



## NEWS REPORT

<b>Date:</b>	26 July 2010
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<b>Title:</b>	Regional Court in Prešov Dismissing the First Housing Segregation Case
<b>Country:</b>	Slovakia
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The Regional Court in Prešov, as an appellate court, dismissed the claims of the plaintiffs and overruled the District Court decision from 15 June 2009 which declared that the Town of Sabinov and the Ministry of Construction and Regional Development breached the principle of equal treatment in relation to housing of 8 Roma plaintiffs and which awarded to each of the plaintiffs 1,000 € as non-pecuniary damage.
<b>Ground of discrimination:</b>	Race/ethnic origin
<b>Source:</b>	National court decision (13Co/44/2009)
<b>Field:</b>	Housing
<b>Legislative provisions:</b>	Act No 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection Against Discrimination (Anti-Discrimination Act), mainly Section 9 para 1 and 2

### Content

**Case:** At the beginning of 2008 eight Roma plaintiffs submitted a legal action against the Town of Sabinov and the Ministry of Construction and Regional Development. Relying on the provision on housing in the Anti-discrimination Act and the International Convention on the Elimination of All Forms of Racial Discrimination, they claimed discrimination in provision of housing, alleging segregation on the ground of ethnicity. The case concerned the removal by the Town of Sabinov of Roma families who had lived in the centre of the town of Sabinov in lucrative houses (mainly from the perspective of their location that made them attractive for business or housing purposes) to a new place that was located one kilometre from the town periphery (where only Roma people were moved to). The new place chosen by the municipality was totally isolated from the town and had a

very poor infrastructure. The plaintiffs urged the court to decide that the defendants breached the principle of equal treatment and to order the provision of better infrastructure in their new place of residence (this is further precised in the lawsuit as well as in the ruling and encompasses for example the demand that the defendants provide a bus link between the Sabinov town centre and the plaintiffs' new place of residence or that the defendants provide a shop with basic goods in the plaintiffs' new place of residence). They also asked the defendants to pay to each 3,319.39 € for the damage they suffered.

The plaintiffs partially won their case before the District Court in Prešov on 15 June 2009, with the court ruling that the town of Sabinov as well as the Ministry of Construction and Regional Development breached the principle of equal treatment and ordering the defendants to pay each of the plaintiffs 1,000 €. In this ruling, the court emphasised the segregation component, the breach of the duty to adopt measures to prevent discrimination, a need for a strict scrutiny test in case of a "suspicious criterion" consisting in ethnicity (the court referred here to the EctHR's *DH v Czech Republic* judgement), and noted that the concept of formal equality is "already obsolete". The defendants appealed the decision and on 13 May 2010, the appellate Regional Court in Prešov changed the district court ruling, fully dismissing the claims of the initial plaintiffs.

**Decision of the Court:** The Regional Court in Prešov based its decision on the argument that although the lower court has correctly established the facts of the case, it has not interpreted them correctly under the existing law. The court, referring to Section 9 of the Anti-discrimination Act (enumerating the possible claims in cases of breaches of the principle of equal treatment in an open-ended list), held that no provision of the Slovak law enables a court to declare that the principle of equal treatment has been breached. It also ruled that given the fact that the Ministry of Construction and Regional Development (the second defendant) provided the funding for the compensatory apartments (namely the apartments in the segregated area where the defendants were moved by the Town of Sabinov) on basis of a proper request from the Town of Sabinov, it has not breached any national or international legal regulations. The court also said that given the fact that the plaintiffs had merely claimed a breach of the principle of equal treatment and had not initiated any legal action against the fact of being moved to the compensatory apartments (such as claiming the termination of tenancy invalid or to refuse to move into the compensatory apartments), the Town of Sabinov could not be held responsible for breaching the principle of



equal treatment contained in the Anti-Discrimination Act. The court did not deal with the remaining claims, especially with the compensation of non-pecuniary damage of 1,000 € that was awarded to each of the plaintiffs by the lower court (District Court in Prešov). The legal representative of the Roma plaintiffs referred the case to the Supreme Court of the Slovak Republic.

**Internet link source and additional information:** Ruling not available online.