Court :	Regional Court Nitra
File number:	23Sa/88/2020
Court case identification number:	4020200514
Date of the decision:	30. 11. 2022
Name and surname of judge, Chief Court Administrator:	JUDr. Dana Kálnayová
ECLI:	ECLI:SK:KSNR:2022:4020200514.3

Ruling

Regional Court in Nitra in the legal matter of the plaintiff: W. G., born on XX. XX. XXXX, residing at Y. XX, S., represented by Mgr. Klaudia Szekeres, attorney, with office at Široká 569, Tešedíkovo, against the defendant: 1. City of Nové Zámky, Registry Office, with office at Hlavné námestie 10, Nové Zámky, 2. Ministry of the Interior of the Slovak Republic, with office at Drieňová 22, Bratislava, regarding the administrative lawsuit dated 17. 11. 2020 against another intervention of the public administration body, by Judge JUDr. Dana Kálnayová, as follows

r u l e d :

The Regional Court in Nitra declares that the failure to issue a complete bilingual version of the plaintiff's birth certificate by the defendants in the first instance on September 10, 2020, was unlawful

The defendant in the second instance is prohibited from continuing with another intervention, which consists of failing to ensure the technical conditions for issuing a complete bilingual official extract of the registry document.

The plaintiff is granted the right to reimbursement of costs incurred in the proceedings to the full extent.

r e a s o n i n g :

I.

1. By an action of 17.11.2020 against another intervention by a public authority, electronically delivered to the Regional Court in Nitra on 18.11.2020, the plaintiff sought a declaration that the failure of the first defendant in the first row to issue a complete bilingual version of the plaintifft's birth certificate on 10.09.2020 was unlawful. It also requested the administrative court to prohibit the defendant in the second instance from continuing to interfere with the plaintiff's rights by failing to ensure the technical conditions for the issue of a bilingual extract from the civil registry and to set a time-limit of three months from the date of the final decision for compliance with that prohibition. The plaintiff requested full reimbursement of costs incurred in the proceedings.

2. On July 30, 2019, the plaintiff requested from the defendant in the first instance the issuance of a Slovak-Hungarian version of her birth certificate in accordance with § 2 paragraph 5 of Act No. 184/1999 Coll. on the use of languages of national minorities as amended (hereinafter referred to as 'ZPJNM'), which states: 'Birth certificates, marriage certificates, permits, authorizations, confirmations, statements, and declarations in municipalities under paragraph 1 shall be issued bilingually upon request, in the state language and in the language of the minority.' The defendant in

the first instance 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. On 30.07.2019, the plaintiff was issued with a birth certificate on a bilingual form on which, however, separate data (e.g. Komárno, female, etc.) were entered exclusively in the Slovak language. The document was therefore bilingual only as regards the pre-filled text, there was no translation of the plaintiff's specific data into Hungarian. On 01.10.2019, the local court was served with the plaintifft's claim against another public authority's intervention against the defendant of the first instance, seeking a declaration that the failure of the defendant of the first instance to issue a bilingual version of the plaintiff's birth certificate on 30.07.2019 was unlawful. The Regional Court in Nitra, by order No 23Sa/90/2019-48 of 22.07.2020, found that the failure of the defendant of the first instance to issue a complete bilingual version of the plaintiff's birth certificate on 30.07.2019 was unlawful. The decision in question became final on 31.07.2020.

Referring to the said order of the local court, the plaintiff, by e-mail of 31.08.2020, again requested the defendant in the first instance to issue her bilingual birth certificate, whereupon on 17.09.2020 she was served by post with the birth certificate dated 10.09.2020. On the birth certificate received, the plaintiff stated that it again contained her details only in Slovak, the only difference from the birth certificate of 30.07.2019 being that the details to be entered under the various headings of the form were summarized in the notes in a confusing way, bilingually, in both Slovak and Hungarian. The plaintiff submits that this form does not meet the requirement of complete bilingualism, as confirmed by the letter of the defendant in the second instance No SVS-ORMP3/2020/25959 of 16.09.2020 sent on the basis of the decision of the Regional Court in Nitra No 23Sa/90/2019-48 of 22.07.2020 to the district authorities in whose district there are municipalities with a minimum of 20 % of the population of Hungarian nationality (ethnicity). The defendant in the second instance also attached to his letter, which the plaintiff learned about from a Facebook post by the mayor of the municipality of Štvrtok na Ostrove, Mr Őry, on 23.09.2020, a template for filling in bilingual documents from the Office of the Government Plenipotentiary for National Minorities of the Slovak Republic.

