

Court: Regional Court Nitra
File reference: 11S/133/2019
Court file identification number: 4019200538
Date of issue of decision: 20. 04. 2021
Name and surname of the judge, VSÚ: JUDr. Marta Molnárová
ECLI: ECLI:SK:KSNR:2021:4019200538.2

JUDGMENT ON BEHALF OF THE SLOVAK REPUBLIC

The Regional Court in Nitra, in the Chamber composed of the President of the Chamber, JUDr. Marta Molnárová, and the members of the Chamber, JUDr. Dana Kálnayová and JUDr. Lenka Kostolanská, in the legal case of the plaintiff: Q. Q. E., born in. XX. XX. XXXX, K. XX, N. D., represented by Mgr. Martin Šutko, advocate Ernestova bašta 7, Nové Zámky, against the defendant: District Office Nitra, Department of Remedies, Štefánikova trieda 69, Nitra, on an administrative action against the defendant's decision No OU-NR-OOP1-2019/032639 of 15.07.2019, as follows

r u l e d:

The Court hereby a n n u l s the decision of the defendant No. OU-NR-OOP1-2019/032639 of 15.07.2019 as well as the decision of the District Office Nové Zámky No. OU-NZ-OZP-2019/003244-19 of 06.05.2019 and refers it to the District Office Nové Zámky for further proceedings.

The ourt grants the plaintiff the right to full compensation of legal costs.

reasoning:

I.

1. From the administrative file submitted by the defendant, which includes the file of the first-instance administrative authority, the administrative court determined that on November 2, 2018, the plaintiff submitted a form for natural persons for notification of free, craft, or regulated trade at the District Office Nové Zámky, Department of Trade Licensing. This was a request for the issuance of a trade license certificate pursuant to Sections 45, 45a, and 46 of Act No. 455/1991 Coll. on Trade Licensing (the Trade Licensing Act), as amended (hereinafter referred to as the "Trade Licensing Act"). In this request, the plaintiff stated that professional competence was demonstrated by a certificate and opinion from the Ministry of the Interior of the Slovak Republic. The scope of the business was defined as translation and interpreting services - Hungarian language, with the start date of the trade being November 2, 2018, and no responsible representative appointed.

Attached to the application were the following documents:

- A certificate of passing the professional translator's examination in the field of the Hungarian language, issued by Pavol Jozef Šafárik University, Faculty of Arts, Institute of Interpreting, dated 30 August 2007, No. 279/2007/02/TÚ.

- A certificate of passing the professional interpreter's examination in the field of the Hungarian language, issued by Pavol Jozef Šafárik University, Faculty of Arts, Institute of Interpreting, dated 30 August 2007, No. 285/2007/02/TÚ.
 - A certificate of educational qualification with nationwide validity, issued by the Institute of Interpreting at the Faculty of Arts of the University of Prešov in Prešov, dated 15 February 2007, No. TÚ-OM 093/2007.
 - An opinion of the Department of Trade Licensing, Section of Public Administration, Ministry of the Interior of the Slovak Republic.
2. Following email communication with the director of the Trade Licensing Department, during which it was stated that the documents attached to the application were insufficient to demonstrate professional competence, the plaintiff was issued a Request for Supplementation of Professional Competence Documentation by the District Office of Nové Zámky, Trade Licensing Department. This was due to the fact that the submitted notification did not meet all the required criteria pursuant to Section 46(1)(a) in conjunction with Section 47(6) of Act No. 455/1991 Coll. on Trade Licensing. The plaintiff was asked to provide documentation proving professional competence (supplementation) for the business activity of "Translation and Interpreting Services" (completion of relevant language studies /Hungarian language/ at a university, a certificate of passing a state language exam, or evidence of at least 10 years of residence in a country where the official language is the one to be taught, translated, or interpreted), issued in the plaintiff's name.
 3. On 26 November 2018, i.e. within the time limit set by the administrative authority, the plaintiff completed the documents of professional competence, namely a copy of the report on the matriculation examination and a copy of the matriculation examination certificate.
 4. The District Office of Nové Zámky, Trade Licensing Department, by decision No. OU-NZOZP-2018/017603-4 dated November 27, 2018, terminated the proceedings on the grounds that the individual did not rectify the deficiencies in the trade notification within the specified 15-day period from the date of delivery of the request, pursuant to Section 47(6) of the Trade Licensing Act. Specifically, the individual failed to demonstrate sufficient professional competence as required under Sections 7(1) and 24 of the Trade Licensing Act for the regulated trade activity: "Translation and Interpreting Services: Hungarian Language." The deadline for rectifying the deficiency expired on November 26, 2018.

The plaintiff appealed against this decision and submitted the following documents as an annex: 1. certificate of passing the professional examination of a translator - copy, 2. certificate of passing the professional examination of an interpreter - copy, 3. certificate of education with national scope - copy, Opinion of the Department of Trade Licensing, General Administration, Ministry of the Interior of the Slovak Republic, 5. Protocol of the matriculation examination - copy, 6. Transcript of the matriculation examination - copy, 7. Confirmation in Hungarian language, issued in Budapest, 01.10.2007.

The District Office of Nitra, Department of Appeals, decided on the plaintiff's appeal by issuing Decision No. OU-NROOP1-2019/012454 on February 1, 2019, in which, pursuant to Section 59(3) of the Administrative Procedure Code, it annulled the decision of the District Office of Nové Zámky, Trade Licensing Department, No. OU-NZ-OZP-2018/017603-4, dated November 27, 2018, and returned the case to the administrative authority for reconsideration and a new decision. It criticized a violation of Section 47(3) of the Administrative Procedure Code, particularly the incomprehensibility of the administrative authority's decision for the participant in the proceedings.

5. The District Office Nové Zámky, Department of Trade Enterprise, by submission dated 21 February 2019, requested an opinion from the Ministry of the Interior of the Slovak Republic, Section of Public Administration of the Ministry of the Interior of the Slovak Republic, Department of Trade Enterprise, in which it asked for answers to two questions, namely:

- in the new procedure, the Trade Licensing Office may consider the e-mail statement of Mgr. N. V. B. sent to the plaintiff as a relevant opinion for the issuance of a trade license for the trade in question?

- Can the trade licensing authority consider the matriculation examination in the Hungarian language to be sufficient to prove professional competence for the tied trade in question?

The reply sent by e-mail shows that a clarifying written opinion was sent to the opinion of the V. B. dated 29.10.2018, therefore they recommended to rely strongly on the provisions and requirements for the submission of the professional competence for the bound trade "translation and interpreting services" as set out in the Annex to the Trade Act. The matriculation examination in Hungarian language at the Gymnasium Nové Zámky is not a proof of professional competence for the subject of the business 'translation and interpreting services - Hungarian language'.

6. Subsequently, on 08. 03. 2019, the plaintiff was served by the District Office of Nové Zámky, Department of Trade Licensing with a request to supplement the proceedings with a written document demonstrating the fulfilment of special conditions by the applicant for the operation of a bound trade, whereby it is sufficient to provide only one of the documents listed below:

- proof of completion of studies in the relevant language (Hungarian) at university, - transcript of passing the state language examination in Hungarian,
- proof of at least 10 years' residence in the country with the official language to be translated or interpreted, i.e. proof of 10 years' residence in Hungary.

In addition, he drew attention to the clarifying written opinions and the opportunity to make written submissions, as well as the opportunity to acquaint himself with the documents before the decision was taken.

