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2 A tale of two schools  
Segregating Roma into special education in Slovakia

# 1. INTRODUCTION

“What does special school mean to you?”  
“Special school is the gypsy school.”

A 12-year-old Romani girl, pupil of the special elementary school of Pavlovce nad Uhom

In November 2007 Amnesty International published “*Still separate, still unequal: Violations of the right to education for Romani children in Slovakia*”<sup>1</sup>. The report highlighted the segregation of Romani children within the public education system through their discriminatory placement in “Roma-only” or special schools for children with mental disabilities. Regrettably, the government of Slovakia has so far failed to acknowledge the real extent of the problem and, consequently, to take comprehensive measures to reverse the situation.



© AI - Romani pupils during the Slovak language class at the special elementary school in Pavlovce nad Uhom

Following the publication of the report Amnesty International was contacted by the mayor of Pavlovce nad Uhom in eastern Slovakia and the director of its mainstream school, alleging that Romani children were being placed erroneously in the municipality’s special school. As a result Amnesty International carried out further research, visiting the country in March/April 2008 to investigate the case and meet with the Roma community, school staff and local, regional and central government authorities. This report documents the violations of the human right to education identified during that visit.

99.5 per cent of the approximately 200 pupils of the special school in Pavlovce nad Uhom are Roma. Following inspections instigated by the mayor in 2007, it was officially acknowledged that 17 of these pupils did not belong in the special school. Amnesty International believes the real number is far higher.

Officially, children can only be placed in special schools<sup>2</sup> after the formal diagnosis of a mental disability and only with the full consent of the parents. However, Amnesty International found that many children had not been assessed at all and that the assessment itself was deeply flawed. At the same time parental consent was often neither free nor informed.

Special schools – officially designed for children with mental disabilities – follow a greatly simplified curriculum which severely reduces future employment prospects and further education opportunities for those children whose rightful place is in mainstream education. The *de facto* segregation of Romani children in inferior schools compounds their marginalization and reinforces racial prejudices.

The human rights violations in Pavlovce nad Uhom are not just the result of individual human error, but of a broader failure to eliminate discrimination in both the design and the implementation of the Slovak education system.

In May 2008, Slovakia adopted a new Schools Act which expressly prohibits discrimination and segregation in education. A couple of months earlier, the Government of Slovakia adopted a policy paper on Roma Inclusion, which briefly mentions ethnic segregation in the public education system and lists a number of aspirations and proposals which would, if implemented, go some way to addressing the difficulties highlighted in this report.

It is necessary to go further. The elimination in practice of segregated and unequal schooling requires that the Slovak authorities acknowledge the serious structural failings that still exist in the Slovak education system and that this report shows can only be addressed by comprehensive reforms.

As a matter of priority, Amnesty International urges the Slovak authorities to identify all children erroneously placed in special schools, restore them to mainstream integrated education and provide additional support to compensate them for their loss.

The school year in Pavlovce nad Uhom begins again on 1 September. Action is needed now to ensure that **all** its children receive the quality education that they are entitled to.

## 2. THE CASE OF PAVLOVCE NAD UHOM

Pavlovce nad Uhom is a municipality located in the east of Slovakia, 10km from the border with Ukraine. According to the municipal authorities, 2,600 of the 4,500 inhabitants are Roma. A high percentage of the Romani population in Slovakia live in settlements situated outside towns and villages, often lacking water and electricity supplies, sanitation systems, and paved roads.

However, the Roma in Pavlovce nad Uhom are to a great extent integrated with the rest of the population. Many of them are less economically disadvantaged and enjoy better living conditions than Roma communities in other parts of Slovakia. Since the 1990s and particularly following the accession of Slovakia to the European Union (EU) in 2004, many Romani inhabitants of Pavlovce nad Uhom have migrated temporarily to other EU countries, mainly to the UK and Ireland, for work.



© AI – Neighbourhood in Pavlovce nad Uhom, in which some of the Romani families visited by Amnesty International live

There are two primary schools in Pavlovce nad Uhom: a mainstream elementary school with a nursery school attached, and a special elementary school for children with “mental disabilities.”<sup>3</sup>

During the school year 2007/2008, 550 children were enrolled at the mainstream school. According to the school’s management, 342 (62 per cent) of the enrolled children were

Roma. However, in practice many Romani children do not attend regularly, often because they emigrate temporarily with their families. The number of Romani children attending the elementary school at the time of Amnesty International's visit was estimated at just over 100 (18 per cent of the total number of enrolled children). Roma and non-Roma study in the same classes at the mainstream school and, according to school staff, a social worker, and some of the Roma children and parents Amnesty International met, they generally coexist smoothly.

According to the director of the special elementary school, at the time of Amnesty International's visit there were 205 children attending the Pavlovce nad Uhom special school. Only one of them was non-Roma – although as noted above the Roma population for the town as a whole is estimated at about 50 per cent. According to the municipal authorities, until the school year 1999/2000 there were only around 120 pupils enrolled at the special school. The number of Romani children enrolled at the special school, as a percentage of the total population of Romani children in the municipality, has risen by more than 50 per cent in recent years.

Number of Pupils	School Year		
	2006/2007	2007/2008	2008/2009
Mainstream elementary school (including the nursery)	596	550	535
Special elementary school	188	221	237

Figure 1: Source: Ministry of Education. According to official data for the last two and the coming school years, the number of pupils enrolled at the mainstream school of Pavlovce nad Uhom has been decreasing, while the number of pupils at the special school has been increasing. The data reflects the number of pupils registered in each of the schools at the start of the school year.<sup>4</sup>

Taking into consideration migration patterns and the actual number of children attending the two elementary schools of Pavlovce nad Uhom, it is striking that nearly two thirds of the Romani children attending school in the town in March 2008 were placed at the special school. Amnesty International is concerned that there is a pattern of segregation of Romani children into the special school, which is seen by many Romani inhabitants, including the children attending it, as the "gypsy school."

Since 2004, both the director of the mainstream school and the mayor of Pavlovce nad Uhom have raised concerns – in the form of written complaints and at official meetings – with the Košice Regional School Authority. The Authority is directly responsible for the 40 special elementary schools in the region including Pavlovce nad Uhom. The complaints related to administrative and admissions irregularities at the special school including accepting pupils without the formal assessment required under Slovak law.

At a meeting on 3 October 2007 with the director of the Košice Regional School Authority, the mayor and the director of the mainstream school expressed their concerns over the transfer of pupils from the mainstream to the special school.

According to the mainstream school's director, 25 of its registered pupils did not return to school in September 2007 after the summer holidays. The school was later officially

informed that for the 2007/2008 school year those children had been transferred and registered at Pavlovce nad Uhom special school. The mayor and director of the mainstream school argued, however, that the children's school attendance and results did not justify their transfer to the special school. Many of the children, some of whom Amnesty International delegates met, had coped very well with the mainstream curriculum, achieving good grades up until their transfer.

Additionally, Amnesty International was told by staff that such allegedly unjustified transfers had increased in the recent years. Amnesty International was told of at least 25 more children having been transferred from the mainstream to the special school for the start of the 2006/2007 school year. In previous years, transfers apparently took place, but involved fewer pupils.

The mayor and mainstream director's allegations stipulated that pupils admitted to the special school had undergone either incomplete or no proper assessment prior to admission. It was also alleged that some pupils had been recruited directly from the Romani community.

## FINANCING OF SCHOOLS

School revenue in Slovakia depends primarily on per-pupil funding. Consequently, enrolment numbers are a significant factor in increasing a school's income<sup>5</sup>. Additionally, schools receive a higher sum per pupil with special educational needs. In mainstream elementary schools, each child assessed as having special educational needs attracts up to 250 per cent of standard per-pupil funding for the school<sup>6</sup>. In special schools, a child may attract up to three times higher funding<sup>7</sup>. Clearly, the current system of school financing provides an incentive for schools to register as many pupils as possible. Potentially, it also encourages mainstream schools to integrate children with special needs. Equally, special schools may have incentives to accept children without diagnosed mental disabilities, in order to increase funding.

