The Court:	Regional Court Nitra
File mark:	23Sa/90/2019
Court file identification number:	4019200523
Date of the decision:	22. 07. 2020
Name and surname of the judge, VSU:	JUDr. Dana Kálnayová
ECLI:	ECLI:SK:KSNR:2020:4019200523.2

Ruling

Regional Court in Nitra in the legal case of the plaintiff: E. Q., born in. XX. XX. XXXX, residing at L., A. XX, represented by counsel: Mgr. Klaudia Szekeres, attorney at law, with registered office at Teshedíkovo, Široká 569, against the defendant: City of Nové Zámky, Registry Office, with registered office at Nové Zámky, Hlavné námestie 10, on an administrative action of 30.09.2019 against another intervention of a public administration body, by Judge JUDr. Dana Kálnayová, as follows

r u l e d:

The Regional Court in Nitra finds that the defendant's failure to issue a complete bilingual version of the plaintiff's birth certificate on 30.07.2019 was unlawful.

The plaintiff is entitled to full costs.

r e a s o n i n g :

I.

1. By an action against another interference by a public authority, brought before the Regional Court of Nitra on 01.10.2019, the plaintiff sought a declaration that the defendant's failure to issue a bilingual version of the plaintiff's birth certificate on 30.07.2019 was unlawful and an injunction restraining the defendant from continuing to interfere with the plaintiff's rights. It also sought an order that the defendant issue the plaintiff with a fully bilingual birth certificate with all the details in both Slovak and Hungarian and an order that the plaintiff pay the full costs of the proceedings.

2. In her application she stated that she is a national of the Slovak Republic of Hungarian nationality. On 30 July 2019, she applied to the Registry Office in Nové Zámky for a Slovak Hungarian version of her birth certificate pursuant to § 2 para. (5) of Act No 184/1999 Coll. on the use of the languages of national minorities as amended, according to which: "Birth certificates, marriage certificates, death certificates, permits, authorizations, certificates, statements and declarations in the municipality referred to in paragraph 1 shall be issued bilingually upon request, namely in the state language and in the language of the minority." The defendant is on the list of municipalities in which citizens of the Slovak Republic belonging to the Hungarian national minority make up at least 20 % of the population and is therefore subject to the obligation under the above-mentioned provision. She submits that she was issued with a birth certificate on a bilingual form, but that the details (e.g. Komárno, female, etc.) are given exclusively in Slovak. The document is therefore bilingual only as regards the pre-filled text, there being no translation of the plaintiff's specific particulars into Hungarian.

She pointed to several provisions: § 2 paragraph 5 of Act No. 184/1999 Coll. on the Use of Languages of National Minorities as amended, Article 34 paragraph 2 letter b) of the Constitution of the Slovak Republic, Article 10 paragraph 1 letter b) of the European Charter for Regional or Minority Languages, Article 10 paragraph 2 of the Framework Convention for the Protection of National Minorities, and stated that these are also international treaties by which the Slovak Republic is bound and which, pursuant to Article 7 paragraph 5 of the Constitution of the Slovak Republic, take precedence over laws.She further noted that the Committee of Experts, in its most recent report on the application of the Charter in the Slovak Republic, had emphasized that under article 7, paragraph 1 (d), States parties were obliged to base their policies, legislation and practices on the facilitation and/or promotion of verbal or written expression in a regional or minority language in public and private life. In connection with this recommendation, the Committee of Experts noted in point 53 that the Charter does not only contain a passive permission to use regional or minority languages in the public and private spheres but requires state administration authorities to facilitate and/or encourage the use of these languages in the public sphere. This requires a proactive approach on the part of public authorities to promote the use of these languages.

It further alleged a violation of the European Convention for the Protection of Fundamental Rights and Freedoms by failing to issue a fully bilingual birth certificate to the plaintiff. She submits that the Slovak Republic is a party to the Convention and is therefore bound by it and that, like the above-mentioned international treaties, the Convention is an international human rights treaty which takes precedence over domestic legislation. It considered that the plaintiff's right of access to her own documents, namely her birth certificate, had been infringed by the issue of her only partially bilingual birth certificate.

She referred to the settled case-law of the European Court of Human Rights (see Gaskin v. the United Kingdom, no. 10454/83, 7 July 1989, and Leander v. Sweden, no. 9248/81, 26 March 1987), according to which the right to respect for private and family life includes the right of access to one's own documents, namely one's birth certificate. Thus, by not issuing the plaintiff's birth certificate in a bilingual version, the defendant infringed her right of access to her own documents, which also gives rise to a violation of the right to private life. The right to protection against unwarranted interference with private life is also protected by Article 19(2) of the Constitution of the Slovak Republic.

In accordance with Article 14 of the Convention, the plaintiff alleged a violation of the prohibition of discrimination on the grounds of language and membership of a national minority, as the full Slovak Hungarian version of the document had been refused.

In conclusion, the plaintiff considered the non-issuance of a bilingual version of her birth certificate to be factually incorrect and illegal, and believed that the defendants had violated her right to documents in a minority language according to Article 10, paragraph 1, letter b) of the Charter; her right to use a minority language in official communication according to Article 34, paragraph 2, letter b) of the Constitution, Article 10, paragraph 2 of the Framework Convention; her right to access her own documents as part of the right to respect for private and family life according to Article 19, paragraph 2 of the Constitution of the Slovak Republic, according to Article 8 of the Convention; and her right to equal treatment according to Article 12, paragraph 2 in conjunction with Article 17, paragraph 1 of the Constitution, Article 14 of the Convention in conjunction with Article 8, paragraph 1 of the Convention, Article 4, paragraph 1 of the Framework Convention and Article 7, paragraph 2 of the Charter, as the defendant discriminated against her on the basis of language and her affiliation to a national minority.

