



PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA

CENTER FOR CIVIL AND HUMAN RIGHTS
KRIVÁ 23, 040 01 KOŠICE, SLOVENSKO

» mobil: +421 908 69 55 31, +421 949 338 396
» www.poradna-prava.sk » poradna@poradna-prava.sk
» IČO: 37 86 72 70 » IBAN: SK98 5200 0000 0000 0551 9629

V Košice, 24 April 2023

Supreme Court of the Slovak Republic: lower courts erred in dismissing an anti-discrimination lawsuit against state institutions in a case of alleged segregation of Roma children at a primary school in a village Terňa

The Supreme Court of the Slovak Republic upheld our appeal in a publicized court case concerning the alleged segregation of Roma children at a primary school in a village Terňa. In its resolution, it overturned the judgments of the lower courts and remanded the case back to the District Court in Prešov for further proceedings. Unlike the lower courts, the Supreme Court concluded that we had carried our part of the burden of proof in the proceedings. It is now up to the defendant state institutions to prove that they did not discriminate in their decisions to set school districts.

We, as a non-governmental organization, the Center for Civil and Human Rights (Poradňa), filed the lawsuit against the Ministry of Education and the Prešov District Office in January 2016 as a public lawsuit under the Anti-Discrimination Act. In the strategic court proceedings, we argued that as a result of the decisions taken on the designation of the school district, which did not take into account the capacity problems of the school, and at the same time the inaction of the responsible state authorities - segregation of Roma children occurs at the primary school in Terňa.

We requested that the court to oblige the defendant state authorities - the Ministry of Education of the Slovak Republic and the District Office in Prešov (now the Regional Office of School Administration in Prešov) - to take effective measures to eliminate the illegal situation at the school and prevent segregation in the future.

During the court proceedings, the former Public Defender of Rights, Mária Patakyová, who mapped the situation in the locality on her own initiative, also provided the court with her opinion on the case. Her opinion in the court proceedings supported our argumentation.

The District Court in Prešov dismissed our lawsuit in its [judgment](#) of February 2019 and the Regional Court in Prešov confirmed the [judgment](#) of the court of first instance in its entirety in its judgment of August 2020. The lower courts found that we did not bear the burden of proof in the court proceedings and did not prove that the decisions of the defendant state institutions resulted in the segregation of Roma children at the relevant primary school. In December 2020, we therefore filed an appeal against the Regional Court's judgment to the Supreme Court of the Slovak Republic.

The Supreme Court, by its resolution of 28 March 2023, which was delivered in April 2023, reversed the judgments of the Regional Court and the District Court and remanded the case back to the District Court in Prešov for further proceedings and decision. In its resolution, the Court referred to its recent [judgment](#) in the case of segregation of Roma children at the Stará Ľubovňa - Podsadek primary school and also to the decision-making practice of the European Court of Human Rights in cases of discrimination against Roma children in access to education.

The Supreme Court, unlike the district and regional courts, found that we, as the plaintiff, had carried our part of the burden of proof in the proceedings and it was now up to the defendant state institutions to prove that they had not discriminated by their decisions.

Commenting on the Supreme Court's resolution, Vanda Durbáková, lawyer cooperating with our NGO the Center Civil and Human Rights (Poradňa) as the plaintiff in the lawsuit, said:

"This is the second Supreme Court decision in a case of segregation of Roma children in education in a relatively short period of time in Slovakia. It comes at a time when Slovakia is also facing a lawsuit from the European Commission in the EU Court of Justice. The responsible state authorities must finally take action and use the EU recovery plan to finance measures leading to the elimination of segregation, rather than its deepening in the form of expanding the capacity of segregated Roma schools. Among other measures, they must designate school districts in a way that promotes the diversity of children across primary schools and does not contribute to the segregation of disadvantaged Roma children."

In further proceedings, the district court will reconsider whether the decisions taken by the defendant institutions violated the principle of equal treatment and thus caused the segregation of Roma children alleged by us.

We would like to thank all the donors who have long supported our strategic litigation of discrimination cases and, as part of that, our work on this case, enabling us to achieve this court decision.

CONTACTS: Vanda Durbáková – attorney cooperating with the Center for Civil and Human Rights (Poradňa); Tel.: +421 908 695 531; E-mail: vanda.durbakova@poradna-prava.sk

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

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