Amnesty International interviewed individuals representing regional and national institutions who said that the problems in Pavlovce nad Uhom do not reflect a failing system but represent a conflict between the mainstream and special schools. Essentially, both parties allegedly sought high pupil intakes in order to maximize funding potential.

*"This is the basis of the fight between the two schools in Pavlovce nad Uhom: the more children you have, the more money you get. It's a dictate of money over education."*

Director of the Košice Regional School Authority

Irrespective of the motivations of either party, their allegations are serious and should be subject to an appropriate investigation. As detailed below, an inspection by the Košice Regional School Authority found that a number of Romani children in Pavlovce nad Uhom had indeed been placed at the special school erroneously.

Amnesty International believes that the circumstances of the case show that local and national authorities have not exercised due diligence in protecting the right to education of these children. They have been relegated, sometimes for years, to an inferior education and their right to education has been violated as a result.

## 3. THE CASE INVESTIGATION

An unannounced inspection by the Košice Regional School Authority finally took place at Pavlovce nad Uhom special school between 6 and 11 November 2007. The results were published on 22 November 2007, two days after the mayor and the mainstream school director lodged their complaint with the Ministry of Education regarding irregularities at the special school. The Deputy Prime Minister for Human Rights and National Minorities and Amnesty International were also notified of the complaint.

With regard to special school admissions, the inspection focused on the documentation of the 57 new pupils admitted for the year 2007/2008 (including the 25 pupils who transferred from the mainstream school). It concluded<sup>8</sup> that the director of the special school had registered or admitted for diagnostic stay<sup>9</sup> pupils who had either received no assessment, or an incomplete assessment (not been assessed by both a psychologist and a special pedagogue), or whose results had been ambiguous or inconclusive. The inspection also found that the director had accepted children to the preparatory class who, as of September 2007, had not reached the legal minimum age for acceptance.

The inspection found also that, of the 29 pupils admitted to the special school for a diagnostic stay:

- three had not, at the time of the inspection, undergone any psychological or special educational testing (the three pupils included one in the first grade, one in the eighth grade, and one child of pre-school age enrolled in the preparatory class);
- five had not reached the required enrolment age of six as of 1 September 2007 but had nevertheless been enrolled in the preparatory grade, to facilitate their enrolment in the special school the following year;
- five were found by successive psychological testing to have no mental disorders whatsoever;
- five were found to have ambiguous test results.

Of the 28 new pupils fully enrolled in the special school (those not attending for a temporary diagnostic stay):

- 18 had not, at the time of the inspection, undergone any psychological or special educational testing;
- five were found to have ambiguous or inconclusive test results, including one pupil who had undergone both psychological and special pedagogical assessments. The joint recommendation by the psychologist and the special pedagogue had been to enrol the pupil



in the special school “*if requested by the parents*”. Of the five, two pupils were enrolled in the first grade, one in the second grade, one in the fourth grade, and one in the sixth grade.

The inspection also looked at class numbers and concluded that the special school director had established classes exceeding the maximum number of pupils. With regard to the provision of food the inspection concluded that, in the month of October, the school was providing pupils with meals low in nutritional value. Other administrative irregularities were noted in relation to school staff and employment conditions<sup>10</sup>. All the above actions were found by the Košice Regional School Authority to be in breach of Slovak law.

Of the 57 new pupils reviewed by the inspection committee (including the 25 pupils transferred from the mainstream school), only 21 had been placed following assessment in accordance with Slovak law.

Twelve pupils were proven to have been placed at the special school erroneously. They were returned to the mainstream school as of 1 February 2008, having missed six months of the mainstream curriculum that was their right in law. The director of the special school was fined and urged by the Košice Regional School Authority to take measures to correct the administrative failures identified.

In December 2007, following media coverage of the case, the Košice Regional School Authority organized a meeting with all directors of special schools and directors of special pedagogical and pedagogical-psychological counselling centres in the Košice region. Staff of the Ministry of Education also attended. The meeting focused on special education and the correct placement and diagnosis procedures for children at special schools. Amnesty International welcomes such an initiative, and the personal interest demonstrated by the Slovak Deputy Prime Minister for Human Rights and National Minorities, who on 13 December 2007 requested an investigation into the case by the Ministry of Education.

As further reaction to the written complaint of 20 November 2007, the Košice School Inspection Centre (the regional office of the State School Inspectorate) also conducted an inspection at Pavlovce nad Uhom special school. Although the letter outlining the concerns was not treated as a complaint<sup>11</sup>, it was taken into account during the inspection which took place between 18 and 21 February, and 12 March 2008. The inspection concluded that the special school's administration had not met required standards. The main failings cited included infringement of school regulations, admittance of pupils without prior special pedagogical and mental disability diagnosis, and an almost total lack of any review of pupils' diagnosis. The inspection also found failings in the monitoring of the curriculum and pupil attendance, teaching methods and academic pupil evaluation<sup>12</sup>.

Amnesty International is concerned that the authorities have failed to consider fully the damaging impact on children of such erroneous placements at the special school, and failed to ensure effective remedies for the violation of their human right to education.

At a meeting with the Košice Regional School Authority, Amnesty International delegates were dismayed to hear the School Authority's director effectively undermine the importance of the 12 proven cases of erroneous placement of Romani children at Pavlovce nad Uhom special school, saying:

*"[B]ut we can do nothing about the six months during which the children were attending the special school. [...] at least those children were learning something, were receiving education at the special school; they were not being kept in a 'black room'."*

In contrast, the deputy director of the mainstream school spoke to Amnesty International about the negative effect that placement in special school has for children, and the challenges they face on reintegration to the mainstream curriculum:

*"I am concerned and angry because we make a lot of effort and work hard with the Romani children [...] They reach for example grade 7 - often without even repeating a year - only to see them afterwards being transferred to the special school. After six months at the special school they have lost even the knowledge they had already obtained."*



© AI – Roma and non-Roma children study together at the mainstream school of Pavlovce nad Uhom

The director of the special school, in arguing the case for sending children who cannot cope with the mainstream curriculum to the special school, explained to Amnesty International's delegates the difference between curriculums in the mainstream and special schools:

*"In the first grade of the mainstream elementary school pupils study the numbers from 0 to 100; in the [first grade of the] special elementary school they learn only from 0 to 5. When it comes to Slovak language, children in the mainstream school learn the whole alphabet in the first grade; at the special school they study the alphabet during grades 1 to 4."*

Lukaš<sup>13</sup>, a 14-year-old boy who was transferred back to the mainstream elementary school on 1 February 2008 after spending six months at the special school because of an "administrative" error, told Amnesty International delegates:

*“In grade 7 of the special school I learned the same things that I learned in grade 3 of the mainstream school.”*

According to 2006 data from the High Commissioner for Human Rights of the Council of Europe, only three per cent of Romani children in Slovakia reached secondary school, while only eight per cent enrolled in secondary technical school<sup>14</sup>. This extraordinary figure has been highlighted in reports by national institutions, and raised as a concern by international human rights bodies.

## RECENT DEVELOPMENTS

### Five more pupils transfer to the mainstream school

Following the visit by its delegates to Pavlovce nad Uhom, Amnesty International was informed in June 2008 that 120 pupils of the special school in Pavlovce nad Uhom had been reassessed due to errors in their pedagogical documentation. The reassessment, which took place in April and May 2008, was the result of an initiative by the special school director and at the request of the director of the Košice Regional School Authority. It was conducted by the Pedagogical Psychological Counselling Centre in Michalovce.