On the basis of the above, the plaintiff's counsel repeatedly requested the defendant of the first instance by email dated 10.09.2020 to issue a bilingual birth certificate to the plaintiff. On 10.11.2020, the plaintiff's counsel received a reply from the defendant in the first instance No 19069/37102/2020/152/ĽK dated 28.10.2020. 2020, in which it announced that the issuance of the requested birth certificate is currently not possible, as the Ministry of the Interior of the Slovak Republic has asked for an opinion of its competent department as the manager and operator of the central information system for civil registers (hereinafter referred to as the "IS CISMA") and the company DITEK, as a supplier to ensure multilingualism of the system, and will comment on the issue only after obtaining the opinions of experts and IT specialists. The plaintiff stated that it disagreed with that view, since by manually completing the data in Hungarian, it is still possible to issue the extracts from the civil registers bilingually, although the civil registry offices do not proceed to that task on a case-by-case basis until after the plaintiff has lodged a complaint with the Office of the Government of the Slovak Republic, as the competent supervisory authority under the ZPJNM.

The plaintiff further stated that in the proceedings before the Regional Court in Nitra under Case No. 23Sa/90/2019, she also pointed out that the obligation to issue bilingual official extracts from civil registers pursuant to the provisions of § 2 para. (5) of the ZPJNM Act was introduced by Act No. 204/2011 Coll., whereas the state authorities had until 30 June 2012 to implement the above-mentioned provisions in accordance with the transitional provisions of § 7c para. (3) and § 7d of the ZPJNM Act. Within this time limit, bilingual forms were not available, the completion of which in the languages of national minorities has not been ensured to this day. In spite of the already existing obligation, the defendant in the second row did not deal with this problem even with the introduction of the electronic civil registry, which took place after the amendment of Act No 154/1994 Coll. on civil registers, as amended (hereinafter referred to as the "Act on civil registers").

The plaintiff stated that the solution of the problem has thus been pending for more than eight years, and the defendant in the second row has not yet set any date by which it will fulfil its legal obligation, while before the decision of the Regional Court in Nitra No. 23Sa/90/2019-48 of 22 July 2020, it was not even willing to fulfil it, although in this regard the Government Plenipotentiary for National Minorities of the Slovak Republic has initiated several negotiations in recent years to eliminate the illegal situation.

Finally, the plaintiff considered that the failure to issue a fully bilingual birth certificate was another interference by a public authority which deprived her of her rights, since she had received only a partially bilingual version of her birth certificate. She considers the issue of such a birth certificate to be factually incorrect and unlawful. She also submits that the defendant in the first instance is complicit in the unlawful interference of the defendant in the second instance by its lax approach, which has resulted in a delay of more than eight years in providing the technical conditions for the issue of bilingual extracts from the civil registry. The failure to issue the plaintiff with a fully bilingual birth certificate infringes her right to documents in a minority language, her right of access to her own documents as part of her right to respect for private and family life and her right to equal treatment, since the defendants' conduct discriminates against her on the basis of her language and her membership of a national minority. The plaintiff also submits that, according to the settled case-law of the European Court of Human Rights, a breach of a State's international law obligations cannot be justified by a lack of financial resources to secure them (e.g. 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). According to the plaintiff, therefore, it is not for the plaintiff how the State secures the finances necessary for the realisation of the rights of natural persons to which it has committed itself, whether by law or by ratified international treaties.

II.

