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### NEWS REPORT

<b>Country:</b>	Slovakia
<b>Title:</b>	District Court: Education of Roma children in segregated Roma only school does not constitute discrimination based on ethnic origin
<b>Date:</b>	20 January 2017
<b>Expert:</b>	Vanda Durbakova
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Discrimination of Roma children in education
<b>Ground of discrimination:</b>	Race/ethnic origin
<b>Source:</b>	National court decision, District Court Bratislava III from 6 October 2016 delivered on 12 December 2016, file n. 11 C 351/2015 - 387
<b>Field:</b>	Education
<b>Applicable law:</b>	Act no. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Antidiscrimination Act), §§ 2 para 1, 2a para 2, 9a and 11para 2, School Act no. 245/2008 Coll of Laws, §§ 3 letter b), 144 para 1 letter a), 145 para 1, 2

### Content

**Case:** The Center for Civil and Human Rights (Poradna pre občianske a ľudské práva) against the Slovak Republic represented by the Ministry of Education and the city of Stara Lubovna from 6 October 2016, no. 11C/351/2015-387 (delivered on 12 December 2016).

**Facts of the case:** The City of Stara Lubovna operates a primary school in the city area Podsadek. The school has been for a long time attended solely by socially disadvantaged Roma children from the nearby socially excluded Roma community. Non-Roma children living in this local area attend the other primary schools in the city. Due to insufficient capacities, the city of Stara Lubovna and the Ministry of Education expanded the capacity of this primary school in Podsadek by adding a new modular building - a low-cost annex to the school made out of metal containers.

**Decision of the Court:** The lawsuit was filed by the non-governmental organization Center for Civil and Human Rights (hereinafter "plaintiff") pursuant to §9a of the Antidiscrimination Act- as "actio popularis claim" against the State represented by the Ministry of Education and the city of Stara Lubovna as a founder of the relevant primary school. The plaintiff argued that by omitting to adopt effective measures to eliminate the segregation in the relevant primary school, the defendants 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. According to the plaintiff, this measure was inappropriate and maintained the segregation of Roma children.

The plaintiff generally sought that the court rules that the defendants violated the principle of equal treatment by not adopting sufficient preventive measures on the protection from discrimination; obliges the defendants to elaborate a desegregation plan within three months and to implement the desegregation measures within three years from the finality of the decision.

The court dismissed the lawsuit reasoning; the plaintiff failed to bear the burden of proof and did not present such facts that could give rise to the assumption that the principle of equal treatment was violated. The court stated that Roma children are not segregated at the school at hand since they are educated there based on their permanent residence in a given school district and not based on their ethnic origin. According to the court, the plaintiff did not prove that education of Roma children in the given school is carried out on the ground of their ethnic origin and did not sufficiently specify the preventive measures that should be taken by the defendants, which might also be because there are no such preventive measures falling within the legal powers of defendants that could influence an ethnic composition of the given local city area. In this respect the court concluded that ethnic diversity in schools cannot be guaranteed and influenced by state intervention. The court decision is not final as the plaintiff filed an appeal.

**Key points of analysis:** The court established that education of socially disadvantaged Roma children in ethnically segregated school does not amount to discrimination based on the ethnic origin. The decision has serious procedural and substantive flaws and as such is contrary to the Antidiscrimination Act, the Council Directive 2000/43/EC and the related jurisprudence of the ECtHR.

**Internet link source:**

The full reported court decision is available in Slovak at:

<https://www.poradna-prava.sk/sk/dokumenty/rozhodnutie-okresneho-sudu-v-pripade-v-pripade-verejnej-zaloby-proti-segregacii-romskych-deti-na-skole-v-starej-lubovni/>.