As a result of this process, on 1 June 2008 five pupils of the special school were transferred to Pavlovce nad Uhom mainstream school following re-diagnosis in which no clear mental disability was identified. The director of the Košice Regional School Authority acknowledged that this new assessment result *“possibly reflected both a mistake in the initial or previous assessment and an improvement of the mental situation of the children”*.

The five pupils were already in grades five, six and seven of the special school and had been studying there since they began education<sup>15</sup>. Amnesty International is concerned that in all likelihood these children were placed in the special school erroneously from the beginning, and consequently had endured five, six and seven years of severely limited education. Asked why not all the pupils had been re-diagnosed earlier, the director of the Košice Regional School Authority noted that the situation was more complicated with pupils already in higher grades.

Amnesty International welcomes the reassessment of pupils that has already taken place, but considers that all other pupils at the school should similarly be reassessed. All of those children found to have been erroneously placed in special schools, and whose right to education has been violated as a result, should be guaranteed an effective remedy including adequate reparations.

## 4. SYSTEMIC FAILURES

### PARENTAL CONSENT

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. It also found that, when placement leads to difference in treatment, “*no waiver of the right not to be subjected to racial discrimination can be accepted.*”

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. Parental consent has been a decisive factor in the placement of Romani children at the Pavlovce nad Uhom special school. Often, however, such consent has been neither free nor informed. This leads to a disproportionately high number of Romani children being placed in what is effectively a segregated school, providing a lower standard of education, and thus would be tantamount to waiving the right to an education free from discrimination.



© AI – Romani family outside of their house in Pavlovce nad Uhom

*“The system – in terms of laws and regulations is perfect; the erroneous placement of children at the special school happens because of human error. Roma parents also share that blame because they don’t understand that, by sending their children to special schools, they*

*damage their future. [...] After special school, children cannot move on to higher education, but have to attend vocational training. If they start in special education, they are stuck there forever."*

Director of the Office of Chief School Inspector

Amnesty International met with parents of the 25 Romani children who were transferred from the mainstream to the special school for the 2007/2008 school year. Some of these children were transferred back to the mainstream school as of 1 February 2008.

Romani parents are frequently the first to be blamed by authorities, officials and, often, civil society, when discussing problems of access to quality education for Romani children. The most common stereotype used is that "Roma don't value education."

Amnesty International heard the views of Romani parents on school placement at Pavlovce nad Uhom. The interviews highlighted various factors that lead Roma parents to consent to the placement of their children in the special school: lack of awareness of the difference between the mainstream curriculum and that of the special school, and of the implications of giving consent; financial incentives through motivational scholarships<sup>16</sup>; the relative attraction of the special school, which is seen as a Roma school, as opposed to a mixed mainstream school where their children are "different" and may feel discriminated against; and a feeling of resignation in light of general negative attitudes towards Roma.

#### **LACK OF AWARENESS**

Amnesty International is concerned that, although placement of Romani pupils in the Pavlovce nad Uhom special school has taken place with the agreement of the children's parents, often this has not constituted informed consent. During Amnesty International's visit, it emerged that some Romani parents were not aware of the implications of giving consent for their child's education and future. Some of the parents interviewed appeared not to understand the difference between mainstream and special school education, or what it meant for their children. According to allegations made by the mayor and the director of the mainstream school, this lack of comprehension by the parents is compounded by efforts made by the special school to recruit pupils directly from the Romani community. One mother confirmed to Amnesty International that she had had such an approach:

*"A teacher's assistant from the special elementary school visited me and told me that the child would be better off there. The director of the special school also told me that the situation is better in his school, as they explain things better there."*

The director of Pavlovce nad Uhom special school denied these allegations.

Amnesty International calls on the Slovak authorities to develop outreach programmes targeting Romani parents, providing accurate information in a language and form that can be understood by all, in order to raise awareness about the choice of schools, the implications of placement in a special school and benefits of education in a mainstream school.

#### **FINANCIAL INCENTIVES**

For unemployed Romani parents who are totally dependant on state benefits, their economic situation often plays an important part in their decision to place their child at the special school. A major reason why Romani parents prefer their children to attend the special school

is the motivational scholarship. Low income families qualify for these scholarships when their children achieve top grades in special school, where the curriculum is easier than that of the mainstream school. In such instances, therefore, consent can be driven by the financial needs of the Romani families and so does not constitute freedom of choice.

## MOTIVATIONAL SCHOLARSHIPS

Motivational scholarships for elementary school pupils from low income families receiving state benefits were introduced in 2004 by the Ministry of Labour and Social Affairs as an incentive for better school performance of children. Initially the scholarships were only offered to mainstream school pupils, but in 2006 they were extended to include special schools. The amount of the scholarship depends on a pupil's achievement level: SKK500<sup>17</sup> per month for average grades of 1.5 or better (1 being excellent and 5 poor), SKK300 for grades between 1.5 and 2.5, and SKK200 per month for pupils who raise their average by 0.5 in comparison to the previous year<sup>18</sup>. Since special schools follow a simpler curriculum, it is easier for children of mainstream school ability to achieve higher grades there. Thus, motivational scholarships can become an incentive for parents in registering their children at a special school.

*"Although children get scholarships in the mainstream school as well, it is easier for my children to get excellent grades at the special school, so I would rather send them there."*

M.L., Mother of Romani children, pupils of the special school

All children whose families were visited by Amnesty International in Pavlovce nad Uhom started receiving top grades after transferring to the special school. Those who were entitled, subject to their family's economic status, also received the highest motivational scholarship. One mother told Amnesty International that, with five children achieving top grades at the special school, she received SKK2,500 per month, which constituted a significant addition to the family's other state benefits. Both she and her husband are unemployed.

Amnesty International is concerned that the provision of motivational scholarships – although laudable in principle – has run counter to the best interests of the child, as it has become an incentive for parents on low income to send their children to special school. This was confirmed in the 2007 annual report of the office of Slovakia's Plenipotentiary for Roma Communities, presented to the government of Slovakia by the Deputy Prime Minister for Human Rights and National Minorities, Dušan Čaplovič. The case of Pavlovce nad Uhom was highlighted in the report as exemplary for the negative effect of motivational scholarships<sup>19</sup>.

Amnesty International calls on the Ministry of Education, in co-operation with the Ministry of Labour, Social Affairs and Family, to revise the structure of motivational scholarships for children from deprived backgrounds. Such scholarships should aim to encourage attendance, and should not be weighted on the child's performance.

### THE "ROMANI SCHOOL"

Currently in the majority of schools in Slovakia, there are very few educational materials for Roma in the Romani language or opportunities to learn about their own culture and history. There is often nothing to which Romani children can relate in a mono-cultural curriculum. However on the other hand, in some special schools with high Romani intake, extra attention is given to Romani culture and history. This is seen as an additional incentive for Romani

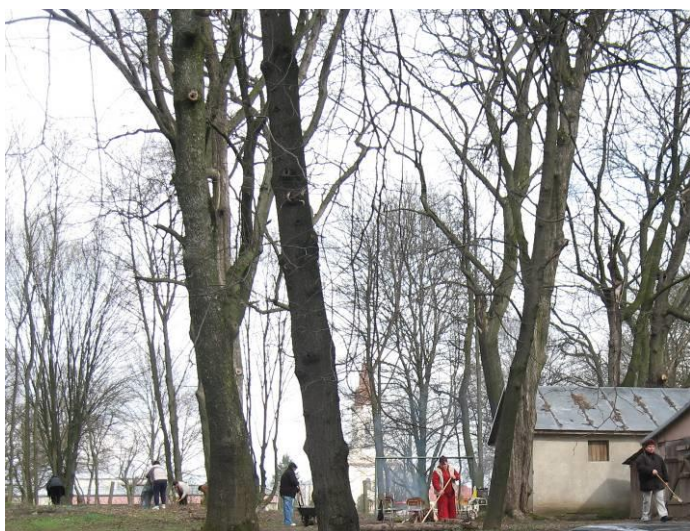
parents to send their children to special schools<sup>20</sup>. The State School Inspectorate's findings in February/March 2008 confirmed that the pupils' developing interest in Romani culture had been identified as one of the few positive features of Pavlovce nad Uhom special school<sup>21</sup>.

