



## **Strategies and Tactics to Combat Segregation of Roma Children in Schools**

*Case studies from Romania, Croatia, Hungary, Czech Republic,  
Bulgaria, and Greece*

**FXB Center for Health and Human Rights  
Harvard University  
2015**

## About the FXB Center for Health and Human Rights at Harvard University

The FXB Center for Health and Human Rights at Harvard University (Harvard FXB) is an interdisciplinary center that works to protect and promote the rights and wellbeing of children, adolescents, youth and their families trapped in extreme circumstances throughout the world. Harvard FXB pursues this goal by conducting and supporting research, advocacy, and targeted action.

### About the report

Harvard FXB was commissioned by the Roma Center for Social Intervention and Studies (Romani CRISS) to conduct research and report on *Strategies and Tactics to Combat Segregation of Roma Children in Schools* as part of the DARE-Net project (Desegregation and Action for Roma in Education Network).

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Photos courtesy of Romani CRISS; Robert Vaszi, Roma activist; and DARE-Net.

## Glossary/Abbreviations

CEE	Central and Eastern Europe	NERC	National Expert and Rehabilitation Committee, Hungary
CFCF	Chance for Children Foundation	NGO	Non-governmental organization
CHC	Croatian Helsinki Committee for Human Rights	NPR	National Program for the Roma
DARE-Net	Desegregation and Education Network	OEDC	Organization for Economic Development and Cooperation
EC	European Commission	OSCE	Organization for Security and Cooperation in Europe
EU	European Union	ODIHR	Office for Democratic Institution and Human Rights
ECHR	European Convention on Human Rights	PEA	Hungarian Public Education Act
ECTHR	European Court of Human Rights	RED	Racial Equality Directive
ERRC	European Roma Rights Centre	REF	Roman Education Fund
ETA	The Hungarian Act on Equal Treatment and the Promotion of Equal Opportunities	Romani CRISS	Roma Center for Social Interventions and Studies`
EUMAP	European Union Monitoring and Advocacy Program of the Open Society Institute	UNDP	United Nations Development Programme
FRA	Fundamental Rights Agency		
GHM	Greek Helsinki Monitor		
IDEKE	Institute of Adult Continuing Education, Greece		
MEP	Member of the European Parliament		
MSES	Ministry of Science, Education and Sports, Croatia		
NCCD	National Council for Combating Discrimination, Romania		

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<sup>2</sup> Details about the interviewees are available in the methodology section.

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## Preface

Roma children enter the world with the heavy baggage of intergenerational inequality, born into societies where discrimination and social-economic struggles are part of daily life. Researchers and policymakers agree that, across Europe, Roma children experience widespread, systematic exclusion from education, leading to significant gaps in participation and achievement. School segregation appears to be a major contributing factor to these gaping discrepancies in education.

This report aims to review and synthesize the desegregation strategies and tactics of six non-governmental organizations (NGOs) in Central, Eastern, and Southern European countries. The report captures evidence-based data on the negative outcomes of segregation of Roma children in schools and highlights effective initiatives employed by the European Roma Rights Centre (ERRC) in Croatia and Hungary, Romani CRISS in Romania, Life Together in Czech Republic, Integro in Bulgaria, and Antigone in Greece. These organizations comprise DARE-Net, a 2012 initiative led by Romani CRISS. During the project's implementation, the Chance for Children Foundation (CFCF) joined the network and focused primarily on activities implemented in Hungary.

The initiatives described in this report are presented as six case studies. Each case study summarizes findings based on an in-depth literature review and semi-structured interviews with communities, experts, and stakeholders. The case studies describe the work that has been done to advocate for changes in policy, legislation, curricula, and/or practice in political and societal environments that have been resistant to change. The Report Digest is available at <http://fxb.harvard.edu/wp-content/uploads/sites/5/2015/02/Romani-Segregation-2015-brief-version-final.pdf>

Despite the fact that the vast majority of Roma children enroll in school, only half complete primary education. Moreover, most do not even reach the level of secondary education,<sup>3</sup> and less than one percent participate in tertiary education in some Central, Eastern, and Southern European countries.<sup>4</sup> A broad range of factors determines these gaps, and in this report, we focus primarily on school segregation. Roma children continue to be placed in separate classes based solely on their skin color, ethnicity, and socio-economic situation; often they are placed into separate buildings, separate schools and classes, including special schools. As a result, Roma receive inferior education and endure discriminatory treatment from teachers and school administrators.

