



SLOVAKIA

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE
ELIMINATION OF RACIAL DISCRIMINATION

94TH SESSION, 20 NOVEMBER - 8 DECEMBER 2017

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1. INTRODUCTION

Amnesty International is submitting this briefing in advance of the United Nations (UN) Committee on the Elimination of Racial Discrimination's (the Committee) review of Slovakia's 11th and 12th periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention). The following submission outlines a number of key issues of concern to Amnesty International about Slovakia's implementation of the Convention, in particular under articles 2, 3, 5 and 7.

The submission outlines concerns that Amnesty International has with respect to Slovakia's compliance with the Convention based on the organization's most recent research. In particular, the submission highlights concerns with respect to the persistent and systemic discrimination and racial segregation of Romani children in relation to access to education. This manifests itself in various forms: separation and segregation of Romani children in Roma-only mainstream schools and classes as well as overwhelming overrepresentation of Romani children in "special" schools and classes for children with "mild mental disabilities". In the cases of segregation that have been documented and researched by Amnesty International, Romani children received low-quality and inferior education to the one provided in classes attended primarily by non-Romani children, with dramatic consequences for thousands of children who remain trapped in a cycle of marginalization and poverty.

The submission should be read together with the Amnesty International's and the European Roma Rights Centre's joint report on Slovakia – *A lesson in discrimination: Segregation of Romani children in primary education in Slovakia* - published in March 2017, which also includes a comprehensive and detailed list of recommendations and practical measures advanced to the Slovak authorities.¹

¹ Amnesty International and the European Roma Rights Centre, *A Lesson in discrimination: Segregation of Romani children in primary education in Slovakia* (EUR 72/5640/2017), available at <https://www.amnesty.org/en/documents/eur72/5640/2017/en/>

2. SYSTEMIC DISCRIMINATION AND SEGREGATION OF ROMANI CHILDREN IN EDUCATION IN SLOVAKIA

In addition to the Convention, Slovakia is a party to other international and regional treaties that prohibit discrimination in the field of education: the UN Convention of the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the European Convention on Human Rights (ECHR) and EU anti-discrimination legislation (i.e. the Race Equality Directive²).

Moreover, Slovakia's own legislative framework prohibits discrimination in the field of education through the Anti-Discrimination Act³ and the Schools Act.⁴ However, significant gaps in the enforcement and monitoring of the prohibition of discrimination and segregation in the educational system prevented the legislation being effectively put into practice.

Specifically, the ban on discrimination, particularly concerning segregation, has not been accompanied by concrete measures to guarantee effective enforcement such as, among others, the adoption and operationalization of a definition of "segregation", introduction of a legal duty on all schools to desegregate, and adoption of guidelines on how to identify, monitor and combat segregation in practice.⁵ Consequently, *de facto* discrimination and segregation of Romani children has persisted across Slovakia, resulting in a denial of equal treatment and the right to education free from discrimination contrary to Articles 2, 3 and 5 of the Convention. In the longer term, the failure to enforce prohibition of discrimination in access to education has far-reaching consequences for thousands of Romani children who remain segregated in inferior education that consequently traps them in a cycle of poverty and marginalization.

Amnesty International has been monitoring and researching Romani children's access to education in Slovakia since 2006 and has published numerous reports and materials on the discrimination and segregation Romani children face in the primary school system.⁶ To date, successive governments have adopted a piecemeal approach with very limited reforms having little impact on the daily school lives of Romani children. Crucially, the Slovak government continues to fail to acknowledge the breadth and the systemic nature of the discrimination and segregation faced by Romani children in education.

In April 2015, following continued criticism of the Slovak authorities' inaction from a number of national, regional and international bodies and experts⁷, including the Committee, the European Commission initiated

² EU Race Equality Directive 2000/43 EC, article 2: direct and indirect discrimination, Article 3.1(g): education being within the material scope of the Directive

³The Anti-Discrimination Act adopted in 2004 - and subsequently modified - transposed the Equal Treatment Directives of the European Union and introduced the principle of equal treatment and prohibition of discrimination on, among other grounds of, race, nationality or ethnic origin in education as well as other areas including social security, employment, healthcare, and provision of goods and services. The Slovak antidiscrimination law not only prohibits direct and indirect discrimination, but also imposes a duty to adopt measures that will protect individuals against discrimination.

