25C 133/10-229
File´s identification number: 8110216181

RULING[1]

IN THE NAME OF SLOVAK REPUBLIC

The District Court in Prešov made this Resolution by the judge Katarína Vorobelová LLD upon legal claim of the **claimant: Centre for Human and Civil Rights**,, legally represented by solicitor V.D. against the **defendant: Primary School with Nursery Š.M.**, legally represented by solicitor J.

RE: breach of the principle of equal treatment

The ruling pronounced the following:

By creating special forms for children of Roma ethnicity, the defendant violated the principle of equal treatment and therefore **discriminated** Roma children on a ground of their ethnicity.

The defendant **is obliged**, within 30 days from the effectiveness of this ruling, remedy the unlawful situation which has been suffered, by placing Roma children in year 1 to 7 into forms with other children who are not of Roma ethnic origin.

The defendant **is obliged**, within 30 days from the effectiveness of this ruling, publish this ruling in Teachers` newspapers, with no personal data being shown, in a form of paying for an unabridged publication.

The defendant **is obliged** pay legal expenses incurred by the claimant amounting to €1087.51, directly to the claimant`s solicitor bank account.

Reasoning

On the 28th of June 2010, the claimant lodged a claim against the defendant, asking the court to decide whether, by forming separate forms for children of Roma ethnicity, the principle of equal treatment has been breached and therefore the defendant has discriminated Roma children on a ground of their ethnic origin. He also asked the court to order the defendant to remedy the unlawful situation which was the subject of this proceeding and place the Roma children from year 1 to 7 into mixed forms with children who are not of Roma origin. During the hearing on the 31st of January 2011, the claimant asked the court to order the defendant to change the forms` set up by the first day of the next school year following the effectiveness of this ruling. The claimant also asked the court to order the defendant to pay for an unabridged publication of this ruling with no personal data being shown in the Teachers` newspapers, within 30 days of this ruling.

The claimant argued that the defendant must comply with the School Act and that in the school year 2008/2009 406 pupils attended the defendant. There were 400 pupils attending the defendant in the school year 2009/2010, of which 222 were of Roma ethnic origin. In the school year 2009/2010, the defendant did not form any forms for pupils with special educational needs, under Section 29, paragraph 9 of the School Act, nor any specialized classes under Section 13 paragraph 3 of the Ministry of Education SR Regulations number 320/2008. In the latter school year, there were two reception classes with 16 children in each one, under Section 29 paragraph 8 of the School Act. The claimant´s investigation revealed that the defendant had, for a long time, separate forms for Roma pupils only. In the school year 2008/2009, most of the Roma pupils from S.M. were placed into these forms. These pupils were previously in forms with children who were not Roma. Forms for Roma children were formed in every year, from year 1 to year 7. The register given to court by the claimant shows that the Roma forms for the year 2008/2009 were classes 1.B, 1.C, 2.B, 3.B, 4.B, 5.B, 5.C, 6.B, and 7.C. For the year 2009/2010, classes 1.B, 2.B, 2.C, 3.B, 4.B, 5.B, 6.B, and 7.B. The

[1] This translation has been secured by Amnesty international

classrooms for Roma children are located on a different floor of the school building, therefore during the break times, the children from Roma minority have only minimal contact with other children. Taking these findings into account, the claimant believes that the defendant breached the principal of equal treatment, contrary to The Constitution of Slovak Republic, contrary to other legal regulations and contrary to other international agreements.
The defendant contested the claim, explaining in their counter-claim that the reason for forming the Roma forms was not racially motivated, it was meant to provide an individual approach towards the children from socially disadvantaged backgrounds, who are more likely to suffer from learning difficulties. The defendant claimed, that by separating the children of Roma ethnic origin from children who are not of Roma ethnic origin, they managed to offset the differences in learning, and that the Roma children felt better not knowing that other children were achieving better results than them. The defendant expressed doubt of legitimacy of the claimant to submit the case, pointing out that the claimant was not legally competent to submit a case regarding the breach of equal treatment principle.