II.

3. The defendant responded to the lawsuit by a submission dated 11.12.2019 in which the defendant stated that the pre-printing of the civil registry forms/documents (birth certificate, marriage certificate, death certificate) meets the attributes of a bilingual civil registry form. The individual boxes and the pre-printing of the data comply with the provisions of Act No 154/1994 Coll. on civil registers, as amended. He pointed out that, according to § 12 of the Act on civil registers, entries in the civil register are made in the national language.

He further stated that according to § 4 of the Act on Civil Registry, the civil registry as a delegated exercise of state administration is run by the municipality. The municipality issues the civil registry document, the model of which is determined by the Ministry, and any interference by the municipality with the content of the official statement is inadmissible. The civil registry is maintained in the territory of the Slovak Republic through the central information system for civil registries designated and provided by the Ministry of the Interior of the Slovak Republic.

Act No. 124/2015 Coll., which amends the Act on Civil Registry in § 7 established the Electronic Civil Registry. The central information system for registry offices, through which the registry office is "kept" and registry documents are issued, has the mandatory ex lege items that are part of the registry document set "fixed", i.e. no manual intervention is possible on the part of the registrar (e.g. status of the bride and groom, sex, verbal indication of dates, code of towns and villages and states, etc.). The system set up does not allow to enter these data in the language of the national minority and it would be contrary to the legislation related to the performance of the civil registry in the territory of the Slovak Republic.

He also referred to Article 6 of the Constitution of the Slovak Republic, according to which the Slovak language is the official language of the Slovak Republic. The use of languages other than the official language in official relations shall be provided for by law.

He also referred to § 3 para. (3) of the Act. 270/1995 Coll. on the State Language of the Slovak Republic, as amended, and § 3 para. (3) of the Act on Civil Registry from which it clearly follows, according to the defendant, that the civil registry document must contain the data entered in the civil registry, which is and must be kept in the state language, and the data that are transferred to the civil registry document from the IS /(i.e. it is not a preprint) cannot be entered in the civil registry form in any language other than the state language.

He considered that the valid format of the bilingual civil registry form is issued in accordance with § 2 para. (5) of Act No. 184/1999 Coll. on the Use of Languages of National Minorities, as amended. The rights of citizens of the Slovak Republic belonging to a national minority shall be respected and preserved while accepting the provisions of the laws in force in the territory of the Slovak Republic.

Finally, he stated that he had also asked the Ministry of the Interior of the Slovak Republic for assistance and an opinion on the action.

On the basis of the foregoing, he considered that the City of Nové Zámky had not erred in issuing a birth certificate to the plaintiff and requested that the action be dismissed as unfounded.

4. The Ministry of the Interior of the Slovak Republic, Public Administration Section, Department of Registers, Civil Registry and Reporting of Residence, Department of Civil Registry, in its statement on the bilingual civil registry form/official extract from the civil registry dated 26 November 2019, stated that it had prepared and distributed bilingual civil registry forms/documents to the municipalities concerned. In its opinion, the pre-printed civil registry forms/documents (birth certificate, marriage certificate, death certificate) met the attributes of bilingual civil registry forms. The individual boxes and the pre-printing of the data comply with the provisions of the Civil Registry Act. It referred to several provisions of the Act and stated that on 24.08.2012, the Ministry of Interior of the Slovak Republic, following a request from the Government Office of the Slovak Republic, National Minorities Section (designation of the Office at the time), sent samples of bilingual civil registry forms/ documents in all languages of national minorities pursuant to the Act. 184/1999 Coll., which were accepted by the requesting authority without comment.

It pointed out that Act No. 275/2006 Coll. on Public Administration Information Systems and on Amendments and Supplements to Certain Acts does not regulate the conditions for maintaining public administration information systems in the language of national minorities.

The Ministry of Culture of the Slovak Republic, by letter No MK 690/20012-62/3820 of 16 March 2012, warned the central state administration bodies and local state administration bodies of the obligation to use the state language in public administration information systems enshrined in § 3 para. (3) of the State Language Act.

It pointed out that according to the government's draft Act No. 184/2011 of March 2011, the section "Explanatory Report, General Part" states that the Act will not have an impact on the computerization of society.

This was on the grounds that if changes and modifications to the IS CISMA were to be made and implemented, which would require the provision of a multilingual IS, it would be necessary to secure extra funding from the State budget for that purpose.

It stated that the "Clause of selected impacts" of the quoted government bill, in the section "Impact on public finances", indicates a negative impact of the bill on the budget of the public administration in the form of an increase in the expenditure of the state administration, to ensure the use of languages of national minorities. The expenditure of the state budget relates to traffic signs with the municipality's name in the language of the national minority, signs of public administration bodies with the name of public administration bodies in the language of the national minority, translation costs related to the translation of resolutions and information for the public and official forms of public administration, which are also provided in the language of the national minority. The Ministry of the Interior of the Slovak Republic has ensured that the civil registry official form is made bilingual for the plaintiff upon request.

It further stated that despite the fact that the Ministry of Interior of the Slovak Republic provided the Office of the Government Plenipotentiary for National Minorities (hereinafter referred to as "ÚSNM") as well as the Public Defender of Rights with all the documents and analyses for implementing the required changes and modifications to IS CISMA, no funds were allocated from the state budget to the Ministry of Interior of the Slovak Republic for this purpose.

