

TY DEMAND DIGNITY

DEMAND DIGNITY

DEMAND DIGNITY



DEMAND DIGNITY

DEMAND DIGNITY



INJUSTICE RENAMED

DISCRIMINATION IN EDUCATION OF ROMA
PERSISTS IN THE CZECH REPUBLIC

EDUCATION
IS A HUMAN RIGHT

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in 2010 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2010

Index: EUR 71/003/2009
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for re-use in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable.

Cover photo: A mathematics class in grade 3 of an elementary school for pupils with “mild mental disabilities” in Ostrava, Czech Republic, 2009.

© Amnesty International

CONTENTS

1. Introduction	3
1.1 Methodology.....	5
1.2 The Roma in the Czech Republic.....	7
2. The case of <i>D.H. and others</i> at the European Court of Human Rights.....	9
2.1 The context during school years 1996/1999.....	10
2.2 The importance of the European Court of Human Rights ruling.....	11
2.3 Legal and policy changes before and after the European Court judgment	13
3. “The emperor’s new clothes”: Special schooling through practical schools.....	16
3.1 A re-branding exercise.....	17
3.2 Testing and diversion to practical elementary schools	17
3.3 Limited future opportunities	27
3.4 Conclusion.....	29
4. Continued segregation in mainstream education.....	30
4.1 Parental choice and separate education linked to residential segregation	31
4.2 Enrolment at the “white” majority school	33
4.3 Lower educational outcomes and limited future opportunities at Roma-only schools	36
4.4 Teachers’ attitudes	37
4.5 The issue of segregation	38
4.6 Meeting the educational needs of Romani children from disadvantaged background	40
4.7 Conclusion.....	42
5. Measures taken for the integration of Roma into mainstream education	44
5.1 Lack of provision for children from socially disadvantaged background	44

5.2 Free last year of pre-school education.....	45
5.3 Preparatory classes.....	45
5.4 Teaching assistants	46
5.5 Conclusion	48
6. Monitoring and Accountability	49
6.1 Attitudes at school level.....	49
6.2 Collection of data	50
6.3 Accountability and an effective complaints mechanism	51
7. International and Regional Human Rights Standards.....	54
7.1 Availability	54
7.2 Accessibility	55
7.3 Acceptability	56
7.4 Adaptability.....	57
7.5 European Union standards	57
8. Conclusion and recommendations	59
Recommendations.....	60
Glossary of terms.....	66

1. INTRODUCTION

“The right to education is the pass key to unlocking other human rights.”

Katarina Tomaševski, former UN Special Rapporteur on the right to education

Romani children are denied the right to an education free from discrimination. Without it, they do not have the pass key to exercise the full range of their human rights. These include the rights to health and work, and to freedom of expression and political participation – all key avenues to breaking a vicious cycle of poverty and marginalization for Roma in the Czech Republic and elsewhere. Romani children do not have equal access to education in countries across Europe owing to a combination of racism, discrimination and the failure on the part of states to ensure that education is accessible to those living in poverty. The right to education free from discrimination has been recognized in international human rights law since at least 1948. Despite this, the systematic denial of the right to education of Romani children in the Czech Republic continues.

This report launches a campaign for real change. Amnesty International is calling upon the government of the Czech Republic, supported by the European Union (EU), to show leadership and direction to reverse racial discrimination in education and address grave violations of the right to education for Romani children.

The systematic violation of the right to education of Romani children in the Czech Republic has been exposed and opposed by a wide range of national and international human rights organizations and human rights bodies.¹ In November 2007, in the case of *D.H. and others v. the Czech Republic*, the European Court of Human Rights (hereafter the European Court) found that the Czech Republic had violated the right of Romani children to an education free from discrimination, through their placement in “special schools”² offering lower quality education.³ The Czech Republic was obliged by the judgment to adopt corrective measures.

Since the ruling by the European Court, the Czech government has made significant progress in acknowledging the extent of segregation in Czech schools, along with the unequal opportunities offered to the Romani minority, despite the legal and policy changes it has undertaken. In February 2009 the Ministry of Education, Youth and Sports (hereafter Ministry of Education) agreed “to a debate on whether the already adopted measures are sufficient from the point of view of the wider aim pursued, i.e. the integration of all children into the main education system.”⁴

This report examines the systemic discrimination that still exists within the Czech education system, and the ongoing manifestation of this discrimination in the effective segregation of

Romani children in schools and classes where they receive an inferior education, based on a reduced curriculum. In this report, Amnesty International highlights, through the case study of the four schools in a district of Ostrava, how the measures the government has adopted so far have been inadequate to end discriminatory practices that prevent Romani children from fully enjoying their right to education. These include a failure to tackle discriminatory attitudes and practices that result in the separation of Romani children into schools offering an inferior education, and a lack of effective support measures to enable the integration and inclusion of Romani children into mainstream education.

Amnesty International is concerned that Romani children continue to largely receive an inferior education and to experience discrimination at many points within the education system.

- Romani children are disproportionately represented in former special schools, now called “practical” elementary schools, and classes teaching a curriculum for pupils with “mild mental disabilities.” In some parts of the Czech Republic Romani children account for more than 80 per cent in those schools;⁵
- Criteria for the placement of pupils in such schools are opaque, the oversight of placement decisions is inadequate, and mechanisms for integrating children erroneously placed in these schools remain ineffective.⁶ Assessments of Romani children fail to factor in cultural and linguistic differences, and there is a lack of adequate safeguards in relation to placement in these schools and for the review of placements;
- Frequently Romani children are placed in practical elementary schools not because they have any mental disability, but because they come from socially disadvantaged backgrounds and confront discriminatory attitudes. The reintegration of these children into mainstream education has not been a priority for the school system;
- Meanwhile Romani children attending mainstream elementary schools face other forms of discrimination and segregation. The mainstream elementary school system remains ill equipped and unwilling to provide adequate support for the education of pupils who come from different ethnic and social backgrounds, as well as of students with different abilities. Segregation continues in Roma-only elementary schools (those predominantly or exclusively attended by Romani children) and in Roma-only classes, where they often receive an inferior education. The failure to introduce measures in mainstream elementary schools to support integration of Romani children results in stark choices for parents between segregated and inferior education, and a difficult, often discriminatory and non-supportive schooling environment in mainstream elementary schools.

Amnesty International is concerned that the new system still allows prejudice and poor decision making, on the part of professionals and parents, to prevail over the best interests of Romani children.

Amnesty International believes that although the Czech government has acknowledged the problem, it has not been sufficiently prepared to commit to real solutions. The Ministry of Education’s current and planned measures are not enough. They will not end the illegal

practices quickly enough, nor do they tackle the underlying causes of these violations consistently or effectively.

Amnesty International believes that an end to discrimination and segregation must be placed at the centre of Czech education policy. The *de facto* segregation of Romani children into schools or classes that offer an inferior education is both a symptom of discrimination within the Czech education system and one of the factors that contributes to ongoing discrimination, prejudice and intolerance in Czech society. As such tackling discrimination and the associated segregation should be given the highest priority. None of the new measures announced by the government up until April 2009 introduces an explicit obligation on the authorities to address segregation in the education system as part of a comprehensive approach to ensuring that no child will be deprived of their right to receive education free from discrimination.

To comply with its human rights obligations, the Czech government must ensure in practice the right to education free from discrimination for all children. Taking into account existing and historical patterns of discrimination and exclusion, Amnesty International considers that until clear and unambiguous action is taken which both results in the inclusion of Romani children in mainstream education of equal quality and eliminates segregated education based on ethnic and/or social origin, the authorities will not have done what is necessary to fulfil their obligations under international human rights law to ensure the right to education without discrimination and to implement the European Court's Grand Chamber judgement in the case of *D.H. and others v. the Czech Republic*.

This chapter gives some background to Amnesty International's work on discrimination against Roma in Europe, especially in the Czech Republic. Chapter two provides a brief description of the education system in the Czech Republic, and summarizes the judgment of the European Court, and the continuing trends and policy changes introduced prior to and as a result of the judgment. Chapters three and four introduce the case studies based on Amnesty International's most recent research in one district of Ostrava and address the main issues of concern. Chapter three concentrates on the continued placement of Romani children into schools for pupils with "mild mental disabilities" (practical elementary schools) and explores its causes and consequences; chapter four focuses on the discrimination faced by Romani pupils in the mainstream elementary schools, and analyses how this discrimination often works as a catalyst for Romani parents to prefer the enrolment of their children in "practical elementary schools". Chapter five looks at the special measures now in place in schools in the Czech Republic, and how effective these measures have been so far for the integration of Romani pupils in mainstream education. Chapter six discusses the lack of accountability by the central and local authorities in the realization of the right to education free from discrimination for Romani children. Chapter seven reviews the international and regional human rights standards on education and non-discrimination; and chapter eight puts forward Amnesty International's conclusions and recommendations.

1.1 METHODOLOGY

Amnesty International has been investigating and monitoring the right to education of Romani children in the Czech Republic since 2006. Through five fact-finding visits to the country and extensive desk research the organization has assessed the impact of law and policy on the enjoyment of the right to education of Roma, including developments since a

2007 judgement of the Grand Chamber of the European Court. Field visits in Prague, Kladno, Plzeň, Liberec, Ústí nad Labem, Brno and Ostrava, have included meetings with government and education officials, social workers, representatives of human rights and Romani non-governmental organizations, Romani parents and children; as well as observational research in both mainstream and practical elementary schools.

Ostrava came to international attention in November 2007 when the Grand Chamber of the European Court upheld a claim by 18 Romani children, that their right to education had been violated. As a consequence, information is readily available concerning the education of Romani children in the city.

Amnesty International went to a district of Ostrava (for the purpose of this report it has been named District P), which has a high concentration of Romani residents, in order to assess the effect of recent policy changes. A case study of four schools, each representing the different types of elementary education available for Romani children, is used to provide illustrative examples of the failure of the Czech government to adequately address the situation. For the purposes of this report, they have been named Schools I, P, G and N.

The four schools represent all the educational options for Romani children in the district. They constitute different types of educational facilities, and provide good illustrations of the discrimination faced by Romani children in accessing education of equal quality and the failure of the Czech government to address it effectively as obliged by the 2007 European Court judgment.

THE FOUR SCHOOLS IN BRIEF

School I – Practical elementary school (primarily Roma)

School P – Mainstream elementary school with special classes (Roma-only)

School G – Mainstream elementary school (Roma-only)

School N – Mainstream elementary school (primarily non-Roma)

The four schools are:

- School I: a “practical elementary school” intended for pupils with “mild mental disabilities”; this school is a former remedial special school, whose name was changed since the entry into force of the Schools Act in 2005; Romani children constitute approximately 90 per cent of its student population;
- School P: a mainstream elementary school with a nursery, which also has special classes for children with mental disabilities; Romani children constitute nearly 100 per cent of its student population;
- School G: a mainstream elementary school. Romani children constitute nearly 100 per cent of its student population;
- School N: a mainstream elementary school; this is a primarily non-Roma school, in which Romani children constitute approximately 10 per cent of its student population.

The report is based on qualitative research, supported by quantitative data drawn from credible sources. Although this report draws on findings from Amnesty International research missions and much other research since 2006, it is primarily based on the findings from two more recent research missions to Ostrava, in February and April 2009. The report includes developments and practices up until the end of school year 2008/2009, in June 2009.

Building on the analysis of these cases, as well as on the wealth of information which is currently available and Amnesty International's own research on the legal, policy and programme framework for education of Roma in the Czech Republic, this report is a call for real change. Amnesty International's intention is to amplify the voices of the Romani community, to hear how they experience the exercise of their right to education and to report their experience in attempting to fulfil that right in 2009.

1.2 THE ROMA IN THE CZECH REPUBLIC

Although the 2001 official census registers only 11,746 people of Romani ethnicity from a total population of 10.2 million,⁷ estimates - including the government's - give a more realistic figure of 150,000 to 300,000 or about 1.6 to 3 per cent of the overall population.⁸

The majority of the current Romani population in the Czech Republic came from Slovakia, forcibly or voluntarily, as most of the original Romani minority were exterminated in concentration camps during World War II.⁹ The Romani population in the Czech Republic is primarily concentrated in the northern part of the country - in Northern Moravia (Ostrava, Karviná), Northern Bohemia (Děčín, Ústí nad Labem) - and in urban areas, such as Prague and Brno.¹⁰

Under the Communist government, Roma were forced to assimilate and their distinct language and culture were not respected; frequently Romani children were removed from their families and placed in state care, while often Romani women were forcibly sterilized. At the same time, the Communist government did secure certain minimum conditions, and guaranteed - to a certain extent - economic and social rights for "citizens of Gypsy origin". After 1989 and the collapse of the Communism, and still further after the break-up of Czechoslovakia in 1993, the situation for Roma deteriorated as some of these protections were removed.

The situation of Roma in the Czech Republic continues to be highly unsatisfactory. The Roma constitute the overwhelming majority population in the country's more than 300 socially disadvantaged localities, often living in de facto "ghettos" separated from the non-Roma majority.¹¹ They suffer from extremely high levels of unemployment and a low level of education. More than 60 per cent of the Roma of working age residing in marginalized localities are unemployed.¹²

In terms of education, eight out of 10 Roma of working age only have elementary education and the majority of Romani children receive lower quality education in segregated educational facilities.¹³ Life expectancy for Roma remains over 10 years lower than the average and infant mortality rates are markedly higher within the Romani community.¹⁴

It is estimated that between 22,000 to 40,000 Roma live in and around Ostrava.¹⁵ However, according to the last official census, only 658 claimed Romani ethnicity in Ostrava¹⁶ and only 1,797 in the Moravian-Silecian region in which Ostrava is situated.¹⁷

Roma continue to suffer discrimination at the hands of both public officials and private individuals in the areas of housing, education, health care and employment, and have increasingly become victims of attacks and violence by far-right groups.¹⁸

DISCRIMINATION AS DEFINED IN INTERNATIONAL LAW

Discrimination is a human rights violation prohibited by a range of binding human rights standards. The term “discrimination” has a precise and well-established meaning in international law. The UN Human Rights Committee – the body of independent experts which monitors the implementation of the International Covenant on Civil and Political Rights – has clarified that the use of the term in the Covenant encompasses:

“any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”¹⁹

However, not every differentiation of treatment will constitute discrimination; it will not “if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate...”²⁰ The European Court has defined discrimination in much the same way:

“A difference of treatment is discriminatory if it ‘has no objective and reasonable justification’, that is, if it does not pursue a ‘legitimate aim’ or if there is not a ‘reasonable relationship of proportionality between the means employed and the aim sought to be realised.’”²¹

International human rights law recognizes two forms of discrimination: direct and indirect.²²

Direct discrimination is unfavourable treatment that is, on its face, based on a prohibited ground. Direct discrimination may be “open”, that is, explicit in the text of a law or clear from a particular practice. It can also be “hidden” but nevertheless identifiable.

Indirect discrimination occurs when an apparently neutral law, rule, procedure or practice results in a disproportionate disadvantage for, or disparate impact on, a particular group which has no objective or reasonable justification.²³ It is the effect of a standard or practice upon a particular group, and not necessarily the intention, that matters in determining whether this type of discrimination has occurred.²⁴

Amnesty International, Dealing with difference: A framework to combat discrimination in Europe (EUR 01/003/2009)

2. THE CASE OF *D.H. AND OTHERS* AT THE EUROPEAN COURT OF HUMAN RIGHTS

In May 1999, 18 Romani children from Ostrava went to court in the Czech Republic in search of equal treatment. They challenged their wrongful and discriminatory placement in special schools for children with “mild mental disabilities” in the Czech courts. They lost this case, but filed an application at the European Court in 2000, claiming that they were being discriminated against in accessing their right to education.

SABRINA’S STORY

Sabrina, now 18 years old, is one of the 18 children in the case of *D.H. and others*. Amnesty International spoke to her and her mother in April 2009. Sabrina started school in 1998, when she was six years old. This mainstream elementary school was then a mixed school, attended by both Roma and non-Roma children. According to her mother, Sabrina was not treated the same as other children in her class. Her mother said that the teacher never involved Sabrina in activities and never asked her any questions, and that the girl used to sit in the corner while other children were busy with school work. Her mother was then told that Sabrina must change to a special school for children with “mild mental disabilities”. She was never properly tested for learning disabilities.

Following the teacher’s advice, Sabrina’s mother arranged the transfer of Sabrina to a remedial special school together with her sister, Denisa, who was then in the second grade. According to Sabrina’s mother neither child was ever tested. Sabrina’s mother told Amnesty International how her daughters liked this remedial special school more, that there were fewer children in the class and that the teachers paid more attention to them.

After Sabrina graduated from the remedial special school (at 15 years old), her only option for further education was a vocational training school, as the limited knowledge she had acquired at the remedial special school also limited her options for future education. When Amnesty International delegates met her, Sabrina was about to finish her studies to become a baker. However, she is afraid that she will not be able to find a job, as she believes that there are not many bakeries that would be happy to employ a Roma. Her mother expressed her discontent to Amnesty International:

“I wish my children had better education. [...] I wished they had a better life than mine, and that they don’t depend on social benefits. Even if my daughter becomes a qualified baker, she will not get a job.”

It should be recalled that Sabrina, Denisa and the other 16 children who took their case to the European Court are just 18 among the thousands of Romani children who were wrongfully placed into remedial special schools in the Czech Republic over the years. The consequences of the discrimination to which they were subjected live on.

2.1 THE CONTEXT DURING SCHOOL YEARS 1996/1999

As mentioned above, the case concerns the discrimination suffered by the 18 applicants in their enjoyment of the right to education due to their placement in special schools in Ostrava between 1996 and 1999 on account of their Romani origin. The special schools (zvláštní školy) in question were intended for children with “mild mental disabilities”. The law used to provide for a different type of special schools, called auxiliary schools (pomocné školy),²⁵ for pupils with moderate and severe disabilities. Under the legislation in force at the time,²⁶ the decision to place a pupil in a special school was to be taken by the head teacher, on the basis of tests to measure the pupil’s intellectual capacity, provided that the pupil’s legal guardians consented.²⁷ The tests were carried out by one of the School Advisory Centres established under the Ministry of Education.

Special schools, designed for children with “mild mental disabilities” used to offer a significantly reduced curriculum compared to the one taught in mainstream elementary schools.²⁸ This limited the children’s future education and employment opportunities. In addition the Schools Act formally restricted secondary education opportunities for children who had graduated from a special school²⁹ until 2000, when it was amended to allow pupils who had completed compulsory education in special schools to also continue in other forms of secondary education, provided they were able to demonstrate during the admission procedure that they satisfied the entry requirements for their chosen course. It has been noted that the very low educational attainment of Roma, as well as poor literacy and numeracy skills, is a key factor for the high levels of unemployment within Romani communities.³⁰

The application of the 18 children at the European Court was supported with evidence gathered by the European Roma Rights Centre (ERRC) during extensive research in Ostrava, and across the country during the school year 1998/1999. During that year, ERRC found that over half of the Romani children of the city were attending special schools. Romani pupils constituted more than 50 per cent of all students at the city’s special schools, even though they represented less than 5 per cent of all elementary school-age children in Ostrava.

In contrast, in the 70 mainstream elementary schools in Ostrava, just over 2 per cent of the students were Roma. Overall, Romani children in Ostrava were 27 times more likely to end up in special schools than their non-Romani peers. Even when not placed in special schools, Romani children were most often segregated in substandard Roma-only elementary schools.³¹

Nationwide, as the Czech government had acknowledged, “*Romani children with average or above-average intellect [we]re often placed in [special] schools on the basis of results of psychological tests*”; “[t]he tests [we]re conceived for the majority population and do not take Romany specifics into consideration”. The government had also acknowledged that in some special schools Romani pupils accounted for between 80 and 90 per cent of the total number of special schools, while more than half of all special schools pupils were Roma.³²

2.2 THE IMPORTANCE OF THE EUROPEAN COURT OF HUMAN RIGHTS RULING

SUMMARY OF THE RULING

The European Court considered that the statistics provided by the applicants indicated a tendency to place children of Romani origin mostly in special schools. It also considered that the results of the psychological tests administered by School Advisory Centres at the material time had been developed for the majority population and had not taken appropriate account of cultural and linguistic differences. The European Court considered that there was a risk that the application of the tests, as well as interpretation of the results, could be distorted by prejudice. The European Court also took the view that the parents of the Romani children were probably not in a position to fully assess the situation and the consequences of their consent.

The European Court concluded that the schooling arrangements for Romani children had not been attended by safeguards that would ensure that the state had taken into account the special needs arising from their disadvantaged position; as a result, Romani children had been placed in special schools and had received an education which compounded their difficulties. There was thus indirect discrimination in that a theoretically neutral measure to assess educational needs has a discriminatory impact on Romani pupils.

On 13 November 2007, the Grand Chamber of the European Court ruled that the placement of Romani children in special schools, where an inferior curriculum was taught, and where no adequate procedures existed to challenge erroneous placement or to bring about eventual transfer back into mainstream education, amounted to discrimination. The court ordered that compensation of €4,000 should be paid to each of the complainants.

The European Court's ruling was a watershed. Firstly, it clarified that the assignment of children in the Czech Republic to special schools between 1996 and 1999 on account of their Romani origin amounted to discrimination in violation of Article 2 of Protocol 1 together with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which guarantee the right to education without discrimination.

The European Court also clarified that the prohibited discrimination in this case was indirect – resulting from the application of a law which was neutral at face value. In doing so it noted that “a general policy or measure that has disproportionately prejudicial effects on a particular group may be considered discriminatory notwithstanding that it is not specifically aimed at that group [...], and that discrimination potentially contrary to the Convention may result from a *de facto* situation.”³³ As James Goldston, Executive Director of the Open Society Justice Initiative and then Counsel to the applicants put it, “[t]he segregation at issue in Ostrava is a practice, not a legal mandate. Nowhere does the law command that Roma attend separate schools; this is rather the systematically biased application of a neutral law.”³⁴

Having concluded that the legislation produced a discriminatory effect concerning education, the European Court stated that it was unnecessary for the applicants to prove that there was any discriminatory intent on the part of the authorities. In fact, the court acknowledged that, unlike some other European countries, the authorities in the Czech Republic sought to tackle the problem of barriers to the enjoyment by Romani children of their right to education without discrimination.

