



MUST TRY HARDER

ETHNIC DISCRIMINATION OF ROMANI
CHILDREN IN CZECH SCHOOLS

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

AMNESTY
INTERNATIONAL



First published in 2015 by
Amnesty International Ltd
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

© Amnesty International 2015

Index: EUR 71/1353/2015
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale.

The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Cover: A classroom in one of the schools in the Czech Republic visited by Amnesty International during 2014.
© Amnesty International

amnesty.org

CONTENTS

EXECUTIVE SUMMARY	5
Disproportionate placement in practical schools for pupils with mild mental disabilities.....	5
Segregation in mainstream education	7
Other forms of unequal treatment.....	7
Key recommendations	8
Methodology	9
GLOSSARY.....	12
1. DISCRIMINATION IN PRACTICAL SCHOOLS.....	13
The continuing discrimination of Roma by numbers	14
Measures undertaken to date	16
2010: National Action Plan for Inclusive Education	16
2011: Decrees on education of pupils with special needs.....	17
2011: Strategy for Combating Social Exclusion 2011-2015	17
2012: Consolidated Action Plan for the implementation of the D.H. judgment.....	17
2015: Revised action plan for the execution of the D.H. judgment	18
Causes of the continuing over-representation of Roma in practical education	19
Entrenched prejudice in the Czech educational system.....	19
Lack of support for underperforming Romani pupils	20
The pressures on Romani parents to give consent	26
2. SEGREGATION IN MAINSTREAM SCHOOLS	29
Walls within schools.....	30
Ostrava.....	30

Brno	32
Separate groups and classes.....	34
Refusals by “good” schools.....	36
Segregated schools: lower quality education.....	39
3. OTHER FORMS OF DISCRIMINATION.....	42
Racial bullying in mixed-mainstream schools	42
Differential treatment of Roma	45
Blaming the Roma	46
Automatic examination of Romani pupils.....	46
Preparatory classes	48
Recognition of ethnic diversity in the curricula	48
4. FAILURE TO ENFORCE THE LAW AND MEET INTERNATIONAL OBLIGATIONS	50
Failure to address ethnic discrimination	51
Prohibition of separate schools or classes	53
Failure to introduce a data collection system.....	54
5. RECOMMENDATIONS	56

EXECUTIVE SUMMARY

Romani children suffer systemic and ongoing discrimination in primary education in the Czech Republic. For several years, Amnesty International has documented the obstacle course that Romani pupils and their parents have to struggle through to receive equal, inclusive and quality education.

Discrimination against Romani children within the education system in the Czech Republic takes three main forms: the over-representation of Romani pupils in so-called practical schools (primary schools designed for pupils with mild mental disabilities); the segregation of Roma in mainstream schools and classes; and various other forms of differential treatment in mixed mainstream schools.

To date the Czech authorities have failed to adequately resolve the problem. Successive governments have adopted a piece-meal approach rather than committing to systemic reform. Crucially, they have avoided acknowledging or addressing the fact that ethnic prejudice lies at the heart of the discrimination Romani children face in the Czech education system. The impact of the reforms introduced to date on the daily school lives of Romani children has therefore been limited.

The human rights violations documented by Amnesty International in this report are systemic in nature. Discrimination of Roma in schools in the Czech Republic has been ongoing for decades, from a lack of access to primary education in the 1960s and 1970s,¹ through disproportionate and arbitrary placements of Roma into special schools intended for pupils with mental disabilities,² to segregation and other forms of differential treatment in mainstream schools.³ The systemic character of these violations can only be addressed by a profound reform and an unequivocal commitment to rooting out the prejudice against Roma that courses through the Czech educational system.

DISPROPORTIONATE PLACEMENT IN PRACTICAL SCHOOLS FOR PUPILS WITH MILD MENTAL DISABILITIES

In November 2007, the European Court of Human Rights held that the disproportionate placement of Romani children in special schools for children with mental disabilities violated their right not to be discriminated against in their access to education.⁴ Efforts to implement the judgment have focused to date on reforming diagnostic procedures and strengthening the safeguards around parental consent for such placements. However, by failing to acknowledge the prejudice against Roma that runs through many of the broader causes of Romani children's overrepresentation in practical schools and classes, these reforms have failed to

1 *D.H. and Others v The Czech Republic*, Grand Chamber Judgment (App. no. 57325/00). Dissenting opinion of judge Jungwirth, para. 9

2 *D.H. and Others v The Czech Republic*, paras 206 and 207

3 Such as being withdrawn from some of the classes and taught separately with a teaching assistant.

4 *D.H. and Others v The Czech Republic*, Grand Chamber Judgment, para 210

significantly reduce the disproportionate placement of Romani children in practical schools and educational programmes for children with mild mental disabilities. According to the 2014 survey of the Czech School Inspectorate, about 32% of children studying under educational programmes for pupils with mild mental disabilities were Roma.⁵ This figure is hugely disproportionate to the number of Roma in the Czech Republic which is estimated at between 150,000 and 300,000, i.e. 1.4-2.8% of the total population.⁶

In an admission that efforts to date were not having the desired effect, a new Action Plan adopted by the government in February 2015 envisaged a comprehensive Amendment of the Schools Act to “guarantee the maximum achievable ... education in mainstream schools for all pupils.”⁷ The plan envisaged: strengthened monitoring of the work of the psychological assessment centres by the Czech School Inspectorate;⁸ the introduction of mandatory attendance of the last grade of kindergarten;⁹ and, significantly, the abolition of the educational programme for pupils with mild mental disabilities with a view to their being integrated into mainstream education.¹⁰

The implementation of this reform, due to come into effect in September 2016, still requires the adoption of additional decrees. These must ensure that schools integrate and support struggling Romani pupils in regular mixed mainstream classes, rather than allowing for their continued “group integration” in effectively segregated classes for pupils with special educational needs.

If implemented fully, the ending of the special educational programme for pupils with mild mental disabilities offers the prospect of significant progress towards achieving integrated education for Romani children, as it would remove one of the filters currently being used to exclude them from mainstream education. However, unless some of the underlying factors pushing Romani children towards practical schools are also addressed, Romani children will continue to struggle to secure equal access to quality education. These factors include prejudicial attitudes towards Roma by educators, a chronic lack of resources to support Romani children struggling in the mainstream educational system, the prejudice that many Romani children face from other pupils in mixed mainstream schools and the pressures that parents feel to accept their transfer to practical schools.

5 (In Czech) Czech School Inspectorate. 2015. “Thematic Report: Pupils Educated under the Educational Programme for Pupils with Mild Mental Disabilities.” p. 6 Available at: <http://www.csicr.cz/getattachment/9140af7c-eae6-425c-b097-c43938d885c4>

6 (In Czech) Survey of the Public Defender of Rights on Ethnicity of Pupils in Former Special Schools, 2012. p. 10 Available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf

7 Revised Action Plan for the Execution of the Judgment of the European Court of Human Rights in the Case of *D.H. and Others v. The Czech Republic*. February 2015, pp. 3-4

8 Revised Action Plan, Measure B.4 and C.1

9 Revised Action Plan, Measure D.2

10 Revised Action Plan, Measure E

SEGREGATION IN MAINSTREAM EDUCATION

This report also examines the widespread segregation of Romani children in separate schools, buildings and classes in the mainstream educational system. It scrutinizes both the physical separation of Roma from non-Roma children and the lower quality of education that segregated Roma frequently receive.

In all the locations visited in the course of researching this report, Amnesty International identified schools commonly referred to locally as “Roma schools”. The phenomenon is ubiquitous and has gone fundamentally unchallenged by both the local authorities responsible for the schools and the Ministry of Education.

It is often assumed that segregated schooling is the result of residential segregation. But this is often not the case. School placements are organized around catchment areas that have specific schools assigned to them. They are generally binding for the schools but parents can opt for any school of their choice. Schools in the same or similar catchment area often vary significantly in the proportion of Romani pupils.

The impact of parental choice is a key driver of segregated education. Non-Roma parents overwhelmingly seek out schools with no or low numbers of Romani pupils, and remove their children from schools once they feel there are too many of them. A director of a Roma-only school told Amnesty International: „In the course of a single day 200 non-Roma pupils left our school... [A]round 260 pupils remained [in the school] back then... [The non-Roma] parents didn't want to leave [their children] here and the other schools accepted them.” It is also the case that many, but by no means all Romani parents, prefer to send their children to “Roma schools” on account of the perception that their children will receive greater attention and face less prejudice from teachers and fellow pupils. This fact, combined with the principle of parental choice, certainly makes it harder for individual schools and the local authorities responsible for them, to combat segregation. The reality, however, is that far from even attempting this, many schools visited by Amnesty International are happy to accommodate, even entrench, these divisions. Rather than seeking to encourage integration by supporting Romani pupils and combatting prejudice, they have found ways to actively segregate pupils, in separate schools, buildings and classes.

Discriminatory practices fuelling the creation of ethnically segregated schools and classes include the deliberate separation of pupils by schools, the refusal of school directors to enrol Romani children, the failure to tackle the prejudice encountered by Romani children in mixed mainstream schools and the lack of measures by national and local government to address the problem of ethnic segregation. As a result of insufficient action by the government, and local authorities, notably in terms of monitoring and enforcing the respect for equal treatment legislation, the division between “Roma” and “non-Roma” schools remains entrenched.

OTHER FORMS OF UNEQUAL TREATMENT

Romani children face a wide range of unequal treatment in mainstream schools, including the failure to adequately tackle racial bullying by fellow pupils, excessive psychological testing for mental disabilities prior to and after enrolling in school, and the prejudicial labelling of Romani pupils and their parents as lacking discipline and failing to value education. All these factors contribute to institutionalising separate and unequal education

for thousands of Romani children.

The deep-rooted discrimination of Roma in the Czech education system prompted the European Commission to initiate infringement proceedings against the Czech Republic for breach of European Union anti-discrimination legislation in September 2014. This process is still in its early days. The effect, however, has been to prompt the Czech government to propose wider ranging reforms of the Czech educational system than any government since the ruling of the Europe Court of Human Rights in 2007. In addition to proposing to end the separate educational programmes for children with mild mental disabilities, the government has also put forward plans to strengthen the funding available to support under-performing children within the mainstream educational system.

It is still too early to assess the significance of these reforms, which are yet to come into effect, and which still require a wide range of secondary legislation. Previous reforms have failed for lack of ambition but also on account of failures of implementation and funding. They have failed, indeed have not been designed to succeed, because they have not tackled, or even acknowledged, the anti-Roma prejudices driving schools to exclude Romani children from integrated mainstream education and local authorities to tolerate such practices.

The Czech government must follow through on the promise of its 2015 Action Plan. It must publicly recognise the pervasive influence of anti-Roma prejudice in the Czech educational system and commit to adequately funding and monitoring the implementation of its reforms. It must ensure that discriminatory practices are identified and responsible schools and local authorities sanctioned. The European Commission must keep infringement proceedings open until tangible progress has been made.

The discrimination of Romani children in the Czech educational system violates Czech, EU and international human rights law. It has gone on for decades, denying generations of Roma equal, quality education and perpetuating their social exclusion. It is time for it to end.

KEY RECOMMENDATIONS

- The Prime Minister and the Minister of Education must publicly acknowledge that the Czech Republic faces a systemic problem of ethnic discrimination targeted mainly against Romani children at primary schools, and make an unequivocal commitment to address it.
- The Ministry of Education should prepare a plan with a realistic timeline and budget for the phasing out of educational programmes for pupils with mild mental disabilities and begin implementation without delay.
- The Ministry of Education should allocate the necessary resources, including funding, human and technical, in order to effectively implement the reforms needed to ensure the integrated education of Romani pupils in the mainstream educational system.
- The Ministry of Education should introduce a performance review system, including a sanctions mechanism, to ensure that any discriminatory treatment by teachers, other school staff and staff at diagnostic centres is addressed.
- The Ministry of Education should amend the Schools Act to introduce a positive

obligation on local authorities to prevent the emergence of ethnically segregated schools, including through a requirement to adopt desegregation plans and to review school catchment areas to ensure they don't lead to school segregation.

- The European Commission must ensure that the infringement proceedings against the Czech Republic for violation of the Race Equality Directive are followed through until the government takes effective measures to end the discrimination of Roma in education.

METHODOLOGY

Amnesty International has been monitoring and researching the right to education of Romani children in the Czech Republic since 2006. Its findings and recommendations were published in several reports and submissions to international human rights monitoring bodies.¹¹ From January to December 2014, Amnesty International carried out new research into the situation of Romani children in Czech primary education. The research focused on four locations where the research team visited in total: 24 mainstream primary schools, four practical schools for pupils with mild mental disabilities and two secondary vocational schools.¹² The research team individually interviewed 53 Romani parents and 29 children. An additional 40 Romani children participated in workshops run by Amnesty International in which they shared their experiences and opinions about the schools.

All four locations are cities with an internally stratified (urban) Romani population ranging in size from 2 to 10 per cent on the total:¹³

- In the city of České Budějovice, Amnesty International spoke to parents and children who were socially and economically integrated, i.e. employed and owning or renting their apartments on a long lease. The researchers also met families who were socially and economically marginalized and lived in hostels with insecure tenure. 13 parents and 9 children were interviewed in the location.¹⁴ The interviews were complemented by two workshops with 13 school-aged children (see below).
- In Děčín, the Romani families interviewed were mostly socially vulnerable and their housing arrangements were precarious. Amnesty International also interviewed

11 See for example: Amnesty International. 2009. Injustice renamed: Discrimination in education of Roma persists in the Czech Republic. EUR 71/003/2009.

Amnesty International and European Roma Rights Centre. 2012. Czech Republic: Five More Years of Injustice: Segregated Education for Roma in Czech Republic. EUR 71/006/2012.

12 5 schools in the town of Dečín (4 mainstream, 1 practical for pupils with mild mental disabilities), 4 to 8 May 2014; 5 schools in České Budejovice (4 mainstream, 1 practical) 12 to 14 May 2014; 1 school in Český Krumlov (practical) 13 June 2014; 7 schools in Ostrava (5 mainstream, one practical), 19 to 20 June and 23 to 24 October 2014; 9 schools in Brno (all mainstream) 20 to 22 October 2014 and in January 2015.

13 With two per cent in České Budějovice; Source: Southern-Bohemian Region (in Czech), Zpráva o stavu romské menšiny v kraji za rok 2011, p. 3; 4 to 6 per cent in Děčín; Source: Agency for social inclusion (in Czech), Děčín, Situační analýza, 2011; 5 per cent in Brno, Source: Brno: Kašparová et al. 2008, Dlouhodobý monitoring situace romských komunit v České republice, Moravské lokality, p. 24 10 per cent in Ostrava, Source: Interview with the municipality of Ostrava, 23 June 2014.

14 The figure includes also interviews carried out in a town of Větrní, 30 kilometres away from Budějovice, known for its significant Roma population living in segregated housing units.

lower-middle class Romani families of old residents of Děčín¹⁵ living in rented flats in a district at the margins of the city. 13 parents and 7 children were interviewed in the location. The interviews were complemented by two workshops with over 20 school-aged children.

- Ostrava and Brno both have large and diverse Romani populations. Amnesty International visited districts of both cities which are characterized by socio-economic and spatial exclusion of Roma and spoke also to individuals who lived in integrated settings. In Ostrava, the researchers interviewed 18 parents and 13 children, and facilitated a workshop with 7 school-aged children and two focus groups with Roma and non-Roma mothers (see below). Nine parents were interviewed in Brno.

These four locations are case studies in which Amnesty International mapped out the educational options (for primary education) available for Romani children, and the situation in the schools of their choice. With the exception of the city of Brno, in all locations these options included a practical school. In all four locations, there were schools widely identified and referred to locally as “Roma schools” in which the proportion of Romani children ranged from 10% to 90% (see chapter: Segregation in mainstream schools).

The field research consisted of in depth interviews with school directors and other staff members in the schools; interviews with local authorities responsible for the schools; interviews with Roma parents and children; five workshops with Romani children¹⁶ and two focus groups with Roma and non-Roma mothers.¹⁷ During the research Amnesty International met with the representatives of the Ministry of Education,¹⁸ the Czech School Inspectorate,¹⁹ the Office of Public Defender of Rights²⁰ and a number of NGOs and experts working in the field of education and equal treatment. The data gathered by the qualitative field research were complemented by a survey of all the visited schools in which Amnesty International requested the schools to provide data on the number of pupils studying under the various educational programmes;²¹ data on school attainment and future educational trajectories of the graduates; data on the ethnic and social background of the pupils, including the breakdown of these data for the various educational programmes, etc.²²

¹⁵ The Roma population is stratified socio-economically but also in relation to their residence status: newcomers (migrants from Slovakia) and the old residents.

¹⁶ In Děčín (11 and 12 June 2014); České Budějovice (14, 15 June 2014) and Ostrava (22 June 2014).

¹⁷ In Ostrava 23 October 2014

¹⁸ 15 May 2014, Prague

¹⁹ 18 June 2014, Prague

²⁰ 21 October 2014, Brno.

²¹ i.e. educational programme for mainstream primary education, educational programme for pupils with mild mental disabilities, or individual educational programme.

²² 15 out of 24 schools provided the data and five of them provided also estimates on the number of pupils of Romani ethnicity. Some of the schools declined to provide estimates on numbers of Romani pupils in writing, but did provide them in meetings with Amnesty International delegates.

In order to assess the safeguards adopted by the government to prevent discriminatory placements of Roma into educational programmes for pupils with mild mental disabilities, the first chapter of this report uses analysis – carried out by an external expert – of quantitative data on numbers of pupils studying in such educational programmes. The data were taken from the annual statistics of the Ministry of Education.²³

This report also looks into the quality of education in ethnically segregated schools, as this is integral to the right to education.²⁴ The quality of education provided can, to some extent, be inferred from the outcomes of the schools, mainly the future educational trajectories. Another source of data on the quality of education is provided by the schools educational programmes. Amnesty International commissioned a group of experts from the Institute for Research and Development of Education at the Pedagogical Faculty of the Charles University to carry out an analysis of seven ethnically segregated schools (See chapter: Segregation in mainstream schools).

All individuals quoted in this report consented to the use of their testimonies for the purposes of this publication. They were informed on the nature of Amnesty International's work. All the names of the interviewees – Romani children and their parents – were changed in this report to ensure consistent protection of anonymity of the speakers

The interviews with Romani children, their parents and schools were carried out in Czech, most of them were recorded and transcribed into English. The testimonies are provided in the form of literal transcription and quotes and use the terminology of the speakers. In some instances they refer to “special schools” to describe “practical schools”. Some of them also talk of “Gypsies” rather than the “Roma”. Where possible, the testimonies of Romani children and parents were corroborated by the statements and opinions of the schools and/or authorities. Some of the testimonies of children were taken in the form of drawings obtained during the workshops and their subsequent interpretation in dialogue with the children.