The Section of Public Administration of the Ministry of the Interior of the Slovak Republic asked the SITB of the Ministry of the Interior of the Slovak Republic (Section of Informatics, Security and Telecommunications) to prepare an offer for the supply of changes to the IS CISMA to ensure multilingualism so that it would be possible for the registry office to prepare an official extract from the registry, the content of which would be the data of static dials in the language of national minorities, i.e. the values of the following: status, sex, names of months and also the values of dynamic dials. The amount quoted by the CISMA IS supplier for the delivery of services to ensure the multilingualism of the information system is considerably high (analysis, functional and technical design of changes, implementation of the required functionality, implementation of testing and training, delivery of final technical and user documentation and support after deployment in production operation). The MoI SR does not have the required funds to cover the costs associated with the IS change to provide electronic bilingual entry of civil registry data.

The data that the registrar "transfers" from the civil registry to the bilingual civil registry document are entered in the civil registry in the state language and thus the transfer of data from the civil registry to the information system is carried out in accordance with the provisions of the Act on Civil Registers, the subject of which is the legal regulation of the execution of entries in the civil registry and their maintenance.

It stated that the provision of § 2 para. (5) is not in accordance with § 3 para. (4) of Act No. 184/1999 Coll. and they contradict each other. It drew attention to the above contradiction and to the consideration of legislative amendments to the Act on the Use of National Minority Languages.

In the opinion of the Government Office of the Slovak Republic - Plenipotentiary of the Government of the Slovak Republic for National Minorities - dated 19 July 2018 addressed to the Ministry of the Interior of the Slovak Republic in connection with the provision of bilingual civil registry statements in

accordance with Act No. 184/1999 Coll., it is stated that when issuing bilingual public documents, the text in the language of the national minority should be the exact equivalent of the text in the state language and should contain all the elements in the state language.

The information declared in the 'Opinion' is in significant conflict with the requirement to adjust/change data in the bilingual Slovak registry form, where the requirement concerns the adjustment of text in the Hungarian language or the rules of the Hungarian language. However, if the requirement were fully met, the text in the minority language would not be an exact equivalent of the text in the state language - a conflict.

It stated that according to § 3 para. (2) of the Vital Statistics Act, birth certificates, marriage certificates and death certificates are official extracts taken from the Registry Office.

Pursuant to § 3 para. (3) of the Civil Registry Act, the official extract shall contain the information provided for by this Act on the facts recorded in the civil registry relating to the registered person, as at the date of its preparation.

Pursuant to § 12 of the Civil Registry Act, entries in the civil registry are made in the national language.

It took the view that the diction of the quoted provisions of the Act on Civil Registry clearly shows that the data which the registrar "transfers" from the civil registry to the bilingual civil registry document are entered in the civil registry in the national language and thus the transfer of the entered data from the civil registry to the information system is carried out in accordance with the provisions of the Act on Civil Registry, which covers the legal regulation of the execution of entries in the civil registry and their maintenance. In the regulation of the civil registry agenda, the Act on civil registers has the status of a lex specialis legal provision.

Finally, it stated that on 19 November 2019, a working meeting of the Ministry of the Interior of the Slovak Republic and the Ministry of the Interior of the Slovak Republic was repeatedly held in order to resolve the discrepancy regarding the issuance of bilingual civil registry forms. The Ministry of the Interior of the Slovak Republic is aware of the obligations arising from international treaties and conventions in the field of the rights of national minorities, the right to use their language in official relations as well as their legal force of precedence over national legislation. The Ministry of the Interior of the Slovak Republic, upon reassessment and review of the matter under consideration in connection with the facts with a direct negative impact (financial costs for the change of the IS, legislative non-compliance), is currently unable to take specific measures to immediately resolve the subject of the complaint/complaint, without the active participation of the substantive sponsor of Act No 184/1999 Coll. to secure the consent of the competent ministry to release the funds.

III.

5. The plaintiff submitted her comments on the defendant's submissions in a statement dated 03.02.2020, in which she stated that it is clear from the defendant's statement as well as from the statement of the Ministry of the Interior of the Slovak Republic, which the defendant requested on the matter, that the defendant violated the plaintiff’s rights by failing to issue a complete bilingual birth certificate. The unlawful interference with her rights cannot be justified by an apparent contradiction in the legal norms governing the area in question, which can be eliminated by general methods of legal interpretation. She submits that, according to the defendant, for example, § 2 para. (5) and § 3 para. (4) of Act No 184/1999 Coll. on the use of languages of national minorities, as amended, contradict each other. It disagreed with that view, since the terms MATRIX and OFFICIAL STATEMENT OF MATRIX are not, in its view, identical and therefore the issue of fully bilingual official extracts of the register pursuant to § 2 para. (5) of the Act does not constitute a legal basis for issuing a fully bilingual official extract of the register. No. 184/1999 Coll. does not preclude § 12 of Act No. 184/1999 Coll. No 154/1994 Coll. on civil registers, as amended, according to which entries in the civil register are made in the national language.

It stated that the statement of the Ministry of the Interior of the Slovak Republic shows that the sole and true reason for the defendant's unlawful interference with the plaintiff's rights is only the technical provision of the implementation of her right, which requires the expenditure of considerable financial resources from the State budget. The fact that those funds have been used since the entry into force of Act No 204/2011 Coll., which amended Act No 184/199 Coll. and, inter alia, introduced the obligation to issue bilingual official extracts from civil registers pursuant to § 2 para. (5), cannot be to the detriment of the persons entitled to such extracts. In order to implement the above-mentioned provisions in accordance with the transitional provisions of § 7c para. (3) and § 7d, the state authorities had a deadline of 30 June 2012. Within this time limit, the currently issued bilingual forms, the completion of which in the languages of national minorities is still not ensured, were not available, even though in the meantime the amendment of the Act on civil registers, Act No 124/2015 Coll., has introduced electronic civil registration. In view of the already existing obligation under § 2 para. (5) of Act No. No. 184/1999 Coll., this system should have been created from the beginning in a multilingual version and not subsequently investigated how much it would cost to change it, as stated in the statement of the Ministry of the Interior of the Slovak Republic. In contrast, the statements of the defendant and the Ministry of the Interior of the Slovak Republic do not contain any explanation as to the fulfilment of the international legal obligations of the Slovak Republic, which, according to the application, are being infringed by the defendant's contested intervention.