In defending the case, the Czech government argued that the children had been placed in special schools on account of their special educational needs, on the basis of recommendations made following tests which indicated their low intellectual capacity and that no child could be placed in a special school without prior parental consent. Thus such parental consent was a decisive factor in and a waiver of the children's differential treatment.

With respect to the argument of consent, the European Court concluded that even were it to accept that the parents' consent was made with full knowledge of the facts – which it did not – given the importance of the prohibition of racial discrimination, any waiver of the right not to be subjected to racial discrimination would be against an important public interest.

The European Court noted that prior to requesting their consent, the authorities did not ensure that the parents were fully aware of the available alternatives, the differences between the curriculum followed in special schools and mainstream elementary schools, or the consequences that placement in a special school would have on their child's future. Instead, they faced a dilemma: *“a choice between ordinary schools that were ill-equipped to cater for their children's social and cultural differences and in which their children risked isolation and ostracism, and special schools where the majority of the pupils were Roma.”*³⁵ In any event, given the serious nature of racial discrimination, the Grand Chamber established that no person could waive her or his right not to be racially discriminated against.

In its judgement, the European Court also made clear that, due to the particularly vulnerable position of Roma, the authorities must give special consideration both to their needs and their different lifestyle and that it may be necessary to adopt temporary special measures in order to address the effects of historical discrimination.

Amnesty International reads the ruling of the European Court as a prohibition of the effective separate and inferior education of Romani children on grounds of their ethnic origin. In the case of the Czech Republic such education has taken different forms, including through segregation in special schools and classes or in Roma-only mainstream elementary schools and classes, all offering lower quality education than the one offered in mainstream elementary schools attended by children from the majority population.

As the European Court clarified, its ruling and the government's obligation under Article 46 of the ECHR to implement it requires the authorities not only to pay the €4000 awarded to each of the 18 children *“as a result of the humiliation and frustration caused by the indirect discrimination of which they were victims,”*³⁶ but also requires that the authorities take measures to put an end to the discrimination and to redress, so far as possible, its effects. The Committee of Ministers of the Council of Europe will supervise the government's implementation of the judgement.

As pointed out elsewhere by Kateřina Hrubá from the Czech non-governmental organization ZŠvůle Práva, the ruling of the European Court *“is only the starting point of a longer reformative process. The result of this process should be a situation when the same or similar discriminatory practices are not repeated in the Czech Republic and their victims do not have to protect their right to equal access to quality education through litigation.”*³⁷

MONITORING THE IMPLEMENTATION OF THE JUDGMENT

The Committee of Ministers of the Council of Europe is monitoring the implementation of the judgment in the case of *D.H. and others v. the Czech Republic* to ensure that the underlying causes of the human rights violations are identified and eliminated. The Czech government has so far seriously engaged in this process, and has, by the time of writing, submitted two reports including information about executed and planned, corrective and preventive measures (for more details see Chapter five). The monitoring process also benefits from submissions by non-governmental organizations.³⁸

Amnesty International believes that in order for the judgment to be fully implemented the Czech Republic must remove all the structural barriers that prevent Romani children from accessing education of equal quality and to ensure that racial segregation in education is stopped once and for all. In addition, the authorities must take measures to redress the effects of the discrimination suffered by Romani children to date in the context of their inferior education in special schools. Finally, the government must take, where needed, positive measures to achieve genuine educational equality, such as by addressing the effects of lingering societal prejudices and the perpetuation of entrenched practices and power relations that place Romani children at a disadvantage.

2.3 LEGAL AND POLICY CHANGES BEFORE AND AFTER THE EUROPEAN COURT JUDGMENT

The *D.H. and others* case was based on events that took place between 1996 and 1999. Ten years later, Amnesty International has assessed the legal and policy changes that were implemented prior to, but also as a result of, the European Court judgment. This section assesses how far those changes have gone towards eliminating discrimination against Romani children in the Czech education system.

The legislation criticized in the European Court case was repealed on 1 January 2005. However, as Amnesty International and other organizations' research demonstrates, many of the issues that the European Court considered to be problematic in terms of the ECHR have not been adequately dealt with in the current legislation and also in how it is implemented in practice.

In order to better understand the effect the judgment had on legal and policy changes and on access to equal education for Romani children, it is important to briefly describe the history of the Czech education system.

ADMINISTRATION OF THE CZECH EDUCATION SYSTEM

The Ministry of Education is responsible for education policies, and monitors compliance with policies and laws through the State School Inspectorate. The Ministry of Education is also directly responsible for universities.

Responsibility for education and funding decisions is increasingly being decentralized to the 14 Self-Governing Regions. They are responsible for secondary schools in their region, as well as for special education. Municipalities, which are subdivisions of the regions, have responsibility for pre-school and mainstream elementary education.

Pre-school or nursery education for children aged between three and five is not compulsory. The last year of pre-school is free. Compulsory education lasts for nine years between the ages of six and 15, usually in elementary schools. It includes the first stage of elementary education (grades one to five) from the ages of six to 11, followed by the second stage of elementary education (grades six to nine) from the ages of 12 to 15 in elementary schools, or by transfer to lower secondary level at higher secondary schools, called grammar schools (*gymnázia*), at grade six or eight. Children may repeat years twice, once at each stage of elementary education.

THE NEW SCHOOLS ACT

The new Schools Act,³⁹ which entered into force in January 2005, changed the school system so that elementary schools now constitute a unified category. The former category of remedial special schools intended for pupils with “mild mental disabilities” was officially abolished, and these schools now fall under the general category of elementary schools (*základní školy*), together with mainstream elementary schools.⁴⁰

However, the abolition of remedial special schools really meant only a change in their name. Schools of this type, under a new name, are still separately funded and monitored by Self-Governing Regional authorities, as opposed to mainstream elementary schools, which are funded and monitored by municipalities. Most of the former remedial special schools continue to offer a reduced curriculum and are now referred to as “practical” elementary schools, since they are still aiming towards the development of practical skills. The attribute “practical” is often not mentioned in the official title of the school, as now the official category in the law is simply “elementary school”. This name change does not mean that children who had been wrongly placed in those schools have been transferred to another school corresponding to their actual abilities and skills.⁴¹

The education of pupils with moderate or severe disabilities is established by a separate provision in the law, which provides for a second official category of elementary schools, called “special elementary schools” (*základní školy speciální*).⁴² The term “special education” would be normally used to refer to both practical elementary schools and special elementary schools, as both are designed to provide education to pupils with certain disability. However, in this report it is mainly used to refer to practical elementary schools and classes intended for pupils with “mild mental disabilities”, as the form of specialized education where Romani children are overrepresented.

FRAMEWORK EDUCATION PROGRAMMES

Framework Education Programmes (FEPs) are issued on the basis of the new Schools Act. The FEPs define the compulsory content, extent, and conditions of education, based on which schools are obliged to develop their own educational curriculum, which is adjusted to suit the needs and abilities of their pupils. The FEP for Elementary Schools forms the basis for the curriculum in mainstream elementary schools, while pupils in practical elementary schools are educated according to a less demanding Annex of that FEP, “specifying the education of pupils with mild mental disabilities”.⁴³ Compulsory education in primary schools under the new FEP started in the school year 2007/2008, initially with the first and sixth grade at that time, and in the school year 2008/2009 education according to the above programmes took place in grades one, two, six and seven of elementary schools.

PROGRESSION TO SECONDARY EDUCATION

The new Schools Act has also brought significant changes in terms of formal access to secondary school education. The certificate from practical elementary schools is now equivalent to the one from mainstream elementary schools. Thus, pupils from former remedial special schools can officially continue their studies in all types of secondary schools. Secondary schools can be divided into the following categories: grammar schools (*gymnázia*), secondary technical schools (*střední odborné školy*) and secondary vocational schools (*střední odborná učiliště*).⁴⁴ However, admission to secondary education is conditional upon completion of nine-year compulsory schooling, as well as meeting particular admission criteria such as an entry examination. Consequently pupils from practical elementary schools, who follow a reduced curriculum according to the Annex FEP, remain disadvantaged and in practice have limited opportunities for further education as it is likely that they will find it difficult to demonstrate during the admission procedure that they satisfy the entry requirements for chosen courses other than vocational training.

Amnesty International welcomes recent acknowledgement by the Czech government that despite the above legal changes, the reality for thousands of Romani children has not changed. Former Minister of Education, Ondřej Liška, who took office in December 2007, right after the ruling by the European Court, admitted that it is no solution *“to abolish the name of remedial special schools but to let the principle function under another name in the same way.”*⁴⁵

The following two chapters illustrate the main problems of the Czech education system, using case studies from the four schools in District P, in Ostrava, and point to the changes needed in order for the situation to be reversed.

3. “THE EMPEROR’S NEW CLOTHES”: SPECIAL SCHOOLING THROUGH PRACTICAL SCHOOLS

This chapter looks at the continuation of schools for pupils with “mild mental disabilities” under a new name; it seeks to understand the discriminatory aspects of enrolment of Romani pupils in those schools through the analysis of the placement procedures and of the impact of such placements for the future opportunities of the child; it also seeks to understand why often Romani parents consent to, or even seek, such placements, as a result of mistrust in the mainstream educational system. The chapter mainly draws from the research conducted in the former remedial special school in District P, School I, which is now classed as practical elementary school. This chapter examines what renaming the school has meant in reality for its pupils, and what factors affect their placement there.

Early government responses to the European Court judgment stressed the fact that the formal abolition of remedial special schools should have equalized education for all children. The immediate response to the judgment by the Czech authorities was to state that the situation had dramatically changed since the case was filed in 1999. Džamila Stehlíková, Minister for Human Rights and Minorities at the time when the judgement was issued, stated that “[t]he criticism is probably justified, when we look into the past, but the situation has changed very much since [...]. This case is an old debt, a skeleton that has fallen out of the closet.”⁴⁶ Czech authorities had hurried to note that new education legislation, which entered into force on January 2005, had abolished remedial special schools and had also removed the formal barriers between the completion of education at a primary school of any type and the possibility to continue at a general secondary school.

However, the government later acknowledged that the relabeling of former remedial special schools into elementary schools had not changed the real nature of those schools, which continue to offer a reduced curriculum for pupils with “mild mental disabilities”. Additionally, Romani children are still over-represented in those schools according to the ratio of the minority to the general population. In August 2009, the new Minister of Education, Miroslava Kopicová in a letter to Amnesty International stated that: “the proportion of Romani children educated in accordance with the programmes for those with mild mental disabilities continues to be higher than what corresponds to a possible number of children with mental disabilities in any population.”⁴⁷

Another survey commissioned by the Ministry of Education and conducted across socially excluded Romani communities suggests that approximately 30 per cent of Romani children attend a school outside of the educational mainstream.⁴⁸ Research in 2008 by the non-governmental organizations ERRC and Roma Education Fund (REF) in three regions of the Czech Republic with significant Romani populations, including Ostrava, found that Romani children accounted for more than 80 per cent of pupils in practical elementary schools.⁴⁹

3.1 A RE-BRANDING EXERCISE

“The new school law changed only the names of schools. Otherwise everything is the same. These types of schools existed previously as well.”

Director of a Special Pedagogic Centre in Ostrava, April 2009

School I, is a former remedial special school. Since the new Schools Act came into effect, it is now a practical elementary school. According to the Director of the school, an estimated 90 per cent of the pupils of the school are Roma.⁵⁰ As mentioned above, over-representation of Romani children in former remedial special schools is not particular to School I.

“The curriculum of practical elementary schools is slower than that of mainstream elementary schools. The main attention is paid on practical skills training.”

Director of a Special Pedagogic Centre in Ostrava April 2009

Although School I is now officially an “elementary school”, it is still intended for pupils with “mild mental disabilities”. According to the curriculum reform, in the school year 2007/2008 the school introduced its new educational programme, which is based on the Annex to the FEP for Elementary Schools, specifying the education of pupils with “mild mental disabilities”.

According to the Director of School I, the new programme raises the level of the previous curriculum taught in remedial special schools, in that “it is more demanding.” According to the director of the school, one of the main differences from the previous curriculum is the introduction of English as a foreign language in grade 6.

Despite these changes, however, the curriculum taught at School I, is still a reduced curriculum. Pupils of that school learn the alphabet during the first two grades, while in most mainstream elementary schools the alphabet is taught in the first grade. The curriculum of these schools still focuses on the development of practical skills⁵¹ and a two-year gap exists between the curriculum taught in practical elementary schools and the one taught in mainstream elementary schools.⁵² As noted by ERRC and REF regarding “*language and communication provisions, the difference between practical and standard competencies is even more defined, with standard schools allocating time between Czech language and literature and foreign languages, while in practical schools this time is divided between reading, writing and speech education.*”⁵³

In grade 9, final grade of compulsory education, while pupils in mainstream elementary schools are expected to read and understand literature, including the renowned Czech writer Milan Kundera, and write essays, pupils of practical elementary schools are only expected to write letters, job applications and other practical tasks.⁵⁴

3.2 TESTING AND DIVERSION TO PRACTICAL ELEMENTARY SCHOOLS

“This is the way they see Romani children; just a few tests and put them in a special school.”

Romani mother of a boy studying at School I, February 2009

CURRENT PRACTICE FOR DIVERSION TO SCHOOLS AND CLASSES FOR PUPILS WITH “MILD MENTAL DISABILITIES”

Definition of special educational needs

There is some conceptual vagueness and lack of consistency in certain provisions of the Schools Act, which entered into force in 2005.⁵⁵ The Act introduced the category of “children with special educational needs”. According to Section 16 (1), a pupil with special educational needs is one who:

- has a health disability (for the purposes of the Schools Act this is any mental, physical, visual, or auditory impairment or speech defect, or combination thereof, autism, or any learning or behavioural developmental disability),
- has a health disadvantage (for the purposes of the Schools Act this is any serious health defect, long-term disease or modest health defect, resulting in problems in learning and behaviour which must be taken into account in education), or
- is from a socially disadvantaged background.

The first two categories, that of health disability and health disadvantage, are clearly defined in the law.⁵⁶ For the purposes of the Schools Act the third category of children from “socially disadvantaged background” is defined as “a family environment with a low social and cultural status, threatened by pathological social phenomena.” The term is further complemented by the category “socio-culturally disadvantaged children”, which appears in the Government’s *Concept on Early Care for Children from Socio-Culturally Disadvantaged Backgrounds in the Area of Education* (hereafter *Concept on Early Care*), and which is explicitly associated with Roma.⁵⁷

However, it remains unclear which indicators should be used for such identification, particularly given that the definition of a socially disadvantaged background is vague and ill-defined in law (and is largely understood as referring to Roma). This limits the ability of School Advisory Centres to suggest appropriate educational strategies for these children.

But the assessment of whether a child has special educational needs, according to the Schools Act, is still conducted exclusively by School Advisory Centres, which then recommend the educational methods and conditions for each child that they designate as having special educational needs (see later in this section for detailed analysis of the impact of the current definition of “socially disadvantaged” children for their diversion to practical elementary schools).

Official process of diversion to schools and classes for pupils with “mild mental disabilities”

The Schools Act provides for three different types of education for children with health disabilities:

- individual integration,
- group integration (special classes within mainstream elementary schools), or
- education in separately established schools.

The existence of special educational needs is to be assessed with the aid of an educational or psychological examination performed by a School Advisory Centre. A child attending a mainstream elementary school who appears to be struggling with the curriculum can, at any point, be referred to a School Advisory Centre. School Advisory Centres mainly employ psychologists and special educational experts. Recommendations regarding

placement in a practical elementary school, or a special class for pupils with “mild mental disabilities” within mainstream elementary schools, can be made as early as when the child begins compulsory education, or shortly thereafter, on the basis of their “school maturity”.⁵⁸ A set of simple activities is used to assess the child’s emotional and social development, including reasoning skills and general insight, language skills, motor and perceptual development, and so on.

The new Schools Act brought distinct responsibilities for two types of School Advisory Centres: the Pedagogical-Psychological Counselling Centre (*Pedagogicko-psychologická poradna*) and Special Pedagogical Centre (*Speciální pedagogické centrum*). The Pedagogical-Psychological Counselling Centres should be the first point of reference for children who appear to be struggling within a mainstream elementary school and appear to have special educational needs; Pedagogical-Psychological Counselling Centres conduct pedagogical-psychological examinations of identified pupils, and recommend education plans for children with learning difficulties. Pupils who have been found to have a mental disability after initial assessment by the Pedagogical-Psychological Counselling Centre are referred to the Special Pedagogical Centre, which is in charge of recommending appropriate educational strategies and actions for pupils with health disabilities. The School Advisory Centres can recommend, among other things, placement of a child at a special education facility, including at a practical elementary school. Pedagogical-Psychological Counselling Centres and Special Pedagogical Centres are funded by and have to report to the Regional Authority of the respective self-Governing Region in which they are established. They receive methodological support from the Institute of Educational and Psychological Guidance.

“It is up to the parent where the child will be placed. We can not give orders to parents.”
Director of Pedagogical-Psychological Centre in Ostrava

The school can recommend the assessment of a pupil by a School Advisory Centre, but this can only take place upon request and with the consent of the child’s legal guardian; parents can request assessment even without referral by a school. School Advisory Centres can only make recommendations. The final decision lies officially with the pupil’s parents. However, Directors also bear a great responsibility in ensuring that pupils are accepted at practical elementary schools based on the diagnosis and recommendations of experts, and always after having obtained parental consent. However, as criticized also by the European Court, Romani parents often agree to this procedure because of lack of relevant information, or due to other reasons, as discussed later in this section.

Re-testing of pupils studying a curriculum for pupils with “mild mental disabilities” in both practical elementary schools and special classes of mainstream elementary schools needs to be requested by the parent. No provision in the law requires or permits re-testing otherwise.⁵⁹

FLAWED ASSESSMENTS

The formal procedure required for a child to be placed in a practical elementary school clearly demonstrates that little has changed regarding the nature of these schools after the new Schools Act came into effect in 2005. It has, however, been suggested that years of criticism against the Czech Republic about the inappropriate placement of Romani children into remedial special schools, reaching its peak with the ruling by the European Court, has probably sensitized some professionals of School Advisory Centres, who are now more careful in recommending transfers to practical elementary schools. This may have resulted in a more stringent application of the legislation regarding admission of pupils to such schools. For example, Amnesty International was informed that School I was scrutinized through

inspections during the years when the case *D.H. and others v. the Czech Republic* was pending at the European Court, as some of the applicants in the case were going to that school.⁶⁰

"It was an everyday practice that the psychologists did issue such referrals for those [Romani] kids. Nowadays the state of mind has changed, our colleagues are aware of the fact that it is not alright; that it is not viewed as normal, acceptable [...] Nowadays, the educational and counselling professionals seem to struggle with the new requirements and some of them try really hard to find ways how to do things differently, how to help those clients, those children to get into mainstream education. But I can see that this kind of change is rather superficial, because when you get deeper into what they really do, you find the same old practices, approaches, methods, tools, schedules."

Expert of the Institute of Educational and Psychological Guidance (IPPP)

Concerns have been expressed about the fact that the testing methods used by School Advisory Centres have not been significantly changed during the last 10 years since the legal complaint in Ostrava was first filed.⁶¹ School Advisory Centres in the Czech Republic continue to use intelligence tests, such as the 'Wechsler Intelligence Scale for Children' (PDW and WISC III) and the 'Stanford-Binet Intelligence test',⁶² the same ones as those used during the material time of the D.H. case, and which were subsequently criticized in the European Court's judgment.⁶³ Staff of the state Institute of Educational and Psychological Guidance told Amnesty International that some tests, such as the Wechsler Intelligence Scale, have been standardized for children from both the majority and minority populations. However, non-governmental organizations continue to express concerns that tests used for the assessments are still not culturally neutral;⁶⁴ Romani children, who often do not speak good Czech, are given the same tests as those used for children from the majority population.⁶⁵

In 2007, following examination of the government's report, the United Nations Committee for the Elimination of all forms of Racial Discrimination (CERD) recommended that the Czech Republic *"should review the methodological tools used to determine the cases in which children are to be enrolled in [remedial] special schools so as to avoid indirect discrimination against Roma children on the basis of their cultural identity."*⁶⁶

In September 2009 the European Commission against Racism and Intolerance (ECRI) of the Council of Europe noted that: *"language proficiency tests may [...] fail to recognise that a child is proficient in a language other than Czech and capable of adapting rapidly to classes in Czech as a second language, and may instead simply identify the child as lacking linguistic skills appropriate to their age. The tests may also fail to distinguish between cases of social disadvantage (for example, a lack of access to books in the home, leading to reading skills that are below average for the child's age but may rapidly improve once the child is at school) and a genuine learning disability requiring more specific attention."*⁶⁷

Amnesty International is concerned that, although the tests used are superficially non-discriminatory, they disadvantage Roma in particular because they have not been tailored to take into account the background, language skills and other specifics of many Romani children.

Amnesty International found cases of Romani pupils who had been placed in School I in the first grade, as well as cases of pupils who had been transferred to the school in higher grades from one of the mainstream elementary schools in District P, or who were placed there after they had moved into town with their families from elsewhere. For example, in some cases investigated by Amnesty International, children who had previously been tested by School Advisory Centres in one town and were found to have no mental disability were subsequently tested again by another Centre after they had moved with their family to Ostrava, and were then recommended to attend practical elementary schools. The reliability of the assessment results in some of these cases is very dubious. There is a considerable scope for subjectivity in the assessment process, which might facilitate conscious or unconscious racism both in placement decisions and choosing what is “best for the child.”

“[D]ecisions are so often controversial. How I see the whole area, it is an expression of a certain ideology, or common beliefs if you like, covered and justified by something which is called science, which it is not. This is a vicious circle.”