⁴ Following its introduction in 2008, the Schools Act expressly prohibits "all forms of discrimination, mainly segregation" and guarantees equal access to education for all children or pupils.

⁵ "Slovakia: Unfulfilled promises: Failing to end segregation of Roma pupils in Slovakia" (EUR 72/001/2013), available at <https://www.amnesty.org/en/documents/EUR72/001/2013/en/>; See chapter 3.2 of the attached report.

⁶ Cases of discrimination and segregation of Romani children in higher education have been reported, however Amnesty International concentrated its research and monitoring on primary education.

⁷ See for example the Council of Europe's Commissioner for Human Rights' 2017 country visit report – Slovakia: Roma, LGBTI persons, and persons with disabilities need more protection – available at <https://www.coe.int/en/web/commissioner/-/slovakia-roma-lgbti-persons-and-persons-with-disabilities-need-more-protection>; European Commission against Racism and Intolerance, 2014 report on Slovakia, available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-CbC-V-2014-037-ENG.pdf>.

an infringement proceeding against Slovakia for breaching the prohibition of discrimination in education under European legislation, namely the EU Race Equality Directive.⁸

While Slovak authorities have taken some limited measures to date⁹ - presented as tackling the erroneous placement of Romani children in special schools and classes for children with “mild mental disabilities” – these remain inadequate both in scope and breadth to adequately address the persistent and widespread discrimination and segregation faced by Romani children in education. Drafted in a matter of weeks and with no expert consultation or parliamentary scrutiny, five legal provisions were hastily amended and adopted through an accelerated legislative process. As detailed in the attached report, such measures in fact do not contain any specific provisions for eliminating ethnic discrimination of Romani children, fail to comprehensively address the issue of Romani children’s over-representation in special educational settings and are not accompanied by the necessary human and financial resources required to introduce concrete measures to tackle the segregation of Romani children in mainstream primary schools.

To date, the infringement proceeding launched by the European Commission against the country remains pending, whilst the segregation and discrimination faced by Romani children in schools continues to take two main forms: segregation in (a) mainstream education and (b) special education.

2.1 SEGREGATION IN MAINSTREAM EDUCATION

Segregation of Romani children in mainstream primary schools persists in Slovakia, either in schools that are fully or primarily composed of Romani pupils, or in Roma-only classes, whose number can vary according to the particular context. Since 2006, Amnesty International has documented numerous cases of such forms of segregation, most recently in two case studies included in the latest report: the town of Sarriske Michal’any (affecting mainly children from the nearby Romani settlement of Ostrovany) and in the town of Moldava ad Bodvou, both in Eastern Slovakia.¹⁰

The cases are indicative of the widespread and systemic segregation and discrimination Romani children face across the country. The data and research available on the discrimination and segregation faced by Romani children in education in Slovakia are certainly alarming. In its July 2016 review of Slovakia, the UN Committee on the Rights of the Child expressed concern that Romani children continue to be subjected to de facto segregation in the school system, with over 50% being taught in Roma-only classes and/or attending classes in separate school facilities, routinely providing inferior education.¹¹ The 2016 EU Minorities and Discrimination Survey conducted by the EU Fundamental Rights Agency found that 62% of Romani children in Slovakia attend schools where all or most of their schoolmates are Roma.¹²

Various factors contribute to this situation and have not been addressed to date effectively by Slovak authorities.

Parental choice is considered a significant factor fuelling segregation of Romani children in mainstream settings. The law¹³ allows parents the freedom to choose the school where their children would go. On the face a neutral law, in practice, its implementation in the absence of appropriate mitigating measures contributes to segregation and reduces interaction between Roma and non Roma children in schools. Non-Roma parents often remove – at times even in large groups - their children from schools when they feel that there are too many Romani pupils (the so-called phenomenon of “white flight”), leaving numerous schools ethnically segregated. Recent research carried out by Amnesty International found no evidence that authorities at national, regional or local level are even attempting to intervene and incentivise non-Roma parents to enrol or keep their children in mixed schools or facilitate the enrolment of Romani pupils in mixed or majority non-Roma schools. The Moldava case illustrates the consequences of inaction to address the widespread phenomenon of “white-flight”.