Lastly, she referred to the settled case-law of the European Court of Human Rights, the violation of a State's international law obligations cannot be justified by a lack of financial resources to secure them (see, for example, Airey v. Ireland, no. 6289/73 of 09.10.1979, Artico v. Italy, no. 6694/74 of 13.05.1980, Karalevicius v. Lithuania, no. 53254/99 of 07.04.2005).

It took the view that it was not for the plaintiff to decide how the State would provide the necessary funding to realise the rights of individuals to which it had committed itself, whether by law or by ratified international treaties.

IV.

6. The Regional Court in Nitra, as the court with subject-matter and territorial jurisdiction according to § 10 and § 13 paragraph 1 of Act No. 162/2015 Coll. Administrative Procedure Code (hereinafter referred to as 'SSP') for proceedings in the matter, examined the plaintiff's complaint dated 30.09.2019, and concluded that the complaint is justified.

7. In the present case, the Court's task was to examine the merits of the administrative action against another intervention by a public authority, i.e. whether the defendant's failure to issue a complete bilingual version of the plaintiff's birth certificate on 30 July 2019 was unlawful and interfered with the plaintiff's rights and legitimate interests.

8. The court file shows that on 30 July 2019, the plaintiff applied to the Registry Office in Nové Zámky for a Slovak-Hungarian version of her birth certificate pursuant to § 2 para. (5) of Act No 184/1999 Coll. on the Use of Languages of National Minorities, as amended. The plaintiff was issued with a birth certificate on a bilingual form on which, however, the data itself (e.g. Komárno, female, etc.) are given exclusively in the Slovak language. The document is therefore bilingual only as regards the pre-filled text, there being no translation of the plaintiff's specific particulars into Hungarian. The defendant is on the list of municipalities in which citizens of the Slovak Republic belonging to the Hungarian national minority make up at least 20 % of the population and is therefore under an obligation to issue bilingually on request, namely in the national language and in the language of the minority, birth certificates, marriage certificates, death certificates, permits, authorisations, certificates, statements and declarations.

9. Pursuant to § 2 para. (1) of the SSP, in the administrative justice system, the administrative court provides protection for the rights or legally protected interests of natural persons and legal entities in the field of public administration and decides on other matters provided for by this Act.

Pursuant to § 2 para. (2) of the SSP, anyone who claims that his or her rights or legally protected interests have been violated or directly affected by a decision of a public administration body, a measure of a public administration body, inaction of a public administration body or other intervention of a public administration body may, under the conditions provided for by this Act, seek protection before an administrative court.

Pursuant to § 3 para. (1) letter (e) of the SSP, for the purposes of this Act, other intervention by a public administration body means a de facto procedure carried out in the performance of tasks in the field of public administration by which the rights, legally protected interests or obligations of a natural person and a legal person are or may be directly affected; other intervention is also the procedure of a public administration body in the performance of control or inspection pursuant to a special regulation, if the rights, legally protected interests or obligations of a natural person and a legal person are or may be directly affected by that procedure.

Pursuant to § 6 para. (1) of the SSP, administrative courts in the administrative justice system review, on the basis of actions, the legality of decisions of public administration bodies, measures of public administration bodies and other interventions of public administration bodies, provide protection against inaction of public administration bodies and decide on other matters provided for by this Act.

Pursuant to § 177 para. (1) of the SSP, an administrative action may be brought by a claimant seeking protection of his or her subjective rights against a decision of a public authority or a measure of a public authority.

10. When reviewing the legality of a decision, the court examines whether the decision challenged in the action is in conformity with the legal order of the Slovak Republic, in particular with the substantive and procedural administrative regulations. Within the meaning of § 6 para. (1) of the SSP, the court also examines the administrative procedure, which, pursuant to § 3 para. (1) letter (a) of the SSP, is understood as the procedure of a public administration body in the exercise of its competence in the field of public administration in issuing individual administrative acts and normative administrative acts. In the procedure prescribed by law, the administrative authority is entitled and at the same time obliged to carry out acts in the course of the administrative procedure and to terminate it by issuing a decision which has the requisites prescribed by law. The legality of the decision of the administrative authority is conditional on the legality of the procedure which preceded its issue. In the context of administrative justice, the court also examines the procedural irregularities of the administrative authority alleged in the action, in particular whether those procedural irregularities constitute such a defect in the proceedings before the administrative authority as to affect the lawfulness of the contested decision. Accordingly, the court's finding must be directed towards whether the administrative authority's clarification of the facts is complete and its procedure lawful.

11. According to § 252 para. (1) of the SSP, the plaintiff may seek protection against other interference by a public authority if such interference or its consequences are ongoing or threatened to recur.

Pursuant to § 252 para. (2) of the SSP, a claimant may also seek a declaration of illegality of another intervention of a public administration body which has already been terminated, if during its duration it was not possible to bring an action pursuant to paragraph 1 and the decision of the administrative court is important for the compensation of damages or other protection of the claimant's rights.

Pursuant to § 254 of the SSP, a plaintiff is a natural person or a legal person who claims to have been deprived of his or her rights or legally protected interests by another intervention of a public authority directly directed or carried out against him or her, or directly affected by its consequences.

According to § 255 para. (1) of the SSP, the defendant is the public authority which, according to the claimant, took the other action.

According to § 256 of the SSP, the action must be brought within two months of the date on which the person affected by the other interference by the public administration authority became aware of it, but no later than two years from the date of the other interference by the public administration authority.