3. The defendant of the first instance responded to the application by a submission dated 16.08.2021, in which it stated that it had followed the proposed interim procedure for the production of the requested bilingual official register extract, which had been sent to it in the 2nd defendant's statement by letters dated 05.08.2020 as well as 16.09.2020. He submitted that, the plaintiff’s request cannot be technically complied with pending the incorporation of the said request in the IS CISMA, which is within the exclusive competence of the defendant of the 2nd instance.

The defendant of the first instance considered that in issuing the birth certificate he had complied with the legislation in force and the technical procedures available to him, which could not be modified or changed without the 2nd defendant's cooperation. The IS CISMA, through which the civil registry is 'maintained' and the civil registry documents are issued, has the ex lege mandatory items which are part of the civil registry document set 'fixed', i.e. no manual intervention is possible on the part of the civil registrar, which makes it impossible to enter the data in the language of the national minority in the system set up.

On the basis of the above, the 1st defendant considered that he had not erred in issuing the birth certificate to the plaintiff, he had acted solely in accordance with the instructions of the relevant State authorities referred to above. Since the 1st defendant had no legal, technical or other influence on the fulfilment of the technical (statutory) requirements imposed by law on the public authorities, he sought dismissal of the action against the 1st defendant as unfounded, not least on the ground of avoiding further litigation on the ground of the 1st defendant's claim for damages against the relevant public authorities.

4. The defendant in the second instance made a statement on the application by a submission dated 13 July 2021, in which it stated that the Ministry of the Interior of the Slovak Republic, Public Administration Section, Registry Department, prepared/proposed forms of civil registration documents in five language versions of the languages of national minorities (Hungarian, German,

Roma, Ukrainian and Ruthenian - Cyrillic). From the point of view of the legislation in force, the conditions have been met in accordance with the provision of the ZPJNM.

Furthermore, he stated that the Public Administration Section oversees the IS CISMA in terms of its substantive and legislative aspects but does not address its funding source. This matter is exclusively handled by the Section for Information Technology, Security, and Telecommunications of the Ministry of Interior of the Slovak Republic.

The defendant in the second instance stated in his statement of defence that the issue of the civil registry document in the form of a bilingual form, with the data inside the form filled in in the national language, did not violate the plaintiff's right to use the language of the national minority in official relations. At the same time, it pointed out that the issue of a bilingual birth certificate and the failure to include personal data in the language of the national minority in it did not deprive a citizen of the Slovak Republic who claims to belong to a national minority of his rights.

The public authority's issuance of a public document with personal data in the national language on a bilingual form did not violate the defendant's right to respect for private and family life, nor did it interfere with the exercise of that right and cannot be considered discrimination.

The issuance of a civil registry document (birth certificate) on a form with a preprint in the state language and the language of a national minority did not violate any rights of a citizen of the Slovak Republic who claims to belong to a national minority. Her request was granted. She had not been harmed, her liberty or human rights had not been restricted.

The public authority's issuance of a public document containing personal data in the national language in a bilingual form did not infringe the defendant's right to respect for her private and family life, nor did it interfere with the exercise of that right, and it cannot be regarded as discrimination.

The defendant in the 2nd instance states in their statement that the fact that the plaintiff's name, dates, place of birth were not included in the Slovak public document with the pre-printed text also in the language of the national minority does not preclude the plaintiff from continuing to freely use her minority language in private and in public, does not preclude her from developing the culture of the Hungarian nationality (ethnicity), preserving the basic elements of the identity of a person claiming to belong to a national minority, such as religion, language, tradition and cultural heritage

The defendant in the 2nd instance further stated that a public document issued in accordance with the provisions of ZPJNM, which contains both the state language and the language of the national minority, cannot be considered a document with an official translation.

As regards the plaintiff's objection that the data in the birth certificate itself, such as the place of birth Komárno, the sex female, were given exclusively in the Slovak language, the defendant in the second instance stated that the town Komárno is a town situated in the territory of the Slovak Republic, Komárom is a translation, but Komárom is also a town situated in Hungary. Translations of names, e.g. the name 'Alexandre' is in Slovak language, Hungarian language is 'Sándor' or 'Ján' - 'János'. In this case it is the equivalent of the same name in a foreign language. Either the citizen of the Slovak Republic has the name in its official form, or he has the possibility to request the adaptation of his name into a foreign form. It is not possible for an SR citizen to have one name in two equivalents.