Even when not physically separated, Roma children are routinely placed in the back of the class, receive less attention from their teachers, and endure bullying and stigma. Discriminatory treatment is often compounded by national education systems that lack the capacity to address the needs of socially and ethnically disadvantaged students and provide intercultural and inclusive environments. School segregation is now prohibited by European Union's Race Equality Directive (RED), and domestic laws of each country for which we developed a case study; however, the practice persists and has been widely documented by civil society organizations and scholars.

Segregation keeps Roma children away from quality education, social networks, job, and better salaries opportunities. On the other hand, well designed desegregation efforts and positive interethnic interactions can stymie prejudice from non-Roma peers and contribute to the self-esteem and pride of Roma children.

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3 UN News Centre, "Half of Roma children drop out of primary school, UN-backed report finds," September 27, 2010, <http://www.un.org/apps/news/story.asp?NewsID=36207&Cr=unesco&Cr1>.

4 UNDP, *Roma Education in Comparative Perspective*, 2012, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

For the last quarter of a century, improving access to education for Roma children has been a central feature in national and international commitments related to Roma inclusion in Europe. Yet addressing the policy or practice of streamlining Roma children into separate schools and classes based on their ethnicity—segregation—has been a challenging task, both politically and structurally, for those governments and institutions involved. Civil society representatives have therefore played a lead role in raising awareness of the phenomenon, convincing central and local authorities to take action, pushing for accountability, and providing technical guidance as needed.

Various organizations across Europe have worked to address the problem. Strategies have included everything from supporting the participation of Roma children in education to dismantling the legal and policy frameworks of segregation to piloting programs and initiatives to promote the integration of Roma children into mainstream schools and classes. It is, therefore, critical to identify and share such efforts with civil society representatives and policymakers from other regions and countries, so that they can learn from these initiatives and implement them accordingly to the needs of the communities they are working with.

In each country we discuss in this report, we analyze the political context's role and power in making change possible. The EU pre-accession requirements for non-discriminatory policies and actions as well as the ECtHR judgments made possible relevant gains in policy and legislative changes. Yet much is to be done in translating those documents into desegregation practices in all the countries studied in this report.

The report also addresses the challenges and obstacles encountered by civil society representatives throughout their journey towards school desegregation, but its main focus is on the strategies and tactics employed by NGOs to achieve desegregation. For example, judgments from the European Court of Human Rights (ECtHR) on segregation (commencing with 2007's landmark *D.H. and Others vs. Czech Republic*), research, pilot projects, along with community work were explicitly and associatively used by the organizations involved to advocate for policy and legislative changes. Some of the organizations, such as the European Roma Rights Centre (ERRC), were leading forces in bringing segregation cases before the ECtHR.

We analyze the tactics and the actions of NGOs in their social and political environments and highlight their successes, as well as their lessons learned, for other organizations, institutions, scholars, and advocates. We aim to show models of advocacy and interventions that can potentially lead to change in law, policy, and practice in other regions and contexts.

## About DARE-Net<sup>5</sup>

DARE-Net—the Desegregation and Action for Roma in Education Network—is a transnational network of Roma and non-Roma civil society and academic organizations focused on identifying, analyzing, and exchanging practices and initiatives related to Roma education and school desegregation. The project began in 2012 as an initiative of Romani CRISS and involves relevant organizations and institutions in the field of education, as well as members of Roma communities, in six countries: Bulgaria, Croatia, Czech Republic, Greece, Hungary, and Romania.

DARE-Net develops an international Roma civil society network to promote cooperation and critical dialogue in the area of Roma school desegregation, including dialogue on successful initiatives. In addition, DARE-Net encourages a stronger commitment by governments and other actors to combat Roma segregation in schools.

