**

The case of Horváth and Kiss from 2013 highlights the limited opportunities and constrained path one can pursue after being placed in special education. This case involves two young Romani men who were misdiagnosed with mild intellectual disabilities, leading to their placement in a segregated remedial school for children with disabilities instead of mainstream education. As a result, they received an inferior curriculum, which restricted their future opportunities in secondary education and employment. They were only eligible for special vocational schools, preventing them from obtaining a Baccalaureate, which is required for higher education and certain professions. The first applicant, István Horváth, was aspiring to be a dance teacher like his father, was instead training to be a baker, while András Kiss was unable to pursue his goal of becoming a car mechanic. The Expert and Rehabilitation Panel of Szabolcs-Szatmár-Bereg County diagnosed both with mild mental disability, concluding they required special education, and placed them in Göllész Viktor Primary School, a segregated institution for disabled children.

The applicants argued that the tests used for their placement were outdated and culturally biased, disproportionately disadvantaging Roma children. Their submissions to the European Court of Human Rights emphasized that Roma students were placed in segregated schools based on their ethnicity rather than intellectual ability. The Court ruled in their favor, finding a violation of Article 2 of Protocol No. 1 (right to education) in conjunction with Article 14 (prohibition of discrimination). It also acknowledged a long-standing pattern of wrongful placement of Roma children in special schools in Hungary and ruled that the State must reform this discriminatory practice.

## **Making sense of the diagnosis**

During both cases, the applicants were diagnosed with “mild (moderate) intellectual disability” and that diagnosis served as a basis for special education. The diagnosis was based on the result of various intelligence test and pedagogical assessment. In Ostrava, the most commonly used tests were the Wechsler Intelligence Scale for Children (PDW and WISC III) and the Stanford-Binet Intelligence test (ECtHR, 2007). The Wechsler Intelligence Scale (at that time, they used the third edition, hence the name WISC III. Currently, the fifth edition of the test is being used) is designed to measure the cognitive function of children from age 6 to 17. The WISC III contains 13 subtests: 6 in verbal scale and 7 in performance scale. The verbal and performance tests are given in alternating order. The verbal test exercises include for example an information subtest where the child (according to their age) has to answer 30 questions about “general knowledge”: names of objects and places, for instance. The comprehension subtest requires the child to answer questions about social rules and concepts. This subtest examines the child’s ability to recognize cause-effect relationships and their knowledge of conventional social expectations (Woolger, 2011).

In Hungary, the expert panel used the Budapest Binet Test, the Colored Raven Test and the Goodenough ‘draw-a-person’ Test. Based on the results of these tests, one of the applicants, Mr Horváth was diagnosed with “mild intellectual disability”, of which the origin was declared unknown. The diagnosis stated that Mr Horváth was “two and a half years behind normal” (ECHR, 2013, par. 18). The other applicant, Mr Kiss received the same diagnosis, with the comment that his concentration and analytical-synthetical ability should be developed (ECtHR, 2013, par. 26).

What the applicants argued in both cases were that their diagnoses did not reflect their intellectual abilities and they received the said diagnosis based on their Romani ethnicity. They argued that the intelligence tests were not objective and reliable, and they could not account for Romani

cultural specificities. Furthermore, they argued that the perception of disability was heavily intertwined with one's social status. In the case of Ostrava, the applicants relied on observations from the international organization: "According to the observations submitted by the International Step by Step Association, the Roma Education Fund and the European Early Childhood Education Research Association, countries in east-central and south-eastern Europe typically lacked national definitions of "disability" (related to the placement of students in special schools) and *used definitions in which some form of disability was connected to the socio-cultural background of the child, thus leaving the door to discriminatory practices open*. Data on children with disabilities were drawn largely from administrative sources rather than being derived from a thorough assessment of the actual characteristics of the child." (ECtHR, 2007, par. 44)

Throughout the case, there is little elaboration on the local understanding of disability. However, it is emphasized that many Romani children placed in special education in the Czech Republic do not have intellectual disabilities. Additionally, government officials and recognized experts widely agree that Roma students are frequently misclassified and placed in special schools without valid medical justification. (Application to Court, ECtHR, 2007, par. 7.24)

In the following section, I dive into what it might mean that countries in the CEE region lacked a "national definition of disability" and relied on an understanding that was more connected to the social and cultural background of individuals.

### **The effect of Soviet defectology**

To understand this conceptualization of disability in the region, it is important to look into the disciplines that dominated knowledge production before the fall of socialism. Henschel (2020) analyzes the discourse of "deviant/difficult child" from socialist Czechoslovakia and the changing

diagnostic conceptualization of the time. At the time, the discipline of defectology produced most knowledge about psycho-social deviance. Defectology originally emerged in the Soviet Union in the 1920s as a socialist and explicitly progressive approach to special education, integrating insights from psychologists, education researchers, and physicians such as Lev Vygotsky, Ivan Pavlov, and Anton Makarenko. Although it was marginalized under Stalin, defectology experienced a revival in the 1950s across several socialist countries in Central and Eastern Europe. As Henschel (2020) explains, defectology, as a “socialist science,” challenged the dominant medical model of disability that had shaped perspectives in Europe and the United States since the early 20th century. The medical model viewed disabilities as genetically determined conditions, largely disconnected from social factors. Under this framework, behavioral disabilities were often attributed to genetic degeneration, moral failings linked to lower-class family environments, or neuropsychological disorders. In contrast, defectology introduced a social model that framed disability as “defectivity”—not simply a biological impairment but a consequence of the individual’s lack of integration into their social environment. According to this perspective, the real issue was not the physical or mental impairment itself, but rather the person’s exclusion from the collective, which could be addressed through social and educational interventions.

Kolářová and Herza (2021) understand defectology as a framework within disability has two interconnected dimensions. On one level, “defect” (*defekt*) was still recognized as a biological fact affecting the individual’s body or mind. On the other, however, it introduced a relational concept of “disability” (*defektivita*) which was also linked to a social dimension, introducing a more relational perspective. An individual was not considered disabled solely due to their physical or mental condition, but rather because of disruptions in their integration into broader social structures—particularly in areas such as socialization, education, and employment. Once

defectology was established in 1950s in Czechoslovakia, disability experts began to wonder how to include both of these elements of the model to better incorporate people with disabilities into the socialist society. Kolářová and Herza (2021) refers to this model as the relational-environmental concept of disability. As they write, ironically this concept (as it was intended to promote social integration) can be utilised to critique the socialist governance of disability, which relied on institutional segregation, and segregated special schools.

Henschel (2020) explains that during Czechoslovak socialism, the state framed the assimilation of Roma communities as a humanitarian project yet quickly re-marginalized them when integration efforts failed. By the 1950s and 1960s, the Roma were increasingly infantilized and compared to people with disabilities, seen as incapable of full participation in socialist society. This led to the revival of racist and eugenic discourses, portraying Roma as culturally and genetically inferior. Defectologists, such as František Olejář, portrayed Roma families as both socio-culturally underdeveloped and biologically inferior, citing incest, genetic disorders, and the hereditary transmission of physical and mental deficiencies as key factors. A Ministry of Social Affairs from 1969 report classified Roma as a social problem alongside poverty and crime, arguing that their high birthrate threatened the nation's demographic structure. Roma families were labeled as dysfunctional, leading to state-led child removal programs where Roma children were institutionalized in special schools and children's homes. This policy was justified as "socialist humanism". This perception of deviance and the difficult child was not only shaped by ethnicity but also gender and sexuality. The figure of the "Roma girl" as immoral and sexually deviant was evident in the work of defectologists. The "sexually deviant" "Roma girls were rarely referred to as future mothers. In the 1960s, the female role model switched from emancipated worker to caring mother, but this, however, did not seem to apply to Romani girls.