The court heard the evidence which included the Memorandum of the claimant dated 22/10/2001, articles of amendments number 1 to 5 to the Memorandum, defendant´s reports on results and conditions for teaching and education dated 22/09/2008 and 17/09/2009, an article from web site mecem.sk dated 12/09/2008, name registers of different years 'forms, form photographs downloaded from the defendant´s website, written statements from parties involved in the hearing, written statement from Amnesty International dated 19/10/2010, claimant´s research investigating the segregation in Primary School Š. name registers of pupils for the school years 2004/2006 to 2010/2011, examination of the defendant´s statutory representative, of the witnesses M., I., J. and V., list of parents and their signatures agreeing to placing their children from O. to Roma forms, dated 14/04/2011, informed agreement of the children´s statutory representatives to placing the children to Roma forms, revised national plan of action for the decade for integrating Roma population 2005/2015 – for years 2011-2015, decision of the Slovak Republic Government number 522 dated 10/08/2011, the headmistress´s statement relating to the trial and other evidence. The court found the following:

The claimant is a civil association founded under Section 83/90 of civil association Act and registered by the Home Office of Slovak Republic. The defendant is a legal entity founded by the village community of Š., with the administration of the state, under Section 596/2003 of the state administration and self administration Act. The defendant provides education under Section 245/2008 of the School Act.

During the school year 2008/2009 406 pupils attended the defendant. There were 400 pupils attending the defendant in the school year 2009/2010, of which 222 were of Roma ethnic origin. In the school year 2009/2010, the defendant did not form any forms for pupils with special educational needs under Section 29, paragraph 9 of the School Act, nor any specialized classes under Section 13 paragraph 3 of the Ministry of Education SR Regulations number 320/2008. In the 2009/2010 school year, there were two reception classes with 16 children in each one, under Section 29 paragraph 8 of the School Act. The claimant´s investigation revealed that the defendant had, for a long time, separate forms for Roma pupils only. This has been confirmed by the witness statements of the defendant´s statutory representative, of the mayor of Š., and other witnesses – teachers employed by the defendant. In the school year 2008/2009, most of the pupils of Roma origin from Š. were placed into Roma forms. These pupils were attending mixed forms until then. Roma forms were created in every year from year 1 to year 7. For the years 8 and 9, Roma pupils were placed into forms with children of other ethnic origin, because there was not enough Roma children attending the school to create a separate form.

The claimant observations shows that the classroom for Roma forms are situated on the ground floor of the school building. The classrooms for other children are situated elsewhere in the building. This means that the children from minority have not got enough opportunity to socialise with the children from the majority. The findings have been confirmed by the teachers` witness statements, describing that during the mid morning break, the Roma children meet in one hallway and the rest of the children in another hallway.

According to the claimant, the defendant stated that even though the Roma forms, or as they call them the forms for pupils from less favourable social background, were formed only in 2008/2009, the

Roma forms for the children from O. have been in operation for a long time. In 2008/2009, the defendant placed the rest of Roma children, who were until then in mixed forms, into exclusively Roma forms. As stated for Roma Press Agency by the defendant`s representative (published on mecem.sk), one of the reasons for creating these Roma forms was the fact, that 50 pupils from the defendant`s school started to attend Primary School in M., where there are no pupils of Roma ethnic origin at all. In the same article, the former head of the defendant stated, that the creation of Roma forms was not meant to discriminate, but to compensate. In the past, the school run a project sponsored by the European Social Fund, involving 32 pupils from S. and O., divided into 4 groups of 8 children. This contributed to the decision to create separate Roma forms with smaller number of pupils.

Witness M. stated that there are some children among the children from socially less favourable backgrounds, who could be placed in the conventional forms, but the parents prefer to leave them in the Roma forms where they have their friends from the same community. She also stated that there are no specialized forms within the school for pupils with special educational needs, these children are integrated into streamline forms and require special attention during tuition. The maximum number of children with special educational needs per each class is three.