In Pavlovce nad Uhom, the absence of Roma teachers or teaching assistants compounds the difficulties in facilitating the integration of Romani children in school<sup>22</sup>.

Over 50 per cent of Romani children currently attending school in Pavlovce nad Uhom go to the special school which, except for one pupil, is attended entirely by Romani children. Many parents told Amnesty International that their children were asking to be moved to the special school to be with their friends. One Romani girl said:

*"If my friends went to the mainstream school, I would also go back."*

Some Romani parents alleged that their children were treated differently to non-Roma children by mainstream school teachers, and that it was better at the special school because all pupils there were Roma and so everyone felt more comfortable.



© AI – Roma inhabitants working through the activation programme (which provides extra allowance for work undertaken within the community) at the special elementary school of Pavlovce nad Uhom

Parents also preferred to register their youngest child at special school, as older siblings were often already attending there. All these factors have contributed to a self-perpetuating cycle of Roma segregation within the elementary school system. Many Roma in Pavlovce nad Uhom consider it the norm to attend the “gypsy school” (i.e. special school).

The choice for Romani parents either to send their children to a mainstream school ill-equipped to facilitate cultural diversity where their children risk isolation and ostracism, or to a special school where almost all pupils are Roma, cannot be considered a real choice at all.

The government of Slovakia must meet its responsibilities in ensuring that the Roma in Pavlovce nad Uhom, and indeed throughout the country, are offered real alternatives to the self-perpetuating cycle of segregation into special education.

To this end, Amnesty International calls on the Government of Slovakia to ensure that Romani culture, history and traditions, and information about the contributions Roma have made to society, are included in the formal school curriculums. Additionally, Amnesty International calls on the Government of Slovakia to develop a comprehensive plan of action to ensure the full integration of Romani children in mainstream education together with children from majority and other minority communities.

### **DISCRIMINATION**

Finally, Amnesty International noted during its research that some parents were aware that the special school route left fewer options for further education, effectively limiting their children to vocational training. Some parents felt that this was immaterial, however; knowing their children will face discrimination in all aspects of their lives, they believed that a better quality education in the mainstream school would ultimately bring no practical benefits for them. One mother said:

*“What difference does it make if my children go to the mainstream or the special school? In the end they are still not going to be able to go to secondary school or university because of the cost; at the same time, no matter which school they finish, they are still going to be discriminated against in finding a job.”*

**Amnesty International is concerned that Pavlovce nad Uhom special school has effectively become a segregated, Roma-only school. Its near 100 per cent Roma composition, and incentives such as the programme of motivational scholarship, often make it more attractive to Romani children and their parents. Although Romani parents consent to and often seek to register their children at the special school, this consent is often neither informed nor free. Therefore, it should not be a decisive factor in determining placement. Proper and objective pupil assessment prior to enrolment would prevent erroneous placements in the special school. This would safeguard the child’s best interests, and give the child the benefits of a culturally integrated, quality education.**



## TESTING AND DIVERSION TO THE SPECIAL SCHOOL

### PROCESS OF DIVERSION TO SPECIAL SCHOOL

Decisions regarding placement in special school or special remedial classes within mainstream schools are made when the child begins compulsory education, or shortly thereafter, on the basis of their "school readiness". 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.

A child attending mainstream school who appears to be struggling with the curriculum can, at any point, be referred to a Pedagogical-Psychological or Special Pedagogical Counselling Centre for assessment. This can be requested by the school or the child's legal guardian, though always and only with the latter's consent. A four-member specialist committee, including a psychologist, a special pedagogue and other experts, is charged with assessing the child and recommending placement at special education facility if necessary.

According to Slovak law placement in special school of children who have not been diagnosed with a mental disability is illegal. Additionally, for the assessment to be valid, the panel of experts must belong to the Counselling Centres network, which operates under the Slovak Ministry of Education. However, directors of special schools are the final decision-makers. They approve the child's placement in their school based on the diagnosis and recommendations of the panel, and always after obtaining parental consent.

Additionally under Slovak law, children placed in special schools or special remedial classes within mainstream schools must be re-tested at least every three years. However, due to the lack of resources within Counselling Centres, and compounded by racial prejudices, it is suspected that not all of these children undergo re-diagnosis<sup>23</sup>.

### NON-INDEPENDENT TESTING

Pavlovce nad Uhom special school used to employ a psychologist who conducted placement assessments for the school. According to the school's director, the psychologist was employed from 2001 for about five years, two of them under the management of the current director. Assessments by the school's psychologist were accepted by the director as valid documentation for a child's enrolment at the school. However, this practice failed to comply with Slovak law because a diagnosis must be conducted exclusively by professionals directly employed under the Ministry of Education. Considering that a high pupil intake brings financial benefits for a school, assessments conducted by a non-independent tester such as a member of school staff, cannot guarantee impartiality.

After an inspection by the Košice Regional School Authority, the director of the special school was warned over the illegality of his actions and ordered to retest all children previously assessed by the school's psychologist. The director of the special school then contacted the Special Pedagogical Counselling Centre in Košice requesting that they re-assess those children whose paperwork was invalid. According to the director, the school's psychologist resigned shortly afterwards.

Since January 2007 the Košice Counselling Centre has visited Pavlovce nad Uhom several times. As a result, all children whose original assessments were invalid were retested and placement decisions were also given for new pupils. At the time of Amnesty International's visit, the Košice Counselling Centre, which makes assessment and placement decisions, was responsible for a total of 96 children at the Pavlovce nad Uhom special school. The director of the Košice Counselling Centre expressed confidence that all decisions made by her staff had been correct. In the cases of pupils who were previously assessed by the school's psychologist, she conceded that those assessments had not been conducted by an independent expert and therefore were not valid, but contended that they agreed with the diagnosis of the Košice Counselling Centre.

After the publication of the inspection's findings on Pavlovce nad Uhom special school, the Košice Regional School Authority ordered that the Special-Pedagogical Counselling Centre in Košice end its co-operation and involvement in case assessment for the school. However, according to the director of the Košice Counselling Centre, it remains responsible for the pupils it supports there, until they are referred to and taken on by another Counselling Centre.

#### **FAILURE TO COMPLY WITH EXISTING LAWS**

According to the November 2007 inspection of Pavlovce nad Uhom special school by the Košice Regional School Authority, most placement decisions concerning new pupils for the school year 2007/2008 were at best based on incomplete or inconclusive assessments. At worst, they were taken without any prior assessment of the child; these pupils were not tested until a few weeks or months after their enrolment. The majority of Romani parents that Amnesty International met said that the director of the special school had no objection to their children being registered there, and confirmed that they were only assessed weeks or months after the beginning of the school year.

It is important to note that the November 2007 inspection only examined the 57 cases of new placement decisions made by the director of the special school for the school year 2007/2008. Amnesty International is concerned that, if an independent inspection had examined the cases of all pupils registered at the school, more children might have been identified as wrongly placed at the special school.

Amnesty International calls on the Slovak authorities to ensure that the enrolment of pupils is under no circumstances approved by the special school unless they have been clearly, objectively and unambiguously diagnosed with mental disabilities; such diagnosis must precede the placement of the child; parental request or consent should not be the decisive factor for such a placement.