Kolářová and Herza (2021) mentions another defectologist and special educator, Helena Žáková who urged to turn attention to the “asociality” of the Romani population given the demographic growth. She advocated to explore the condition of “socially produced moronism” (*sociální debilita*) which supposedly disproportionately affected Romani families. Yet, it is important to mention that Žáková did not believe that Romani communities were “naturally determined” to antisocial behavior, or that such behavior would be organically determined. Rather, she emphasized that the non-normative behavior of Romani families should be understood as a reaction to the “unfavourable circumstances” of their lives. However, she then quickly turned the blame on the Romani families, claiming that it was the “educationally unsuitable environment” in the families that reproduced “social moronism”. As Kolářová and Herza (2021) conclude: “In other words, if defectology discourses on the one hand seemed to reject biological determinism, on the other hand they produced a version of social determinism in which the determinant was as racialised and as intrinsically linked to ethnicity as in biological determinism.” (p. 202)

### **“Pathological” Intellectual Disability vs. “Familial” Intellectual Disability**

In the case of Horváth and Kiss, the localized understanding of disability manifested in the concept of familial intellectual disability. The applicants argued that their wrongful placement in special education was in great part linked to this concept, as it could not be accounted to any form of mental disability. In the following section, I explain the concept of familial intellectual disability and how it differs from “pathological” intellectual disability.

The concept of familial intellectual disability can be linked back to the 1970s, when the so-called Budapest review took place. Throughout this review, Endre Czeizel geneticist and physician and Ágnes Lányiné Engelmayer, clinical psychologist, carried out medical, genetic, anthropological,

psychological and sociological studies on 1400 children with intellectual disabilities in the capital city. A key finding from the Budapest review was that if the threshold for intellectual disability were set at an IQ of 70, as recommended by the World Health Organization (WHO), only 49.3% of students in special education would actually qualify as intellectually disabled. The remaining 50.7% would be classified as having normal intelligence, with 12% scoring within the average range and 38.7% falling into a borderline category close to intellectual disability.

Despite this, only 7% of students were formally classified as having average cognitive abilities following a complex evaluation. This evaluation frequently designated children as intellectually disabled even when their test results did not support such a diagnosis. To justify this, authorities introduced the category of "multifactorial familial intellectual disability", distinguishing it from pathological intellectual disability. This classification was largely based on parents' below-average intelligence, economic hardship, and lower cultural status, framing the issue as a social rather than medical problem. Although most individuals in this category were expected to integrate into society as adults, they were still labeled as intellectually disabled in childhood, despite being capable of independent living. (Application to the court, ECtHR, 2013, par. 129)

It is important to mention that geneticist Endre Czeizel, one of the specialists who "came up" with this category was a well-known and respected public figure, and was seen as a scientist who had a major impact in the public opinion. He was often invited to different television programmes, so his ideas reached a wider audience, that is why it is important to carefully look at what he communicated about the "familial" nature of intellectual disability. Andorka (1980) summarized some of his contradictory statements on the nature of intellectual disability. In his earlier work, Czeizel wrote that familial intellectual disability is the result of both genetic and environmental factors, in particular the family environment and upbringing, but later it seemed he was more in



favor of emphasizing the genetical (or congenital) nature of intellectual disability. Although Czeizel in his public lectures did not mention ethnicity and Romani families explicitly, it was clear that the concept of familial disability was heavily intertwined with them. Similarly to defectologists in Czechoslovakia, he was also concerned about the reproductive behavior of those who belonged to this category in his vision, as he said, that based on his observation during the Budapest review, those having mild intellectual disability have a fertility rate 2.4 times higher than the average population, and this leads to the growing rate of intellectual disability itself. Overall, as Andorka (1980) concludes, Czeizel had a lot of contradictory views on the nature and causality of intellectual disability, and his statements often lacked reliable empirical data.

To summarize it simply, the distinction between pathological and familial intellectual disability reflects different assumptions about their causes—pathological disability is seen as a biological or medical condition, whereas familial disability is attributed to social and environmental factors, such as parental education and economic status. On paper, the official diagnosis says “mild intellectual disability” in both cases, but the concept of familial disability is mostly reserved for Romani children. In the following sections, I analyze what steps were taken in Hungary to reduce the higher percentage of intellectual disability, before I move on to further analyze the arguments that were made against familial disability in the case of Horváth and Kiss.

### **From the Last Bench**

In the early 2000s, while Hungary was in the process of joining the European Union, the then liberal government proposed a program specifically aimed at targeting the overrepresentation of Romani students under the category of intellectual disability, and it was titled *From the Last Bench* (*Az utolsó padból*). As Kemény (2004) writes that for Hungary in order to join the European Union,

it also had to comply with the EU's educational policy objectives, and had to draw up a development plan to overcome its disadvantages, in order to receive the Structural Funds resources. The National Development Plan, with its priorities, was in line with the EU's expectations, in which the Human Resources Development Operational Programme includes the integration of Roma and disadvantaged children as Objective 6. Furthermore, statistical data did not paint a good picture. In 2002, while the average rate of children with disabilities in the European Union was around 2.5%, Hungary reported a significantly higher rate of 5.3%. At the time, roughly 49,000 Hungarian students were classified as having a disability. Although ethnic data collection had been restricted since the 1993 Minorities Act, earlier records indicated that 42% of these children were Roma. The Ministry also noted a sharp increase in such figures following the introduction of vague diagnostic categories like "mild disability" and "other disability," which many critics linked to segregation practices. Overall, three events together (the question of EU accession, educational statistics, and the results of the PISA Test, which showed the inequalities in the Hungarian education system) necessitated the launch of the program, and emphasized the question of integration.

The program *From the Last Bench* was designed with three key objectives: to improve the learning environment, enhance student mobility between schools, and support institutional flexibility (Kemény, 2004). A central focus was the reintegration of students wrongfully categorized with intellectual disabilities into mainstream education. As stated on the Ministry's official portal, "*The From the Last Bench program will help us get children who have been identified as unduly disabled back into mainstream classes*" (Szűgyi, 2009). The main initiative of the program was reassessing students who were already placed in special education in the first or second level. Specialists emphasized the need to reinforce the existing IQ threshold of 70 for mild intellectual

disability, as outlined by medical standards, arguing that local practices often used a significantly higher cutoff—around 86 IQ points. Additionally, the program sought to ensure that qualified medical professionals were directly involved in the diagnostic process, aiming to reduce arbitrary or biased assessments. As Kemény (2004) summarizes, overall it was recommended that the children tested should only be classified as disabled on the basis of *marked organic causes*. Those without such causes should participate in a continuous monitoring programme, where additional services can be provided by the child's current public school. Disability can be established on the basis of a *medical diagnosis* and a complex pedagogical-psychological assessment, so that a second assessment after continuous monitoring cannot be carried out without the involvement of a medical doctor.

According to Szűgyi (2009), during a press briefing held on 14 March 2006, Minister Bálint Magyar presented the results of the program as a success. Of the 2,200 reviewed cases, approximately 220–240 children were re-integrated into general education. He also reported a 12% decrease in the number of children diagnosed with mild intellectual disabilities, attributing this to tightened diagnostic standards. It is quite hard to assess this number, or to see what it meant in reality. However, the program contributed to legislative changes in the SEN categories. Erőss (2008) highlights a significant revision in the 2003 amendment to the Public Education Act. This revision redefined SEN to include a) children with physical, sensory, intellectual, or speech and language impairments, as well as autism, and b) those with long-term and severe learning difficulties due to psychological developmental disorders (e.g., dyslexia, mutism, ADHD). While the act has been amended multiple times since, the 2003 version reflected the program's attempt to eliminate ambiguous categories. While the legislative modification could be interpreted as a step forward, Erőss (2008) points out that the number of children categorized under “special

educational needs” (SEN) did not decline—in fact, it increased, particularly within category (b), which includes developmental learning disorders such as dyslexia and dyscalculia. However, despite this rise in diagnosis, the rate of segregation among students with SEN decreased: more children with these labels began attending integrated classrooms alongside their peers. To underscore the paradox, Eröss (2008, p. 184) writes: “It is not the declaration of ‘disability’ that has been reduced, but ‘merely’ the segregation of the ‘disabled’.” He further notes that one of the notable achievements of the *From the Last Bench* program was its ability to foster collaboration between social scientists, policymakers, and special education professionals—groups that had previously operated in relative isolation or disagreement.