7. On 11 March 2019, on the basis of this request, the plaintiff again submitted the following documents to the District Office of Nové Zámky, Department of Trade Licensing: - a copy of the matriculation certificate, a certificate of professional examination of a translator, a certificate of professional examination of an interpreter and a certificate of acquired education.

In addition, the file's contents (62 x photocopies of documents) were produced to the plaintiff at their request.

8. The District Office of Nové Zámky, Department of Trade Enterprise by submission dated 21.03.2019 requested the opinion of the District Office of Nitra, Department of Education as to whether it can require the matriculation examination from the Hungarian language for the examination of passing the state language examination from the Hungarian language and at the same time the enclosed certificates replace the examination of passing the state language examination from the Hungarian language.

It then decided to stay the proceedings.

It follows from the opinion that the matriculation examination in Hungarian language and literature is not at the level of the state language examination in Hungarian language and literature and it is not possible to take the matriculation examination in Hungarian language and literature as a state language examination. He was not competent to take a position on the second question. The above finding was also communicated to the plaintiff by the District Office of Nové Zámky, Trade Licensing Department.

9. By Decision No. OU-NZ-OZP-2019/003244-19 dated May 6, 2019, the District Office of Nové Zámky, Trade Licensing Department, terminated the proceedings regarding the submission of the notification/application for the issuance of a trade license certificate for part of the business activity (regulated trade): "Translation and Interpreting Services: Hungarian Language." This notification was submitted by the plaintiff to the administrative authority on November 2, 2018. The proceedings were terminated because the individual failed to rectify the deficiencies in the trade notification within the specified 7-day period (working days) from the date of delivery of the request to supplement the proceedings, in accordance with Section 47(6) of the Trade Licensing Act and Section 33(2) of the Administrative Procedure Code. The plaintiff did not demonstrate sufficient professional competence as required under Sections 7(1) and 24 of the Trade Licensing Act for the regulated trade: "Translation and

Interpreting Services: Hungarian Language." The deadline to rectify the deficiencies expired in vain on March 19, 2019.

10. Against that decision the plaintiff appealed again, which was decided by the defendant by the decision under appeal.

II.

11. The defendant decided on the filed appeal in the contested decision No. OU-NROOP1-2019/032639 dated July 15, 2019, by rejecting the plaintiff's appeal pursuant to Section 59(2) of the Administrative Procedure Code and upholding the decision of the District Office of Nové Zámky, Trade Licensing Department, No. OU-NZOZP-2019/003244-19 dated May 6, 2019.

12. In its decision, the defendant referred to the facts of the case and the conduct of the proceedings and stated that it had examined the entirety of the file submitted and the appeal and considered that the contested decision was in accordance with the law. In the new hearing, the administrative authority has remedied the deficiencies which were criticised in the decision of the appeal authority No OU-NR-OOP1-2019/012454 of 01.02.2019, has sufficiently established the true state of the case, while observing the basic principles of administrative procedure. Within the framework of its own administrative discretion, the administrative authority sufficiently evaluated all the evidence, making it clear why it did not consider the documents submitted by the plaintiff in support of the trade registration to be sufficient for obtaining a trade license for the part of the tied trade 'Translation and interpreting services: Hungarian language'. The defendant submits that the contested decision is lawful and factually correct.

The Trade Licensing Act, specifically Annex 2, Group 214 - Other Bound Trades, Section 23, requires the submission of one of the following documents to prove professional competence:

- Proof of completion of studies in the relevant (Hungarian) language at university,
- Certificate of passing the state language exam in Hungarian,
- Proof of at least 10 years' residence in the country with the official language to be translated or interpreted, i.e. proof of 10 years' residence in Hungary.

In his appeal, the plaintiff argued that the administrative authority had not paid sufficient attention to the documents submitted, since he considered that the letter from the Budapest Police Headquarters showed that from 1997 to 2007 he had acted as an 'ad hoc' interpreter and translator at the Budapest Police Headquarters in regular inter-state negotiations between the police authorities of the Slovak Republic and the Republic of Hungary. He complained that the administrative authority did not deal with this documentary evidence at all and did not evaluate it in any way within its own administrative discretion.

The defendant did not accept the claimant's assertion, as the document was not attached to the trade registration. In section A.3 of the form for a natural person, the applicant stated that he proved his professional competence by means of a certificate and an opinion of the Ministry of the Interior of the Slovak Republic, which was confirmed by the administrative authority by stamp and signature. Specifically, he submitted:

- Certificate of completion of the professional translator's examination in the Hungarian language, issued by the Pavol Jozef Šafárik University, Faculty of Philosophy Institute of Interpreting, dated 30 August 2007, No. 279/2007/02/ TÚ,
- Certificate of completion of the professional examination of an interpreter in the Hungarian language, issued by the Pavol Jozef Šafárik University, Faculty of Philosophy, Institute of Interpreting, dated 30.08.2007, No. 285/2007/02/TÚ, - Certificate of acquired education with national scope, issued by the Institute of Interpreting at the Faculty of Arts of the University of Prešov on 15.02.2007, No. TÚ-OM 093/2007,
- E-mail message from an employee of the Ministry of the Interior of the Slovak Republic.

Following the administrative authority's request to produce documents to prove his professional competence, he personally submitted a copy of his matriculation examination report. It follows from the foregoing that the original registration of the trade did not include any letter from the Budapest Police Headquarters, as claimed by the plaintiff. That letter was submitted by the plaintiff for the first time to the administrative authority only after the decision to discontinue the proceedings had been served on him, and the letter was annexed to the appeal. The letter is written in Hungarian, has not been officially translated and certified and is therefore not usable for official purposes in the Slovak Republic. The administrative authority, in the course of its work, considered those documents which the applicant submitted to it together with the trade registration and, therefore, could not consider the document which he attached only to the appeal, in a foreign language and without official translation.

III.

13. By the action brought on 14 October 2019, delivered to the local court on 15 October 2019, the plaintiff sought review of the legality of the defendant's decision No OU-NR-OOPL1-2019/032639 of 15 July 2019, as well as the decision of the Department of Trade Licensing, District Office of Nové Zámky No OUNZ-OZP-2019/003244-19 of 06 May 2019, which preceded it.