Witness J. stated that her children are placed in Roma forms and she was happy with the arrangement. She said that the teaching process is the same for both Roma and non Roma forms. She was not the one complaining about the arrangement; however, she was aware that there were mothers complaining. Mrs D. instigated the petition asking the parents to agree for their children to be placed into Roma forms. She believes that the separation is better for Roma children, because they don`t feel bad about their clothes, lack of equipment etc. Her daughter M. started year 1 and 2 in the mixed class, she was then placed into Roma class where she is very happy, she has got friends and feels to be amongst her peers.

The defendant submitted some informed consents from legal representatives of some of the children who were placed in forms 1.B, 2.B, 3.C, 5.B, 6.B, and 7.B, agreeing to these placements. Additional information stated that pupils from socially disadvantaged backgrounds would be taught at the same level as the streamline children, but the progress would be slower, adapted to their needs and abilities. The learning methods would encourage understanding at a simple level, due to fact that these children lack any help with their homework at home and it is therefore necessary for them to learn as much as possible at school.

During the hearing on the 5th of September 2011, the defendant informed the court, that they undertook some organisational measures and re- located Roma and non Roma classrooms so that these are no longer located on separate floors. Roma classrooms are next to non Roma ones and vice versa.

Under Section 11 paragraph 2 of Equal Treatment and Anti Discrimination Act 365/2004, if the claimant makes accusations that there was a breach of equal treatment principle, and there is enough evidence to believe that this was the case, it is the defendants responsibility to prove that the principle of equal treatment has not been breached.

In this case, the court had enough evidence to believe that the equal treatment principle has been breached. The reverse burden of proof applies, and therefore it is up to the defendant to prove that it was not the case and that without any doubt, the equal treatment principle has not been breached and the defendant did not discriminate. The court summarized, that if the criterion for this act is based on ethnicity or nationality, it is a serious criterion. To establish the discrimination, a specialized investigation must be carried out to see the reasons behind the differences in treatment, also referred to as strict scrutiny. The same process is used by the European Court for Human Rights. Unequal treatment is discriminatory, unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. In the case of unequal treatment based on race, colour or ethnicity, the objectives and aims must be explained as strictly as possible.

Under Section 2 paragraph 1 of the Anti-discrimination Act, the principle of equal treatment forbid any discrimination on a ground of gender identity, religion, race, ethnicity or nationality, disability, age, sexual orientation, marital status, colour of skin, language, political or other ideology, social or national origin, assets, or anything else.

Under Section 2a paragraph 1 of the Anti-discrimination Act, discrimination can be direct, indirect, in a form of harassment, sexual harassment and victimisation. Discrimination shall also mean an instruction to discriminate and an incitement to discriminate.

Under Section 2a paragraph 2 of the Anti-discrimination Act, the direct discrimination shall mean any action or omission where one person is treated less favourably than another is, has been or would be treated in a comparable situation.

Under Section 3 paragraph 1 of the Anti-discrimination Act, the principle of equal treatment shall be respected at the work place, in legal situations, social security, healthcare, provision of goods and services and in education.
Under Section 3 paragraph 3 of the Anti-discrimination Act, to determine whether discrimination has occurred or not, no account shall be taken of whether the underlying reasons were based on facts or on erroneous assumptions.
Under Section 5 paragraph 1 of the Anti-discrimination Act, in conformity with the principle of equal treatment, any discrimination shall be prohibited under Section2 paragraph 1 in social security, healthcare, provision of goods and services and in education.
Under Section 5 paragraph 2 of the Anti- discrimination Act , the principle of equal treatment under paragraph 1 shall apply only in combination with the rights of persons laid down in separate laws regulating access to and provision of

- Social assistance, social insurance, state social support and social benefits
- Healthcare
- Education
- Goods and services including housing provided to the public by legal entities and individuals– entrepreneurs.