Pursuant to § 263 of the SSP, if the administrative court, after examination, finds that the action under § 252 para. (2) is well founded, it shall determine by order that the challenged other action of the public authority was unlawful. In the operative part of the order, it shall also indicate the name of the defendant and the designation or description of the other action, including its number, if any.

12. According to Article 2 para. (2) of the Constitution of the Slovak Republic, state authorities may act only on the basis of the Constitution, within its limits and to the extent and in the manner prescribed by law.

According to Article 6 para. (1), (2) of the Constitution of the Slovak Republic, the Slovak language is the state language in the territory of the Slovak Republic. The use of languages other than the state language in official relations shall be established by law.

According to Article 7 para. (2) of the Constitution of the Slovak Republic, legally binding acts of the European Communities and the European Union take precedence over the laws of the Slovak Republic. The adoption of legally binding acts requiring implementation shall be affected by law or by Government Decree pursuant to Article 120 para. (2).

According to Article 7 para. (5) of the Constitution of the Slovak Republic, international treaties on human rights and fundamental freedoms, international treaties for the implementation of which no law is required, and international treaties which directly create rights or obligations of natural persons or legal entities and which have been ratified and promulgated in the manner prescribed by law, shall take precedence over laws.

According to Article 12 para. (2) of the Constitution of the Slovak Republic, fundamental rights and freedoms are guaranteed to everyone in the territory of the Slovak Republic, regardless of sex, race, colour, language, faith and religion, political or other opinion, national or social origin, membership of a nationality or ethnic group, property, birth or other status. No one shall be prejudiced, favoured or disadvantaged on these grounds.

According to Article 19 para. (2) of the Constitution of the Slovak Republic, everyone has the right to protection against unwarranted interference with private and family life.

According to Article 34 para. (2) letter (b) of the Constitution of the Slovak Republic, citizens belonging to national minorities or ethnic groups are guaranteed the right to use their language in official communication, in addition to the right to acquire the state language, under the conditions laid down by law.

According to Article 46 para. (1) of the Constitution of the Slovak Republic, everyone may claim his or her rights in an independent and impartial court in accordance with the procedure established by law.

According to Article 46 para. (2) of the Constitution of the Slovak Republic, whoever claims to have been deprived of his or her rights by a decision of a public administration body may apply to the court to review the legality of such a decision, unless the law provides otherwise. However, the court's jurisdiction may not exclude review of decisions concerning fundamental rights and freedoms.

13. Pursuant to § 2 para. (5) of Act No. 184/1999 Coll. on the Use of Languages of National Minorities, birth certificates, marriage certificates, death certificates, permits, authorizations, certificates,

statements and declarations in the municipality pursuant to paragraph 1 are issued bilingually upon request, in the state language and in the language of the minority. In case of doubt, the text of the public document in the official language shall prevail.

14. Pursuant to § 12 of Act No. 154/1994 Coll. on Civil Registry (hereinafter referred to as the "Act on Civil Registry"), entries in the civil registry are made in the state language.

Pursuant to § 4 of the Civil Registry Act, the civil registry as an exercise of state administration is run by the municipality, in the capital of the Slovak Republic Bratislava and in the city of Košice by the municipal district listed in the Annex (hereinafter referred to as the "civil registry office"). The territorial districts of civil registry offices shall be established by a generally binding legal regulation issued by the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "Ministry").

15. Pursuant to § 3 para. (3) of Act No. 270/1995 Coll. on the State Language of the Slovak Republic, the authorities and legal entities referred to in Section 1 shall use the state language in all information systems and in their mutual relations; they may use another language in addition to the state language in information systems if a special regulation so stipulates.

16. Pursuant to Article 10 letter (b) of the European Charter for Regional or Minority Languages, in the administrative units of a State where the number of users of regional or minority languages residing in that territory justifies the adoption of the measures set out below, and according to the situation of each of the languages, the Contracting Parties undertake, where possible, to provide the population with commonly used official texts and forms in the regional or minority languages or in a bilingual version.

17. Pursuant to Article 10 para. (2) of the Framework Convention for the Protection of National Minorities, in areas traditionally or largely inhabited by persons belonging to national minorities, if such persons so request and if such request corresponds to actual needs, the Parties shall endeavour to ensure, as far as possible, conditions which would allow the use of the minority language in the contacts of such persons with the administrative authorities.

18. The Regional Court in Nitra, after examining the legality of another intervention of a public authority already completed to the extent given by the plaintiff's pleas in law, agreed with the alleged unlawfulness of another intervention of the defendant already completed against the plaintiff.

19. It follows from the above-quoted provisions of the legislation that all sources of the SR legal order must be interpreted and applied in such a way as to be consistent with the Constitution. When applying the law, the public authority has the duty to first examine whether the generally binding legal provision it is applying can be interpreted in a way that is consistent with the Constitution. Only if the answer is in the affirmative can it invoke its obligation to be bound by the law under Article 2 para. (2) of the Constitution. A public authority, in correctly dealing with Article 2 para. (2) of the Constitution, may not violate the Constitution on the ground that the law permits or even obliges it to do so. Public authorities may act only to the extent and in the manner prescribed by law. This interpretation applies even where a State authority considers that another State authority has acted in a manner that was not in accordance with the Constitution of the Slovak Republic. Alleged unconstitutional conduct by one organ of the State is not a reason for another organ of the State to act otherwise than within the scope of the law and in the manner prescribed by law. Only such action by State authorities which takes into account the constitutional principles of the quoted provision of Article 2 para. (2) of the Constitution of the Slovak Republic in the manner and to the extent referred to above is a fulfilment of the principle of legal certainty as an integral part of the rule of law within the meaning of Article 1 of the Constitution of the Slovak Republic. Each organ of the State has a scope of competence, either determined by the Constitution or by law, which it cannot exceed, so that it can only do what the Constitution or the law allows it to do. Only laws can be the legal basis for the exercise of state power within the scope of the law. Where the Constitution or the law so permits, the organs of the State are also bound by international treaties (Article 11, Article 144(2)), government decrees (Article 120(1)), as well as generally binding legal regulations of ministries or other central government bodies (Article 123 of the Constitution).