14. In the factual circumstances, the plaintiff stated that on November 2, 2018, he submitted an application to the Trade Licensing Department of the District Office of Nové Zámky for the issuance of a trade license certificate pursuant to Sections 45, 45a, and 46 of Act No. 455/1991 Coll. on Trade Licensing for the business activity of translation and interpreting services for the Hungarian language. The application was accompanied by a certificate of passing the professional translator's examination in Hungarian, issued by Pavol Jozef Šafárik University, Faculty of Arts, Institute of Interpreting, on August 30, 2007 (No. 279/2007/02/TÚ), a certificate of passing the professional interpreter's examination in Hungarian, issued by Pavol Jozef Šafárik University, Faculty of Arts, Institute of Interpreting, on August 30, 2007 (No. 285/2007/02/TÚ), a certificate of education with nationwide recognition issued by the Institute of Interpreting at the Faculty of Arts, University of Prešov, on February 15, 2007 (No. TÚ-OM 093/2007), and an opinion of the Trade Licensing Department, General Administration Section, Ministry of the Interior of the Slovak Republic. Subsequently, the plaintiff received a request from the Trade Licensing Department of the District Office of Nové Zámky to supplement the documentation of professional competence because the submitted notification did not meet all the necessary requirements pursuant to Section 46(1)(a) in conjunction with Section 47(6) of the Trade Licensing Act. On November 26, 2018, within the deadline set by the administrative authority, the plaintiff supplemented the professional competence documentation with a copy of the school-leaving examination protocol and a copy of the school-leaving certificate. On December 4, 2018, the plaintiff was served with a decision by the Trade Licensing Department of the District Office of Nové Zámky to terminate the proceedings concerning the notification/application for the issuance of a trade license certificate for the business activity "Translation and Interpreting Services: Hungarian Language." The proceedings were terminated because the individual failed to rectify the deficiencies in the notification within the prescribed 15-day period from the date of delivery of the request pursuant to Section 47(6) of the Trade Licensing Act. Specifically, the plaintiff did not demonstrate sufficient professional competence as required under Sections 7(1) and 24 of the Trade Licensing Act for the regulated trade activity "Translation and Interpreting Services: Hungarian Language." The deadline to rectify the deficiency expired on November 26, 2018. The plaintiff filed an appeal against this decision, attaching a copy of the certificate of passing the professional translator's examination, a copy of the certificate of passing the professional interpreter's examination, a copy of the certificate of education with nationwide recognition, an opinion of the Trade Licensing Department, General Administration, Ministry of the Interior of the Slovak Republic, a copy of the school-leaving examination protocol, a copy of the school-leaving certificate, and a letter from the Director of the Department of Detection, Main Police Directorate in Budapest. On February 6, 2019, the plaintiff was served with a decision by the District Office of Nitra, Department of Appeals, which annulled the decision of the District Office of Nové Zámky, Trade Licensing Department, to terminate the proceedings and returned the case to the administrative authority for reconsideration and a new decision. Subsequently, on March 8, 2019, the plaintiff received a request from the Trade

Licensing Department of the District Office of Nové Zámky to supplement the proceedings by providing written documentation proving that the applicant met the specific conditions for operating the regulated trade. This included proof of completed studies of the relevant language at a university, a certificate of passing the state language exam in Hungarian, or evidence of at least 10 years of residence in a country where the official language to be translated or interpreted is spoken, i.e., proof of 10 years of residence in Hungary. On March 11, 2019, based on this request, the plaintiff resubmitted the following documents to the Trade Licensing Department of the District Office of Nové Zámky: a copy of the school-leaving certificate, a certificate of passing the professional translator's examination, a certificate of passing the professional interpreter's examination, and a certificate of education. Following the suspension of the proceedings and the submission of an opinion by the District Office of Nitra, Department of Education, the District Office of Nové Zámky, Trade Licensing Department, decided on May 13, 2019, to terminate the proceedings. The plaintiff filed an appeal against this decision, and the defendant ruled on the appeal in the contested decision.

15. The plaintiff considers the above-described procedure as well as the contested decision to be unlawful on the grounds that the defendant's findings in the contested decision are based on an incorrect legal assessment of the case, the contested decision is unreviewable due to lack of clarity or lack of reasons, the findings of fact by the public administration body are insufficient for a proper assessment of the case, and there has been a material breach of the provisions on the procedure before the public administration body, which may have resulted in the issuance of an unlawful decision or measure on the merits of the case.

16. On the first point, the plaintiff complained that the Department of Trade Licensing of the District Office Nové Zámky in the proceedings in question misjudged the matter in law and did not sufficiently justify its decision. Any decision which decides on the rights, protected interests and obligations of a natural or legal person must be fair and must be based on a reliably ascertained factual situation. The burden of proof in procedures in which administrative liability is invoked is to be borne by the administrative authority, which has the duty to establish the case's facts properly. The possible passivity of a party to the proceedings cannot be equated with a sufficiently established factual situation, as stated by the Department of Trade Licensing of the District Office of Nové Zámky in its decision. The fact that the party to the proceedings did not comment on the initiation of the administrative proceedings, did not make specific proposals or did not state that it had eliminated specific deficiencies, the court practice does not consider as an implicit expression of admission or consent to the procedure or exclusion of the possibility of legal remedies.

He then added that a reliable finding of the facts is a condition to be fulfilled on the part of the administrative authority, provided that it intends to decide the case impartially within the meaning of the law. However, the defendant's decision is based in particular on the fact that the documentary evidence (i) was not submitted by the plaintiff at the beginning of the proceedings when applying for the trade license but only later during the proceedings and (ii) is written in the Hungarian language, is not officially translated and authenticated and is therefore not usable for official purposes in the Slovak Republic. From such a finding, he considered that the facts were not sufficiently ascertained by the defendant, when only on the basis of insufficient findings and without further independent examination, the defendant found that the party had not demonstrated sufficient professional competence to perform the activity of translation and interpreting services: Hungarian language, although he knew that there was documentary evidence in the file in Hungarian, which he did not understand and which, moreover, proved the opposite. In the present case, the plaintiff has already set out extensive legal considerations in his appeal, pointing in particular to the fact that he has worked for many years in Hungary as a translator for the Hungarian police force and has passed an examination in that language. He also pointed out that he had submitted, when applying for a trade license, the supporting opinion of the Trade Business Department, Public Administration Section, Ministry of the Interior of the Slovak Republic, which he had requested, stating that ... we consider that the person registered in the list of the Ministry of Justice of the Slovak Republic also meets the conditions of professional competence under the trade licence. The very fact that this branch of the central administration expressed a legal opinion contrary to the defendant's opinion, used in the reasoning of the contested decision, is a reason to consider whether the conflicting opinions of the various branches are in favour of the party to the administrative

proceedings and do not call into question the principle of legal certainty when deciding on similar matters.

He further pointed out that he had demonstrated his education in the field, which in this case is the Hungarian language, on the basis of the invitation of the District Office Nové Zámky, Department of Trade Licensing, and thus complied with the opinion of the Director of the Trade Licensing Department, Section of Public Administration of the Ministry of the Interior of the Slovak Republic. In addition, he also pointed out that, although the Department of Trade Enterprise, District Office of Nové Zámky, as the administrative authority, had also requested the opinion of the Department of Education, District Office of Nové Zámky, as to whether the matriculation examination in the Hungarian language and literature was at the level of the state examination, that department had also stated in its opinion that, that it was unable to comment on the certificates submitted by the plaintiff when filing the declaration of trade, as they fell within the scope of the issue of universities, and recommended that the administrative authority refer the matter to the Higher Education Section of the Ministry of Education, Science, Research and Sport, which, however, the administrative authority did not do at all and decided to discontinue the case without removing all ambiguities concerning the merits of the case. Already at that point, the appellant referred to the obvious doubts of the first-instance administrative authority, which it had before the decision itself and which, although they remained unresolved, were not removed and decided upon, and those doubts were not removed by the defendant either. The Department of Trade Licensing of the District Office of Nové Zámky did not take into account the fact, to which the plaintiff referred in his appeal, that the provision of the Trade Licensing Act in question does not specify and does not even stipulate what type of residence is to be proved and in what manner this residence of at least 10 years in a State with an official language to be taught, interpreted or translated is to be proved. As regards the fact that the documentary evidence was written in a foreign language, the plaintiff submits that the Administrative Procedure Code does not state anywhere in its provisions on evidence that documentary evidence written in a foreign language cannot serve as evidence. He considered that, in order to remove any doubt as to the document submitted in the present case, the administrative authority was obliged to provide a translation of it, either by asking the party to provide such a translation or by having the translation itself made, in order to be able to reach a sufficient conclusion as to whether or not the documentary evidence in question contained facts relevant to the decision on the merits of the case. The defendant's contention that the letter in question is written in Hungarian and has not been officially translated and certified and is therefore not even usable for official purposes in the Slovak Republic is not only unsupported by the law, but directly contradicts the provisions of the Act on the Use of National Minority Languages and is therefore a denial of justice.