Under Section 8a paragraph 1 of the Anti-discrimination Act, differences of treatment shall not constitute discrimination if they are objectively justified by the nature of occupational activities or the circumstances under which such activities are carried out, provided that the extent or form of such differences of treatment are legitimate and justified in view of these activities or circumstances under which they are carried out.

Under Section 9 paragraph 1 of the Anti-discrimination Act, every person shall be entitled to equal treatment and protection against discrimination under this Act.

Under Section 9 paragraph 2 of the Anti-discrimination Act, every person who considers themselves wronged in their rights, interests protected by law and/or freedoms because the principle of equal treatment has not been applied to them may pursue their claims by judicial process. They may, in particular, seek that the person violating the principle of equal treatment be made to refrain from such conduct and, where possible, rectify the illegal situation or provide adequate satisfaction.

Under Section 9a of the Anti-discrimination Act, should the violation of the principle of equal treatment impair the rights, interests protected by law and/or freedoms of a large or unknown number of people, or should such a violation imperil the public interest, a legal entity shall seek the right for protection and the entitlement to equal treatment under Section 10 paragraph 10 of the Constitution. This entity can seek that the person violating the principle of equal treatment be made to refrain from such conduct and, where possible, rectify the illegal situation.

Under Section 10 paragraph 1 of the Anti-discrimination Act, parties to the proceedings concerning the violation of the principle of equal treatment may also be represented by legal entities

- Who have such authority under a separate law, or
- Whose activities are aimed at or consist in the protection against discrimination.

Under Section 10 paragraph 2 of the Anti-discrimination Act, if a legal entity takes up representation pursuant to paragraph 1, it shall assign one of its members and/or employees to act on behalf of the person represented.

Under Section 12 of the Anti-discrimination Act, this Act transposes legal acts of the European Communities and the European Union, specified in the Annex.

Under Article 11 paragraph 1 of the Constitution of the Slovak Republic, people are free and equal in their rights and dignity. The fundamental rights and freedoms are inviolable, inalienable, secured by law, and unchallengeable.

Under Article 7 paragraph 5 of the Constitution of the Slovak Republic, International treaties on human rights and fundamental freedoms and international treaties not requiring to exercise law, and legally ratified international treaties directly conferring rights or imposing duties on natural or legal persons, shall have precedence over other Acts.

Under Article 33 of the Constitution of SR, no one shall be discriminated against for their ethnicity or for belonging to any ethnic minority.

Under Article 12 of the Constitution of SR, people are free and equal in their rights and dignity, and the fundamental rights and freedoms shall be protected and guaranteed to everybody in Slovak Republic, regardless of their sex, race, colour of their skin, language, religion and beliefs, political and other views, national and social background, ethnicity, assets, gender or anything else. No –one shall be harmed, favoured or discriminated against on these grounds.

Under Article 1 paragraph 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, also known as Regulation number 95/1974 of Ministry of Foreign Affairs of the Acts. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Under Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Under Article 5 letter e), section v)of the Convention, Slovak Republic undertakes to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law and right for education

Under Article 26 of the International treaty on civil and political rights, also known as Regulation of the Ministry of Foreign Affairs number 104/1991 of the Acts, everybody is equal in their rights and shall have right to equal legal protection without any discrimination. The law prohibits any discrimination and guarantees to everybody equal protection from discrimination on any grounds such as race, colour, gender, language, religion, political or other views, ethnic or social origin, assets or other.

Under Article 2 of the Convention on children rights, published in the Announcement of the Federal Ministry of Foreign Affairs number 104/1991, the Slovak Republic as a State Party of the Agreement shall respect and guarantee the rights established by the Agreement to every child living under their jurisdiction regardless of their sex, race, colour of their skin, language, religion and beliefs, political and other views, national and social background, ethnicity, assets, or gender.

Under Section 3 paragraph b) of the School Act number 245/2008, education is based on the principle of prohibiting discrimination and segregation.

Under Section 107 paragraph 1 of the School Act, education of the children from socially disadvantaged background complies with this law by using specific teaching methods.