²³ <http://toiler.uiv.cz/rocnka/rocnka.asp>

²⁴ Report of the Special rapporteur on the right to education, A/HRC/20/21 2012, para 82.

GLOSSARY

Framework Educational Programme for Primary Schools: Document developed by the Ministry of Education which sets binding curricular standards for primary schools.

Mainstream primary school: Primary schools teaching according to the Framework Educational Programme for Primary Schools.

Mixed mainstream primary school: For the purposes of this report, the term refers to schools which are not considered ethnically segregated – either factually (almost ethnically homogeneous) or by reputation (where the proportion of Romani pupils does not exceed 40% but the school is nevertheless labelled in ethnic terms in the public discourse).

Pedagogical-psychological counselling centres/ Advisory centres: state bodies responsible for conducting pedagogical-psychological examination of pupils and for issuing recommendations for future schooling options for children whom they assessed.

Practical primary school: schools designed for pupils with mild mental disabilities. Pupils are taught under the Framework Educational Programme adjusted for pupils with mild mental disabilities.

Socially-disadvantaged background: the Schools Act defines social disadvantage as:

- a) a family environment with a low social and cultural status, threat of pathological social phenomena;
- b) institutional education ordered or protective education imposed, or
- c) the status of asylum seeker, a person enjoying supplementary protection, or a party to proceedings for granting international protection in the Czech Republic under a special legal regulation.²⁵

The schools' directors interviewed for this report considered this definition an inadequate guideline. In order to establish the number of pupils coming from "a socially disadvantaged background", the schools were using various *ad hoc* criteria such as employment status of the parents or their "housing situation".

Special class: For the purposes of this report, a special class refers to that in a mainstream or practical school for pupils with diagnosis of mild mental disability.

Special school: A remedial school for pupils with "health disabilities", including severe mental, physical, visual or auditory impairments or speech defects.

Mild mental disability: According to the Framework Education Programme for Primary Schools, mild mental disability is diagnosed in cases when an individual's IQ is between 50 and 69. At the time of writing this is defined as "lowered cognitive abilities as a result of physical brain damage; although such individuals are characterized by a lower level of mental development, the great majority achieves complete independence in personal care and practical household skills."²⁶

²⁵ Schools Act 261/2004 Coll, Article 16, Section 4a.

²⁶ Ministry of Education, Framework Education Programme, applicable as of 1 September 2013. p. 139

1. DISCRIMINATION IN PRACTICAL SCHOOLS

For decades large numbers of Romani children in the Czech Republic have been placed in schools designated for pupils with mental disabilities. Formerly, these schools offered a significantly reduced curriculum in comparison with mainstream primary schools.²⁷ In 2004, the government acknowledged that this practice was untenable and initiated a legal reform which formally abolished special schools for pupils with mild mental disabilities. However, a section in the Schools Act of 2004 provided that pupils “with special educational needs” could be educated under “adjusted educational programmes”.²⁸ The practical implications of this legal reform remained limited. Special schools simply removed the label from their name, became commonly known as “practical” schools, and continued to offer a reduced curriculum.²⁹

In November 2007, the European Court of Human Rights (European Court) held that the disproportionate placement of Romani children in special schools violated the rights of Romani children not to be discriminated against in their access to education.³⁰ The European Court required the government to put an end to this discrimination and to redress its effects.³¹

D.H. AND OTHERS V. THE CZECH REPUBLIC

In its landmark ruling in *D.H. and Others v. the Czech Republic* of November 2007, the Grand Chamber of the European Court found that the placement of Romani children in special schools for children with mild mental disabilities, where an inferior curriculum was taught, and where no adequate procedures existed to challenge erroneous placement or to bring about eventual transfer back into mainstream education, amounted to discrimination. The Court concluded that the schooling arrangements for Romani children had not been protected by safeguards that would ensure that the state had taken into account the special needs arising from their disadvantaged position. As a result, Romani children had been placed in special schools and had received an education which compounded their difficulties. There was thus indirect discrimination in that a theoretically neutral measure to assess educational needs had a discriminatory impact on Romani pupils.³² The judgment identified the need to ensure that the schooling arrangements of Romani children are protected by safeguards against possible discrimination, including parental consent to adequate (non-discriminatory)

²⁷ *D.H. and Others v The Czech Republic*, Grand Chamber Judgment (App. no. 57325/00), para. 25

²⁸ Schools Act 561/2004, Article 16 (10)

²⁹ Amnesty International. 2009. *Injustice renamed: Discrimination in education of Roma persists in the Czech Republic*. EUR 71/003/2009, p. 16

³⁰ *D.H. and Others v The Czech Republic*, Grand Chamber Judgment, para 210

³¹ *Id.* para. 216

³² *D.H. and Others v The Czech Republic*, Grand Chamber Judgment (App. no. 57325/00). paras. 207, 208

testing.³³ In particular, it required the government to ensure that any separation in education would ultimately lead to inclusion in the mainstream education system.³⁴

Following the judgment, the Czech authorities started a slow process of reform to ensure compliance with the obligations imposed by the Court. The efforts to date have focused primarily on reforming diagnostic procedures and strengthening the safeguards around parental consent for such placements. However, by failing to acknowledge the prejudice against Roma that runs through many of the broader causes of Romani children's overrepresentation in practical schools and classes, these reforms have failed to significantly reduce the disproportionate placement of Romani children in practical schools and educational programmes for children with mild mental disabilities.

THE CONTINUING DISCRIMINATION OF ROMA BY NUMBERS

According to the 2014 survey of the Czech School Inspectorate, about 32.4% of children studying under educational programmes for pupils with mild mental disabilities were Roma.³⁵ This figure is hugely disproportionate to the estimates of the number of Roma in the Czech Republic which is between 150,000 and 300,000, i.e. 1.4-2.8% of the total population.³⁶

Despite the significant over-representation of Roma in practical schools, the Czech government is attempting to present the 32% figure as an indicator of progress, as it was reported to be 35% in 2012.³⁷ The Czech School Inspectorate (the Inspectorate), a state body responsible for monitoring schools, including their compliance with legislation, noted that it is difficult to analyse trends on the basis of the 2012 and 2014 annual data as they were collected with different methodologies and therefore are not comparable.³⁸ Starting in 2013, the Inspectorate has been carrying out surveys on the ethnicity of pupils in schools that educate pupils diagnosed with mild mental disability.³⁹ According to the Inspectorate, any discussion on trends could start only after two years of data collection under this

³³ The required safeguards were summarized by the Department for the Execution of Judgments of the European Court of Human Rights (DG-HL) in 2010. Available at the Department's website under: CM/Inf/DH(2010)47.

³⁴ *D.H. and Others v. The Czech Republic*, para. 207

³⁵ (In Czech) Czech School Inspectorate. 2015. "Thematic Report: Pupils Educated under the Educational Programme for Pupils with Mild Mental Disabilities." p. 6 Available at: <http://www.csicr.cz/getattachment/9140af7c-eae6-425c-b097-c43938d885c4>

³⁶ (In Czech) Survey of the Public Defender of Rights on Ethnicity of Pupils in Former Special Schools, 2012. p. 10 Available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf

³⁷ See Communication from the Czech Republic concerning the case of *D.H.* (Application No. 77325/00), 26 November 2013, p.2. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2401525&SecMode=1&DocId=2081536&Usage=2>; Communication from the Czech Republic concerning the case of *D.H. and Others v Czech Republic* (Application No. 57325/00), 10 February 2015, p. 12. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2684956&SecMode=1&DocId=2234972&Usage=2>

³⁸ Interview with the director and deputy director of the Czech School Inspectorate. 18 June 2014, Prague.

³⁹ Government Action Plan for implementation of the *D.H.* judgment, Measure F (Former Measure E). 2015 updated version of the plan is available here: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2684956&SecMode=1&DocId=2234972&Usage=2>

consistent methodology.⁴⁰ If one looks at the data for the last two years in which consistent methodology has been used, then the reality is that the proportion of Romani children enrolled in educational programmes for pupils with mild mental disabilities has in fact increased from 28.2% in 2013 to 32.4% in 2014.⁴¹ It should be noted that the overall number of Romani children in such programmes decreased from 4198 to 3468 over this period, a decrease of 11%; but this needs to be set against an overall decrease of pupils in such programmes of 25% over the same period.⁴² It is clear therefore, that improvements in diagnostic procedures and safeguards and the gradual shift to more inclusive education more generally have not benefited Romani school children proportionately – pointing to the existence of other entrenched factors behind the exclusion of Romani children from mainstream education.

The analysis of a) the data on pupils diagnosed with mild mental disability in individual regions; and b) the official census data on the proportion of Roma on the population in those regions⁴³, suggests a strong correlation between the proportion of pupils diagnosed with a mild mental disability and the number of Roma children in any given region.⁴⁴ In short, in regions with large proportions of Romani pupils more children were likely to be diagnosed with mild mental disability. According to the 2014 Analysis of the Czech Expert Organization for Inclusive Education, which looked into various possible explanations for the occurrence of mild mental disability, the number of Roma in a region was statistically by far the most significant factor.⁴⁵ Variations in the number of Roma by region in 2014 explained 76% of the variation in the rates of diagnosis between regions.⁴⁶ Other determinants, such as the number of Roma living in socially excluded locations, and the number of recipients of housing benefits or the unemployment rate in individual regions, were statistically relevant but much weaker in predicting the number of pupils with mild mental disability in any given region.⁴⁷

The regional variations in the number of pupils with mild mental disabilities, together with the figures of the Czech School Inspectorate showing an increase in the proportion of Romani

⁴⁰ Interview with the director and deputy director of the Czech School Inspectorate. 18 June 2014, Prague.

⁴¹ Communication from the Czech Republic concerning the case of D.H. and Others v Czech Republic (Application No. 57325/00), 10 February 2015, p. 13, table 3.

⁴² Communication from the Czech Republic concerning the case of D.H. and Others v Czech Republic (Application No. 57325/00), 10 February 2015, p. 13, table 3.

⁴³ Although considered inaccurate as many Roma do not declare their ethnicity in the official census, the 2011 census data show in the regions with a higher concentration of Roma population: Ústecký Region (15.4 Roma per 1,000 inhabitants), Moravia-Silesian (5.7 Roma per 1,000 inhabitants) and Central-Bohemian Region (4.3 Roma per 1,000 inhabitants). Source (in Czech): The Czech Office of Statistics, "2011 Population Census: Structure of the Population according to Nationalities", Prague, 30 June 2014, p. 7

⁴⁴ Source: Jan Klusáček. 2015. Analysis of the Annual Statistics of the Ministry of Education for Amnesty International (on files of Amnesty International in Czech), p. 1. See also: (in Czech): COSIV. 2014. "Nálepkování dětí s diagnózou mentální postižení v České republice", Prague, December 2014, p. 9

⁴⁵ COSIV. 2014., Id. note 33, pp. 9-10.

⁴⁶ The determination coefficient explaining the variations in the number of cases of mild mental disability and the proportion of Roma on the size of population is 0,76, i.e. there is a strong correlation. Source: Id. note 40

⁴⁷ COSIV. 2014., Id. note 33, pp. 9-10

children in the number of all pupils educated under programmes for pupils with mild mental disabilities, strongly suggest that the measures taken to date just aren't working, or aren't working nearly well enough to effectively resolve the long-standing discrimination Romani children still face in this area.

In 2012, the Ombudsperson concluded that the disproportionate representation of Romani children among pupils diagnosed with mild mental disability, which does not correspond to the numerical representation of Roma in Czech society, amounts to discrimination.⁴⁸ The small decrease witnessed in the last two years is not sufficient to revise this conclusion today.

During its research, Amnesty International spoke to directors of five practical schools⁴⁹ in different locations, as well as a director of a mainstream school that was running classes for pupils with mild mental disabilities.⁵⁰ Some of them acknowledged that the majority of their pupils were Roma. It is particularly revealing that some of the directors acknowledged that their schools were referred to locally as "Roma schools". The director of a practical school in Ostrava showed Amnesty International a video made by its pupils on the "Week of Inclusion".⁵¹ All the pupils featuring in the video and other photographs presented by the school were Roma.⁵² Romani mothers whose children are enrolled in the school reported that about 90% of its pupils were Roma.⁵³ In mainstream school E, which is running special classes for pupils with mild mental disabilities, almost 70% of those pupils were Roma.⁵⁴

MEASURES UNDERTAKEN TO DATE

2010: NATIONAL ACTION PLAN FOR INCLUSIVE EDUCATION

In response to the 2007 judgment of the European Court, the government adopted a National Action Plan for Inclusive Education in March 2010. The plan envisaged a long-term reform of the Czech educational system, focusing on the work of diagnosis and counselling centres. One of the objectives was to introduce measures to ensure support for pupils with diverse educational needs, including within the mainstream educational system. Although the plan recognized the need to introduce inclusive education for all, including Roma, the document

48 DH-DD(2012)803: Communication from the Czech Republic concerning the case of D.H. and others against Czech Republic (Application No. 57325/00) Survey of the Public Defender of Rights into the Ethnic Composition of Pupils of Former Special Schools, 2012, p. 14. Available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2153914&SecMode=1&DocId=1924992&Usage=2>

49 Four schools were physically visited, one director was interviewed in a joint meeting at the Regional School Authority in Ústí nad Labem.

50 The cities of Ústí nad Labem, Děčín, České Budějovice, Český Krumlov, Ostrava and the mainstream school E in the city of Děčín.

51 An NGO-run initiative that aims to support inclusion of disadvantaged pupils into mainstream education. See in Czech: <http://tydenproinkluzi.cz/>

52 School K, in Ostrava, interviewed on 22 October 2014.

53 "Only Roma, there is about 90 per cent Roma and 10 per cent white." Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

54 Interview with the director of school E in the city of Děčín, 6 May 2014.

did not explicitly address ethnic discrimination within the Czech education system.⁵⁵

2011: DECREES ON EDUCATION OF PUPILS WITH SPECIAL NEEDS

Pursuant to this Action Plan, in April and May 2011 the government adopted amendments to two decrees: on the provision of counselling services in schools,⁵⁶ and on the education of children, pupils and students with special educational needs.⁵⁷ The amendments entered into force on 1 September 2011, with the aim of strengthening safeguards for the placement of pupils into practical schools for those with mild mental disabilities. They emphasized the obligation to inform pupils and their legal guardians about the character and content of the counselling services. Under the decrees, a placement in a class or a group of pupils with health disabilities had to be preceded by a recommendation by an educational counselling centre; a discussion with a parent or a legal guardian of a child; and his or her informed consent.⁵⁸

Although the amended decrees stipulated that only pupils diagnosed with health disabilities could be placed⁵⁹ in practical schools or classes, they failed to introduce an explicit duty on local authorities to educate pupils from socially disadvantaged backgrounds in mainstream schools. This was a crucial omission given the finding of the Czech School Inspectorate in 2010 that the educational system was often unable to distinguish between the needs of pupils from socially disadvantaged backgrounds and those with disabilities.⁶⁰

2011: STRATEGY FOR COMBATING SOCIAL EXCLUSION 2011-2015

In September 2011, the government adopted a Strategy for Combating Social Exclusion 2011-2015 which also addressed the exclusion of Roma in education. It acknowledged that the Czech educational system “lacks the ability to keep in its mainstream a number of specific groups of children, who are then exposed to segregation in separate groups or schools and often don’t receive adequate regular education.”⁶¹ The Strategy listed several ambitious objectives, such as a progressive phasing out of practical schools. However, as with the National Action Plan for Inclusive Education, the Strategy remained largely unfunded and unimplemented.

2012: CONSOLIDATED ACTION PLAN FOR THE IMPLEMENTATION OF THE D.H. JUDGMENT

Following repeated criticism by the Committee of Ministers of the Council of Europe of the slow rate of implementation of the *D.H.* judgment, the government submitted a

⁵⁵ Amnesty International, 2011. Czech Republic: Submission to the Committee of Ministers of the Council of Europe on D.H. and others v. the Czech Republic. pp. 2-

3, Available at: <http://www.amnesty.org/en/library/asset/EUR71/005/2011/en/65f6ddcd-17df-4756-874a-cd121427f210/eur710052011en.pdf>

⁵⁶ No. 72/2005

⁵⁷ No. 73/2005

⁵⁸ Decree 72/2005 as amended by a Decree 147/2011, para. 9.1 in force from 1 September 2014.

⁵⁹ Beyond the six-month period allowed by the provision of the “diagnostic stay”.

⁶⁰ Česká školní inspekce., 2010., p. 6

⁶¹ (in Czech) Agency for Social Inclusion, *Strategy for Combating Social Exclusion 2011-2015*, p. 19.

“Consolidated Action Plan” in November 2012.⁶² Drawing on some of the earlier measures aimed at strengthening safeguards for the placement of pupils into practical schools and classes, the Action Plan included a commitment to abolish some of the criticized provisions such as the practice of “diagnostic stays”⁶³, whereby pupils could be placed for a trial period of up to six months in practical schools without a conclusive diagnosis of mental disability,⁶⁴ and the tolerance of placements in classes for pupils with mental disabilities of those with health disadvantages but without a diagnosed mental disability.⁶⁵

However, the Consolidated Action Plan still did not outline the broader reforms necessary for the Czech educational system to comply with the D.H. judgment and to end racial segregation. The Plan did not provide sufficient details on how inclusion of Romani pupils in the mainstream education system was to be achieved, did not provide for sufficient resources for effective monitoring and support for pupils with special educational needs in mainstream education, and failed to adequately address segregation in mainstream education.⁶⁶

2015: REVISED ACTION PLAN FOR THE EXECUTION OF THE D.H. JUDGMENT

In an admission that efforts to date were not having the desired effect, a Revised Action Plan replaced the 2012 Consolidated Action Plan in February 2015 and envisaged a comprehensive Amendment of the Schools Act to “guarantee the maximum achievable... education in mainstream schools for all pupils.”⁶⁷ The plan further envisaged: strengthened monitoring of the work of the psychological assessment centres by the Czech School Inspectorate;⁶⁸ the introduction of mandatory attendance of the last grade of kindergarten;⁶⁹ and, significantly, the abolition of the educational programme for pupils with mild mental disabilities with a view to their being integrated into mainstream education, with appropriate funding to support additional educational needs.⁷⁰ The implementation of this reform, due to come into effect in September 2016, still requires the adoption of additional decrees. These must ensure that schools seek to integrate and support struggling Romani pupils in regular mainstream classes, rather than allowing for their continued “group integration” in effectively segregated classes for pupils with special educational needs.

