



PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA

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PRESS RELEASE

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The appeal court rules that Roma children from the town Stará Ľubovňa are not segregated in education

Roma children from a primary school in Stará Ľubovňa (town district Podsadek) in Eastern Slovakia are not segregated in education despite the fact that the school is ethnically homogenous and attended only by Roma children from the nearby marginalised community. The Regional Court in Bratislava as an appeal court has confirmed it by its judgment and upheld a decision of first instance court from October 2016. The court proceeding was initiated by the Slovak grass root NGO Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva). According to Poradňa, the appeal court's judgment is contrary to the international human rights law and it therefore plans to submit an extraordinary appeal to the Supreme Court of Slovakia.

Poradňa filed an *actio popularis* lawsuit in April 2015 with the District Court Bratislava III based on domestic Anti-Discrimination Act. In argued that the municipality and the responsible state authorities including the Ministry of Education, by not adopting effective measures to eliminate the segregation in the respective primary school, violated the domestic and international anti-discrimination legislation. Instead of adopting remedial measures to eliminate discrimination, they expanded the capacity of this primary school by adding a new modular building - a low-cost annex to the school made out of metal containers. According to the Poradňa, this measure is inappropriate and maintains the segregation of Roma children in this school. In the lawsuit Poradňa argues that education in an ethnically segregated school is unable to provide socially disadvantaged Roma children equal educational opportunities and proposed their integration in other primary schools with the other children in the town.

Regional Court in Bratislava [on 29 April 2020 fully upheld](#) the decision of the District Court Bratislava III. As an appeal court it stated that even though the primary school is attended only by Roma children - this situation stemmed as a result of demographic development and parents of the affected Roma children agree with their education in the given school. According to the appeal court, the situation arose without intentional action by the state and local authorities as defendants in the case, which aim was not to prevent mutual contact between Roma children and children from the majority.

From a procedural viewpoint the appeal court rejected the objections of the Ministry of Education and confirmed that the state itself as well as state authorities that represent the state in proceedings can be sued in anti-discrimination civil court disputes. The court also noted that civil courts can order adoption of measures to prevent discrimination, provided discrimination is proved in proceedings. This also includes elaboration of a desegregation plan, which was proposed by Poradňa in this proceeding.

Vanda Durbáková, an attorney representing Poradňa in this proceeding commented on the judgment:

"It is clear that, according to the appeal court, only separate education of Roma children, which would be caused by intentional and targeted actions by state or local authorities, can be considered a violation

of the anti-discrimination law. However, this perception is contrary to the international law, EU law and the rulings of the European Court of Human Rights in Strasbourg in this area. They understand racial segregation in education as a serious form of discrimination that violates the rights of a segregated minority per se - regardless it has been caused with malicious aim and intention to segregate. I believe that the Slovak Supreme Court will reverse this decision and, in case of doubt, will turn to the Court of Justice of the EU with a preliminary question for an interpretation of the given legal issues in line with EU law."

Štefan Ivanco, program coordinator of Poradňa, added to the judgment:

"The appeal court clearly understands segregation in education only as a forced separation of racial or ethnic minority children. But segregation in education is a phenomenon that can simply arise and grow due to a long term failure of the state authorities and municipalities to prevent discrimination of disadvantaged racial minority and to support its social inclusion. In this court proceeding we submitted expert opinions that clearly highlighted negative psychological, pedagogical and social impacts of segregated education on Roma children. These negative impacts are yet equally relevant and disadvantage Roma children regardless of what caused their segregation. Unfortunately this aspect was completely ignored by the court in the proceeding. I also find it alarming that the Regional Court ruled on our appeal after more than three years from its submission."

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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 of Roma women 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. Visit us at www.poradna-prava.sk.

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