

DEMAND DIGNITY

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STEPS TO END SEGREGATION IN EDUCATION

BRIEFING TO THE
GOVERNMENT OF SLOVAKIA

MAKE OUR
RIGHTS LAW

AMNESTY
INTERNATIONAL



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1. INTRODUCTION

Amnesty International has documented discrimination against and racial segregation of Romani children in education in Slovakia since 2006. Over the last five years Amnesty International has conducted its own in-depth research in various localities across Slovakia, as well as been monitoring the situation and developments through cooperation with non-governmental organizations working in several other localities.

In its 2007 report “Still Separate, Still Unequal: Violations of the right to education for Romani children in Slovakia” (Index: EUR 72/001/2007), Amnesty International provided an overview of the discrimination faced by Romani children in accessing and enjoying their right to education. The report highlighted segregation as one of the main obstacles, as large numbers of Romani children were being segregated in Roma-only schools and classes. Many Romani children were also being placed inappropriately in “special schools” for children with mental disabilities or special educational needs. Amnesty International documented that the criteria for placement of children in special schools were opaque and left significant scope for discrimination and segregation. Amnesty International called on the government to ensure the realization of the right to free and compulsory education for Romani children, prioritize the integration and attendance of Romani children in mainstream education and reverse segregation in education.

In 2008, Amnesty International published “A tale of two schools: Segregating Roma in special education in Slovakia” (Index: EUR 72/007/2008), which focused on the issue of segregation of Romani children in special education through the analysis of the case of Pavlovce nad Uhom, a village in eastern Slovakia. The report highlighted systemic failures, including lack of effective oversight, monitoring and accountability, as well as discriminatory policies and practices that systematically disadvantage Romani children.

In May 2008, the Slovak authorities adopted a new Schools Act that explicitly prohibits discrimination and segregation in the field of education.¹ In the same year, the government adopted a Concept of Education and Training of Romani Children and Pupils, a policy document that includes a commitment to decrease the number of Romani pupils in special schools. Though these measures have resulted in some positive changes, Amnesty International’s research and monitoring indicate that there continues to be segregation of Romani children in education in Slovakia and that many of the key factors that contribute to discrimination and segregation have still not been adequately addressed.

To assess the impact of the legislative and policy changes, Amnesty International carried out research between February and May 2010 in six localities in western, central and eastern Slovakia, characterized by a presence of Romani communities. Amnesty International’s delegates visited eight schools and interviewed directors, teachers and teaching assistants, as well as members of Romani communities. The research involved interviews with representatives of the assessment centres; local government authorities; the regional school authorities; representatives of the Ministry of Education; the State School Inspectorate and the National Centre for Human Rights, as well as the Ombudsperson. Amnesty International

delegates also interviewed an expert on child psychology, Roma activists and NGOs working in the fields of human rights and anti-discrimination.

The findings of Amnesty International's research indicate serious gaps in the enforcement and monitoring of the prohibition of segregation in the Slovak educational system. Amnesty International is deeply concerned that Romani children across Slovakia remain segregated in inferior education that traps them in a cycle of poverty and marginalization.

The causes of the segregation of Romani children in the Slovak educational system are complex and include entrenched anti-Roma attitudes and historically established patterns of discrimination and exclusion. The new government's recently stated commitment to eliminate segregated schooling of Roma, included in the coalition government's programme adopted in August 2010, is a welcome development. To ensure that all Romani children are able to realize their right to education free from discrimination, however, the Slovak government needs to urgently adopt strong and targeted measures to effectively monitor and enforce the prohibition of discrimination and segregation. It also needs to follow through on its commitment to eliminate segregation in education by developing a plan of desegregation which clearly identifies bodies responsible and a timeline with yearly targets for its implementation. Any such plan has to include adequate support measures for integration of children in mainstream education, temporary special measures, training of staff and an outreach programme for Romani parents.

2. THE SEGREGATION SITUATION

Various national and international human rights organizations and monitoring bodies, including Amnesty International, have documented that Romani children continue to be segregated in education across Slovakia. This segregation happens in the following ways:

- Segregation of Romani children in special schools for pupils with ‘mild mental disabilities’;
- Segregation in special classes, within mainstream schools, designed for pupils with ‘mild mental disabilities’; and
- Segregation in mainstream Roma-only schools and classes.

2.1 SEGREGATION IN SPECIAL EDUCATION

Whereas Roma are estimated to comprise less than 10 per cent of Slovakia’s total population², Romani children represent 60 per cent of the pupils in special schools according to a 2009 survey by the non-governmental organization Roma Education Fund. In regions with high Romani populations this number is even higher and can reach up to 75 per cent. Eighty-five per cent of children in special classes across the country are Roma.³ According to data reported in 2006 by the Commissioner for Human Rights of the Council of Europe, Romani children constituted up to 80 per cent of pupils in special schools in some regions in Slovakia.⁴

According to the 2001 Population Census, as well as the Sociographical Mapping of Romani communities published in 2004⁵, the regions with the highest Romani population are Prešov and Košice, which are also the regions with the highest number of separated or segregated Romani settlements.⁶ It has been observed that the number of special schools tends to be higher in regions with higher proportion of Roma. Whereas in Bratislava and Trenčín regions, which have the smallest Romani population, there were 13 and 12 special schools with 639 and 200 pupils respectively, Prešov and Košice have 37 and 36 special schools with 2,674 and 2,985 pupils respectively.⁷

2.1.1 LOWER QUALITY

The curriculum taught in special schools for pupils with ‘mild mental disabilities’ focuses on the development of practical rather than academic skills; subjects such as foreign languages are completely excluded from the programme. In fact, the 2008 Schools Act clearly points to the fact that education provided in special schools for pupils with ‘mild mental disabilities’ is *not equal* to the education provided in the mainstream elementary schools and in special elementary schools for pupils with *other* than mental disability.⁸