He further stated that, within the Slovak Republic, citizens of the Slovak Republic who claim to belong to a national minority are not only inhabitants of the Hungarian national minority. Nine national minorities are recognised on the territory of the Slovak Republic, five of which have the right to use the language of the national minority in official communication in accordance with the provisions of the ZPJNM. The Ruthenian and Ukrainian languages use Cyrillic in written communication. For this reason, the provision of a "full bilingual" civil registry document involves a technically challenging

process. The principle of equality applies to all citizens of the Slovak Republic who belong to a national minority and who have the right to communicate officially in the language of the national minority; no one can be disadvantaged.

In conclusion, the 2nd defendant stated that in the context of the above as well as the technical complexity, the changes in the IS CISMA and the issuance of civil registry documents in the required form, i.e. in the Slovak language as well as in the language of the national minority, will be implemented by the Ministry of the Interior within the time necessary for the implementation of the required changes in the said information system.

5. By letter dated 20.08.2021, received by the plaintiff by way of a legal representative on 25.08.2021, the plaintiff was notified of the defendant's submissions in both the first and the second row and was also invited to submit a statement of defence, which, even after the expiry of the time-limit, it did not deliver to the administrative court.

III.

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 Court Procedure Code (hereinafter referred to as "SSP"), reviewed the plaintiff's lawsuit dated 17. 11. 2020, and concluded that the lawsuit is well-founded.

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 failure by the 1st defendant to issue a complete bilingual version of the plaintiff's birth certificate on 10 September 2020 was unlawful and interfered with the plaintiff's rights and legitimate interests and, at the same time, whether the failure by the 2nd defendant to ensure the technical conditions for the issue of a bilingual extract from the civil registry infringed the plaintiff's rights and legitimate interests.

8. It appears from the record before the court that the plaintiff, referring to the order of the District Judge herein. 23Sa/90/2019-48 of 22.07.2020, she again requested the defendant in the first instance to issue her bilingual birth certificate, whereupon she was served with a birth certificate dated 10.09.2020 on 17.09.2020. It is clear from the plaintiff's birth certificate issued on 10.09.2020 submitted to the Court that on the bilingual form of the birth certificate, although the individual items (e.g. day, month, year of birth, place of birth, sex, etc.) are in both Slovak and Hungarian languages, the data itself (e.g. Komárno, female, gender, etc.) are again given only in Slovak. The only difference from the plaintiff's birth certificate issued on 30.07.2019 is in the section marked 'remarks', where all the data to be entered bilingually, i.e. in both Slovak and Hungarian, are summarised in an uncluttered manner for each item on the form. According to the plaintiff, the birth certificate thus issued did not satisfy the requirement of complete bilingualism. The plaintiff, through her legal representative, subsequently applied again on 09.10.2020 to the defendant in the first instance for the plaintiff's birth certificate to be issued bilingually, referring to the letter of the defendant in the second instance (Section of Public Administration, Department of Registers, Registers and Registration of Residence, Department of Registers) No SVS-ORMP3/2020/25959 of 16.09.2020 sent to the county offices in whose district there are municipalities with a minimum of 20 % of the population of Hungarian nationality (ethnicity). The content of the letter in question was a proposal for a procedure for drawing up the required bilingual official extract from the register of births and a modified version of the bilingual civil registry documents from the Office of the Government Plenipotentiary for National Minorities of the Slovak Republic, which had been drawn up by members of the Plenipotentiary's Advisory Group in such a way as to comply with the rules of Hungarian orthography.