Expert of the Institute of Educational and Psychological Guidance

Until proper and intensive attention is paid to the issues around the testing procedures with regards to Romani children with the purpose of their placement in one type of school or the other, there exists a danger that they will end up in a school or class for mentally disabled children, although their real abilities correspond to requirements of mainstream education.

RADEK’S STORY, 12 YEARS OLD

Radek⁶⁸ is the youngest of four children. In the 1970s, when his parents were young, they used to go to School I, as most of the Roma did; that is why they also decided to place their children there, when the psychologists recommended that they had to attend special school. Mario had also been assessed before starting school; the recommendation was the same: the boy was to go to the special school.

According to his mother Jiřina, the Director of School I later told her that Radek had been a star pupil since the first year and that he should go to a mainstream elementary school; but Radek now had friends in School I, he liked the teachers there, and he did not want to leave. *“He started to cry, so I let it be. He was depressed; he did not want to wake up, so I told the Director to let him stay there. Since he did not go to a normal [mainstream] elementary school from the beginning, I had to keep him there. It is a pity because he has potential.”*

Jiřina told Amnesty International that she was very upset the psychologists had not seen this potential in Radek when he had been assessed. *“[...] [T]he psychologist should have told me about this opportunity, she should have assessed him as a talented child. This is the way they see Romani children; just a few tests and put them in a special school. She should have found that he is clever, talented and he has potential to go to a normal school. But she wanted to send him to a special school, so I agreed.”*

Jiřina told Amnesty International that she felt the children going to School I had more chances to learn, and that she believed children going to one of the mainstream Roma-only schools ended up learning even less, as the classes were overcrowded and children received little support from the teachers. She also said that for this reason many other parents decided to place their children, even though very talented and bright, in School I.

“SOCIALY DISADVANTAGED” CHILDREN

“Social disadvantage is new to us and is a big problem for us because we have no tool to work with it effectively, to differentiate or describe such a child, we can think but we can not specify.”

Director of Pedagogical Psychological Counselling Centre in Ostrava

As mentioned earlier, Amnesty International is concerned that the term “socially disadvantaged background”, which is included in the new Schools Act alongside categories of children with special educational needs, is vague and ill-defined in law, and is largely understood as referring to Roma. Its inclusion in the law alongside the listed categories of children with health disability and health disadvantage may contribute to confusion and leave placement of Romani children susceptible to discrimination. Where staff carrying out assessments have personal prejudices, or discriminatory attitudes, there is ample scope for subjectivity in the assessment process, thus disadvantaging Romani children. Amnesty International is concerned, therefore, that this may figure significantly in the segregation of Romani children in practical elementary schools, and special classes for pupils with “mild mental disabilities”.

The category of “socio-culturally disadvantaged children”, from the *Concept on Early Care* is explicitly associated with Roma. Amnesty International is concerned that this contributes to the view that a Romani cultural background is considered a *de facto* disadvantage, and has often predetermined the placement of Romani children in remedial special schools.⁶⁹

The Czech government has already acknowledged that *“[t]hose children, who are from families at risk of social exclusion caused by social or socio-cultural disadvantages, make the major part of the pupils at schools that run on the Framework Programme for the Basic Education for children with ‘mild mental disabilities’ (former remedial special schools).”*⁷⁰

The government has additionally acknowledged in its April 2009 report to the Committee of Ministers of the Council of Europe regarding the implementation of the European Court judgment that in practice placement of children in practical elementary schools is often not a result of their mental disability, but of their social disadvantage. It admits that until now, the reintegration of these children into mainstream education had not been an explicit aim of their separate schooling.

*“Poor academic achievements of a certain percentage of pupils educated at [...] [schools teaching educational programmes for children with mild mental disability] [...] need not actually be caused by their lower intellectual abilities; it can be a result of other circumstances, for example, social disadvantage, or behavioural disorders, etc. Education at such schools would not then contribute to the compensation for the disadvantage of the pupils with the aim of their placement in the main education system as soon as possible, because it rather concentrates on the creation of a specific educational environment for these pupils. In such a case, their abilities and skills would not be developed to their full potential.”*⁷¹

The Director of the Special Pedagogic Centre in Ostrava which aims to provide educational support and develop methods for the education of children with mental disabilities, told Amnesty International that although she thinks the large majority of pupils in practical

elementary schools are indeed mentally disabled *“there can also be cases, when the situation is developed by inadequate family environment. I think that it can happen that a child is wrongly tested [as having mild mental disability].”*

Amnesty International notes that any definition of “social disadvantage” in this context, as well as its use as a category defining special educational needs, should be targeted towards the informed introduction of temporary special measures which would allow children from such backgrounds to overcome the disadvantages they entail. It should not in itself be a sole pedagogical criterion determining the placement of a child in a particular school in the Czech Republic.

‘HONZÍK’S WAY’⁷²

A study conducted in 2008 by researchers in the Czech Republic illustrates how the lack of information about the upbringing, socialization and living conditions of children from socially excluded communities, compounded by existing stereotypes and prejudices, may affect teachers’ ability to identify the cause of educational failure of these pupils. The study suggested that there is a link between the child’s ascribed ethnicity and the choice of methods or instruments of socio-pedagogical intervention.

598 teachers from various mainstream and practical elementary schools across the Czech Republic participated in the experiment. They were presented with a hypothetical story of a boy called ‘Honzík’ from a socially excluded locality, who is experiencing educational difficulties at a mainstream elementary school. In order to identify the causes of the educational failure and to suggest adequate mechanisms of pedagogical support, the teachers were given details about the boy’s family and school backgrounds that are typical of children from socially excluded background (serious family problems, mother’s demand for the boy’s transfer to practical elementary school). Along with these details, two different photographs of ‘Honzík’ were provided, one depicting him as a Roma and the other as a non-Roma pupil. While an overwhelming percentage of the teachers supported the transfer of Roma Honzík to the practical elementary school (66.8 per cent out of 304 teachers), this was not the case with non-Roma Honzík (24.1 per cent of 294 teachers). Honzík, represented as a Romani boy was nearly three times more likely to be recommended for the practical elementary school than the non-Roma Honzík.

This experiment has confirmed the existence of a high level of ethnic discrimination in educational placement of Romani children, as the choice of socio-pedagogical support was affected by the teachers’ existing stereotypes and prejudice of this ethnic group. According to the researchers this ‘Honzík’s Way’ from a mainstream elementary school to a practical elementary school is experienced by many Roma and other children from socially excluded communities.

DIAGNOSTIC STAY

The Schools Act provides that an official placement of a pupil *“with a health disability into some form of special education [...] can be preceded by a diagnostic stay of this pupil at the school, where he/she should be enrolled, for the length of two to six months.”* The provision of “diagnostic stay” is commonly used in cases where assessment results are ambiguous and it is uncertain whether the child in question actually has a disability. It aims to clarify the special pedagogical diagnosis of the child and lead to a final decision on a child’s suitability for a particular school.

This provision is widely used to accept children at School I, initially without any diagnosis. The Director of the school told Amnesty International that often Romani parents come to him pleading for the acceptance of their children at the practical elementary school, often because – according to the parents – the children are subjected to bullying and discriminatory treatment in mainstream elementary schools.” After informing them that he cannot accept any children without prior diagnosis of “mild mental disability”, due to pressure he ends up accepting them, initially for two months, pending diagnosis by the Special Pedagogic Centre. According to the Director, most of those pupils end up staying at the practical elementary school.

Representatives of the Pedagogical-Psychological Counselling Centre in Ostrava, told Amnesty International, that often placement at the practical elementary school for diagnostic stay can happen in order for the child to “relax”, because they are under a lot of pressure at the mainstream elementary school.

“Sometimes we need the child to calm down because he can't bear the standards of the mainstream elementary school. So even a time to calm down can help him and he can become able to accept new knowledge and evolve; the pace of the elementary school can be too demanding for him. We do these diagnostic placements very rarely; it's not a standard procedure.”

Director of the Pedagogical-Psychological Counselling centre, Ostrava

Amnesty International is concerned at the lack of safeguards which accompany decisions to place pupils in practical elementary schools for a trial period, to ensure that such placements are based on reasonable and objective criteria related to international standards for the education of children with special educational needs and are in the best interests of the child. The lack of a provision for a compulsory re-assessment of the child can also lead to permanent exclusion from the mainstream education system.

The Director of the Pedagogical-Psychological Centre in Ostrava told Amnesty International that *“[t]he diagnostic stay is sometimes abused by parents. For example, when their child is in diagnostic stay, they find it easy and more comfortable and decide to leave their children in these [practical] schools. Parents can send their child to School I even if the child has just some learning difficulties or disorders.”*

During the last two years (2007 and 2008), an average of 25 pupils per year were placed at School I for diagnostic stay, amounting to more than one quarter of the school's pupils. Very few of those pupils end up being transferred back to mainstream education according to the Director of the school. Even when they do, the time spent at the practical elementary school, studying a lower curriculum, makes return to the mainstream elementary school difficult.

“In 2008 we had 24 pupils for diagnostic stay; in 2007 the number was 26. The main part is staying here.”

Director, School I

STORY OF MIREK AND HIS SIBLINGS

In October 2008 40-year-old Helena moved to Ostrava with her six children after she was forcibly evicted from her flat in Karviná. Upon her arrival in District P, and after she found out which were the various elementary

schools in the area, Helena decided to place her six children, the seven-year-old twins Martin and Lucie, Kateřina (aged 11), Mirek (12), Jiřina (14), and Magdalena (15) at the practical elementary School I.

All six of Helena's children used to go to a mainstream elementary school in Karviná, but after Helena's request the Director of School I decided to accept them on diagnostic stay pending assessment by the Special Pedagogic Centre of Ostrava. Helena told Amnesty International she definitely did not want her children to attend one of the two mainstream Roma-only schools (Schools G and P), as she had heard that they were rough, children would get into fights, and teachers were said to be unable to impose discipline. At the same time, her children had experienced bullying and discrimination in the primarily non-Roma mainstream elementary school they used to attend back in Karviná, so they also did not want to go to the mainstream elementary school N. Helena told Amnesty International: *"I had heard that School I was a good school, teachers were nice and paid attention to the children."* The children were tested in January and March 2009 and the Special Pedagogic Centre confirmed their placement in the practical elementary school. Helena had advised her children, knowing they were smart, to make mistakes when answering the tests, in order to fail and be recommended for the practical elementary school.

Helena's 12-year old son, Mirek had undertaken the test two years before the family moved to Ostrava. The test had unambiguously shown that Mirek was for the mainstream elementary school. However, after moving to Ostrava he was transferred by his mother to the practical elementary school. Both Mirek and his sister Kateřina agreed that the assessment test, which included writing in Czech, copying paragraphs from books and arranging cubes, was rather easy. Mirek said that School I was considerably easier than the mainstream elementary school which he had previously attended and added that much of what he learnt in the fifth grade at School I was a mere repetition of what he had learnt in lower grades in the mainstream elementary school in Karviná. For example, he learnt the same aspects of Czech grammar at School I as he did before. Mirek also said to Amnesty International that he did not get as much homework as he used to either.

PARENTAL CONSENT

Amnesty International believes that often decision of Romani parents to place their children in practical elementary schools is neither informed nor free; thus, Romani children end up being overrepresented in these schools, which offer lower quality education.

As noted earlier, the ruling by the European Court in the case of *D.H. and others v. the Czech Republic*, established that parental consent for the placement of a child at a special school must be free and informed. The European Court also found that when placement leads to an unjustified difference in treatment, such consent would be a *"waiver of the right not to be subjected to racial discrimination,"* which cannot be accepted. The September 2009 ECRI Report on the Czech Republic also highlighted that *"even parental consent may not be a sufficient guarantee, if the full, long-term implications of the decision to send a child into special education are not clear to a parent – as indeed the judgment in the case of D.H. and others showed."*⁷³ ECRI called on the government to ensure that Romani parents are provided with accurate information concerning the long-term negative consequences of sending their children to schools for mentally disabled children. In practice, as reported by the League of Human Rights, school directors often see parental consent as a formality.⁷⁴

Parental consent has been a decisive factor for the placement of pupils at practical elementary schools. But the parents' choice is not straightforward. Amnesty International spoke to many parents who expressly requested the placement of their children at School I. They stated that this was because none of the other schools in the area could cater for the

needs of their children. Most parents said that their children would be better off studying in classes with fewer pupils, where the teachers could pay more attention to them. They were also concerned that if their children went to one of the Roma-only mainstream elementary schools, they would end up not learning a lot in those schools. Finally, they mentioned that they did not feel those schools provided a safe environment for their children, as there were a lot of fights between the pupils as well as bullying, which were not properly addressed by the teachers there. Some parents also said that the fact that they themselves studied at School I, when it was still a remedial special school and the fact that they knew many of the teachers in the school was a key factor in their decision. Parents also preferred to register their youngest child at School I when older siblings were already attending that school. All these factors contribute to a self-perpetuating cycle of Roma segregation at a school for children with “mild mental disabilities”.

Amnesty International is concerned that, although parents signed off, and very often sought the placement of their children at School I, their consent was often not based on an understanding of the gap between the education offered at the practical elementary school, and that offered in the mainstream elementary schools; there was also lack of knowledge of the real implications of that placement for the future of the child. The change of the name, from remedial special school to “elementary school”, definitely contributed in removing the stigma of the “mentally disabled”, which was placed upon Romani children who used to study in former remedial special schools. However, Amnesty International is concerned that this new label suggests that the school offers equal education to any other mainstream elementary school, fuelling the confusion of the parents. Some parents told Amnesty International that School I is now a mainstream elementary school, and this is why they chose to send their children there. As the Director of School P noted: *“[t]hey are now our competitors, because Romani parents do not see any difference and enrol their children there, even if they are not handicapped. [...] It is like when you go to the grocery shop, and then to another shop with the same name. You would expect the same goods. How could they [the parents] know?”*⁷⁵

This raises concerns about the information provided to parents by both the School Advisory Centres and the staff at the practical elementary school. Additionally, some parents told Amnesty International that they received the results of the assessment in writing, but they did not understand anything. They were only told that it was better for their children to study at the practical elementary school. Others reported that the “decision” for the placement of their child to the practical elementary school had been made by the respective School Advisory Centre; this clearly demonstrated that parents often are not aware that the decision about the placement of their children in schools is theirs and only theirs.

Research by other organizations also shows that School Advisory Centres fail to fully inform Romani parents, not only about the importance of these tests on the future of their children, but also of the process itself. According to ERRC and REF, parents they spoke with in three regions of the Czech Republic *“received only basic information about the results of the examination; mainly that their child was recommended for education at a practical elementary school.”*⁷⁶

On the other hand, Amnesty International noted during its research that some parents were aware that attending School I, which remained a school for children with “mild mental

disabilities” despite the change in name, left fewer options for further education, effectively limiting their children to vocational training. They were also aware that their children were intelligent, and did not really belong in that school. Some parents felt that this was immaterial, however. Knowing that their children would face discrimination in all aspects of their lives, they believed that a better quality education in a mainstream elementary school would ultimately bring no benefits for them. One father said:

“Very few Roma pass the high school leaving exam or study at university. I have never seen it and I do not know any Roma who is a doctor or a lawyer. Many cannot even find a job. [...] But it shouldn't be important if one is white, black [or] violet [...], he was just born like that. Last week, when I was on my way home from work, a woman said something like, ‘look, a filthy Gypsy.’ I told her: ‘Why do you insult us? Not everybody is the same.’ There are also hard-working, good Roma amongst us.”

Ladislav, father of two children at School I, February 2009

3.3 LIMITED FUTURE OPPORTUNITIES

“They have no chance, but they have the opportunity.”

Director of Special Pedagogic Centre in Ostrava, April 2009

TRANSITION TO MAINSTREAM ELEMENTARY SCHOOLS

The School Acts 2005 allows for the transfer of pupils with health disabilities⁷⁷ from one school to another, and it also provides for the integration of these children in mainstream elementary schools. However, due to the gap between the curriculum taught in practical elementary schools and the one provided in mainstream elementary schools, reintegration of pupils into a mainstream elementary school is almost impossible in practice.⁷⁸

Transfer is made even more difficult by the fact that re-assessment of pupils in practical elementary schools does not take place systematically. Staff from the Pedagogical-Psychological Counselling Centre in Ostrava told Amnesty International that re-testing of children does not happen on a systematic basis, as it is not compulsory and it all depends on the parent; it can only happen upon the parents' request and only with their consent.

Across the country no significant or official effort has taken place to identify pupils who had been placed erroneously in former remedial special schools and ensure their reintegration into mainstream education.⁷⁹ Amnesty International is concerned that despite the European Court judgment, still no official effort is being made to identify such pupils placed at practical elementary schools and classes for pupils with “mild mental disabilities”, and to reintegrate them into mainstream elementary schools, has taken place. The process of identification is not facilitated by the provision in the law, which requires that only parents can request a re-assessment.

In September 2009 ECRI requested that the Czech Republic take measures to address the educational needs of students currently in practical elementary schools, including through individual programmes and compensatory classes, in order to assist these children in achieving a level whereby they could be integrated into the mainstream educational system.⁸⁰

Even when such transfers happen, children are under a lot of pressure as it is difficult for them to catch up with the mainstream elementary school curriculum. Some Romani parents

told Amnesty International that the Director of School I had encouraged them to transfer their children into mainstream elementary schools, following their excellent results and the realization that these children did not belong to the practical elementary school, even though they had been officially registered there. However, Amnesty International is only aware of one case when such a transfer took place successfully from School I to a mainstream elementary school. In most of the other cases, Romani parents did not pursue such transfers. One parent asked by Amnesty International why they had not pursued the transfer commented that it would be very difficult for the child to adapt to the mainstream elementary school environment and that they were happy with the atmosphere and the support pupils received at School I. Additionally, Amnesty International was informed that no transition plan was made for the pupils who had already been studying at the former remedial special schools under the previous, even slower, curriculum.

PROGRESS TO SECONDARY EDUCATION

"Our school prepares children for technical and vocational training education."

Director of School I, February 2009

The leaving certificate from a former special school only allowed pupils access to secondary education at vocational training schools. Through the formal abolition of the category of remedial special schools, the Schools Act removed formal barriers that prevented pupils of those schools from accessing all types of secondary education. However, ECRI cautioned the Czech government *"against an approach that assumes that legislative or formal measures will suffice on their own to turn the situation around."* ECRI highlighted that *"removing formal barriers to progress is an important first step, but not a sufficient one. While it is welcome that children now receive a diploma of equal formal value upon completion of their primary education, no matter what school they attended, children having attended specialised primary schools will inevitably flounder in an ordinary secondary school unless considerable support is available to them to make up for differences in the curricula followed at primary level."*⁸¹

Even though the opportunity exists for pupils of practical elementary schools to study in higher secondary education, the education they receive in practical elementary schools still does not equip them for this. As the Director of School I explained, practical elementary schools do not prepare pupils for study in grammar schools (*gymnázia*) or secondary technical schools, which leads to a high school leaving examination (*maturita*), and prepare pupils for university or other types of tertiary education.

"Do you understand what a grammar school is? It is preparation for university studies. [...] If [our] children were able to study at a grammar school they would not be here."

Director, School I, February 2009

The Student Counsellor of School I, who advises pupils on further educational opportunities, told Amnesty International that their pupils could apply for any of the secondary school options, but they would most probably fail the entrance exams required by the different secondary schools (criteria for acceptance to secondary education vary depending on the type of secondary school). Additionally, School I provided Amnesty International with a leaflet they were giving to pupils informing them about the options they have for continuing in secondary education: all the options given to the pupils were of two- or three-year secondary vocational

schools.⁸² The restricted educational opportunities for children who have attended practical elementary schools were confirmed by the Director of the Institute for Pedagogic Research:

“All the mentioned [secondary] schools are open to all children, including to those from schools for pupils with ‘mild mental disabilities’. There’s no legal barrier preventing them from it. But the fact is that most of the students from schools for pupils with mild mental disabilities go to, so called, practical secondary schools, lasting one or two years, where they learn skills which they can try to use on the job market, or they go straight to manual jobs. It’s a problem. Some of them don’t even have the prerequisites for high school education, they don’t pass the entrance exams.”

3.4 CONCLUSION

Despite the 2007 ruling by the European Court Romani children continue to be overrepresented in schools for children with “mild mental disabilities”, in percentages which are disproportionate to the total student population. There they follow a reduced curriculum, which not only prevents them from developing to their fullest potential, but also limits their future educational and employment opportunities. The Czech government has failed to address the impact of prejudice and stereotypes during assessment procedures, which still do not take into account cultural and linguistic specificities of Romani children, especially those coming from disadvantaged backgrounds. Neither the central government nor regional educational authorities have engaged in a process of identification of Romani children erroneously placed in schools for pupils with “mild mental disabilities” with the aim to reintegrate them in mainstream education. Educational authorities at all levels continue to present parental consent as legitimizing the placement of Romani children in practical elementary schools; this undermines the unequivocal line of the European Court judgment that no one can give consent to be discriminated against.

Referring to the continued placement of Romani children in practical elementary schools, the Director of the Institute for Pedagogic Research notes that *“[a]lthough they receive special care there, they are isolated from their peers, which is a key problem. [...] Some can consider it to be discriminatory, as we segregate the children – or they segregate themselves – from the mainstream education. So the question is whether it is discrimination or specialized care.”*⁸³

Amnesty International believes that Romani children, many of whom are disadvantaged because of their social background, should fully enjoy their right to education free from discrimination. Regrettably, the situation as presented in this chapter shows that trends from the school years 1996/1999 have not materially changed in the 10 years since Sabrina and the 17 other Romani pupils initially lodged the legal case in Ostrava. Romani children continue to be placed in schools for pupils with “mild mental disabilities”, where a reduced curriculum is taught and where they are isolated from pupils from the wider population. Instead of addressing their real problems or helping them to integrate into the mainstream elementary schools and develop the skills that would facilitate life among the majority population, the education they receive in these schools compounds their difficulties and compromises their subsequent personal development.