If implemented fully, the ending of the special educational programme for pupils with mild mental disabilities offers the prospect of significant progress towards achieving integrated education for Romani children, as it would remove one of the filters currently being used to

62 Consolidated Action Plan. Submitted on 20 November 2012.

63 Decree 73/2005, para. 9.2

64 The relevant provisions of Decrees 72/2005 and 73/2005 were amended in May 2014 by Decree 103/2014

65 Consolidated Action Plan, Measures A and B.

66 Amnesty International, 2012. Czech Republic: Comments to the consolidated action plan for the execution of the judgment of the European Court of Human Rights in the case of D.H. and others v. The Czech Republic, 28 November 2012, p. 2

67 Revised Action Plan for the Execution of the Judgment of the European Court of Human Rights in the Case of D.H. and Others v. The Czech Republic. February 2015, pp. 3-4

68 Revised Action Plan, Measure B.4 and C.1

69 Revised Action Plan, Measure D.2

70 Revised Action Plan, Measure E

exclude them from mainstream education. However, unless some of the underlying factors pushing Romani children towards practical schools are also addressed, Romani children will continue to struggle to secure equal access to quality education. These factors are analysed in the next section: they include, primarily, prejudicial attitudes towards Roma by educators, the lack of support and resources for Romani children struggling in the mainstream educational system, the prejudice that many Romani children face from other pupils in mixed mainstream schools and the pressures that parents feel to accept their transfer to practical schools.

CAUSES OF THE CONTINUING OVER-REPRESENTATION OF ROMA IN PRACTICAL EDUCATION

ENTRENCHED PREJUDICE IN THE CZECH EDUCATIONAL SYSTEM

The Czech government argues that the 2011 amendments to the decrees of the Schools Act on education of pupils with special educational needs⁷¹ brought about “significant improvement on the ground”.⁷² The statistics referred to earlier suggest that this is something of an exaggeration.

The schools visited by Amnesty International did consider that the changes to the regulations on placements into practical schools, adopted by the Ministry of Education in 2011 (and 2014), had forced the educational counselling centres to be stricter when diagnosing mild mental disability. A number of school directors interviewed by Amnesty International acknowledged that in the past the assessment centres would diagnose a child with mild mental disability even though he or she had none. One such director expressed this as follows: “They did this in order to make the situation [of the child] easier. They knew that a child would not cope with the mainstream primary school, so they recommended a group integration.”⁷³

The view that many Romani children are better off in practical schools remains widespread. Despite the changes in the law in cases of underperformance, mainstream schools continue to recommend psychological assessment, and Romani parents feel pressured to accept, the placement of underperforming children in practical education. This attitude was crudely expressed in a 2015 article by a practical school teacher entitled “Totalitarian [rule] of dilettantes: Insight from the experience of Roma education”, which argues that “[Romani children] are placed into practical schools because they belong there. Primary practical schools amount to a great act of kindness and are for Roma the same as a pair of glasses for

⁷¹ Decrees 72/2005 and 73/2005 entered into force in September 2011.

⁷² DH-DD(2013)1284, Communication from the Czech Republic concerning the case of D.H. against Czech Republic (Application

No. 77325/00).p. 3 Available at:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2401525&SecMode=1&DocId=2081536&Usage=2>

⁷³ A “group integration” means placement into classes or schools for pupils with mild mental disabilities. Interview with a director of a secondary vocational school K. in the city of Děčín. 11 June 2014.

visually impaired,... and a wheelchair for the immobile ones.”⁷⁴

In the course of its research Amnesty International documented several cases of Romani children being tested and subsequently placed in practical schools even though their parents or legal guardians were opposed to it. Typically the children had been recommended for transfer to practical schools after apparently underperforming in certain areas, particularly proficiency in the Czech language or regular school attendance.

The schools often argued that they lacked the resources to provide the necessary support to underperforming pupils within the mainstream education system. There is significant truth in this. However, Amnesty International consistently encountered attitudes amongst teaching staff and school directors, which suggested that they did not believe that Roma children were worth this investment. The director of mainstream school in České Budějovice told Amnesty International: “Why should I dedicate more time to a child who doesn’t have the necessary support at home and if [he or she] is not used to a routine? ... There is no place for such a child in this school.”⁷⁵ When asked whether her school could benefit from more teaching assistants to ensure integration of pupils with diverse needs, a school director in Ostrava said: “So you mean that every dark one should have an assistant who would explain things to them?”⁷⁶

LACK OF SUPPORT FOR UNDERPERFORMING ROMANI PUPILS

In the course of its research, Amnesty International came across several cases of Romani pupils who had been diagnosed with mild mental disability and placed in practical schools despite the fact that other factors, which could have been addressed with appropriate support, may have been contributing to their under-performance in schools. In December 2014, the Czech Society for Inclusive Education published a report which noted that “some of the staff in assessment centres ... are aware that some of the children who start school with a health disadvantage or who lack the support for their education at home, will experience difficulties in a mainstream class.”⁷⁷

Assessment centres often conclude that the best solution is to transfer such children to classes or schools for pupils with disabilities. As a result, due to the lack of support which mainstream schools are able to provide, large numbers⁷⁸ of pupils end up in practical schools although they do not belong there. This view was echoed by one of the directors of practical schools: “[T]here will always be some children who will need special education. It’s an existing system and a tool. The question is how big will that group be and what will we be able to offer and what the mainstreams school would offer for support. [Currently] we are an addition to... what the mainstream [schools] can’t manage... We have a group of children

⁷⁴ Emphasis added. Source (in Czech): Ivo Havránek: Totalita diletantů: Pohled z praxe na vzdělávání Romů. Učitelské noviny, 1/2015, pp. 20-21

⁷⁵ Interview with the director of school A in České Budějovice, 12 May 2015.

⁷⁶ Phone interview with the director of school Y in Ostrava, 4 February 2015

⁷⁷ See in Czech: COSIV, “Nálepkování dětí s diagnózou mentální poruchy v České republice”, Prague, December 2014, p. 12

⁷⁸ Hundreds or thousands, according to COSIV, Id. p. 12

who could potentially be sent to mainstream school, [they are] the borderline children.”⁷⁹

Factors contributing to the underperformance of some Romani children include language difficulties, family difficulties and the challenges some Romani parents face in assisting their children with homework in the later years of their primary education and racial bullying encountered in mixed mainstream schools.

For many Romani children the Czech language is not their mother tongue, either because their families migrated from Slovakia or because they speak Romani or a mixture of Romani and Czech and/or Slovak at home.⁸⁰ However, many primary schools’ curricula do not take this fact into account. An analysis of the educational programmes of seven schools by experts commissioned by Amnesty International noted that most failed to acknowledge the difficulties faced by pupils whose mother tongue is not the language used in the classroom.⁸¹ Although all seven schools had enrolled a significant proportion of Romani pupils,⁸² only one of them acknowledged in their educational programme that some pupils use a language other than Czech at home.⁸³ Amnesty International spoke to several Romani children and their parents who reported difficulties and lack of support with Czech language at schools.⁸⁴

ANDREJ: SENT TO PRACTICAL SCHOOL DUE TO DIFFICULTIES WITH CZECH LANGUAGE?⁸⁵

Andrej is 15 years old and lives with his grandmother and sister in a flat in a village near the town of Český Krumlov, where he attends the practical school. He moved to southern Bohemia when he was in the 4th grade. Before that he lived in Slovakia where he went to a mainstream school. A shelf in the living room is full of his trophies from football tournaments – he dreams of continuing at a high school specializing in physical education.

As a Slovak speaker Andrej struggled with the Czech language in school and was not given any additional support. In 5th grade, he failed the Czech class and was sent for psychological assessment.

“There is a smaller building opposite the school, that’s where I went to get tested. They showed me pictures that I had to put together. It felt as if they [thought] I was an idiot. It was so simple.” A week afterwards he received a letter which recommended that he be transferred to the practical school. “I wanted to go there as

⁷⁹ Director of Special School in Děčín, 7 May 2014.

⁸⁰ (In Czech) Kaleja, M. 2014. Speciálněpedagogické aspekty ve vzdělávání sociálně vyloučených žáků. Ostrava. pp. 62-69

⁸¹ These were schools that were almost ethnically segregated or labeled as “the Roma schools” in the following locations: Brno, Děčín, České Budějovice and Ostrava. The analysis is on files of Amnesty International (in Czech language): Brožová, Polechová, Greger, Straková, “Hodnocení školních vzdělávacích programů základních škol.” p. 6.

⁸² The proportion of Roma pupils in those schools was ranging from 13 to 90 per cent.

⁸³ In Czech: “Hodnocení školních vzdělávacích programů základních škol”, p. 8.

⁸⁴ A group discussion with Romani mothers in neighbourhood Boletice in the city of Děčín, 5 May 2014.

⁸⁵ Interview with Andrej, village of Větní, 13 June 2014; Interview with Andrej’s grandmother 11 May 2014, 13 June 2014.

all my friends go there [too],” he recalls. One thing that he didn't know about the school was that it was designed for pupils with mental disabilities. His grandmother who is his legal guardian opposed the transfer to the practical school but she felt she was pressured into agreeing. “They told me that the transfer was necessary as he would continue failing [in the mainstream school].”

Andrej describes the practical school as “a strange place”. “They are making idiots of us there. The school is really easy... They teach slower because it's a special school. A friend of mine and I are the best [pupils].”

His grandmother complains about the approach of the school. “They treat us [the parents or grandparents] as small children. When [the grandchildren] forget something, the school calls the social services and they come here... and sometimes threaten me that they will take away the children and put them in an orphanage.” The school acknowledged that they co-operate with social services regularly and that they are very strict regarding school attendance.⁸⁶

During Amnesty International's visit to Andrej's school, the director and deputy director refused to provide information on the number of Romani pupils, arguing that they cannot and do not identify who is and who is not Roma. Andrej finds this attitude hypocritical. “Don't tell me that they don't know who is Roma. Everyone knows, even [people] on the street... Six out of 11 pupils in the class are Roma... At least half of the pupils in the school are Roma.”

The school director initially insisted that there was no difference between the educational prospects of a child who attended a practical school and one who went to a mainstream school. Subsequently, she admitted that the purpose of practical primary schools is to prepare pupils for further vocational training and to make sure “they have a healthy self-esteem”. That is echoed in Andrej's story.

“If I was at a mainstream school, I would have liked to go to a high school and then to the university. But [here] they told me it's impossible to get to a school offering the *maturita* [the required qualifications for university entrance].” He had therefore adjusted his plans to the reality and plans to go to a vocational school.

In some cases a child's exclusion from mainstream education begins with difficulties in the family or with an injury as a result of which a child misses classes.

JAKUB: SENT TO A PRACTICAL SCHOOL AFTER AN INJURY

Tereza's son Jakub is currently enrolled in a practical school in the city of Děčín. Before that he attended a mainstream school G, known as a progressive school which is aspiring to provide inclusive education.⁸⁷ This ambition is reflected in the motto of its educational programme: “The school for both you and me”. The school was formerly labelled the “Roma school” of the city, a stigma which still persists and which the school is working to eradicate.⁸⁸

⁸⁶ Interview on 13 June 2014, Český Krumlov

⁸⁷ Interview with the school director, 5 May 2014 in the city of Děčín.

⁸⁸ In Czech: GAC, Analysis and Consulting. 2011. Děčín: Situační analýzy v lokalitách vybraných v roce 2011. p. 32. For details on school G, see Chapter Segregation in Mainstream Schools, School G

Tereza recalls that she felt unwelcome in the school right from the beginning. “[At first, they] did not want to register us... So [they] deferred the commencement of school.” When Jakub was in 7th grade he broke his leg and as a result was forced to miss many classes. When he came back, he was struggling to catch up. “The director insisted that Jakub should go to a special school.”

Tereza disagreed with the transfer but she felt she had to accept the recommendation of the assessment centre to transfer her son to a practical school. “The whole thing [mental disability] was a pretext. They [the mainstream school] don’t want... Romani children... Why would she [the director] want to be bothered with the Roma? She has Czech children who have priority.”⁸⁹

Jakub became one of the two or three children who are transferred annually from school G to a practical school.⁹⁰

The director of the school told Amnesty International that she considers it “sad” when parents insist on keeping their underperforming child in the school rather than opting for a practical school. “[I]n the special education the child would learn something, here they don’t.”⁹¹

“Sometimes we see that the children suffer here in our school and it is very difficult to persuade the parents to transfer them to the special school. Sometimes it happens that the parents tell us that we hadn’t taught their child anything. And we try to explain to them that he or she needs a different kind of education.”

“[W]hen a child is different and can’t integrate into the group, the group tries for a while, but at some point it puts the child aside anyway. They are only children, it is not possible that only some of the children try and not the other child.”

Placement in special schools can also follow from the failure to provide support to children facing difficulties at home. For instance Anton, a 7th grade pupil Amnesty International met in the city of České Budějovice was transferred to a practical school after a period of underperformance at school that began after his mother drowned.⁹²

Some parents Amnesty International spoke to said that they find that towards the end of primary school they can no longer help their children with homework as it becomes too difficult. A charity worker running an after-school programme for Roma and non-Roma children noted that schoolwork generally tends to become more demanding at around 3rd or 4th grade when the children are 9 or 10 years old. Schools typically rely on the child working and studying at home with the help of parents or paid tutors. “[T]he school doesn’t help them with that [even if] they need extra help... They sometimes write a recommendation [to the

⁸⁹ Interview with Tereza in the city of Děčín., 12 June 2014.

⁹⁰ Interview with the school director, 5 May 2014 in the city of Děčín.

⁹¹ Interview with the director of the mainstream primary school G., 5 May 2014, city of Děčín.

⁹² Interview with Anton and his father on 12 May 2014 in the city of České Budějovice.

parents] that the child needs more help and after- school classes.”⁹³

One Romani mother lamented the lack of support they felt their children received: “I have to tell him to go ask the teacher tomorrow so she can explain it to him. [But] he tells me, no I have to do it otherwise the teacher will get angry and will write me a note and I will get a fail.”⁹⁴ In Ostrava, there are several NGO-run community centres that provide after-school tutoring for both Roma and non-Roma children.⁹⁵ Such after-school support for pupils run directly by the local or national authorities was lacking in the regions Amnesty International visited.

A number of Romani children attending mainstream schools complained that they were ignored when they didn’t understand in class. This is particularly the case if there is no teaching assistant or if the class is too large. One child Amnesty interviewed said she was simply told to “listen more carefully”.⁹⁶

There was consensus among the school directors who met Amnesty International researchers about the inadequate system of funding for support measures for pupils who may need additional individual attention or for teaching large numbers of children from different backgrounds. For example, school O in Brno, which is providing inclusive education, is mostly funding its programmes from special projects. The deputy director told Amnesty International: “[W]e don’t even get a penny from the state. The money we get is from European Funds and you... know... how much effort and how difficult that is to get [them]... Pupils with special educational needs... are not taken into the consideration by the funding system, or very little... Individual integration receives no money.”⁹⁷

SCHOOL L

School L is an ethnically segregated mainstream school in Brno. According to its director, a large number of pupils have special educational needs which the school manages to meet mainly through project-funded measures.⁹⁸ The director and other staff expressed concerns about the sustainability of the provision of quality education under the current system of funding.

The school became ethnically segregated more than a decade ago. According to the director, once the proportion of Romani children in the school reached 40% in the early 2000s, the non-Roma parents stopped enrolling their children there.

Since 2006, the school has been complementing its budget from various EU-funded projects. Given the high

93 Charity worker in the NGO Belezka, Ostrava, 23 October 2014.

94 Focus group with Romani mothers in the district P of Ostrava, 23 October 2014

95 For example the Mama-club run by a local NGO Belezka with the support of Roma Education Fund.

96 Gita, Romani pupils in the 7th grade, interviewed in the city of České Budějovice, 14 May 2014.

97 Interview with the director and deputy director, 21 October 2014.

98 Interview with the school director, 22 October 2014, city of Brno

number of pupils coming from socially-disadvantaged backgrounds – over 80% – the school would have been unable to provide education as required by the national standards without this source of income.⁹⁹ It is through the projects rather than regular budget coming from the state funding that the school runs the preparatory classes, subsidizes the smaller-size classes, pays the teaching assistants, covers the expenses associated with the communication with parents, extracurricular activities and the school assessment centre. According to the director, without the projects – and the added workload that the school has to dedicate to fundraising – the school would be unable to meet the requirements of the national Framework Educational Programme setting the standards for primary education. Reliance on project funding is unsustainable – not only do projects place additional administrative burdens onto schools, but unpredictable project funding also keeps schools in financial uncertainty once projects come to an end.

Many critics of the segregation of Romani children in schools have called for the introduction of the principle of “money follows the child” into educational funding policies.¹⁰⁰ Under this principle, per-pupil funding varies according to the child’s needs and aims to guarantee the best interests of the child. This principle is expected to be introduced into the Czech educational system by the reform of the Schools Act, an amendment to which was adopted by the lower chamber of the parliament on 13 February 2015. It outlines, among other things, a set of support measures that should be provided to pupils with “special educational needs” in order to ensure that they can exercise their right to education on an equal basis.¹⁰¹ Advocates of inclusive education in the Czech Republic consider it an important step towards ensuring that mainstream schools are open to pupils with diverse educational needs.¹⁰² The amendment is expected to enter into force on 1 September 2016. However, its implementation can only start upon the adoption of a new regulation on the financing of regional education¹⁰³ which was at an initial stage by the time this report went to press. NGOs working in the field of education expressed concerns that delays in adopting the regulation will impact negatively on the enforcement of the Schools Act amendment.¹⁰⁴

INCLUSION CAN WORK IF SUPPORTED

A 2011 report “From segregation to inclusion: Roma pupils in the United Kingdom” examined cases of Romani children whose families moved to the UK from the Czech Republic or Slovakia. It focused on children who had previously been enrolled in practical schools or in ethnically segregated schools and who were placed in mainstream schools in the UK. The study argued that Romani children performed well in the UK schools thanks to the support received and in the absence of anti-Roma sentiments and racism within schools.¹⁰⁵ Only a small

⁹⁹ National standards for education are set by the Framework Educational Programme of the Ministry of Education.