The defendant in the 1st order, by submission dated 28. 10. 2020, informed the plaintiff that the issuance of the requested birth certificate is currently not possible because the defendant in the 2nd order has requested a position statement from the relevant department of the defendant in the 2nd order as the manager and operator of IS CISMA, and from the company DITEC, as the supplier of IS

CISMA. Changing the information system requires consultations, analyses, and specification of ensuring multilingualism of the information system with the supplier of the information system and the relevant departments of the defendant in the 2nd order, who is the administrator and operator of IS CISMA. After meetings with experts and specialists in the IT field and obtaining their opinions on expanding the information system, the defendant in the 2nd order will express their position on the possibility of electronic production of a bilingual official extract from the registry.

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 in this Act, seek protection before an administrative court.

Pursuant to § 3 para. (1)(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 a 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 such 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.

Pursuant 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 that another intervention of a public administration body that has already ended is unlawful 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.

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 § 262 para. (1) of the SSP, if the Administrative Court, upon examination, finds that the action is well founded pursuant to § 252 para. (1), it shall, by order, prohibit the defendant from proceeding with the challenged other interference and, if possible, order the defendant to restore the situation prior to the interference. The making of that order shall not be the end of the proceedings and the defendant shall be required to serve on the administrative court, within a specified period, a notice to the effect that he has complied with the prohibition on continuing the other interference and, if so required, has restored the status prior to the interference.

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 judgment, it shall also indicate the name of the defendant and the designation or description of the other action, including its number, if any.

10. 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.

11. 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").

12. 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.

13. 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 within the scope 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 effected by law or by Government Decree pursuant to Article 120(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.

14. 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.

15. 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 permit the use of the minority language in the contacts of such persons with the administrative authorities.

16. The Regional Court in Nitra, after examining the legality of another intervention by a public authority which had already been terminated to the extent determined by the plaintiff's pleas in law, agreed with the alleged illegality of another intervention by the defendant in the first row against the plaintiff. At the same time, in relation to the other interference consisting in the interference with the plaintiff's rights by the failure of the defendant in the second instance to ensure the technical conditions for the issue of a bilingual extract from the civil registry, the Court of First Instance upheld the plaintiff's pleas in law.

17. From the above-cited provisions of legal regulations, it follows that all sources of the Slovak legal system must be interpreted and applied in a manner consistent with the Constitution. When applying laws, a public authority has an obligation to first examine whether the generally binding legal regulation it intends to apply can be explained in a way that is consistent with the Constitution. Only in the case of a positive answer can it apply its binding to the law according to Article 2, paragraph 2 of the Constitution. When correctly handling the provision of Article 2, paragraph 2 of the Constitution, a public authority must not violate the Constitution on the grounds that a law allows or even requires it to do so. State bodies can only act within the scope and in the manner prescribed by law. This interpretation applies even when a state body believes that another state body has acted in a manner that was not in accordance with the Constitution of the Slovak Republic. An alleged unconstitutional action by one state body is not a reason for another state body to act otherwise than within the scope of the law and in the manner prescribed by law. Only such actions of state bodies that take into

account the constitutional principles of the cited provision of Article 2 paragraph 2 of the Constitution of the Slovak Republic, in the manner and to the extent mentioned above, fulfill the principle of legal certainty as an integral part of the rule of law in accordance with Article 1 of the Constitution of the Slovak Republic. Every state body has the extent of its authority determined either by the Constitution or by law, which it cannot exceed, so it can only act within the bounds allowed by the Constitution or law. The legal basis for exercising state power within the scope of the law can only be laws. Where the constitution or law permits, state bodies are also bound by international treaties (Article 11, Article 144 paragraph 2), government regulations (Article 120 paragraph 1), as well as generally binding legal regulations of ministries or other central state administration bodies (Article 123 of the Constitution).

18. Citizens belonging to national minorities or ethnic groups are guaranteed, under conditions established by law, not only the right to learn the state language but also the right to education in their language, the right to use their language in official communications, and the right to participate in the resolution of matters concerning national minorities and ethnic groups.' The cited constitutional norms grant the right to use a language other than the state language in official communications. All rights and freedoms granted by the Constitution, as well as by any other constitution, can be divided into those that are granted without limitation and those that are restricted and granted only upon fulfilling conditions anticipated by the Constitution. The Constitution does not grant the right to use a language other than the state language in official communications to an unlimited extent. The scope of the use of a language other than the state language in official communications is, according to Article 6 paragraph 2, and also according to Article 34 paragraph 2, referred to by law (Act No. 270/1995 Coll. on the State Language and Act No. 184/1999 Coll. on the Use of Languages of National Minorities).