Regarding the particular failings in Pavlovce nad Uhom, Amnesty International calls for independent retesting of all pupils currently enrolled in its special elementary school.

## CASE 1: LUKAŠ AND ZUZANA

Lukaš and his sister, Zuzana are 14 and 12 years old respectively. They were among the 25 children transferred from the mainstream to the special elementary school in Pavlovce nad Uhom before the start of the 2007/2008 school year. Prior to their transfer, both children used to be average pupils receiving top grades on some subjects and lower grades on others.

Their mother works at the activation programme<sup>24</sup> in the special school. During the summer holiday she asked the director of the special school to take Lukaš and Zuzana. He enrolled them without any assessment. The children told Amnesty International that they were only tested in December 2007, four months after the school year had started, and since no mental disability was diagnosed they were transferred back to the mainstream school on 1 February 2008. Lukaš and Zuzana lost six months of their education and development. No one will compensate them for those wasted months.

The children's mother expressed her disappointment to Amnesty International, however, feeling that the test had judged her children "not good enough for the special school." She argued that, had her children remained at the special school, they would be receiving higher motivational scholarships as they would achieve top grades under the simplified curriculum.

Lukaš likes to study and he prefers the mainstream to the special school. He is a good student, and excels in the Russian language class. Both Lukaš and Zuzana told Amnesty International that they have Roma and non-Roma friends at the mainstream school. They also felt that, while the mainstream school teachers were stricter, they did not treat Roma children any differently from the other children there.

Lukaš also said that he never wanted to go to the special school, but was encouraged by his mother. "I know that there are more Romani children who think the special school is very easy; some of them are very intelligent, but for some reason they are still there. Special school means easier school. I didn't like it because I didn't learn a lot there. In grade 7 of the special school I learned the same things that I learned in grade 3 of the mainstream school."

### FLAWED ASSESSMENTS

The tests used for assessments in Slovakia have been criticized as not being culturally neutral. Language barrier issues often emerge during the assessment of Romani children who do not speak Slovak, which the Slovak government has recognized<sup>25</sup>. The director of the Special-Pedagogical Counselling Centre in Košice has confirmed that the existing test is unsuitable for children who do not speak Slovak:

*"There are two parts to the test: verbal and non-verbal. It is difficult to test a child who does not speak Slovak because the test is actually made for children whose mother tongue is Slovak. The psychologist must then give notice that the child has not been objectively tested due to the language barrier. This child would undergo only the non-verbal part of the test."*

Director of the Special Pedagogical Counselling Centre in Košice

A new "School Readiness Test" methodology developed in the framework of an EU Phare<sup>26</sup> project (no. SR2002/000.610-03) is intended to be culturally neutral. However its use is still not compulsory<sup>27</sup>.

Additionally, due to the language barrier, assessments of Romani children do not always result in a clear diagnosis. Amnesty International's research suggests that there is reasonable scope for subjectivity in the assessment process, which might encourage racism both in placement decisions and choosing what is "best for the child".

*"We solve concrete situations here and we look at the particular case. We should help the child. [,,,] often in a situation where a child cries in front of you, the mother insists on placing her children into a special school. But we try to be objective.*

...

*A child has better conditions at the special school, because there are not many children in the class and the teachers are special pedagogues. It is better for the child to finish the ten years compulsory school attendance at grade 7 of the special school, so that education can be continued at a vocational school. But if a child finishes compulsory school at a lower grade [which often happens if they repeat classes at the mainstream school], then this child cannot continue into secondary vocational school. So this system is not working."*

Director of the Special Pedagogical Counselling Centre in Košice



© AI – Romani children make up 99.5 per cent of the Pavlovce nad Uhom special school's pupils

*"Those 12 cases [of erroneous placement of children at the special school] were the result of a lack of clarity in the psychological tests. These tests are not easy. It is very difficult to diagnose mental disability or to distinguish between different educational development disorders."*

Director of the Košice Regional School Authority

Amnesty International calls on the Government of Slovakia to develop and disseminate clear, reasonable and objective criteria and guidelines, based on which children may be enrolled in special schools or classes; in all placement decisions, the best interests of the child and the equal right of all children to a quality education should be the primary considerations.

### **“DIAGNOSTIC STAY”**

The director of the Special Pedagogical Counselling Centre in Košice told Amnesty International that, in cases where the child does not speak Slovak, they undergo only the non-verbal test. If they are subsequently diagnosed as having a mental disability, the child is usually placed at the special school for a “diagnostic stay”. Under Decree No. 212/1999 Coll., § 14, before the child is officially enrolled at a special school, a diagnostic stay can first be proposed. It is applied in cases where an assessment has been ambiguous or inconclusive. Its intention is to clarify the special pedagogical diagnosis, and facilitate a final placement that meets the needs of the child.

The length of diagnostic stay can be up to one year. This does not mean that a child has to remain at the type of school where she/he was placed for diagnostic stay. The Counselling Centre monitors the suitability of the school for the child. According to the director of the Košice Counselling Centre, diagnostic stay is often used in cases where children have multiple disabilities, in order to select the best school for their particular needs.

Amnesty International is concerned that the provision of diagnostic stay is not clearly defined in the law and can lead to abuses and mistakes that may impact severely on a child's education. A child who is not enrolled at the special school but is placed there for a “trial period” following an inconclusive assessment will lose out in the quality of education they receive. Potentially, the child may be embarking on a never-ending cycle of special education.

Amnesty International is also concerned that, due to the vague definition and terms under which a diagnostic stay can be applied, the provision may be used in an arbitrary or unfair way. In the case of Pavlovce nad Uhom it could facilitate the enrolment of more pupils at the school. At the beginning of the 2007/2008 school year, half of the 57 new pupils starting at the special school were there for a diagnostic stay.

Amnesty International calls on the Government of Slovakia to repeal the practise of temporary enrolment (diagnostic stays) in special schools and classes for children whose test results are inconclusive.

### **CHILDREN DELIBERATELY FAILING TESTS**

Amnesty International's interviews with Romani parents, as well as meetings with the directors of the Košice Regional School Authority and the Special Pedagogical Counselling Centre in Košice demonstrated that many Romani children “cheat the test”. In other words, they deliberately fail the test in order to guarantee placement at the special school. Speaking of their general experience, officials confirmed to Amnesty International that this is a widespread practice and not limited to the case of Pavlovce nad Uhom:

*“I am aware of many examples of children tricking the psychologists and lying during assessments in order to be diagnosed as mentally retarded and get sent to the special school.”*

Director of the Košice Regional School Authority

The reasons why Romani children, or their parents on their behalf, might prefer to be placed at the special school have been extensively described above. What is striking, though, is that

the current assessment methodology used in Slovakia can be “tricked” by elementary school children. Many of those who were transferred from the mainstream to the special school had previously been excellent or average students, demonstrating that they were coping well with the mainstream curriculum.

Amnesty International is concerned that assessments of intellectual ability in these cases did not take this into consideration, and were based on children, often intentionally, failing the test. An even greater concern is that a potentially high number of very intelligent Romani children are erroneously placed at schools for children with mental disabilities, and consequently have limited opportunities to further their education.

*“Some of the 25 children that were retested at the special school did poorly on purpose, in order to remain at the special school. Those children are very intelligent; they know how to lie during the test.”*

D.L., Mother of Romani children, pupils at the special school

In order to assess whether or not it is appropriate to test a child, the overall performance of the child should be considered.

### **ROMANI CHILDREN, “SOCIALY DISADVANTAGED BACKGROUND”, AND THE SPECIAL SCHOOL**

Amnesty International is concerned that the term “socially disadvantaged background”, which is largely understood as referring to the situation of Roma, is vague and ill-defined in law. In practice it is being used as a measure for determining whether a child is enrolled in a special or a mainstream school. Its inclusion in the law alongside the listed categories of pupils with special educational needs may contribute to the 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 *de facto* segregation of Romani children in special schools and classes.