Overall, it can be said that From the Last Bench program aimed to “medicalize” intellectual disability, and try to create a framework through which only “pathological” disability should be recognized. A fair assessment of the program is still missing, even after 20 years of its launch. However, given that educational segregation is still a widespread issue in Hungary, it is safe to suggest that its elimination needs more than the medicalization of disability.

### **The Politics of Diagnosis**

During the litigation process, the applicants opposed the concept of familial disability, arguing that it does not amount to any form of intellectual disability, rather it is based on social deprivation and belonging to minority groups. Furthermore, they mentioned that Roma students are uniquely burdened by the system as no group had been shown to have suffered wrongful placement in special schools based on the diagnostic system, and the concept of familial disability (ECHR, 2013, par. 91) It is important to note that for the applicants it was also crucial to not only challenge segregation, but to officially receive a confirmation that they are not intellectually disabled, as with

such diagnosis, it is close to impossible to get hired anywhere. In that sense, the focus of the case is to challenge the diagnostic materials and prove their biases. However, to support their claims, the applicants suggested that there is a distinct, organic matter of disability. During the first instance of court proceedings, when the applicants filed a claim at the regional court directed against the primary school and the expert panel, they argued the following: “They claimed that it was the responsibility of the experts who were required by the law to be experienced in the field of mental disabilities and thus obliged to know the symptoms of such disabilities to ensure that only children with real mental disability were educated in special/disabled/special educational needs classes” (ECtHR, 2013, par. 36). The same argumentation was brought during the application to the European Court of Human Rights.

By claiming that there is a “real” intellectual disability that requires a form of segregated teaching, the argument legitimizes labelling and only problematizes it when it is deemed as inaccurate. Furthermore, this argumentation operates at the binary of disabled/non-disabled. By looking at the history of how Romani communities were portrayed as “deviant” and intellectually and morally inferior, and taking into account the stigmatization of disability, it is understandable why the applicants fought against their labeling as disabled. Annamamma et al (2013) warn against subscribing to the binary of abled/disabled as it pits marginalized communities against each other and ignores the fact that rights should not be taken away from anyone. However, I find it important to go further and consider what implications the framework of debility offers while trying to work through this tension. Puar (2017) argues that three vectors of disability, capacity, and debility exist in a mutually reinforcing constellation, and debilitation is a necessary component that exposes the non-disabled/disabled binary. As she writes: “Debility is thus understood as a process rather than an identity or attribute, a verb and a doing rather than a happening or happening to or done to. It

complicates the notion of a workplace injury or accident by understanding the statistical likelihood by which certain populations are expected to yield themselves to bodily debilitation, deterioration, and outright harm.” (Puar, 2017, p. 73)

There are different statistical data available about the likelihood of being diagnosed with intellectual disability, and it varies by region, but generally speaking, most data suggests that children from Romani communities are ten times more likely to be labelled as intellectually disabled and to be educated in segregated special needs classrooms. It would be hard to ignore from this prevalence, that some form of “injury” is happening to the Romani population. The ethnonationalist state of Hungary (and more generally, in Eastern Europe) and racial capitalism create a racialized population available for debilitation. While Puar mostly writes about physical injury, for example in forms of workplace accident, in the case of Romani communities, debilitation happens through withholding access to education. During the litigation of *Horváth and Kiss v. Hungary*, the government counter argued that there was no ethnic discrimination, as the Roma students were not treated differently than those non-Roma students in similar socio-economic situations, and claimed that “Disproportionate representation of Roma children in special education was explained by their disproportionate representation in the group deprived of the beneficial effects of modernisation on the mental development of children” (ECtHR, 2013, par. 96). Ironically, here the representative of the government acknowledged the presence of systemic racism in the society. Although it is not entirely clear what was meant by modernisation, several research and ethnographic work revealed how the neoliberal transformation negatively affected the Roma population, in terms of shrinking job and educational opportunities in Eastern Hungarian villages (for example: Durst, 2002). As inequalities increased since 1989, the tension between the Roma and non-Roma population has also risen.

I also wanted to bring a quote from the current Prime Minister of Hungary, Viktor Orbán. He said this in his yearly press conference after the ruling of another segregation case. He said that the concept of segregation is a very gray area, and it has not been clearly discussed what is understood under the label. He said: “What form of rehabilitation is catching up and what is segregation? Of course, if someone is placed in a class on the basis of ethnicity, that is obviously segregation. But if, for example, someone is classified on the basis of their educational ability, their capacity to absorb - *where obviously in such a village there will be more gypsy children* - that is not segregation, that is upward integration” (Szurovecz, 2020).

These two statements from the representatives of governmental officials resonate well with another key concept in Puar’s theory: endemic. She says that debility exposes injuries and bodily exclusions that are endemic rather than exceptional. What the statements expose is the fact that due to the persistent anti-Roma racism, Romani communities are at the margins of society. While the channeling into special needs classes and schools could also happen to impoverished non-Roma students, this issue still disproportionately affects Romani students.

The concept of familial disability can be especially understood well with the framework of debilitation. While Puar looks into bodily debilitation, in the context of the Romani population in Hungary, debilitation happens through social exclusion and educational segregation. The historical continuity of segregated education manifests in the notion of “familial”: the clinical psychologist and geneticist conducting the category claimed that lower academic abilities were noticeable in the Romani children’s family as well, highlighting the long-standing systematic racism in the region which prevents Romani people’s access to education.

In this section, I am not arguing for the reinforcement of labels, or saying that Romani people should “embrace” the disability label that significantly affected their lives. On the contrary, I find

the framework of debilitation useful because it exposes systematic processes and harm, instead of thinking in static identity categories. Precisely because it does not think in terms of “labels”, a localized understanding of this theory can also help the communities to fight back against such labels while simultaneously exposing the harm that disproportionately affects them. It moves beyond the understanding of disability as a noun to a verb and in such a way, it urges disability studies scholars to engage with the concept of state-sanctioned violence more extensively (Kim, 2017).

### **The Post-socialist rehabilitation of Disability**

As it was discussed in this chapter, efforts to to reduce the tendency of sending Romani children into special needs classrooms, focused on the diagnostic and testing methods, and the effectiveness of such focus has not been questioned. The government-launched program “From the Last Bench” aimed at modernizing the assessment methods, and similarly to that, the international court cases against Hungary and the Czech Republic also highlighted the shortcomings of the diagnostic system. This approach was in line with other advocacy works, for instance, the report of the Roma Education Fund from 2012 focused on the deficiencies in cultural neutrality and biases in entry testing in several CEE countries, such as Hungary, Slovakia, Serbia and the Czech Republic. Nagy (2021) writes that since the launch of the From the Last Bench program, there has been an effort to standardize the diagnostic and assessment tools, (the tool of WISC-IV was selected based on the opinion of specialists to assess intellectual abilities) and such measures have contributed to the decrease in the percentage of pupils who were considered intellectually disabled from 2.1 percent to 1.4 percent in the last 20 years.