17. The plaintiff requested the Administrative Court to issue a judgment annulling the decision of the Department of Transportation, Nitra District Office No. OU-NR-OOP1-2019/032639 of 15.07.2019, as well as the decision of the Department of Trade Licensing, Nové Zámky District Office No. OU-NZOZP-2019/003244-19 of 06.05.2019, which preceded it, and to return the case to the Department of Trade Licensing, Nové Zámky District Office for a new proceeding and a new decision.

IV.

A/ Statement of the defendant

18. The defendant responded to the application by a submission of 07.02.2020, in which it first of all referred to the facts of the case and then to the pleas in law, on the basis of which it came to the conclusion that it did not agree with the content of the application and took the view that the contested decision was in accordance with the law and the established facts of the case. He considered that, in the appeal proceedings, he had thoroughly examined all the facts on which the decision was based, referring to Annex 2 to the Trade Licensing Act. Group 214 - other bound trades, para. 23, which sets out the documents required by the Trade Licensing Act for the trade in question. It also indicated in the grounds of the decision which documents had been submitted by the plaintiff, the detailed assessment of which had already been sufficiently dealt with in the grounds of the decision by the first-instance administrative authority, whose legal opinion was fully shared by the appellate authority. The defendant

also considered that, in the context of the decisions of the first-instance administrative authority, it had provided sufficient reasons for its legal opinion in the contested decision. It also noted that the plaintiff had indicated the Slovak Republic as his state affiliation and place of birth in the form for a natural person to declare a free, artisanal or tied trade/application for a trade license dated 02.11.2018. He communicated with the administrative authority of the first instance as well as with the defendant throughout the proceedings exclusively in the Slovak language, with multiple written contacts, and submitted documents also in the Slovak language. At no time did the plaintiff mention that he had a nationality other than Slovak. In the course of the proceedings, the plaintiff was requested by the first-instance administrative authority to submit relevant documents to prove his competence in accordance with the requirements of the Trade Licensing Act, which he failed to do.

19. In view of the above, the defendant requested that the administrative court dismiss the action.

B/ the plaintiff's comments on the defendant's statement

20. In response to the court's request dated February 14, 2020, pursuant to Section 106(1) of the Administrative Procedure Code, the plaintiff submitted a statement, reiterating some of the facts already presented in the complaint, which the administrative court will not repeat here. In conclusion, the plaintiff stated that the defendant did not address the plaintiff's arguments outlined in the complaint in detail and left the burden of the decision to the court.

C/ the defendant's position on the plaintiff's statement of defence

21. In a statement of defence, executed pursuant to a summons of the court dated 17.03.2020, the defendant stated that it disagreed with the plaintiff's submissions. It took the view that, in the course of the administrative procedure before the second-instance administrative authority, the defendant had acted in accordance with the law and had duly assessed all the grounds on which the decision had been taken. It also commented on the plaintiff's objection concerning the infringement of Act No 184/1999 Coll. on the use of languages of national minorities.

V.

22. The Regional Court in Nitra, as the court with subject-matter and territorial jurisdiction in the case, bound by the scope and reasons of the filed complaint (pursuant to Sections 134(1) and (2) of Act No. 162/2015 Coll., the Administrative Procedure Code, hereinafter referred to as the "APC"), and based on the established factual circumstances, reviewed the contested decision of the defendant dated July 15, 2019, as well as the proceedings preceding its issuance, without ordering a hearing (as none of the conditions specified in Section 107(1) of the APC for the court to hear the case with a hearing were met). The court concluded that the filed complaint was justified and therefore annulled the decision of the defendant as well as that of the first-instance administrative authority pursuant to Section 191(1)(d) of the APC. The case was returned to the District Office of Nové Zámky, as the first-instance administrative authority, for further proceedings due to the decision being unreviewable due to incomprehensibility or lack of reasoning.

The judgment in the present case was publicly pronounced by the Administrative Court on 20.04.2021 pursuant to Article 137(4) of the A.P.C.

23. Pursuant to Section 23 of Act No. 455/1991 Coll. on Trade Licensing (hereinafter referred to as the "Trade Licensing Act"), regulated trades are those listed in Annex No. 2 of the Act.

Pursuant to Section 24 of the Trade Licensing Act, professional competence for regulated trades is governed by specific regulations listed in Annex No. 2 of the Act or established by this Annex.

Pursuant to Section 45(1) of the Trade Licensing Act, in effect at the time of the initiation of the administrative proceedings, anyone intending to operate a trade is required to notify the trade licensing office with territorial jurisdiction based on the registered office of a legal entity or the residence of a

natural person. For a foreign entity, the competent trade licensing office is determined based on the address of the place of business of the foreign entity's enterprise or the address of the place of business of the organizational unit of the foreign entity's enterprise. If multiple organizational units of the foreign entity's enterprise are established within the territory of the Slovak Republic, the jurisdiction of the trade licensing office is determined based on the choice of the foreign entity.

Pursuant to Section 46(1)(a) of the Trade Licensing Act, in effect at the time of the initiation of the administrative proceedings, a natural person must demonstrate professional competence or the professional competence of their responsible representative when notifying a craft trade or a regulated trade.

Pursuant to Section 47(1) of the Trade Licensing Act, also in effect at the time of the defendant's decision, if the trade licensing office determines that the notification meets the requirements of Sections 45, 45a(1) to (4), and 46, and the entrepreneur fulfills the conditions established by this Act, it shall issue a trade license certificate no later than three working days from the date the trade notification and criminal record extracts were delivered to it.

Pursuant to Section 47(1) of the Trade Licensing Act, also in effect at the time of the defendant's decision, if the trade licensing office finds that the notification does not meet the requirements of Sections 45, 45a, and 46 or is incomprehensible, it shall request the entrepreneur within the period specified in subsection 1 to rectify the deficiencies in the notification. In the request, it shall set a reasonable deadline for rectification, but not less than 15 days. If there are serious reasons, the trade licensing office may, upon the entrepreneur's request, extend the deadline, even repeatedly. If the deficiencies are rectified within this period, the procedure under subsection 1 applies.

Pursuant to Section 47(7) of the Trade Licensing Act, also in effect at the time of the defendant's decision, if the entrepreneur does not rectify the deficiencies within the specified deadline, the trade licensing office shall terminate the proceedings.

Pursuant to Section 71 of the Trade Licensing Act, proceedings in matters governed by this Act are subject to the Administrative Procedure Code unless otherwise specified by individual provisions of this Act.

According to Annex no. 2 Bound trades, group 214 Other, subgroup 23. Teaching in the field of foreign languages or Translation and interpreting services *) does not apply to the performance of the activities of interpreters and translators according to the act no. 382/2004 Coll. on interpreters and translators and on amendment and supplementation of certain acts, as amended, (translation and interpreting services added from 01. 10. 2007, under group 214, subgroup 20.) - completion of studies in the relevant languages at a university or a certificate of passing a state language examination, or - proof of at least 10 years' residence in a country with an official language to be taught, translated or interpreted.