4. CONTINUED SEGREGATION IN MAINSTREAM EDUCATION

Continued segregation in special education, now in the form of practical elementary schools, is only one of the ways through which Romani children lose out in education. They face some of the most appalling aspects of discrimination within the mainstream education system. In its recent report on the Czech Republic ECRl expressed deep concerns at the continuing *de facto* segregation of Romani children in mainstream elementary schools, “both through the segregation of schools themselves – a phenomenon linked, though not exclusively due, to segregation in housing – and through the creation of separate classes in integrated schools. Reports indicate that even in the ordinary schooling system, segregation continues to exist.”⁸⁴

Segregation of Romani children within mainstream elementary schools can provide them with an education of lower quality than other pupils. Romani children also face discrimination when integrated into mainstream elementary schools. Additionally, mainstream elementary schools are often not prepared or willing to provide additional support to Romani pupils coming from socially disadvantaged backgrounds, who already have an unequal start in education often not having attended pre-schools, and not receiving sufficient support or motivation from their homes. This, combined with discriminatory processes of placement of children into practical elementary schools, contributes to the diversion of those pupils to special education.

According to government commissioned research, which was published in 2006, the fact that schools do not respect the specific educational needs of Romani pupils from disadvantaged areas constitutes one of the fundamental causes for the transfer of Romani children into special education.⁸⁵ As one of the main reasons the report cites the failure of mainstream elementary schools “to respect and meet specific educational needs of Roma pupils from socially excluded localities, for example by changing teaching methods or school organisation.”⁸⁶ Additionally, recent research commissioned by the Czech Ministry of Education found that Romani children have half the chances in comparison to their non-Roma peers of staying in the original class, where they started primary education; this manifests itself either by class repetition or by their diversion to special education.⁸⁷

This chapter examines the conditions in the three mainstream elementary schools in District P, and the situation of Romani pupils within them. The focus will be on School P, a Roma-only mainstream elementary school, which also has special classes for pupils with mental disabilities; School G, a Roma-only mainstream elementary school; and School N, a mainstream elementary school primarily attended by children from the majority population. This chapter illustrates the interconnection between the discrimination faced by Romani children in mainstream elementary schools and their persisting enrolment in practical elementary schools.

SPECIAL CLASSES FOR PUPILS WITH MENTAL DISABILITIES AT THE MAINSTREAM ELEMENTARY SCHOOL

According to the Schools Act, mainstream elementary school directors can provide education for pupils with disabilities, including mental disabilities, either through individual integration or through group integration by establishing special classes.

According to official data provided to Amnesty International by the Institute for Information in Education for the four schools in District P for the school year 2008/2009, out of the 154 pupils identified as having a “mild mental disability”, 87 were placed at practical elementary School I. Another 49 – all of them Roma – were placed in four special classes at School P – one of the mainstream elementary schools, and 19, all Roma, followed an individual integration plan in mainstream classes at the same school.⁸⁸ This last figure represents a significant increase in the number of individually integrated pupils compared to figures provided for the previous two years when there were none, even though pupils identified as having mental disabilities accounted for nearly half of the school’s pupils. For their education, School P uses – like School I – the Annex to the FEP for Elementary Schools, specifying the education of pupils with “mild mental disabilities”.

Although Romani children represent approximately 75 per cent of the pupils in all four schools, they account for 95 per cent of the total number of children educated under the programme for pupils with “mild mental disabilities”.⁸⁹

4.1 PARENTAL CHOICE AND SEPARATE EDUCATION LINKED TO RESIDENTIAL SEGREGATION

Schools which draw their pupils mainly from surrounding areas mirror the patterns of residential segregation in their district. The ECRI report on the Czech Republic noted that *“parental choice also appears to be having a negative impact [...] even in some areas where housing is not segregated.”*⁹⁰ According to law the parents have the right to choose their child’s school. Theoretically, freedom of school choice can be beneficial for the elimination of school segregation because Romani children can enrol at any school. In practice, however, freedom of choice appears to have facilitated segregation in education because parents of non-Roma children often take advantage of the lack of limitations to enrolment and leave schools in which the proportion of Roma is high or growing. A recent study commissioned by the Ministry of Education found massive departures of non-Roma children from schools with high numbers of Roma. According to its findings, *“once the number of Romani pupils at school exceeds a certain level, a gradual departure of ‘non-Roma’ pupils [to mainstream elementary schools] is noticeable [...] As a consequence of the departure of ‘non-Roma’ pupils, the concentration of Roma increases and triggers another wave of departures.”*⁹¹

“We are a segregated school.”

Director of School P, February 2009

When School P was established in the 1990s, it was a multicultural school with 50 per cent Roma and 50 per cent non-Roma pupils. School G used to be a non-Roma school, but demographic changes in the district resulted in them starting to accept Romani children and until five years ago it was attended by children of both Roma and majority populations. The directors of both schools confirmed that as the number of Roma pupils increased, non-Roma parents started to transfer their children from there to other mainstream elementary schools,

mainly to School N, which is the closest to these two schools. Amnesty International was told that once the number of Romani pupils reaches 40 per cent of the total student population, non-Roma children leave in large numbers, until the schools become completely segregated.⁹²

By the school year 2008/2009, Schools P and G had become segregated Roma-only schools; of 286 pupils registered at School P, only two of them were non-Roma.⁹³ From the 253 registered pupils at School G, an estimated 98 per cent were Roma.⁹⁴ On the other hand, 411 children attended School N, out of whom only 54 were Roma.⁹⁵ The Director of a non-governmental organization,⁹⁶ which provides social assistance to the Romani community in District P, expressed her surprise at even such a high number of Romani pupils at School N, which “[b]efore 2000 [...] would not have and would not accept any Roma.” Many Romani parents to whom Amnesty International spoke referred to Schools P and G as the “gypsy schools”, and to School N as the “white school”. Research by the ERRC on the issue of access to education for Romani children across Central and Eastern Europe suggests that “if freedom of school choice is not accompanied by requirements for schools to maintain a balance of ethnic groups in their student bodies which is adequate to the ethnic composition in the respective territory, segregation is likely to occur.”⁹⁷

Table 1: Pupils in the four schools of District P during the school year 2008/2009

	Total pupils*	Romani pupils	% Roma	Total pupils with mmd	Romani pupils with mmd	% Roma pupils with mmd	Pupils with mmd integrated
School I	97	88**	90%	97	88	90%	-
School P	286	284	99.3%***	75	75	100%	19
School G	253	248**	98%	-	-	-	-
School N	411	54	13%***	-	-	-	-
Total	1,047	679	75.5%	172	163	95%	19

* Total number of students provided by Institute for Information in Education

** Numbers estimated against percentage provided by school director

*** Percentage estimated against ethnic data provided by the school

“As schools are being predominantly attended by Roma from socially excluded localities, or localities at risk of social exclusion, they have to first sort out issues such as communication with the child and the family, social problems preventing school attendance. So, the school becomes – willingly or unwillingly – a social institution and education comes only second. This turns away non-Roma children, as their parents are worried about the low status of the school, the inadequate attention for their children and overall stagnation in education.”

Director of NGO in District P, February 2009

4.2 ENROLMENT AT THE “WHITE” MAJORITY SCHOOL

“[...] We have the elite [of Romani children] here. [...] It looks like they are just children from reliable families. If the family is not supportive then they probably choose another type of school.”

Teacher at School N

Amnesty International is concerned at the fact that the freedom of parental choice is often not in practice applicable when Romani parents attempt to enrol their children in non-Roma schools. The non-governmental organization Roma Education Fund reported that school management often discourages such efforts.⁹⁸ During its research in District P in Ostrava some Romani parents told Amnesty International that School N, which is predominantly attended by non-Roma pupils, is particularly selective in the enrolment procedure in a manner that disadvantages Romani children. The school’s authorities rejected the allegation that the low number of Roma in the school is intentional and insisted that they have to accept every child who chooses to enrol there. They suggested that Roma tend to go to the other two schools because they are closer to the Roma-populated neighbourhoods. Staff of other schools in the area and Romani parents told Amnesty International that the few Romani pupils of School N often come from Romani families that are better off, or that they come from ethnically mixed families. One Romani father whose daughter studies at School N said:

“There are a lot of Romani children also in School N, but you cannot recognize them because they look like the majority. At School N there are the Romani children who receive parental support. Those Romani children are encouraged by their families to get quality education.”

The school’s staff argued that they do not take ethnicity into account during the registration of pupils, nor can they tell which children are Roma and which not. As the Director of the school said, pupils are accepted upon assessment at the school and then at the Pedagogical-Psychological Counselling Centre, which should prove that they had reached “school maturity” (as explained in section 3.2). The Roma Education Fund had previously noted that *“[...]the traditional “school maturity” testing system, [...] leads to enrolment of Roma in low-demand curriculum groups or special education from the very beginning of the education cycle.”*⁹⁹

“We tried to get our other son into School N, but we were told that there was no capacity. I knew that there were already a lot of Roma in the school, which could create some issues. They do not tell you that directly, they just tell you that they are full.”

Father, who had three children at School I (the boy now studies at another mainstream elementary school, which accepted him).

Amnesty International also received allegations about discriminatory attitudes against Romani pupils by staff of School N. One mother said that even though she knew that the educational standards were much higher at the mainstream elementary School N, in comparison to other schools in the area, she would rather enrol her children at one of the “gypsy” schools, where they would not be bullied or discriminated against by peers and teachers for being Roma. A mother told Amnesty International: *“For example, in one class of thirty pupils there are three gypsies, and when something gets lost the gypsies are blamed for it immediately. [...] The problem is the teachers. If the teachers make it impossible for children to stay there, then the children will not even go there.”*

MARGITA'S STORY, NINE YEARS OLD

Věra is a 37-year-old Romani mother who is about to complete her university degree. She is married to a non-Roma man with whom she has two daughters, aged nine years and 21 months respectively. Věra worked as a teaching assistant at School P before she went on maternity leave and at the time of Amnesty International's visit she was already looking forward to going back to work.

Věra's older daughter, Margita, attended School N in the first grade, but found it hard to keep up with the study load there. When Margita was in grade two she was diagnosed by the Pedagogical-Psychological Counselling Centre as having learning difficulties and she was recommended transfer to another mainstream elementary school, which would give her more attention and support. Věra decided to move her daughter to the mainstream Roma-only School P.

Věra admits that Margita is not happy that she is half-Roma, as Roma are stigmatized in Czech society. Věra, as the only Romani pupil in her class at School N, had been frequently laughed at for being Roma by her non-Romani peers and hardly made any friends there. *"The children used to call her 'gypsy.' There are very few Roma children at School N. They move to another school after some time there,"* Věra told Amnesty International.

For Věra it was very important that Margita went to a mainstream elementary school where teachers had a good attitude to all the children. *"The teacher's approach is also important and whether he or she respects the personality of the child."* According to her, this was not the case at School N and therefore she decided to transfer Margita to School P. Nevertheless, she acknowledged that segregated schooling is a problem. Věra told Amnesty International *"I hope that Margita will one day accept her Romani origin and will understand that Roma people are normal as everybody else."* Věra sadly recalls her own time at elementary school when she was teased for being Roma by her non-Roma classmates and highlights that there is a great deal of discrimination against the Romani community in the Czech Republic. Věra said, *"I feel that everywhere. I wouldn't want my daughter to feel the same at School N. I am a nurse, but I had problems finding a job in my specialization, so I started to work as a [teaching] assistant. I decided to study and help Roma people in the same situation. [...] I wish more Romani students went to university. I wish they were not scared. I was scared to go and study, too. It is hard; you have to work very hard. But it is worth it."*

Amnesty International was told that for many Romani children, who may have little support from the family, it was almost impossible to cope at the mainstream elementary School N, due to really high demands and very little assistance for children. There are many pupils in the classroom and there is only one teaching assistant who only works with a girl with physical disabilities, thus it is difficult to support pupils who may need extra attention. Some Romani parents from District P, as well as staff from a local non-governmental organization, told Amnesty International that often Romani children who study at School N end up transferring – after the recommendation by a School Advisory Centre – to either practical elementary School I or one of the Roma-only schools in the District P, with a less demanding curriculum. The School Counsellor of School N told Amnesty International:

"If there is a Romani child that respects all the rules of the school and would like to study, then it does not matter if he/she is Roma or not. For me, the most important aspect is whether the child would like to study or not [...] It's up to the parents to create special conditions for their children and encourage them to study."

Hard evidence about discriminatory attitudes against Romani children in School N is almost impossible to find, Amnesty International was told that the school's reputation, coupled with allegations some Romani parents made about bullying by non-Roma peers and discriminatory attitudes by teachers, as well as fear of failure, seem to deter many Romani parents from even attempting to enrol their children at School N.

FRANTIŠEK'S STORY, 11 YEARS OLD

At the age of six, František enrolled at School N and until the fourth grade he had encountered no problems. But in February 2008, on account of his allegedly disruptive behaviour, his teacher and the school's counsellor suggested František be assessed by the Pedagogical-Psychological Counselling Centre, which in turn recommended his temporary transfer to School I for a four month diagnostic stay.

Towards the end of the observation period, the school's director told František's mother, Renata, that the boy was *"completely unidentifiable" with the allegations made by the School N; that he was "a nice boy [...] interested in learning"*, therefore he would recommend his return to School N as the boy *"had nothing to do with [the practical elementary] school"* and he *"surpassed in knowledge his schoolmates."*

According to Renata, who works as social worker for an Ostrava-based non-governmental organization, the level of the practical elementary school's curriculum was inferior to the one taught at the mainstream elementary school: *"František was there and in grade 4 he did things that he had already done in grade 2 at School N."* However, František had found relief at School I as *"the teachers [were] very nice and good [...] they praised him a lot [...] and] the attitude towards children was completely different from School N [...] so the child always looked forward to go to school."*

František returned to School N in June 2008 but, due to his four-month placement at the practical school, where a reduced curriculum was taught, he failed his final written exams and had to repeat the grade. In the school year 2008/2009 František was again in grade 4 and had been stigmatized among his classmates as somebody who had been sent to the school for pupils with "mild mental disabilities". During the first six months of the school year, the situation had taken a bad turn as the teachers complained on a regular basis about the child's behaviour and claimed to be unable to control and manage him, allegations which according to his mother were not well-founded. Moreover, Renata told Amnesty International that during class activities, such as a trip to the planetarium, marionette theatre, music day and sports matches, the boy was constantly excluded as teachers assumed that *"František was not interested in such things."*

This resulted in František not being motivated, he *"[did] not want to learn, [did] not want to prepare for school and he [was] begging to be sent back to School I"* against the recommendation of the Pedagogical-Psychological Counselling Centre.

Renata told Amnesty International that *"everything depends on the teacher, it is all about the attitude of a teacher; [...] If the teacher wants to work with the child, he will work with him. If the teacher wants to get rid of the child from the school, he will do it."* In March 2009, having had enough of the situation at School N, and after she consulted the Pedagogical-Psychological Counselling Centre, Renata decided to move František to another school, which was primarily attended by Romani children, and was located close to her work.

4.3 LOWER EDUCATIONAL OUTCOMES AND LIMITED FUTURE OPPORTUNITIES AT ROMA-ONLY SCHOOLS

“The inability of Czech schools to provide quality education for all, results in tracking Roma children into less demanding curriculum groups and practical schools.”

Roma Education Fund¹⁰⁰

Amnesty International is concerned at reports that suggest that education provided in Roma-only schools tends to be of a lower standard. The education programme of the two Roma-only schools, the mainstream elementary schools P and G, was described by parents and teachers, as well as by representatives of NGOs operating in District P, as “easier” and “slower” compared to the one taught in School N, which is mainly attended by non-Roma pupils. Many Romani parents highlighted this as an additional reason for placing their children into one of the Roma-only schools. Many of the Romani pupils in those schools have no previous experience in education, as they have not attended pre-school¹⁰¹.

The quality of education provided in a school may be reflected – among others things – in the pupils’ achievement¹⁰², an illustration of which is the degree to which students successfully pass from grade to grade in the education system.¹⁰³ According to data provided to Amnesty International by the Institute for Information in Education, which compiles information about the Czech education system based on information provided by the schools themselves, the two Roma-only mainstream elementary schools (Schools P and G) indicate lower pupil achievement in comparison to the other mainstream elementary school in District P, attended predominantly by non-Roma children (School N). A simple illustration of the school year 2008/2009 below compares the grade repetition rates and the numbers of children who finish the nine years of compulsory education in a grade lower than the ninth.

Table 2: Grade repetition and pupils finishing compulsory education without completing basic education (finishing in a grade lower than grade nine) for the school year 2008/2009

	Total pupils	Grade repetition pupils	Grade repetition %	Finish < 9 Grade pupils
School P ¹⁰⁴	225	20	8.8%	7
School G	253	13	5.1%	8
School N	411	1	0.2%	2

If a child finishes nine years of compulsory education in a grade lower than grade nine this means that he/she has not completed elementary education. If a child does not successfully finish grade nine of the elementary school, they have only one option for further education - that of vocational training, thus limiting the child’s future educational opportunities. The Director of School G confirmed that, “[...] many children have to repeat a grade, at the first or second stage, which means that they finish school at grade seven or eight.” The data presented above, which show a substantially higher rate of grade repetition in the two predominantly Roma schools, may indicate a lack of adequate support for pupils in the school system.

According to information provided to Amnesty International by the School Counsellors of each of the mainstream elementary schools, most children from Schools P and G end up continuing their education in secondary vocational schools, if at all. By contrast, the majority

of the pupils of School N are accepted in secondary technical schools, or even grammar schools, after which they can continue to university. Consequently, discrimination and the associated segregation at elementary school level sets many Romani children on a lifelong separate path which inherently has fewer options for secondary and tertiary education, in turn limiting – for many – employment or livelihood options in later life. Discrimination and segregation in education lay the foundations for increasing separation in later life, and are a contributory factor in ongoing prejudice, intolerance and discrimination in Czech society,

4.4 TEACHERS' ATTITUDES

Amnesty International is concerned that stereotypes and prejudice of teachers may lead to lower expectations from Romani pupils. Amnesty International found evidence of such attitudes, often implicit rather than explicit, in all three mainstream elementary schools, as well as at the practical elementary school.

"[...] [T]here are teachers who have prejudice against the Romani community; [...] they cannot communicate with the children and do not try to do so. I think the problem is the rooted perception of the Roma as something alien, unfriendly, unclean, and backward. It is the perception of the whole community as second-class people. It is based on prejudice, sometimes [...] deepened by negative experience, but usually prejudice passed on from generation to generation."

Director of NGO in District P, Ostrava, February 2009

Available research suggests that teachers' negative expectations result in poor school performance. There is a link between teacher attitudes towards Roma and pupil's achievement, based on the fact that teachers who had more positive attitudes towards Roma stressed academics in their teaching.¹⁰⁵ Amnesty International is concerned at statements made by certain school staff, including at management level, in all schools that form part of this study.

"The family environment in which the child is growing up is important. And it is also genetically predicted. We cannot generalize. There are fantastic Romani families [...] and at the same time there are Romani families that don't care for their children. [...] The Roma don't want to work. I am not living with them, but I guess it. It is my impression."

Director, School N

"[T]he opportunities are here, and I know that the children are not stupid, I teach them myself. The problem is that the children do not see the value of education. Their parents live on social welfare and they are happy like that."

Director, School G

"I think one of the reasons [for the overrepresentation of Roma in remedial special schools and classes] is the genetic factor."

Deputy Director, School P

LÁĎA'S STORY, 10 YEARS OLD

Amnesty International was conducting research at School I, the practical elementary school, in April 2009, when Láďa came with his mother, Alžběta, in order to request his transfer to this school from School G. Láďa was attending the third grade in School G, but as his mother told the Director of School I, he was being bullied there by his classmate. The bully would swear at him and had often threatened to beat him up if Láďa did not bring coloured pencils and markers every day. Although Láďa complained to his teacher that he had been bullied, according to Alžběta the teacher refused to do anything about it and he told Láďa “*don't argue and shut up.*” As a result of the bullying, Láďa became quiet, anxious and was scared to go to school. Alžběta was begging the Director of School I, in the presence of Amnesty International delegates, to accept Láďa to his school; the director insisted that he could not do this, as this was a school for pupils who were struggling to cope with the mainstream elementary school curriculum, which was not the case with Láďa, as evidenced by his grades.

Having noticed a change in her son's usually happy nature, Láďa's mother decided to transfer him to School I so that he would not be bullied again. “*I will not let my boy to be psychologically ruined,*” Alžběta told Amnesty International delegates. “*The supervision is good here [at School I] [...] I know nothing is going to happen to my child, so I am satisfied.*” Although the director of School I initially hesitated to register Láďa, who showed no indication of mental disability, at the end of the meeting he eventually agreed to place the boy in diagnostic stay at the school, initially for two months. He promised Alžběta that he would arrange for Láďa to get tested as soon as possible.

4.5 THE ISSUE OF SEGREGATION

Amnesty International notes the opinion by the CERD, which states that “*[t]he Committee is deeply concerned by the prevailing negative sentiments and stereotypes concerning the Roma among the Czech population.*”¹⁰⁶ Considering the widespread discrimination and prejudice against Roma, Amnesty International believes that segregated education reinforces, rather than helps to combat, discrimination and intolerance in the Czech society.

Most of the teachers and teaching assistants Amnesty International talked to said that the majority of the Romani children in their schools did not get any support from their families, nor were they pushed by their parents to study and continue their education. A study commissioned by the Ministry of Education found that the ambitions of Romani pupils normally do not transcend the horizon of the everyday life experience of their parents.¹⁰⁷ There are many factors contributing to this, which cannot be summarized by the common statement that “*Roma do not value education.*” Lack of trust in the education system, which has failed many Romani parents themselves, and the fact that few believe that there will be some immediate benefit from education, such as finding a job, are significant factors which are underestimated by school staff. A teaching assistant also mentioned an environment of poverty as one of the main reasons why children have little self-confidence and restricted expectations from their lives.

