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Your Excellencies,

We, the undersigned group of non-governmental organizations committed to promoting equality of Roma children in realising the right to education in Slovakia, write to you on the occasion of the second reading of the new Draft Act on Upbringing and Education (the Schools Act) by the Slovak National Council.

International non-governmental organizations and representatives of Slovak civil society have previously raised concern about the segregated education of Romani children and their erroneous placement in special schools and classes. Recent examples of reports on these issues include *Equal access to quality education for Roma*¹, which was published in December 2007 by the EU Monitoring and Advocacy Program and the Amnesty International report *Still separate, still unequal: Violations of the right to education of Romani children in Slovakia*²³.

Discrimination, including segregation in education, including through the disproportionate representation of Romani children in special schools and classes, has been a central issue of concern for the undersigned organizations and continues to affect a large number of children. Due to a combination of many factors, many Roma do not declare themselves as such in the national census; that is why official statistical data on Roma are to a great extent not representative. According to the "*Conception of integrated education of Roma Children and Young People Including Secondary and University Education Development*"⁴, the number of Roma in Slovakia is estimated at 380,000, of which children up to 14 years old represent 43,6 per cent.

The Roma community in Slovakia is not a homogeneous community. This reality must be taken into consideration when developing any measures to address the issues. A large number of Roma inhabitants in Slovakia live in inadequate housing, often in segregated localities or settlements. The children coming from this environment are often discriminated in education, which promotes their further exclusion and directly contributes to furthering and deepening inequalities between Roma and non-Roma people in general. For this reason special attention

¹ http://www.eumap.org/topics/minority/reports/roma_education/

² <http://www.amnesty.org/en/library/info/EUR72/001/2007>

³ Other relevant reports: *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, ERRC, 2004; *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*, ERRC, 2007; *Advancing Education of Roma in Slovakia, Country Assessment and the Roma Education Fund's Strategic Directions*, Roma Education Fund, 2007.

⁴ Conception discussed and granted by the government of the Slovak Republic at its 87th session on May 26th, 2004

should be given and concrete provisions should be included in the new Schools Act to ensure that Romani children coming from such environments are indeed able to enjoy equal education free from discrimination in Slovakia.

As a state party to a number of international human rights treaties -- including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of Racial Discrimination, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Council of Europe Framework Convention for the Protection of National Minorities -- the Slovak Republic is required to effectively prohibit discrimination and take immediate steps to eliminate discrimination in the realisation of human rights, including the right to education.

Additionally in recent jurisprudence by the European Court of Human Rights on the case of *D.H. and others v. the Czech Republic* it was established that segregating Roma students into special schools is a form of unlawful discrimination in breach of Article 14 of the European Convention (prohibiting discrimination), taken together with Article 2 of Protocol No. 1 (securing the right to education). The Court noted that the Czech Republic is not alone, and that similar discriminatory barriers to education for Roma children are present in a number of European countries.

Given these obligations, we are extremely concerned that neither the need to prohibit discrimination, nor the need to take concrete, targeted and effective measures to eliminate the discrimination faced by Roma in education in practice, have been given a central place in the new draft Schools Act. Rather, we believe that the current draft barely considers this issue at all. Given that the new Schools Act will provide the legal framework for the structure and content of education in Slovakia, we believe that it should address the steps needed to ensure that Roma children have access to quality education on the basis of equality and non-discrimination, widely recognised as the central human rights challenge in the education system in Slovakia. Other countries in the region, which have been faced with similar challenges in the education of Romani children, have already adopted legal provisions prohibiting segregation in education. Slovakia now has a unique opportunity to include a reference to desegregation in the current education reform process.

The undersigning organizations are calling on the Government of Slovakia, as well as all members of the Slovak National Council, to use the opportunity of the education reform process and consider the inclusion of the following measures on the occasion of the second reading of the draft new Schools Act, in order to demonstrate commitment and ensure equal access to quality education for all, including children from the Romani minority.

Key concerns and recommendations on the draft of the new Schools Act

1. The current draft of the new Schools Act does not explicitly commit to ensuring non-discrimination in the education system. Based on existing patterns of discrimination in the education of Romani children, including segregated education, the undersigned organizations consider that an explicit prohibition of discrimination and a clear commitment to pursuing de-segregation and equality in education should be included in the text of the Act.

Recommendation:

We urge that a specific prohibition of discrimination, including segregation, be included in as an Operative part of the new Schools Act, for example in the section *Principles of instruction and education, as general principle guiding the interpretation and implementation of the Act.*

2. Romani children who, due to historical and continuing discrimination, may require special measures in order to realise their right to education in practice should benefit from those measures. Although, many strategies, policies and conception materials have been prepared and/or approved by the Government of Slovakia with the aim of improving the status of Roma in the education system, the current draft new Schools Act fails to incorporate many of the positive principles and provisions or does not use

them as a base. Effective measures to promote equal access to a quality education for all children and aim to eliminate discrimination in the realisation of the right to education should be legally binding wherever they are necessary. Failure to include and/or clearly define those measures in the new Schools Act will leave implementation at the discretion of local authorities, individual head masters, teachers and other practitioners. Discretion in the adoption and implementation of these measures has contributed to the irregular implementation of already existing measures such as zero grade classes and teacher assistants as reported by the undersigning organizations.