Children finishing special schools or classes are at least two years behind graduates of mainstream elementary schools. In many cases the gap can be even greater. For example, the director of the Čierny Balog special school told Amnesty International that over five years, the pupils in special school learn an equivalent of what the mainstream school pupils learn within two years.⁹

Pupils finishing elementary school under a special curriculum receive a lower graded certificate and so are eligible only for special secondary education. This involves two or three years' vocational training to become, for example, butchers, bricklayers, shoemakers, domestic workers or gardeners. Once a child is placed in special education, return to the mainstream school system is almost impossible. The law envisages the possibility of transfers of pupils from the special education if the "placement does not correspond with his/her needs", or "if his/her needs change".¹⁰ However, due to a lack of regular re-assessments, in conjunction with the significantly reduced curriculum, such transfers are extremely rare.

2.1.2 THE SHORTCOMINGS OF THE ASSESSMENT PROCESS

Amnesty International's research, published in 2007 and 2008, highlighted significant concerns in relation to the assessment process used for the placement of children in special schools and classes, which resulted in significant scope for discrimination and segregation and to disproportionately high numbers of Romani children being inappropriately placed in such schools and classes. Diagnosis of special educational needs in Slovakia involves a complex assessment process administered by a network of school advisory centres. However, these procedures are often carried out at an early age, take no or little account of Romani children's cultural and linguistic differences, or of their socio-economic circumstances. Amnesty International's findings also highlighted concerns around the fact that the Schools Act stipulated that special schools should provide education for – among other categories – children from "socially disadvantaged background", enabling assessors to place children from deprived backgrounds, in special education. As many Romani children in Slovakia live in situations of social disadvantage, this provision has facilitated segregation of Romani children in special schools and classes. Amnesty International also highlighted that some children had been placed in such classes and schools without any assessment at all. The Committee on Elimination of Racial Discrimination (CERD) recommended that the government "[r]evisit[s] the procedure used for the determination of which children are to be enrolled in special schools, with a view to avoiding discrimination against Roma [...]".¹¹

The Schools Act stipulates that only children with a diagnosed mental disability can be placed in schools or classes specializing in educating pupils with such disability. In September 2008, a decree of the Ministry of Education came into effect specifying the procedure for placing children in special schools and special classes.¹² According to the decree, the placement of a child into special education is conditional on parental consent and the diagnosis of a mental disability by a Special Pedagogical Centre (SPC), an institution mandated to provide support to children with health disabilities.

Mental disability and social disadvantage continue to be conflated

There is an inconsistency between the 2008 Decree specifying that only children who have been diagnosed with a mental disability should be placed in special education and the Schools Act, under which children from socially disadvantaged backgrounds fall under the category of pupils with 'special educational needs', alongside pupils with health-disabilities, including mental disabilities.¹³ The confusion between social disadvantage and mental disability is further reflected in the methodological guidelines of the State School Inspectorate, according to which pupils from socially disadvantaged backgrounds *could* be educated in special classes if – after finishing the zero grade – they do not have the potential to be educated in the first grade; if they are failing the first grade, or if it established in the assessment that they do not have the potential to cope with the first grade curriculum.

Since the vast majority of Romani families – 72.2 per cent¹⁴ – receive some form of benefits related to material need, many Romani children meet the criteria of pupils from socially disadvantaged background. According to a survey carried out by the Roma Centre for Education, Information, Documentation and Consultancy (ROCEPO) in 2007, the highest number of schools with special classes for pupils with ‘mild mental disabilities’ was in the Prešov region, which is also characterized by a high proportion of Romani population. In 2007, across the country, the proportion of children from socially disadvantaged environment in special classes was 69.70 per cent, in Prešov region it reached 91.53 per cent.

During its 2010 research visits Amnesty International has met with various authorities many of which explained the overrepresentation of Roma in special schools and classes as a result of their social disadvantage or ‘bad living conditions’. Out of 700 clients of the Special Pedagogical Centre in Hnúšťa, the majority are from socially disadvantaged background.¹⁵ Amnesty International is concerned that in the practice, the assessment often fails to make a distinction between a pupil whose needs stem from mental disability and one who needs extra support because of his/her social disadvantage and/or poverty.

The failure to amend the Schools Act and other relevant implementing legislation to decouple the category of “social disadvantage” from mental disability therefore continues to facilitate discrimination on the basis of ethnicity and economic status and segregation of Romani children in special education. While children from socially disadvantaged background may require support measures, such as teaching assistants, support with pre-school education, provision of free transport etc., such support should be provided in the mainstream education system.

The risk of confusing social disadvantage with mental disability is exacerbated by a practice of early testing that often leads to placement in special education. Several experts on child’s psychology expressed concerns that the possibility of a reliable assessment of a Romani child at an early age is rather limited.¹⁶

Cultural and linguistic differences

Tests used for the assessment of mental disability in Slovakia still do not take into account cultural and linguistic differences of Romani children. For example, communication skills continue to be assessed in Slovak, even though this may not be the language that Romani children speak at home. The tests also fail to take into account cultural differences as well as to account for situations where children come from situations of economic and social disadvantage. It has been observed that there is no such thing as culturally-neutral tests of intellectual capacities, as all tests to smaller or greater extent reflect the socio-cultural backgrounds of their authors.¹⁷ In Slovakia, there does not exist a specific test that would be a reliable assessment tool of intellectual capacities of Romani children from a disadvantaged environment.¹⁸ What is lacking, however, are not only reliable diagnostic tools, but also deeper understanding of the specificities of the ethnically, socially and economically different environment from which the child is coming. Psychologists and experts involved in the assessment, described in the interviews with Amnesty International the environment in which Romani children are growing up as “poorly stimulating”, characterized by “parents’ lack of interest to their children’s school home-works”, “alcoholism”, “criminality”, “low level of educational attainment of parents” and “incest”.¹⁹ In its 2008 report on Slovakia, the European Commission against Racism and Intolerance (ECRI) recommended that the

authorities take steps to combat prejudice and discrimination in school settings.²⁰ Such measures – including training for teachers and head teachers on discrimination – are essential for combating any hostility or prejudice of non-Roma parents.