According to Annex No. 2 Bound trades, group 214, other, subgroup 20. in the wording effective until 30. 09. 2007, teaching in the field of foreign languages - completed study of the relevant languages at a university or a certificate of passing the state language exam, or proof of at least 10 years of residence in the state with the official language to be taught.

24. Pursuant to Section 3(3) of Act No. 71/1967 Coll. on Administrative Proceedings (hereinafter referred to as the "Administrative Procedure Code"), a citizen of the Slovak Republic who belongs to a national minority and has the right to use the language of the national minority under a special regulation has the right to conduct proceedings before an administrative authority in the language of the national minority in municipalities specified by a special regulation. Administrative authorities referred to in the first sentence are obliged to ensure equal opportunities for such individuals to exercise their rights..

Pursuant to Sections 34(1), (2), (3), (4), (5), and (6) of the Administrative Procedure Code, any means that can determine and clarify the actual state of the matter and are in accordance with legal regulations may be used as evidence.

- (2) Evidence includes, in particular, witness testimonies, expert opinions, documents, and inspections.
- (3) A participant in the proceedings is required to propose evidence known to them to support their claims.
- (4) The administrative authority is responsible for conducting the taking of evidence.
- (5) The administrative authority evaluates the evidence at its discretion, assessing each piece of evidence individually and all evidence in their mutual context.
- (6) Facts that are generally known or known to the administrative authority from its official activities do not need to be proven.

Pursuant to Section 47(3) of the Administrative Procedure Code, the reasoning of a decision by an administrative authority must state the facts on which the decision is based, the considerations that guided the evaluation of evidence, how the correct application of legal regulations on which the decision is based was ensured, and how the authority addressed the proposals and objections of the participants in the proceedings, as well as their comments on the basis of the decision.

25. Pursuant to Section 2(3) of Act No. 184/1999 Coll. on the Use of Languages of National Minorities, as amended, a citizen of the Slovak Republic belonging to a national minority has the right, in a municipality referred to in subsection 1, to communicate orally and in writing with local state administration bodies, territorial self-government bodies, and legal entities established by territorial self-government (hereinafter referred to as "public administration bodies"), including submitting written documents and evidence in the minority language. Public administration bodies must respond to submissions written in the minority language not only in the state language but also in the minority language, except for the issuance of public documents, with exceptions specified in subsections 4 and 5. In case of doubt, the wording of the response in the state language is decisive. Public administration bodies must create conditions for the exercise of the right mentioned in the first sentence in an appropriate manner and may designate specific time slots for handling matters in the minority language. Public administration bodies must provide information about the possibility of using the minority language visibly at their offices.

26. According to Section 7(1), (2), (7), and (9) of the Act on Language Schools, studies at a language school may be completed with a state language examination. The state language examination is conducted in accordance with this decree and the examination rules specified in the annex.

The state language examination verifies the degree of language proficiency as determined by the examination rules for the respective type of state language examination.

A specialized state language examination can be taken in the field of translation or interpreting. A participant who has successfully completed a general state language examination may take the specialized examination. The director of the state language school permits the participant to take the examination if they demonstrate the required language knowledge and skills with a document confirming a higher education qualification in the relevant philological field of study. The director may also grant an exception to an applicant who provides a different document of equivalent language proficiency.

Upon successful completion of the state language examination, the language school issues a certificate.

27. According to Section 2(2) of Act No. 253/1998 Coll. on the Reporting of Residence of Slovak Citizens, as amended, for the purposes of residence registration, residence refers to permanent or temporary residence.

According to Section 9 of the same Act, a citizen with permanent residence in Slovakia who is preparing to travel abroad for more than 90 days has the right to report this to the registry office at their place of permanent or temporary residence. The notification must specify the destination country, the location of residence, and the expected duration of stay.

28. According to Section 68(1) of Act No. 131/2002 Coll. on Higher Education, as amended, the documents certifying the completion of a study program in a particular field of study include: a) a university diploma, b) a state examination certificate, and c) a diploma supplement.

29. According to Section 8(1) and (3) of Act No. 386/1997 Coll. on Further Education and the amendment of Act No. 387/1996 Coll. on Employment, as amended by Act No. 70/1997 Coll., effective until December 31, 2007, and replaced on February 1, 2010, by Act No. 568/2009 Coll. on Lifelong Learning and the Amendment of Certain Laws, an educational institution issues a certificate of acquired education to graduates of an accredited educational activity under this Act. The certificate has nationwide validity. A template for the certificate is provided in the annex. The certificate serves as a public document and is authenticated with the official seal of the educational institution.

A certificate of education issued to a graduate of an accredited educational activity is issued for an indefinite period of time.

30. According to Section 2(1) of Decree No. 490/2004 Coll. of the Ministry of Justice of the Slovak Republic, implementing Act No. 382/2004 Coll. on Experts, Interpreters, and Translators and on Amendments and Supplements to Certain Laws, as effective on August 30, 2007, and February 19, 2008 (repealed by Decree No. 228/2018 Coll., hereinafter referred to as the "Decree"), the following documents must be attached to a written application for inclusion in the list: a) Certified copies of educational documents, such as a university diploma, school-leaving certificate, or other documents. b) A CV focused on the required expertise. c) A certified copy of a certificate of successful completion of the basic professional training, which must not be older than three years; information on the availability of the training is published electronically by the Ministry. For graduates of specialized postgraduate studies in the relevant field, it is assumed they have completed the required basic training. d) A certified copy of a certificate of successful completion of a professional examination, which must not be older than three years; this does not apply to current experts, interpreters, and translators under Section 25. e) A certified copy of a certificate of successful completion of specialized studies in fields listed in Annex 1. f) Proof of the applicant's professional experience, which may, in exceptional cases, be replaced by an affidavit; such cases include the dissolution of the employer or organization where the applicant gained experience. In exceptional cases, professional experience includes performing expert, interpreting, or translation activities. g) A criminal record extract not older than three months. h) Documents demonstrating the material resources necessary for activities in the registered field or sector, such as a certified copy of a lease agreement, an inventory of movable and immovable property not older than three months, or an affidavit confirming the availability of such resources. i) For legal entities, documents demonstrating their specialization, not older than three months. The specialization of a legal entity refers to its primary activity, evidenced by an extract from the Commercial Register, a certified copy of the founding charter, or other proof of establishment.

According to Section 5(1), (2), (6), (7), and (11) of the Decree, the purpose of the professional examination is to determine whether the applicant possesses the necessary knowledge and is sufficiently practically prepared to perform expert, interpreting, or translation activities.

The examination is organized by the Ministry or an institution authorized by the Ministry (hereinafter referred to as the "exam organizer").

The professional examination of an applicant for expert activity shall be conducted in the state language. The professional examination of an applicant for interpreting and translating shall be conducted in the respective languages.

The professional examination shall be taken by the applicant before an examination board composed of three members. The chairman and other members of the examination board shall be appointed and dismissed by the Minister of Justice of the Slovak Republic (hereinafter referred to as "the Minister"). One representative of the Ministry shall always be a member of the Examination Board. As a rule, the chairman of the board and another member of the board shall be an expert, interpreter or translator from the discipline or branch of the profession in which the professional examination is being conducted. If

there is no expert, interpreter or translator from the discipline or sector in which the professional examination is being conducted, another person who agrees to the appointment and whose education and experience guarantee the qualified performance of the professional examination in the discipline or sector concerned may also be the chairman and a member of the examination board.