20. "Citizens belonging to national minorities or ethnic groups shall be guaranteed, under conditions laid down by law, not only the right to acquire the state language, but also the right to education in their language, the right to use their language in official relations and the right to participate in matters concerning national minorities and ethnic groups." The above-mentioned constitutional norms grant the right to use a language other than the State language in official relations. All the rights and freedoms granted by the Constitution, but also by any other Constitution, can be divided into those which are granted without restriction and those which are restricted, being granted only upon fulfilment of the conditions laid down by the Constitution. The Constitution does not confer an unlimited right to use a language other than the national language in official relations. The definition of the scope of the use of a language other than the State language in official relations is referred to the law (Act No 270/1995 Coll. on the State Language and Act No 184/1999 Coll. on the Use of Languages of National Minorities), both under Article 6 para. (2) and Article 34 para. (2) of the Constitution.

21. National law must be consistent with international law or supranational law both at the law-making stage and at the law application stage. Non-compliance of a law with a source of international law or European law may equally be the subject of proceedings before the judicial authorities, national (constitutional justice) as well as international courts, as a violation of international/European law. The Constitution gives international treaties precedence over the laws of the Slovak Republic. Fundamental rights and freedoms under the Constitution are to be interpreted and applied in the sense and spirit of international treaties on human rights and fundamental freedoms (PL. ÚS 5/93, PL. ÚS 15/98, PL. ÚS 17/00).

22. With regard to the relationship of the Constitution to international conventions, it may be noted that international human rights treaties have a special status in the system of sources of law of the Slovak Republic. Under the conditions laid down in Article 11 of the Constitution of the Slovak Republic, they take precedence over laws, but not over the Constitution of the Slovak Republic, where common sense plays an important role in the application of this relationship. Using the criterion of common sense, it can be deduced that the Slovak Republic does not have to insist on the primacy of the Constitution over an international convention even in a completely nonsensical case. The primacy of the Constitution over an international convention in the application of common sense implies a limitation to cases where an international convention promotes a manifestly nonsensical idea born outside the SR in contravention of the Constitution.

23. An international treaty shall enter into force in the manner and on the date specified in its provisions or otherwise in accordance with the rules of international law. An international treaty shall be promulgated in the Collection of Laws of the Slovak Republic immediately after its transmission for publication (§ 10(para. 3)), at the latest on the date of its entry into force for the Slovak Republic; by this promulgation, it shall be binding on natural persons and legal entities, unless the international treaty provides for a later date of its entry into force.

24. When interpreting the Constitution, the rights and freedoms guaranteed by international treaties on human rights and fundamental freedoms are of supportive importance, while the Constitution cannot be interpreted in a way that would constitute a violation of such an international treaty if the Slovak Republic is a party to it (mutatis mutandis II.ÚS 48/97, PL. ÚS 15/98), and at the same time, when defining the content of the rights and freedoms guaranteed by the Constitution, the Constitutional Court takes into account, insofar as the Constitution does not preclude it, the wording of the relevant international treaties and the case-law relating thereto (mutatis mutandisII. ÚS 55/98). In other words, the ECtHR's interpretation of the rights and freedoms guaranteed by the Convention is one of the indicative guidelines by means of which the Constitutional Court postulates the normative content of the related rights and freedoms guaranteed by the Constitution.

25. The subject-matter of the assessment in the case in question was the determination of the legality or illegality of the issue of a bilingual Slovak Hungarian version of the plaintiff's birth certificate within the meaning of § 2 para. (5) of Act No 184/1999 Coll. on the Use of Languages of National Minorities, as amended. According to the plaintiff, the reason for the illegality was that the birth certificate

was issued on a bilingual form on which, however, the data itself (e.g. Komárno, female, etc.) were given exclusively in the Slovak language. The document lacks a translation of the plaintiff's specific data into Hungarian and is therefore bilingual only in part of the pre-filled text. The defendant is on the list of municipalities in which citizens of the Slovak Republic belonging to the Hungarian national minority make up at least 20 % of the population and is therefore subject to the obligation to issue bilingually on request, namely in the national language and in the language of the minority, birth certificates, marriage certificates, death certificates, permits, authorisations, certificates, statements and declarations.

26. In the light of the content of the application and the plaintiff's pleadings, the court considered whether the defendant's issue of the plaintiff's birth certificate on a bilingual form (Slovak-Hungarian), on which there were details (such as Komárno, female, ...) is exclusively in Slovak, and thus the plaintiff's birth certificate issued is bilingual only as regards the pre-filled text (lacking a translation of the specific data into Hungarian), can be regarded as unlawful interference by a public authority which is not a decision and does not have the character of a measure directly directed against the plaintiff, and concludes that the issue of the birth certificate on a bilingual form fulfils the conceptual characteristics of unlawful interference by which the plaintiff was deprived of her rights.

27. An unlawful intervention by a public authority can be said to be unlawful if it is a procedure which is not based on a specific decision of the public authority, but consists in a factual action against the person concerned and is carried out in breach of the requirements of legality, which was fulfilled in the present case. On the basis of the plaintiff's application, the defendant issued a birth certificate in the Slovak Hungarian version in accordance with § 2 para. (5) of Act No 184/1999 Coll. on the use of languages of national minorities, as amended.