There have been several political and societal changes in the past 20 years, so it would be worth another investigation to see whether the decrease in the percentage could be attributed to the standardization or there have been other factors influencing the number. Nonetheless, there are two important things I want to point out about the attention that the diagnostic categories and assessment tools have received in policy making and advocacy work. Firstly, it relies on the idea that there is a distinct, organic nature of disability and it is less concerned with the overall, systemic racism that manifests then in the educational segregation. Secondly, we should not ignore the fact that the push to “establish” a medical definition of disability came after the fall of socialism, when the region of CEE started to be integrated into the Western world. For instance, From the Last Bench governmental program was introduced precisely to overcome the failures of the educational system, and make it catch up to the Western part of Europe, and it talks loudly that the disability statistics were compared to the European Union average. In the application to the European Court of Human Rights, the documents mention how CEE countries “lack” a national definition of disability. Hence, I understand these attempts in a larger context of what Kolářová (2014) calls post-socialist rehabilitation. Kolářová (2014) already described how the narrative of such rehabilitation of the region to neoliberal capitalism was rich with images of disability. The region was seen as sick and morally corrupt, hence in need of Western assistance. In such a context, the overrepresentation of Romani students in special classrooms and the higher rate of intellectual disability meant to emphasize the moral failure of state socialism. While there is little knowledge about the origin of this practice, it is quite telling that it is a widespread issue all over Eastern Europe. For instance, Celia Donert (2017) even refers to the practice of segregation of Roma students as a “notorious legacy of socialism in Eastern Europe” (Donert, 2017 p. 70). In her paper, Donert (2017) mentions a case from the 1950s in Czechoslovakia, when social workers, special

needs teachers and Communist party members together helped to build a “special school” for Roma children. At an internal meeting later, the official from the Education Ministry said that this was a temporary measure to help integrate those children into normal schools.

What is interesting here is that the concept of disability itself has undergone some sort of rehabilitation. In the case of Horváth and Kiss, they mention the category of familial intellectual disability, which was introduced in the 1970s as an obstacle that needed to be overcome. While it is clear that the category was a heavily racialized one, and discipline of Soviet-influenced defectology relied heavily on the racialization of Romani families, we should be cautious of thinking of disability as a purely organic, medical matter. While we need to acknowledge how disability epistemologies during socialism were heavily intertwined with racialization, and they were used to further pathologize Romani communities, however, as Kolářová (2023) argues elsewhere, the introduction of white Western canon of disability rights will not help us undo this legacy, but rather the individualist and emancipatory understanding of liberal disability rights framework will introduce differently racialized understandings of disability. The import of such framework into the post-socialist space has been done already, it is enough to take a look at the various disability rights NGOs in Czech Republic, who were offered courses on key disability and emancipatory concepts by US Israeli Foundation, according to Kolářová (2023). Interestingly, this liberal framework of disability rights is precisely what Puar critiques in her book, and says that it cannot account for the continuous debilitation of racialized populations both within the United States and in the Global South, and it certainly cannot account for the question of the systemic segregation of Romani pupils under the label of intellectual disability. Meekosha (2011) also writes that there is a political and intellectual tension between trying to claim the positives of disability identity in a celebratory manner, and acknowledging the continuous harm and suffering

that results from colonialism, war and poverty. While in Eastern Europe, a region that is often seen as “outside” of colonialism, there is still an urgent need for scholars to meaningfully acknowledge its “inner” coloniality, the continuous racialized harm imposed on Romani communities. This task is particularly relevant for scholars working within the fields of disability studies and special education, as we see how disability has been imposed on racialized communities, but also to take account of the injuries (not only bodily but psychological and emotional ones) that are the results of long-standing systemic racism.

What further complicates the situation in this is the influence of US American donors and their hegemony in human rights advocacy in the region. This is quite visible in the application to the European Court of Human Rights for the case of *D.H. and Others vs. Czech Republic*. Developments in the United States marked several times as a reference point to which the situation in Ostrava is compared to. For instance, while discussing how the applicants had been discriminated against on the basis of race and why “Any alleged deficiency in Czech language skills does not adequately explain why the Applicants -- and a disproportionately high number of Roma -- have been assigned to special school” (ECtHR, 2007, p. 2), the ruling contrasts this with legal precedents in the United States. It cites the U.S. Supreme Court’s stance that when language barriers prevent minority students from fully accessing education, school districts must take affirmative steps to address these deficiencies and ensure equal educational opportunities (ECHR, 2007, par.7.44). These types of contrast run through the whole document, as legislative changes from the United States are mentioned multiple times. There is more to this contrast than the material advantages of the US American donors. Without discrediting the work they have done in the region, the NGOs representing the cases, both ERRC and CFCF, were materially supported by US-based donors, hence their responsibility is more towards their donors than to the local

community. Secondly, such comparisons to the United States reinforces the idea that the US is more developed, and the region should aim to catch up to it.

In an interview, Lilla Farkas, the lawyer of CFCF who represented case of Horváth and Kiss, explained that although in the region of Central and Eastern Europe, the overrepresentation of Romani students in special needs classes and its nature of ethnic segregation is a well-known fact and part of the public consciousness, it was not until 1997 when an American lawyer joined to the European Roma Rights Centre, that they suggested bringing this practice to the court. (Bundula, Magyar Narancs, 2013) The first case of the ERRC fighting against educational segregation was the Ostrava case. It was during the Ostrava trial, before the decision in Strasbourg was made, that the team of CFCF, with the assistance of Viktória Mohácsi, former Ministerial Commissioner for the Integration of Roma and Disadvantaged Children, and an EU representative at the time, decided to follow their example. The case has gone through all three stages in Hungary. They chose Strasbourg, as “it seems that the further a court is from immediacy, the clearer it sees its position” (Farkas, as cited in Bundula, 2013). This quote reveals some interesting tension in the region. While it highlights how domestic legal systems do not confront established racial hierarchies, especially in post-socialist Eastern Europe where such confrontations are hard to articulate, it also embodies the hope that European norms of legal justice can resolve the tension around local history of racialized oppression, even if such norms have their own entanglement with Western European colonial history. The appeal of Strasbourg also lies in its image as more progressive than domestic courts.

## Conclusion

The development of intellectual disability as a category in Central and Eastern Europe has been inseparable from the racialization of Roma communities. Under state socialism, while defectology introduced a more socially embedded view of disability, it simultaneously racialized intellectual disability, particularly in the case of Roma children. The cases of *D.H. and Others vs Czech Republic*, and *Horváth and Kiss v. Hungary* demonstrated that intellectual disability was more than a medical classification, but a racialized social construct used to justify exclusion.

It is clear that in the case of Romani people, disability has been employed as a mechanism through which they are segregated, and it seems a logical step to fight back against such labelling. However, later push backs against the overrepresentation of Romani children in special education positioned disability as a purely organic matter, distinct from social and political environment. Annamamma et al. (2012), in their DisCrit framework, argue that such apolitical view of disability relies on hegemonic notions of normality. I propose that the framework of debilitation by Jasbir Puar can work well among such tensions. However, by understanding the cases in their social and political context, the argument can be made that such reiterations of disability as a purely medical category can be seen as a part of the rehabilitative process of the post-socialist region. However, we should be cautious, as such classification of disability does not resolve the tension around the intersection of race and disability, but rather it can introduce new forms of racialization around the concept of disability.

## THE CHANGING FACE OF SEGREGATION

### Introduction

In the previous chapter, I examined how the concept of familial intellectual disability has been employed to “make sense” of the educational segregation of Romani students, and what steps have been taken since then to reduce the issue. During the litigation of the landmark case of Horváth and Kiss v. Hungary, and previously, during the From the Last Bench program, the argument was focused on the inaccurate labelling of Roma students as disabled and the litigation claimed that special education should be reserved for those with “real” disabilities. In this chapter, I further complicate the issue of how ableism and racialization intersect by focusing on the case ten years after Horváth and Kiss, which shows how the persistent educational segregation and racism can withhold reasonable accommodation for disabilities. The case, called Szolcsán v. Hungary, from 2023 is understood as a landmark case alongside Horváth and Kiss that exposes the persistent educational segregation and violation of rights in Hungary. The two cases are monitored together by the European Court of Human Rights to measure progress and the implementation of the court’s decisions. Furthermore, in this chapter I address the changing face of educational segregation. As ten years have passed between the cases, some argue that segregation through disability labels is less prominent now than it used to be.

