



PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA

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PRESS RELEASE

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The courts` decision in a case of school segregation of Roma children in Stara Lubovna violates the international law

The District court delivered The Center for Civil and Human Rights (Poradna) as a plaintiff in a case a written judgement in an *actio popularis* lawsuit filed against the State represented by Ministry of Education and the city of Stara Lubovna for segregation of Roma children at the primary school in Stara Lubovna – Podsadek in Eastern Slovakia. The court dismissed the lawsuit at a hearing on 6 October 2016 and in the delivered judgment reasoned its decision. The decision is not final as Poradna filed an appeal.

The District court dismissed the lawsuit, reasoning that Roma children are not segregated at the school since they are educated there based on their permanent residence in a given school district and not based on their ethnic origin. According to the court, Poradna as a plaintiff in the proceeding presented no evidence that would prove Roma children are treated less favorably than children in other schools and thus they are disadvantaged. The court stated that the plaintiff did not prove that education of Roma children in the given school is carried out on the ground of their ethnic origin.

Further, according to the court the plaintiff did not sufficiently specify preventive measures that should be taken by the defendants, which might be also because there are no preventive measures falling within legal powers of defendants that could influence an ethnic composition of the given local city area. In this respect the court concluded that ethnic diversity in schools cannot be guaranteed and influenced by the state intervention.

According to Poradna, the delivered judgement has several serious flaws and as such is in violation to the domestic and international law on human rights. Poradna in its appeal to the Regional court pointed at procedural flaws in the proceeding and as well as incorrect substantive interpretation of anti-discrimination legislation.

Poradna initiated the *actio popularis* lawsuit in April 2015 at the District Court of Bratislava on the ground of the domestic anti-discrimination act. In the ongoing lawsuit, the Poradna argued that the municipality and the responsible State authorities including the Ministry of Education, by not adopting effective measures to eliminate the segregation in the respective primary school, violate the domestic and international anti-discrimination legislation. Instead of adopting remedial measures to eliminate discrimination, they expanded the capacity of this primary school by adding a new modular building - a low-cost annex to the school made out of metal containers. According to the Poradňa, this measure is inappropriate and maintains the segregation of Roma children in this school. In the lawsuit Poradňa argues that education in an ethnically segregated school is unable to provide socially disadvantaged Roma children equal educational opportunities, and proposed their integration in primary schools with the other children of the city.

Stanislava Liptakova, an attorney working with Poradna, reacted on the court`s decision:

"In my opinion, the decision has serious flaws, which we pointed at in our appeal. In particular, it is in violation to the international law and the decisions of the European Court of Human Rights in Strasbourg in this area. Legal obligation of the state authorities to ensure equal access to education to all children and prevent racial segregation is embedded in antidiscrimination legislation."

In addition, the court, in my opinion, incorrectly applied the law since it had burden Poradna as a plaintiff to prove claims and facts that should essentially be proving by defendants in antidiscrimination court proceedings. In fact, Slovak courts have been criticized for how they apply the burden of proof in antidiscrimination court proceedings by international human rights bodies for years."

Stefan Ivanco, program coordinator of Poradna, reacted on the court`s decision:

"It seems like the court understands racial segregation in education, at best, as a forced division of children that can happen as a result of the decision of the school. This was the situation addressed by Slovak courts in a landmark ruling condemning segregation of Roma children in village Sarisske Michalany in the previous years. However, racial segregation is a phenomenon that can simply arise and grow due to a long term failure of the state authorities and municipalities to prevent discrimination of disadvantaged racial minority, to support its social inclusion as well as support social cohesion as such."

"The court, as though said, that social exclusion of many Roma children in Slovakia, and its impacts on them as well as on the whole society are actually a part of some natural social developments that we cannot influence and the state authorities are not legally obliged to take measures to prevent discrimination and promote inclusion. It is not possible to agree with such legal interpretation."

"The truth is that elected representatives of legislative and executive powers have been increasingly reluctant to adopt effective policies on the protection of human rights of disadvantaged minorities in Slovakia. That`s why it is very important that Slovak courts take their share of responsibility and protect minority rights by their judgements. It did not happen in this case but I believe that the appeal court will overrule this first- instance ruling."

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

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