28. Unlawful interference is not a decision, although it should be stressed that the concept of interference encompasses a large number of factual actions by public authorities which they are entitled to take under various laws. These are informal acts for which rules may or may not be laid down, e.g. factual instructions, immediate interventions, security measures, etc. They are generally acts which, although not taken in the form of decisions, are nevertheless binding on the persons to whom they are directed. The case-law of the Supreme Court of the Slovak Republic, based on the constitutional formulation stating "decisions, measures or other interventions of public authority", has defined the term "intervention" quite consistently as an active action exhibiting the characteristics of an immediate "intervention", "instruction" or "coercion" aimed directly against the injured party, or directly carried out against him/her. It was also characterised by the fact that its effects on the victim are definitive, i.e. cannot be eliminated by means other than judicial coercion, which the legislator emphasised by the inadmissibility of such a claim against an 'interference' which has not exhausted other legally permissible means of elimination. The case-law has considered an unlawful or, in a broader sense, unlawful attack by public authorities against the subjective public rights of a natural or legal person consisting in the procedures of a public authority or in its action, act, instruction or inaction, which must be a direct interference with subjective public rights (e.g. violation of the right to life, the right to personal liberty, the right to the protection of property, the right to the protection of one's home, etc.) to be an interference. The case law of the Supreme Court of the Slovak Republic has also emphasised that the unlawful interference must be of a public law nature, which means that it must occur in the exercise of the powers of a public authority which has interfered in a powerful manner with the legal sphere of a natural or legal person. Although it is undoubtedly very difficult to define the concept of other interference by a public authority, the Administrative Procedure Code has enshrined that definition in § 3 para. (1) letter (e). This legal definition essentially defines two types of other interference by a public authority. The first type is 'an actual act of a public authority carried out in the performance of public administration tasks' and the second type is 'an act of a public authority in the exercise of control or inspection pursuant to a special regulation'. The content of a factual other intervention by a public authority is a factual procedure carried out in the performance of public administration tasks. Unlike a decision or a measure, other action by a public authority is purely factual in nature, i.e. it does not involve any formalised administrative procedure and is the result of the immediate (immediate) exercise of the public authority's power on the spot. The common denominator of both definitions of other intervention by a public authority is the direct

interference with the rights, legally protected interests and obligations of a natural or legal person. Proof of the interference with subjective rights is a procedural condition linked to the establishment of standing (Article 254 of the Code of Civil Procedure). At the same time, it is clear from the legal definition of other interference that both definitions refer only to the procedure of a public administration body and only to its activities which are in the nature of the exercise of public administration. An action for a declaratory interference may be brought only if the other interference has already come to an end and it has not been possible to bring a negative interference action during its duration. The second prerequisite for an action for declaratory relief is proof that the decision of the administrative tribunal to uphold the action (§ 263 of the Code of Civil Procedure) is relevant to the compensation for damages or other protection of the plaintiff's rights. Compensation for damages is primarily understood as compensation for damages provided under Act No 514/2003 Coll. on liability for damage caused in the exercise of public authority and on amendments to certain acts.

29. In principle, it is a judicial protection against de facto unlawful interventions of public authorities which are not decisions or other individual acts. The case-law considers an unlawful or, in a broader sense, unlawful attack by a public authority against the subjective public rights of a natural or legal person consisting in a procedure of a public authority or in its action, act, instruction. It must be a direct interference with subjective public rights (e.g. violation of the right to life, the right to personal liberty, the right to protection of property, the right to protection of the home, etc.). Such interference by a public authority may not be annulled by the administrative court, but the administrative court may prohibit the administrative authority from continuing to infringe the right in question and, if possible, order the administrative authority not to continue to infringe the right in question and, if possible, order the administrative authority to restore the situation prior to the interference. The aim of the protection against unlawful interference is therefore to put an end to an unlawful interference by an administrative authority which a natural or legal person cannot defend against by other means.

30. The protection of public subjective rights of natural and legal persons by administrative courts is of a more subsidiary nature in relation to the protection provided by public authorities. Accordingly, a natural or legal person whose rights have been infringed or threatened should, as a matter of priority, seek the protection of his or her rights before an administrative authority. If the protection provided by the public authority has not been remedied, it is possible for the natural or legal person to seek protection of his or her rights before an administrative court. This follows from the historically given and in the Slovak Republic guaranteed position of the administrative judiciary, whose task is not to replace the substantive competences of public administration bodies, but to ensure their control by an independent judicial power.

31. The purpose of the procedure for protection against unlawful interference by a public authority is to provide judicial protection to a natural or legal person who claims to have been deprived of his or her rights and legally protected interests by unlawful interference by a public authority and that interference has been directed against him or her or, as a consequence thereof, has been directly carried out against him or her, provided that such interference or its consequences continue or are threatened to recur. The court's declaration that the defendant is under an obligation not to continue to infringe the plaintiff's right and, in an order, if possible, to restore the situation before the interference, creates a realistic prospect of remedying the unlawful situation created by the unlawful act or failure to act of the public authority, is a guarantee that the court will be able to remedy the unlawful situation.

32. In the present case, the Court held that the defendant's failure to issue the plaintiff's birth certificate in a bilingual version infringed her right of access to her own documents, which also gives rise to a violation of the right to private life. The right of access to one's own documents is part of the right to respect for private and family life. It follows from settled case-law of the European Court of Human Rights (Gaskin v. the United Kingdom, no. 10454/83, 7 July 1989, Leander v. Sweden, no. 9248/81, 26 March 1987) that, while a citizen of Slovak nationality receives his birth certificate in its entirety in his mother tongue, the same right is denied to members of national minorities, since those citizens receive their birth certificate in the national language and only partly in their mother tongue. The

right to protection against unwarranted interference in private life is also protected by Article 19 para. (2) of the Constitution of the Slovak Republic. The Court considers that the failure to issue the plaintiff's birth certificate in her mother tongue (or, as the case may be, in a complete bilingual version) constitutes other interference by a public authority which deprived her of her rights. The Court considers the issue of such a birth certificate to be unlawful in the light of the international treaties which the Slovak Republic has ratified and which are therefore binding on it. The issue of the plaintiff's birth certificate in the form in which it was issued infringed her right to documents in a minority language within the meaning of Article 10(1)(b) of the European Charter for Regional or Minority Languages, the right to use a minority language in official relations under Article 34 para. (2) letter (b) of the Constitution, Article 10 para. (2) of the Framework Convention for the Protection of National Minorities, and the right of access to one's own documents as part of the right to respect for one's private and family life under Article 19 para. (2) of the Constitution.

