



## PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA

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### PRESS RELEASE

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#### **State institutions are not responsible for the segregation of Roma children in schools, but schools, says Slovak appeal court**

The Slovak state authorities (including the Ministry of Education) are not obliged to take effective measures to eliminate segregated education of Roma children at the primary school in Terňa (village in Eastern Slovakia). This was confirmed by the recent decision of Prešov Regional Court, which thus agreed with the first instance court decision of February 2019. The court proceedings in the case were initiated by the NGO Center for Civil and Human Rights (Poradňa). In its view, the judgment of the Court of Appeal is contrary to international law. Poradňa will though submit its appeal to the Supreme Court of the Slovak Republic.

The lawsuit against the Slovak Ministry of Education and the District school office in Prešov was filed by the non-governmental organization Center for Civil and Human Rights (Poradňa) as an *actio popularis* claim under domestic antidiscrimination legislation. Poradňa argued that some Roma children at the school in a village Terňa face segregation in education as a result of adopted decisions of the responsible state authorities ordering school catchment area for the given locality as well as their inactivity.

Poradňa asked the court to oblige responsible state authorities to adopt effective measures that would eliminate and prevent segregation of Roma children at the school.

Within a court proceeding Slovak Public Defender of Rights provided the court its submission as a third party as she mapped the situation in this locality from her own initiative. Her submission supported reasoning of Poradňa in the proceeding.

The Prešov District Court, [by a judgment](#) of 27 February 2019 dismissed the action of Poradňa and its appeal was now decided by the regional court.

The Court of Appeal' [current judgment](#) of 20 August 2020, which was delivered to Poradňa these days, fully upheld the judgment of the Court of First Instance. The appeal court agreed with first instance court decision that defendants, as public authorities, are not entitled to interfere in the organisation of the educational process, which is solely the responsibility of the school. Their decisions to determine the school district, according to the Court of Appeal, did not result in the segregation of Roma children in separate Roma classrooms and on the afternoon shift, to which Poradňa referred.

According to the court, the defendant state institutions had no choice, but to designate a single common school district for all children, both from the municipality of the nearby village Maly Slivnik and from the municipality of village Terňa, regardless of their origin and race, at Terňa primary school.

In its judgment, the Court of Appeal did not dispute the fact that segregated education of Roma children constitutes a breach of the principle of equal treatment (i.e. discrimination against them) and that state institutions have a duty to take measures to eliminate and prevent segregation in the future. The Court also stated that the segregation of Roma children in education is a problem for which

Slovakia is facing international criticism. At the same time, however, the Court stressed that the responsibility for organising teaching lies with those directly responsible for the organisation and management of the teaching process.

The Court of Appeal also did not consider it necessary to refer the matter to the Court of Justice of the EU for an interpretation of the legal issues dealt with in accordance with EU law, as Poradňa had proposed in the proceedings.

According to Poradňa, the judgment of the Court of Appeal is in breach of international law and it therefore plans to submit the case to the Supreme Court of the Slovak Republic.

Vanda Durbáková, a lawyer representing Poradňa in this court case, commented on the judgment:

*"In its decision, the Court of Appeal said in principle that if you want to address segregation in schools - sue the schools that are responsible for it. Thus, it narrowed the legal interpretation of segregation to the targeted separation of Roma children by schools into separate classes. The Court no longer paid attention to the fact that segregation in schools often also occurs as a result of measures taken by state institutions or their inaction. In this particular case, the defendant institutions should have taken into account the free school capacity of other nearby schools and, by their decisions, determined the common school district differently. This would make possible for primary school in Terňa to prevent segregation. I believe that the Slovak Supreme Court will reverse this decision and, in case of doubt, refer it to the Court of Justice of the EU for an interpretation on the legal issues dealt with in accordance with EU law."*

Štefan Ivanco, Programme Coordinator on Poradňa, said of the judgment:

*"It goes without saying that the school itself is responsible for the organisation of the educational process. However, the public authorities must not make it difficult for school to fulfil its powers by their decisions. On the contrary, by its decisions and other measures taken, it is up to the state institutions to create the best possible conditions for the organisation of children's education without segregation. It is ultimately a state that bears an international legal obligation to ensure education without discrimination. Unfortunately, the problem of segregation of Roma children in Slovakia is already so extensive and its causes are so complex that some schools, even with good will, cannot cope with it themselves. That is when, under international law, a State simply must intervene and take all necessary measures that will lead to change."*

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**The Center for Civil and Human Rights** (Poradňa) 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](http://www.poradna-prava.sk)

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