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NEWS REPORT

Country:	Slovakia
Title:	The Regional court upheld a decision of the District Court in favour of Roma woman discriminated against in access to employment
Date:	5 April 2018
Expert:	Vanda Durbakova
Update of news reports:	Slovakia - The Constitutional Court Clarifying Some Aspects of Proving Discrimination in Civil Proceedings (PDF 99 kB) and Slovakia - Landmark decision of the District Court ruling in favour of Roma woman discriminated against in access to employment (PDF 148 kB)
<u>Context</u>	
Issue at stake:	Direct discrimination in access to employment
Ground of discrimination:	Race/ethnic origin
Source:	National court decision, Regional court in Košice from 7 February 2018 delivered on 15 March 2018, n. 9Co/259/2017
Field:	Access to employment
Applicable law:	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 1 and 4; § 6 para 2 a); §§ 9 para 2-4, §§ 11 para 1-2

Content

Case: V.P. against Town of Spišská Nová Ves from 7 February 2018 delivered on 15 March 2018, n. n. 9Co/259/2017.

Case development: In 2011, the claimant sued the town of Spišská Nová Ves ("the town") for discriminating against her by not selecting her for one of three vacant positions of terrain social workers, financed by the Social Development Fund. When compared with the applicant, the persons selected for the positions were less qualified, had less experience with terrain social work and less training, did not speak Roma language, and were of non – Roma origin. Experience with terrain social work, speaking Roma language and being of Roma origin were deemed to be advantages in the selection process (although the latter two were listed as advantages by the Social Development Fund only).

In 2012, the District Court in Spišská Nová Ves dismissed the complaint as manifestly ill-founded and its decision was confirmed in 2013 by the Regional Court in Košice. The

claimant subsequently lodged a complaint to the Constitutional Court. On 1 December 2015, the Constitutional Court ruled that the regional court had violated the complainant's right to a fair trial as well as her right to an effective remedy. It quashed the regional court decision and ordered the national general courts to deal with the case again.

The Regional Court in Košice subsequently quashed the first instance court decision from 2012 and the case returned before the District Court in Spišská Nová Ves¹ that on 23 March 2017 ruled that the respondent discriminated against the claimant on the ground of her Roma ethnic origin and ordered the respondent to send her a written apology, to pay non-pecuniary damages to the amount of 2 500 € and to refund 50% of her legal costs. The court partially dismissed the claim for non-pecuniary damage, as the claimant had requested a total amount of 5 000 €. ² Both the respondent and the claimant have appealed the decision. The claimant has appealed the parts of the decision whereby the district court partially dismissed her claim for non-pecuniary damage and awarded her only 50% of her legal costs.

Decision of the Court: On 7 February 2018 the Regional court in Košice fully upheld the decision of the District court in all parts. It confirmed that the respondent discriminated against the claimant on the ground of her Roma ethnic origin and the respondent is obliged to send her a written apology, to pay non-pecuniary damages to the amount of 2 500€ and to refund 50% of her legal costs. The Regional court reiterated the conclusions of the first instance court. It concluded that the respondent did not submit any evidence proving that he did not discriminate against the claimant. In addition, he did not provide any reasonable arguments why the advantages listed by the Social Development Fund - speaking Roma language and being of Roma origin - were not included into the selection process set by the respondent. It concluded that the respondent did not remove doubts about the transparency of the entire selection process.

The Regional court also fully confirmed the reasoning of the court of first instance concerning financial satisfaction for the claimant. It concluded that the court of first instance took into account all the circumstances relevant for assessing financial compensation and the amount of 2500 € is adequate.

The decision of the Regional Court is final and cannot be appealed against.

The legal representation of the claimant was supported by the Slovak NGO Center for Civil and Human Rights (Poradna) within its strategic litigation program.

Key points of analysis: The Regional Court in all parts upheld the decision of the District Court in favour of a Roma woman claiming direct discrimination in access to employment. According to the national expert's best knowledge this is the first final decision in favour of a Roma claimant in a case of racial discrimination in access to employment and in this regard can be considered as landmark. However, according to the national expert's opinion the awarded financial compensation in this case is not effective, proportionate and dissuasive and as such is contrary to Council Directive 2000/43/EC. The decision proves that the national courts in Slovakia remain reluctant to award adequate financial compensation in cases of discrimination.

Internet link source: The decision in Slovak language can be found at:
<https://www.poradna-prava.sk/sk/dokumenty/rozsudok-odvolacieho-sudu-v-pripade-diskriminacie-romskej-zeny-v-pristupe-k-zamestnaniu/>.

¹ Decision No 9 Co 54/2016 – 462 of 24 August 2016.

² Decision No 8 C 268/2016 – 523 of 23 March 2017.