⁸ “European Commission takes tougher stance on member states discrimination Roma”, available at <http://www.amnesty.eu/en/news/press-releases/eu/discrimination/roma/european-commission-takes-tougher-stance-on-member-states-discriminating-roma-0892/#.Weh4IPISzIU>

⁹ See more details in the report attached to the submission, especially chapters 3.2, 3.3, 3.4, and 3.5;

¹⁰ See chapter 4 of attached report entitled “Segregation in mainstream education”, page 22;

¹¹ United Nations Committee on the Rights of the Child, Concluding Observations on Slovakia (CRC/C/SVK/CO/3-5) 2016, para 44(a).

¹² European Union Fundamental Rights Agency, Second European Union Minorities and Discrimination Survey Roma – Selected findings, 2016, p. 27, available at: www.fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings.

¹³ School Act, para 20 (5-9).

Despite a national court's ruling¹⁴ that found in 2011 that the school in Sarriske Michal'any, by segregating Romani pupils within classes and in Roma-only classes on a separate floor of the school, violated the law and ordered its desegregation, the situation remains the same, if not worse. The case study presented in the attached report details that the number of Roma-only classes has actually increased in the school. The experience of this school shows that underfunded and non-systemic initiatives, in this case carried out only by the school with NGO support to secure the implementation of the judgement without any state input and resources, is not substitute for informed guidance and adequate support from local, regional and national authorities.

Amnesty International has also documented evidence of schools being created with full awareness that from the outset they would be Roma-only and therefore ethnically segregated. The example detailed in the report of new classes¹⁵ created by local authorities in a community centre near to the Ostrovany settlement is one among many others across the country.¹⁶ Whilst it might be argued that such an approach of building schools in proximity to Romani settlements makes education more accessible, it comes at an unacceptable price in the absence of concerted efforts by authorities to ensure that education provision is also integrated. Such schools exacerbate and perpetuate Romani children's isolation not only from their non-Roma peers, but also from the general non-Roma population.

Effective enforcement of anti-discrimination legislation would require that the authorities involved in the educational process are capable of addressing cases of segregation of Romani pupils in schools and of taking measures to end such unlawful practices. However, Amnesty International is concerned that some authorities, such as the State School Inspectorate, still do not appear to be sufficiently equipped to effectively monitor and tackle the occurrence of ethnic segregation in schools. Even if the recent legislative changes have expanded the School Inspectorate's mandate to some extent, such an increase in powers has not been accompanied by increased financial and human resources.¹⁷ Moreover, despite an increase in powers, the School Inspectorate remains unable to make schools comply with its recommendations nor to initiate legal proceedings when violations are identified.

Low quality of education in segregated settings translates into limited prospects for Romani children to continue their education beyond the age of 16 (the age when compulsory education ceases) and when they do, it is predominantly in vocational schools, without the possibility to access university education later. Teachers' low expectations of Romani children can contribute to lower achievement, as does deeply entrenched prejudice and the lack of individual support for children who might struggle educationally.¹⁸ According to a 2010 United Nations Development Programme (UNDP) household survey, almost one in five Roma did not finish primary education (18.4%) and only 17% continued into secondary education, 15.2% of whom entered vocational training. Only 0.3% of Roma entered tertiary education.¹⁹ According to the European Commission, this trend has continued when it concluded in 2016 that "while the national early school leaving rate [in Slovakia] remains low compared with the EU, it has been worsening since 2010 and is particularly high in the eastern regions and among the Roma".²⁰ In the absence of systemic and long-term measures at the national, regional and local level to eliminate prejudice and racism towards the Roma, efforts to desegregate schools, prevent "white flight" and ensure equal opportunities for Romani pupils will continue to be fragmented and ineffective.

¹⁴ Ruling of the Prešov District Court, file number 25 C 133/10, delivered 3 January 2012, available at <http://poradna-prava.sk/wp-content/uploads/2012/01/PDF-568-kB.pdf>;

¹⁵ 1st grade classes were created and functioning in the community centre in September 2016; new 1st grade classes were added to the centre in September 2017.

¹⁶ "Slovakia's 'container schools' worsen segregation of Roma children from society - <https://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/>;

¹⁷ Details on the increased mandate and remaining limited resources are available in the "A lesson in discrimination" report at pages 18-20 and page 49;

¹⁸ According to a 2016 report by the State School Inspectorate, 21.74% of pupils reported the use of derogatory language, including anti-Roma slurs, by teachers in schools; See Chapter 4.1.3 of the "A Lesson in discrimination" report;

¹⁹ United Nations Development Programme, Report on the Living Conditions of Roma Households in Slovakia in 2010, 2012, pp. 92-93.