Indeed, the case of Szolcsán v. Hungary concerns segregation in a Roma-only primary school. The segregation here manifested differently than in the previous cases analysed in the first analytical chapter. While there the Romani pupils were segregated into special needs schools with the label of intellectual disability, in this case, the applicant was placed in a Roma-only school and his request for transfer was refused. The research report by Rosa Parks Foundation highlighted the

two main facets of education segregation. “This leads us to the conclusion, confirmed by the expert interviews, that where the school is almost completely segregated, Roma children are often not sent for expert assessment or (from a special education point of view) can be integrated as SEN children, as they already attend the school (ethnically) segregated from other children. Conversely, in schools where the proportion of Roma pupils is between 50-75%, children are more likely to be tested, to receive an SEN diagnosis and to be referred to segregated special education classes (14%)” (Rosa Parks Foundation, 2024, p. 5-6). What it means, that in the case of Roma-only schools, (or where the vast majority is Roma) to be labelled as intellectually disabled is no longer necessary for segregation to happen. It is important to highlight as well, that in such schools, the proportion of students with SEN are lower as well, since they are not sent to assessment and their potential support needs go unnoticed.

Moving on, to reflect on the ten years difference between the cases, this chapter also shows that the changing face of politics in Hungary has also greatly affected educational policies and segregation, and the course of Romani rights advocacy, through the heavily publicized case of Gyöngyöspata. As the previous chapter ended with a reflection of “post-socialist rehabilitation”, this chapter looks at the consequences of it, acknowledging the extensive turn to the far-right in the region. Both cases I analyze in this chapter, happened in post-2010 Hungary, when the current right-wing populist government came into power, and the country started its de-democratization processes. If Hungary was once seen as the poster child of successful post-socialist liberal democracy, the current situation reveals how the cruel optimism of neoliberal transformation, to recall Kolářová (2014), has really been detrimental; what was once desired became an obstacle to flourishing. In this context, the turn to right-wing populism can be understood as a response to the failure of the transformation. While the previous chapter concluded with a reflection on the limits

of the liberal disability rights framework and its relevance to the region, this chapter examines how the burden of moral recovery from socialism has disproportionately fallen on the shoulders of already marginalized communities. The situation of educational segregation reveals many of the myths of the neoliberal promise.

### **Szolcsán v. Hungary and the myth of free choice of schooling**

The question of free choice of school is an interesting one in Hungary. As Berényi (2018) writes, in Hungarian society consensual public policies are rare, but the question of the free choice of school is one of them, and has been for the last 30 years. Even after 2010, the current government's radical politics that aimed at completely reforming many things in the education system, still did not touch this policy. This is a heavily debated topic worldwide, but not in Hungary. Up until the regime change in 1989, there were barely any private schools, and even today there are a lot more public schools, and even despite that, there was barely any debate about the long-term consequences of such a policy. Berényi (2018) argues that for that to be understood, we need to look at the unique context in Hungary in which this policy emerged. After the fall of socialism in 1989, this policy carried a symbolic value. It symbolized the breakdown of the centralized and hierarchical education system of state socialism, associated with the broader principles of democracy and liberty. In the Hungarian education system, the justification for free school choice appeared obvious and nearly unquestioned during the years surrounding the regime change, seen as a distinct move toward belonging to a 'free', 'democratic' world. However, as observed, in this 'free', 'democratic' world, once regarded as a model, freedom was far from evident in the free selection of schools; yet, this contradiction was not present in Hungary during the years of educational system reforms.



The case of *Szolcsán v. Hungary* is a testament on how the policy of free school choice, associated with the “free” world, discriminates against Romani children. Research shows that the free choice of school policy is largely responsible for the segregation of Romani students and for the emergence of Roma-only schools (Kertesi & Kézdi, 2014).

The case was also assessed at the European Court of Human Rights, just as the previously analyzed ones. The applicant, who was represented by the European Roma Rights Centre, was born in 2005 in Piliscsaba and has lived there as well. The facts of the case can be summarized as such: In the 2013/2014 school year, the applicant, a Romani student with a hearing impairment enrolled in Jókai Mór Primary School in Piliscsaba, an institution that had become, in practice, a segregated Roma-only school. Although Roma made up only around 4% of the town’s total population, nearly all students at the Jókai Mór school were of Romani origin. The school was widely acknowledged to offer lower quality educational opportunities, with poor infrastructure and limited support services; only around 10% of its students continued into grammar school-level secondary education (ECtHR, 2023).

This form of educational segregation was not an unknown fact. The local municipality had previously acknowledged the school’s racially segregated nature and even instituted a temporary enrollment moratorium in 2012 with the stated aim of desegregation. However, in 2013, administration of the school was transferred to the Klebelsberg Institution Maintenance Centre, the central authority overseeing public education in Hungary. Under this new centralized management, the moratorium was lifted, and the segregated structure remained intact (ECtHR, 2013) For some context, the Klebelsberg Institution Maintenance Centre was established in 2013 by the government, with the aim to replace the local municipality funding by a national body.

In July 2014, the student’s legal guardian submitted a formal request to transfer him to the Dózsa György school in a neighboring town. This school, also part of the same educational district, had better resources and infrastructure, and importantly, could offer the accommodations necessary for the student's hearing impairment. The transfer request was not only motivated by the student's disability but also by a desire for a more inclusive, less racially segregated learning environment. Despite the school being easily accessible within five minutes by public transport, and despite the fact that many students from Piliscsaba were already attending it, the request was denied on the grounds that the student lived outside the school’s official catchment area.

What followed was a series of appeals and legal actions. The applicant claimed that the denial of his transfer amounted to ethnic discrimination and violated his right to inclusive education under Hungarian anti-discrimination law (Act CXXV of 2003, Section 8(e)). Despite this, the regional educational authority upheld the denial, arguing that the segregated Jókai Mór school was “geographically closest” and “adequate.” Two alternative schools in Piliscsaba—run by the Catholic Church and the German minority self-government—were cited as potential options, despite their different admissions structures and cultural affiliations (ECtHR, 2023).

The case proceeded through the domestic judicial system, reaching the Kúria (Supreme Court of Hungary), which upheld the lower courts’ decisions. The court framed the issue as a matter of administrative discretion, stating that the student’s right to education did not include the right to attend a specific school. Furthermore, it rejected the claim of ethnic segregation by arguing that the racial makeup of the school was a function of geography, not discrimination. The court also emphasized that the student had not exhausted administrative remedies, such as filing with the Equal Treatment Authority.

At the level of the European Court of Human Rights, the court's final decision was to acknowledge that racially motivated segregation happened and it violated the applicant's right to education. They relied on the argumentations that were proved previously during the case of *D.H and Others v. Czech Republic*, that for it to be recognized as discrimination, it is not necessary to prove that there was discriminatory intent at place. Building on the case of *Horváth and Kiss v. Hungary*, the court also upheld that the Roma became a specific type of vulnerable minority, which means that special consideration should be given to their needs. The court also did not accept the finding of Kúria, which said that the fact the Jókai Mór school was almost exclusively attended by Roma was not a form of ethnic segregation, but rather it reflected the presence of Romani families in the catchment area.

Although the case ended with a success of the applicant, it clearly showed that the notion of “free” choice of school remains a myth for most marginalized communities, especially for Romani people. It created inequalities between schools. Schools attended by predominantly Romani children offer lower quality of education and lack resources, for example providing accessible services for students with disabilities. Meanwhile, the majority schools, with better infrastructures retain their power to refuse enrollment, fueling racial and socioeconomic segregation.

