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Landmark ruling: the Court of Appeals upholds the responsibility of state institutions for the segregation of Roma children at a primary school in a village Terňa. State must now desegregate

State institutions, including the Slovak Ministry of Education, are responsible for segregation of Roma children at the primary school in Terňa and must eliminate it. In its [judgment](#), a written copy of which has been delivered to us as plaintiffs these days, the Regional Court in Prešov has made a final decision on this matter. It thus confirmed the judgment of the first instance District Court in Prešov of 6 November 2023. It is the first ever final judgment by which Slovak courts have imposed an obligation on state institutions to draw up a plan for the elimination of segregation in education and then to implement it.

Commenting on the verdict, Vanda Durbáková, legal counsel for the Center for Civil and Human Rights (Poradňa) as the plaintiff in the court proceedings, said:

"With this judgment, the Court of Appeal has definitively confirmed the responsibility of state institutions - the Ministry of Education and the Regional Education Authority - for the segregation of Roma children at the school in a village Terňa. At the same time, it imposed on them the obligation to eliminate the segregation and prevent it in the future. In this context, this judgment is absolutely groundbreaking. The responsible institutions must act decisively in the wake of this final judgment. They must draw up a 'desegregation plan' within a specified timeframe, which will include a plan of action to eliminate segregation, and then implement this plan. According to the judgment, the segregation of Roma children at the school in Terňa must be eliminated within two years at the latest."

Štefan Ivanco, Programme Coordinator of the Center for Civil and Human Rights (Poradňa), commented on the judgment:

"It is incomprehensible that the Slovak Ministry of Education on the one hand publicly declares the need to desegregate education, including, for example, the implementation of reforms from the recovery plan using EU funds. On the other hand, in this lawsuit, it has for years denied any responsibility for the illegal situation at the school in Terňa and refuses to take any measures to eliminate the segregation of Roma children. This is also conclusion of the appeal court. It is imperative that the ministry and the school authorities finally begin to design and implement effective desegregation measures. In Terňa and in many other localities where segregation in education is present. I believe that this important court ruling will contribute to this."

We, as a non-governmental organization (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 institutions 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 shift as well. In court, we demanded that the court oblige the defendant state institutions to take effective measures to eliminate the illegal situation at the school and prevent segregation in the future, including the development and implementation of a so-called desegregation plan.

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- amicus brief. Her opinion in the court proceedings supported our legal argumentation.

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

However, the Slovak Supreme Court's March 2023 [decision](#) reversed the judgments of the regional and district courts and remanded the case back to the district court for further proceedings and a decision. In November 2023, the district court - bound by the Supreme Court's legal opinion - granted our claim. The defendants subsequently appealed.

The Regional Court in Prešov, in its [judgment](#) of 22 April 2024, which was delivered to us these days, legally confirmed that the defendant state institutions committed discrimination - both by adopting decisions on the designation of the school district, which perpetuated the existing segregation of Roma children at the school in Terňa, as well as by failing to take effective measures to prevent and eliminate their segregation.

According to the Regional Court, before determining the school district, the defendants should have properly evaluated the established situation and subsequently adopted such desegregation measures to avoid an increased concentration of children of Roma ethnic origin in the school and thus the creation of ethnically segregated classes, including the need to introduce afternoon shifts. The Court also specifically pointed out that the Ministry of Education, in the context of the current educational reforms, declares its commitment to taking measures to promote school desegregation. However, directly in the present court proceedings, it denies responsibility for the unlawful situation and refuses to take any measures to prevent the segregation of Roma children in schools. The Regional Court as appeal court also drew attention to several decisions of the European Court of Human Rights in Strasbourg, in particular the judgment in the case of *Elmazova and Others v. Northern Macedonia* of 13 December 2022, and clearly concluded that discrimination can occur even in the absence of any discriminatory intent on the part of the State. Even in such cases, the State cannot absolve itself of its responsibility.

The Regional Court upheld the defendants' obligation to draw up, within six months of the judgment becoming final, a plan of measures leading to the effective elimination and prevention of segregation, and their obligation to implement that plan within two years.

The decision is final and the defendants cannot appeal against it.

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 Slovak 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 namely Open Society Foundation, Sigrid Rausing Trust, ACF – Slovakia and others 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 dedicated to the protection of human rights and freedoms, with a focus on the protection of minority rights and protection against discrimination. It has long been combating discrimination against the Roma minority in various areas of life in Slovakia. It also focuses on the protection of reproductive rights and the issue of police violence. Poradňa uses strategic litigation to challenge discrimination and violation of the human rights of minorities. It provides free legal assistance in selected cases of human rights violations and free legal representation in proceedings before Slovak courts and the European Court of Human Rights in Strasbourg. It also carries out field monitoring, and advocacy activities in relation to state institutions and conducts educational activities in the field of protection against discrimination for the professional and lay public. Website: <https://poradna-prava.sk/en/>

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