¹⁰⁰ See for example the position of the Czech Society for Inclusive Education (COSIV), in Czech: “Novela školského zákona umožní podporu pro všechny děti, které ji potřebují”, 13 May 2014. Available at : <http://www.eduin.cz/tiskove-zpravy/tiskova-zprava-novela-skolskeho-zakona-umozni-podporu-pro-vsechny-deti-ktere-ji-potrebuji/>

¹⁰¹ Amendment of the Schools Act 561/2004 Coll., Article 16.1

¹⁰² See for example: Laurenčíková: Schválení školské novely je úžasná zpráva! Romea, 13 February 2015. Available at: <http://www.romea.cz/cz/zpravodajstvi/domaci/laurencikova-schvaleni-skolske-novely-je-uzasna-zprava>

¹⁰³ i.e. primary and secondary education

¹⁰⁴ Phone interview with a programme coordinator at the OSF Prague. 19 February 2015

¹⁰⁵ Equality and Roma Education Fund. 2011 From Segregation to Inclusion: Roma Pupils in the United Kingdom, pp. 9-10. Available at:

percentage (2 to 4%) of Romani pupils at the UK schools included in the study were regarded as requiring special education needs (either learning difficulties or disabilities).¹⁰⁶

The report called for an educational policy reform in the Czech Republic and other countries that would reflect good practices leading to higher academic attainment by Romani pupils.¹⁰⁷ It noted that a large majority of Roma interviewed during the research said they had experienced racist bullying or some sort of verbal abuse by their non-Roma peers at Czech and Slovak schools, as well as discriminatory or unequal treatment by their teachers.¹⁰⁸

THE PRESSURES ON ROMANI PARENTS TO GIVE CONSENT

Many Romani parents interviewed by Amnesty International are aware that practical schools are damaging for their children's future educational opportunities.¹⁰⁹ The parents were also well-informed that a placement in a practical school cannot happen unless they give their consent. According to the legislation, a school or an assessment centre must inform pupils and/or their legal guardians about the nature and aims of counselling services provided to them.¹¹⁰ When it comes to the outcome of assessment, it is valid only if pupils and their legal guardians sign a declaration in which they confirm that they were informed about the nature and content of the recommendation. In case the legal guardian disagrees with the recommended schooling arrangements, such as the placement of their child in schools for pupils with mild mental disabilities, they have a right to refuse it.¹¹¹

Notwithstanding these safeguards, a number of Romani parents acknowledged that they complied with the recommendations of the psychological counselling centres as they felt varying degrees of pressure from schools. Angela, a Romani mother Amnesty International spoke to in Ostrava explained that the moment a child cannot cope with the school, the threat of being sent to practical school is always present. Although she wasn't happy about the prospect of her own daughter attending a practical school and she knew she had the right to refuse, she gave her consent. When asked why, she explained: "Because the school told me to do so... I had to. I had to. And also... the social worker came to me... And the school immediately sent her to a special school, even though she failed only once. That's why she is

http://equality.uk.com/Education_files/From%20segregation%20to%20integration.pdf

106 Id. p. 59

107 Id. p. 11

108 Id. p. 10

109 The awareness that a parent doesn't need to comply with the recommendation of an assessment centre was particularly strong in Ostrava, a place where there are a number of NGOs working with Romani parents. This is possibly a follow up development after the D.H. judgment. The awareness resonated during Amnesty International's focus group with Romani mothers: "[N]ow if they tell me my daughter should go to special school I can tell them she won't go and I want her to stay." Focus group with Romani mothers in the district P of Ostrava, 23 October 2014.

110 Article 1.3 of the Decree of the Ministry of Education 72/2005 as amended in April 2011.

111 Article 1.5 of the Decree 72/2005 and Article 9.1 of the Decree of the Ministry of Education 73/2005 as amended in May 2011.

in a special school.”¹¹²

In its ruling in *D.H.* the European Court held that the prohibition of racial discrimination is of such importance that the right to equal treatment cannot be waived.¹¹³ The Court made it clear that parental consent to placements into (then) special schools would not make discrimination acceptable. It acknowledged that Romani parents are often face a difficult dilemma: “a choice between ordinary schools... ill-equipped to cater for their children’s social and cultural difference and in which their children risked isolation and ostracism, and special schools where the majority of pupils were Roma.”¹¹⁴

Indeed, practical schools are often viewed as a better option by Romani parents and children that have had negative experiences in mainstream schools. This was clearly expressed in interviews with children who had older siblings in practical schools and considered them more welcoming. “There are better teachers [in the practical schools] and they help you. In our [mainstream] school they [the teachers] don’t help us. In practical school, they explain it in a greater detail,” said Josef, a Romani boy in 6th grade at a mainstream school in the city of České Budějovice, whose older brother and sister went to practical school.¹¹⁵

A number of Romani children attending practical schools told Amnesty International that they had not felt welcomed by their peers in the mainstream school. Cindy, from the city of Děčín, recalled: “The [non-Roma] kids [in the mainstream school] would call me names. Now [upon a transfer to a practical school] I have more friends.”¹¹⁶ Another Romani girl, Hanka, was about to be transferred to practical school and was looking forward to leaving the mainstream school: “I’m happy that I’m leaving that [mainstream] school, to [the practical school]. The teachers there are nicer. You don’t know something and they explain it to you.”¹¹⁷ Hanka’s mother explained that the children in her class called her names and made fun of her. By the time of Amnesty International’s visit, Hanka could not read and write well, although she was finishing the first grade at the time of the interview.¹¹⁸

Romani parents reported that schools are aware of bullying that affects the school performance of children. The director of school U in Ostrava, where bullying was reported, acknowledged that: “There is always someone insulting someone, it could be bullying. But if a Romani boy says something and gets a reply – or vice versa I don’t know if that’s bullying.”¹¹⁹ Racial bullying is not reflected in the assessment and diagnostics of children

¹¹² One of the Romani mothers during the focus group discussion in the district P of Ostrava, 23 October 2014.

¹¹³ European Court of Human Rights, *D.H. and Others v. The Czech Republic*, para. 204

¹¹⁴ *Id.* para. 203

¹¹⁵ Workshop with Romani children in České Budějovice, 15 June 2014.

¹¹⁶ Workshop with Romani children in the city of Děčín street Kratka, 11 June 2014.

¹¹⁷ Workshop with Romani children in the city of České Budějovice, 15 June 2014.

¹¹⁸ Interview with Hanka’s mother, České Budějovice, 13 May 2014.

¹¹⁹ Interview on 24 October 2014

experiencing difficulties at schools.¹²⁰ One director of a practical school dismissed the concern and commented that “it is mainly the Roma among themselves who call each other a ‘black mouth’. It is within the community that Roma differentiate.”¹²¹

In 2012 Amnesty International and the European Roma Rights Centre documented that Romani parents sometimes opt for segregated schools, either mainstream or practical, because of the services tailored to the children’s needs that the schools offer.¹²² In such situations, the schools often act as social assistance providers as well as educational institutions. Similar patterns were noticeable in 2014. Whereas parents whose children were enrolled in predominantly non-Roma mainstream schools would incur costs related to school up to 3,000 Czech Koruna (108 euro) per school year, parents whose children went to a practical school said they paid almost nothing.¹²³ “[I]n [practical] school V it is done in such a way that until 9th grade you don’t have to pay anything. Which is a benefit for some mothers, so they send their kids there.” Some of the mothers reported that a practical school is convenient for them because there is a school bus. “I give them the address of where he lives and the bus comes to pick him up.”¹²⁴

120 Interview with the regional office of the Czech School Inspectorate in Brno, 20 October 2014; Interview with the assessment centre in the city of Děčín, 7 May 2014

121 Interview with the director of practical and special school in Český Krumlov, 13 June 2014

122 Amnesty International and European Roma Rights Centre. 2012, Five more years of injustice: Segregated education for Roma in the Czech Republic. EUR 71/006/2012, pp. 19-20.

123 Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

124 Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

2. SEGREGATION IN MAINSTREAM SCHOOLS

“It is very rare to find Romani children in better schools. Very rare. I don’t say there aren’t any, but there are very few.”

Romani mother in Ostrava, Poruba¹²⁵

In addition to over-representation in practical schools and programmes for children with mild mental disabilities, Roma also suffer from a structural segregation in mainstream schools. As a result they end up either disproportionately in Roma-only schools, or within a mixed school in a separate building or class. In all the locations visited during Amnesty International’s research, there were mainstream schools referred to by locals – the residents, the teachers, the shop assistants and the children themselves – as the “Roma schools”. The respective levels of ethnic segregation in those schools varied from those where over 90% of pupils were Roma,¹²⁶ to others where between 10 and 30% of pupils were of Romani ethnicity.¹²⁷

The Director of one of these schools told Amnesty International: “There are fewer and fewer pupils in our school, parents don’t register them [here] anymore, and we know why: they come and tell us. [It is] because we have too many Romani children and because we are located in an area where a lot of Roma live, especially... when parents see this while bringing their child to school, they don’t like it and register the child up the hill.”¹²⁸ The more severe cases of school segregation were found in cities with significant Roma population, such as Ostrava and Brno.¹²⁹ In places where the Roma population is smaller, such as Děčín or České Budějovice, it was enough for a school with more than just 10% of Romani pupils to be labelled as “ethnic”.¹³⁰ In some schools in these locations the proportion of Roma was about 30% and school staff feared continuous departures of non-Roma pupils.¹³¹

This chapter looks into the factors that result in the current situation of (partially or almost fully) ethnically segregated schools and classes, including the deliberate separation of pupils by schools, the rejection of Romani children from schools considered “good” by the parents,

¹²⁵ Focus group with Romani mothers in Poruba, 23 October 2014

¹²⁶ Schools O, L and II. building of school N in Brno, and schools R, P, S, T in Ostrava.

¹²⁷ Schools G in Děčín, School C in České Budějovice, School Z in Brno

¹²⁸ Interview with the director of school Z, Brno, 26 January 2015

¹²⁹ According to estimates, the Roma population in Brno is about 5 per cent of the city’s total population, whereas in Ostrava it is almost 10 per cent. Source: for Brno: Kašparová et al. 2008, Dlouhodobý monitoring situace romských komunit v České republice, Moravské locality, p. 24; for Ostrava: interview with the representatives of the municipality, Ostrava, 23 June 2014.

¹³⁰ In Czech: GAC, Analysis and Concluding. 2011. Děčín: Situační analýzy v lokalitách vybraných v roce 2011. p. 32, Director of the school B in the location B, 13 May 2014.

¹³¹ School Z in Brno and school X in Ostrava.

the prejudices encountered by Romani children in mixed mainstream schools and the lack of measures by national and local government to address the problem of ethnic segregation. As a result of insufficient action by the government, the division between “Roma” and “non-Roma” schools remains entrenched.

The failure to adequately respond to ethnic segregation within the school system has serious consequences for the quality of education accessible for Romani children. A closer look at the educational curriculum and the prospects for graduates of mainstream schools with a high proportion of Romani students suggests that in practice, there might be little difference between these mainstream schools and practical schools for pupils with mild mental disabilities.

The problem of the emergence of ethnically segregated mainstream schools cannot be resolved by individual schools alone; local municipalities and authorities at central governmental level need to be involved. These interventions should encompass re-assessment of the catchment areas at local level and a review by the Ministry of Education of the possibly discriminatory impact of the provision in law on parental choice of schools.

WALLS WITHIN SCHOOLS

School placements are organized around catchment areas that have specific schools assigned to them. They are generally binding for the schools but parents can opt for any school of their choice. It is often assumed that segregated schooling is the result of residential segregation. But this is not always the case. Schools in the same or similar catchment area often vary significantly in the proportion of Romani pupils. Far more significant is the impact of parental choice. As the examples below indicate, non-Romani parents overwhelmingly seek out schools with no or low numbers of Romani pupils, and remove their children from schools once they feel there are too many of them. It is also the case that many, but by no means all Romani parents, prefer to send their children to “Roma schools” on account of the perception that their children will receive greater attention and face less prejudice from teachers and fellow pupils. This fact, combined with the principle of parental choice, certainly makes it harder for individual schools and the local authorities responsible for them, to combat segregation. The reality, however, is that far from even attempting this, many schools visited by Amnesty International are happy to accommodate, even entrench, these divisions. Rather than seeking to encourage integration by supporting Romani pupils and combatting prejudice, they have found ways to actively segregate pupils, in separate schools, buildings and classes.

The most concrete and visible way in which schools segregate Roma from non-Roma is by placing them in separate schools or buildings. Amnesty International investigated specific examples of such segregation in the cities of Brno and Ostrava.

OSTRAVA

The city of Ostrava, where the *D.H. and Other v the Czech Republic* case originated, is divided into 23 districts, each with several schools. It also has one of the largest Roma

populations in the Czech Republic, estimated at 10% of the total population of the city.¹³² Since 2009 Amnesty International has been monitoring the situation in Přívoz district and documenting the practices that have led to ethnic segregation of Roma in the local schools.¹³³ Neither a dense network of schools, nor the fact that the entire district is one catchment area and the schools are obliged to accept a child living anywhere within its boundaries, have prevented the emergence of almost entirely Roma-only schools. In 2014, Amnesty International visited three other districts in Ostrava and found similar patterns in school segregation.¹³⁴ In all four districts, there were schools that were either almost completely ethnically segregated (schools T, R, S, P) or were labelled as “Roma” schools as the proportion of Roma was almost 40% (school U).

SCHOOL T: ROMA DISCRIMINATION WITHIN A SEGREGATED SCHOOL

School T has two buildings which comprise a regular primary school and a “selective” primary school. There are about 320 pupils in the entire school and 90% of the pupils in the regular primary school are Roma.¹³⁵ Their educational programme focuses on „pupils of socially disadvantaged background“. In the selective school, on the other hand, there are only two to three Roma per class.¹³⁶ The deputy director explained that placements in the selective and regular school are based on a points system.¹³⁷ The director and deputy director acknowledged that the selective school is a response to the departure of non-Romani pupils over the past 20 years. „Many parents had suspicions that the quality of care... would not be what they hoped for [and those who had those concerns were] the non-Roma parents. The [non-Roma] pupils were leaving for other schools, [and eventually] we have decided to make a selective primary school with a focus on continuing into secondary education.“¹³⁸

The selective school aims to provide parents and their children with the possibility to opt for business and administration classes at the second level of the school as a bridge towards secondary education. As the deputy director puts it: “The educational programme is much more complex, so we test the children [at entry].” In a further conversation, the deputy director admitted that the reason why the school decided to open the selective classes was to continue to increase the number of non-Roma pupils. Romani parents living in the school catchment area told Amnesty International that they only learned about the better school from the local media once the registrations were over.¹³⁹ Although they would be interested and eager to enrol their children

¹³² Interview with the representatives of the Ostrava municipality, 23 June 2014

¹³³ Amnesty International. 2009. *Injustice Renamed: Discrimination in education of Roma persists in the Czech Republic*, EUR 71/003/2009; Amnesty International and European Roma Rights Centre. 2012. *Five more years of injustice: Segregated education for Roma in the Czech Republic*. EUR 71/006/2012, pp. 13-22.

¹³⁴ The following districts were included in the 2014 research: Vítkovice, Poruba, Slezská Ostrava, Mariánské Hory

¹³⁵ Interview with the deputy director, 19 June 2014

¹³⁶ Id.

¹³⁷ The results of the school readiness test are graded and there is a minimum number of points that a child needs to get in order to be enrolled.

¹³⁸ Id.

¹³⁹ Emil, Klara. Ostrava-Vitkovice, 30 June 2014

in a good school, they believed that “the school is not for Romani children.”¹⁴⁰ Another parent told Amnesty International: “The school sends Romani children to [the regular school building] and white children to [the selective school building]. We were told that only smarter children go to [the selective school] and that T is a slow school.”¹⁴¹

BRNO

Roma in central Brno inhabit tenement houses around streets Celj, Bratislavská and Francouzská. Although these are within walking distance of several schools almost all Romani children living in the area attend two schools: O and L. A significant number of Romani children are also enrolled in school N, but the majority are separated from their classmates in a different building.

The modern history of ethnic segregation of schools in central Brno dates back to the early 2000s. In 2004 the municipality decided to merge four schools into two. Two of these four were known to have a significant number of Romani pupils. In an immediate response to the merger, 200 non-Roma children left school O which has since then been ethnically segregated.¹⁴² The second merged school N continued to run parallel classes in its two respective buildings: the more prestigious one with relatively few Romani children, and the “Roma building”.¹⁴³

O: AN “INCLUSIVE” ROMA-ONLY SCHOOL

The school presents itself as an open institution, one that integrates pupils with diverse educational needs and provides education tailored to individual pupils who are taught in smaller classes.¹⁴⁴ Of all the schools visited by Amnesty International, this was the only one that includes history of Roma in its educational programme (see below: Recognition of ethnic diversity in the curricula).

Despite its openness and emphasis on individual learning needs, O is in practice a “catchment school” for pupils with special educational needs and for Romani pupils, who comprise 80% of the pupils.¹⁴⁵ About 10% of those pupils who are from outside the school’s catchment area are “mostly non-Roma [who] are very problematic and nobody wants them.”¹⁴⁶ According to the Director, almost all the students in School O have been assessed as having special educational needs.

The director recalls the massive departure of the non-Roma children after the merger in 2004. „Over one day and night 200 non-Roma pupils left our school... [A]round 260 pupils remained [in the school] back then...

¹⁴⁰ Klara. Ostrava-Vitkovice, 30 June 2014

¹⁴¹ Interview with a Romani mother of girl who attends the 4th grade, Ostrava, Siroťčí Street, 21 June 2014

¹⁴² In Czech: Souralová, A.. 2008, Lokalita Brno, In: *Dlouhodobý monitoring situace romských komunit v České republice*, Moravské locality, p. 50

¹⁴³ Id. pp. 50-51

¹⁴⁴ “Hodnocení školních vzdělávacích programů základních škol”, p. 9

¹⁴⁵ Interview with the director and deputy-director, 21 October 2014

¹⁴⁶ Id.

Romani children in the Czech Republic have suffered systemic discrimination in primary education for decades. Many are placed in so-called practical schools for pupils with mild mental disabilities. Those in mainstream schools are often segregated in Roma-only schools and classes or otherwise treated differently. Reports of racial bullying and ostracization by non-Roma pupils, and even prejudice by some teachers, are frequent.

Amnesty International carried out new research in 2014 and focused on four major locations (Brno, Ostrava, České Budějovice and Děčín) in which delegates visited around 30 schools, spoke to school directors, teachers, parents and pupils, and ran a series of workshops for Romani children.

©Amnesty International



OSTRAVA

©Amnesty International



Left: A Romani neighbourhood in Ostrava. Most of the children attend a Roma-only school hosted in one of the two buildings of the local school. The other building hosts a “selective” primary school. In 2010, the school opened the “selective” classes with a more difficult educational programme. The deputy director acknowledged that this was in response to the progressive withdrawal of non-Roma pupils from the “regular” school where almost 90% of pupils are now Roma. Romani parents living in the area told Amnesty International that they only learned about the better classes from the media once the registration was over and did not believe their children would be admitted there. “The school sends Romani children to T [building] and white children to the selective school building. We were told that only smarter children go to the latter and that T is a slow school”, said one parent to Amnesty International.



©Amnesty International



©Amnesty International

Above: This Romani mother in Ostrava said: "I decided to place my children in a Roma-only school because I didn't want them to experience racial bullying... I want my children to continue at a high school and to their maturita [the qualification required for university entrance] but now I'm worried that they may not succeed." Very few graduates of Roma-only schools continue to pre-university secondary education.

Top right: Children in the first class of an ethnically mixed school in Ostrava. In January 2014 the school rejected 10 Romani children during registration for first grade, arguing that it was full. The school director acknowledged in an interview with Amnesty International that having "too many" Romani pupils is a problem for the non-Roma parents, many of whom transfer their children to other schools.