2.1.3 INFORMED CONSENT

According to Slovak law, parents are free to choose which school their child attends. At the same time, no placement or transfer of a child into a special education facility or programme can proceed without the consent of the child's legal guardian. Romani parents are frequently the first to be blamed by authorities and officials, when discussing problems of access to quality education for Romani children. The most common stereotype used is that "Roma don't value education."

The European Court of Human Rights Grand Chamber judgement on the case of *D.H. and others v the Czech Republic* established in November 2007 that parental consent for the placement of a child at a special school should be free and informed. In its last two reports, Amnesty International expressed concerns that even when placement of Romani children into special education took place with the agreement of children's parents, it often did not meet the criteria of free and informed consent. Romani parents were frequently not aware of the implications of giving such consent for their child's future. Factors that may lead to the decision of, or agreement by, Romani parents to place their children in special education include the proximity of the school to their place of residence, the less demanding curriculum or the presence of other siblings in the school.²¹ In addition, they may often feel that the prejudice their children face in mainstream schools, and the lack of support they receive there, mean that they would be better off receiving a lesser education in a friendlier environment.

Amnesty International has repeatedly urged the Slovak authorities to develop outreach programmes targeting Romani parents in order to raise awareness about the choice of schools. Amnesty International remains concerned that there continues to be a lack of support measures in the educational system in Slovakia, to facilitate awareness-raising about the choice of schools of Romani parents. (see section 3.2 Teaching assistants).

2.1.4 SPECIAL CLASSES

According to the international human rights monitoring bodies²², Romani children are also over-represented in special classes designed for pupils with 'mild mental disabilities' within mainstream schools. Research by the Roma Education Fund estimated that the proportion of Romani pupils in such classes is 85.8 per cent.²³ In the absence of ethnically disaggregated data in the Slovak educational system, an occurrence of higher number of special classes in schools with higher proportion of pupils from socially disadvantaged backgrounds can serve as an indicator of levels of segregation in special classes. As highlighted above, according to a survey carried out by the ROCEPO in 2007, the highest number of schools with special classes for pupils with 'mild mental disabilities' was in the Prešov region, which is also characterized by a high proportion of Romani population. As of September 2009, there were 89 schools in Prešov region with a 309 special classes in which 2,829 pupils were educated; followed by 71 schools with 187 classes and 1,796 pupils in the Košice region.²⁴ In Bratislava region, only seven schools had special classes for 'mild mental disabilities' in which 120 pupils were educated in the 2009/2010 school year.²⁵

Amnesty International researched a case in which a school had reportedly created special classes to place Romani children as a solution to so called 'white flight', a term used to describe the transfer of non-Roma pupils to another school by their parents once the percentage of Romani children increases. The director of the elementary school told Amnesty International that almost all Romani children went to special classes for pupils with 'mild mental disability'. He also acknowledged that the decision to establish special classes for Romani pupils was motivated by an attempt "to save the school" from so called 'white flight'. Many non-Roma parents were allegedly transferring their children to a school in another village as they did not want them to go to the same classes with Romani children.

Amnesty International is extremely concerned that school authorities continue to be able to set up separate classes for children on the basis of their ethnicity, without an objective and reasonable justification to do so and that Romani children are being placed in special education in an attempt to cater to discriminatory attitudes and prejudices of non-Roma parents. This is completely contrary to Slovakia's obligation to ensure non-discrimination and to end racial segregation. As highlighted in section 4 on Monitoring and Accountability, this failure is exacerbated by gaps within the monitoring system to address such violations.

2.2 ETHNICALLY SEGREGATED MAINSTREAM SCHOOLS AND CLASSES

As there are no data available it is difficult to provide concrete numbers of ethnically segregated schools and classes in Slovakia. However, research by Amnesty International and other organizations has found that Roma are segregated not only by their placement in the special education stream but also within the mainstream school system, where children are often separated into Roma-only schools or classes.²⁶ In effect, even when Roma remain in mainstream schools, they frequently receive a lower standard of education to that provided for pupils from the majority population. Teachers in Roma-only classes often have lower expectations of their students. They also have fewer resources and poorer quality infrastructure at their disposal.

The practice of placing Romani pupils in separate classes has been criticized by ECRI since its second periodic report on Slovakia in 2000. ECRI highlighted that segregation of Roma in separate classes and separate canteens was often related to the fact that Roma often live in segregated settlements.²⁷

2.2.1 RESIDENTIAL SEGREGATION

About half of the Romani population live in urban or municipal concentrations, settlements at the outskirts of villages or towns, or segregated settlements.²⁸ The segregation of Roma in housing is also a factor in their segregation at school. This has been recognized by CERD, which recommended that the Slovak government take into account its close relation to discrimination in the fields of housing and employment.²⁹

The impact of residential segregation on school segregation could be aggravated by local policies. The Act on Municipalities allows local governments to issue regulations that define the school districts within their jurisdiction. Under this provision, for example, the municipality of Prešov issued an order that establishes catchment areas for the city's seven elementary schools. The school districts established by the order, do not correspond with the existing geographical units of the town. On the contrary, the municipality assembled streets, or in some cases even house numbers in such a way that streets primarily or exclusively

inhabited by Roma fall under the catchment area of the elementary school on Matica Slovenskej Street. The school is thus progressively becoming the 'Roma school' of the town. Local officials argued that catchment areas did not obstruct Romani parents from sending their children to schools other than the one on Matica Slovenskej Street as, under the freedom of choice of school policy, parents can choose to register their children at schools in districts outside their residence. In practice, however, the provision, and the oddly-defined areas seem to "translate" the residential segregation into segregation in education. Most Romani parents end up registering their children at the "Roma School", to which they belong according to the catchment areas defined by the decree.

