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PRESS RELEASE

In Košice, 6 November 2023

Court rules that state institutions are responsible for the segregation of Roma children at a primary school in a village Terňa

At today's hearing, the District Court in Prešov upheld our anti-discrimination lawsuit in the case of the segregation of Roma children at the primary school in a village Terňa. It ruled that the segregation of Roma children at this school is due to the decisions taken by the defendant state institutions on the designation of a joint school district in the locality, as well as to their long-term inaction. The court ordered the defendants to take effective measures to remedy the unlawful situation at the school and to prevent segregation in the future.

We, as a non-governmental organization Center for Civil and Human Rights (Poradňa), filed an anti-discrimination public lawsuit against the Ministry of Education of the Slovak Republic and the legal predecessor of the Regional Office of School Administration in Prešov in January 2016. In the strategic lawsuit, we argued that the defendant state authorities not only failed to provide the school with the necessary support, but also, by their decisions on the designation of school districts and their inaction, put the school in a situation where, due to a lack of capacity, it had to start educating some of the children in the Roma-only classes on the second afternoon shift as well.

In court, we requested that the court obliges the defendant state institutions 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 gave the court her opinion. Her opinion in the court proceedings supported our argumentation.

The District Court in Prešov [decided](#) on our lawsuit for the first time in February 2019 and dismissed it. Its judgment was subsequently [upheld](#) in its entirety by the Regional Court in Prešov in August 2020.

We filed an appeal against the judgment of the Regional Court to the Supreme Court of the Slovak Republic. By its [resolution](#) from March 2023, the Supreme Court reversed the judgments of the regional and district courts and remanded the case back to the district court for further proceedings and decision. According to the Supreme Court, we, as the plaintiff, carried our part of the burden of proof in the proceedings. It was up to the defendant state institutions to prove that they did not discriminate in their decisions.

The District Court in Prešov at its hearing on 6 November 2023, bound also by the legal opinion of the Supreme Court, upheld our lawsuit. It ruled that the defendant state institutions had committed discrimination - both by adopting decisions on the designation of the school district area, which maintained the existing segregation of Roma children at the school in a village Terňa, and by failing to take effective measures to prevent and eliminate their segregation.

The district court orally pronounced the judgment, a written copy of which has not yet been delivered to the parties to the dispute.

In its oral reasoning at the hearing, the court found that the defendant state institutions had failed to create the conditions for the primary school in Terňa to provide inclusive education for all children. The court reproached the defendant school office for not sufficiently analysing the capacities of the surrounding schools, focusing only on transport accessibility, which, according to the court, cannot be a decisive factor in desegregation. In this regard the court reproached the school office for not analysing also the school capacities in the nearby city of Prešov and the surrounding municipalities. The court also found that the solution for desegregation could not be the construction of a new school in nearby village Malý Slivník, as it was assumed that it would be with a majority of Roma children. This would be unlawful even in light of the Supreme Court's resolution.

The district court ordered the defendants to develop, within six months of the judgment becoming final, a plan of measures leading to the effective elimination and prevention of segregation and to implement that plan within two years.

Commenting on the judgment, Vanda Durbáková, a lawyer cooperating with our NGO the Center Civil and Human Rights (Poradňa) as the plaintiff in the lawsuit, said:

"This is yet another in a series of judgments confirming the responsibility of state institutions, including the Ministry of Education, for discrimination against Roma children in the Slovak education system. It puts further important legal pressure on them to take effective measures to combat the segregation of Roma children in education. The state authorities simply need to designate school districts in such a way as to promote diversity of children across primary schools and not contribute to the segregation of disadvantaged Roma children. Today's judgment obliges them to do so. They must come up with effective comprehensive measures that will lead to desegregation at the school in Terňa."

The ruling is not final and the defendants can appeal the judgment.

Further context of the case:

By this lawsuit, our NGO responded to a situation that arose in the municipality of Terňa in 2014. The municipality, as the founder of the school, terminated the agreement on a joint school district for children attending grades 1-4 with the neighbouring municipality of Malý Slivník. It did so in an effort to reduce the number of children at the local school in light of its limited space capacity. The school was in real danger of having to start educating some of the children on the afternoon shift. The children from Malý Slivník who attend the school in Terňa are of Roma origin and face social disadvantage.

The municipality of Malý Slivník, which does not have its own primary school, has tried to make an agreement on a joint school district with another municipality in the area, but without success. Therefore, in accordance with the law, it turned to the district authority in Prešov to resolve the situation and to designate a school district for the children from Malý Slivník so that their compulsory school attendance would not be jeopardised. However, the Prešov District Office, by its decisions in 2014 and 2016, re-designated the school in Terňa as the catchment school for the children from Malý Slivník. The municipality of Terňa appealed against the decision, arguing that the number of school-age children had been decreasing in several primary schools in the area in recent years and that they had vacant school capacities. The Ministry of Education rejected their appeal. As a result of the capacity problems, the school in Terňa was forced to start educating some of the Roma children from Malý Slivník in afternoon-shift classes and in ethnically homogeneous classes. This situation persists.

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.

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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

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