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NEWS REPORT

Country:	Slovakia
Title:	Final court's decision in case of residential segregation of Roma.
Date:	16 July 2018
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Update of news report:	Slovakia - Supreme court recognises the positive obligation of the Government institutions to prevent residential segregation of Roma minority (PDF 148 kB) ¹
<u>Context</u>	
Issue at stake:	Indirect discrimination/segregation
Ground of discrimination:	Race/ethnic origin
Source:	Decision of the Regional Court in Prešov from 20 March 2018, n. 13 Co 38/2017
Field:	Housing
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, 2 and 3, §§ 2a para 1,2,3 Constitution of the Slovak Republic, article 12 para b1, 2 The Civil Code (Act 40/1964 Coll. as amended), § 711, para 1 Regulation the Ministry of Transport and Construction of the Slovak republic from 23 December 2004 n. V-1/2014

Content

Case: B.C. and others v. Town of Sabinov and the Ministry of Transport and Construction of the Slovak republic.

Facts of the case: The claimants of a Roma ethnic minority sued the town of Sabinov for being illegally moved out of rental apartments owned by the town in a central area to the new rental apartments of a lower standard, built by the town outside the built-up areas and far from town infrastructure. The claimants pointed out that the town had moved to the apartments of lower standard solely tenants of Roma ethnic origin, which led to their segregation. They simultaneously sued the Ministry of Transport and Construction of the Slovak republic ("the Ministry of Transport") for subsidising this town building project despite of its discriminatory nature and for not preventing segregation of Roma tenants.

Case development: The claimants filed the lawsuits with the District court in Prešov in 2007 which lastly in October 2012 ruled that the defendants had breached the principle of equal treatment, and emphasised the segregation component, a breach of the duty to

¹ <https://www.equalitylaw.eu/downloads/4259-slovakia-supreme-court-recognises-the-positive-obligation-of-the-government-institutions-to-prevent-residential-segregation-of-roma-minority-pdf-148-kb>.

adopt measures to prevent discrimination, a need for a strict scrutiny test in case of a 'suspicious criterion' consisting of ethnicity, and the outdated concept of formal equality and awarded to each claimant financial compensation of 1 000€ (dismissing the rest of their claims). However, following an appeal by the defendants, the claimants' case was fully dismissed by the Regional Court in Prešov several times, lastly in March 2014. The legal representative of the Roma claimants referred the case to the Supreme Court of the Slovak Republic, which (in April 2017) overturned the decision of the Regional Court and referred the case back to it for further proceedings.

Decision of the Court: The Regional court confirmed the decision of the first instance court from October 2012 and fully agreed with its reasoning.

In line with the legal opinion of the upper Supreme Court, the Regional Court concluded that only Roma were moved to rental apartments in segregated area of a town, so they were treated differently from the other inhabitants thus faces discriminatory treatment on a ground of their ethnic origin for which a town is responsible.

The Regional court again repeated that the claimants had been entitled to claim their rights protected by the antidiscrimination laws, even though they did not claim that the termination of their rental agreements by the town was illegal. According to the court it is up to the claimants' choice which legal measures of protection of their rights they will use. The Regional court further stated that implementation of antidiscrimination legislation by state authorities and municipalities in practice is not sufficient. In this context the Ministry of transport as a state authority has the duty to protect the human rights not only in theory, but also in practice. It has to respect all the obligations set by the international treaties. According to the court, the Ministry of Transport was obliged to examine circumstances under which the subsidy was supposed to be used in boarder context and consider if using of the subsidy eventually led to the segregation of Roma minority. In line with the decision of the Supreme court, the Regional court pointed out the positive obligation of the state authorities to prevent discrimination.

As for the amount of non-pecuniary damage, the Regional court concluded that amount of 1000€ awarded to each of the eight claimants is adequate for violations occurred.

The claimants in this case have been legally represented by an attorney cooperating with NGO Via Iuris.

The decision is final.

Key points of analysis: The Regional court decided in line with the legal opinion of the upper Supreme court fully recognising the responsibility of the Government institutions to prevent residential segregation of the Roma minority. In its key conclusions, the decision is in line with the EU Race directive and the international human rights law as such.

Internet link source: The decision is published in Slovak only at:

https://obcan.justice.sk/infosud-registre/-/isu-registre/i-detail/rozhodnutie/000da3d2-a41f-4fb9-b469-3760918f4d16%3Ab2e5d9d7-e6e6-43c5-af46-aac5bb1ebcb5?isufrontreg_WAR_isufront_parentDetailPart=rozhodnutia&isufrontreg_WAR_isufront_parentEntityPk=155.