The Ministry of Education defines children from “socially disadvantaged backgrounds” as “a proportion of children and young people of Romani origin, those who are perceived as having problems in learning and attitude which arose on the basis of dysfunctional social conditions as a result of social exclusion (poverty, insufficient education of their parents, non-standard housing and hygienic conditions...)”<sup>28</sup>

The Deputy Prime Minister for Human Rights and National Minorities, in his letter of 4 January 2008 reacted to Amnesty International’s concerns about violations of the right to education for Romani children in Slovakia:

*“Socially disadvantaged environments cause social-cultural deprivation and deform the intellectual, moral and emotional development of individuals. In terms of education, we consider such individuals as persons with special educational needs. Special educational needs of children are requirements for a special modification of the conditions, organization and implementation of the educational process to address the special needs of students whose physical or social development significantly differs from the standard students. Children from disadvantaged social environments [...] (in most cases we are referring to*

*Roma children from settlements naturally or artificially separated from municipalities) [...] belong to the group of children with special educational needs."*

Amnesty International was dismayed to receive statements by those charged with overseeing the education system in Pavlovce nad Uhom and elsewhere which re-established the link between social disadvantage and mental disability, particularly in reference to Romani pupils placed in the special school:

*"It is not health issues that cause the disability, but social disadvantage."*

Director of the Office of Chief School Inspector

Amnesty International calls on the Government of Slovakia to define the category of children from "socially disadvantaged backgrounds" in a clear and objective manner. The term should be used only to identify children for temporary special measures to support the full realization of their right to education. In no circumstances should such children be treated as having a mental disability.

**At the time of Amnesty International's visit, nearly two thirds of Romani children in primary education in Pavlovce nad Uhom attended the special school. Amnesty International is concerned that, in addition to the children already identified in November 2007 and June 2008 respectively, many more may have been placed at the special school erroneously. These flawed assessments are depriving those children of their equal right to education and equal opportunities for the future.**

## **CASE 2: KATKA AND PATRICIA**

Katka, 8 years old, and her 9-year-old sister, Patricia, were among the 25 children transferred to the special school in the 2007/2008 school year. Because other members of their family attended the Pavlovce nad Uhom special school, the girls also wanted to go there. However, the mainstream school did not approve the girls' transfer because they had been excellent pupils. During the summer their mother went to the special school and asked the director to take the girls. According to the mother, the director of the special school informed her that a psychologist would be coming at some point, but that Katka and Patricia could start at the school and be tested later.

Both girls achieved excellent grades while in the mainstream school, and were entitled to receive the highest motivational scholarships. Their mother now receives the highest motivational scholarships for all her children achieving top grades at the special school. She is very happy that her children attend the special school. She told Amnesty International that she believes the children learn the same things in both schools, with the only difference being that the special school is for children who face more difficulties.

The mother told Amnesty International that both girls and her other child are very intelligent. She admitted that her daughters knew what they had to do in order to "fail" the test and go to the special school. They did this in order to be with their friends at the "Roma" school.

Katka told Amnesty International that she used to like the mainstream school better. When asked what she would like to be when she grows up, she said that she would like to become a teacher. This will be a very difficult dream for Katka to realize, as her only alternative after completion of special school will be vocational training. The two girls continue in the reduced curriculum at the special school.

## LACK OF MONITORING AND ACCOUNTABILITY

*“This was a mistake by the director of the special school, as much as by the Special Pedagogical Counselling Centre in Košice. [...] Our fault is that we have not found out about the mistakes in Pavlovce nad Uhom, until the mayor pointed them out.”*

Director of the Košice Regional School Authority

*“The Košice Regional School Authority bears part of the responsibility for the situation in Pavlovce nad Uhom, as they should have realized there are problems, based on the reports by the school, rather than waiting for the mayor’s complaint. At the same time it was the school director’s decision to take those children in the school, and he broke the law. We, as the State School Inspectorate, did all that was within our power. Our role ends in making the recommendations which we sent to the founder of the school [the Košice Regional School Authority]. We cannot take any disciplinary or corrective measures ourselves.”*

Director of the Office of Chief School Inspector

The serious failures identified by the inspection at the special school, including the erroneous placement of at least 17 Romani pupils there, deserve the attention of the authorities at the highest level. Individuals who have breached current law do not operate in a vacuum: there are clear lines of responsibility and accountability that begin with the director of Pavlovce nad Uhom special school, and extend to the Minister of Education. The Minister of Education is responsible for ensuring that public education in Slovakia functions in accordance with national and international law.

## ETHNICALLY DISAGGREGATED DATA

*“Official statistics do not suggest that there is segregation in Pavlovce nad Uhom. It is not true that more than 50 per cent of Romani children in the town are placed at the special school since officially [based on self-declarations of parents at the national census] there are only 10 Roma pupils at the mainstream school and eight at the special school!”*

Director of the Košice Regional School Authority

This statement by the director of the Košice Regional School Authority demonstrates the ability of state officials to hide behind statistics which mask the extent of racial segregation and discrimination in education across Slovakia. Both schools in Pavlovce nad Uhom provided Amnesty International with concrete numbers of Roma and non-Roma pupils. According to the director of the special school, 99.5 per cent of the children attending his school at the time of Amnesty International’s visit were Roma.

The collection of appropriate data, disaggregated at least according to ethnicity and gender, is crucial in ensuring that laws, policies and practice are contributing to the elimination of discrimination. This is a requirement under the International Convention for the Elimination of Racial Discrimination. At present, the government does not collect ethnically disaggregated data on the composition of different kinds of schools in Slovakia. However, it has been recommended to do so by various regional and international human rights bodies monitoring the implementation of treaties ratified by Slovakia<sup>29</sup>.

Amnesty International calls on the Government of Slovakia to systematically gather statistical information and data, disaggregated on the basis of gender and ethnicity, in relation to education, health, employment and other relevant areas, with due regard to European



standards concerning the protection of personal data and the right to self-identification.

### **INDEPENDENT COMPLAINTS MECHANISM**

Currently, there is no effective independent complaints mechanism in Slovakia that parents can easily access if, for instance, their children are inappropriately placed in special schools<sup>30</sup>. The State School Inspectorate, mandated to process individual complaints and petitions, although independent in its activities, does not have the competence to issue sanctions related to segregation<sup>31</sup>. Unlike similar bodies in Bulgaria and Hungary, the Slovak National Centre for Human Rights<sup>32</sup> does not have authority to investigate individual complaints, to initiate its own investigations, or to recommend remedies in individual cases of violations of the right to education<sup>33</sup>.

Amnesty International calls on the Government of Slovakia to review the mandate of the Slovak National Centre for Human Rights in order to ensure that it complies with the standards of other human rights bodies that monitor anti-discrimination legislation and its implementation, including the authority to investigate individual complaints, to initiate its own investigations, or to recommend remedies in individual cases of violations of the right to education.



© AI - Romani pupil of the special elementary school in Pavlovce nad Uhom, eastern Slovakia, writing letters on the black board

### **LACK OF AN EFFECTIVE REMEDY**

Amnesty International acknowledges that certain actions were eventually taken in reaction to the concerns raised by individuals from Pavlovce nad Uhom since 2004. Two inspections of the special school took place. The first was conducted by the Košice Regional School Authority in October 2007. A second by the State School Inspectorate took place during February-March 2008. Disciplinary measures were taken against the director of the special school for breaching the law. Corrective measures, such as reassessment and transferring of pupils to the mainstream school, were ordered in the case of at least 12 Romani children. Amnesty International recognizes also that after its visit to Pavlovce nad Uhom, the directors of the special school and the Košice Regional School Authority requested and organized the re-assessment of the majority of the pupils at the special school. On 1 June 2008 Amnesty

International received news that five additional pupils identified as having been incorrectly placed at the special school were to be transferred to the mainstream school.