19. 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 Section 2(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 the issue of the birth certificate on a bilingual form on which her data are again only in Slovak, the difference with the birth certificate of 30.07.2019 being only that the data to be entered under the individual headings of the form bilingually, i.e. in both Slovak and Hungarian, have been summarised in the notes in an opaque manner. The plaintiff submits that this form does not meet the requirement of complete bilingualism. The first 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 obliged to issue bilingually, in the State language and in the language of the minority, birth certificates, marriage certificates, death certificates, permits, authorisations, certificates, statements and declarations on request. The plaintiff also submits that the 1st defendant is complicit in the unlawful interference of the 2nd defendant by its lax approach, which has resulted in a delay of more than eight years in providing the technical conditions for the issue of bilingual civil registry extracts.

20. With regard to the content of the application lodged, the court considered whether the plaintiff's birth certificate issued by the defendants in the first row was issued on a bilingual form (Slovak-Hungarian) on which her data are given exclusively in Slovak, and thus the plaintiff's issued birth certificate is bilingual only as regards the pre-filled text, i.e. The lack of translation of the specific data into Hungarian and the lack of a clear summary of all the plaintiff's data in the section marked 'notes', which should be bilingual for each item on the form, i.e. in both Slovak and Hungarian, can be regarded as unlawful interference by a public authority, which is not a decision and is not in the nature of a measure directly directed against the plaintiff. The Administrative Court concludes that the issue of a birth certificate on a bilingual form fulfils the conceptual characteristics of unlawful interference by which the plaintiff was deprived of her rights. It also considered in the same way the defendant's conduct in the second instance in failing to ensure the required technical conditions for the issue of a complete bilingual official extract of the civil registry document.

21. 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 in the first row issued a birth certificate in the Slovak-Hungarian version pursuant to Article 2(5) of Act No 184/1999 Coll. on the use of languages of national minorities, as amended.

22. 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 also, if possible, order the administrative authority to restore the situation before 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 the natural or legal person cannot defend against by other means.

23. 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.

24. 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 result of it, has been directly carried out against him or her, provided that such interference or its consequences are continuing 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.

25. 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 (ethnicity) 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 unjustified interference in private life is also protected by § 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 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 § 10 para. (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)(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.

26. It is clear to the Administrative Court from the submission of the defendant of the first instance that the IS CISMA through which the registration documents are maintained and issued is the sole responsibility of the 2nd respondent. Consequently, manual intervention in the system in question is not possible on the part of the defendant in the first tier and does not allow him to enter data in the language of the national minority. In its statement of defence, the defendant in the second tier refers to the fact that the Public Administration Section covers the CISMA IS only substantively and legislatively, and does not address the source of funding. That issue is dealt with exclusively by the 2nd defendant's Information, Security and Telecommunications Section.

27. The administrative court finds that the sole reason for the unlawful intervention of the defendant in the second instance into the rights of the plaintiff by failing to ensure a complete bilingual registry document is the absence of a full-fledged and functional system introduced into the legal order based on the amendment of Act No. 184/1999 Coll. on the Use of Languages of National Minorities, which established the obligation to issue bilingual official extracts from registries according to § 2 paragraph 5 of the said act. The defendant in the second instance also stated that the issuance of a complete bilingual registry document is associated with a complex technical process and referred the funding source issue to another relevant section. In this context, the court notes that the said section is part of the defendant in the second instance, and according to the established case law of the European Court of Human Rights, the violation of international legal obligations of the state, to which it has committed, cannot be justified by the lack of financial resources to ensure them.