Under Section 107 paragraph 2 of the School Act, schools shall create an individual learning environment for children and pupils from socially disadvantaged background.

Under Section 107 paragraph 3 of the School Act,an individual learning environment shall mean:

- To educate following a specialized educational synopsis
- To modify organisational aspects of education
- To modify educational environment
- To apply specific forms and methods of education

Under Section 144 paragraph 1 section a) of the School Act, any child or pupil shall have equal rights to education

Under Section 144 paragraph 2 of the School Act, a child or a pupil with special educational needs shall have right to education which suits his/her individual needs, in an environment complying with his/her needs and facilitate specialized educational process.

Under Section 145 paragraph 1 of the School Act, in conformity with the principle of Equal Treatment in Education, as laid down in separate regulation, every child or pupil is guaranteed his/hers rights laid down in this Act.

Under Section 145 paragraph 2 of the School Act, to exercise this Act shall be in conformity with good morals.

Under Section 2 paragraph 1 article a) of the Act number 596/2003 of the School self-governing policies, head teacher of school or head teacher of pre-school (head) shall represent the state governing body at the level of schools and pre-schools.

Under Section 3 paragraph 3 of the Act number 596/2003 of the School self-governing policies, the head of a primary school shall have the authority of the state in the first instance. The head of the school decides upon:

- Admission to school
- Deferment of compulsory school attendance
- Back dated deferment of compulsory school attendance
- Exemption from compulsory school attendance
- Exemption from attendance in some or part of some lessons
- Authorisation to attend school abroad
- Corrective measures
- Permission to be examined by the board
- Permission to be examined in different subjects even if the pupil is not the pupil of that school
- Amount of contribution for pupil´s maintenance at school
- Individual learning programs
- Learning plans at schools founded in Slovak Republic by a foreign body
- Individual learning plans for a pupil living abroad
- Permission to follow an individual learning plan

Under Section 2 paragraph 1 article b) number 596/2003 of The Act, the authority of the state for education at the level of school and pre-school is: the village

During the hearing, the defendant questioned the legitimacy of the claim by pointing out that the claimant has, being an Association, no legal right to lodge a legal claim. However, as stated in the Appendix number 5 of the Regulation of the Centre, the claimant offers legal advice, statutory representation and initiates legal proceedings in their own right for matters regarding discrimination. This appendix has been ratified on 30/04/2010 and the Home Office acknowledged the change on 04/06/2010, so well before the start of legal proceedings for this case. Regarding the evidence submitted with the claim, the court shall look into every single piece of evidence separately before deciding upon their legitimacy and before placing them into context with other separate pieces of evidence. In this case, the court ruled that every individual piece of evidence was obtained legally and therefore can be used as evidence supporting the claim. On this basis, the court rejected the argument undermining the legitimacy of the claim and decided to continue the proceeding. Under Section 9 and 10 of the Anti-discrimination Act, the claimant has the right to lodge a claim.

The defendant admitted to the statement that Roma forms were created catering for Roma pupils only, regardless of the achieved results of those pupils. This was also confirmed by witness statements of teachers employed by the defendant. Formation of the forms for children from socially disadvantaged background is also mentioned in the defendant´s Report of results and conditions for education dated 17/09/2009. This fact has been established also by the defendant´s showing name registers and photographs of the forms where it is evident, that in the school year 2008/2009, Roma forms have been created in years 1 to 7 and the forms were 1.B, 1.C, 2.B, 3.B, 4.B, 5.B, 5.C, 6.B and 6.C

The defendant stated that the formation of the Roma forms was not racially motivated. It was meant to provide an individual approach towards the children from a socially disadvantaged background, who are more likely to suffer from learning difficulties. The defendant claimed, that by separating the

children of Roma ethnic origin from other children , they managed to offset the differences in learning. The individual approach means that the pupils in these forms receive less homework than children in streamline ones, the amount of work they do on a daily basis is reduced and their progress is slower, making sure they understand well what they have learned before taking on new things. The defendant did not show any other specialized methods of teaching. The court pointed out, that teaching methods for pupils from a socially disadvantaged background cannot be in breach with any legislation preventing the breach of the principle of equal treatment. The defendant did not prove that the measures taken for formation of Roma forms were legal or temporary, and the head of school was not legally competent to take such measures under Section 8 paragraph 1 of the Anti-discrimination Act and under the School Act.