2.2.2 'WHITE FLIGHT'

By law, parents have the right to choose their child's school. At the same time, the government is obliged under international and national law to take measures to ensure that the exercise of freedom of school choice does not lead to discrimination and segregation. Although this provision appears neutral, the existing research shows a tendency by non-Roma parents, under the same provision, to withdraw their children from schools with an increasing Roma intake - which can lead to *de facto* segregation.³⁰ In theory, freedom of choice can be beneficial for the elimination of school segregation because Romani children can enrol at any school. In practice, Romani children are often rejected by schools. While the international human rights standards ensure the free choice of education without interference from the state, the government has to also ensure that all decisions which affect children are taken in their best interest,³¹ and monitor the impact of laws and policies to ensure they do not result in indirect discrimination. Where this is the case, the laws and policies should be amended.³²

The government must review and address any discriminatory impacts which may ensue from the exercise of freedom of parental choice, and ensure that it does not lead to segregation.

2.2.3 SEGREGATION IN KINDERGARTENS

Segregation even takes place in kindergartens. Romani children in Slovakia often do not attend pre-school education. Amnesty International notes with concern cases of differential treatment of Romani children whose parents wanted them to participate in pre-school education. In localities, visited by Amnesty International, Romani children were separated from the non-Roma in different buildings or classes. They play, sing, dance and eat separately.

For example, in the village of Torysa in eastern Slovakia, eight Romani children attend kindergarten in a separate building from their 25 non-Roma peers, who occupy a newly built two-storey kindergarten at the other side of the schoolyard.

3. LACK OF SUPPORT MEASURES

In the past, Amnesty International recognized that the government of Slovakia adopted measures with the aim of improving Romani children's access to education. In its 2007 report "Still Separate, Still Unequal", Amnesty International expressed concerns that these measures had been implemented in an ad hoc and unsystematic manner. The funding for the two main measures to improve access to quality education of Romani pupils – zero classes and teaching assistants – was discretionary and the schools needed to apply for it annually. Changes in education legislation in 2008 failed to make these provisions a requirement for all schools in areas with a significant number of children who would benefit from them; their use is still left at the discretion of school authorities.

The European Court of Human Rights ('the Court') recognized in the judgment on the case *D. H. and others v. the Czech Republic* that the sources of discrimination go beyond individual acts and have often origins in institutions and structures of the society. The Court held that it was not necessary to consider the particular facts of the individual applicants in that case as: "[I]t has been established that the [...] legislation as applied in practice [...] had a disproportionately prejudicial effect on the Roma community, [...] and] the applicants as members of that community necessarily suffered the same discriminatory treatment."³³ To overcome discrimination, governments have been advised by the Committee of Ministers of the Council of Europe to adopt systemic changes and to "[set up a]ppropriate structures [...] to enable Romani children to benefit, in particular through positive action, from equal opportunities at school".³⁴ Public bodies must therefore shift to a more proactive approach to tackle discrimination, thereby ensuring that "equality is available to all, not just those who complain".³⁵

The need for implementation of support measures was highlighted also by the "Step by Step" project, run by non-governmental organizations Open Society Institute and the International Step by Step Association, within which pilot classes in Bulgaria, Czech Republic, Hungary and Slovakia were introduced to test the hypothesis that "given appropriate conditions for learning, Roma children in special schools are in fact capable of academic achievement to the level of mainstream curriculum standards." The project concluded that the majority of Romani children, although labelled 'mentally disabled' could, if provided with good pedagogy, succeed in mainstream education.³⁶

Despite years of domestic and international criticism, the mainstream elementary school system in Slovakia remains ill-equipped and educational professionals often unwilling to provide support for pupils coming from different socio-economic and ethnic background. Since 2002 successive governments in Slovakia have introduced several measures that aimed to improve the access of disadvantaged groups, including the Roma, to quality education. However, as discussed later in this briefing, the lack of adequate monitoring and failure by the authorities to collect and disaggregate data on the basis of ethnicity has led to an inadequate assessment of the impacts of these measures and the prevalence of discrimination and segregation. Moreover, the impact of these measures has been limited due to the financial constraints and further policy changes that hampered the de-segregation incentives.

In April 2008, the government adopted the Concept of Education and Training of Romani Children and Pupils. The document includes a commitment to lower the percentage of Roma attending special elementary schools by, among other things, maintaining and supporting the system of 'zero grades' for children who do not meet the criteria of school readiness; maintaining and supporting the profession of teaching assistant; the development of culturally-neutral school readiness tests for six to seven year-old children; and ensuring that the tests will be carried out exclusively by pedagogical-psychological assessment centres. The document also recommends monitoring of segregation mechanisms in schools – in special classes, special schools and Roma-only classes.