### **Cruel optimism of the free school choice**

The myth of free choice of schooling can illustrate well the cruel optimism of neoliberal transformation. This policy was marked by desire to belong to the free and democratic world, and yet it backfired and deepened social inequalities. Such “free choice” has only been available for the privileged ones. This contrast is especially ironic, given the developments around the overrepresentation of Romani children in special needs schools.

That form of segregation has been associated with the socialist legacy in Hungary, and in a way, symbolized the region's backwardness in the height of European Union accession. Many associated such failures with the "localized" understanding of disability, which was shaped by the work of Soviet influenced defectologists and special needs teachers. The argument for a medically objective, less biased assessment methods and disability categories were emphasized and were seen as a part of the progress of the country. While it is true that the overrepresentation of Romani students in special needs schools has lowered in the recent decade, but the mechanism behind this remains slightly unexplored. As Nagy (2021) writes in a pedagogical journal: "In conclusion, the use of modern testing procedures, the structural and professional restructuring of the pedagogical service institutions and the application of standardized protocols have led to a significant reduction in the proportion of Roma pupils among pupils with special educational needs. Over-representation has not disappeared completely, but there are no longer any arguable educational policy reasons for this, although differences in health, social and social inclusion are likely to persist." (Nagy, 2021, p. 6) Now, what is interesting in this quote is that it does not engage with the societal and political changes and examine how other forms of segregation might have appeared but rather sees this reduction as a success. Also, it highlights the use of modern testing procedures and standardized protocols as the main catalyzation for change. With the introduction of such methods, Nagy sees the matter "settled", at least from an educational policy perspective. While he acknowledges the persistent social inequalities, he does not see their further exploration in educational policies necessary.

What I argue here, is that the regime change from socialism to neoliberal capitalism introduced new mechanisms of educational segregation, which have been exaggerated during the current right-wing populist government. With the introduction of the free choice of school policy, Roma-

majority schools have emerged. Since these schools offer lower quality of education and infrastructure, as illustrated in the case of *Szolcsán v. Hungary*, many of the pupils cannot continue their studies further, foreclosing the possibility of social mobility, just like it is the case with special education. The emergence of Roma-only schools has enabled segregation, so it made the practice of “diagnosing” with disability redundant anymore. I argue that the apparatus of segregation and the ideology behind this remained alike, what simply shifted was the political strategy. While the notion of intellectual disability is not explicitly invoked here, what remains here is the racialization of intellectual abilities. In another segregational case, *Gyöngyöspata* which will be introduced in depth in the following section, clearly portrays this. Students in the segregated Romani classes did not receive proper education; while they had chemistry classes on paper, the teacher just let them use the internet during the class, in eight grade (the last year of primary school) they were taught from a book that was fourth grade level, which led that many of the pupils in such classes were not taught how to read and write at the age of 14 (Pirókia, 2016). They also did not receive informatics classes, and of the students remembers that they were told the following by the teacher: “It's no use teaching you IT, you won't understand it anyway” (Pirókia, 2018).

The results of this segregation resembles very much what has been said about the case of *Horváth and Kiss v. Hungary*; the students could not apply for high school and faced difficulties at vocational school, therefore could not pursue any professional route. The systemic debilitation of Romani pupils remains even without the explicit disability diagnosis.

While the lowering rate of Romani students in segregated special needs schools could be seen as progress on the surface, we should be cautious to uncritically accept it as such. Yet, given the region's position, there is a tendency to register certain changes as such. “The aspiration of post-socialism was progress, moral emancipation, and eventual happiness” (Kolářová, 2014, p. 270).

To recognize that the situation of educational segregation did not improve, but may actually worsened due to the neoliberal transformation requires confrontation with the curative positivity in the post-socialist moment.

### **Rethinking the intersection of racism and disability**

Although the case of *Szolcsán v. Hungary* does not center disability as its primary legal category, it still opens up a question about the intersection of racism and disability. The applicant had a hearing disability, so his choice to transfer was largely influenced by that, as the other school in the region had better infrastructure to accommodate his needs. This is seemingly in contrast with the previous case of *Horváth and Kiss*, where the applicants fought against the imposed label on disability on them. This reversal, where disability is not imposed but ignored, also reveals the limitations of neoliberal inclusion frameworks, where racialized students face exclusion from these types of support. This intersection of racism and disability remains unexplored in different European Union frameworks, despite the fact that joining the European Union also comes with the promise of bettering disability rights. This case shows again the limitations of such disability rights frameworks that are concerned with empowerment and visibility fails to acknowledge the specific experiences that negatively racialized populations face.

The applicant's main request was access to inclusive education, but in order to provide it, the unwritten rules of racial segregation would need to have been overruled. In their book, *The Biopolitics of Disability: Neoliberalism, Ablenationalism, and Peripheral Embodiment*, Mitchell and Lynder (2015) approach inclusionism as a term associated with disability policies in neoliberalism, and it meant to embrace a myriad of diversity-based practices. However, it does have a limitation. "Inclusionism requires that disability be tolerated as long as it does not demand

an excessive degree of change from relatively inflexible institutions, environments, and norms of belonging.” (Mitchell & Linder, 2015, p. 14) While Mitchell and Lynder do not engage with the question of racialization and how it might play a role in disability inclusion practices, they focus more on what disabilities can be capacitated enough not to demand a change from the institutional order. However, the case of Szolcsán demonstrates that the racialized lines of such order are indeed inflexible.

Researcher Michael Szporluk (2016) titles his report for the European Centre for Minority Issues (ECMI): *Not Even in the Margins: Where are Roma with Disabilities?* He is shocked by the lack of investigation of the situation of Roma with disabilities, and their exclusion as a target group from both of the European Union Framework for Roma Integration and the campaign of Decade of Roma Inclusion 2005-2015. He mentions however, that the only time disability is referenced in the framework is in relevance with the wrongful channeling into special needs classes and schools in Central and Eastern Europe. In the report, Szporluk argues for an intersectional approach which can account for the specific experiences Roma with disabilities face.

The juxtaposition of Roma with Disabilities here reveals the selective invisibility. While Roma students are hyper-visible when it comes labeling for exclusion with the category of mild intellectual disability, they are invisible when they are seeking support and access associated with other forms of disabilities. To recall Puar’s key terms that differentiate debilitation and disability, one reason for this selective invisibility is the notions of endemic and exceptional. Intellectual disability is systematically applied to Roma children to justify their exclusion, while other forms of exceptional disabilities remain unrecognized.

## **Gyöngyöspata and the limitations of strategic litigation**

What has also changed over the course of ten years was the means of seeking justice. In the case of *Szolcsán v. Hungary*, representatives of the government argued that the applicant failed to exhaust the available domestic remedies before bringing the case to the European Court of Human Rights. In the applicant's view, however, bringing a civil action would not have been a fruitful course of action. He pointed out the fact that while it is available in theory, its real-life consequences are much different. Civil actions regarding Romani segregation in Hungary have been otiose at best, and harmful at worst. Court judgements relating to desegregation have not been implemented. He cited a related domestic case, in which damages were not paid to the Romani families involved. A public statement was made about the case by the Prime Minister Viktor Orbán, who claimed that paying damages to the families "violated Hungarian people's sense of justice". (ECHR, 2023, par. 28)

The domestic case the applicant referred to was a heavily publicized one, and it is referred to as "Gyöngyöspata case" in informal language. It follows a decade-long battle at court over illegal segregation of Romani students from 2011 to 2020. The NGO, which started the strategic litigation, Chance for Children Foundation (CFCF) closed down since then. After the final ruling of the court, the Hungarian government attacked the decision, calling it "unjust" and engaged in anti-Roma rhetoric. In the following section, I turn to this case because I believe it was a significant turning point in the racial politics of education in Hungary.