The court further noticed, that according to the name registers, the number of pupils in Roma forms is more or less the same as the number of pupils in the streamline forms, which contradicts the defendant`s argument about the individual approach. The defendant stated that the Roma forms were created for children from the village of O. who have a socially disadvantaged background. However, these forms are also attended by children from Š., regardless of whether they come from a socially disadvantaged background or not. The main criterion for placement into these forms is the ethnicity of children.

The defendant`s statement that Roma children and their parents agreed with the placement into Roma forms is not relevant. To establish the breach of the principle of equal treatment, the fact that the separate forms were created in order for Roma children to feel better not knowing that the children from another ethnic group were achieving better results than them, is not relevant either.

The parents` and children` s consent, does not justify the illegal action of the defendant. As the claimant rightly pointed out, the parents and children agree with the current situation only because they got used to it, and they are worried about bullying in mixed classes. This confirms the accusation of the claimant that the defendant is unable to deal with problems such as potential problematic relations between Roma children and Non Roma children, and is unable to encourage their integration into a non Roma environment. The fact that the defendant worries about Non Roma children being discriminated against proves lack of understanding of inclusive education where every child is treated as an individual with unique characteristics trying to achieve his or her full educational potential within the group. The defendant tried to persuade the court, that in order to achieve an equal quality of education for every child, the separation of Roma children from other ethnicity is necessary. The court disagreed with this statement, and concluded that the defendant failed to develop the principle of inclusive education and favoured illegal segregation in education.

The defendant´s argument that the separation complies with a National plan of action for the decade for integrating Roma population for years 2011-2015 was disproved, because this document relates to Secondary Schools which is not the defendant´s case.

As far as the temporary special measures taken to offset the differences, these were meant to bring a weaker group, which is perhaps not achieving as well as it should, to the level of a stronger group. However, it is obvious from the documents shown, that the measures taken by the defendant did not try to offset differences caused by possible social disadvantages as there is no evidence of gradually incorporating Roma children into mixed forms. The measures taken aimed only to separate Roma children from any other ethnicity. It is evident and was also confirmed by the employees of the defendant and the deputy head, that no Roma pupil was moved from a Roma form into a non Roma form. The court pointed out, that the defendant did not try to hide that one of the reasons for the formation of Roma forms was concern about the number of children leaving the school for school in M. which had no Roma pupils attending. This is confirmed by a copy of an article from www.mecem.sk web site, filed as article 40. Statements of the statutory representative of the village Š., that the measures taken improved the school attendance and the results of Roma pupils were not provable.

The defendant objected to points number 2 and number 3 of this Ruling, under Section 155 paragraph 4 of the Civil procedural Code (further only as “C.P.C.”) . The court took the view, that the instructions are clear enough to be carried out, and as far as the point number 3 is concerned, this refers to the Anti-discrimination Act rather than Section 155 paragraph 4 of C.P.C. and it aims to rectify the illegal situation. This claim is a claim in the public interest, lodged by the claimant in his own name, but with interest to protect the rights of a larger group of people. The court proclaimed, that the defendant shall publish this ruling, to inform other organisations that they may be acting unlawfully and they should cease from their actions.

With regards to the above mentioned, the court has decided, that the defendant could not reverse the burden of proof, and could not, without any doubt, prove that they did not discriminate against Roma children. The defendant could not prove that the measures they took were lawful, necessary or appropriate. Even though the defendant claims that these measures had a legitimate aim – to acquire skills and abilities by children from socially disadvantaged backgrounds, the means for this aim were not in proportion and thus inappropriate. The court fully accepted the claim.