3.1 ZERO GRADES

According to the Schools Act, if a child reaches six years and is not ready to be educated in the first grade of the primary school, and if he/she comes from a socially-disadvantaged background, the director can place the child in the zero grade, a preparatory year designed to bridge the gap such children face as a result of their socio-economic background and the fact they may lack the pre-school preparation. The decision always requires parental consent, and needs to be accompanied by the recommendation of a paediatrician and a Centre of Pedagogical-psychological Counselling (Art.19[4]). There has been an increase in the use of this measure by the schools. Whereas there were 81 zero grades in 1997/1998 in Slovakia, their number reached 245 in the 2009/2010 school year.³⁷

The zero grades are perceived as a positive measure that can mitigate the disadvantage Romani children experience due to a lack of pre-school attendance. However, ECRI expressed concerns that the fact that most zero grade classes are attended only by Roma may have a potentially negative impact on their future integration.³⁸ To ensure that zero grades do not lead to segregation, the government should adopt measures, including monitoring mechanisms that would oblige the schools to ensure that students who are placed in zero grades are later on integrated with those who commence at the school in the first grade.

3.2 TEACHING ASSISTANTS

The UN Committee on the Elimination of Racial Discrimination recommends that the governments "take urgent and sustained measures in training teachers, educators and assistants from among Roma students."³⁹ In Slovakia, however, the number of teaching assistants for pupils from socially disadvantaged background is reportedly inadequate. According to the media, there were about 540 of them in 2009, whereas the need was about 1,000.⁴⁰

Slovakia introduced the position of teaching assistants in 2002. The appointment of teaching assistants has to be initiated by the schools themselves and funding must be applied for each year from the central education budget. The role of the assistant is to provide support in order to overcome the pupils' language, health-related and social barriers.⁴¹ Initially, Romani teaching assistants were trained within an experimental NGO project. To allow the teaching assistants, who did not meet the criteria required by law (secondary or university education and additional pedagogical education), to complete their studies, the Public Service Act (408/2002 Coll.) introduced an interim period which expires on 31 December 2010. Teaching assistants work as mediators between the school and the community⁴². A close cooperation with families and communities, and familiarization with the environment in which a pupil is growing up are among the teaching assistants' core tasks.⁴³ The positive

impact of the teaching assistants on the school performance of Romani children has been recognized by the 2008 survey of the ROCEPO, which found that the number of pupils repeating a grade was lower in classes with teaching assistants.⁴⁴

Currently, the main source of finances for teaching assistants is the so-called *per pupil funding (a normative)*, an amount paid to the school for each pupil from a socially disadvantaged background. In 2010, the *normative funding* for a pupil from socially disadvantaged background was set at € 90 annually which was considered insufficient by the schools visited by Amnesty International.⁴⁵ Most schools had only one teaching assistant who worked only at the first level of elementary education (grades 1-4) despite the fact that they had a large number of Romani pupils from socially disadvantaged backgrounds. A primary school in Zvolen released a teaching assistant in February 2010, after realizing that the resources received from the state budget through the *normative* covered only a fraction of the assistant's salary in 2009. The school reportedly had to cover the more than € 7,000 gap from its own resources in the school year 2009/2010. The teaching assistant told Amnesty International that such an inadequate *normative* in practice creates a disincentive for schools to hire teaching assistants.⁴⁶

According to information gathered by Amnesty International, due to funding constraints, most teaching assistants have a fixed-term contract, frequently for one year. This is allegedly a consequence of the low *normative* for teaching assistants which is annually adjusted. The low number of teaching assistants is particularly palpable at the second level of the primary school. The school curriculum is becoming more intense and difficult at this level⁴⁷ and the Romani pupils are usually becoming involved in the household economy or in the care of their younger siblings. According to social policy experts, as well as the primary school teachers interviewed by Amnesty International, it is often at this stage that Romani children drop the school year, and then consequently finish primary school prior to the ninth grade.⁴⁸

4. MONITORING AND ACCOUNTABILITY – MISSION IMPOSSIBLE?

4.1 DATA COLLECTION

Data on education disaggregated by ethnicity and other indicators, such as gender⁴⁹, are essential for any assessment of the impact of educational policies on Roma, or on minority or disadvantaged groups in general. Under the Covenant on Economic, Social and Cultural Rights, to measure the impact of educational policies and plans, the governments are obliged to collect data disaggregated by the prohibited grounds of discrimination – including ‘race and colour’. It is only through the availability of such data that the authorities would be able to identify and take measures to redress any de facto discrimination.⁵⁰ Slovakia has been requested to include disaggregated data on the socio-economic status of the minorities into the next periodic report to CERD.⁵¹

Currently, the Slovak authorities do not collect ethnically disaggregated data, arguing that the collection of such data would violate the legislation on the protection of personal data. The Act on Protection of Personal Data has been adopted as a means of transposing the EU Race Equality Directive. It explicitly prohibits the processing of personal data revealing racial or ethnic origin.⁵² However, the European data protection laws differentiate between the collection of individual personal data and anonymous aggregate data.⁵³ A European Commission report on data collection in the context of implementing the EU equality law stated that “Contrary to widespread belief, the international, European and national rules on the protection of privacy data do not categorically prohibit the collection of data in relation to discrimination.”⁵⁴

Lack of data disaggregated by ethnicity poses a problem for monitoring the enforcement of the prohibition of segregation in the educational system. An official at the State School Inspectorate told Amnesty International: “Only very few people declare themselves to be of Romani nationality. And based on their skin, we cannot simply say ‘you are Roma’ [...] We would immediately violate the law.”

In interviews carried out with staff working at schools and assessment centres, however, Amnesty International found that teachers and assessors are able to and do distinguish between individual Romani and non-Romani students. This distinction was openly expressed to Amnesty International by various educational professionals when referring to individual pupils. Some of them used the official terms “Roma” and “non-Roma”, others referred to “black” and “white” children. To be able to assess the scope and nature of segregation of Romani children in the Slovak educational system, and to evaluate the impact of the policies and measures taken, the Slovak government needs to develop a system of collection of data in education disaggregated by ethnicity and gender.