Many teachers, to whom Amnesty International spoke, especially from the two Roma-only mainstream elementary schools, were opposed to segregation due to the negative impact it has on the children's motivation to study and progress in education. However, they are constrained by the role parents play in the school placement process. One teacher said:

“Can I say the truth? I do not think that this [segregation] is a good alternative, because they are in ghetto at home and at school as well. They do not see the positive example here. They will be segregated here for nine years and then they will come back to their ghetto, and they will be again segregated – socially excluded, because very few continue studying at vocational training. Even if they continue at vocational training – and we are speaking about very few children – they will not even finish it. There is no motivation, interest and support from the family.”

Teacher, School G

One Roma Teaching Assistant shared with Amnesty International his positive experience from studying in an integrated environment, together with non-Roma peers:

“I was the only Romani pupil at my school from secondary education until university and this motivated me a lot to study more, but when you have a Roma-only school, it is a habit for them to just finish elementary school and not continue studying. There is nobody, [...] not any classmate who can motivate them and tell them let's continue studying, let's send an application together.”

Roma assistant School P

Many Romani parents also said that they would prefer their children to study together with non-Roma children, provided that they would not be subjected to ostracism and bullying from their teachers and peers.

“I would prefer to have my children in the same school with white children. Now they are just with Roma children, and when they will start to study or work with white children, they will be unable to behave properly. They are learning just the Romani mentality. They know how to behave themselves among the Roma, but they have no experience with white children.”

Mother of children attending School G

Parents, officials and school staff with whom Amnesty International spoke also sought to explain segregation on the grounds that it enabled Romani children to escape racism, bullying and harassment from other children and some teachers. As noted earlier, many parents chose to place their children in one of the “gypsy” schools, rather than in the School N, where they feared that their children were going to be bullied and discriminated against due to their Romani origin.

Finally, some school staff sought to justify segregation in that it compensated for the inability of schools with a higher percentage of pupils from the majority population to educate children from a socially disadvantaged background. Thus, for them segregation enabled schools to cater for the particular needs of the Romani children who come from socially excluded localities. A teacher from School P said that although integration with the majority population could be beneficial for some of the pupils, others would be better off surrounded by “equals” and that psychologically it would be difficult for them to be with non-Roma children and to always be “the last”, “not perfect”.

“I think that segregation in schools is not as important as segregation of the family in ghettos. [...] The problems start when they go home. Of course we can try to put those

children in schools with the majority. But the results depend on the director of the school as well as the conditions offered to the children."

Considering that schools primarily teaching pupils from the majority population have not always an interest, the experience or capacity to educate pupils from socially disadvantaged background, one NGO representative from Ostrava suggested that in the current context education in *de facto* segregated schools becomes a more realistic and preferred alternative for Romani children.

"If the child goes to the prestigious School N and leaves it in grade six, he or she has no chance for the future, to get a good job or gain a higher qualification. [...] If the school is not Roma-friendly and does not compensate for the deficits in some of the families, the children have no chance. So, it is better for children to go to schools where teachers know how to deal with them and enable them to complete elementary education."

Director of NGO in Ostrava, February 2009

The director of School P expressed a similar opinion:

"From that point of view we are not a good school, because we are segregated. But we are a good school, because we are able to meet the needs of Romani children probably more than other schools."

According to international and regional human rights standards, states should ensure "free choice of education without interference from the State or third parties, subject to conformity with 'minimum educational standards.'"¹⁰⁸ However, this should be in the context of ensuring that all decisions which affect children are taken in their best interests,¹⁰⁹ and monitoring the impact of laws and policies to ensure that they do not result in indirect discrimination. Where this is the case, those laws and policies should be amended. As stated in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):

*"Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists."*¹¹⁰

4.6 MEETING THE EDUCATIONAL NEEDS OF ROMANI CHILDREN FROM DISADVANTAGED BACKGROUND

As mentioned earlier, government commissioned research from 2006 suggests that the fact that mainstream elementary schools do not respect the specific educational needs of Romani pupils from socially excluded communities constitutes one of the fundamental reasons why Romani children often struggle to cope in mainstream elementary schools, and why they transfer to schools for pupils with "mild mental disabilities".¹¹¹ Amnesty International acknowledges that, despite the fact that the Roma-only schools in District P (including the practical elementary school – School I) offer lower standards of education, they do cover certain needs of these Romani pupils and provide certain assistance, which school authorities of a mainstream elementary school predominantly attended by children from the majority population – such as School N – seemed to have no capacity or intention to meet at present.

Amnesty International was informed that the directors of all three Schools I, P and G have personally assisted Romani families, whose children study in their schools, with housing difficulties when the families could not afford or could not find a home. All three years of School P's nursery are free of charge, and the pupils just need to pay for meals.

A CHILD-CENTRED APPROACH

Amnesty International's research indicates that, in the four schools in District P and the School Advisory Centres in Ostrava, there is no clear intention of integration, or understanding of the need to include children of different abilities and ethnic backgrounds into an integrated mainstream school environment, which is what the Czech government claims to be aiming for.

"The principles of inclusiveness and integration, that's all very well but the problem is the preparation of teachers for educating children with special needs. The teacher is prepared in a way as it was fifty years ago, so you're prepared to teach your subjects but you don't know how to deal with children with mental disabilities or special educational needs."

Director of the Institute for Pedagogic Research, February 2009

According to educational experts in high-quality education, classroom organization and pedagogy should be child-centred, rather than teacher-centred, and as far as possible, account for differentiated instruction in order to build upon each individual child's strengths, rather than focusing on their deficits.¹¹² Amnesty International is concerned that the Czech education system continues to focus on children's perceived deficits rather than strengths and has failed to introduce adequate measures to ensure that Romani children from disadvantaged backgrounds can enjoy a good quality education in integrated mainstream elementary schools. It is also alarming, as reported by the Czech NGO, League of Human Rights, that *"the director and teachers of elementary schools, as well as the general public are of the predominant view that integration, especially of Romani children, into mainstream elementary schools, does not make sense and has little chance of success."*¹¹³

School N is the "elite school"; for the most part it will accept and educate a child if he or she can abide by strict rules, and if they are lucky enough to come from a family which is able to stimulate and support them through the educational process. According to Romani parent's testimonies, it appears that the school will not hesitate to suggest to parents that it might be more appropriate for their child to go to one of the "less demanding" schools in the area, where the child may find it easier to keep up with the other pupils.

According to the Director of School P, the neighbouring School G is the "better [Roma] school" (referring to the lower level of social disadvantage of the pupils). According to the Director of School P, children with behavioural problems are not tolerated in School G, and they often end up transferring to her school. Additionally, some Romani parents alleged that their children will be shouted at and even physically punished at School G. As for children with "mild mental disabilities", for the purpose of placement they do not even have to go for assessment for the Director of School G to make her own diagnosis and label them accordingly, and decide that the most suitable educational strategy is placement at a "former special school", today known as practical elementary school – all this in a school system which was supposed to have abolished remedial special schools five years ago.

“In our school [School G] we have children who we think need to go to the special school, [School I], with a less demanding educational programme, but because parents would not allow their transfer they are attending our school. I am speaking for example about a girl, who should, according to our pedagogical judgment, go to a practical or special school. We suggested an assessment to her mother, but she rejected our suggestion and did not apply for assessment. Theoretically, it is possible to provide [children with special educational needs] with education [here]. But I am not sure it will be effective. It is up to the parents, how they will decide. I think that when they decide to leave their child in our school even if there are serious educational needs, it is the worst option. The whole class cannot adjust to one pupil. For this reason there are practical classes with fewer children and more assistants and special schools with appropriately trained teachers.”

Director, School G

School P, according to its director, is the school with “a bit of a social programme”, thus it cannot be selective with pupils. According to the director, the “most difficult cases” go there, and they are welcome. But, again, a significant percentage of these children may be placed in special classes for children with “mild mental disabilities”, where the curriculum is even lower than the “slow” curriculum the school uses for its mainstream elementary classes.

And finally, there is the “competitor” of the above three schools, School I which in 2005 was relabelled elementary school”, but is unofficially known as a practical elementary school. School I has no reference in its title to its true nature and purpose, namely to educate pupils with “mild mental disabilities”, as it used to do when children from the D.H. case were studying there in the 1990s. The practical elementary school accommodates the will of parents, who, disappointed by the rest of the schools, ask for their children to be accepted for a trial period there, also known as a diagnostic stay. As noted above, the director often later realizes that children should be attending mainstream elementary schools, but it is effectively too late. The way back to mainstream education is a difficult one, and it is a road that the parents and the child are generally not willing to take.

A stark choice remains for the parents - to rephrase the European Court judgment - between ordinary mainstream elementary schools that are ill-equipped to cater for their children’s social and cultural differences and where they risk isolation and ostracism, and a practical school, with inferior education where the majority of the pupils are Roma and may receive better treatment from teachers.

4.7 CONCLUSION

The Schools Act states in Article 2 that:

“Education shall be based on the principles of:

- *equal access of all the citizens of the Czech Republic and the European Union to education without any discrimination based on any ground such as race, colour, sex, language, belief or religion, nationality, ethnic or social origin, property, gender or kin, or the health condition or any other status of a citizen;*
- *taking into account the educational needs of an individual;*
- *mutual respect, tolerance of opinions, solidarity and dignity of all parties in education;”*

Additionally, one of the goals of the FEP for Basic Education, a result of the curricular reform which was initiated in 2005, is to *“guide pupils to tolerance and consideration for other people, to a respect for their culture and spiritual values; teach pupils to live together with others.”* The new FEPs have yet to be implemented in all grades, and it will take several years before it is possible to assess their impact.

However, it must be noted that in order to have education that respects and promotes human rights *“it is essential that education be all-inclusive and not separate (or segregated) according to language, race, ability, sex or other criteria. Promoting tolerance and respect in homogeneous classrooms has a rather hollow ring. Curriculum packages that promote tolerance will have little impact if they are delivered within educational structures that are fundamentally intolerant.”*¹⁴

5. MEASURES TAKEN FOR THE INTEGRATION OF ROMA INTO MAINSTREAM EDUCATION

Apart from the formal abolition of remedial special schools from the new Schools Act which, as established in the previous chapters, has not signified the abolition of separate and unequal education of Romani children in practice, the government of the Czech Republic has adopted a series of other measures, aimed at the integration of Romani children into mainstream education. Amnesty International welcomes these measures, but is concerned that these measures do not guarantee either the integration of Romani children into mainstream education, or the elimination of discrimination and racial segregation in the Czech school system.

5.1 LACK OF PROVISION FOR CHILDREN FROM SOCIALLY DISADVANTAGED BACKGROUND

DEFINITION OF SOCIAL DISADVANTAGE

As explained in section 3.2, the Schools Act gives only a vague definition of children from socially disadvantaged background, and this could lead to continued over-representation of Romani children in practical schools, maintaining the *status quo*, which was criticized by the European Court judgment on the case of *D.H. and others v. the Czech Republic*. Further explanations of the term – referring to children from socio-culturally disadvantaged environments – in other policy documents, such as the *Concept of Early Care*, seek to compensate for the lack of a clear legal definition. However, it remains unclear which indicators must be used for the identification of such children and how teaching and other expert staff from School Advisory Centres can support the educational process of pupils from a “socially disadvantaged background”. This limits the ability of Pedagogical-Psychological Counselling Centres to suggest appropriate educational strategies for these children.

“Social disadvantage is new to us and is a big problem for us because we have no tool to work with it effectively, differentiate or describe such a child, we can think but we can not specify.”

Director of Pedagogical-Psychological Centre in Ostrava

FUNDING

Concerns have been expressed to Amnesty International about the lack of specific funding linked to this category of pupils. School revenue in the Czech Republic depends primarily on per-pupil funding. Consequently enrolment numbers are a significant factor in increasing a school’s income. Although a higher funding per pupil is provided to schools for educating pupils with health problems or a physical or mental disability, there is no additional funding provided for the education of pupils who come from socially disadvantaged backgrounds, which would include thousands of Romani children. The Director of School P told Amnesty

International that although “[t]he new Schools Act speaks about socially disadvantaged children, [...] it does not bring any extra funding for the school.” Consequently, “we cannot create a special social programme; because [we] have the same funds as any other school.” Additional funding for this category of pupils could be used, for example, to enable the reduction in the numbers of pupils per class. Non-governmental organizations, such as the League of Human Rights, have suggested that additional funding for children from socially disadvantaged backgrounds could facilitate the desegregation process,¹¹⁵ as it could become an incentive for schools from the majority population to integrate Romani pupils. Funding should accompany a definition of pupils from “socially disadvantaged background” strictly aiming at the provision of special measures to address the special educational needs of those children in integrated mainstream elementary schools.

5.2 FREE LAST YEAR OF PRE-SCHOOL EDUCATION

Aiming at improving access to early care, the new Schools Act offered free pre-school education for children from socially disadvantaged backgrounds for the last year before starting compulsory schooling. However, only two fifths of Romani children from socially disadvantaged backgrounds attend kindergartens.¹¹⁶ According to a recent study the low attendance of Romani children in pre-school education is mainly caused by the inability of kindergartens to accommodate cultural differences and their refusal to adopt new methods of work such as teaching assistants. Another reason is high costs involved in travel to and from kindergarten.¹¹⁷

5.3 PREPARATORY CLASSES

The Schools Act allows (but does not require) municipalities and Regional Authorities to establish preparatory classes in elementary schools, in order to help equalize the development of children from socially disadvantaged background, who very often do not attend kindergarten and thus lack basic skills to start primary education. This provision aims at reducing the number of Romani pupils placed in schools outside mainstream education and in practical schools. The number of preparatory classes offered across the country has been increasing. There were 164 classes in the school year 2007/2008 educating 1,929 pupils.¹¹⁸ However, it was found that preparatory classes do not help as much as kindergartens to improve educational chances, and that only approximately 48 per cent of Romani children from socially excluded localities attend preparatory classes or kindergartens prior to starting compulsory education.¹¹⁹

Preparatory classes can be established in both mainstream and practical elementary schools. According to the evaluation by the Ministry of Education, only 10 per cent of the Romani children who attended preparatory classes in remedial special schools across the country in the school year 2007/2008, subsequently enrolled in mainstream elementary schools but 80 per cent of Romani pupils that attended preparatory classes in mainstream elementary schools, start primary education in mainstream elementary schools and have greater chances of staying there.¹²⁰ Although School I does not run preparatory classes, it has been noted that such classes continue to be established in practical schools, after the new Schools Act came into effect in 2005.¹²¹

While pre-school education is seen by both pedagogues and parents as an important tool for overcoming barriers for the integration of Romani children in the education system, the establishment of pre-school facilities and of preparatory classes in segregated settings,

including in practical elementary schools, is not conducive to the elimination of the physical separation of Roma from non-Roma children, in fact it may actually entrench segregation. It has been noted that preparatory classes in the Czech Republic are found mainly in schools with higher percentage of Romani pupils.¹²² However many schools attended by Romani children still do not make use of this provision.¹²³ This is the case in District P, where preparatory classes are only established at School G, a segregated Roma-only school. Amnesty International was informed that for the year 2008/2009, the classes only had Romani children.

5.4 TEACHING ASSISTANTS

The role of teaching assistant, established in 1998, is another form of support for children from a socially disadvantaged background. The aim is to help the children to overcome school problems, and is consequently also aimed at facilitating the integration of pupils from such backgrounds into mainstream education. A teaching assistant attends classes, helps the children with individual teaching, organizes good quality leisure time programmes, supervises the preparation of homework, provides extra tuition to children, and acts as mediator between the school and the family. Knowledge of Romani language is considered an advantage but not essential.¹²⁴ Assistants can be employed in both mainstream and practical elementary schools, and are also often used in preparatory classes. Assistants can also be employed to facilitate the educational process of pupils with other special educational needs, such as health disadvantage and health disabilities.

Teaching assistants have a positive influence on children's academic achievements. According to research conducted in socially excluded Romani communities across the Czech Republic in 2008, in classes without a teaching assistant only 65 per cent of the Romani pupils completed the first three grades of compulsory school attendance in their original class (i.e. they did not have to repeat a grade or transfer to a practical school), whereas in classes with teaching assistants 75 per cent of pupils continued in the original class of the mainstream elementary school.¹²⁵

Each year the Ministry of Education announces an education development programme for "Financing Teaching Assistants for Socially Disadvantaged Children, Pupils and Students."¹²⁶ The authorities have indicated that in 2009, the Ministry of Education received 430 requests for a teaching assistant, an increase from previous years, and all requests were accommodated.¹²⁷ It is positive that funding for the creation of teaching assistants' positions is earmarked, and thus more likely to be used for its purpose rather than diverted into the general budget of the school. However, the fact that the funding is not part of the per-student normative amount, but rather the school directors have to apply separately and get their application approved by the region or municipality, creates an additional administrative burden and a potential disincentive.¹²⁸ Additionally, the fact that the establishment of the position is discretionary on the school authorities and its founders - as is the case with preparatory classes - does not guarantee that the provision will be used everywhere it is needed. In its latest report on the Czech Republic ECRI noted that "the decision to request that such assistants be hired is entirely in the hands of school administrators, meaning that such assistants are only hired in schools that already have progressive attitudes, and the assistants themselves are dependent on the good will of the administrators for their jobs."¹²⁹

In the four schools in District P, School I has two Roma teaching assistants; School P has 10 teaching assistants, the majority of whom are Roma, and School G has three Roma teaching assistants. School N has one teaching assistant, employed solely to facilitate the educational process of a girl with physical disabilities. When the school authorities were asked why they have not employed any assistant to work with Romani children from socially disadvantaged backgrounds, they said that they did not need one, as they did not have problems with their Romani pupils. However, Amnesty International's research findings, described earlier, indicate that many Romani pupils had to leave School N because they struggled to cope with the demanding curriculum and the pressure.

The Deputy Director of School P told Amnesty International:

"It would be ideal if we had one teaching assistant per class. We have 10 teaching assistants for 15 classes. We cannot have more assistants because of financial issues. We claim for financial support for our teaching assistants, but the amount of money coming from the Ministry of Education is being reduced."

It appears, there is very little contact between teachers and Romani parents and very little opportunity for interaction. Some Romani parents expressed their concern to Amnesty International that when a teaching assistant plays the role of mediator between the school and the family, teachers lose the connection with the parents completely, and thus are not required to understand the social and cultural background of their pupils. One father said that:

"[T]he teacher should come to the families and she should not send the Romani assistant; she should come herself and talk to the parents, because she does not know that when a poor family does not have money to buy their child a snack, they do not send him to school because the mother feels embarrassed that the child cannot eat there."

ADDITIONAL MEASURES ANNOUNCED BY THE CZECH GOVERNMENT

Amnesty International welcomes additional measures announced by the government in two communications to the Committee of Ministers of the Council of Europe. The Ministry of Education has made renewed efforts to assess the real situation of Romani pupils within the Czech education system through commissioning and publishing research, which has shown that Romani children have half the chances of their non-Roma peers to stay in their original class, either because they fail the class and have to repeat a grade, or because they are transferred to special education.¹³⁰ The government is planning to address placements of children in practical schools and classes for pupils with "mild mental disabilities", through an analysis of the diagnostic tools used by School Advisory Centres to identify children's intellectual abilities, which aims to transform the School Advisory Centre system "*putting in place a process of socio-culturally sensitive counselling, diagnostics and intervention care.*"¹³¹ Through the continuous development of the Concept of Early Care, the government states it is aiming to improve the conditions for pre-school education. In May 2009 the government adopted an Action Plan on Early Care, which introduces measures to improve nursery support to children from socially disadvantaged backgrounds.

According to the government's communication to the Committee of Ministers of the Council of Europe, the Ministry of Education is also planning pre- and post-service training for teaching staff. A National Action Plan

for Inclusive Education is expected by November 2009. Support Centres for Inclusive Education started operating in July, (previously Centres for the Integration of Minorities), which aim at providing support to teaching staff in order to work with children with special educational needs. Centres for Inclusive Education have started their operations, or plan to start in nine cities and towns: Prague, Most, České Budějovice, Brno, Olomouc, Hradec Králové, Opava, Ostrava-Karviná, and Plzeň or Karlovy Vary.¹³²

Additionally, in consultation with Czech NGOs and other relevant institutions, the Ministry of Education has initiated a process to amend the Schools Act and the Government Decree 73/2005 Coll. on the education of pupils with special educational needs,¹³³ aiming at better defining the term “pupils from socially disadvantaged backgrounds” and the provisions surrounding the term.

With regards to practical schools, the Ministry of Education announced in its last communication to the Committee of Ministers its intention to:

- start educating at least a portion of the children in practical elementary schools according to mainstream elementary school curriculum;
- exhaust all forms of support within the educational system before placement at these schools; and,
- identify as a clear goal the re-integration of pupils into mainstream education.

These are just some of the measures proposed by the Czech government to advance inclusive education. According to the government’s report to the Committee of Ministers of the Council of Europe, *“the measures have been conceived with the intention of putting in place in the Czech Republic, a system of inclusive education, in which a level playing field will be created for all children in the area of education while taking into account their special educational needs, and cultural and social backgrounds, and which will offer an effective systemic support for developing their full educational potential.”*¹³⁴

5.5 CONCLUSION

Amnesty International believes that the Czech government must make the elimination of segregated education and the inclusion of Romani children in integrated mainstream schools an explicit objective. The process to end discrimination and segregation within the Czech education system must be accompanied by adequate support systems which reflect the best interests of the child. The best interests of the child should not be used to justify the ongoing segregation of Romani children within the education system.

Amnesty International is concerned that unless more clear and decisive action is taken to eliminate separate inferior education based on racial and ethnic origin, and to systematically and vigorously pursue the inclusion of Romani children in mainstream education of equal quality, the judgement in the case of *D.H. and others v. the Czech Republic* will not have been implemented in its essence. Amnesty International is concerned that desegregation and the elimination of separate and unequal education has yet to move to the centre of the Czech educational policy; or to be seen as an objective by educational authorities on the ground. Amnesty International is further concerned that none of the new measures announced introduces an explicit obligation on the authorities to desegregate schooling in order to ensure that no child will be deprived of their right to receive quality education regardless of their ethnic background.