However, while reassessments and transfers of children are welcomed, these actions alone will not compensate for lost months or years of education. Nor will they erase the stigma of the “mentally retarded”, or stop this from happening again. Amnesty International is not aware of any attempts by the authorities to address the lost time or to ensure extra support for those children who have fallen behind the mainstream curriculum.

Amnesty International believes it is extremely likely that more Romani children have been placed at the special school in error. The Director of the Košice Regional School Authority accepted as much, but insisted that there was no point in trying to do anything about it:

*“This was a “medium” level mistake, which could happen anywhere. We do not have enough human resources and there is not enough interest in re-testing all the children [of the special school]. And it would not have any effect. If there is a big mistake and there are children of 15 or 16 years of age erroneously placed at the special school, returning them back to the mainstream school would not help. We cannot turn time back.”*

Amnesty International calls on the Government of Slovakia and regional and local authorities to ensure that all children who are found to have been wrongly placed in special education are provided with an effective remedy, including adequate reparations to allow them to regain their academic level.

## REFORMS AND DEVELOPMENTS

**Finally, it should be noted that the publication of this report comes in the midst of reforms and significant developments intended to impact positively on the process of inclusion and education of the Roma in Slovakia.**

On 26 March 2008 the government of Slovakia adopted its Mid-term Policy for the Development of the Roma National Minority of the Slovak Republic, SOLIDARITY – INTEGRITY – INCLUSION, 2008-2013. According to representatives of non-governmental organizations the strategy was not widely consulted on among the Romani community and civil society. While the policy acknowledges the problems of ethnic segregation in education, and the high number of Romani pupils in special schools, it fails to include concrete and targeted measures to address them.

The policy is drafted in broad terms, including what is essentially a list of “aspirations”. As such, it fails as a comprehensive strategy that might potentially solve the issues faced by the Romani minority. It lacks clear objectives or concrete methods for implementation. It does not identify the bodies responsible for its implementation, nor does it include the financial resources for its timetabling and realization.

No concrete measures are included for eliminating the segregated education of Roma as a form of discrimination. Action plans for the different ministries are currently being prepared based on the Conception and should be ready by July 2008.

The new Schools Act, which replaces the 1984 education law and amendments, was passed by the parliament

of Slovakia on 22 May 2008 and comes into force at the start of the school year 2008/2009. At the request of NGOs including Amnesty International, the Act prohibits all kinds of discrimination including segregation. However, it fails to include provisions that would facilitate such a prohibition (by, for example, decoupling the term “socially disadvantaged background” from mental disability).

## 5. CONCLUSION AND RECOMMENDATIONS

The case of Pavlovce nad Uhom vividly demonstrates certain systemic failures in the Slovak education system in relation to Roma. The lack of effective oversight, monitoring and accountability, as well as opaque and flawed laws, policies and practices associated with the diversion of children from mainstream to special education, systematically disadvantage Romani children. The failures in this case went unnoticed until raised by the mayor in his complaint and, once raised, remained unaddressed for over three years. Once the problem had been identified, investigated and confirmed, the authorities' response was only partial. There was no analysis of the laws, policies and systemic practices which permit such violations of education rights of Roma.

The failure in Pavlovce nad Uhom reflects fundamental flaws in the Slovakian education system and government policy, which require a systemic, child-centred response including adequate redress.

Non-discrimination is a fundamental principle in all international treaties which guarantee the right to education, and to which Slovakia is a party. The International Covenant on Economic, Social and Cultural Rights stipulates that state parties must ensure that the rights in the Covenant 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 any other status.

According to the International Convention on the Elimination of All Forms of Racial Discrimination "*State parties particularly condemn racial segregation... and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.*" It also requires state parties not only to prohibit discrimination, but to take steps to progressively eliminate it in all its forms, including in respect of "*the right to education and training*". The UN Committee on the Elimination of Racial Discrimination has also specified that state parties should "*prevent and avoid as much as possible the segregation of Roma students...*" It recommends that they take measures "*to support the inclusion in the school system of all children of Roma origin and to act to reduce dropout rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities*".

The Council of Europe Framework Convention for the Protection of National Minorities prohibits any discrimination against anyone belonging to a national minority. State parties to the Convention, including Slovakia, 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”.*

Finally, the Grand Chamber decision of the European Court of Human Rights in the case of D.H. and others v. the Czech Republic, which also involved discrimination against Romani children in education, held, in November 2007, that:

*“...as a result of the arrangements the applicants were placed in schools for children with mental disabilities where a more basic curriculum was followed than in ordinary schools and where they were isolated from pupils from the wider population. As a result, they received an education which compounded their difficulties and compromised their subsequent personal development instead of tackling their real problems or helping them to integrate into the ordinary schools and develop the skills that would facilitate life among the majority population [...] Consequently, there has been a violation under Article 14 [prohibiting discrimination] of the Convention, read in conjunction with Article 2 of Protocol No. 1, [securing the right to education] as regards each of the applicants.”*

Amnesty International calls on all the relevant authorities, to take the necessary measures to respect, protect and fulfil the right to education free from discrimination for Romani children and end racial segregation in education in Slovakia. In Pavlovce nad Uhom, the authorities must ensure that all measures are taken to identify and provide an effective remedy for all children who have been inappropriately placed in the special school. They must progressively ensure the inclusion of Romani children in integrated mainstream education on the basis of equality with other children. Most importantly, authorities at all levels must ensure that erroneous placements of Romani children in special schools will not reoccur in Pavlovce nad Uhom, or elsewhere in Slovakia. This will require changes to laws, policies and practices relating to the diversion of children into special schools, the testing and consent process, the financial incentive scheme, the policy on re-testing children, and the strengthening of monitoring and accountability mechanisms.

## GENERAL RECOMMENDATIONS TO THE GOVERNMENT OF SLOVAKIA

The Government of Slovakia, in particular the Ministry of Education, must be accountable in practice for the entire education system nationally. In order to address systemic failures which contribute to discrimination against Roma in education, the Government of Slovakia should:

### **Regarding financial incentives**

- Ensure an independent and impartial evaluation of the effects of the current process of per-pupil funding for special schools. Where it is found that per-pupil funding to special schools compromises the equal right of children to education, is associated with incorrect placement decisions, and impedes the swift integration into mainstream schools at the earliest opportunity, those responsible should adopt appropriate measures to address this, including alternative funding policies and adequate oversight as necessary;

- In co-operation with the Ministry of Labour and Social Affairs, revise the structure of motivational scholarships for children from deprived backgrounds. Such scholarships should aim to encourage attendance, and should not be weighted on the child's performance.

#### **Regarding parental consent**

- Develop outreach programmes targeting Romani parents, providing accurate information in a language and form that can be understood by all, in order to raise awareness about the choice of schools, the implications of placement in a special school and benefits of education in a mainstream school.

#### **Regarding placement decisions**

- Develop and disseminate clear, reasonable and objective criteria and guidelines, based on which children may be enrolled in special schools or classes; in all placement decisions, the best interests of the child and the equal right of all children to a quality education, should be the primary considerations;
- Where test results are ambiguous, children should commence their education in mainstream schools. The practise of temporary enrolment (diagnostic stays) in special schools and classes for children whose test results are inconclusive should be repealed;
- Define the category of children from "socially disadvantaged backgrounds" in a clear and objective manner. 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 such children be treated as having a mental disability.