It is important that the authorities comply with requirements as to processing of personal data related to race or ethnic origin, including requirements related to consent and self-identification. However, the government has an obligation to monitor discrimination and segregation, which requires it to develop processes for inspection and collection of information, which would enable it to monitor patterns of enrolment, placement of children and ethnic composition of classes, without recording and processing data about the ethnicity of individual children.

This would require measures such as setting up stronger system of inspection by expert monitoring bodies such as the Slovak National Centre for Human Rights and adequate training of staff of the State School Inspectorate to carry out inspections and monitoring of schools. The government should also collect aggregate data, through measures such as anonymous surveys, and from NGOs and organizations who work with and support communities. It should also consult with Romani communities and organizations on appropriate methods of data collection and take broader measures, which would help create an environment where Romani communities can self-identify without fear of stigma and discrimination.

4.2 MONITORING BODIES

The EU Race Equality Directive obliges member states to designate a body responsible for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. The competences of such bodies should include support for the victims of discrimination, conducting of independent surveys, and issuing recommendations. When it comes specifically to discrimination in access to education, the CERD encouraged governments to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.⁵⁵

Two institutions have responsibility for oversight of the implementation of the anti-discrimination provisions in the educational system. The State School Inspectorate has oversight over the compliance with the Schools Act and the Slovak National Centre for Human Rights is responsible for monitoring implementation of the Anti-discrimination Act.

4.2.1 SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS

The Slovak National Centre for Human Rights (Centre) is the national institution monitoring the implementation of antidiscrimination legislation. It has seven regional offices throughout Slovakia, but each office has only one member of staff.⁵⁶ The duties of the Centre include monitoring discrimination in the field of education. Since the 2008-amendment of the Anti-discrimination Act⁵⁷, the Centre can carry out surveys on human rights and discrimination. Its powers include issuing recommendations and monitoring their implementation. It does not have the power – unlike some other equality bodies in the central and eastern European region – to impose sanctions on bodies that fail to follow its recommendations. The Centre can provide information about its findings on cases of discrimination to institutions that have the power to impose sanctions including the Ministry of Education, Regional School Authorities or local governments.

Amnesty International was informed by representatives of the Centre that the capacities of the Centre to carry out thorough monitoring of the problem of segregation of Romani children

in the educational system were limited. Although the Centre can provide legal aid in individual cases of discrimination and represent the complainants in legal proceedings, its capacities to actually do so are constrained as it is understaffed and underfunded.⁵⁸ The EU Fundamental Rights Agency (FRA) has recognized that the Centre's lack of adequate human and financial resources is a major problem for its work.⁵⁹ When it comes to the monitoring of cases of discrimination, the Centre cooperates with the State School Inspectorate on an *ad hoc* basis.

There are no comprehensive guidelines available on how to identify, monitor and address the problem of segregation of Romani children in education.

4.2.2 STATE SCHOOL INSPECTORATE

The duty of the State School Inspectorate (Inspectorate) is to monitor educational processes and to control their compliance with the law. The Schools Act prohibits discrimination, thus the responsibility of the Inspectorate is to look also into cases of discrimination in the educational system and to make recommendations regarding such cases. The powers of the Inspectorate include, for example, requesting a school to take measures to comply with the law, to propose the removal of head teacher and to nullify a school director's decision. However, although the Schools Act was amended in 2008 to prohibit discrimination in education, in particular in the form of segregation, this reform was not followed by any regulation that would facilitate the work of the Inspectorate and the Centre to monitor the implementation of the new provision. According to the State School Inspectorate Act (596/2003), the Inspectorate controls, among other things, the compliance of the individual educational programmes with the goals and principles of education. The prohibition of all forms of discrimination and segregation is one of these principles according the Schools Act (Article 3). Despite its formal power to enforce the prohibition of discrimination, the Inspectorate lacks the clear mandate as well as the necessary tools and procedures to enforce it in practice.

In 2009 and 2010 the Inspectorate carried out a systematic monitoring of the enrolment practices into special schools. Although the results of the comprehensive monitoring were not available by the time Amnesty International completed its current research, the representatives of the Inspectorate suggested the situation had improved since the monitoring started. However, to Amnesty International's knowledge the purpose of the process was not explicitly the identification of cases of segregation or of cases of over-representation of Roma in special education.

In April 2010, Amnesty International informed the Inspectorate about its findings in the Krivany elementary school in the Prešov region. There were three special classes for children with 'mild mental disabilities' in the school. According to information provided to Amnesty International by the school director all three special classes were attended solely by Romani children. Thus 39 out of 41 Romani children at the age of compulsory education were being educated in special classes for pupils with 'mild mental disabilities' in the Krivany elementary school. Amnesty International notified the Inspectorate about a possible violation of the prohibition of all forms "of discrimination, especially segregation" (para. 3/d), and of the principle of equal access to education for all children or pupils (para. 144/1/d) of Slovak Schools Act.

Furthermore, Amnesty International informed the Inspectorate that the school had established separate kindergarten classes for Romani and non-Roma pupils. According to Romani parents from Krivany and Amnesty International's own observations of the school's facilities, Romani children were also segregated during lunch-time and ate separately in the corridor outside the cafeteria.

The Inspectorate examined the situation and found that the school exceeded the maximum allowed number of pupils in class and thus violated the law, and that the school's educational plan did not include conditions of education of pupils with 'mild mental disabilities'. Specifically with regard to concerns about the segregation of Romani children, the Inspectorate approached the Slovak National Centre for Human Rights to assess possible violations of the prohibition of discrimination and segregation.

Amnesty International is concerned that despite an explicit prohibition of discrimination and segregation in education, the body that is entrusted to monitor the compliance of the educational system with the law, does not seem to be able or willing to do so. Two years after the adoption of the Schools Act and six years after the adoption of the Anti-discrimination Act, the authorities lack clear and comprehensive guidelines that would allow them to effectively monitor the prohibition of discrimination and segregation.