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5 DARE-Net stands for “Desegregation and Action for Roma in Education-Network.” More information about the project is available at <http://www.dare-net.eu/>.

Similar patterns in the causes, effects, contexts, and types of segregation in schools are common across all partner countries. Therefore, the DARE-Net partners involved in this study recognized that a sustained, common, transnational perspective was necessary in order to identify the most suitable experiences and solutions.

The DARE-Net partners have demonstrated long-standing knowledge in the field of Roma rights, with experience in training and litigation on school desegregation of Roma children and work in networks. Therefore, learning from each other's experiences and analyzing what solutions worked best is crucial. Besides their high levels of expertise, these organizations represent countries that still show a significant proportion of segregated schools/classes for Roma children, making this partnership particularly meaningful.

## **The Work of Harvard FXB**

Founded in 1993, within the Harvard T.H. Chan School of Public Health (Harvard Chan School), the FXB Center for Health and Human Rights (Harvard FXB) advances the rights of marginalized children, adolescents, youth, and their families worldwide. The center engages local partners, communities, and young people themselves to conduct and support research, teaching, advocacy, and targeted action in the areas of child protection and adolescent empowerment.

Harvard FXB is leading an innovative research, advocacy, and capacity-strengthening program centered on some of the most urgent concerns facing the Roma population in Europe. One of the key projects implemented by Harvard FXB is the participatory action project *Reclaiming Adolescence: Roma Transitions to Adulthood*, in Serbia, from 2012 to 2014. The project utilized participatory methods to assess the education, employment, and civic opportunities available to Roma adolescents and identify effective practices that can be scaled up to improve the access these young people have to such opportunities.



## II. Methodology

For the *Strategies and Tactics to Combat Segregation of Roma Children in Schools* report, we used a case study methodology to develop a practice-based inventory of desegregation. We documented and analyzed interventions that promote desegregation and help ensure equal opportunities for quality education. The interventions we analysed have been implemented or recommended by the project partner organizations working in six countries: Bulgaria, Croatia, Czech Republic, Greece, Hungary, and Romania.<sup>6</sup> The interventions include community projects, advocacy campaigns for changes in legislation and policy, curriculum revision for minority inclusion, and strategic litigation. Therefore, Harvard FXB only looked at the projects and initiatives undertaken by the DARE-Net members, and not at all effective desegregation practices existing in the region.

In each case study, we single out the history, challenges, and breakdowns encountered by an organization in implementing a desegregation intervention, placing particular emphasis on the effective desegregation interventions and tactics that NGOs used. We also analyze NGO actions by taking into consideration the political context in which they have been developed.

The findings in this report are based on desk research (online desk research, government and NGO published data), individual semi-structured interviews and group interviews conducted in all project countries. Respondents included Roma adolescents and parents, Roma community leaders, Roma and non-Roma civil society organizations, school teachers, principals, and administrators, local, regional, and national policymakers responsible for education and social inclusion matters, and various experts, including lawyers, economists, and university professors. The analysis included in one of the case studies was also based on direct field experience from one of the authors.

The desk research information derives from documents made available by the partner organizations (annual reports, articles, publications, research, videos, audio materials, project reports, external or internal evaluations of the desegregation project, etc.) as well as documentation and publications by local and international organizations, reports and materials published by intergovernmental and national institutions, ECtHR jurisprudence, and academic papers.

Initial country selection for membership in the DARE-Net, and consequently in the case study report, was based on demographic and NGO strategic relevance. The majority of the countries have national and/or European Court of Human Rights' jurisprudence on segregation of Roma children. The partner organizations in this transnational project have initiated desegregation projects using different approaches, usually in accordance with their mandate and previous experience. The projects used different strategies and methods, each project tackling segregation from a specific angle, including building policy and legislation, imposing sanctions, and creating an intercultural school and community empowerment. The desegregation projects they implemented have showed effectiveness in addressing desegregation at local or national level. Put together, the tactics do not conflict but rather show the complexity of desegregation processes and issues that need to be addressed to achieve desegregation and good quality education.