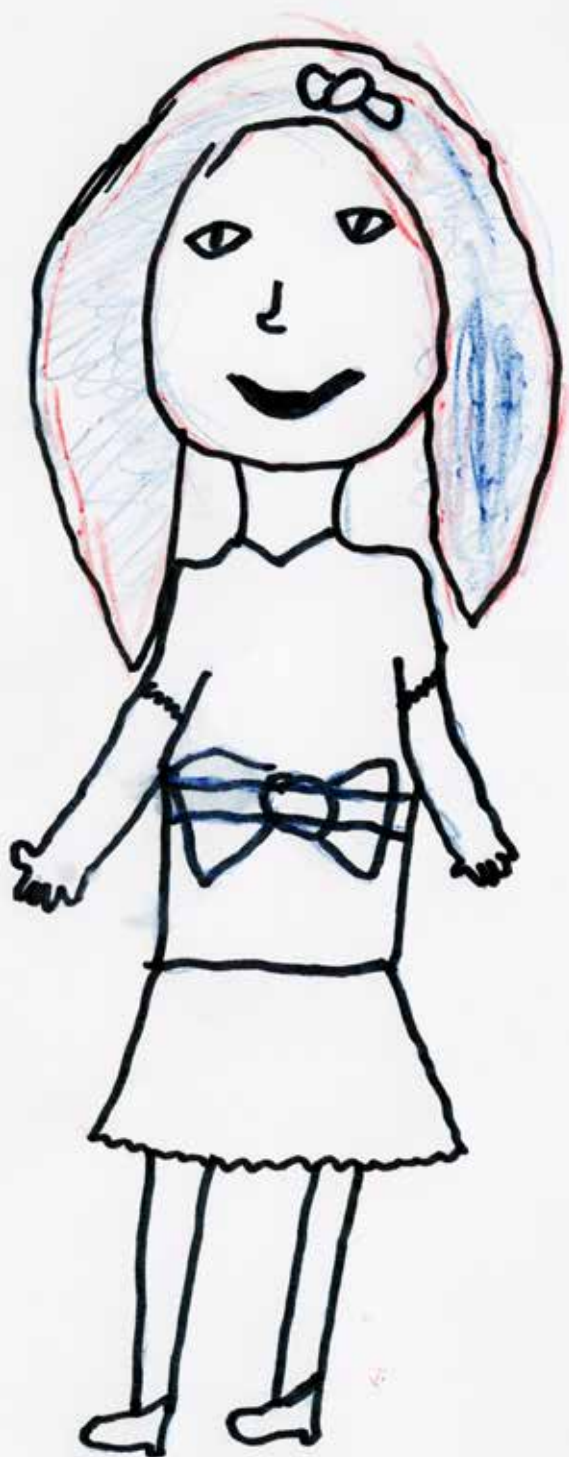
Right: Drawing made by a Romani girl in Ostrava during a workshop run by Amnesty International. She attends the 5th grade of a Roma-only segregated school. She recently transferred from another school, which she deeply misses. She said the teachers were nicer to her there and they would explain things to the children. In her new school she says the teachers shout at them, and when they ask something they are told it has already been explained.

In 2014, Amnesty International visited several districts in Ostrava and found similar patterns in school segregation of Romani children. In all four districts, there were schools that were either almost completely ethnically segregated or labelled as "Roma" schools as the proportion of Roma was almost 40%.

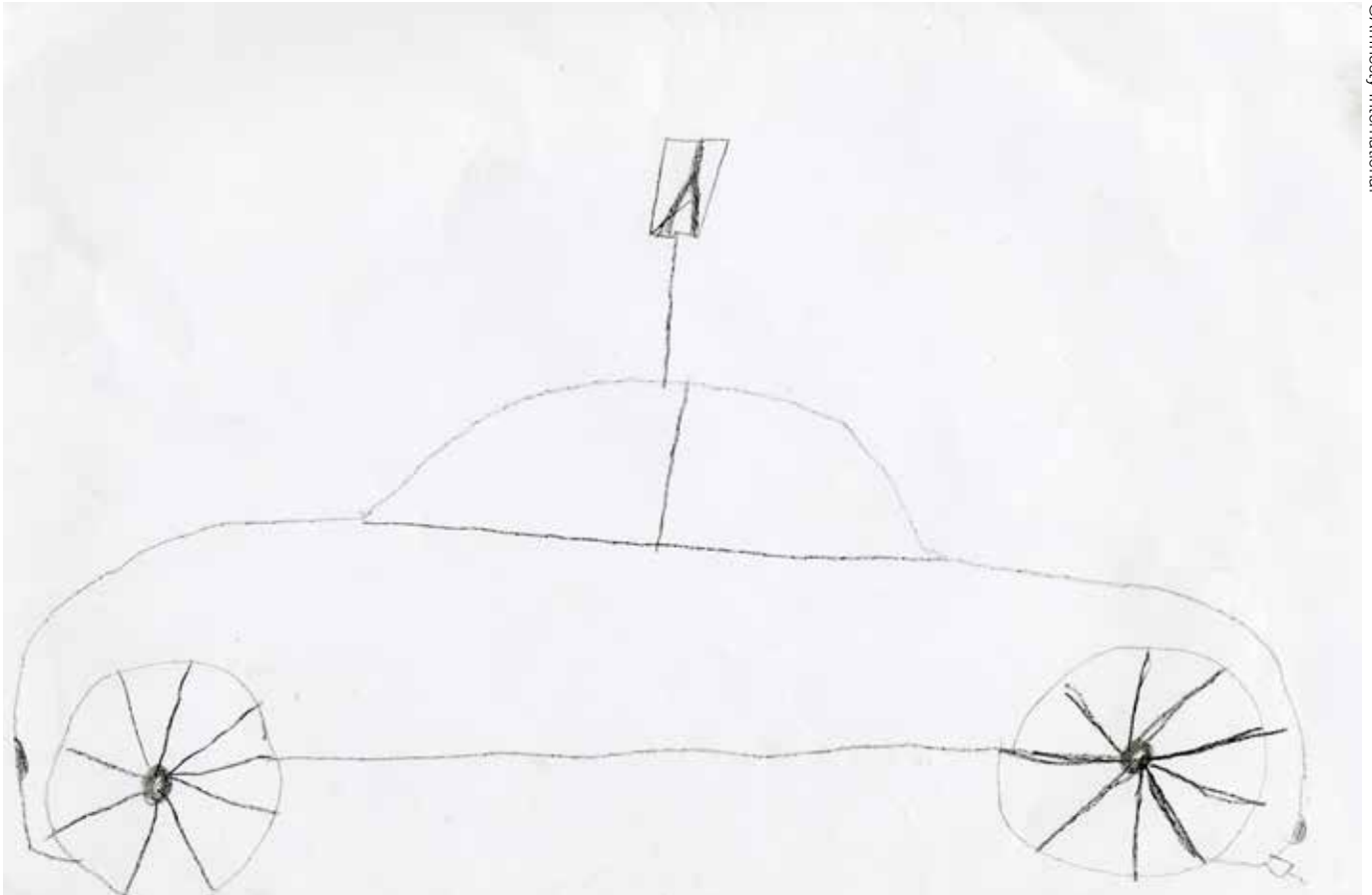
©Amnesty International



Hodná ♡



Left: A drawing from an Amnesty International workshop in Děčín by a Romani pupil showing her favourite teacher. The child attends 5th grade in a local mixed mainstream school. She is a bright child, with good grades who aspires to be a lawyer. However, she is among the few Roma to be accepted in the school. Many others are refused, as schools fear being perceived as “Roma schools”.



Above: Drawing by Leon, one of only two Romani pupils at a mixed school in Děčín. He said the non-Roma children called him names and the teacher did not intervene. In September 2014, Leon transferred to a different school.

Leon's case is typical of many documented by Amnesty International in the Czech Republic. Even when Romani parents succeed in registering their children in mainstream mixed schools, they face the challenge of racial bullying. Romani children reported such treatment in all four cities visited by Amnesty International.

Right: Pavel [not his real name] with his family. He was refused enrolment by a mixed mainstream school in Děčín, despite living in the catchment area. The director stated that the school was full. Instead of a 10-minute walk, he now has to commute 40 minutes by bus, together with his brother who is enrolled in a practical school in the same neighbourhood.



Graduates of practical schools have limited options for their secondary education. They include vocational programmes where pupils with mild mental disabilities train for various assisting professions such as carer, assistant cook, carpenter or mechanic. One of the specializations offered is a shop assistant: in a training setting such as this one, pupils study for two years how to stack shelves, how to prepare goods for sale and how to communicate with customers.





ČESKÉ BUDĚJOVICE



Left: Karel [not his real name] told Amnesty International about the severe bullying his sister experienced on a daily basis in the local “elite” school in the city of České Budějovice: “They were pushing her around, they called her black mouth, [told her] that she didn’t know anything, that she looked disgusting... They hid her shoes... it was snowing so I had to bring her home on my back.”



©Amnesty International

Above: Children were asked to draw pictures of themselves in their schools during a workshop with Amnesty International in České Budějovice in June 2014. This girl draws herself alone in a classroom with a large blackboard. Many Romani children are taught in separate classes from their non-Roma peers.



©Amnesty International

Above: Andrej [not his real name] is currently living with his family in České Budějovice. He is a talented footballer and wants to continue studying at a high school specializing in physical education. He moved to the Czech Republic from Slovakia when he was in the 4th grade of primary school. As a Slovak speaker he had difficulties with the Czech language, and failed the class. He was then sent for a psychological assessment and later placed in a practical school. He finds the work really easy and slow. Andrej doubts that he will be able to continue at high school and university although that is what he really wants to do.

Despite a 2007 ruling of the European Court of Human Rights, Romani children continue to be over-represented in schools for children with mild mental disabilities (practical schools). There they follow a reduced curriculum, which not only prevents them from developing to their fullest potential, but also limits their future educational and employment opportunities.

Below: A shelf in the living room is full of Andrej's trophies from football tournaments.



©Amnesty International

BRNO





©Amnesty International

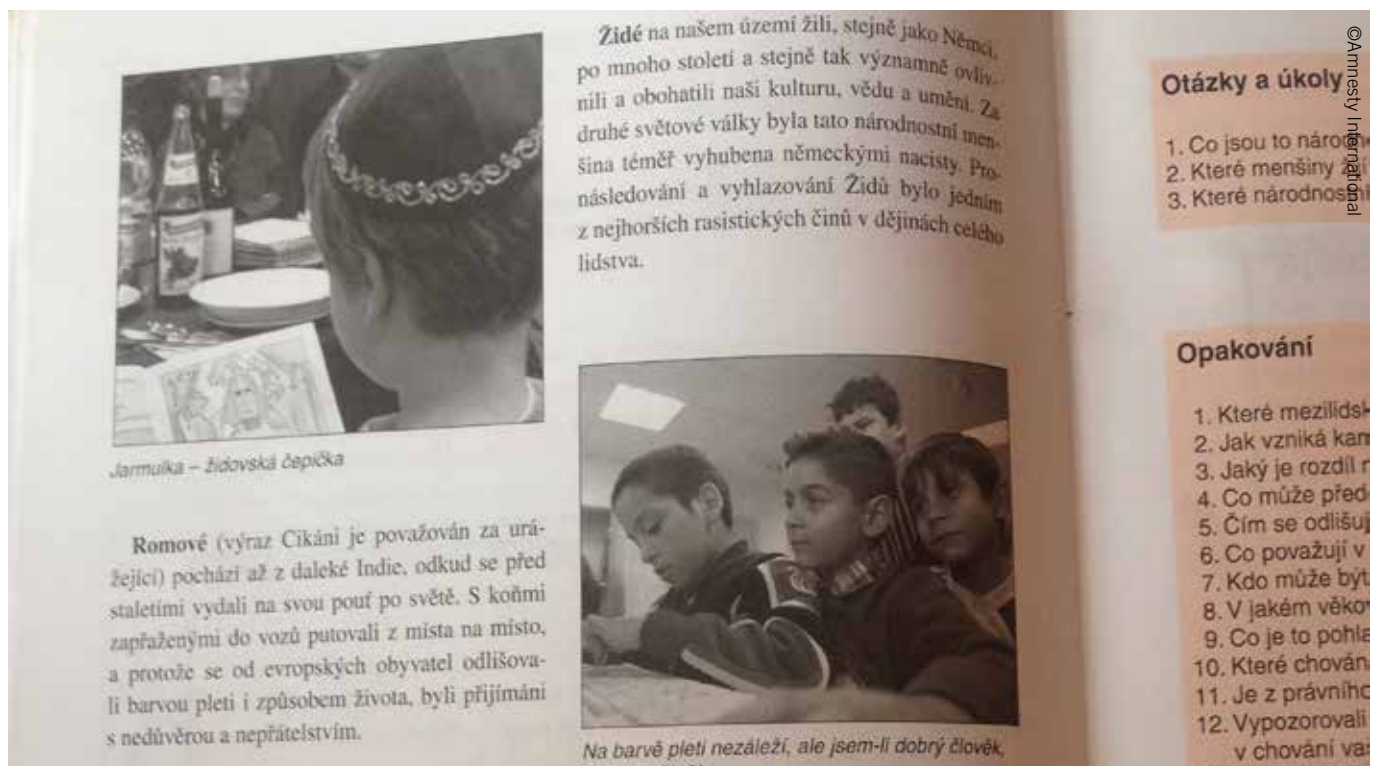


©Amnesty International

Left: School N has two buildings: one for Roma pupils and the other mainly for non-Roma. According to the director, the main differences between the two buildings are the teaching methods. “[In the Roma-only building] the teachers will help them more, repeat more and pay more attention to [the pupils].” In the past five years, none of the pupils who finished the Roma-only school continued at a high school and only eight pupils continued at secondary school. On average, seven pupils repeat the grade every year.

Above: A “history of Roma” as captured on a board in a Roma-only building of a primary school in Brno. The majority of schools visited by Amnesty International do not include Roma history and culture in their curricula.

EVERYDAY LIFE IN SCHOOL



Top: A drawing by a Romani child during an Amnesty International workshop shows two teachers. The “good” teacher is saying “Yes, I’ll help you” while the “bad” teacher says “Do it yourself”. Romani children interviewed by Amnesty International were aware of and sensitive to differential treatment by teachers. Prejudice by teachers was reported frequently by Romani families.

Above: A textbook on civil education for 8th grade pupils of a practical school. On one page of the book is a brief summary of two ethnic minorities living in the Czech Republic: Jews and Roma. The Jewish minority is described as one that contributed to the culture, science and art of the country. The textbook mentions that Jews were victims of the Nazi Holocaust in the 20th century which was one of the worst racist crimes in history. Roma are described as people who “came from India hundreds of years ago when they had started their journey around the world. With horses harnessed into carriages, they moved from one place to another and because they differed from the Europeans by the colour of their skin and their lifestyle, they were viewed with distrust and hostility.”

[The non-Roma] parents didn't want to leave [their children] here and the other schools accepted them."¹⁴⁷
School O initially tried to reach an agreement with the parents but the director recalled that it was „hopeless“.

Although the school director and her deputy believe that pupils should be educated together, notwithstanding their diverse educational needs, they initially tried to accommodate the concerns of parents by creating a separate class for Roma and non-Roma.¹⁴⁸

„[W]e had to make new conditions for [those parents who decided to stay and] create one non-Roma class and one Roma class. But the pressure was from both sides. Roma wanted to be together and non-Roma as well. The situation wasn't easy at all, we approached it in such a manner that we stopped looking at the ethnicity and we tried to educate our students based on their needs, regardless of the fact that the majority of students are Roma.“

At the same time, the school acknowledges that ethnic segregation in education is problematic. “We believe that until the age of 14, a child should grow in a heterogeneous educational environment. This [is the] ideal [but...] people are segregated also based on where they live. Even here [in Brno] the locations are ethnically segregated.“

A school at the other end of the Celj area, school N, dealt with its merger differently and kept parallel classes in two separate buildings: one that was mixed but mainly non-Roma, and one predominantly Roma. When asked why the situation had remained the same 10 years after the merger and why there are almost no non-Roma in the building II, the director explained: “Because non-Roma parents don't want to be socially disadvantaged, and [among] the Roma [there] obviously is a higher percentage of socially disadvantaged people. So it is the factor of the environment and the material environment of the family... I would say it... also depends on the label of Romani people. A label is a label.”¹⁴⁹

Milena is a retired Roma teaching assistant and lives on Bratislavská street in Brno. Her granddaughter used to go to building II of school N, but Milena was not happy and transferred her to school O. Her impression is that the attitude of the schools in Brno towards Roma is marked by prejudice. “I worked 15 years in schools. The [non-Roma] won't have Roma among them. If somebody dares to place their child where [non-Roma] children go, they would turn their lives into hell... I experienced teachers who believed that Romani children were scum.”¹⁵⁰

SCHOOL N: ONE SCHOOL, TWO SYSTEMS?

After the merger of schools N and Q, the school kept parallel classes in both buildings, thus perpetuating the ethnic segregation of its pupils. The director recalls that after the merger, the school gave “a free choice to the parents who at that time didn't like the fact that their children were in building II among Romani children.”

147 Interview with the school director, 21 October 2014.

148 Interview with the director and deputy-director, 21 October 2014

149 Interview with the director of the school N, Brno, 22 October 2014

150 Interview with Milena, 22 October 2014

They wanted the school to open a non-Roma class. “So we put them [the non-Roma pupils] in separate classrooms in building I.”¹⁵¹

According to the director, the main differences between the two buildings are: the smaller class size (only about 15 children in building II) and the teaching methods. “[In building II] the teachers will help them more, repeat more and pay more attention to [the pupils]... there is above-standard care.” Some of the Romani parents whose children attend school N reported that they were told at the registration not to put their children into building I, because they are slow and the school would not suit them.¹⁵²

In 2007 as a result of pressure by a local NGO, the school opened a class in building I in which it placed 14 Roma and 14 non-Roma children. “These children are now in 7th grade. And do you know what happened? All the non-Roma parents got together and took their kids to the neighbouring school. So now it is a Roma-only class.”

For the school year 2014/2015, the school has 548 pupils enrolled, about half the total capacity of 1,000. When asked whether it would make sense to place all the pupils in one building and save the running costs, the director disagreed. “We already tried to merge 100% disadvantaged students [with the others]... in school O. When the Romani students went to the mixed classes, all the non-Roma left. And I think even the founder [the municipality] knows this, and is happy that building II is peaceful and there is a good atmosphere and the children are happy.”

SEPARATE GROUPS AND CLASSES

The segregation of Romani children does not just take place in separate schools and buildings. Amnesty International observed that several schools which do enrol Romani pupils, and whose numbers might be higher than desired by that school,¹⁵³ attempt to make Roma “less visible”. Tactics vary, from withdrawing Romani children from certain core classes and establishing separate classes, to changing teaching hours for preparatory classes which usually comprise Roma pupils. Amnesty International documented such practices in three schools in the city of České Budějovice in which Romani pupils were taught separately for certain subjects, such as mathematics, Czech language and sciences.¹⁵⁴ In a meeting with Amnesty International, Ministry of Education officials acknowledged that the practice of separate education of Romani pupils by a teaching assistant would be discriminatory and therefore unlawful.¹⁵⁵

SCHOOL C: SEPARATE TEACHING OF SOME CLASSES

School C in České Budějovice is known as a „Roma school“. About 30% of its pupils are Roma.¹⁵⁶ Although

¹⁵¹ Interview with the director of the school N, Brno, 22 October 2014

¹⁵² Renáta and Andrea, interviewed on 21 October 2014

¹⁵³ This varied: some school directors asserted that the ideal number is one to two Romani pupils per class, others saw up to six as “manageable”.