Gyöngyöspata is a small town in Eastern Hungary, with a larger population of Romani people. During the period of state socialism, the town was part of a wine making region, with significant production, but since the neoliberal transformation after 1989, the sector has been in crisis. During socialism, most people worked in industry in the nearby bigger town, Gyöngyös



(United Izzo, the furniture factory, the slaughterhouse) and at the coal and ore mines in nearby settlements (Visonta, Gyöngyösoroszi ore mine, Gyöngyösoroszi and Szűcsi coal mine), but many also found works in the construction sites in Budapest. Romani people from the town, both men and women, were employed in these sectors. Since the collapse of socialism, the unemployment rate has increased, and Roma people are overrepresented in it (Szombati & Fleischmidt, 2012).

In their thorough research, Szombati and Fleischmidt (2012) demonstrated that there are three different types of segregation concerning the Romani population in Gyöngyöspata: employment, residential segregation and educational segregation. The unemployment rate is much higher among the Roma population. As mentioned before, many Roma found jobs in different factories during socialism, but the industry has shut down since the collapse of socialism. While the non-Roma population who also worked in the same industry managed to find employment in nearby factories, the local Roma population could not get employed there. The second type, residential segregation, has been exacerbated by the deliberate segregation policy of the local administration, as they wanted to prevent Roma families to move to the inner part of the town, who live at the outskirts of the town in poorer housing conditions.

Gyöngyöspata gained national attention in 2011 when the Civil Guard Association for a Better Future (SZJPE) began patrolling the Roma-inhabited areas of the town. Soon after, other right-wing extremist groups joined in. These patrols were not just a show of presence—they were meant to intimidate the local Roma community. According to them, the purpose of such patrols was to reduce “Roma criminality” in the town. In their report, Szombati and Fleischmidt (2012) wrote that the local non-Roma population overwhelmingly supported these groups.

Due to this event, the town has found itself in the middle of increased international media attention. As The Guardian reported, Richard Field, a US businessman, decided to offer support. The militia

announced plans to hold a “training camp” over Easter weekend next to the part of town where most Roma people lived. Field paid for six buses to evacuate the Roma citizens for the weekend. In the end, the training camp did not take place, because the police brought the extremists into custody, however, charges were never brought. Even after the disappearance of the extremist groups, the fear and instability lingered. After the events, many Roma from Gyöngyöspata fled to Canada, where they tried to claim asylum. The Guardian concludes: “It can be hard to understand how such a situation can unfold in the EU. But talk to locals, Roma and non-Roma, and it is clear that segregation is at the very heart of the community.” (Pidd, 2012) Later that year in May, Sándor Pintér, Minister of Interior and Eleni Tsakopoulos Kounalakis, US Ambassador to Budapest visited Gyöngyöspata. In a press conference held together, the US ambassador said that the US is sending law enforcement trainers to Hungary who can pass on their experience of how to work effectively in a multicultural environment to Hungarian police officers. They planned to start training around fifty people, police officers, teachers from the police college and the director of the local primary school. Order can be guaranteed by the police, but peace can only be made by the locals, said Sándor Pintér at the end of the day, who also wrote this sentence in the Gyöngyöspata commemorative book. (Sándor, 2011)

This heightened international (or rather, Western) attention to a smaller town in northern Hungary is quite interesting, but not that surprising, given the particular situation of the region. What I find revealing about the report from the Guardian, is the emphasis that such an “ugly” situation could unfold within the borders of the European Union. The idea of the European Union is full of images of European modernity, progress, and advancement in human rights, and a heated ethnic conflict and segregation are not in alignment with such images. As the countries of the former socialist bloc joined the European Union in 2004, as they officially became part of the Western world, their

“moral recovery” (to recall Kolářová) was seen as finished. But instances like this reveal the failure of such vision and create a particular discomfort.

Since the collapse of the USSR and state socialism in Eastern Europe, the situation of Roma people in those regions has gained international attention, and they have been the target of many developments project. Huub van Baar (2018) described it as “Europe’s largest post-1989 development project” (van Baar, 2018, p. 447). To these development projects, mostly carried out by the European Union, and to the willingness to improve the situation of Roma people, van Baar (2018) refers to as institutional developmentalism, which targets Roma population on the basis of their “Europeanness”, as since the reunification of Europe, they have been perceived as European minority.

### **Answering segregation with segregation**

Later, the first independent assessment of the situation came from Ernő Kállai, the former Ombudsman for Minorities. His report found that SZJPE members engaged in behavior that was both intimidating and harassing Roma residents. The same report also highlighted the unlawful segregation of Roma children at Néksei Demeter Primary School in Gyöngyöspata. It included a table illustrating how Roma and non-Roma students, along with those facing various disadvantages, were distributed among classes. The Ombudsman concluded that “roma classes” were intentionally placed close to each other and kept separate from the rest (Hernádi & Kegye & Gárdos & Sahin-Tóth, 2020).

In his report, the former Ombudsman (2011) writes that the children in the school were divided between A and B and C classes. The A classes were the “majority” “normal” classes, the B classes were the so-called Roma classes. The A classes have a larger number of students, while B classes

are “special” smaller size classes. They differed in the educational quality as well, even according to the school director, different teaching methodology and curriculum applied. B classes place more emphasis on the compulsory minimum and less on the extra curriculum, while A classes (from first grade onwards) also have a talent management function. The C classes were only on the upper secondary level (meaning from the fifth to the eighth grade), and they were the special needs classes, which were also attended by majority of Romani students. The classes were specially segregated too. All the Roma classes (the B and C classes) were placed in the ground floor. The A classes were on the first floor. The director explained the visible segregation by the fact that children on the ground floor need more exercise, so they can run around in the yard even during class, and that the day care centre, which is hardly attended by Roma children, is also located on the ground floor, as a refutation of segregation.

The school management at the time believed that this type of segregation was necessary in order to prevent the “white flight”; that is, that the majority, non-Roma students would leave to nearby urban schools. The school director insisted that this order is good for both the Roma and the “Hungarian” children, and he saw it as his duty to keep this order, despite the efforts of the human rights NGOs (Szombati & Fleischmidt, 2012). What manifests here is the school director’s “solution” to the failures of free choice of school. In his effort to prevent the school from becoming a Roma-only school, he ensured that the classes were segregated within the school.

In October 2011, the Chance for Children Foundation filed a public interest lawsuit against the Municipality of Gyöngyöspata and Néksei Demeter Primary School. The lawsuit accused them of unlawful segregation and both direct and indirect discrimination based on ethnicity. The Foundation asked the court to recognize the segregation, acknowledge that Roma students received

lower-quality education, and order the school to take corrective action through a desegregation plan (Hernádi & Kegye & Gárdos & Sahin-Tóth, 2020).

### **“Soros Network’s Money-Making Mission”: the NGOs as foreign agents**

On September 16, 2019, the Debrecen Regional Court of Appeal issued its final ruling, partially upholding and partially modifying the decision of the Eger Regional Court from October 2018. The Court confirmed that Roma students at Néksej Demeter Primary School in Gyöngyöspata were unlawfully segregated from their non-Roma peers between 2003 and 2017. It also found that during the 2011-2012 school year, Roma students received a lower quality of education. The Court emphasized that segregated, lower-quality education is widely recognized as harmful to children's development. Based on these findings, the Court increased the compensation awarded in the first instance. It granted each affected student HUF 500,000 per school year for the 2011-2012 period and HUF 300,000 per school year for the following years. When the defendants appealed to the Kúria (Hungarian Supreme Court), the government and ruling parties responded by launching an aggressive political campaign against the final ruling, the Roma plaintiffs, and the NGOs supporting them (Hungarian Helsinki Committee, 2020).