6. MONITORING AND ACCOUNTABILITY

6.1 ATTITUDES AT SCHOOL LEVEL

RECEIPT OF THE *D.H. AND OTHERS* JUDGEMENT

The Czech government, and especially the Ministry of Education, has had a very open approach towards the European Court judgement in the case of *D.H. and others v. the Czech Republic*, and has followed the implementation of the judgment in a serious manner through commissioning research and questioning measures already adopted for the integration of Romani children in mainstream education. However, Amnesty International is concerned that this attitude is not reflected at the local level.

During its research in Ostrava, in February and April 2009, the organization sought to identify the opinions of the different actors in the educational system of the town about the judgment, and which measures were taken at the local level to ensure that what happened to Sabrina and the other 17 Romani children was not going to happen again. Regrettably, Amnesty International was taken by surprise at the rejection of the validity of the judgment, as well as at the complete lack of accountability in the actions of the various bodies interviewed.

“You know why I am explaining this to you? Because they said in the Strasbourg Court that their children were sent to special school without their awareness. That is not true because it is not possible without their permission. They won the court case because the people deciding about this have no awareness about the system in our country.”

Director, School N

“The case in Strasbourg is a joke. [...] That’s why I am saying that cases like Strasbourg must be decided by people who know these issues.”

Director, School I

ATTITUDES TOWARDS PARENTS

The majority of the authorities that Amnesty International met insisted that the main problems related to the education of Romani children were a result of their family background and the fact that they do not receive sufficient support and motivation to study by their parents; little responsibility was attributed to actions or omissions by educational authorities and the educational system itself.

School directors, teachers and staff of the School Advisory Centres, as well as municipal and regional authorities claimed that all decisions have to be initiated - or are made by and enjoy the full consent of - parents: assessment and re-assessment of pupils, school choice and placement in practical schools or special classes, temporary diagnostic stay to a practical school, are all issues where parental consent is required by law. However, Amnesty International has demonstrated that this consent often is neither free nor informed (see sections 3.3). Additionally, interviews with various authorities demonstrated a clear tendency

to blame Romani parents and the family background for the failure of Romani children to advance in education, often based on prejudice and stereotypes. Perceived Romani habits, such as laziness and a tendency to depend on social benefits and stay up until late in the evening; lack of positive examples at home or from within the segregated Romani communities; lack of pressure by parents to study, and lack of support for homework, were issues cited by interviewees to legitimize the inequalities for Romani children in accessing quality education.

“For me the biggest problem is that parents know their rights, but they don’t know their obligations.”

Educational counsellor, School N

“[...] The other thing is their irresponsibility; [...] their inability to understand and accept other norms, apart from their own; conflicts with others, with the law; [...] inability to plan; [...] for them tomorrow is not important, just now and today.”

Director, School I

Amnesty International is concerned that this attitude is not conducive to bringing about the real change that is currently needed in the Czech Republic. Romani parents cannot be held to blame for serious and systematic failures of the state which perpetuate injustice, discrimination and poverty. Accountability for the elimination of discriminatory barriers and for the successful integration of Romani children into mainstream education lies with the Czech government. This responsibility cannot be abdicated on the basis of real or perceived parental shortcomings.

6.2 COLLECTION OF DATA

Adequate data collection is a key element in any effort to identify and redress patterns of discrimination in the realization of the right to education. In particular, the collection of adequate data, disaggregated by ethnicity and gender, as well as other grounds of discrimination, is crucial to ensuring that laws and policies are contributing to the elimination of discrimination, as required under the International Convention for the Elimination of Racial Discrimination (ICERD) and other international standards, and as noted by the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe.¹³⁵

In the examination of the country’s periodic report the CERD noted that the Czech Republic *“should enhance its efforts to qualitatively assess the situation of minority groups within the meaning of article 1 of the Convention, in particular the situation of persons who consider themselves part of the Romani community. It should also review its methods of data collection so as to more fully reflect the principle of self-identification. Any such steps should be taken in consultation with the Romani community.”*¹³⁶

Until recently, there was almost no official data on educational indicators for Roma.¹³⁷ Amnesty International welcomes recent efforts by the Ministry of Education, which commissioned research in order to qualitatively assess the situation of Roma specifically within the Czech education system and aimed to identify the extent of representation of Romani pupils in schools for children with “mild mental disabilities”, as opposed to mainstream education.¹³⁸ Additionally, through the Institute for Information in Education, the

Ministry conducted in the end of school year 2008/2009 a survey, asking elementary schools, both mainstream and practical, to provide anonymous data on the numbers of Roma as opposed to non-Roma pupils, aiming at identifying the extent of participation of Romani pupils in schools teaching a curriculum for children with “mild mental disabilities”. According to the accompanying report, the survey defines as “*a Romani child or a Romani pupil [...] an individual who considers himself or herself to be Roma without acknowledging this ethnic identity in all circumstances (for example in a census), or who is considered to be Roma by a significant part of his or her surroundings on the basis of real or alleged (anthropological, cultural and social) indicators (MPSV 2006:10).*”¹³⁹ According to staff from one school where Amnesty International conducted research, they based their estimate on various factors, such as physiognomy of the child, whether the child self-identifies as Roma or not, information from the area where the child lives and the family background. Although this methodology raises concerns about the level at which the principle of self-identification was used, as recommended by the CERD, the results of the survey are very significant as they reflect not only the numbers of pupils who self-identify, but also those who are perceived as being Roma by the school authorities. However, many school staff said to Amnesty International that they did not know and could not tell the numbers of Romani children in their school, and rejected the existence of discrimination in the Czech education system.

When Amnesty International delegates met with the Director of School N in February 2009, she provided an estimated number of 10 to 12 Romani children in the school, stating that not only do school staff pay no attention to the ethnic origin of the children, but they are also unable to tell who is Roma and who is not. By April, during Amnesty International’s second visit, schools had been asked by the Ministry of Education to provide official estimates. During this exercise the same school authorities came up with a different figure, of 54 Romani children.

However, Amnesty International is concerned that since new legislation came into effect in 2005, formally abolishing remedial special schools, the Institute for Information in Education is no longer collecting information systematically about schools teaching according to the curriculum for children with “mild mental disabilities” (practical elementary schools) as a separate category. According to the new Schools Act, there are only two legal categories of schools: elementary (including mainstream and practical) and special elementary schools (former auxiliary schools, i.e. for children with severe disabilities). The identification of practical schools in official annual statistics is crucial in order to monitor how many schools and classes are established teaching a curriculum for children with mild mental disabilities and how many pupils are taught under this curriculum. Accompanied by regular collection of ethnic data, this would provide a necessary basis for the monitoring and evaluation of the impact of the measures taken by the Czech government for the integration of Romani children in integrated mainstream elementary schools.

6.3 ACCOUNTABILITY AND AN EFFECTIVE COMPLAINTS MECHANISM

At the time of writing there was no effective or independent complaints mechanism that parents can easily access, for example if they are unable to exercise their right to enrol at the school of their choice, if their children are inappropriately placed in practical elementary schools, or if a preparatory class is not offered at their local school. Currently parents can take their complaints to the director of the school or the school governing body. If they are not satisfied with the response they can approach the municipality (for mainstream

elementary schools), the Regional Authority (for practical elementary schools)¹⁴⁰ or the Czech School Inspectorate.

INSPECTION

The School Inspectorate is a state institution responsible for monitoring the implementation of the legislation on education at school level. Through regular school inspections it should acquire information on a wide variety of issues including the education of pupils, the activities of schools, and the effectiveness of the educational system. It is mandated to:

- determine and assess the conditions, course and results of education according to FEPs;
- determine and assess to what extent the school educational programme is met and whether it is in compliance with the FEPs;
- perform checks to determine whether legal regulations relating to provision of education and school services are met;
- perform a public-legal audit focused on the use of funds allocated from the state budget.

However, the Schools Act does not designate an authority with the power to check or reverse acts of discrimination within the school system and there is no specific requirement on the Czech School Inspectorate to monitor discrimination or segregation in its periodic evaluations.¹⁴¹

COMPLAINTS

The School Inspectorate is empowered, however, to deal with complaints from parents on issues such as safety of pupils, examinations, physical punishment of a pupil, as well as discrimination,¹⁴² as part of its mandate to monitor equal opportunities in education. In practice the possibility for parents to lodge complaints is neither well known nor widely used. Out of the total of 552 complaints for the school year 2007/2008, only 16 involved allegations of discrimination in basic education; from those only three were considered legitimate.¹⁴³

Staff of the School Inspectorate told Amnesty International that there was no such thing as discrimination against Roma; they emphasized instead the discrimination faced by gifted children when they have to study together with pupils of average abilities without being provided with opportunities that would help them develop to their fullest potential.¹⁴⁴ According to the government's Roma Community Affairs office, the Schools Inspectorate does not have enough resources to investigate every single complaint and it takes an average of three to five years to visits all the schools in the country.¹⁴⁵

SCHOOL ADVISORY CENTRES

Although the School Inspectorate is officially responsible also for the monitoring and evaluation of School Advisory Centres, such as the Pedagogical-Psychological Counselling Centres and the Special Pedagogical Centres, staff of the central office of the School Inspectorate in Prague and of the office in Ostrava told Amnesty International that in practice such inspections do not take place. Inspectors from the office in Ostrava stated that an inspection of the local School Advisory Centres had not been undertaken since 2004. Thus the procedures and quality of assessments and the recommendations issued by the Centres remain unchecked and unchallenged.

EU DIRECTIVES IN CZECH LAW

In June 2009 the Czech Republic was the last EU country¹⁴⁶ to transpose to its national legislation European Union directives aimed at combating discrimination,¹⁴⁷ by adopting the Act on Equal Treatment and Legal Means of Protection against Discrimination (the Anti-Discrimination Act), which came into effect on 1 September 2009. The Act protects against discrimination on the basis of “sex, age, disability, race, ethnic origin, nationality, sexual orientation, religious affiliation, faith or world-view” in the areas of “employment, participation in enterprise, education and health care.”

The Act was supposed to introduce a complaints mechanism for victims of discrimination. However, Czech NGOs, such as the Environmental Law Service, League of Human Rights, and the Counselling Centre for Citizenship, Civil and Human Rights, expressed concerns that the new law contains flaws that will in practice prevent it from providing effective protection from human rights violations.¹⁴⁸

- The Anti-Discrimination Act does not provide for collective complaints issued by a legal person in the name of the victims of discrimination, without being directly representing the victim (*actio popularis*). The NGOs emphasize that this mechanism is a useful tool in solving cases of discrimination that represent failures on the systematic level;
- The Act does not include the mechanism of mediation, which could serve as an effective and fast alternative to the court procedures;
- The Act does not include provisions on a system of free legal aid that would provide for accessibility of the complaint mechanism.¹⁴⁹

PUBLIC DEFENDER OF RIGHTS

The new Act gives greater power to the Czech ombudsman, or public defender of rights, to serve victims of discrimination and enable them to pursue justice without having to turn directly to the courts. However, the activities of the public defender of rights are loosely defined in the new legislation. According to the Act, the public defender’s role should be to provide methodical support for the victims of discrimination to allow them to initiate complaints. However, given the lacking nation-wide system of free legal aid providers, there is a high risk that the “methodical support” might prove to be an inadequate tool to fight discrimination. The new legislation does not provide clear measures that would guarantee the accessibility of the complaints mechanism to various segments of the population, including the economically and socially marginalized and vulnerable.

7. INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS

According to international human rights law, the right to education includes primary, secondary, technical and vocational, higher and fundamental education. The right to education has been recognized in the Universal Declaration of Human Rights (UDHR) in 1948 and is enshrined in various binding international treaties to which the Czech Republic is party, including the International Covenant on Economic, Social and Cultural Rights (ICESCR, Articles 13 and 14), the Convention on the Rights of the Child (CRC, Articles 28 and 29), the International Convention on the Elimination of Racial Discrimination (ICERD, Article 5 (d) and (v)), and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR, Protocol 1, Article 2).¹⁵⁰ This right is to be respected, protected and fulfilled free from discrimination. The ICERD requires states parties to the Convention, including the Czech Republic, to prohibit and eliminate “racial discrimination in all its forms and to guarantee the right of everyone, without distinction... to equality before the law” in respect of the right to education (Article 5), including through the adoption of targeted and effective temporary special measures.

The general obligation of state parties to the ICESCR is to achieve progressively the full realization of the rights according to the maximum of available resources by all appropriate means, including adopting appropriate legislation, social reforms, adopting and implementing action plans, and creating oversight mechanisms. The UN Committee on Economic, Social and Cultural Rights (CESCR), a body of independent experts whose role is to review states’ compliance with their obligations under the ICESCR, has clarified that these include immediate obligations to ensure the realization of the right to education, in addition to the duty to take concrete, deliberate and targeted steps towards the progressive full realization of the right. Immediate obligations include a duty to ensure free and compulsory primary education for all children, freedom from discrimination in access to education, and to ensure that educational content conforms to the aims of education as established under human rights law.¹⁵¹

Governmental obligations related to the right to education can be addressed according to the “4-As” framework outlined in a UN report on education: of availability, accessibility, acceptability, and adaptability.

7.1 AVAILABILITY

According to Article 13(2) (a) of the ICESCR, all state parties recognize that “primary education shall be compulsory and available free to all.” The CRC also recognizes this right in Article 28(1) (a). The duty to realize the right to free and compulsory primary education for all children without discrimination is an obligation with immediate effect, and is also a component of the “minimum core obligations” of the ICESCR.¹⁵²

The CESCR has clarified the compulsory nature of primary education as follows: “neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to

whether the child should have access to primary education... It should be emphasized, however, that the education offered must be adequate in quality, relevant to the child and must promote the realization of the child's other rights." The compulsory nature of primary education includes an obligation by the state to ensure that education adapts to the child, including that it respect the rights of children belonging to minorities. The CRC places further emphasis on the obligation of the state to ensure that education that is available adapts to the rights of the individual to encourage attendance.

7.2 ACCESSIBILITY

Non-discrimination is a fundamental principle in all international treaties which guarantee the right to education. Article 2(2) of the ICESCR, for example, stipulates that state parties must ensure that the rights in the ICESCR can be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This extends to the whole population, irrespective of citizenship or other status. This obligation is of immediate effect: "[t]he prohibition against discrimination enshrined in article 2(2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of 1 education and encompasses all internationally prohibited grounds of discrimination."¹⁵³

The CESCR has clarified that, with regard to the right to education, this means that education must be "accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds." It confirmed that the principle of non-discrimination in education extends to all people of school age, and that sharp disparities in spending policies that result in differing qualities of education for people residing in different geographic locations may constitute discrimination.

The European Court has held that a difference in treatment violates Article 14 of the ECHR, when it is established that others in a similar situation enjoy preferential treatment and there is no reasonable or objective justification for this distinction.¹⁵⁴ The Court has also recognized the need to take due account of minority identities:

"The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different."¹⁵⁵

The Council of Europe Framework Convention for the Protection of National Minorities (FCNM), to which the Czech Republic is a party, prohibits any discrimination against those who belong to a national minority (Article 4).¹⁵⁶ State parties to the Convention, including the Czech Republic, are required to "adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority," taking due account of the specific conditions of the people belonging to national minorities.

A legal prohibition of discrimination is therefore inadequate. Under this requirement, state parties should identify and address factors which prevent Roma children from accessing education. This is also reflected in the ICERD, which requires state parties not only to prohibit discrimination, but to take steps to progressively eliminate racial discrimination in all its forms, including in respect of "the right to education and training."

The UN Committee on the Elimination of Racial Discrimination (CERD) has recommended that states parties to the ICERD take measures “to support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities.”

The CERD also recommended:

“To prevent and avoid as much as possible the segregation of Roma students, while keeping open the possibility for bilingual or mother-tongue tuition; to this end, to endeavour to raise the quality of education in all schools and the level of achievement in schools by the minority community, to recruit school personnel from among members of Roma communities and to promote intercultural education.”¹⁵⁷

The famous principle stated by the US Supreme Court that “separate education facilities are inherently unequal”¹⁵⁸ is reflected in human rights law in the UN Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education which defines discrimination as:

“any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- Of depriving any person or group of persons of access to education of any type or at any level;
- Of limiting any person or group of persons to education of an inferior standard;
- Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.”

The UNESCO Convention also requires state parties to develop and apply a national policy to promote equality of opportunity and treatment in education.

7.3 ACCEPTABILITY

Education can play a key role in the realization of a range of other human rights, including the right to work and the achievement of equality for members of previously marginalized groups. However, in order to fulfil this role, all the activities which take place in the name of education have to conform to human rights standards. Firstly, everyone has a right to an education from which they can benefit. Secondly, no one, through direct or indirect discrimination on the basis of their ethnicity should be relegated to an inferior education. Finally, according to the UDHR, the ICESCR and the CRC, the content of education must comply with human rights standards. The aims of education as protected in these and other instruments require, among other elements, that education should promote understanding among all ethnic groups, as well as national, racial and religious groups, and should be

culturally appropriate in both its form and substance, including curriculums and teaching methods. It should be directed towards developing respect for the child's cultural identity, language and values. This requires that states review educational curriculums, content, and methods to ensure that they respect the rights of the whole population, including those belonging to minorities.

7.4 ADAPTABILITY

Primary education should be compulsory, and it is in the best interests of the child to ensure that he or she attends. A founding principle of the CRC is that the "best interests of the child" shall be a primary consideration in all matters concerning children, including education. The duty of the state to take steps to encourage attendance and reduce dropout rates in education, must include the duty to ensure that education which is available respects the rights of the child, including the rights of the child as a member of a minority. According to Article 2(2) of the ICERD, states must, where warranted, adopt special measures "to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms." This is also reflected in the FCNM, according to which states should "adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority," including to promote access to education at all levels for people belonging to minorities.¹⁵⁹

Ensuring the educational rights of people belonging to minorities means working with those communities to identify measures that enhance the children's access and benefit from education. Such steps may include pre-school classes to ease access to primary education, outreach to communities to promote attendance at education, tutorial support in school to facilitate learning together with other children, and other measures which could be identified through the genuine participation of Romani communities.

7.5 EUROPEAN UNION STANDARDS

In the last decade, the EU has progressed in promoting children's rights, notably in what concerns protection against poverty, social exclusion and discrimination.

With the adoption of the Treaty of Amsterdam in 1999, a mandate was created at EU level to combat discrimination. According to Article 13 of the European Community (EC) Treaty, the Council can adopt by unanimity EC legislation proposed by the European Commission after consultation with the European Parliament. This Article 13 also allows for the adoption of "incentive measures" by qualified majority in the Council. Two legislative acts (EU directives) of European law were subsequently adopted in 2000, on equality with regard to race and employment.¹⁶⁰

The Race Equality Directive (2000/43/EC) tackles discrimination on the grounds of racial or ethnic origin in the fields of employment, vocational training, membership of employer or employee organizations, social protection including social security and health care, education, and access to goods and services including housing. The Employment Equality Directive (2000/78/EC) bans discrimination in respect of employment and training on grounds of religion or belief, disability, age and sexual orientation.

The Race Equality Directive prohibits direct discrimination, as well as indirect discrimination, “where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” (Article 2), including in relation to education (Article 3). Under this directive, Member States are required to designate a specialized Equality Body to provide assistance to victims and to issue reports and recommendations.

In addition to legislation, the Council of the EU established a Community Action Programme to combat discrimination (2001-2006) by Council decision 2000/750/EC of 27 November 2000.¹⁶¹ This programme has funded the development of a network of existing and new Equality Bodies and the promotion of exchanges of experience and good practice between these bodies.

The Czech Republic transposed the Race Equality Directive into its legislation in its Anti-Discrimination Act, adopted in June 2009, which significantly strengthened the existing national legal framework. The Anti-Discrimination Act came into effect on 1 September 2009. There are, however, lingering criticisms of the legislation. The main concern stems from potential deficiencies in the robustness of the law.

The EU's non-discrimination principle was reaffirmed in the Charter of Fundamental Rights, December 2000, setting out the general principle of equality before the law (Article 20) and dealing with the principle of non-discrimination (Article 21) by extending its prohibition to include discrimination on grounds of social origin, genetic features, language, political or other opinion, membership of a national minority, property and birth. In particular, children's rights are specifically addressed in Article 24.

8. CONCLUSION AND RECOMMENDATIONS

“The thing is that we’re a very homogenous society and we’re not prepared to work with those who are different in a way that would enable them to succeed. There are laws about respect for diversity but in practice it’s different.”

Director of Institute for Pedagogic Research, February 2009

As this report has shown, five years after the change in educational legislation and two years after the European Court’s judgement in the case of *D.H. and others v. the Czech Republic*, the effective segregation of Romani children in schools or classes that provide an inferior education largely continues.

Following a discriminatory assessment process (and sometimes without any assessment) Romani children are regularly segregated in schools and classes for pupils with “mild mental disabilities”, where they receive an inferior education based on a limited curriculum. Even when children remain within mainstream elementary schools and classes they frequently receive a limited education due to teachers’ prejudice and limited expectations. Mainstream elementary schools are often either unable or unwilling to provide adequate support in order to facilitate the full inclusion of Romani children within the mainstream education system.

Despite recent acknowledgment by the Czech government of the inequalities experienced by Romani children in education, recent initiatives taken by the government to address this situation have been ineffective, and the underlying causes of violations in accessing the right to education for Romani children have not been consistently tackled. The continued failure to ensure the right of Romani children to education also denies them the capacity to exercise the full range of their human rights.

In order to effectively implement the European Court judgment, and to ensure respect of the rights of Romani children to education without discrimination, the Czech government must take measures to desegregate education and achieve equality in the realization of the right to education. The placement of children in practical elementary schools or classes designed for pupils with “mild mental disabilities”, simply because they are Roma or because they are socially disadvantaged, must end. Adequate support measures must be put in place within

the mainstream education system to fully support a process of desegregation. The bulk of interventions to improve quality of education must be made in inclusive environments, where Romani children study together with the majority and other minority populations; in environments which are culturally and linguistically adapted to support their inclusion, and where teachers and other education professionals are sufficiently trained to facilitate inclusion of all children irrespective of ethnic background or ability. Special measures which aim at supporting and improving educational achievements of Romani children should be directed to reducing segregation and inequality, and should focus on supporting inclusion and adaptation of mainstream education.