¹⁵⁴ A, C and A1.

¹⁵⁵ Meeting with the representatives of the Ministry of Education, 15 May 2014, Prague

¹⁵⁶ Interview with the school director, 13 May 2014.

school C is no longer running ethnically segregated classes, in some cases Romani children are taught mathematics or Czech language separately.¹⁵⁷ This was confirmed both by the school director and some of the Romani pupils. When asked on what basis they are divided, Josef, a Romani boy in 5th grade, explained: “Those who are slower [like us] go to a separate class. Only the brightest Roma stay in the class which is faster.”¹⁵⁸ Those in 3rd grade in the school are also separated in some classes into two groups called “puppies” and “kitties”. All the puppies are Romani children, including Johana’s daughter. She told Amnesty International: “Some mothers were initially complaining about the separation but they told us at school that it was just temporary.”¹⁵⁹

School A in the city of České Budějovice employed a teaching assistant in 2013. In this school, Romani children are taken out of the regular class for certain subjects such as mathematics and Czech language and taught by the teaching assistant. A person familiar with the practice in the school explained: “The school doesn’t want an assistant to be in the class ... Almost all Romani pupils are taught mathematics and the Czech language separately... But the children are happy that it is this way.”¹⁶⁰ The director of the school told Amnesty International that the teaching assistants are either in the class or take four to five children out of the class and work with them separately at a slower pace. He denied that there would be any children pulled out of class on a regular basis.¹⁶¹

SCHOOL G: HOW TO MAKE ROMA „LESS VISIBLE“

School G in Děčín has the label of being a “Roma school”¹⁶² as it is located in catchment areas for parts of the city inhabited by Romani families. According to the school director, about 20- 25% of pupils are from a socially disadvantaged background.¹⁶³ She estimated that about 13% of pupils are Roma.

For a number of years the school has been running various projects that aim to improve the quality of education of pupils from socially disadvantaged backgrounds. At the same time, the school conspicuously aims to attract and please the non-Roma parents, including through the separation of Roma and non-Roma children. The director explicitly told Amnesty International: “The Romani pupils should not mix with the other children, even if they are in the same building and on the same floor as the normal classes.”

An example is how the school runs preparatory classes, which comprise mostly Roma. While the general first grade classes start at 8am and finish at 11:40am, the school day in the preparatory class starts at 8:30am and finishes at 12:40pm.

As the same school director explained: “The reason is a bit touchy... There are many Romani children, we are

157 Schools C and A..

158 Participant of the workshop with Romani children in České Budějovice on 15 June 2014.

159 Interview on 13 May 2014 in the city of České Budějovice.

160 Interview with “Z” in České Budějovice, 9 May 2014.

161 Interview on 12 May 2014.

162 In Czech: GAC, Analysis and Consulting, 2011. Děčín: Situační analýzy v lokalitách vybraných v roce 2011. p. 32

163 Interview with the director, 5 May 2014, city of Děčín.

situated in the centre. [But w]e want all the children to attend the school, the Roma community shouldn't prevail. It shouldn't come to the point where the other [non-Roma] families wouldn't be interested in sending their children to our school.

REFUSALS BY "GOOD" SCHOOLS

"They told us this is a 'white school' and refused to register our son. They would not even let him do the school readiness test and simply sent us away."

Jonáš, a Romani father in Brno¹⁶⁴

School registration is regulated by the Schools Act only in general terms. Parents are obliged to register their child between 15 January and 15 February in the calendar year when the child reaches school age.¹⁶⁵ The choice of tests at the school registration and the criteria for entry are largely left to the discretion of individual schools. This lack of regulation has been criticized by national NGOs who see it as one of the reasons for the arbitrary treatment of Romani pupils. A lawyer from the NGO IQ Roma Servis told Amnesty International: "The registration process in its current form is almost completely in schools' hands and leads to significant differences in the practice of individual schools. The process is not transparent enough and creates a space in which discrimination and segregation may occur. Our experience from previous years shows that 'good' schools wrongly refuse Roma children with the excuse that they are at full capacity or that the pupil is not yet ready. It is a very frustrating experience for Romani parents and children and it also works as a deterrent to other Romani parents. This is a significant problem especially for Romani children because it is their right to education that is endangered by regulation that leaves the registration of new pupils largely to the discretion of the schools."¹⁶⁶

A frequent justification used by schools when rejecting a pupil is lack of capacity. The deputy director of one of the "Roma schools" in Brno considers this argument dubious. "By law the maximum number of students [per class] is 30. In Brno, there are on average... around 21 [pupils per class], [in our school] we have around 18. This means hardly any school is above capacity and they shouldn't refuse the children."¹⁶⁷ He also said, "Schools in central Brno, mostly schools H, A and Z are sending the Romani pupils to us."¹⁶⁸ The school learns this from the parents who explain that they were refused in those schools, usually for capacity reasons.

In 2010 Czech Television filmed with hidden cameras one Roma and one non-Roma mother attempting to register their children in one of the "good" schools in Brno. They both lived outside the school's catchment area and came after the deadline for registration had passed. The Romani mother was not successful. The school director told her that capacity was full and suggested she tried to enroll her child elsewhere. The non-Roma mother spoke to the

¹⁶⁴ Interviewed in Brno, 30 August 2014

¹⁶⁵ Para. 36 of the Schools Act

¹⁶⁶ Email communication with Amnesty International, 6 February 2015

¹⁶⁷ Interview with the deputy director of school O, 21 October 2014.

¹⁶⁸ Interview with school Z, Brno, 26 January 2014

deputy director who scheduled the registration for her child and did not mention anything about full capacity.¹⁶⁹ In 2015, the same television repeated the experiment in four schools. In three there were no substantial differences in the treatment between the Roma and non-Roma mothers. In the fourth one, however, the director again used the “capacity” argument when talking to the Romani mother. When approached by the non-Roma mother, the director said that her daughter needed to register and take the school readiness test.¹⁷⁰

As well as the capacity argument, Romani parents described to Amnesty International two other reasons for rejection at registration. The first is when the child is within the school’s catchment area, and therefore eligible to take the school’s readiness test, but is declined on the basis of their performance in it. The second is when parents try to register their children in schools outside their catchment area. In some of these cases, parents reported that they were immediately sent away.

A more recent case of large-scale refusals of Romani children is from 2014 in Ostrava.

PREEMPTIVE REJECTION OF ROMANI PUPILS IN SCHOOL X

In January 2014, 10 Romani children were ready to take the school readiness test and register at primary school X in Ostrava. Since September 2013, thanks to a project that aims to enrol Romani children in non-segregated schools, they spent their weekends working with a trained teacher to prepare. Before registration, a coordinator of the project visited the director of the school and informed him that they would like to monitor the registration meeting. “The director was shocked [about the number of Romani children who wanted to register] and told me straight away that the capacity of the school was limited... When I suggested that the school can open two classes instead of one and thus ensure that Roma and non-Roma children will be mixed in each of them, he refused,” the coordinator explained.¹⁷¹ She also said that the director suggested the children should be placed in “their schools” where they would not be the targets of verbal abuse.”

The school rejected all 10 children on the grounds of school capacity. The school director explained to Amnesty International that the pupils were chosen on the basis of their results in the school readiness test. „We chose the best because there will be a large number of pupils in the class and we wanted to have the best ones,” he explained.¹⁷² At the same time, he stated that having „too many“ Romani pupils is a problem for the non-Roma parents. In the director’s opinion, a Roma-only school in K neighbourhood, about 6 kilometres away, is better equipped for educating Romani pupils.¹⁷³

Parents of two of the 10 rejected Romani children appealed the school’s decision at the Regional Office

169 Czech Television, *Double standard in Czech education*. 1 February 2010. Available at: <http://www.ceskatelevize.cz/ct24/domaci/79704-dvoji-metr-v-ceskem-skolstvi/>

170 Czech Television, *Situation is improving but Romani children still don't have equal chances*. 2 February 2015. Available at: <http://www.ceskatelevize.cz/ct24/domaci/300600-situace-se-lepsi-romske-deti-ale-pri-zapisu-stale-nemaji-vsude-rovne-moznosti/>

171 Interview with Amnesty International. Ostrava, 27 January 2014.

172 Interview with Amnesty International. Ostrava, 20 June 2014. See also: <http://www.ceskatelevize.cz/ct24/domaci/271398-prijimani-romskych-deti-do-skol-ma-sve-specifikum-diskriminaci/>

173 Interview with Amnesty International. Ostrava, 28 January 2014.

(Krajský úřad). It held that the school had acted unlawfully when it rejected the pupils for capacity reasons as they were within the school's catchment area and had passed the readiness test. It asked the school to re-assess the registration of the claimants. The Romani parents had in the meantime enrolled their children in other schools.

In one of the districts of Ostrava, the majority of Romani children attend school U. Some parents would prefer to send their children to mixed mainstream schools that are closer or they feel offer superior education, but the feeling among the mothers Amnesty International spoke to was that "They [the non-Roma] just want everyone in [school] U. Everyone."¹⁷⁴

Amnesty International also spoke to a group of mothers in Ostrava who in 2013 had attempted to enrol their children in one of the non-segregated mainstream schools which was close to where they lived in the district of Poruba. "They would not even allow us to come to the registration and refused us straightaway."¹⁷⁵ After the intervention of a local NGO, the school and one of the mothers came to an agreement and her children were eventually enrolled in the school of their choice.

Some parents succeeded in enrolling their child in a mixed mainstream school thanks to the support of charities or sympathetic social workers. Valerie's daughter attends a mixed mainstream school. She didn't have a problem registering her there but was told by the director that not too many Romani children are attending the school and that she hoped there wouldn't be a problem with her.¹⁷⁶ "She told me: 'If there won't be a problem with you then it will be alright.' That's how she said it. If I went by myself and had to get my daughter in, I really don't know. The social workers helped me."¹⁷⁷

The rejection of Romani pupils from some schools in Brno and Ostrava, together with other factors such as the continuing departures of non-Roma pupils from catchment areas of schools which are considered "Roma", has entrenched ethnically divided education in those two cities. Neither the local nor the national authorities have intervened effectively to prevent or address such segregation. When Amnesty International raised the problem of ethnically segregated mainstream schools with the officials at the Ministry of Education, they acknowledged that they were aware of it but did not consider it as something they could address. "This problem is beyond the educational system. It is a social problem," the director of the department of primary education told Amnesty International.¹⁷⁸

The directors of the segregated Roma schools are aware that a number of Romani parents enrol their children in their school after they had been rejected elsewhere. One said: "There is no tool available to force a school to accept a Romani child. School directors don't want to complicate their lives and the children of migrants [Roma who migrate from other places]

¹⁷⁴ Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

¹⁷⁵ Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

¹⁷⁶ Focus group with Romani mothers in Poruba, 23 October 2014

¹⁷⁷ Id.

¹⁷⁸ Meeting with the representatives of the Ministry of Education, Prague, 15 May 2014.

end up in our school.” The director claimed that he had tried to raise the issue with the municipality but in vain. “There is no solution how to ensure integration of children [of various ethnicities] in České Budějovice. The municipality is not looking for it.”¹⁷⁹

SEGREGATED SCHOOLS: LOWER QUALITY EDUCATION

“Quality education will remain elusive so long as education systems practise marginalization and exclusion.”

UN Special Rapporteur on the right to education¹⁸⁰

Quality education is an integral part of the right to education and it is “inextricably linked with equality of opportunities.”¹⁸¹ The poor quality of primary school education has been identified as a global problem by international human rights monitoring bodies. In his 2012 report, the UN Special Rapporteur on the right to education observed that inequalities between rich and poor are reflected in persistent quality disparities in education provided to different segments of the population.¹⁸² He has also noted that “there are countless children who are going through five years of education without learning basic reading, writing and math skills.”¹⁸³ This situation applies in the Czech Republic also. For many children, although they have been at school for a number of years, they struggle with basic literacy.¹⁸⁴

Some of the teachers interviewed during Amnesty International’s research acknowledged that pupils who attend segregated or so-called “Roma” schools learn very little.¹⁸⁵ “There are pupils in 6th grade who cannot read and write,” a teaching assistant told Amnesty International.¹⁸⁶ A director of a secondary vocational school, that teaches pupils both with and without mild mental disabilities, said that there is little difference between pupils who finished practical schools¹⁸⁷ and those who finish mainstream primary school without completing the 9th grade, which includes a number of Romani children.¹⁸⁸

179 Interview with the school director C in the city of České Budějovice, 13 May 2014.

180 Report of the Special Rapporteur on the right to education, Kishore Singh, “Normative action for quality education”, A/HRC/20/21, 2 May 2012, para 83.

181 Report of the Special Rapporteur on the right to education, para 82.

182 Id.

183 The Special Rapporteur was referring to a report published by The Brookings Institution, “A Global Compact on Learning: Taking action on education in developing countries,” Washington, D.C., June 2011. See: Report of the Special Rapporteur on the right to education, para 12.

184 Interview with a local charity providing after-school tutorial for Romani children in Brno, 22 October 2014. “Children who finished second or third grade don’t know basic facts, they can’t sign themselves ... The grades their get at school do not correspond to their actual knowledge.”

185 A teacher from the school R, 20 June 2014

186 Interview with a teaching assistant in České Budějovice, 9 May 2014; interview with Kevin, city of Ostrava, 21 June 2014; interview with a mother of six children in Ostrava, Přívoz, 25 August 2014; sixth grader at an ethnically segregated school P in Ostrava: could not read clock and calculate basic divisions, 25 August 2014;

187 Or special classes for pupils with mild mental disabilities in mainstream schools.

188 Director of secondary school A in the city of Děčín 11 June, 2014.

LOWER EDUCATIONAL ATTAINMENT IN SEGREGATED SCHOOLS

An indicator of the quality of education in segregated schools is the future paths taken by pupils. The case of school O in Brno, where over 80% of pupils are Roma, shows that ethnically segregated educational settings affect pupils adversely, despite the school's efforts to individualize the approach to teaching. In the 2013/2004 school year, none of the graduates continued at a grammar school (*gymnázium*); five went to a regular high school, 7 to a vocational school, two did not continue with any further education and 7 enrolled in training to complete primary education offered to those pupils who finish the primary school earlier than in the 9th grade.¹⁸⁹ The last figure corresponds with the number of pupils in school O that fail to complete primary school every year. Whereas in 2013/2014 it was 8, in 2009/2010 it was 18.¹⁹⁰ In comparison, of graduates of a similar-sized school in Brno that was not ethnically segregated,¹⁹¹ one continued at a grammar school, 17 at a high school, 3 at a vocational school, and only one pupil did not complete primary school.¹⁹²

Significant differences between the educational trajectories of pupils can also be found at school N in Brno which has two buildings: one mixed and one Roma-only. Of the 2013/2014 graduates who went to the „mixed building“, three pupils continued at a grammar school, 19 at a high school with A-level equivalent, and 20 at a vocational training. In the Roma-only building of the school, there were no graduates in 2013/2014. A significant number of pupils from various grades transferred that school year to another school. In 2012/2013, no graduates continued at a grammar school but 8 pupils went to a high school with A-level equivalent and four to vocational training. That year, the school also experienced 11 transfers to other schools.¹⁹³

The Czech Republic has an obligation under the UNESCO Convention against Discrimination in Education to lay down a uniform framework of quality standards applicable throughout the country.¹⁹⁴ This is being done by the adoption of the Framework Education Programme for Primary Education.¹⁹⁵ It serves as the basis for schools on which they develop their own educational programmes.

ANALYSIS OF EDUCATIONAL PROGRAMMES IN SEGREGATED SCHOOLS

Amnesty International examined the educational programmes of seven ethnically segregated schools, or

¹⁸⁹ Data provided by the school to Amnesty International through a questionnaire.

¹⁹⁰ Id.

¹⁹¹ School O has 300 pupils, school AB, 360.

¹⁹² School AB. Data provided by the school to Amnesty International through a questionnaire.

¹⁹³ Data provided by the school to Amnesty International through a questionnaire.

¹⁹⁴ Article 4

¹⁹⁵ See the Framework Educational Programme adopted by the Ministry of Education (in Czech): <http://www.msmt.cz/vzdelavani/zakladni-vzdelavani/upraveny-ramcovy-vzdelavaci-program-pro-zakladni-vzdelavani>

schools that were labelled as “the Roma schools”, in four locations.¹⁹⁶ The analysis, carried out by educational experts,¹⁹⁷ found that although the educational programmes were structured in such a way that they generally met the standards required by the Framework Education Programme, there were substantial variations in the quality of educational plans of specific subjects. The biggest problem identified was mathematics: in four out of seven schools (school C in Děčín, school N in Brno, schools P and U in Ostrava), the analysis noted that the educational programmes for mathematics were below the standard required by the Framework.

In addition, Amnesty International found also shortcomings in the educational programmes for the Czech language. In the case of school P, it observed that the expectations of schools for communication and writing skills were below the standard required by the Framework.

The poor quality of education provided in ethnically segregated schools amounts to violation not only of the prohibition of ethnic discrimination, but also of the right to education. In its General Comment no. 13, the UN Committee on Economic, Social and Cultural Rights outlined that an integral component of the right to education is its acceptability under which the form and substance of education, including curricula, have to be “culturally appropriate and of good quality”.¹⁹⁸

196 Brno, Ostrava, České Budějovice and Děčín

197 A group of experts from the Institute for research and development of education at the Pedagogical Faculty of the Charles University. The analysis was commissioned by Amnesty International.

198 CESCR, General Comment no. 13: The Right to Education, E/C.12/1999/10, para. 6.c

3. OTHER FORMS OF DISCRIMINATION

RACIAL BULLYING IN MIXED-MAINSTREAM SCHOOLS

“Education should be child-friendly, inspiring and motivating the individual child. Schools should foster a humane atmosphere and allow children to develop according to their evolving capacities.”

Committee on the Rights of the Child, General Comment no. 1¹⁹⁹

“They call me names because I’m Roma. The teacher doesn’t deal with it and when I tell her, she accuses me of starting it. She treats us differently.”

Petr, a Romani boy in 5th grade in a mixed mainstream school in Děčín²⁰⁰

Once a Romani parent succeeds in registering their child in a mainstream mixed school, they face another challenge: racial bullying. Many Romani children experience problems with their classmates and sometimes also their teachers. In all four cities visited by Amnesty International, Romani children reported racial bullying in class. When they complained to the teachers or school directors, they felt their concerns were often not taken seriously, although Amnesty International was told about some cases where teachers intervened and the situation improved.