The test organiser shall issue the applicant with a written document stating the result of the professional examination.

According to Section 9(1), (2), (3), (5), and (7) of the Decree, the purpose of the basic professional training is to provide foundational knowledge necessary for expert, interpreting, or translation activities.

The professional minimum shall be provided by expert institutes and interpreting institutes on the basis of a mandate from the Ministry.

The scope of the professional minimum shall be at least 30 hours. The content of the professional minimum shall include, in particular, the basics of the legal provisions relating to the performance of expert, interpreting and translation activities, the methodology of the performance of activities, the keeping of a diary, as well as the form and content of an expert, interpreting or translation act.

The professional minimum is completed by passing a written examination and an oral examination.

The expert institute or interpreting institute shall issue the applicant with a written proof of the result of the examination.

31. The basic mission of the administrative judiciary is the protection of the rights of citizens and legal persons decided in administrative proceedings (Article 46(2) of the Constitution of the Slovak Republic); it is a legal institute that allows any person who feels aggrieved by a decision or procedure of a public administration body to invoke the court as an independent body and thus to initiate proceedings in which the administrative body will no longer have an authoritative position, but will be a party to the proceedings with the same rights as the person whose rights are at stake in the proceeding.

32. In cases in which a natural or legal person claims to have been deprived of his or her rights by a decision and procedure of an administrative authority and requests that the court review the legality of that decision and procedure, the court shall proceed in accordance with the provisions of the Administrative Procedure Code.

33. Administrative justice is primarily a means of protecting the subjective rights of the addressee of the exercise of public administration in its various forms. Only secondarily is the legality of the public-power activities of the public administration a criterion for granting this protection. In other words, in a system governed by the rule of law, administrative justice is not intended to serve to remedy illegality in public administration without any regard to the impact of any illegality found on the subjective-legal position of the person concerned. The purpose of administrative justice is not to correct unlawfulness in public administration but to protect effectively the subjective rights of the natural or legal person against whom public administration is exercised in a particular case. As a rule, the administrative court is not a court of fact, but a court that only considers legal issues of the contested procedure or decision of a public administration body (III. ÚS 502/2015, IV. ÚS 596/2012). It should also be borne in mind that administrative proceedings are not adversarial proceedings in the same way as adjudication in the administrative justice system, given that one of the parties to the proceedings in the administrative justice system is always the public authority which has decided on the rights, legally protected interests and obligations of natural persons or legal persons, whereas the subject of proceedings before the administrative court is, in principle, the review of the legality of the decision of the public authority (IV. ÚS 308/2011).

34. The subject of the judicial review is the defendant's decision described in Section II of this judgment, by which the defendant, pursuant to Section 59(2) of the Administrative Procedure Code, dismissed the plaintiff's appeal and upheld the decision of the District Office of Nové Zámky, Trade

Licensing Department, dated May 6, 2019. This decision terminated the proceedings concerning the submission of the notification/application for the issuance of a trade license certificate for part of the business activity (regulated trade): "Translation and Interpreting Services: Hungarian Language." The first-instance administrative authority justified the termination of the proceedings by stating that the individual did not rectify the deficiencies in the trade notification within the specified 7-day period (working days) from the date of delivery of the request to supplement the proceedings pursuant to Section 47(6) of the Trade Licensing Act in accordance with Section 33(2) of the Administrative Procedure Code. Specifically, the individual failed to demonstrate sufficient professional competence as required under Sections 7(1) and 24 of the Trade Licensing Act for the regulated trade "Translation and Interpreting Services: Hungarian Language." The deadline to rectify the deficiency expired on March 19, 2019. Additionally, the first-instance administrative authority noted that in the subsequent proceedings, the individual did not respond within the specified 7-day period (working days) from the date of delivery of the notification regarding the continuation of the proceedings from April 11, 2019. The deadline for responding and supplementing the new proceedings to rectify the deficiency expired on May 3, 2019.

35. It is undisputed between the parties, and it is evident from the defendant's file as well as the file of the first-instance administrative authority, that on November 2, 2018, the plaintiff submitted to the District Office of Nové Zámky, Trade Licensing Department, a notification form for individuals for a free, craft, or regulated trade/application for the issuance of a trade license certificate pursuant to Sections 45, 45a, and 46 of Act No. 455/1991 Coll. on Trade Licensing (the Trade Licensing Act) as amended (hereinafter referred to as the "Trade Licensing Act"). In the application, the plaintiff stated that he demonstrated professional competence with a certificate and an opinion from the Ministry of Interior of the Slovak Republic. The business activity was specified as "Translation and Interpreting Services – Hungarian Language," with the commencement date of the trade being November 2, 2018, and no responsible representative was appointed. The application was accompanied by documents including a certificate of successful completion of a professional translator's examination in Hungarian, issued by Pavol Jozef Šafárik University, Faculty of Arts, Institute of Interpreting, dated August 30, 2007 (No. 279/2007/02/TÚ); a certificate of successful completion of a professional interpreter's examination in Hungarian, issued by the same institution, dated August 30, 2007 (No. 285/2007/02/TÚ); a certificate of education with nationwide validity, issued by the Institute of Interpreting at the Faculty of Arts, University of Prešov, dated February 15, 2007 (No. TÚ-OM 093/2007); and an opinion from the Trade Licensing Department, Public Administration Section, Ministry of Interior of the Slovak Republic, dated October 29, 2018. In response to a request to supplement the proof of professional competence due to the notification not meeting all the necessary requirements under Section 46(1)(a) in conjunction with Section 47(6) of the Trade Licensing Act, the plaintiff submitted a copy of the protocol of the school-leaving examination and a copy of the school-leaving certificate on November 26, 2018. The first-instance administrative authority did not accept these documents and, in decision No. OU-NZ-OZP-2018/017603-4, dated November 27, 2018, terminated the proceedings. The plaintiff appealed this decision, supplementing the appeal with the aforementioned documents and an additional certificate in Hungarian, issued in Budapest on October 1, 2007, which, according to the plaintiff, was supposed to demonstrate professional competence. The District Office of Nitra, Department of Appeals, decided on the plaintiff's appeal in decision No. OU-NR-OOP1-2019/012454, dated February 1, 2019, by annulling the decision of the District Office of Nové Zámky, Trade Licensing Department, No. OU-NZ-OZP-2018/017603-4 of November 27, 2018, pursuant to Section 59(3) of the Administrative Procedure Code, and returning the case to the administrative authority for reconsideration and a new decision. The Appeals Department criticized the decision for violating Section 47(3) of the Administrative Procedure Code, particularly the incomprehensibility of the decision for the participant in the proceedings. Subsequently, the first-instance administrative authority issued a new decision, which was confirmed by the defendant. Referring to these established facts, the plaintiff argued in the complaint that the defendant's findings in the contested decision were based on an incorrect legal assessment of the matter. The contested decision was unreviewable due to incomprehensibility or lack of reasoning. The factual findings by the administrative authority were insufficient for a proper assessment of the case, and significant violations of procedural rules occurred, which could have resulted in the issuance of an unlawful decision or measure on the merits. In essence, the plaintiff criticized the administrative authority for failing to properly ascertain the facts of the case, including insufficient familiarity with documentary evidence written in Hungarian and the plaintiff's claim that he had passed a language examination. He

argued that the defendant failed to address why the documentary evidence submitted—such as the certificates of successful completion of professional translator and interpreter examinations in Hungarian and the education certificate with nationwide validity from the Institute of Interpreting at the Faculty of Arts of Pavol Jozef Šafárik University in Prešov—could not demonstrate professional competence for providing translation and interpreting services in Hungarian. The plaintiff also pointed out that, in response to the administrative authority's request, he had submitted a copy of the school-leaving examination protocol and certificate, thereby proving his education in the field. He concluded by citing provisions of Act No. 184/1999 Coll. on the Use of Languages of National Minorities and noted that the Administrative Procedure Code does not specify that documentary evidence in a foreign language cannot serve as evidence. The plaintiff summarized that the defendant failed to sufficiently justify in its decision the lack of proof of professional competence, failed to explain the considerations guiding the evaluation of evidence, failed to clarify how discretion was exercised, and failed to provide a position on why the documentary evidence submitted by the plaintiff was deemed insufficient to demonstrate adequate professional competence.