RECOMMENDATIONS

The Czech government should explicitly and decisively tackle segregation in education of Romani children, and Amnesty International believes that the recommendations below, if implemented, would aid significant progress towards that objective. However, the authorities should also ensure that such actions are taken within a context of providing adequate support for Romani pupils to enter and remain within the mainstream elementary school system, in order to address the inherent discrimination of the Czech education system. Measures to provide such support are recommended below, and include free pre-school education in integrated kindergartens for children from socially disadvantaged background and provision of free transport for Romani children to pre-school classes to aid integration into mainstream education; preparatory classes and teaching assistants in all mainstream elementary schools, especially in areas where there are a high number of practical elementary schools to assist children in adapting to the higher demands of the mainstream elementary school curriculum; reduction in the number of pupils per class in these schools; and funding specific measures to encourage attendance by children from socially disadvantaged backgrounds, such as the provision of subsidized meals and school material). In all steps the authorities should continue the process of consultation, including with representatives of the Romani community.

Particularly, measures taken by the authorities should address the following areas:

Segregation: The Czech government, in particular the Ministry of Education, should immediately make and widely publicize a clear and unequivocal political commitment to eradicate and reverse segregation in education. This commitment should be the guiding principle in all education policies impacting on Romani people. Specifically, it should:

- Enact in national legislation, including through the amendment of the Schools Act and the Anti-Discrimination Act, an enforceable duty to desegregate education, and declare publicly that it is a goal of the Czech government to achieve desegregation of its school system by 2015;
- Formulate and adopt a comprehensive plan with clear and ambitious yearly targets to eliminate school segregation of Romani children;
- Review the discriminatory impact of the apparently neutral provision in the law which allows freedom of parental choice of school, with a view to taking concrete, targeted and effective steps to combating any increase in racial segregation in practice; concrete and appropriate measures, such as bussing, quotas or others, should be considered;

- Ensure the implementation of such an agreed plan of action using the maximum of available resources.

Placements: The Czech government, in particular the Ministry of Education, should adopt a moratorium on placements of children in schools and classes for pupils with “mild mental disabilities” and undertake a comprehensive review of the system to ensure compliance with international and regional standards on education and non-discrimination and at all times ensuring the best interests of the child. Specifically, it should:

- Adopt and enforce a moratorium on the placement of children into schools (practical elementary schools) and classes teaching according to the Annex of the Framework Education Programme for Elementary Education, specifying the education of pupils with “mild mental disabilities” for the school year 2010/11 pending a comprehensive review of the schooling system to assess the need for such a curriculum and this category of schools and to address the lack of safeguards against discrimination in the existing system of placement and assessments; in the meanwhile the authorities must provide all the necessary resources to ensure that additional support is made immediately available for children who need it in order to effectively participate in and develop to their fullest potential within the mainstream elementary school system;
- Distribute clear communication to all directors of both practical and mainstream elementary schools, explaining the purpose of the moratorium, clarifying that additional support measures are to be immediately put in place for pupils who need support, and expressing the Ministry’s commitment to support such initiatives by schools;
- Review the Annex of the Framework Education Programme for Elementary Education, specifying the education of pupils with “mild mental disabilities” to assess the need for such a curriculum and whether it complies with international standards for the education of children with special educational needs;
- Review the criteria for placement of children in practical elementary schools or classes in mainstream elementary schools intended for pupils with “mild mental disabilities”, which continue to result in the placement of a disproportionately high number of Romani children in such schools and classes. The process of assessment and placement should contain adequate safeguards to ensure that all placement decisions are made on reasonable and objective criteria related to international standards for the education of children with special educational needs and do not discriminate against Romani children because of linguistic or cultural differences or social or economic status;
- Review all placement decisions and reassess all children currently attending practical elementary schools and classes intended for pupils with “mild mental disabilities” in mainstream elementary schools, in order to identify pupils who may have been placed there erroneously. Based on clear and ambitious yearly targets, ensure their reintegration in the mainstream elementary school as a matter of priority and adopt special measures to facilitate and support children and their parents during the transition process;
- Adopt special measures to support the integration of children into mainstream elementary schools in areas where there are a high number of practical elementary schools. These measures should, as appropriate, include offering preparatory classes, employing

teaching assistants in mainstream elementary schools, reducing the number of pupils per class in these schools, and other measures to support Romani parents to facilitate the transition of Romani pupils into mainstream education and assist children in adapting to the higher demands of mainstream elementary school curriculum;

- Design a system of incentives for mainstream elementary schools that accept children from practical elementary schools, in order to facilitate the transfer of children from practical to mainstream elementary schools;
- Amend the Schools Act and relevant Decrees to include a clear and objective definition of the category of children from “socially disadvantaged backgrounds”. The term should be used only to identify children for temporary special measures to support the full realisation of their right to education. In no circumstances should this criterion result in a child being treated automatically as a child with a “mild mental disability” and placed in separate schools and/or classes intended for children with disabilities; Prohibit the enrolment of children without mental disabilities in schools and classes designed for children with mental disabilities;
- Repeal the provision in the law, and the practice of temporary enrolment (diagnostic stay) in practical elementary schools and classes for pupils with “mild mental disabilities”, for children whose test results are inconclusive, or who have not undergone any testing.

Monitoring and accountability

The Ministry of Education should:

- Through the Institute for Information in Education systematically gather data disaggregated on the basis of gender and ethnicity, in relation to education, with due regard to European standards concerning the protection of personal data and the right to self-identification, in order to monitor and ensure that there is no segregation in education in practice. Data should be collected on school enrolment (including type of school), attendance, drop-outs, class repetition, and other fields; monitor closely the ethnic composition of classes in schools to ensure that there is no racial segregation;
- Ensure that Schools Advisory Centres are inspected and monitored in line with official requirements.

The Czech government, in particular the Ministry of Justice and the Minister for Human Rights should:

- In cooperation with the Ministry of Education, ensure that the Office of the Public Defender of Rights is adequately resourced, to monitor the desegregation of schools and integration of children from practical elementary schools into mainstream elementary schools, with the powers to carry out inspections of schools, check school and assessment records, receive information and investigate complaints about discrimination against children in education on prohibited grounds of discrimination and on enrolment of children without mental disabilities in schools and classes designed for children with mental disabilities. In addition make sure that it has the mandate to make recommendations to local, regional and educational authorities on corrective measures, and can initiate legal and/or disciplinary action;

- In cooperation with the Ministry of Education, ensure that effective remedies are established and are accessible to parents and others to complain about the discriminatory/inappropriate placement of a child in a school or class;
- Ratify and implement Protocol No.12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which contains a general prohibition of discrimination in the enjoyment of any right in law (Article 1);
- Ratify the Additional Protocol to the European Social Charter providing for a system of collective complaints, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which would enable complaints about violations of the Covenant to be submitted to the Committee on Economic, Social and Cultural Rights.

The Ministry of Education, in cooperation with the Ministry of Labour and Social Affairs, as appropriate, should adopt and implement additional support measures aimed at inclusive education

- Systematically roll out special measures everywhere they are needed, and within the context that they should be designed to pursue the objective of inclusive mainstream equal education, which adapts to the needs of the pupil, including linguistically and culturally;
- Consider making available to all children from socially disadvantaged backgrounds, including Romani children, two years of free pre-school education in integrated kindergartens in mainstream elementary schools;
- Assist Romani parents in sending their children to pre-school education, including by the provision of free transport, to improve the children's integration in mainstream elementary schools and to their school performance;
- Make compulsory in the Schools Act the provisions of preparatory classes and teaching assistants in all districts which currently have a high number of practical elementary schools and in other areas in which there are significant numbers of children from socially disadvantaged backgrounds. These provisions should be primarily introduced in mainstream elementary schools, aiming at facilitating the transition of Romani pupils into mainstream education and assisting children in adapting to the higher demands of mainstream elementary school curriculum;
- Employ teaching assistants in all mainstream elementary schools as a general strategy to facilitate the transition of Romani pupils into mainstream elementary schools and assist children in adapting to the higher demands of mainstream elementary school curriculum;
- Amend the Schools Act and other relevant legislation to introduce separate normative funding for (mainstream elementary) schools to facilitate the integration of children from socially disadvantaged background into mainstream elementary schools, including through specific measures to encourage attendance (such as school material, subsidized meals).

Ensure the content and means of education are consistent with human rights legislation

In close consultation with Romani communities and organizations, the Ministry of Education should:

- Train teachers and other school staff, as well as specialists at the Schools Advisory Centres, in order to eliminate negative stereotypes and prejudices, with a particular focus on Roma, and aim to sensitize them to the need to combat racist harassment and bullying in schools. Monitor the subsequent use and implementation of training and training materials to evaluate their effectiveness;
- Without compromising the desegregation process, ensure that Romani culture, history and traditions, and information about the contributions Roma have made to society, are included in the formal school curriculum, and that teaching materials become available in Romani language;
- Provide training to teachers and other staff working in elementary schools, especially those working with significant numbers of Romani pupils, on Romani culture, history, traditions and language and train teachers on the importance of using intercultural education;
- Ensure the genuine participation of members of the Romani community on all aspects of educational policy relating to the inclusion of Roma;
- Recruit teaching staff from a Romani background at all levels and ensure that they are not subjected to racial discrimination in the school system.

Develop outreach programmes to provide more information to support informed consent and to raise awareness among Romani parents

- Develop outreach programmes targeting Romani parents, providing accurate information in an accessible manner, in order to raise awareness about the choice of schools, the implications of placement in a practical elementary school and/or a class intended for pupils with “mild mental disabilities” and the benefits of education in a mainstream elementary school;
- Improve contact with parents and children from the first months, in order to raise awareness about the importance and methods of education, including through book schemes, play schemes and outreach to new parents.

Recommendations to the European Union

- Pay particular attention to direct and indirect discrimination on the basis of ethnic origin in the field of education when monitoring by the European Commission of the transposition and implementation of the anti-discrimination directives into national Czech legislation;
- Monitor closely the issue of discrimination of Roma in education, following on from the European Court judgement in the case of *D.H. and others v. the Czech Republic* and subsequent recommendations, through the relevant bodies;
- Encourage the Czech Republic to address Roma as a target group for the purposes of their National Action Plan on Social Inclusion, Lifelong Learning, Employment and other relevant policy frameworks through a comprehensive rights-based approach;

- Adopt an integrated EU policy on Roma to make efficient use of available legal, financial and policy tools. Such a policy will require the development of an EU framework strategy on Roma inclusion, which would be a co-ordination instrument providing coherence and complementarity in policies, initiatives and funding. It would also offer EU member states guiding principles and exchange of best practices;
- Ensure that the use of EU funds does not lead to racial segregation in the fields of education, housing and health-care;
- Actively promote the participation of Roma in policy-making, implementation and assessment, and encourage the use of EU instruments to raise awareness of the situation of Roma in society;
- Consider the adoption of EU measures ensuring the elimination in practice of racial discrimination in the fields of education, housing and health care;
- Consider the regular allocation of a specific training budget to provide information on EU policies and the EU structures and working methods to the Roma and other minority representatives.

GLOSSARY OF TERMS

Remedial special school (Zvláštní škola): school for pupils with “mild mental disabilities” according to the Schools Act 1984 – repealed by the Schools Act, which came into effect in 2005 which formally abolished this category of schools; schools for pupils with “mild mental disabilities” are instead known as “practical” elementary schools (Základní škola praktická).

Auxiliary school (pomocná škola): school for pupils with moderate, heavy or severe disabilities according to the Schools Act 1984 – repealed by the Schools Act, which came into effect in 2005, which renamed them “special elementary schools” (základní škola speciální).

Framework Education Programme: curricular documents at the state level which establish the standards for the individual stages of education; they are binding for the creation of school educational programmes.

Framework Education Programme for Elementary Education: curricular document at the state level, which establishes the standards for the general framework of elementary education. It has an Annex specifying the education of pupils with “mild mental disabilities”.

Framework Education Programme for Elementary Education – Annex specifying the education of pupils with “mild mental disabilities”: Annex to the Framework Education Programme for Elementary Education adapted to the needs and educational abilities of pupils with “mild mental disabilities”.

Mental disability: The Framework Educational Programme for Elementary Schools gives the following definition: “mental disability (mental retardation): lowered cognitive abilities resulting from physical damage to the brain or insufficient mental functions and expressed through a lower level of cognitive processes, different development of certain mental functions and lower social adaptability; the individual symptoms depend on the depth and extent of the mental disability, the level to which individual functions have been affected and the level of mental development; the World Health Organization (WHO) divides mental retardation (disability) into six basic categories:

mild mental retardation – mental disability (IQ 50 – 69); lowered cognitive abilities as a result of physical brain damage; although such individuals are characterized by a lower level of mental development, the great majority achieves complete independence in personal care and in practical household skills

moderate mental retardation – mental disability (IQ 35 – 49); basic reading, writing and counting skills; as adults, such individuals are usually capable of performing simple supervised work, some are capable of simple conversations; their mental disability is usually accompanied by additional related disabilities such as neurological illness, epilepsy, physical disabilities and →*autism*

severe mental retardation – mental disability (IQ 20 – 34) – a large number of such individuals suffers from motor skill disorders and other disabilities related to the damage to their central nervous system; such individuals’ educational possibilities are quite limited, and they currently receive education through the Rehabilitation Education Programme for Assisted Learning Schools.”

162

Elementary school (základní škola): prior to the new Schools Act, which came into effect in 2005 this term referred to mainstream elementary schools only; the new Schools Act encompasses under this category both mainstream elementary schools and elementary schools intended for pupils with “mild mental disabilities” (also known as “practical elementary schools”).

Mainstream elementary school (běžná základní škola): For the purposes of this report the term is used to refer to elementary schools, after the new Schools Act came into effect in 2005, teaching according to the Framework Educational Programme for Elementary Schools.

Practical elementary school (základní škola praktická): after the entry into force of the new Schools Act in 2005, this is a school for pupils with “mild mental disabilities.” However the attribute “practical” is not always included in the official name of the school. Pupils are taught according to the Annex of the Framework Education Programme for Elementary Education specifying the education of pupils with “mild mental disabilities”.

Special elementary school (základní škola speciální) : after the entry into force of the Schools Act in 2005, this is a school for pupils with moderate or severe mental disabilities (former auxiliary school). Students are taught according to a Framework Education Programme for Special Elementary Schools.

Compulsory education: compulsory education lasts for nine years between the ages of six and 15, usually in elementary schools. It includes the first stage of elementary education (grades one to five) from the ages of six to 11, followed by the second stage of elementary education (grades six to nine) from the ages of 12 to 15 in elementary schools, or by transfer to lower secondary level at secondary high schools (gymnázia) at grade six or eight.

Secondary schools / secondary education: The types of secondary schools are:

- secondary vocational schools (střední odborná učiliště);
- secondary technical schools (střední odborné školy);
- grammar schools (gymnázia)

After two or three years of secondary vocational school, a student can complete secondary education with a vocational certificate (výuční list). After finishing a grammar school or a secondary technical school, a student completes secondary education with a high school leaving certificate, after passing a school leaving examination (maturita). The last two types of schools prepare students for university and other types of tertiary education.

Pupil with special educational needs: this is term used by the new Schools Act, to refer to pupils with: a) a health disability, b) a health disadvantage, or c) social disadvantage.

Health disability: for the purposes of the new Schools Act this is any mental, physical, visual, or auditory impairment or speech defect, or combination thereof, autism, or any learning or behavioural developmental disability.

Health disadvantage: for the purposes of the new Schools Act this is any serious health defect, long-term disease or modest health defect, resulting in problems in learning and behaviour, which must be taken into account in education.

Social disadvantage: the new Schools Act defines this as “a family environment with a low social and cultural status, threatened by pathological social phenomena.”

Socio-culturally disadvantaged background: according to the Government Concept *on Early Care for Children from Socio-Culturally Disadvantaged Backgrounds in the Area of Education* this is described as “The social and cultural environment that impedes the child’s involvement in the mainstream of education.” On page 4, the Concept lists children from this environment as including those “whose family does not support them in school activities and preparation for school; the family’s relationship to education is indifferent or even negative; the family does not provide enough of the child’s material needs, lives on the fringe of society or is cast out from society; the child’s family is governed by a cultural framework that is different or in conflict with the cultural framework of Czech society; a language other than the language of instruction is used within the family, or this language is used incorrectly (e.g. the Roma ethnic dialect of Czech or Slovak) or is on the level of slang, or the quality of verbal communication itself is weak within the family. If the environment the child is raised in has any of these characteristics, we can also speak about socio-culturally disadvantaged environment.”

School Advisory Centres: state bodies responsible for assessments in order to identify the existence of special educational needs with the aid of an educational or psychological examination. There are two types of School Advisory Centres: the Pedagogical-Psychological Counselling Centre (Pedagogicko-psychologická poradna) and Special Pedagogical Centre (Speciální pedagogické centrum).

Pedagogical-Psychological Counselling Centres: state bodies responsible for conducting pedagogical-psychological examinations of identified pupils, and recommending education plans for children with learning difficulties.

Special Pedagogic Centres: state bodies in charge of assessing and recommending appropriate educational strategies and actions for pupils with health disabilities.

ENDNOTES

1 See at UN level, concluding observations on the Czech Republic by the Committee on the Rights of the Child (CRC), the Committee on the Elimination of Racial Discrimination (CERD), the Human Rights Committee (HRC), and the Committee on Economic, Social and Cultural Rights (CESCR), and the adopted outcome of the Universal Periodic Review by the Human Rights Council. See at regional level, reports and comments on the Czech Republic by the Advisory Committee on the Framework Convention for the Protection of National Minorities (Advisory Committee of FCNM) and the European Commission against Racism and Intolerance (ECRI) of the Council of Europe; the regional reports on Roma from the Commissioner for Human Rights of the Council of Europe and the European Monitoring Centre on Racism and Xenophobia (EUMC) and its successor, the Fundamental Rights Agency. See also the reports among others from the human rights non-governmental organizations (NGOs) European Roma Rights Centre (ERRC), Roma Education Fund (REF), League of Human Rights, Zšvůle Práva, Open Society Institute.

2 Zvláštní škola, translated throughout the report as “remedial special school”

3 European Court of Human Rights Grand Chamber Judgment in the case of *D.H. and others v. the Czech Republic* (Application no. 57325/00), November 2007 (hereafter European Court of Human Rights, Grand Chamber Judgment in the case of *D.H. and others v. the Czech Republic*)

-
- 4 Report of the Government of the Czech Republic on general measures related to the execution of the judgment of the European Court of Human Rights in case no. 57325/00 – *D.H. and Others v. the Czech Republic*, February 2009 p. 1
- 5 ERRC and REF, Persistent segregation of Roma in the Czech education system (pre-publication draft), 2008, p. 25, available at <http://www.errc.org/cikk.php?cikk=2986>, last accessed 1 November 2009
- 6 In addition to the present report, see in particular, ERRC, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia, 2004 (hereafter ERRC, *Stigmata*, 2004); ERRC, *The Impact of Legislation and Policies on School Segregation of Romani Children: A Study of Anti-Discrimination Law and Government Measures to Eliminate Segregation in Education in Bulgaria, Czech Republic, Hungary, Romania and Slovakia*, February 2007 (hereafter ERRC, *The Impact of Legislation and Policies on School Segregation of Romani Children*, 2007); REF, *Advancing education of Roma in the Czech Republic: Country Assessment and the Roma Education Fund's Strategic Directions*, 2007 (hereafter REF, *Advancing education of Roma in the Czech Republic*, 2007) http://www.romaeducationfund.hu/publications/index.php?RomaEduF_ufcf11b40a334bfa0f7b3c3d743a4eae&menu_grp=4&id=31 last accessed 1 November 2009; ERRC and REF, *Persistent segregation of Roma in the Czech education system*, 2008.
- 7 Czech Statistics Institute, last accessed <http://www.czso.cz/sldb/sldb2001.nsf/tabx/CZ0000>
- 8 CoE Committee on Legal Affairs and Human Rights, *The situation of Roma in Europe and relevant activities of the Council of Europe*, 2008, http://assembly.coe.int/CommitteeDocs/2008/20080903_ajdoc29_2008rev.pdf, last accessed 1 November 2009
- 9 EUroma, European Network on Social Inclusion and Roma under the Structural Funds, 2009, available at <http://www.euromanet.eu/facts/cz>, last accessed on 1 November 2009
- 10 Government of the Czech Republic, 2006, <http://www.vlada.cz/scripts/detail.php?id=16149> last accessed 30 August 2009
- 11 Gabal Analysis & Consulting, *Analysis of Socially Excluded Roma Localities and the Absorption Capacity of Subjects Operating in the Field*, 2006 (hereafter GAC, *Analysis of Socially Excluded Roma Localities*, 2006), p.17, available at: http://www.gac.cz/html/index.php?action=show_content&content_id=43&lang=en, last accessed on 1 November 2009
- 12 See a report prepared jointly by the Government of the Czech Republic and the World Bank, *Czech Republic: Improving Employment Chances of the Roma*, Report no. 46120 CZ, 2008, p. 8
- 13 *Ibid.*, p.8
- 14 ERRC, *Written Comments of the European Roma Rights Centre Concerning the Czech Republic for Consideration by the United Nations Committee on Economic, Social and Cultural Rights at its 28th Session, 29 April – 17 May, 2002*, p. 2, last accessed on 1 November 2009, available at <http://www.errc.org/cikk.php?cikk=2138>
- 15 Poláčková L., *A Concise Guide for a Romany Advisor to Ostrava*, 2004, p. 2
- 16 Czech Statistics Institute, available at <http://www.czso.cz/sldb/sldb2001.nsf/obce/554821>, last accessed 1 November 2009
- 17 Czech Statistics Institute, available at <http://www.czso.cz/sldb/sldb2001.nsf/tabx/CZ0810>, last accessed 1 November 2009
- 18 See Extracts from Amnesty International Annual Reports 2005-2009, available at www.amnesty.org/
- 19 General Comment No. 18: Non-discrimination, Thirty-seventh session (1989), Para 7.
- 20 General Comment No. 18: Non-discrimination, Thirty-seventh session (1989), Para 13.
- 21 Abdulaziz, Cabales and Balkandali v. the United Kingdom, judgment of 28 May 1985, Series A, No. 94, paragraph 72.
- 22 See, for instance, the definitions of direct and indirect racial discrimination in ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
- 23 See, for instance, Article 2(2)(b) of EU Directive 2000/78 on establishing a general framework for equal treatment in

employment and occupation.