28. With regard to the defendant's argument in the second row concerning the difficult technical process by which the IS CISMA would have to be changed in order to issue a complete civil registry document, the Court states that this obligation arises from the amendment to Act No 184/1999 Coll. on the Use of National Minority Languages, which introduced into the legal order the obligation to issue bilingual official extracts from civil registers pursuant to Article 2(5) of the Act in question. The local court also drew the attention of the defendant in the second row to the obligation in question in order No 23Sa/90/2019-48 of 22 July 2020. According to the court, therefore, the failure to ensure the technical conditions for the issuance of a complete bilingual birth certificate cannot be consistently justified by a difficult technical procedure.

29. Taking into account the above-mentioned facts, as well as the content of the file material, the Court concludes that the issuance of the plaintiff's birth certificate by the defendant of the first row on a bilingual form (Slovak-Hungarian), on which her data are given exclusively in the Slovak language, and thus the issued birth certificate of the plaintiff is bilingual only in respect of the pre-filled text, i.e. i.e. there is no translation of the specific data into Hungarian and the section marked 'notes' contains an unclear summary of all the plaintiff's data which should be bilingual for each item on the form, i.e. in both Slovak and Hungarian, was unlawful and directly interfered with the plaintiff's legally protected rights.

In conclusion, the local court finds that the birth certificate thus issued cannot be regarded as a complete bilingual version of the official extract of the civil registry document.

30. Illegality may have both procedural and substantive dimensions. Among the procedural causes of illegality, the most common is the lack of power of the public authority to take other action or the taking of other action contrary to the normative regulation. In the present case, the conflict in question was specifically with the State's compliance with its international law obligations in the field of the rights of national minorities, which the defendant in the first instance infringed by unlawful interference, despite the fact that they take precedence over national legislation. There is a conflict with substantive law where a public authority had the power to carry out another intervention,

complied with the procedural and normative conditions for its implementation, 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 sphere lies in the fact that the question of the lawfulness of the other interference will not be dealt with as a preliminary issue in the proceedings for compensation for damages, i.e. by the court deciding civil matters. The other protection of the plaintiff's rights is to be understood, in particular, as the impossibility of using in other administrative or judicial proceedings those documents or evidence which have been obtained by unlawful other interference. 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.

31. The Regional Court in Nitra assessed the action against the other interference of the public administration body in the intent of the defining features, which are the unlawful interference defined in the provision of § 252(2) of the SSP, and in view of the above, concluded that the action is wellfounded and, in accordance with § 263 of the SSP, determined that the other interference of the first defendant challenged in the action (that the failure of the defendant in the first row to issue a complete bilingual version of the plaintiff's birth certificate on 10 September 2020) was unlawful.

32. In the light of the above, the Regional Court in Nitra, in accordance with § 262 para. (1) of the SSP, prohibited the 2nd defendant from continuing with the other interference consisting in the failure to ensure the technical conditions for the issue of a complete bilingual official extract of the civil registry document.

33. The Regional Court in Nitra ruled on the claim for compensation for the costs of the proceedings pursuant to § 175 para. (1) of the Civil Procedure Code by awarding the successful plaintiff the right to full compensation for the 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 Civil Procedure Code).

Notice:

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 appeal is admissible against any final decision of a regional court, unless otherwise provided by law (Art. § 439 para. (1), (2), (3) of the Civil Procedure Code).

A cassation complaint may be based only on the grounds set out in § 440 para. (1) and (2) of the SSP.

A cassation complaint can be filed by a participant in the proceedings if the decision was made against them within one month from the delivery of the decision of the regional court to the entity entitled to file it, unless otherwise provided. The deadline for filing a cassation complaint is 30 days from the delivery of the decision of the regional court in the cases specified in § 145 paragraph 2 of the SSP. The missed deadline cannot be forgiven. The cassation complaint is filed at the regional court that issued the challenged decision. In the cassation complaint, in addition to the general requirements of the submission according to § 57, the designation of the challenged decision, the date when the challenged decision was delivered to the complainant, the description of the decisive facts so that it is clear to what extent and for what reasons according to § 440 it is being submitted (hereinafter referred to as 'grounds of complaint'), the proposed ruling of the decision (complaint proposal) must be stated, with the grounds of complaint only being changeable until the deadline for submitting the cassation complaint has passed.

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.