5. LEGAL FRAMEWORK

5.1 THE RIGHT TO EDUCATION

Slovakia is bound by international treaties, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, as well as the European Convention for the Protection of Human Rights to respect, protect and fulfil the right to education. Under these standards, education must be accessible to all, especially the most vulnerable groups, in law and fact without discrimination.⁶⁰

The UN Committee on Economic, Social and Cultural rights has further emphasized that the education offered must be:

- Compulsory and available free to all. Education must be adequate in quality, relevant to the child and must promote the realization of the child's other rights;
- Accessible – physically and economically – to everyone, without discrimination;
- Acceptable – i.e. relevant, culturally appropriate and of good quality;
- Adaptable to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

5.2 NO DISCRIMINATION, NO SEGREGATION

Under international human rights law, education must be accessible to everyone, without discrimination, especially the most vulnerable groups.⁶¹ Slovak legislation reflects these international obligations and prohibits discrimination in the field of education in two acts – the Anti-Discrimination Act and the Schools Act⁶². The Anti-discrimination Act adopted in 2004⁶³ transposed the equal treatment directives of the European Union⁶⁴ and introduced the principle of equal treatment and prohibition of discrimination. It prohibits discrimination based on, among other things, race, nationality or ethnic origin and covers areas such as social security, employment, healthcare, education, and provision of goods and services.

The anti-discrimination law not only prohibits direct and indirect discrimination, but includes also a preventive component. It imposes the duty to adopt measures that will protect individuals against discrimination (Article 2 [3]). A failure to adopt these measures would constitute a violation of the principle of equal treatment. This obligation rests with public institutions, including the heads of schools.⁶⁵

Preventive measures are essential for the implementation of the principle of non-discrimination as enshrined in international and regional human rights treaties and EU anti-discrimination directives.⁶⁶ There are many causes of segregation in education, including practices and traditions, as well as individual decisions by local authorities and educational professionals. The government's obligation to ensure non-discrimination requires it to not only prohibit discrimination but also to identify and address factors which prevent Romani children from accessing education in order to eliminate racial discrimination in all its forms.

5.3 FAILING TO IMPLEMENT THE BAN ON DISCRIMINATION AND SEGREGATION

Amnesty International is concerned that legislation aiming to guarantee the protection against discrimination, in particular segregation, is not being put into practice. Gaps in the implementation of the prohibition of discrimination in the field of education dramatically impact the future life chances of thousands of Romani children across Slovakia. This failure involves both the failure to adopt measures that would prevent the occurrence of discrimination, as well as the failure to establish a system in which individual cases of discrimination would be addressed.

The principle of equal treatment has not been disseminated among the primary school professionals. The staff of the eight schools visited by the Amnesty International delegation between February and May 2010 had only limited awareness of the principle of equal treatment, and about expressions of discrimination, prejudices and stereotypes. On the contrary, in all but one of the cases, the directors of the schools openly expressed racial prejudices and stereotypes against Romani pupils.

The implementation of the Anti-Discrimination Act in general remains a subject of criticism. Two key shortcomings are considered to be the lack of training for judges on discrimination issues, and the lack of capacities of the Slovak National Centre for Human Rights which is tasked to monitor the implementation of the anti-discrimination legislation.⁶⁷

The Schools Act and related policy regulations lack clear guidelines and procedures for the effective monitoring and enforcement of the prohibition of segregation. In conjunction with the absence of ethnically disaggregated data and lack of experience in monitoring the prohibition of discrimination, the State School Inspectorate has so far failed to address the problem of segregation.⁶⁸

Amnesty International is concerned that despite the prohibition of segregation in the Schools Act, and the obligation to prevent discrimination enshrined in the Anti-Discrimination Act, there is no institution that will be mandated and obliged to take measures and steps to desegregate education. Neither is there an institution with a clear and unequivocal mandate to monitor the process of desegregation.

6. CONCLUSIONS AND RECOMMENDATIONS

This briefing summarizes the main causes of the segregation of Romani children in the Slovak educational system. The ban on segregation has not been implemented due to serious shortcomings in enforcement and lack of clear political will by successive governments to end the segregation of Romani children in Slovakia's schools. The legislative changes thus far have not brought about a change in the situation of Romani children, who remain segregated in special schools or classes, or separate Roma-only schools or classes. The absence of adequate support within the mainstream school system for pupils coming from different social and ethnic backgrounds, as well as discriminatory attitudes by professionals involved in the educational process and by non-Roma parents, have made segregation a convenient "solution". However, this traps Romani children deeper into a vicious cycle of poverty, discrimination and exclusion.

Slovakia cannot continue to deny its Romani children their right to dignity and equal treatment. The choices that the government makes now will affect the lives of thousands of Romani children. Under international human rights law, Slovakia is obliged to ensure that they enjoy their right to an education free from discrimination in integrated mainstream schools, thereby preparing them to fully participate in and contribute to the life of Slovak and European society.

The principle of equal treatment is currently not sufficiently disseminated among the elementary school teachers and directors who indicate to have only limited awareness of the importance of equality and its implementation in school practice. Slovakia has thus far fallen short of its obligation to adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or *de facto* discrimination as recommended by the UN Committee on Economic, Social and Cultural Rights.⁶⁹

Amnesty International welcomes the new coalition government's commitment in its programme adopted in August 2010 to eliminate segregation in education based on ethnic origin. It is presenting below a list of recommendations that, if implemented, can significantly improve Slovakia's human rights record ensuring Romani children enjoy equal opportunities in education.