24 In General Recommendation 14, the CERD explained that: "In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin." This approach is also followed by other human rights bodies.

25 The provisions for different types of special schools were further stipulated in Government Decree No. 127/1997 Coll., on Special Schools, at <http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=1997&typeLaw=zakon&what=Rok&stranka=8>

26 The Schools Act 1984 (Law no. 29/1984 – since repealed by Law no. 561/2004, which came into force on 1 January 2005)

27 European Court of Human Rights Grand Chamber Judgment in the case of *D.H. and others v. the Czech Republic*, para. 16

28 Ibid, para. 25

29 ERRC, A special remedy, Roma and schools for the mentally handicapped in the Czech Republic, Country report series No. 8, 1999 (hereafter ERRC, A special remedy, 1999), p. 37

30 World Bank, *Czech Republic: Improving Employment Chances of the Roma*, 2008, p. 8

31 ERRC, A special remedy, 1999, p. 24-25

32 European Court of Human Rights Chamber Judgment, Case of *D.H. and others v. the Czech Republic* (Application no. 57325/00), 7 February 2006, citing the report submitted by the Czech Republic pursuant to Article 25 § 1 of the Framework Convention for the Protection of National Minorities on 1 April 1999

33 European Court of Human Rights Grand Chamber Judgment, Case of *D.H. and others v. the Czech Republic*, para. 175

34 James Goldston, "The role of European anti-discrimination law in combating school segregation: the path forward after Ostrava", speech during conference on "Roma and equal access to education: from segregation to integrated schooling", Brussels, 28 April 2006, p. 4, http://www.enar-eu.org/Page_Generale.asp?DocID=16034&langue=EN, accessed 1 August 2009

35 European Court of Human Rights Grand Chamber Judgment, Case of *D.H. and others v. the Czech Republic*, para. 203

36 Ibid, para. 217

37 Kateřina Hrubá, "The reaction of Relevant Czech State Authorities to the European Court of Human Rights Judgement in the Case D.H. and Others v. the Czech Republic" in Roma Rights – Journal of the European Roma Rights Centre, No. 1, 2008

38 See for example the Memorandum concerning the implementation and state of general measures in the judgment *D.H. and others v. the Czech Republic* (Application no. 57325/00), submitted to the Committee of Ministers by the European Roma Rights Centre, the Roma Education Fund, the Open Society Justice Initiative, and the Open Society Institute's Educational Support Program and Early Childhood Program. Available online at <http://www.errc.org/cikk.php?cikk=2987> (last accessed 1 November 2009) as "Communication on General Measures Needed for the Implementation of *D.H. and Others v. the Czech Republic*", Roma Rights Quarterly, Issue 1:2008, pp. 7-23

39 Law No. 561/2004 Coll., on preschool, primary, middle, higher technical and other education

40 Ibid, Section 185 (3), "Remedial special schools under the current legal regulations will be elementary schools hereunder." However, there is no guidance in the Schools Act, or its implementing guidelines, describing how this transformation actually means or how any changes should be undertaken.

41 Kateřina Hrubá, *Zřvůle Práva*, The dubious potential of the Czech 'school reform' to really influence the Czech elementary education system in relation to the position of Romani children, 2007, p. 4 available at: http://www.zvuleprava.cz/?page_id=14, last accessed 1 November 2009

42 The former "auxiliary schools" (pomocné školy), established for pupils with heavy or severe mental disabilities, were renamed

as “special elementary schools” (základní školy speciální)

43 A FEP for special elementary schools forms the basis for the education of pupils with moderate, heavy or severe health disabilities

44 At the end of secondary education, students can complete their schooling by taking the general school leaving examination, or maturita, after four years, or a vocational certificate (výuční list) after three years. 44 The latter can be complemented by follow-up courses, which allows them to complete their education with maturita and progress to tertiary education at university.

45 “I will make it” (“Zvládnú to”), Respekt Nr. 49/2007, 2 December 2007, available at: <http://respekt.ihned.cz/c1-36316770-zvladnu-to>, last accessed 1 November 2009

46 See media report “Court says Czechs discriminated against gypsies” available at: <http://www.iavno.com/en/world/clanak.php?id=97937> last accessed 1 November 2009

47 Letter by the Minister of Education of 6 August 2009 to members of Amnesty International, referring to findings of research commissioned by the Ministry of Education and published by People in Need and Gabal Analysis & Consulting respectively

48 Gabal Analysis & Consulting, The Representative Measurement of Educational Disparities of Roma Pupils in Elementary Schools in Roma Neighbourhoods in the Czech Republic (Vzdělanostní dráhy a vzdělanostní šance romských žáků a žáků základní škol v okolí vyloučených romských lokalit), 2009 (hereafter GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009), p. 24 available at: http://www.gac.cz/html/index.php?action=show_content&content_id=43&lang=cs, last accessed 1 November 2009

49 ERRC and REF, Persistent segregation of Roma in the Czech education system, 2008, p. 25

50 Interview with director of School I, February 2009

51 Ibid.

52 Interview with Director of the Insitute for Pedagogic Research (VUP), February 2009

53 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 20

54 Interview with Director of the Insitute for Pedagogic Research (VUP), February 2009

55 See REF, Advancing Education of Roma, in the Czech Republic. 2007, p. 38, and ERRC, The Impact of Legislation and Policies on School Segregation of Romani Children 2007, p. 43.

56 Law No. 561/2004 Coll., on preschool, primary, middle, higher technical and other education, Section 16 (1). “Health disability” for the purposes of the Schools Act is any mental, physical, visual, or auditory impairment or speech defect, or combination thereof, autism, or any learning or behavioural developmental disability. “Health disadvantage” for the purposes of the Schools Act is any serious health defect, long-term disease or modest health defect, resulting in problems in learning and behaviour which must be taken into account in education.

57 Ministry of Education, Concept on Early Care for Children from Socio-Culturally Disadvantaged Backgrounds in the Area of Education, 2005 (hereafter Ministry of Education, Concept on Early Care, 2005), available at <http://www.msmt.cz/vzdelavani/koncepce-vcasne-pece-o-deti-ze-sociokulturne-znevychodujiciho-prostredi-1>, last accessed on 1 November 2009. The Concept defines as “socio-culturally disadvantaged background” [...] “[t]he social and cultural environment that impedes the child’s involvement in the mainstream of education.” (p.1) As children from such environment are listed those “whose family does not support them in school activities and preparation for school; the family’s relationship to education is indifferent or even negative; the family does not provide enough of the child’s material needs, lives on the fringe of society or is cast out from society; the child’s family is governed by a cultural framework that is different or in conflict with the cultural framework of Czech society; a language other than the language of instruction is used within the family, or this language is used

incorrectly (e.g. the Roma ethnic dialect of Czech or Slovak) or is on the level of slang, or the quality of verbal communication itself is weak within the family. If the environment the child is raised in has any of these characteristics, we can also speak about socio-culturally disadvantaged environment.” (p. 4)

58 The Czech Schools Act provides that the enrolment of a pupil in compulsory education can be postponed for up to two years upon assessment, which will show that the child has not yet reached school maturity. The child can instead receive support in a nursery or in preparatory classes established for pupils who lack nursery experience.

59 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 31

60 Interview with Director of School I, February 2009

61 Kateřina Hrubá, Zřvůle Práva, The dubious potential of the Czech 'school reform' to really influence the Czech elementary education system in relation to the position of Romani children, 2007, p. 4; ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 29

62 League of Human Rights, Education of Romani children: Structural recommendations by the League of Human Rights No. 2, (Základní vzdělávání romských dětí: Systémové doporučení Ligy lidských práv č. 2) 2007 (hereafter League of Human Rights, Education of Romani children, 2007), p. 12, available at: <http://www.llp.cz/systemova-doporuceni/systemove-doporuceni-c-2-p2>, last accessed on 1 November 2009

63 European Court of Human Rights Grand Chamber Judgment, Case of *D.H. and others v. the Czech Republic*, para. 40

64 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 29; League of Human Rights, Education of Romani children, 2007, p. 12

65 Interview with the Director of Pedagogical-Psychological Counselling Centre in Ostrava, February 2009; Interview with the Director of Special Pedagogic Centre in Ostrava, April 2009.

66 Committee of the Elimination of Racial Discrimination, Seventieth session, 19 February – 9 March 2007. Concluding Observations of the Committee on the Elimination of Racial Discrimination. Czech Republic, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G07/417/12/PDF/G0741712.pdf?OpenElement>

67 ECRI, Report on the Czech Republic (Fourth monitoring cycle), Adopted 2 April 2009, Published 15 September 2009 (hereafter ECRI, Report on the Czech Republic, 2009), para. 80, p. 27

68 Names of children and parents used in this report have been changed to maintain anonymity

69 See also ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 13

70 Ministry of Education, Concept on Early Care, 2005, p. 1

71 Report of the Government of the Czech Republic on general measures related to the execution of the judgment of the European Court of Human Rights in case no. 57325/00 – *D.H. and Others v. the Czech Republic*, p. 6

72 Svoboda Z and Morvayová P, *Schola Excludus*, PF UJEP, Ústí nad Labem, 2009, in print

73 ECRI, Report on the Czech Republic (Fourth monitoring cycle), 2009, para. 84, p. 28

74 League of Human Rights, Education of Romani children, 2007, p. 11

75 Interview with Director of School P, February 2009

76 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 30

77 It includes mental, physical, visual or auditory disability, language deficiency concurrent with more deficiencies, autism and development deficiency in learning or behaviour

- 78 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, 2008, p. 20
- 79 Ibid, pp. 31-32
- 80 ECRI Report on the Czech Republic (Fourth monitoring cycle), 2009, para. 85, p. 28
- 81 Ibid, para. 81, p. 27
- 82 Document provided to Amnesty International by the Director of the School I "List of offered courses for the school year 2009/2010" ("Nabídka učebních oborů pro školní rok 2009/2010")
- 83 Interview with Director of the Institute for Pedagogic Research (VUP), February 2009
- 84 ECRI, Report on the Czech Republic (Fourth monitoring cycle), 2009, p. 29, para. 89
- 85 GAC, Analysis of socially excluded Roma localities, 2006, p. 55
- 86 Ibid, p. 51
- 87 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 41
- 88 Quantitative data for the four schools were provided by the Institute for Information in Education. Estimates of the numbers of Romani children in each school were provided by the school's director.
- 89 Quantitative data for the four schools were provided by the Institute for Information in Education. Estimates of the numbers of Roma children in each school were provided by the school's director.
- 90 ECRI, Report on the Czech Republic (Fourth monitoring cycle), 2009, p. 29, para. 89
- 91 People in Need, Analysis of teacher's individual approach to pupils with special educational needs (*Analyza individuálního přístupu pedagogů k žákům se speciálními vzdělávacími potřebami*), 2009, p. 80 available at <http://www.msmt.cz/strukturalni-fondy/analiza-individualniho-pristupu-pedagogu-k-zakum-se>, last accessed 1 November 2009
- 92 League of Human Rights, Education of Romani children, 2007, p. 6.; and Interview with Director of NGO Jekhetane, February 2009
- 93 According to the Director of School P
- 94 According to the Director of School G
- 95 When Amnesty International delegates met with the Director of the School in February 2009, she provided an estimated number of 10 to 12 Romani children in the school. By April, during Amnesty International's second visits, schools had been asked by the Ministry of Education to provide estimates of the numbers of Romani pupils, in a more official manner. During this exercise the school authorities came up with a different figure, of 54 Romani pupils – the difference in the estimates may have resulted by the inclusion, later on, also of children, who had only one parent who was Roma, while the other was non-Roma. School authorities told Amnesty International that the conclusion was drawn by the physical appearance of the children/colour of their skin; by their last names; and by knowing the parents of the child.
- 96 Non-governmental organization Together-Jekhetane
- 97 ERRC, The Impact of Legislation and Policies on School Segregation of Roma Children, 2007, p. 40
- 98 REF, Advancing Education of Roma in the Czech Republic, 2007, p. 22
- 99 Ibid, p. 22
- 100 REF, Advancing Education of Roma in the Czech Republic, 2007, p. 33
- 101 Based on discussions with staff of the three mainstream elementary schools

- 102 EUMAP, Equal Access to Quality Education for Roma, Volume 2, 2007, p. 44
- 103 Ibid, p. 44
- 104 We are including here only the pupils in the mainstream classes, not the 56 pupils who study in special classes at School P
- 105 EUMAP, Equal access to quality education for Roma, International Overview, 2008, p. 37
- 106 Concluding observations of the Committee for the Elimination of Racial Discrimination, after examination of the Czech Republic's seventh periodic report, CERD/C/CZE/CO/7, 2007
- 107 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 69
- 108 CESCR, General Comment 13, para 57
- 109 CRC, Article 3 (1).
- 110 ICERD, Article 2 (1)(c).
- 111 GAC, Analysis of socially excluded Roma, 2006, p. 55
- 112 EUMAP, Equal access to quality education for Roma, International Overview, 2008, p. 42
- 113 League of Human Rights, Education of Romani children, 2007, p. 4
- 114 Wilson, D., Minority Rights in Education: Lessons for the European Union from Estonia, Latvia, Romania and the former Yugoslav Republic of Macedonia,, Right to Education Project, 2002, p. 7, citing Bush and Saltarelli, The Two Faces of Education in Ethnic Conflict, UNICEF Innocenti Insights, Florence, 2000
- 115 League of Human Rights, Education of Romani children, 2007, pp. 13-14
- 116 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 42
- 117 Ibid, pp. 33-34
- 118 Government of the Czech Republic, Czech Republic: The Government approach towards integration of Roma people, 2008, p. 7, available at: <http://www.vlada.cz/assets/clenove-vlady/ministri-pri-uradu-vlady/michael-kocab/news/roma-inclusion-strategy.pdf> last accessed on 1 November 2009
- 119 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 42
- 120 ERRC and REF, Persistent Segregation of Roma in the Czech Education System, p. 17, citing the Informative Centre for Youth, available at <http://www.icm.cz/y-cr-funguje-164-pripravnych-trid-pro-romske-deti-pribvva-jich>
- 121 Ibid, p. 16
- 122 ERRC, The Impact of Legislation and Policies on School Segregation of Roma Children, p. 53
- 123 Kateřina Hrubá, Zšvůle Práva, The dubious potential of the Czech 'school reform' to really influence the Czech elementary education system in relation to the position of Romani children, 2007, p. 8
- 124 Government of the Czech Republic, Concept for Roma Integration, 2005, p. 13
- 125 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 41
- 126 Schools Act - Act No. 561/2004 Coll. Section 171 (2)
- 127 ECRI, Report on the Czech Republic (Fourth monitoring cycle), 2009, para. 92, p. 30
- 128 Interview with Director, School P, February 2009
- 129 ECRI, Report on the Czech Republic (Fourth monitoring cycle), 2009, para. 92, p. 30

- 130 GAC, The Representative Measurement of Educational Disparities of Roma Pupils, 2009, p. 41
- 131 Report of the Government of the Czech Republic on general measures related to the execution of the judgment of the European Court of Human Rights in case no. 57325/00 – D.H. and Others v. the Czech Republic, February 2009 p. 5
- 132 Information received by Institute for Pedagogical Psychological Counselling in Prague, August 2009
- 133 Government Decree 73/2005 Coll. on the education of children, pupils and students with special educational needs, and of children, pupils and students who are exceptionally gifted
- 134 Report of the Government of the Czech Republic on general measures related to the execution of the judgment of the European Court of Human Rights in case no. 57325/00 – *D.H. and Others v. the Czech Republic*, 2009 p. 7
- 135 See Advisory Committee on the Framework Convention for the Protection of National Minorities, Comments of the Government of the Czech Republic on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Czech Republic, (GVT/COM/IN/OP/II(2005)002), received on 18 July 2005, para. 191.
- 136 Committee of the Elimination of Racial Discrimination, Seventieth session, 19 February – 9 March 2007. Concluding Observations of the Committee on the Elimination of Racial Discrimination. Czech Republic
- 137 Roma Education Fund, Advancing Education of Roma in the Czech Republic, 2007, p. 32.
- 138 See GAC, The Representative Measurement of Educational Disparities of Roma, 2009
- 139 Institute for Information in Education, Monitoring FEP, 2009, p. 2
- 140 The administration of schools has not changed since the formal abolition of special schools by the new Schools Act, former special schools, currently teaching according to the curriculum for pupils with “mild mental disabilities” continue to be funded and managed by Regional authorities, while ordinary elementary schools fall under the responsibility of municipalities
- 141 See also ERRC, The Impact of Legislation and Policies on School Segregation of Romani Children, 2007, p. 16
- 142 State School Inspectorate, Annual Report, Annex 3, Subjects of complaints and their legitimacy
- 143 Ibid. Annex 3
- 144 Interview with staff from State School Inspectorate, February 2009
- 145 Interview with office of the Government of Czech Republic for Roma Community Affairs, February 2007.
- 146 Equinet – European Network of Equality Bodies, “Czech Republic pass anti-discrimination legislation”, last accessed on 1 November 2009 at http://www.equineteurope.org/405_3.html
- 147 Race Equality Directive and the Employment Equality Directive.
- 148 Environmental Law Service, Human Rights League, and the Counselling Centre for Citizenship, Civil and Human Rights
- 149 Position of the Environmental Law Service, League of Human Rights, and the Counselling Centre for Citizenship, Civil and Human Rights on the draft of the Anti-Discrimination Act, July 2007
- 150 The Revised European Social Charter, to which the Czech Republic is not yet a party, recognizes in Article 17 that “With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organizations, to take all appropriate and necessary measures designed:[...] (2) to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.”
- 151 CESCR, The right to education. Article 13 of the Covenant. General Comment 13, E/C.12/1999/10, 8 December 1999, Para

57.

152 CESCR, General Comment 13, paras 51 and 57

153 CESCR, The right to education. Article 13 of the Covenant. General Comment 13, E/C.12/1999/10, 8 December 1999, Para 31.

154 European Court of Human Rights, The National & Provincial Building Society, the Leeds Permanent Building Society and the Yorkshire Building Society v. The United Kingdom, judgement of 23 October 1997, 117/1996/933-935, para. 88

155 European Court of Human Rights (Grand Chamber), Thlimmenos v. Greece (App. No 34369/97), judgement of 6 April 2000, paras 39-49.

156 The Czech Republic became party to the Convention on 18 December 1997.

157 CESCR, The right to education. Article 13 of the Covenant. General Comment 13, E/C.12/1999/10, 8 December 1999, Para 18

158 Brown v Board of Education of Topeka, judgment of 17 May 1954, 347 US 294

159 FCNM, Article 4(2), 12(3).

160 A directive is binding on the EU member states as to the result to be achieved but leaves them the choice of the form and method they adopt to realize the EU objectives within the framework of their internal legal order.

161 Published in the Official Journal of the European Communities L 303 of 2 December 2000

162 Framework Education Programme for Basic (elementary) Education available at <http://www.msmt.cz/vzdelavani/framework-education-programme-for-basic-education>, p. 132



WHETHER IN A HIGH-PROFILE
CONFLICT OR A FORGOTTEN
CORNER OF THE GLOBE,
AMNESTY INTERNATIONAL
CAMPAIGNS FOR JUSTICE, FREEDOM
AND DIGNITY FOR ALL AND SEEKS TO
GALVANIZE PUBLIC SUPPORT
TO BUILD A BETTER WORLD

WHAT CAN YOU DO?

Activists around the world have shown that it is possible to resist the dangerous forces that are undermining human rights. Be part of this movement. Combat those who peddle fear and hate.

- Join Amnesty International and become part of a worldwide movement campaigning for an end to human rights violations. Help us make a difference.
- Make a donation to support Amnesty International's work.

Together we can make our voices heard.

I am interested in receiving further information on becoming a member of Amnesty International

name

address

country

email

I wish to make a donation to Amnesty International (donations will be taken in UK£, US\$ or €)

amount

please debit my

Visa

Mastercard

number

expiry date

signature

www.amnesty.org

**I WANT
TO HELP**

Please return this form to the Amnesty International office in your country.
For Amnesty International offices worldwide: www.amnesty.org/en/worldwide-sites

If there is not an Amnesty International office in your country, please return this form to:
Amnesty International, International Secretariat, Peter Benenson House,
1 Easton Street, London WC1X 0DW, United Kingdom



INJUSTICE RENAMED

DISCRIMINATION IN EDUCATION OF ROMA PERSISTS IN THE CZECH REPUBLIC

Romani children still face discrimination at schools in the Czech Republic, and continue to be overrepresented in schools and classes for pupils with “mild mental disabilities”.

The Czech government has introduced some reforms in the education system. It has, for example, changed the name of these schools from “special schools”, with its accompanying stigma. But the children remain segregated, in what are now called “practical schools”, or into separate classes in mainstream schools. There, they are taught a less advanced curriculum and have very remote possibilities of integrating into mainstream schools or of advancing beyond compulsory education.

This report examines four schools in a Roma-populated area of Ostrava and demonstrates that discrimination against Roma continues. Amnesty International calls on the Czech government to take their schools reform much further. The education system should prioritize school desegregation and end the discriminatory placement of Romani children in “practical schools” and classes for pupils with “mild mental disabilities”. At the same time, the inherent discrimination in the Czech education system should be addressed by providing more support for Romani children to enter and remain in the mainstream elementary school system.

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

www.amnesty.org

Index: EUR 71/003/2009
January 2010

WWW.DEMANDDIGNITY.ORG

EDUCATION
IS A HUMAN RIGHT
AMNESTY
INTERNATIONAL