To more accurately present the complexity of this issue, the obstacles, and available strategies to achieve desegregation, the report includes a range of expert opinions. We conducted the a number of 92 semi-structured individual or group interviews as follows: 12 interviews with 15 stakeholders in Bulgaria, 13 interviews with 15 stakeholders in the Czech Republic, 13 interviews with 30 stakeholders in Croatia, 9 interviews with 12 or more stakeholders in Hungary, 5 interviews with 10 stakeholders in Greece, and 9 interviews with nine stakeholders in Romania.

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6 All six organizations are part of DARE-Net (See Introduction).

The Roma community members we had interviews with included parents and plaintiffs involved in two legal cases: *Oršuš and Others vs. Croatia* and *D.H. and Others vs. Czech Republic*. Additional information on *Horvath and Kiss vs. Hungary* was gathered from one of the plaintiffs by project partners, CFCF and Romani CRISS. We visited and interviewed representatives of schools and kindergartens in Kutina, Croatia, Mursko Sredisce, Croatia, Thessaloniki, Greece, Zavet, Bulgaria, and Horni Suca, Czech Republic. We interviewed 26 representatives of civil society, 4 scholars, 1 attorney, and 15 representatives of regional and central institutions.

Each interview was conducted by a team of two researchers, while each case study was drafted by one lead researcher in partnership with the other staff. This team included Arlan Fuller, Harvard FXB's Executive Director, Margareta Matache, Roma rights advocate and Harvard Chan School Instructor, and Sarah Dougherty, former Harvard Chan School Research Associate. The opinions included in this report do not necessarily reflect the views of the stakeholders the authors met and consulted with, but do sum up the conclusions reached by the research team analyzing the data.

A limitation of this report was the small scope of our study. We of course could not cover all desegregation initiatives existing in the region. Moreover, Harvard FXB did not develop a methodology to select the initiatives included in this report. It focused primarily on the project partners' work.

The peer review process was ensured internally by prof. Jacqueline Bhabha (professor of law, Harvard University) and externally by Dr. Marius Taba (sociologist). We also asked the DARE-Net organizations to provide feedback for each country-based study. In addition, Biserka Tomljenović (independent expert) provided us feedback on the Croatia case study.

The report will be disseminated to various governmental, academic, and civil society stakeholders in the partner countries as well as in other countries in Europe. The report will also serve students and the community at large interested in learning advocacy strategies aimed at policy and legislative changes.

III. Case Study  
*Advocacy for Desegregation  
Policies and Measures*



## III. 1. Combating Segregation in Romania

In 2003, Romania's Equality Body, the National Council for Combating Discrimination,<sup>7</sup> imposed its first sanction for discrimination against a school in Cehei for segregating Roma students in an annex building.<sup>8</sup> In 2004, the Ministry of Education issued the first institutional document, a notification prohibiting the creation of pre-school, primary, and secondary classes comprised exclusively or mainly of Roma students.<sup>9</sup> Since then, a series of essential desegregation measures and initiatives have followed to ensure equal access to education for Roma children.

The Roma Center for Social Intervention and Studies (Romani CRISS),<sup>10</sup> a Bucharest-based Roma rights organization, initiated and contributed to desegregation developments at the policy and practical level in collaboration with other Roma and non-Roma organizations and institutions. These efforts began in the early 2000s and continue to the present day, although the dynamics have changed over the years.

This case study examines the extent of de facto segregation on Roma individuals, the strategies employed by NGOs and institutions to promote non-discriminatory education, and the policy responses to the problem. The case study addresses the challenges and pitfalls encountered by the present methods of addressing segregation and recommends a course for future action. It also describes the strategies and methods Romani CRISS opted for to raise awareness at national level on segregation and push for policy changes in an environment resistant to change. The

<sup>7</sup> More information about the National Council for Combating Discrimination can be found at <http://www.cncd.org.ro/?language=en>.

