

# European Anti-discrimination Law Review

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## Slovakia

*Case law*

### **First decision of the Slovak court applying the Anti-discrimination Act of 20 May 2004 which transposed the Directives into Slovakian law**

In April 2005 three Roma activists from the NGO Nova Cesta (New Way) based in Michalovce, together with an activist from the NGO Porad a pre obianske a ľudské práva (the Centre for Civil and Human Rights) based in Košice visited a local bar in Michalovce known for its hostile behaviour towards Roma customers. The group of activists decided to test the local bar in their policies towards customers of Roma ethnic origin. The three Roma activists were refused access to the bar as they were not able to prove "club membership" (they were not in possession of "club cards"). The white activists from Porad a who followed them a few minutes later had no problem entering the bar. The activists made an audio recording of the communication between themselves and the bar personnel. Therefore there was no doubt that the incident happened. The Roma activists lodged a petition with the Michalovce District Court against the owner of the bar for the bar policy and for the actions of his employees. They claimed discriminatory treatment on the ground of their ethnicity and requested that the owner of the bar be ordered to issue a written apology and to pay financial compensation. As evidence they submitted the record of the incident. The defendant did not deny that the incident happened however he argued that he does not discriminate Roma people as he usually serves them in his bar. He supported his statement by several Roma witnesses who were heard by the court.

On 31 August 2006 the Michalovce District Court decided partially in favour of the applicants. It ordered the owner to issue a written apology for discriminating against the applicants. However the court failed to state on what ground discrimination occurred. The Court did not accept the applicant's arguments that they were discriminated against on the ground of their ethnicity. According to the Court's reasoning the bar owner was successful in proving that he serves Roma guests in his bar and therefore in generally establishing that he does not discriminate against them. Apparently however, the court failed to apply the shifting of the burden of proof. The Court did not grant the applicant's claim for financial compensation. The reason for the denial was that, in the Court's opinion, the use of situation testing could not cause any harm to the applicants as application of this methodology meant that they would have expected discriminatory treatment of the bar personnel. The judgment has been appealed.