Prohibition of discrimination in education: Following on the Slovak government's initial commitment in its programme adopted in August 2010 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:

- Develop a plan of desegregation with a clear identification of bodies responsible and timeline with yearly targets for its implementation;

- In line with the CERD's recommendation, introduce a clear duty on all schools to desegregate education. Such a duty should be accompanied by effective support for schools to desegregate and by incentives to the local authorities to develop comprehensive action plans aimed at desegregation in education;
- Take concrete, targeted and effective steps to ensure that Romani children are not directly or indirectly prevented from enrolling in mainstream integrated education;
- Review all decisions by school authorities to create separate classes or schools, to ensure that they do not violate the prohibition of discrimination and segregation and are in conformity with other requirements under international human rights law;
- Review the discriminatory impact in practice of the change in law which allowed greater freedom of parental choice, with a view to taking concrete, targeted and effective steps to combating any increase in segregation in practice; measures such as provision of free transport, and adoption of temporary special measures such as quotas or others, should be considered;
- Ensure that designation of school catchment areas do not result in segregation of Romani children and promote the integration of Romani children in all mainstream schools; measures such as provision of free transport, and adoption of temporary special measures such as quotas or others, should be considered;

Address segregation in special education: The Slovak government, in particular the Ministry of Education, should:

- Conduct a comprehensive review of the schooling system to assess the need for a separate curriculum and schools for pupils with 'mild mental disabilities' to ensure compliance with international and regional standards on education and non-discrimination and at all times ensuring the best interests of the child;
- Amend the Schools Act and relevant Decrees to remove the category of children from 'socially disadvantaged backgrounds' from the list of pupils with 'special educational needs'. 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;
- Address the lack of safeguards against discrimination in the existing system of placement and assessment; to that end review the criteria for placement of children in special 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 on the basis of linguistic or cultural differences or social or economic status. In particular, the methodological guidelines for the Schools Inspectorate to make clear that no child may be placed in special education on the basis of social disadvantage;

- Review all placement decisions and reassess all children currently attending special 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;
- Address the problem of early testing for mental disability and discontinue psychological testing as a tool for placement of pupils into special education at pre-school age and in the first grades of primary schools.

Monitoring and accountability

- Empower the State School Inspectorate, in cooperation with the Slovak National Centre for Human Rights, to fulfil its function to prevent, prohibit and eradicate segregation in education through: the provision of adequate financial and human resources, robust, detailed guidelines and procedures on how to identify, monitor and combat segregation in practice, the ability to impose sanctions for violations of the ban on discrimination and segregation, and provision of training for its staff on the issue of discrimination and the principle of equal treatment in education;
- Strengthen the mandates and powers of the State School Inspectorate and the Slovak National Centre for Human Rights (the Centre) to more effectively oversee implementation of the anti-discrimination provisions. These mandates should clarify the respective roles of both these institutions in order to ensure that victims of discrimination are aware of their remedies and to strengthen the accountability of the Centre and Inspectorate for monitoring discrimination;
- Strengthen the capacity of the Centre to carry out surveys into the discrimination and segregation in education, and its capacity to provide support in individual cases of discrimination in access to education.
- Provide effective remedies for discrimination to all victims, including through the establishment of a complaints mechanism and by strengthening the mandates of monitoring bodies
- Ensure that schools advisory centres, including the Centres for Pedagogical-Psychological Counselling and Special Pedagogical Centres, are inspected and monitored in line with official requirements;

Data collection: The government of Slovakia needs to start collecting data disaggregated by the prohibited grounds of discrimination – including 'race and colour' – in education, with due regard to European standards concerning the protection of person data and the right to self-identification. Collection of data – carried out in compliance with human rights standards – is an essential tool for both monitoring the situation in segregation of Romani pupils in the schools, as well as for assessment of the impact of the policies and measures taken by the government in this area.

The government should:

- Through the Institute for Information and Prognosis 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;
- Cooperate with the European Commission and Eurostat in order to develop common statistical indicators for monitoring effectively the education of Romani pupils;

Preventive anti-discrimination measures

The Ministry of Education should:

- Develop and disseminate adequate training on the principle of equal treatment and non-discrimination among teachers, directors, and other educational staff;
- Systematically monitor implementation of the provision on the protection from discrimination, with a special focus on the prevention measures taken by the relevant authorities;
- 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.

Support measures: Amnesty International acknowledges the commitment expressed in the 2010 government programme to continue and strengthen the use of measures such as zero grades and teaching assistants. In the view of the past shortcomings in the funding of the teaching assistants which was reportedly inadequate, the government should:

- Ensure that there are adequate resources to allow the implementation of the support measures for pupils – both Roma and non-Roma – with special educational needs to promote inclusive education;
- Make compulsory in the Schools Act the provisions of preparatory classes and teaching assistants in all districts which currently have a high number of special 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 from socially disadvantaged backgrounds in adapting to the demands of mainstream elementary school curriculum;
- Adopt further measures to support the integration of children into mainstream elementary schools in areas where there are a high number of special elementary schools. These measures should include offering preparatory classes, reducing the number of pupils per class in these schools, and other measures to facilitate the communication between Romani parents and the schools;

- 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;
- Require mainstream elementary schools to accept children from special elementary schools, in order to facilitate the transfer of children from special to mainstream elementary schools. Such measure could involve the use of quotas as well as incentives;
- 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 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.

**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:**

- Ensure that Romani culture, history and traditions, and information about the contributions Roma have made to society, are included in the mainstream school curriculum, and that teaching materials become available in Romani language; without treating such education as a rationale to separate Roma and non-Roma children in education;
- Provide training to teachers and other staff working in elementary schools 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; and, as per the recommendation of CERD to the government of Slovakia in March 2010, promote active consultation and cooperation between parents of children of minorities and school authorities at the local level”;
- 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 special 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.

ENDNOTES

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