<sup>8</sup> Romani CRISS/Romani CRISS, *Romani CRISS vs. County School Inspectorate Salaj and Cehei School – Simleul Silvaniei*, [http://www.Romacriss.org/Roma%20CRISS%20vs.%20I.S.%20J.%20Salaj\\_eng.pdf](http://www.Romacriss.org/Roma%20CRISS%20vs.%20I.S.%20J.%20Salaj_eng.pdf).

<sup>9</sup> Ministry of Education and Research, The Cabinet of the State Secretary for pre-University Education, *Notification no. 29323/20.04.2004*, 2004, <http://www.edu.ro/download/notadmr3.pdf>.

<sup>10</sup> Find more information about Romani CRISS at <http://www.Romacriss.org/en/>.

aim is to present a model of advocacy that can potentially lead to policy and legal changes.

### 1. The Equality Environment

#### Overview of Romania

More than 20 million people live in Romania, most self-identifying as Romanian (88.9 percent), Hungarian (6.5 percent), or Roma (3.3 percent).<sup>11</sup> Romania has the world's largest Roma community, totaling more than 1.5 million people,<sup>12</sup> although only 621,573<sup>13</sup> report their ethnic identity as Roma.<sup>14</sup> After the fall of communism in 1989, the Roma were officially recognized as one of the 19 national minorities in Romania. Similar to the Roma population in other countries, Romanian Roma are heterogeneous in their occupations, customs, dialects, traditions, and religion. However, they are bound by culture and common roots, as well as by a history of unjust policies and ongoing discrimination and stigmatization.

Despite civil society efforts to advance Roma inclusion agenda, many Roma continue to experience social and economic inequalities. Compared with the overall population in Romania, the highest level of educational attainment for most Roma remains stagnant at the primary school level, while the overall population

<sup>11</sup> National Institute for Statistics, *Final Results of the Population and Housing Census*, 2011, [http://www.recensamantRomania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL\\_2011.pdf](http://www.recensamantRomania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL_2011.pdf)

<sup>12</sup> A 2000 Institute for Quality of Life study reveals a number between 1,452,700 and 1,588,552 hetero-identified Roma and between 992,465 to 1,002,381 self-identified Roma.

<sup>13</sup> According to the 2011 Census, the number 621,573 constitutes about 3.3 percent of the Romanian total population. National Institute for Statistics, *Final Results of the Population and Housing Census*, 2011, [http://www.recensamantRomania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL\\_2011.pdf](http://www.recensamantRomania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL_2011.pdf).

<sup>14</sup> The significant differences between the official census data and the estimated number of Roma living in Romania are due to several factors, including a fear of genocide, deportation, suppression and discrimination; lack of training on approaching the ethnic problem of the census operators; lack of information on Roma ethnic identity; and the fear of stigma.

is consistently achieving higher and higher education, with a significant distribution achieving tertiary education. More than 88 percent of Roma in Romania are at risk of poverty,<sup>15</sup> compared to 31 percent of their non-Roma neighbors, and 30 percent of Roma are employed, compared to 44 percent of their non-Roma neighbors.<sup>16</sup> While policy development pertaining to the realization of Roma rights has developed considerably in Romania, the country falls short when it comes to the implementation of these rights as well as when it comes to garnering authentic political will, financial investment, and societal acceptance of Roma as equal citizens.

### Education in Romania

Over the last quarter-century, Romania's institutions have attempted to remedy and reform the socialist-era education system, but the slow pace of transition and the political instability have affected the level and quality of education for all children participating in the process. In 2007, a Presidential Commission on education evaluated the education system, describing it as inefficient,<sup>17</sup> irrelevant to the knowledge-based economy,<sup>18</sup> inequitable for children from rural areas and vulnerable groups, and low quality.<sup>19</sup>