Both of Dana’s children experienced bullying by their classmates. Her son went to a mixed school and children would call him a “Gypsy”... “My daughter experienced it at the secondary school where they called her dirty.”²⁰¹ In both cases, Dana raised the issue with the teachers who dealt with it and the bullying stopped. Anka, in 8th grade, was less lucky. She also went to a mixed school where the majority of pupils were non-Roma and felt unwelcome. “They told me I didn’t belong there, they would call me a Gypsy. When I told the teacher, she said I should ignore them.”²⁰² After this experience, Anka’s mother transferred her and her younger brother to a Roma-only school. She told Amnesty International that she learned less there but she felt better.

Some parents reported bullying as early as in kindergarten. Many said that the racial bullying stems from a widespread prejudice against the Roma in the Czech society. A Romani mother in České Budějovice told Amnesty International: “Nowadays they know [who is Roma] from

199 CRC/GC/2001/1, 17 April 2001, para 12

200 Workshop with Romani children in Krátká street in Děčín, 11 June 2014

201 Interview with Ms. Dana, Ostrava/Zarubek, 29 August 2014.

202 Interview, Ostrava 28 August 2014

the age of two. Everyone knows that Gypsies are 'yuk'."²⁰³

Amnesty International also spoke to Romani parents who pre-emptively placed their children in ethnically segregated schools. "I decided to place my children in school P so that they would not experience racist bullying."²⁰⁴ Another mother said that she didn't register her daughter in a school as she was told that "their child would suffer there because they have dark skin".²⁰⁵

Teaching assistants and community workers working with Romani children also observed that the situation at schools is a mirror image of the prejudice that exists against the Roma in the society. "I see how the [non-Roma] children are already cultured by their families. They come and... are repulsed by a Romani child."²⁰⁶ A local charity director said: "In the absence of a specific project or programme, a predominantly non-Roma [elite] primary school will not be able to integrate Romani children, especially if they come from a poorer family."²⁰⁷

KAREL AND JANA: BULLIED OUT OF SCHOOL

Karel and his sister Jana lived with their parents in České Budějovice in an apartment house inhabited by several other Romani families. Their street was within the catchment area of one of the "elite" primary schools of the city. The only other Romani pupil there was a girl in the 8th grade. Karel was in the 5th and Jana was in the 3rd grade. Karel recalls the severe bullying his sister experienced on a daily basis four years ago.

"They were pushing her around, they called her black mouth, [told her] that she didn't know anything, that she looked disgusting ... they did everything on purpose. They hid her shoes... it was snowing so I had to bring her home on my back."

Jana developed a complete aversion to school. "When she had to go to school she was throwing hysterical fits and didn't want to go. She was afraid to go."

Karel's mother recalls the daily struggle of the children: "They got up in the morning, I prepared their food, took them to school but they wouldn't even get there. They started crying hysterically and then they said they wouldn't go. That was every day."

Although Karel complained about the bullying, the help he was hoping to get did not come. He said "we told the director and she wouldn't even listen to us. So I started to take care of it myself. I would fight with them. [When the teachers found out] I was the only one who got told off for fighting. And that's when we stopped going to school, pretty much. We started getting worse grades and they started discriminating against us and they were telling everyone that we are dirty and that we smell bad ... The teachers used to complain that we weren't bringing lunches and that we were going to school in torn clothes. [They also said] that she [Jana] did

203 Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

204 Běta, Ostrava 18 June 2014

205 Interview with Romani mother, Eliska in the city of České Budějovice on 9 May 2014

206 Romani teaching assistant in the city of Děčín, 7 May 2014

207 The director of a local charity working with Romani families in the city of České Budějovice, 16 June 2014

not fit in.”

The school director denied any allegations of bullying. “The class treated [Karel] really nice... Initially there weren’t any problems with him, later he became aggressive... It was possibly due to his family situation.”²⁰⁸ With regard to Jana, the director said that she “did not fit in”.

The children formally stayed in the school for one year but they practically stopped going to classes. The only help they received was from the local charity whose staff attempted to mediate between the school, social services and the family. One of the charity’s workers told Amnesty International: “The chances of a child who is significantly different [by its background] to the rest of the pupils succeeding at a given school are low.”

Facing difficult situation at school and possibly at home, and not getting any support, the children eventually accumulated too many unauthorized absences. These amount to an offence under Czech law and can lead to withdrawal of custody rights of the legal guardians or parents and/or criminal prosecution.²⁰⁹ In Karel’s and Jana’s case, the social services “intervened” and they were eventually taken away from their family and placed in a children’s home.

Karel’s and Jana’s case is not an isolated one. Amnesty International spoke to parents of Romani children in other locations who reported bullying in mainstream schools and subsequent transfers to practical schools.²¹⁰

In 2013, the Ministry of Education issued methodological guidelines to help schools address bullying in general.²¹¹ The guidelines acknowledge that bullying is a particularly dangerous form of abuse that endangers the fulfilment of the principles and objectives of education.²¹² They define the features of bullying as intentionality, targeting, repetition, unequal forces and powerlessness of the victim,²¹³ and clarify that schools have an unequivocal obligation to protect children from bullying.²¹⁴ While this is welcomed, the guidelines do not address racial bullying as a specific form of bullying.

Amnesty International recorded some cases in which the situation improved after Romani parents complained to the school about racial verbal abuse or bullying.²¹⁵ However, there is no unified practice and regulation to address the issue and individual cases are largely left to the discretion of teachers and directors.

208 Interview over the phone 16 June 2014, České Budějovice

209 Art. 217 of the Criminal Act: Endangering of moral development of youth.

210 Olina in Děčín. Interview with her mother 7 May 2014.

211 Methodological guideline of the Ministry of Education no 22294/2013-1

212 Id. Preamble

213 Id. Art. 1(3)

214 Id. Art. 3

215 Honza, workshop with Romani children in the city of Decin street Kratka, 11 June 2014.

Leon was one of only two Romani pupils in 3rd grade of mixed school H in the city of Děčín. He said the [non-Roma] boys called him names and that the teacher did not react.²¹⁶ In September 2014, Leon transferred to school G which was known as the “Roma school” in the city.²¹⁷ Romani children often described feeling excluded because of the attitudes of their classmates or teachers. Aneta, a Romani child in 5th grade at school H in Děčín does not have many friends in her class. When asked to describe her school day, she explained that the other children play games in which she is not involved: “The whole day you just sit down... during the breaks.”

Edita enrolled her daughter in a “Roma” school after they moved to Ostrava. “I’m happy she’s with them [the Roma]. In Opava I had to go and argue with the teacher because she allowed the children to call her names... She came home saying she didn’t want to go there [to school]... they called her a bitch, black mouth, everything – I can’t even say those words!”²¹⁸

DIFFERENTIAL TREATMENT OF ROMA

Romani children interviewed by Amnesty International were aware of and sensitive to differential treatment by teachers. During workshops carried out in the context of the research for this report, they were asked to draw a good or a favourite teacher. When asked what makes a teacher “good”, there was a pattern in responses: “[S]he is good because she doesn’t make a difference between the Gypsies and the Czechs. When somebody says something bad about Gypsies, she replies that we are all equal.”²¹⁹

Irena, from the city of České Budějovice, is 18 and recalls how she perceived the difference of treatment when she was at school. “When a Romani child did complain about something... there was never an issue. When a non-Roma child lost money, the school made a big thing out of it and called the police.”²²⁰

A former teaching assistant also emphasised such differential treatment: “The biggest problem was that when a Romani pupil did something wrong – no matter how big or serious it was, he had to go straight to the director’s office. However, if a non-Roma child did that, the worst punishment he would get was a note.”²²¹

Other forms of differential treatment reported to Amnesty International included Romani children not being allowed to use toilets during class²²² and being denied the freedom to sit

²¹⁶ Workshop with Romani children in the city of Děčín, 11 June 2014.

²¹⁷ Interview with the director, 5 May 2014, city of Děčín.

²¹⁸ Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

²¹⁹ Interview with Andrea in the V. street in the city of Děčín., 12 June 2014

²²⁰ Interview, 9 May 2014 in the city of České Budějovice

²²¹ A Romani teaching assistant in the city of Děčín, 7 May 2014

²²² Adam, 15th grade, interviewed in the city of České Budějovice, 14 May 2014

where they wanted unlike other non-Romani children.²²³

BLAMING THE ROMA

"[S]he is not dark, so she won't have a problem [at a new school]."

A mother of a Romani girl in Ostrava²²⁴

School directors and teachers in several locations visited by Amnesty International asserted that the problem was not so much discrimination, but that Roma exclude themselves. "They like to be among themselves. White parents are ambitious..."²²⁵ One director added: "They [the Roma] do not have the trust, they do not want to participate in school trips. They exclude themselves and want to be together."²²⁶ School directors and teachers as well as some of the civil servants spoke revealingly to Amnesty International about Roma and education: "they don't value education", "they see as a role model their parents who are on social benefits"; "it is the fault of the parents that Romani children [frequently] don't continue their education at secondary level."²²⁷ Amnesty International encountered a strong pattern among school directors and teachers of attributing the difficulties of Romani pupils in schools to the "culture of poverty and unemployment" in which allegedly many of their parents live.²²⁸ Characteristic features of such a culture anticipated by the teachers are lack of routine, unwillingness to work and lack of motivation. It is not uncommon that within this narrative, teachers would acknowledge equality when it comes to intelligence of pupils, notwithstanding their ethnicity. The difference, they argue, is in the degree of motivation.

A director of one primary school told Amnesty International: "[I]n my opinion it is not about the intellect. It is about will, responsibility. The parents from the [non-Roma] majority go to work, the children see them waking up in the morning, they go on their own to school, are not accompanied by the parents... While in the Roma community the majority of the parents don't work, sometimes it is only the children who get up in the morning."²²⁹

AUTOMATIC EXAMINATION OF ROMANI PUPILS

During their primary school experience, Romani children are likely to be psychologically tested at least three times. The first is at age five, when schools routinely refer them to an assessment centre because the child has not attended a kindergarten. As teachers fear that such children are not ready for school, they prefer to refer them to preparatory classes. The condition for such placement under the Schools Act is that a child is from a socially

223 During a workshop on 15 June 2014 in the city of České Budějovice, Lukáš explained that all the Roma children in his class have to sit on their own and are not allowed to sit next to their friends. All the other children (non-Roma) sit next to whoever they want. "The Gajos sit together."

224 Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

225 Teacher in the preparatory class in the school C in České Budějovice, 13 May 2014

226 Director of the school C in České Budějovice, 13 May 2014

227 Regional authority in Ústí nad Labem., 12 June 2014; Practical school in Český Krumlov. 13 June 2014.

228 Interviews with: special and practical school in Český Krumlov, 13 June 2014; special and practical school in České Budějovice, 13 May; primary school T in Ostrava, 19 June 2014.

229 Director of the primary school G in the town of Děčín, 5 May 2014.

disadvantaged background, confirmed by the assessment of a pedagogical counselling centre. The second test takes place after one year spent in the preparatory class. Typically, if the difficulties of a Romani child in primary school reach a point when he or she fails a class, the school would refer such child for a further assessment.

The majority of Romani parents Amnesty International spoke to in all the locations visited said that they were recommended to have their child assessed by a psychologist. This frequently happens when a child reaches school age and is supposed to start primary school. A common result of the pre-school assessment identified in the interviews with Romani parents was the recommendation that their child defer starting primary school. Parents rarely challenge such decisions.

Evidence obtained by Amnesty International suggests that there is wide variation between schools. Those that have a reputation as “elite” schools tend to use more rigorous tests in order to assess a child’s ability to learn, while others rely on very simple school readiness tests. As a consequence, the practice of school registration varies, resulting in referrals of children to assessment centres when their results in school readiness tests are not satisfactory.

ANIČKA: SMART BUT STILL SENT TO PREPARATORY CLASS

The practice of psychological tests for Romani children was widespread in all four locations visited by Amnesty International. Elena from Děčín managed to enrol her daughter Anička in a local mainstream school which had previously refused her brothers.²³⁰ However, the registration was preceded by psychological tests and Anička was eventually placed in a preparatory class.

“I went to the social worker and told her that they do not want to accept [Anička] anywhere, and that my permanent address is here [in the city of Děčín] so she helped me get her to the school [close to the home]. “

The social worker helped Elena and her daughter but her registration at the mainstream school of her choice had to be preceded by two trips to a psychologist.

“I had to go... with Anička, twice, to assess whether she could cope at school. They tested her and said she is smart. So I went to the social worker, told her the results and she called [the school].”

When asked why her daughter needed two assessments, Elena explained that the school director had insisted. In the end, Anička was not enrolled in the first grade of the primary school but into a preparatory class. Elena feels that her daughter was not given a chance to start the first grade and that her commencement of compulsory schooling has been deferred because the director was not convinced that she could cope with the school.

Deferrals and placements of Romani pupils into preparatory classes are one of the reasons why many Romani children finish primary school in 7th or 8th grade rather than in the 9th. The law allows the start of primary education to be postponed by a maximum of two years if

230 See the cases of her other children František (Discrimination in practical schools) and Pavel (Segregation in Mainstream Schools)

the child is not considered ready.²³¹

Recommendations to defer Romani children seem to be systemic in some locations. In district of Poruba of Ostrava, Amnesty International carried out a focus group with 12 Romani mothers. All except one had had their children assessed at a counselling centre before the start of primary school, and in all cases deferral of their schooling was recommended. This was the case also for some of the children who went to kindergarten.²³²

PREPARATORY CLASSES

“Preparatory classes are the most pro-segregation measure in this society. [As a non-Roma] I can’t enrol my child to a preparatory class as I’m not socially disadvantaged.”

Director of a special school in the city of Děčín²³³

According to the Schools Act, any placement into preparatory classes and thus a delay to the start of compulsory education must be supported by an assessment of the counselling centre, a statement by a paediatrician and authorized by parental consent. A school can send for an assessment a pupil who does not pass the school readiness test at registration. Schools can only accept child who are “socially disadvantaged” in a preparatory class (para 47 of the Schools Act). The practical consequence of these provisions is that it is almost exclusively Romani children who end up “benefiting” from the preparatory class. The director of a special school in the city of Děčín noted that the measure is formally designed to compensate for the lack of kindergarten attendance by Romani pupils but in fact has segregatory effects.²³⁴ A mandatory and free final year of kindergarten, available for all pupils, would address this problem.

The government initially aimed to address this gap in the 2015 amendment to the Schools Act which was supposed to introduce a compulsory last year of pre-school (kindergarten) free of charge. This provision was supposed to be included in a further amendment to the Schools Act that was expected to be adopted by Parliament in spring 2015.

RECOGNITION OF ETHNIC DIVERSITY IN THE CURRICULA

Under the Convention on the Rights of the Child, education must develop respect for human rights, the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own. Overall, education must prepare the child for responsible life in a free society.²³⁵

A majority of schools visited during Amnesty International's research do not include teaching

²³¹ Schools Act, para. 37.1

²³² Focus group with Romani mothers in a community centre in Ostrava, 23 October 2014.

²³³ Director of Special School in Děčín, 7 May 2014.

²³⁴ Director of Special School in Děčín, 7 May 2014.

²³⁵ Article 29 of the CRC

on Roma history or culture in their educational curricula.²³⁶ None of the textbooks contained specific information on Roma, except for a textbook on civil education for 8th grade pupils of a special class. On one page of the book is a brief summary of two ethnic minorities living in the Czech Republic: Jews and Roma. The Jewish minority was described as one that contributed to the culture, science and art of the country. The textbook mentions that Jews were victims of the Nazi Holocaust in the 20th century which was one of the worst racist crimes in the history. Roma, on the other hand, were described as people who “came from India hundreds of years ago when they had started their journey around the world. With horses harnessed into carriages, they moved from one place to another and because they differed from the Europeans by the colour of their skin and their lifestyle, they were viewed with distrust and hostility.”

The omission of Roma history and cultural heritage in the school curricula falls short of international standards. Under the UN Convention on the Elimination of All Forms of Racial Discrimination, the Czech Republic is obliged to “include in textbooks, at all appropriate levels, chapters about the history and culture of Roma, and encourage and support the publication and distribution of books and other print materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them.”²³⁷ Under the Recommendation of the Committee of Ministers of the Council of Europe 2000(4), school curricula and teaching materials should take into account the cultural identity of Romani children. Romani history and culture should be introduced into teaching materials in order to reflect the cultural identity of Romani children.²³⁸ These standards are very far from being upheld in the Czech Republic. For example, of seven school educational programmes analyzed by Amnesty International, only one included Roma fairy tales in the curriculum of Czech language.²³⁹

²³⁶ 23 out of 24.

²³⁷ CERD General Comment no 27 on discrimination against Roma, para 26

²³⁸ Recommendation No R (2000) 4, para. II.9

²³⁹ “Hodnocení školních vzdělávacích programů základních škol.”, p. 11

4. FAILURE TO ENFORCE THE LAW AND MEET INTERNATIONAL OBLIGATIONS

In an unprecedented move, in September 2014, the European Commission (Commission) initiated infringement proceedings against the Czech Republic for breaching the prohibition of discrimination in education set out in the EU Race Equality Directive.²⁴⁰ Grounds include concerns about the direct and indirect ethnic discrimination in access to education, resulting in the significant over-representation of Romani children in so-called practical schools designed for pupils with mild mental disabilities.²⁴¹ The European Commission supported these concerns with findings from international human rights bodies and statistical data provided by the Czech School Inspectorate, the Czech Public Defender of Rights, the UN Development Programme and the World Bank.²⁴²

The Czech government's own research echoes the Commission's concerns. In November 2014, the government-commissioned report on the situation of the Roma minority quoted a number of studies that in past years presented significant evidence that the Czech educational system continues to fail to ensure equal access to education for Roma.²⁴³ Despite this, the authorities have so far failed to take sufficient measures to address this breach of Czech law and of international human rights standards.²⁴⁴

INFRINGEMENT PROCEEDINGS UNDER EU LAW

Infringement proceedings as established by Article 258 of the Treaty on the Functioning of the European Union provide the Commission with a legal tool to engage with EU member states to comply with EU law. If the Commission has concerns about a possible breach of EU law by a member state, it informs the concerned member state (letter of formal notice) which then has the opportunity to respond and suggest measures to ensure compliance.²⁴⁵ If the Commission is not satisfied, it states reasons why it believes the member state has breached EU law (reasoned opinion). If the member state does not respond, or responds in an unsatisfactory manner, the Commission may bring the case of the violation of the Race Equality Directive to the Court of Justice for the European Union (ECJ). If the Court finds that the Czech Republic has failed to fulfil

240 European Commission. Formal Notice 258 (ex226). Czech Republic. Justice, Fundamental Rights and Citizenship. Non-conformity with Directive 2000/43 on Racial Equality: Discrimination of Roma children in education.

241 Article 2: direct and indirect discrimination, Article 3(1)(g): education being within the material scope of the Directive.