36. Upon reviewing the reasoning provided by the first-instance administrative authority and the defendant, which together constitute a single entity, the administrative court determined that the administrative authorities merely stated that the submitted educational documents were insufficient to prove professional competence for the specified regulated trade, based on their own administrative reasoning. The administrative authority considered that a school-leaving examination in Hungarian does not substitute for a state examination in the language intended for translation or interpreting. It also addressed the advantages of a certificate of a general state language examination, noting that the holder of such a certificate must possess a second-degree university education, based on which a trade license certificate could be issued for conducting language courses and providing translation or interpreting services. However, this would not extend to official translation and interpreting services requiring an official seal. Ultimately, the first-instance administrative authority deemed its reasoning sufficient in this case. The court noted that the reasoning also mentioned that the plaintiff had been removed from the list of interpreters on July 5, 2013, without any further administrative consideration. Furthermore, the first-instance administrative authority concluded by stating that its decision complied with Section 47(7) of the Trade Licensing Act in conjunction with Section 30(1)(d) of the Administrative Procedure Code. The defendant supplemented the reasoning of the first-instance authority by stating that the original trade notification did not include any letter from the Chief of Police in Budapest. The plaintiff submitted this letter for the first time as part of his appeal, after the decision to terminate the proceedings had been issued.

This letter is written in the Hungarian language, has not been officially translated and certified and is therefore not usable for official purposes in the Slovak Republic. The administrative authority, in the course of its activity, considered those documents which the applicant submitted to it together with the trade registration and, therefore, could not consider the document which he attached only to the appeal, in a foreign language and without official translation.

37. In this context, the administrative court first pointed out that the Trade Licensing Act regulates the conditions for operating trades. It contains substantive legal norms that define the rights and obligations of entities in this area, as well as procedural norms related to achieving these rights and enforcing the associated obligations. Section 71 of the Trade Licensing Act establishes the subsidiary application of the Administrative Procedure Code. In practice, this means that if a particular procedural institute is not addressed in the Trade Licensing Act, the relevant provisions of the Administrative Procedure Code are applied. In other words, one must first look for the institute in the Trade Licensing Act and, if it is not found, follow the general legal provisions of the Administrative Procedure Code.

Procedural institutes borrowed from the Administrative Procedure Code include basic rules of administrative proceedings, exclusion of employees or members of the administrative authority, representation, forwarding submissions, delivery, deadlines (including deadlines for issuing decisions), suspension of proceedings, evidence for issuing decisions, decisions and their requirements, and remedies.

Procedural provisions specifically addressed by the Trade Licensing Act, which do not fall under the Administrative Procedure Code, include the requirements for a trade license certificate (Section 47 of the Trade Licensing Act), the recognition of professional practice (Sections 66h(3)-(5)), and the recognition of professional qualifications (Sections 66m(3)-(6)).

38. Trade licensing proceedings are a type of administrative proceeding. They involve individual decision-making activities by trade licensing authorities (administrative authorities) through which business activities are modified or terminated, or administrative liability is imposed on individuals or legal entities concerning trade licensing. The Trade Licensing Act outlines several specific decision-making processes resulting in the issuance of individual administrative acts, such as decisions. The issuance of a trade license certificate, however, is not the result of an administrative decision-making process or proceeding. Instead, it certifies the existence of a legal state that grants the right to conduct business as a public subjective right.

39. A different situation arises when a notification contains defects or is unclear. A notification with defects or lack of clarity cannot be considered valid, as the Trade Licensing Act requires defect-free notifications for operating a trade. Such a notification does not establish the right to operate a trade. The requirements for notifications are set out in Sections 45 and 46 of the Trade Licensing Act. All legally required elements of a notification must be correctly and accurately completed; otherwise, the notification is incomplete. Subsequently, the administrative authority must issue a request to correct the deficiencies in the notification, including a warning that if the deficiencies are not corrected within the specified timeframe, the proceedings will be terminated. This applies to cases where the entrepreneur does not respond to the request at all or fails to fully rectify the deficiencies as required. The legal consequence is the termination of the proceedings. A decision to terminate proceedings is issued in accordance with Sections 46 and 47 of the Administrative Procedure Code, requiring the decision to include a statement, reasoning, and instructions on the appropriate remedy. Termination of proceedings does not create a *res judicata* (finality of decision); thus, if the notifier submits a new notification in the future and meets all legal requirements, they may be entitled to operate a trade based on the new notification.

40. The administrative court emphasizes that, according to established judicial practice (e.g., Constitutional Court of the Slovak Republic rulings II ÚS 127/07-21, Supreme Court of the Slovak Republic rulings 6Sžo 84/2007, 6Sžo 98/2008, 1Sžo 33/2008, 2Sžo 5/2009, and 8Sžo 547/2009), the court's role in administrative judiciary is not to replace the functions of administrative authorities but to review the legality of their procedures and decisions. This includes assessing whether the competent administrative authorities, in resolving the specific issues raised in the complaint, adhered to the relevant substantive and procedural legal provisions outlined above and provided adequate reasoning for their decisions.

41. However, by examining the above-mentioned reasoning of the contested decision, the Administrative Court finds that it is not possible to ascertain from the reasoning of the contested decision of the defendant as well as that of the first instance administrative authority how the defendant and the first instance administrative authority dealt with the established factual situation and applied it to the relevant provisions of the legislation, whereas this interpretation must be duly reasoned and it must be sufficiently clear from it on the basis of which the administrative authority arrived at its decision. In doing so, the Administrative Court adds that the reasoning is completely lacking as to why the certificates of the professional examination for translators and interpreters in the Hungarian language and the training obtained at the Institute of Interpreting at the Faculty of Philosophy of the University of Pavol Jozef Šafárik in Prešov were not used, cannot prove professional competence for the performance of translation and interpreting services for the Hungarian language, also with reference to the fact that they must not be older than three years when they are registered in the list of experts, interpreters and translators. It also did not escape the court's attention that the bound trade - translation and interpreting services - was only introduced into the Trade Licensing Act as of 1 October 2007. Moreover, it is apparent from the administrative file that the first-instance administrative authority had doubts as to whether the enclosed certificates were not a substitute for the Hungarian language examination, as a result of which it made an enquiry to the Nitra District Office, Department of Education, which referred

him to the Higher Education Section of the Ministry of Education, Science, Research and Sport of the Slovak Republic, but that step was not taken by the administrative authority, which merely stated in its reasoning that the plaintiff had not demonstrated sufficient professional competence, the correct reasoning being directed towards the Hungarian language matriculation examination. Similarly, the administrative authorities mentioned in their reasoning the fact that the plaintiff had been struck off the list of interpreters on 05.07.2013, but did not reflect that fact in any way in their administrative reasoning. As a result, the first-instance administrative authority also discontinued the proceedings in conjunction with Article 30(1)(d) of the Administrative Procedure Code, which it did not explain in any way, with the result that it had to be concluded that the decision of the administrative authority was based on administrative reasoning which was not properly reasoned, providing an answer not only to the court but, in particular, to the plaintiff as a party to the administrative proceedings.