The policy and legal reforms initiated by the Ministry of Education were not carried on from one government change to the next one.<sup>20</sup> The quality of education in Romania continue to fall below

the OECD average.<sup>21</sup> Delia Nita at the Center for Legal Studies argues that because the social status of teachers and professors in Romania is not appreciated, their low salaries “lead to a dreadful decrease” in the quality of education (D. Nita, FXB Interview, December 5, 2013). The 2007 Presidential Commission also pointed out the poor quality of the educational infrastructure and existing resources and noted that pupils were not content either: almost three quarters of eight grade students stated that their teachers’ method of teaching was “dictation” for almost all subjects.<sup>22</sup>

These methods, which emphasize rote learning and memorization over critical thinking, are a holdover from the communist education system. This system is designed to support the advancement of the most competitive students (termed “Olympic”) at the expense of students of average or below average abilities (C. Ulrich, FXB Interview, December 6, 2013). Unlike the modern pedagogical trend, these methods do not accommodate individual learning styles and are particularly difficult for children who enter the education with different skill levels or from disadvantaged backgrounds, as in the case of Roma. As Nita concluded, “when it comes to poor or Roma, the educational system fails them” (FXB Interview, December 5, 2013).

More than 37 percent of Romanian Roma are under 15 years old,<sup>23</sup> and research shows that their education and employment prospects are disproportionately low. Notable differences exist between Roma and non-Roma children in terms of their participation in early childhood, primary, secondary, and tertiary education. 32 percent of Roma between three and six years of age are enrolled in preschool education, as compared to

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15 In this study, poverty is defined as the “social inclusion indicator in the European Union which indicates the share of persons aged 0+ with an equivalised disposable income below 60 percent of the national equivalised median income.” The World Bank, *Diagnostics and Policy Advice for Supporting Roma Inclusion in Romania*, 2014, <http://www.worldbank.org/content/dam/Worldbank/document/eca/Romania/OutputEN.pdf>.

16 The World Bank, *Diagnostics and Policy Advice for Supporting Roma Inclusion in Romania*, 2014, <http://www.worldbank.org/content/dam/Worldbank/document/eca/Romania/OutputEN.pdf>.

17 The authors of the aforementioned report described the education system as inefficient due to the below average results obtained in international evaluations.

18 The report shows that the Romanian education system was below the EU average Lisbon indicators for knowledge based economy.

19 Presidential Administration, Presidential Commission on Education, *Romania of Education, Romania of Research: The Presidential Commission Report on Analysis and Elaboration of Policies in Education and Research*, 2007, [http://www.presidency.ro/static/ordine/Raport\\_CPaeptec\\_2007\\_.pdf](http://www.presidency.ro/static/ordine/Raport_CPaeptec_2007_.pdf).

20 Ibid.

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21 Organization for Economic Cooperation and Development, Program for International Student Assessment, *PISA 2012 Results in Focus: What 15-year-olds Know and What They Can Do with What They Know*, 2012, <http://www.oecd.org/pisa/keyfindings/pisa-2012-results-overview.pdf>

22 Presidential Administration. Presidential Commission on Education, *Romania of Education, Romania of Research: The Presidential Commission Report on Analysis and Elaboration of Policies in Education and Research*, 2007, [http://www.presidency.ro/static/ordine/Raport\\_CPaeptec\\_2007\\_.pdf](http://www.presidency.ro/static/ordine/Raport_CPaeptec_2007_.pdf).

23 The World Bank, *Diagnostics and Policy Advice for Supporting Roma Inclusion in Romania*, 2014, <http://www.worldbank.org/content/dam/Worldbank/document/eca/Romania/OutputEN.pdf> citing the UNDP/WB/EC Roma Regional Survey, 2011.

77 percent of their non-Roma neighbors. Similarly, 10 percent of Roma have completed secondary education while 58 percent of non-Roma complete the same level of education.<sup>24</sup> Between 1998 and 2012, the ratio of Roma with college degrees stagnated at one percent for males and improved from 0.7% to 1.6% for females.<sup>25</sup>

Even after more two decades of post-communist policies, Roma children's opportunities to receive quality education are still hampered by disparate factors, including segregation.

## 2. Segregation Patterns and Their Consequences for Roma Children

*De facto* segregation is one of the most aggressive agents of low education and achievement among Roma children. Rights groups have addressed this issue since the early 2000s through documentation, advocacy, and projects. Scholars and activists have argued numerous instances of ethnically segregated schools, school buildings, classes, and the misdiagnosis and placement of children in special schools based on ethnic criteria.