²⁰ EC's "Education and Training Monitor 2016" country report is available at https://ec.europa.eu/education/sites/education/files/monitor2016-sk_en.pdf.

2.2 SEGREGATION IN SPECIAL EDUCATION

In Slovakia, Romani children have been overrepresented in special schools and classes for children with “mild mental disabilities” for decades. Many have been diagnosed with mental disabilities as a result of culturally-biased diagnostic tools and anti-Roma prejudice among psychological and pedagogical experts. As a result, these children are condemned to low-quality education and limited opportunities for further education and employment.

Statistics provided by the Ministry of Education show that 21,498 pupils were educated in special educational settings in Slovakia in September 2016, a figure which is not, however, disaggregated by ethnicity.²¹ In 2013, the Slovak Ombudsperson highlighted that Roma accounted for over 88% of first-grade pupils in special classes and schools for pupils with “mild mental disabilities” that she had surveyed.²² The 2016 EU Fundamental Rights Agency survey found that 18% of Romani children between the ages of six and 15 who were in education attended special schools in Slovakia²³, while Roma account for some 6%-8% of the population.²⁴ The UN Committee on the Rights of the Child also noted in 2016 that a disproportionately high number of Romani children continued to be placed in schools for children with “mild disabilities”.²⁵

Amnesty International and the European Roma Rights Centre’s latest report examined two municipalities with special schools investigated by the Ombudsperson and the current educational prospects for Romani children there: Rokycany and Krompachy. The two municipalities provide a disturbing pattern of disproportionately channelling Roma pupils into special educational settings through questionable misdiagnosis, low quality education, the inability of authorities to tackle segregation even when it is brought to their attention, all within a general context of overriding prejudice and stigma against Romani children.

While some of the recent legislative measures adopted by the Slovak authorities have been presented as aimed at tackling such situations, in practice, virtually all stakeholders in the Slovak educational system interviewed for the report spoke about the lack of coordination, clarity and information from the Minister of Education regarding the amendments put in place.²⁶

Special educational settings teaching a reduced curriculum have a severe impact on children’s educational trajectories. In addition, as in mainstream education, widespread prejudice and extremely low expectations for Romani children among teachers are also key contributors to both the lack of equal enjoyment of education and the wider failure to combat prejudices which lead to racial discrimination as required by the Convention.

²¹ Ministry of Education, Science, Research and Sport, Statistical Yearbook 2016/2017 available at: www.cvtisr.sk/cvti-sr-vedeckakniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page_id=9580.

²² Office of the Ombudsperson, Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs (Správa verejnej ochrankyne práv o uplatňovaní práva na vzdelanie detí/žiakov príslušníkov rómskej národnostnej menšiny so špeciálnymi výchovno-vzdelávacími potrebami), 2013, p. 19.

²³ European Union Fundamental Rights Agency, Second European Union Minorities and Discrimination Survey Roma – Selected findings, 2016, p. 28.

²⁴ Government of the Slovak Republic, National Roma Integration Strategy up to 2020, 2012.

ec.europa.eu/justice/discrimination/files/roma_slovakia_strategy_en.pdf. See also: UNDP, Report on the Living Conditions of Roma Households in Slovakia in 2010, Bratislava, 2012.

²⁵ United Nations Committee on the Rights of the Child, Concluding Observations on Slovakia (CRC/C/SVK/CO/3-5) 2016, para 44(d).

²⁶ See chapter 3.4, 3.5 of the “A Lesson in discrimination” report.

3. RECOMMENDATIONS

Romani children continue to face various forms of discrimination and segregation in primary Slovak schools with no comprehensive plan in sight by Slovak authorities to adequately and effectively tackle such human rights violations. The limited measures adopted have failed to address, and at times exacerbated, segregation in schools. The recent amendments have had minimal impact on the educational trajectories of Romani children enrolled in special schools and have not succeeded in ending, or even beginning to reverse, the disproportionate placement of Romani children in special schools and classes. Individual schools have limited ability to counter segregation. Therefore a nation-wide comprehensive desegregation plan is needed, coupled with adequate support and resourcing by the Ministry of Education. This should also be coupled with comprehensive strategies and actions to tackle prejudice and racism towards Roma in general. Failure to initiate such actions has far-reaching consequences for thousands of children who remain segregated in inferior education that traps them in a cycle of poverty and marginalization.