242 European Commission, Letter of formal notice to the Czech Republic. 25 September 2014, Brussels. On files of Amnesty International.

243 Czech Government. Report in the situation of Roma minority in the Czech Republic in 2013 (in Czech). Prague 2014, p. 57

244 Czech Republic: Amnesty International's submission to the Committee of Ministers of the Council of Europe: D.H. and others v. the Czech Republic. EUR 71/009/2013. Available at: <http://www.amnesty.org/en/library/info/EUR71/009/2013/en>

245 See: http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/index_en.htm

an obligation under EU law, it may impose severe penalty payments. These could be either periodic, i.e. a member state would have to pay them while its breach with the EU law persists, or a lump sum based on assessment of the effects of the breach or both.²⁴⁶ In general, the threat of penalty payments of the ECJ has been reasonably effective, and non-compliance with judgments of the ECJ has so far been limited to relatively few cases.²⁴⁷

The pre-litigation mechanism enables the Commission to hold the Czech government accountable, and to publicly and politically put pressure on it, to end the ongoing, systemic and unlawful practice of discrimination against Romani children in Czech schools.

As a first reaction to the infringement in November 2014, the Czech government questioned the Commission's competence to trigger an infringement procedure in the context of education. It argued that the organization of educational systems is within the competence of individual member states. The government has subsequently started engaging with the Commission, particularly on the legal reform of the School Amendment Act. The process of infringement was ongoing at the time this report went to print.

FAILURE TO ADDRESS ETHNIC DISCRIMINATION

International human rights monitoring bodies, including the Human Rights Council, the Committee on the Elimination of Racial Discrimination (CERD), the Special Rapporteur on the Right to Education and the Council of Europe, emphasize that states must give particular consideration to the educational needs of economically and socially marginalized groups, such as those living in poverty, ethnic and linguistic minorities, children with disabilities and indigenous children.²⁴⁸ In 2011, the Human Rights Council urged states to give full effect to the right to education by ensuring adequate legal protection and addressing multiple forms of inequality and discrimination in education through comprehensive policies.²⁴⁹ The CERD recommended that states, including the Czech Republic, "act with determination to eliminate any discrimination or racial harassment of Roma students."²⁵⁰ Under the CERD recommendation, states should, among other measures: prevent and avoid the segregation of Roma students; recruit school personnel from among members of Roma communities; and consider adopting measures in favour of Roma children, in cooperation with their parents, in the field of education.²⁵¹

International law is clear that differential treatment, including enforced separation of persons based solely on ethnicity and in the absence of an objective and reasonable justification, is a

²⁴⁶ European Commission. MEMO/05/482, Brussels, 14 December 2005, Financial Penalties for Member States who fail to comply with Judgments of the European Court of Justice: European Commission clarifies rules. Available at: http://europa.eu/rapid/press-release_MEMO-05-482_en.htm?locale=en

²⁴⁷ Id.

²⁴⁸ CERD, General Recommendation no. 27: Discrimination Against Roma, Report of the Special Rapporteur on the Right to Education, para. 83

²⁴⁹ The right to education: follow-up to Human Rights Council resolution 8/4, A/HRC/17/L.11, 9 June 2011, para. 4b

²⁵⁰ CERD, General Recommendation no. 27: para. 20

²⁵¹ Id. para. 18, 19

particular form of racial discrimination which violates human rights.²⁵² Discrimination in access to education based on racial or ethnic origin – of which segregation is a specific form – is explicitly prohibited.²⁵³ Article 14 of the European Convention on Human Rights requires state authorities to ensure that people within their territory enjoy the right to education without discrimination on any ground including, among others, race or social origin, birth or other status. Under international human rights law, enforcement of the prohibition of discrimination has to be implemented immediately – equal treatment is neither subject to progressive realization nor the availability of resources.²⁵⁴

RIGHT TO EDUCATION

The authorities in the Czech Republic are bound to respect, protect and fulfil the right to education without discrimination under a number of international human rights treaties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child. Under these standards, education must be accessible to all, including the most vulnerable groups, in law and fact without discrimination.²⁵⁵

Education has a vital role in the promotion of human rights and democracy and is a primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.²⁵⁶ By becoming a party to the ICESCR, states, including the Czech Republic, have agreed “that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among... all racial, ethnic or religious groups...”²⁵⁷

The UN Committee on Economic, Social and Cultural Rights, which provides authoritative interpretations of obligations under the ICESCR, has clarified that primary education must be:

- Compulsory and available free to all. Education must be adequate in quality, relevant to the child and must promote the realization of the child's other rights;
- Accessible – physically and economically – to everyone, without discrimination;

252 CESCR, General Comment no. 27, Non-discrimination in Economic, Social and Cultural Rights, para. 19, CERD, General Recommendation no. 27, para. 18.

253 Art. 26: of the International Covenant on Civil and Political Rights states: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and Article 2(1) requires “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

254 CESCR. General Comment No. 13, para 31.

255 CESCR. General Comment No. 13, The Right to Education, E/C.12/1999/10, para. 6(b).

256 CESCR. General Comment No. 13, para. 1.

257 International Covenant on Economic, Social and Cultural Rights, Art. 13 (1).

- Acceptable – in other words relevant, culturally appropriate and of good quality;

- Adaptable to the needs of changing societies and communities and responsive to the needs of students within their diverse social and cultural settings.²⁵⁸

The best interests of the child

As a party to the UN Convention on the Rights of Child, the Czech Republic is obligated to ensure that in all actions concerning children – including administrative decisions of schools – the best interests of the child shall be a primary consideration.²⁵⁹ Education of a child shall be directed to, among other things, the preparation of a child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.²⁶⁰ Such understanding of education goes beyond formal schooling; it embraces the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.²⁶¹ Only effective inclusion of Romani children in integrated mainstream education together with non-Roma children could lead to a model of education which meets these values.

PROHIBITION OF SEPARATE SCHOOLS OR CLASSES

The UN Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education, to which the Czech Republic is a party, clarifies that establishing separate institutions – including separate classes – for persons or a group of persons violates the principle of equal treatment and constitutes discrimination.²⁶² The principle that separate education is inherently unequal was articulated more than 50 years ago in the USA. In the case of *Brown v Board of Education*, the US Supreme Court held that segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal.²⁶³

Although international law recognizes that in some circumstances, separate educational systems or institutions – such as schools established for religious or linguistic reasons – shall be deemed not to constitute a breach of prohibition of discrimination,²⁶⁴ such separation must be optional; and the education offered must conform to standards for education of the

²⁵⁸ CESCR, General Comment No. 13, para. 6.

²⁵⁹ Convention on the Rights of Child, Art. 3(1).

²⁶⁰ Convention on the Rights of Child, Art. 29(1)d.

²⁶¹ Committee on the rights of the Child, General Comment no. 1, The Aims of Education, CRC/GC/2001/1, para. 2.

²⁶² Convention against Discrimination in Education, Art. 1(1)c.

²⁶³ *Brown v Board of Education of Topeka*, US Supreme Court, 347 U.S. 483 (1954).

²⁶⁴ CESCR. General Comment No. 13, para. 33.

same level laid down by competent authorities.²⁶⁵

EUROPEAN COURT OF HUMAN RIGHTS ON SCHOOL SEGREGATION OF ROMA

In cases related to the right of Romani children to an education without discrimination, the European Court of Human Rights has recognized that providing separate institutions to separate groups of people based on ethnicity or similar grounds violates the European Convention on Human Rights. Segregated education of Romani pupils was denounced by the European Court of Human Rights in the case of *Sampanis v Greece* in 2008. The European Court of Human Rights did not accept the Greek government's contention that the difference in treatment between Romani and non-Romani children was due to "an objective and reasonable justification and that there was a reasonable proportionate relationship between the means and the intended objective." In particular, the European Court of Human Rights held that, notwithstanding the intention of the authorities to educate Romani children, the different methods for the registration of Romani children and their placements in segregated preparatory classrooms – in an annex to the school's main building – effectively resulted in discrimination.²⁶⁶

In the *Oršuš v Croatia* 2010 judgment, the European Court of Human Rights found that the placement of Romani pupils in Roma-only classes at certain times during their primary education had no objective and reasonable justification and found Croatia in violation of Article 14 of the European Convention on Human Rights taken together with Article 2 of Protocol No. 1.²⁶⁷

In 2013 *Lavida and Others v Greece*, the European Court established that a failure to take anti-segregation measures implied discrimination and a breach of the right to education. The case involved a primary school which was attended solely by Romani children. Attempts to enrol them in other schools in the area were unsuccessful due to the hostility of non-Roma parents. Although the Greek Ministry of Education has been informed about the existence of ethnic segregation in the school, it failed to take the measures to address it. These measures could have included redrawing of catchment areas or transferring Romani pupils into other schools.²⁶⁸

FAILURE TO INTRODUCE A DATA COLLECTION SYSTEM

Under the Convention on the Elimination of All Forms of Racial Discrimination and other standards, the Czech Republic is bound to "particularly condemn racial segregation [...] and undertake to prevent, prohibit and eradicate all practices of this nature [...]."²⁶⁹ In order to do so, the country is obliged to closely monitor education – including all relevant policies, institutions, programmes, spending patterns and other practices – so as to identify and take measures to address any de facto discrimination. The authorities should collect data in the field of education disaggregated by the prohibited grounds of discrimination, including

²⁶⁵ UNESCO Convention against Discrimination in Education, Article 2.

²⁶⁶ *Sampanis and others v Greece*, App.No. 32526/05, 2008-IX ECtHR para. 96.

²⁶⁷ *Oršuš and others v Croatia*, judgment of the Grand Chamber of the European Court of Human Rights at para 184, 185.

²⁶⁸ *Lavida and others v Greece*, App. No. 7973/10, judgment of the Chamber of the European Court of Human Rights at para. 73.

²⁶⁹ Convention on the Elimination of All Forms of Racial Discrimination, Article 3.

gender and ethnicity.²⁷⁰

Currently, the Czech Republic does not systematically collect data on education disaggregated by ethnicity despite several attempts by various institutions, in particular the Czech School Inspectorate²⁷¹ and the Public Defender of Rights (the Ombudsperson).²⁷² The lack of data on ethnicity in education has been noted with concern by various international human rights monitoring bodies, including the Commissioner for Human Rights of the Council of Europe.²⁷³

²⁷⁰ CESCR. General Comment No. 13, para. 37.

²⁷¹ Czech School Inspectorate Thematic Report "Progress in Transformation of Former Special Schools in the School Year 2011/2012," July 2012, available in Czech at: <http://www.csicr.cz/getattachment/641ebe0e-36b3-4ba3-af8f-e5bf939040e2>

²⁷² Communication from the Czech Republic concerning the case of D.H. and others against Czech Republic, "Survey of the Public Defender of Rights into the Ethnic Composition of Pupils of Former Special Schools: Final Report", Document no. DH-DD(2012)803E, June 2012, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2153914&SecMode=1&DocId=1924992&Usage=2>

²⁷³ Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to the Czech Republic from 12 to 15 November 2012, CommDH(2013)1, para. 47

5. RECOMMENDATIONS

The scale and systemic character of Roma discrimination in primary schools in the Czech Republic, described in this report requires a comprehensive and thorough reform of the education system. As such, the reform needs strong political backing and concrete action from the Prime Minister, the Minister of Education and the Minister of Human Rights. The first step of the Czech authorities should be an unequivocal political commitment to tackle the range of unlawful practices identified in this report as a matter of priority followed swiftly by decisive action.

In order to address and end the discrimination of Roma in Czech schools, Amnesty International proposes the following recommendations:

In order to guarantee the necessary political commitment for reform, the Prime Minister should:

- Publicly acknowledge that the Czech Republic faces a systemic problem of ethnic discrimination targeted against Romani children in primary schools and make an unequivocal commitment to address it.
- Allocate the necessary resources, including funding, human and technical, in order to effectively implement the necessary reforms that would end discrimination and segregation in Czech schools.

In order to address discrimination of Roma in practical schools, the Ministry of Education must:

- Prepare a plan with a realistic time line and budget with concrete targets and deadlines for the phasing out of educational programmes for pupils with mild mental disabilities and start its implementation as soon as possible.
- Provide appropriate methodological support and ensure adequate funding of support measures to schools to ensure successful inclusion and integration into mainstream education of children of different levels of ability ethnicities and nationalities, and socio-economic backgrounds.
- Introduce a compulsory last year of pre-school (kindergarten) free of charge.
- Adopt regulations obliging schools and school advisory centers to prioritize individual integration into mainstream schools over placement into practical schools.
- Immediately begin the transfer of all Romani children unlawfully or erroneously placed in practical schools to mainstream schools containing a mix of Roma and non-Roma pupils and provide support to facilitate their successful integration.

To end segregation in mainstream schools, the government should:

- Adopt a national plan and timeline with concrete deadlines commencing at the earliest opportunity, with clear annual targets for eliminating school segregation and securing inclusive education.
- Amend the Schools Act to include an obligation on local authorities to prevent the emergence of ethnically segregated schools. This obligation should entail a requirement for local authorities to adopt desegregation plans.
- Pursuant to this obligation, local authorities should review the current school catchment

areas to assess whether or not they facilitate ethnic segregation of schools and, if so, implement appropriate changes.

- In line with the Schools Act (Art. 178.1) issue and disseminate guidelines instructing schools that they cannot reject pupils who belong to their catchment area.

To end discrimination of Romani pupils in primary schools, the Ministry of Education should:

- Adopt a working definition of unlawful discrimination (based on the various grounds identified in national and international law including ethnicity) and segregation at schools.
- Ensure that the obligation to treat pupils and their parents equally and without racial prejudice is included in the Professional standards of teachers and professional training courses for teachers.
- Introduce nation-wide training programmes to ensure dissemination and understanding of the equal treatment and non-discrimination principle among teachers.
- Adopt methodological guidelines “Responding to discriminatory behavior” that would clarify what behavior and statements can amount to unacceptable discrimination and racial and other forms of harassment and intimidation and how they should be addressed.
- Ensure that any discriminatory treatment by teachers, other school staff and staff at the diagnostic centres is properly investigated and addressed within the performance review system (including the possibility of disciplinary action).
- Amend the Framework Educational Programme for Primary Education (RVP ZV) so that it explicitly includes the equal treatment principle in the section “Principles of RVP ZV”.
- Introduce an obligation on schools to promote human rights, diversity, mutual respect, tolerance, understanding and good relations between persons of different racial and ethnic groups and to transpose this principle (on education promoting understanding among ethnic groups) into the citizenship education of the school educational programmes.
- Ensure adequate methodological and financial support to schools in the development and implementation of programmes promoting respect and understanding among ethnic (and social) groups. Ensure that the schools are aware of the funding opportunities available from the EU funds for programmes promoting respect and multicultural education.
- Design, promote and ensure implementation by schools of a range of appropriate extra-curricular activities for both Roma and Non-Roma children and parents to help break down barriers and provide additional educational opportunities for all children.

Take measures to end discriminatory bullying:

- Amend and disseminate to schools the methodological guidelines of the Ministry of Education on bullying to ensure they explicitly include and define discriminatory bullying.
- Promote the requirement for all schools to take seriously and thoroughly investigate all complaints of bullying and to respond accordingly, including disciplinary action against both pupils and staff where allegations are substantiated
- Amend the decree on the Czech School Inspectorate to ensure that inspectors actively investigate and report on discriminatory bullying, including by gathering testimonies of children and parents affected by it and making concrete recommendations for addressing it
- Implement a pilot on monitoring by the Czech School Inspectorate of discriminatory

bullying in selected primary schools in all 14 regions and publish the results.

To strengthen monitoring and accountability, the government should

- Empower the Czech School Inspectorate to fulfil its function to prevent, prohibit and eradicate discrimination and segregation in education through the provision of adequate financial and human resources, detailed guidelines and procedures on how to identify, monitor and combat segregation in practice on the basis of appropriate indicators.
- Strengthen the Czech School Inspectorate's capacity to receive complaints and impose sanctions against the schools and local authorities for violations of the ban on discrimination and segregation, and provision of training for its staff on the issue of discrimination and the principle of equal treatment in education.
- Ensure that the Czech School Inspectorate monitors that the school readiness assessment does not introduce discriminatory barriers to school registration.
- Develop a data-collection system with a view to providing long-term and accurate statistics on pupils enrolled in primary, secondary and tertiary education, 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;
- Ensure that in the development of the data-collection system, the Ministry of Education (Department of analysis and statistics) works with the office of the Public Defender of Rights (Ombudsperson) and that its methodology for gathering and analysing data meets best practice standards.

Recommendation to the European Union

- Ensure that the infringement proceedings against the Czech Republic initiated by the European Commission in September 2014 for violation of the Race Equality Directive remain open until the government takes effective measures to end discrimination of Roma in education.
- Monitor and ensure that the use of EU funds does not lead to racial segregation in the fields of education, and other fields.
- Consider the regular allocation of a specific training budget to provide information on EU policies and the EU structures and working methods to the Roma and other minority representatives.



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

WHAT CAN YOU DO?

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

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

Together we can make our voices heard.

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

Name

Address

Address

Email

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

Amount

Please debit my

☐ Visa

☐ Mastercard

Number

Expiry date

Signature

Please return this form to the Amnesty International office in your country.

For Amnesty International offices worldwide: www.amnesty.org/en/worldwide-sites
If there is not an Amnesty International office in your country, please return this form to:

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

**I WANT
TO HELP**



MUST TRY HARDER

ETHNIC DISCRIMINATION OF ROMANI CHILDREN IN CZECH SCHOOLS

Romani children in the Czech Republic have for decades suffered systemic discrimination in primary education. Many are placed in so-called practical schools designated for pupils with mild mental disabilities. Those in mainstream schools are often segregated in Roma-only schools and classes or otherwise treated differently. Reports of racial bullying and ostracization by non-Roma pupils, and even open prejudice by some teachers, are frequent.

Despite a 2007 ruling by the European Court of Human Rights that the government of the Czech Republic had violated the rights of Romani children not to be discriminated against in their access to education, adequate steps to resolve the issue have not been taken. The human rights of thousands of Romani children continue to be violated. In a response to this problem, in September 2014 the European Commission initiated proceedings against the Czech Republic for breaching the prohibition of discrimination in education set out in the EU Race Equality Directive.

Amnesty International has been monitoring and researching the right to education of Romani children in the Czech Republic since 2006. This report presents the findings of new research carried out in 2014; it focuses on four major locations in which delegates visited around 30 schools, spoke to school directors, teachers, parents and pupils, and ran a series of workshops for Romani children.

A thorough reform of the primary education system in the Czech Republic is needed to address the scale and systemic character of discrimination against Roma. Amnesty International calls on the government to make an unequivocal commitment to address the problem and start a reform that would address ethnic prejudice and discrimination head-on.

April 2015
Index: EUR 71/1353/2015
amnesty.org

AMNESTY
INTERNATIONAL