At national level, segregation ranges from 25 to 31 percent.<sup>26,27</sup> Segregation in all forms hinders grades, graduation rates, and literacy. In a 2008 report of 134 schools, Laura Surdu shows that 21.8 percent of Roma children were integrated in mixed schools, 31.6 percent in segregated schools, 35.3 percent in segregated classes, and 3.75 percent showed a high risk of being segregated in classes.<sup>28, 29</sup>

24 Ibid.

25 Duminica and Ivasiuc 2013 quoted by World Bank, *Diagnosis and Policy Advice for Supporting Roma Inclusion in Romania*, 2014, [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/04/09/000333037\\_20140409142900/Rendered/PDF/866710WP0P14500na10Report00English0.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/04/09/000333037_20140409142900/Rendered/PDF/866710WP0P14500na10Report00English0.pdf)

26 G. Fleck and C. Rughinis, *Come Closer: Inclusion and Exclusion of Roma in Present Day Romanian Society*, Bucharest: Human Dynamics, 2008, 159.

27 G. Duminica and A. Ivasiuc, *School for Everybody? The Access of Roma Children to Quality Education*, Bucharest: Vanemonde, 2010, [http://www.agentiainpreuna.ro/files/O\\_scoala\\_pentru\\_toti.pdf](http://www.agentiainpreuna.ro/files/O_scoala_pentru_toti.pdf).

28 L. Surdu, *Monitoring the Implementation of the Anti-Segregation Measures in Romania*, Bucharest: MarLink, Romani CRISS, 2008, <http://www.unicef.ro/wp-content/uploads/monitorizare-aplicarii-masurilor-impotriva-segregarii-scolare-in-Romania.pdf>.

29 Laura Surdu defines segregation as any school unit that is comprised of more than 50% Roma.

Segregated schools and classes are often characterized by the following deficiencies:

- Poor infrastructure, such as ill-equipped laboratories (for physics, chemistry, and biology or computer science) or a lack of toilets inside the schools where the Roma are a majority.
- Unqualified teachers or high personnel turnover rates at schools in rural or poor communities compared to schools in urban or wealthy communities. For example, 28 percent of teachers in Roma-majority schools lack a teaching degree compared with 16.5 percent of teachers in Roma-minority schools.<sup>30</sup>
- Over double the rates of teacher absenteeism in Roma-majority schools than in Roma-minority schools. Their absenteeism impacts Roma children's educational achievements and also influences some Roma parents who interpret this as reluctance to educate Roma students and who thus prefer to remove their children from the education system altogether.<sup>31</sup>
- Significantly reduced quality of education in schools with a high percentage of Roma children, affecting the experiences and the outcomes of children attending those schools.

Research shows that more than 15 percent of Roma children studying in schools and segregated classes are functionally illiterate and their parents are dissatisfied with the education they receive. One Roma mother/father said of son: "I won't allow him to go to school any more, he can't write, read, he lets grass grow under his feet, and that's all."<sup>32</sup>

### School Segregation

Placement of Roma children in residentially segregated schools (schools placed in or near a Roma neighborhood) is considered a form of segregation by the 2007 Ministry of

30 Romani CRISS, CURS, Roma Education Fund, *Inequity and Inequality: Teacher Absenteeism, Roma Pupils, and Primary Schools in Romania*, Bucharest, 2012, [http://www.romaeducationfund.hu/sites/default/files/publications/ref\\_ta\\_screen\\_doublepages.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/ref_ta_screen_doublepages.pdf).

31 Ibid.

32 L. Surdu, E. Vincze, and M. Wamsiedel, *School Participation, Absenteeism, and Discrimination Met by Roma in Romania*, Bucharest: Vanemonde, 2011, <http://www.Romacriss.org/PDF/RC%202011%20-%20Participare.%20absenteism%20scolar%20si%20experienta%20discriminarii%20%28ro%29.pdf>.