In conclusion, the Administrative Court adds that the first instance administrative authority also stated in its decision that "the above mentioned documents of education are subject to the process of recognition of documents of education, which is carried out by the Ministry of Justice in accordance with Act No. 382/2004 Coll. on experts, interpreters and translators and on amendment and supplementation of certain acts", however, the content of the administrative file does not show any instruction to the party to the proceedings, nor is there a more detailed justification of the claim in question in the decision.

42. According to established case law of the Constitutional Court of the Slovak Republic, one of the principles inherent in the right to a fair trial and the rule of law is the obligation of administrative authorities to provide sufficient reasoning for their decisions, as stipulated in Section 47(3) of the Administrative Procedure Code. The reasoning must establish a clear link between the factual findings, the considerations used in evaluating evidence, and the legal conclusions reached. An unreasoned decision does not provide sufficient guarantees against arbitrariness or violations of the constitutional right to a fair trial.

43. In its reasoning, contained in the justification of its decision, the public authority should also take care of its overall persuasiveness, i.e. that the premises chosen in the decision, as well as the conclusions reached on the basis of these premises, are acceptable and rational for the wider legal (as well as lay) public, but, last but not least, fair and persuasive, the reasoning must contain sufficient reasons and the statement of those reasons must be comprehensible, and he must formulate the reasoning in a manner which complies with the basic rules of logical, clear expression and must satisfy basic grammatical, lexical and stylistic considerations. Failure to state reasons constitutes a defect in the unreviewability of the decision.

44. With reference to the above, the administrative court concluded that the contested decision of the defendant, as well as the first-instance administrative authority, which together form a single entity as previously stated by the court, is unreviewable concerning the conclusion reached therein. Specifically, the conclusion that the plaintiff, as a natural person, failed to remedy the deficiencies in their trade notification within the prescribed 7-day period from the delivery of the request to supplement the proceedings under Section 47(6) of the Trade Licensing Act in conjunction with Section 33(2) of the Administrative Procedure Code. The plaintiff was deemed to have not demonstrated sufficient professional competence in accordance with Section 7(1) and Section 24 of the Trade Licensing Act for the regulated trade "Translation and Interpreting Services: Hungarian Language," resulting in the termination of the proceedings under Section 47(7) of the Trade Licensing Act in conjunction with Section 30(1)(d) of the Administrative Procedure Code. According to the court, the contested decision of the defendant, as well as the first-instance administrative decision, does not meet the legal requirements for administrative decisions.

45. Regarding the plaintiff's objection that the administrative authorities did not act in accordance with Act No. 184/1999 Coll. on the Use of Languages of National Minorities, the administrative court stated that the plaintiff, at no point during the administrative proceedings, declared themselves a member of a national minority. The case file does not indicate their nationality (ethnicity) (an incorrect claim made by the administrative authority in its response to the complaint), and the plaintiff communicated in Slovak during the official proceedings. Therefore, this objection is deemed irrelevant. Concerning the claim that

the Administrative Procedure Code does not stipulate that documentary evidence in a foreign language cannot be used as evidence, the court noted that in the present administrative proceedings, it was the plaintiff's responsibility to meet the burden of proof and demonstrate their professional competence to perform the regulated trade. The plaintiff was required to submit documents proving their professional competence along with their notification. In this case, the plaintiff provided certificates and statements to establish competence (see point 1 of the judgment's reasoning). Subsequently, the plaintiff demonstrated their professional competence in the sense of "having obtained education in the field" by presenting their high school diploma and examination record. It was only later, in the appeal, that they submitted a document written in Hungarian. The plaintiff, as a person knowledgeable in law, was obligated to provide this document properly and in time, including an official translation, rather than waiting for the administrative authority to prompt this step or have it translated on their behalf. Furthermore, the court noted that the submitted document does not prove "at least a 10-year residence in a country with the official language," but rather served as a document under § 2(1)(e) of Decree No. 490/2004 Coll. The court clarified that performing interpreting and translation activities in a foreign country cannot be equated with residency. A reassessment of the documentary evidence submitted with the application and their evaluation under the relevant legal provisions must be addressed by the first-instance administrative authority in subsequent proceedings. If the proceedings are terminated again, the authority must issue a decision in accordance with § 47 of the Administrative Procedure Code, ensuring the ruling is substantiated by a reviewable reasoning.

For these reasons, the court could not address the plaintiff's remaining objections.

46. Based on the above findings, the administrative court concluded that the contested decision of the defendant and the first-instance administrative authority must be annulled under § 191(1)(d) of the Administrative Procedure Code, and the matter returned to the District Office in Nové Zámky for further proceedings. In these proceedings, the authority will be bound by the court's legal conclusions (§ 191(6) of the Administrative Procedure Code). The first-instance authority will be required to reevaluate the certificates of successful completion of the interpreter and translator examinations in Hungarian from August 30, 2007, as well as the certificate of completing the professional minimum. It must issue a decision that is appropriately reasoned within the outlined scope. If the authority finds that the existing evidence is insufficient, it will be obligated to complete the evidence-gathering process to establish the factual state necessary for proper case assessment and, for this purpose, will issue another request to the applicant.

47. Regarding the costs of the proceedings, the court ruled that the plaintiff, having been successful in the case (as the court upheld the complaint), is entitled to full reimbursement of costs, pursuant to § 167(1) of the Administrative Procedure Code. The court will determine the amount of reimbursement after the final decision in the case through a separate order issued by a court officer (§ 175(2) of the Administrative Procedure Code).

48. The court ruled by a vote of 3:0, pursuant to § 3(9) of Act No. 757/2004 Coll. on Courts and Amendments to Certain Laws, as amended.

Notice:

An appeal (cassation complaint) against this judgment may be filed within one month of its delivery to the Regional Court in Nitra. The time limit for filing cannot be waived.

The cassation complaint may only be substantiated by the reasons set out in § 440(1) and (2) of the Administrative Procedure Code. New facts and evidence cannot be introduced in the cassation complaint, except for those proving its admissibility and timely submission.

The cassation complaint must be filed with the regional court that issued the contested decision. It must include, in addition to the general requirements of a submission under § 57, the designation of the contested decision, the date on which the decision was delivered to the appellant, a description of

decisive facts to clarify the scope and reasons for filing the appeal ("grounds for appeal"), and a proposed judgment ("appeal proposal"). Grounds for appeal may only be modified before the expiry of the filing deadline.

The appellant must be represented by a lawyer in cassation proceedings (§ 449 of the Administrative Procedure Code). The cassation complaint and other submissions by the appellant must be prepared by a lawyer unless the appellant, their employee, or a member acting on their behalf or representing them in cassation proceedings holds a second-degree university qualification in law. This exception does not apply to administrative complaints under § 6(2)(c) and (d) and if the respondent is the Centre for Legal Aid.