Recommendations:

We urge you to incorporate into the new Schools Act, principles and provisions already approved in educational conceptions and other government policies and to ensure their accordance with the new Schools Act.

Ensure the provision of zero classes and teaching assistants, in all districts in which a reasonable number of children requiring them, including Roma, are present. Those provisions should be made compulsory in the text of the new Schools Act.

3. Teacher assistants play an important role in the process of education of children from excluded Romani communities. However, the status of teacher assistants is not sufficiently stipulated in the law. Nor does the law set out a commitment to ensure that teacher assistants will be available everywhere they are needed to ensure Roma children are equally able to realise their right to education. The draft new Schools Act only stipulates the mission and financing for the position of teacher assistant. We are concerned that unless these shortcomings in the law are addressed, the implementation of this measure will continue to depend on the will of the authorities charged with responsibility for primary education, as well as the willingness of local authorities, and headmasters to apply for the necessary funding.

Recommendations:

We urge you to ensure that the new Schools Act is amended so as to clearly define the status of teacher assistants in the educational process. The new Schools Act should also require the employment of teacher assistants everywhere, where they are needed.

After the approval of the new School Act Act we urge the Ministry of Education to actualize all regulations which regulate the status of teacher assistant, his/her workload and qualification requirements, so that the status of teacher assistant will in practice facilitate access to quality education for Roma children coming from excluded communities.

4. The procedure of diagnosis before a placement decision to either a mainstream or a special elementary school – by both the counselling centre and the school – is not clearly defined in the current text of the draft new Schools Act. Criteria for placement in a special school remain vague, and leave space for arbitrary interpretation by the special pedagogue or psychologist conducting the assessment. A procedure of monitoring the diagnosis and continuous assessments of those children currently in special education are also absent from the current text of the new Schools Act. We consider that provisions need to be included to ensure that all placement decisions are free from discrimination and possible cultural bias in practice and that all children who are at present erroneously placed in special schools are identified, with a view to their swift integration into mainstream education.

Recommendation:

We urge you to ensure that the new Schools Act is amended so as to clearly define the criteria and the procedure for placement of a child in a special school or class in a manner that does not leave space for arbitrary interpretation and abuse or discrimination.

5. We are concerned about inclusion of the term “socially disadvantaged pupils” in the list of those with special educational needs, in the text of the draft of the new Schools Act. This term, which in practice is largely understood as referring to Romani children, is vague and ill-defined in law. Its inclusion in the law alongside other terms may contribute to confusion and leave room for discrimination in the educational placement of Romani children. Due to often discriminatory attitudes by individual staff carrying out assessments and making decisions on the school placement of children, the result in many cases has been the *de facto* placement and segregation of Romani children in special schools and classes.

We are also concerned about the placement of children, most of them Roma, in preparatory classes established in special schools. The criteria for such placement are also often on the basis of “social disadvantage” and the consequence of such placement has been shown to be that children continue into special schools.

Recommendations:

We urge you to ensure that the new Schools Act is amended by removing the category of “socially disadvantaged children” from the list of those with special educational needs and by decoupling the term from mental disability. The law should instead require that “socially disadvantaged pupils” be educated in integrated, mainstream elementary schools, unless they have a physical or proven mental disability.

The new Schools Act should also strictly and explicitly limit preparatory classes in special schools only for children with physical or serious mental disability.

6. Even though conception and strategic documents discuss the necessity of integrating the Romani language, culture and history in the curriculum, practice does not suggest any real commitment to ensure this happens in the future. For example, the draft Act would create a new body, the curriculum committee, which would have the responsibility to initiate and support the development of curricula, contents and means of instruction. This would be a logical body to pursue the development and integration of Romani language, culture and history into the curriculum. However, the draft Act does not indicate that minorities, including Roma, will be represented in the body.

Recommendation:

Amend the new Schools Act so it makes clear that the composition of the curriculum committee should reflect the composition of Slovak society, including members of national minorities.

Organizations:

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CC: Members of the Slovak National Council
Committee for Human Rights, Minorities and the Status of Women
Committee on Education, Youth, Science and Sports
Committee on Social Affairs and Housing
Constitutional and Legal Affairs Committee
Committee on Finance, Budget and Currency
Committee on Public Administration and Regional Development
Committee on Culture and Media
Slovak Members of the European Parliament
Plenipotentiary for Roma Communities