Under Section 160 paragraph 1 of the C.P.C. , if the court gives an obligation, it has to be satisfied within 3 days from the ruling. However, the court can change this period. Any financial obligation can be satisfied in instalments set by the court. Any missing of any one instalment means immediate payment in full.

In point number 2, the claimant asked the court to rule that the defendant must rectify the illegal situation within 30 days from the effectiveness of this ruling. The claimant later changed this period. The court ruled the obligation to remedy the unlawful situation within the original time frame – 30 days from the ruling. The court believes, that it is possible to satisfy this obligation within the time frame of 30 days, and regardless of the claimant ´s request to change it, the court has the right to keep the statutory period or prolong it. The court ruled in compliance with the claim, but with original timing for point number 2.

Under Section 142 paragraph 1 of the C.P.C. , the participant successful in a proceeding is entitled to claim legal fees from the other participant.

In this proceeding, the successful participant was the claimant, which entitles him to claim the legal fee of 1087.21 Euro from the defendant. The fee consists of 66 Euro for the hearing and 1021.51 Euro for legal representation. Legal representation fee consist of 11 acts of legal help at 61.41 Euro each (initial assessment, claim, claimant´s statements dated 17/01/2011, 08/03/2011, 20/05/2011, legal representation in court 31/01/2011, 31/03/2011, 23/05/2011, 05/09/2011, 20/10/2011 and 05/12/2011. Under Section 10 paragraph 8 of the Regulations of Ministry of Justice of Slovak Republic number 655/2004 on solicitors` expenses for legal advice and under Section 16 paragraph 3 of the above mentioned Regulation, 2 x €7.21 and 9 x €7.41 for overheads.

Under Travel Expenses Act number 283/2002, the court further agreed to refund the claimant` s legal representative his/her travel expenses, occurring on route between Košice and Prešov, due to attending court hearings on 31/01/2011, 31/03/2011, 23/05/2011, 05/09/2011, 20/10/2011 and 05/12/2011, amounting to €116.69 (€19.48 +€19.376+ €19.521 + €19.412 + €19.48 + €19.421) and travel time spent travelling between Košice and Prešov and back (on 31/01/2011, 31/03/2011, 23/05/2011, 05/09/2011, 20/10/2011 and 05/12/2011) which is 12 journeys half an hour each one at €12.35 each making €148.20.

The court did not agree to refund the claimant`s legal representative`s expenses for submitting a request to adjourn the hearing. The court does not believe that it was necessary as it was not requested by the judge nor was it a legal action requiring legal aid.
As per the above mentioned, the total of legal expenses of the claimant amounted to €1087.51. Under Section 149 paragraph 1 of Civil procedural Code , the court decided to make the defendant liable to pay the expenses directly to the claimant's legal representative`s bank account.

I n s t r u c t i o n : This decision can be appealed at the County Court in Prešov within 15 days from the day it has been delivered.
Under Section 205 paragraph 1 of the C.P.C. , appeal shall contain, apart of general explanation (Section 42 paragraph 3 of C.P.C.) an explanation of which part of the Ruling it pertains to, and the scale thereof. It shall also explain why the appeal considers the ruling to be unjust and what it tries to achieve by appealing against the court`s decision.
Under Section 205 paragraph 2 of C.P.C., an appeal against a decision of Court can be submitted only on the following bases:

- There were defects under Section 221 paragraph 1 of C.P.C. in the proceeding,
- There were other defects in the proceeding which could contribute to an unjust decision in the merits,
- The court of first instance didn`t properly follow submitted evidence necessary for a just decision.

- The court of first instance made unjust findings
- The findings made by the court are not complete, because there is other evidence which has not been revealed yet (Section 205a of the C.P.C.), the decision of the court of first instance drew a wrong legal conclusion.

Prešov 5th of December 2011
JUDr.Katarína Vorobelová
Judge
Correction: Mgr. L.
Signature and Court Stamp