For this purpose, Amnesty International recommends that the Slovak authorities undertake urgently the measures listed below to effectively address the discrimination and segregation Romani children face in their access to education in Slovakia.

In addition to the recommendations listed below, a comprehensive and detailed list of recommendations and practical measures for Slovak authorities are available in the report *A lesson in discrimination: Segregation of Romani children in primary education in Slovakia*, at pages 52-55:

ON POLITICAL COMMITMENT FOR CONCERTED ACTIONS:

The Prime Minister and the Minister of Education should:

- Publicly acknowledge the existence of a systemic problem of ethnic discrimination and segregation faced by Romani children in schools and unequivocally commit to swiftly and comprehensively address it by, for example, adopting a comprehensive action plan on combating discrimination and segregation in education, in consultation with civil society, representatives of Roma and non-Roma parents and children and other stakeholders. The plan should include a defined timeline, specific targets for its development and operationalization, identify the necessary financial, human and technical resources, designation of bodies responsible for its implementation and monitoring (and their cooperation at the national, regional and local levels), and a mechanism of yearly public reporting on progress.

MEASURES TO PREVENT SEGREGATION AND IMPLEMENT DESEGREGATION IN MAINSTREAM SETTINGS:

The Ministry of Education should:

- Adopt and ensure effective dissemination of comprehensive methodological guidelines on desegregation of schools, in cooperation with all relevant stakeholders, which outline and include, among others: a national roadmap for desegregation, a binding and comprehensive definition of “segregation”, clarification of the obligation of school founders not to discriminate on any grounds, commitment for no other “container schools” to be built in predominantly Romani areas, adoption of temporary special measures such as quotas or others to combat segregation and ensure effective integration of Romani children into mixed classes and schools;

MEASURES TO STRENGTHEN THE MANDATE, ROLE AND POWERS OF THE STATE SCHOOL INSPECTORATE:

- The Ministry of Education should reform and empower the State School Inspectorate to ensure that it takes effective action to prevent and eradicate segregation in education, including by, among other measures, adopting detailed guidelines and a mechanism to enable it to identify, monitor and report on progressive elimination of all forms of segregation, and strengthening its powers to be able to prevent the emergence of segregation;

MEASURES TO ADDRESS DISCRIMINATION OF ROMA IN SPECIAL SCHOOLS AND CLASSES:

- The Ministry of Education should progressively abolish the special education programme for children with “mild mental disabilities” and adopt a moratorium on placements of Romani children in such

schools and classes while developing a plan with a realistic timeline, budget, concrete targets and a deadline for the integration of children previously diagnosed as such into mainstream education;

- Take measures to carry out re-assessments of all placement decisions of children currently in special educational settings in order to identify any unlawful or erroneously placed pupils within a specific timeline; develop a plan to secure their transfer in the new school year to mainstream schooling and adequate support to facilitate their successful integration;

MEASURES TO ENSURE DISAGGREGATED DATA COLLECTION:

- The Ministry of Education should develop a data-collection system with a view to provide long-term and accurate statistics on school enrolment (including type of school), attendance, transfers, drop-outs, class repetition, attainment and achievement, disaggregated by ethnicity and other appropriate characteristics including age, citizenship, gender, disability, national origin and socio-economic status and that this is used to identify and address discrimination and segregation.

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SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION

94TH SESSION, 20 NOVEMBER - 8 DECEMBER 2017

Amnesty International is submitting this briefing in advance of the United Nations (UN) Committee for the Elimination of Racial Discrimination's (the Committee) review of Slovakia's eleventh and twelfth period report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination (the Convention).

The submission is not a comprehensive account of Slovakia's compliance with the Convention, but outlines concerns that Amnesty International has based on the organization's most recent research in relation to persistent and systemic discrimination and racial segregation of Romani children relation to access to education. This manifests itself in various forms: separation and segregation of Romani children in Roma-only mainstream schools and classes as well as overwhelming overrepresentation of Romani children in "special" schools and classes for children with "mild mental disabilities".

The submission should be read together with the Amnesty International's and the European Roma Rights Centre's joint report on Slovakia, published in March 2017, *A lesson in discrimination: Segregation of Romani children in primary education in Slovakia*, which includes a comprehensive list of recommendations and practical measures advanced by the organizations to the Slovak authorities to address the issues raised in this submission.