33. It is clear from the statement of the Ministry of the Interior of the Slovak Republic that the only reason for the defendant's unlawful interference in the plaintiff's rights is the absence of a system which, on the basis of the amendment to Act No 184/1999 Coll. on the use of languages of national minorities, introduced into the legal order the obligation to issue bilingual official extracts from civil registers pursuant to § 2 para. (5) of the Act in question. The statement of the Ministry of the Interior of the Slovak Republic further shows that it is aware of the fulfilment of the obligations arising from international treaties and conventions in the field of the rights of national minorities, the right to use their language in official dealings as well as their legal force of priority over national legislation. At the same time, it stated that, in connection with the facts with a direct negative impact (financial costs of the IS change), it is not in a position to take specific measures to immediately address the subject of the action at the present time. According to the settled case-law of the European Court of Human Rights, a breach of a State's international law obligations to which it has committed itself cannot be justified by a lack of financial resources to secure them.

34. In the light of the above facts and the contents of the file, the Court concludes that the issuing of the plaintiff's birth certificate on a bilingual form, on which, however, the data itself (e.g. Komárno, female, etc.) are given only in the Slovak language, and thus the document is bilingual only as regards the pre-filled text (the translation of the plaintiff's specific data into Hungarian is missing) was unlawful and directly interfered with the plaintiff's rights protected by law. The illegality may have both procedural and substantive dimensions. The procedural causes of unlawfulness most often include the lack of power of the public authority to take other action or the taking of other action in breach of the regulatory framework. In the case in question, it was specifically a conflict with the State's compliance with its international law obligations in the field of the rights of national minorities, which the defendant had violated by unlawful intervention, despite the fact that they took precedence over domestic legislation. There is a conflict with substantive law if the public authority had the power to carry out another intervention, complied with the procedural normative conditions when carrying it out, but incorrectly assessed the justification for the other intervention on the basis of an erroneous application of a substantive provision of law. The significance of the present action for determination in the judicial-procedural level lies in the fact that the question of the lawfulness of the other intervention will not be resolved as a preliminary issue in the proceedings for compensation for damages, i.e. the court deciding civil cases. By other protection of the plaintiff's rights is to be understood, in particular, the impossibility of using in other administrative or judicial proceedings those documents or evidence which have been obtained by unlawful interference by others. The upholding of an action for a declaration of interference is reflected in the decision of the administrative court declaring the impugned other interference to be unlawful. The Court emphasises that the declaratory judgment is merely declaratory and does not impose any obligation on the defendant. The proceedings concerning the other interference in an action for a declaratory judgment are brought to an end by the adoption of a decision declaring that the interference in question is unlawful, as set out in the operative part of that decision.

35. The Regional Court in Nitra assessed the action against another intervention of a public administration body in the context of the defining characteristics of an unlawful intervention defined in

the provisions of § 252 para. (2) of the SSP and, in view of the above, concluded that the action was well-founded and, in accordance with § 263 of the SSP determined that the other intervention of the defendant challenged in the action (the issuance of the plaintiff's birth certificate on a bilingual form without translation of some parts) was unlawful.

36. The Regional Court in Nitra ruled on the claim for costs pursuant to § 175 para. (1) of the Civil Procedure Code by awarding the successful plaintiff the right to the full costs of the proceedings against the defendant. The amount of the costs shall be decided by the administrative court by a separate order made by the judicial officer after the final decision terminating the proceedings (§ 175 para. (2) of the SSP).

Instruction:

No appeal is admissible against the decision of the administrative court, unless otherwise provided for in this Act (§ 133 para. (2) of the SSP).

A cassation complaint is admissible against any final decision of a regional court, unless otherwise provided by law (§ 439 para. (1), (2), (3) of the SSP).
A cassation complaint may be justified only on the grounds set out in § 440 para. (1) and (2) of the SSP.
A cassation complaint may be lodged by a party to the proceedings if a decision has been made against him within one month of the delivery of the decision of the regional court to the entity entitled to lodge it, unless otherwise provided. The time-limit for lodging a cassation complaint shall be 30 days from the date of service of the decision of the regional court in the cases referred to in § 145 para. (2) of the SSP. The time-limit may not be waived.

A cassation appeal is lodged with the regional court that issued the contested decision. In addition to the general particulars of the application pursuant to § 57, the cassation complaint must state the identification of the contested decision, the date on which the contested decision was notified to the plaintiff, a description of the relevant facts in order to make it clear to what extent and on what grounds pursuant to § 440 it is being lodged (hereinafter referred to as the 'points of complaint'), the draft operative part of the decision (the 'statement of appeal'), and the points of complaint may only be amended until the expiry of the time-limit for lodging the cassation complaint.

The complainant must be represented by a lawyer in the cassation appeal proceedings. The complaint and any other submissions made by the complainant must be drawn up by a lawyer. These obligations do not apply where the complainant, his employee or a member acting for him or representing him before the Court of Cassation has a second-class university degree in law, where the proceedings are administrative actions under § 6 para. (2) letter (c) and (d) and where the defendant is the Legal Aid Centre.