In early January 2020, László Horváth, a Fidesz MP, criticized the court’s decision on Roma segregation in Gyöngyöspata, calling it legal but unfair and harmful to the town. He claimed that distributing compensation money to Roma families could disrupt the community’s stability and accused the Soros network of financial exploitation. A few days later, Prime Minister Viktor Orbán echoed these sentiments, stating that the ruling violated people’s sense of justice. He questioned why an ethnically identifiable group would receive compensation without working for it, implying

that the decision was unfair to non-Roma residents. While he was unsure how to address the situation, he insisted that justice must be served for the people of Gyöngyöspata (Szurovecz, 2020).

This statement reinforces the stereotypes about the Romani population as “parasites” on the welfare system, who do not want to work. In reality, it has been shown that the neoliberal transformation of 1989 severely impacted the unemployment rate of the Romani population (Kertesi & Kézdi, 2010). What Orbán relies on here is the division of the working class; he differentiates between the “deserving poor” who work hard, and those who just want money without working for it. This divide is drawn here among the ethnic lines.

On 15 May 2020, Viktor Orbán asserted that it is unacceptable for the majority to feel alienated in their own country. “And as long as I’m the prime minister, this will not be the case. Because it is still the country of ours, of the indigenous population, and I see that the Soros organizations have launched the action, this matter has not fallen from the sky” (Hungarian Helsinki Committee, 2020).

While simultaneously excluding the Romani communities from the nation, Orbán also positions the NGOs as foreign actors interfering with the local manners. While such work of such NGOs need to be assessed critically, as we can see in the work of Kóczé and Trehan (2009), Orbán uses their image as a symbol of Western liberal hegemony and draws the collective enemy of them and the “lazy” Roma who threatens the life of respectable, working Hungarians. Vatai (2024) writes that in this case Orbán continues to capitalize on the loss of legitimacy of the previous liberal and socialist regime and on the general lack of trust by Hungarians towards left-wing parties. In this narrative, the ideological liberal-left politically manipulates the situation and disturbs peace, while Orbán, on the other hand, represents the people’s common sense. Vatai (2024) looks at the affective politics of Orbán’s populism. The concept of the “Soros-network” within the Gyöngyöspata discourse is integral to the emotional (re)formation of collective identity by

undermining the political left, identified as the adversary of the unique national interest represented by Fidesz. Thus, the political left is formed through feelings of anger, fear, resentment, and distrust, being perceived as a danger to the nation, which helps to reinforce the definitions of authentic Hungarianness.

It is clear that the work of such Romani rights NGOs in this political context can easily backfire. Their alignment with the “Soros-network” and with the liberal elite makes them an object of distrust. What is worrying about such events, that the political backfire lands on the local Romani community of Gyöngyöspata, who then became a target of intense media attention, and as opposed to the NGOs, cannot just withdraw from the situation. Overall, even without Orbán’s populist politics, the case of Gyöngyöspata discloses an important question about strategic litigation, and its ethical considerations.

### **The emergence of school police**

At the same time, the government also responded to the situation with punitive measures. László Horváth, a Fidesz MP, who was named the PM’s envoy in the case, proposed surveillance cameras into classrooms and the introduction of school police (iskolaőrség). The reasoning behind these initiatives was that the Roma students are responsible for the situation and they “scare away” non-Roma students from the school. The goal of the proposed changes was to bring back the non-Roma students to the school. In this attempt, the violence of the state becomes apparent. While it is hard to accurately assess the real-life effect of the school police, it shows that the current right-wing populist government in Hungary is not interested in resolving tensions or fighting back against systemic racism. These instances of explicit violence by the state show how the response is the criminalization of Romani students, rather than addressing the underlying problems, which were

created by the neoliberalization of the education system. The turn towards securitization and the instrumentalization of racism by right-wing populism shows how racialized segregation is actively reproduced by the state. This new form of exclusion and surveillance require complex and intersectional responses.

## **Conclusion**

In this chapter, I focused on the cases of Szolcsán v. Hungary and Gyöngyöspata to show how the mechanism of segregation has been changing over the last couple of years. Even without an explicit present of intellectual disability diagnosis, undermining logic is very similar. As other forms of segregation mechanism appeared, disability status was not needed anymore. The changing face of educational segregation also revealed the “cruel optimism” of neoliberal transformation. The widely accepted free choice of school policy, which symbolized belonging to the free and democratic world, created a different mechanism for educational segregation.

Ultimately, Gyöngyöspata also presents a breaking point in advocacy work, as the Romani rights NGOs previously relied on the tactic of strategic litigation, but now it seems to backfire with little to no progress. Picking up from the analysis from the previous chapter, it is worth mentioning the two-faceted way of racialization of disabilities. While Roma students are disproportionately overrepresented in one category, they are strikingly low numbers in other categories, which suggests that access to accommodation and reasonable services are also harder to maintain.



## CONCLUSION

In this thesis, I was interested to engage with the complex relationship between racialization and disability, and to see how it manifests in the context of Hungary. The overrepresentation of Romani students in special needs schools under the label of mild intellectual disability offered a locally specific case of analysis, but throughout the thesis, I also looked into how the mechanisms of segregation are changing. The cases I analyzed offered an insight into how the political and social environment affect these changing mechanisms.

The Hungarian education system is known for its selectiveness and segregation, and despite the fact that the segregation of Romani students is well-known, it is rarely acknowledged to be a racially motivated segregation and rather seen as a “coincidence”, or the perceived lower intellectual abilities are highlighted, without addressing the systemic racism and the underlying white supremacy that inform these beliefs. It needs to be acknowledged, that race as an analytical concept has largely been ignored in Eastern Europe, a region which is seen as outside of the colonial power hierarchies, and during socialism, the official state ideology was promoting anti-racism. This research shows the need why race still needs to be included as an analytical concept that shapes power hierarchies in the region, not just in the research that explicitly addresses anti-Roma racism, but the “unspeakable” whiteness needs to be tackled along gender, class and disability lines.

The case of Horváth and Kiss v. Hungary, along with D.H and Others v. The Czech Republic showed the ways in which the concept of intellectual disability has been historically entangled with the racialization of Roma. Soviet defectology introduced an environmental-relational concept of disability in the region, and while it did not support the idea of biological determinism, it created an idea of social determinism, in which Romani families are blamed for the reproduction of “social

moronism”. Specifically in Hungary, the concept of familial intellectual disability was introduced as opposed to pathological intellectual disability. This concept was created to make sense of the overrepresentation of Romani students in special education classes. These examples show how discourses on race and disability were heavily intertwined during socialism. In later years, as the attention turned towards this issue, policy experts saw the way out of it by medicalizing disability and ensuring that only those with “organic” disabilities attend such classes. By claiming that there is a “real” intellectual disability that requires a form of segregated teaching, the argument legitimizes labeling and only problematizes it when it is deemed as inaccurate. To work through such tension, the understanding of disability as a verb instead of noun can offer some resolution. Instead of trying to strict to a binary of disabled/non-disabled, the focus should be shifted towards processes that enable the racialization and disablement of impoverished communities. It urges disability studies scholars to engage with the concepts of state-sanctioned violence, coloniality and racial capitalism more extensively (Kim, 2017).

While the overrepresentation of Romani pupils in special needs schools is often seen as a legacy of state socialism (Donert, 2017), the neoliberal transformation introduced new mechanisms for segregation. Due to the free choice of school policy, which was widely accepted as it symbolized the end of socialist regime and the belonging to the “free” world, Roma-majority schools have emerged. In their logic, they operate similarly to the mechanism of special needs segregation. The pupils in such schools receive lower quality of education, and it forecloses the possibility of social mobility. These shifting mechanisms require further academic inquiry into how structural inequalities are maintained. Future research would benefit from a closer dialogue between disability studies and Romani studies scholars, particularly from an intersectional and feminist perspective.

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