#### **Regarding desegregation**

- All children currently in special schools and special remedial classes, including those in the special school of Pavlovce nad Uhom, should be assessed regularly to ensure their swift reintegration in mainstream education as appropriate;
- All children who, as a result of re-assessment, are found to have capacity to attend mainstream education should be provided with appropriate additional support to facilitate their re-integration;
- Adopt the necessary legal or administrative measures to redress any erroneous placement of children in special schools, and prevent and sanction all forms of racial segregation in education;
- Ensure that all children who are found to have been wrongly placed in special education are provided with an effective remedy, including adequate reparations to allow them to regain their academic level.

#### **Regarding monitoring and accountability**

- Systematically gather statistical information and data, disaggregated on the basis of gender and ethnicity, in relation to education, health, employment and other relevant areas,

with due regard to European standards concerning the protection of personal data and the right to self-identification;

- Monitor closely the creation and ethnic composition of classes in primary schools to ensure that racial discrimination plays no part in the placement of children in school classes and groups;
- Verify through public inspection that placements and transfers are not discriminatory, and that parents are not misadvised or coerced into placing their children in special schools;
- Review the mandate of the Slovak National Centre for Human Rights in order to ensure that it complies with the standards of other human rights bodies that monitor anti-discrimination legislation and its implementation, including the authority to investigate individual complaints, to initiate its own investigations, or to recommend remedies in individual cases of violations of the right to education;
- Ensure that Romani culture, history and traditions, and information about the contributions Roma have made to society, are included in the formal school curriculums.

## RECOMMENDATIONS REGARDING THE CASE OF PAVLOVCE NAD UHOM

**Authorities at different levels, including the Ministry of Education, the Košice Regional School Authority, the Municipality, and the two primary schools in Pavlovce nad Uhom must:**

- Review all placement decisions and re-assess all children currently attending Pavlovce nad Uhom special school in order to identify pupils who may have been placed there erroneously, ensure their swift reintegration in the mainstream school as appropriate; in those cases the responsible authority should also provide an effective remedy, including reparations to the child affected;
- Take appropriate measures against state employees who are found to have acted in breach of Slovak law and at the expense of the education of Romani children in Pavlovce nad Uhom;
- Ensure that the enrolment of pupils is under no circumstances approved by the special school unless they have been clearly, objectively and unambiguously diagnosed with mental or physical disabilities; such diagnosis must precede the placement of the child; parental request or consent should not be the decisive factor for such a placement;
- Ensure that Roma pupils studying or being re-integrated in the mainstream elementary school are not being discriminated against by staff of the school, and that they receive equal treatment to non-Roma pupils.

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<sup>1</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia*, AI Index 72/001/2007, available at <http://www.amnesty.org/en/library/info/EUR72/001/2007/en>.

<sup>2</sup> Special schools in Slovakia are divided into a number of different types, according to the type and degree of the disabilities or disadvantages of their students. Independent research by the European Roma Rights Centre (*Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, 2004) has confirmed that the majority of Romani pupils attend special schools for children with mental disabilities (*Speciálna škola*). However, Amnesty International has repeatedly expressed concerns about the application of categories such as “socially disadvantaged” children as a basis for determining whether a child is enrolled in mainstream or special education.

<sup>3</sup> The special elementary school of Pavlovce nad Uhom belongs to this type of special schools.

<sup>4</sup> The information is available at <http://www.minedu.sk/index.php?lang=sk&rootId=827>. Last accessed on 17 June 2008.

<sup>5</sup> Act No. 597/2003 on Financing Primary Schools, Secondary Schools and School Facilities, as amended by Act No. 523/2004 Coll., Act No. 564/2004 Coll., Act No. 689/2006 Coll. and Decree No. 649/2007 Coll.

<sup>6</sup> EUMAP, *Equal Access to Quality Education for Roma*, Monitoring Reports, Slovakia, 2007, p. 455.

<sup>7</sup> Slovak Governance Institute, *Roma children in the Slovak education system*, 2005, p.16.

<sup>8</sup> The information is taken from the Protocol of the findings of the inspection (*Protocol o výsledku kontroly*, poverenie c. 59/2007), which was provided to Amnesty International by the Košice Regional School Authority.

<sup>9</sup> A “diagnostic stay” is a trial placement of up to one year following an ambiguous or inconclusive assessment. 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.

<sup>10</sup> The information is taken from the Protocol of the findings of the inspection (*Protocol o výsledku kontroly*, poverenie c. 59/2007), which was provided to Amnesty International by the Košice Regional School Authority.

<sup>11</sup> According to Slovak legislation state institutions (in this case the municipality and the mainstream elementary school) cannot lodge complaints against other state institutions (the special elementary school and the Košice Regional School Authority).

<sup>12</sup> From the copy of the complex inspection findings provided by the Košice School Inspection Centre, the regional office of the State School Inspectorate to Amnesty International.

<sup>13</sup> All children’s names within the report have been changed in order to maintain anonymity.

<sup>14</sup> Álvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe, Final report on the human rights situation of the Roma, Sinti and Travellers in Europe, CommDH(2006)1 15 February 2006, p. 47.

<sup>15</sup> These are five different cases from the 24, in which the inspection by the Košice Regional School Authority found irregularities in the assessment and placement documentation in November 2007, but for which it did not suggest retransferring back to the mainstream school.

<sup>16</sup> Pupils from low income families receive different amount of scholarships depending on their grades, and in the special school it is easier to get higher grades because of the easier curriculum.

<sup>17</sup> 1 Slovak koruna (SKK) is the equivalent of €0.03 (Euros).



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<sup>18</sup> EUMAP, *Equal Access to Quality Education for Roma, Monitoring Reports, Slovakia, 2007*, pp. 446-447.

<sup>19</sup> *Report of the activities of the Office of the Plenipotentiary for Roma Communities of the Government of Slovakia for the year 2007*, presented before the Government of Slovakia on 21 June 2008. The report is available at:

[http://www.rokovania.sk/appl/material.nsf/0/5E3DAC39CECE9F70C125744A00423A12/\\$FILE/Zdroj.htm](http://www.rokovania.sk/appl/material.nsf/0/5E3DAC39CECE9F70C125744A00423A12/$FILE/Zdroj.htm). Last accessed on 23 June 2008.

<sup>20</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p. 27.

<sup>21</sup> Information taken from the copy of the inspection findings provided by the Košice School Inspection Centre to Amnesty International.

<sup>22</sup> According to the Deputy Director of the mainstream school it is difficult to find qualified teaching assistants of Romani origin in Pavlovce nad Uhom, and the school would rather employ someone from the town rather than somebody who does not know the community. Roma teaching assistants used to be employed by the school, but they had left the town and the positions are now covered by non-Roma staff.

<sup>23</sup> EUMAP, *Equal Access to Quality Education for Roma, Monitoring Reports, Slovakia, 2007*, p. 485.

<sup>24</sup> A scheme that pays basic income support to unemployed persons in material need, in return for work that is loosely described as of community value. By taking part in the activation work programme, often in minor municipal or NGO activities, the unemployed people receive an income top-up in addition to their other social benefits.

<sup>25</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p. 21.

<sup>26</sup> The Phare programme was one of the three pre-accession instruments financed by the European Union to assist the applicant countries of Central and Eastern Europe in their preparations for joining the European Union.

<sup>27</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p. 21.

<sup>28</sup> Ministry of Education, *Education in the Slovak Republic: A brief overview, 2005*, p.12.

<sup>29</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p. 33.

<sup>30</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p.34.

<sup>31</sup> EUMAP, *Equal Access to Quality Education for Roma, Monitoring Reports, Slovakia, 2007*, p. 512.

<sup>32</sup> The Slovak National Centre for Human Rights is a statutory "specialized body" mandated with the monitoring and assessment of the observance of the principle of equal treatment according to the Slovak Anti-Discrimination Act.

<sup>33</sup> Amnesty International, *Still separate, still unequal: Violations of the right to education for Romani children in Slovakia, 2007*, p.34.