Education Order on banning school segregation of Roma children (the Desegregation Order).<sup>33</sup> Nevertheless, residential segregation has often led to ethnically segregated schools. In some instances the school's composition is heavily Roma because it reflects the community's composition of concentrated Roma neighborhoods or villages. In other instances, Roma-majority schools are located at a considerable distance from non-Roma schools and communities, although this is not the primary cause of segregation in Romania.<sup>34</sup> In such situations, the County Inspectorates and the school representatives involved have not always cooperated to find solutions to mix children from neighboring communities.

The Romanian legislation defines school segregation against the percentage of the Roma children in the total school population *in the administrative-territorial unit*. The law does not take into account the school circumscription, but the locality (i.e. village or town). In doing so, it outlaws as segregation any disproportion between the percentage of Roma children in a school, buildings, classes or groups and the percentage of the Roma children from the total school population in the concerned administrative-territorial unit (see art. 2, par. 2 Of Annex 1 to the Ministerial Order no. 1540/2007). This is particularly relevant as Roma are very thinly spread across the country in nearly all administrative-territorial units (localities). Both in rural and in urban localities, there are certain parts of the localities (hamlets and neighborhoods respectively) in which Roma represent the majority of the population, but only in a handful of Romania's 3000 or so localities are the Roma the majority (M. Mandache, FXB Interview, December 12, 2013).

Demographic patterns aside, schools have also used residential segregation as a pretext to place Roma children in separate schools. In these situations, Roma neighborhoods are compact, but as a non-Roma school is in the proximity, mixing

children from two different ethnic communities would be practical and feasible. Even in schools where Roma are not the majority, Roma children have been placed in segregated school buildings or annexed buildings. In Cehei, for instance, these separate facilities were situated near the main building but were clearly inferior in terms of infrastructure, allocation of resources, and the quality of education provided (the case is described later in this study).

Many situations of school segregation have also been caused by the reluctance of non-Roma parents to interact with Roma families or to allow their children to interact with Roma peers. In such circumstances, Roma families also tend to reduce interactions with their neighbors. "White flight phenomenon" has been a reality in many instances, and schools have tried to avoid it primarily by segregating Roma children.

### **Special Schools**

The misdiagnosis and overrepresentation of Roma children in special schools received public attention in 2001 when a study showed that up to 70 percent of pupils placed in a special school in Cluj-Napoca, Romania were Roma.<sup>35</sup> Also, in 2006, Romani CRISS monitored a case in Dumbraveni, Sibiu where over 90 percent of children attending a special school were Roma, despite the fact that the vast majority of them had no disability. In this case, the National Council for Combating Discrimination concluded that the Roma children received differential treatment and they were placed in the special school based on their social needs, not intellectual and developmental disabilities; it thus issued a recommendation to the special school to desegregate the school.<sup>36</sup> In 2007, EUMAP emphasized that Roma children continued to be deliberately placed in separate classes and sent to special schools for children with intellectual and developmental disabilities.<sup>37</sup>

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33 Ministry of Education, the Desegregation Order (translation by Romani CRISS), 2007, <http://www.legex.ro/Ordin-1540-19.07.2007-82075.aspx>.

34 L. Surdu, *Monitoring the Implementation of the Anti-Segregation Measures in Romania*, Bucharest: MarLink, Romani CRISS, 2008, <http://www.unicef.ro/wp-content/uploads/monitorizare-aplicarii-masurilor-impotriva-segregarii-scolare-in-Romania.pdf>.

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35 European Roma Rights Center, *State of Impunity: Human Rights Abuse of Roma in Romania*, Budapest, 2001.

36 Romani CRISS and the Roma Civic Alliance in Romania, *Shadow Report for the Committee on the Elimination of Racial Discrimination*, Bucharest, 2010, <http://www.Romacriss.org/PDF/Shadow%20report%20CERD%20Romania%20-2010.pdf>

37 Open Society Institute, *Equal Access to Quality Education for Roma*, Budapest, 2007, [http://www.opensocietyfoundations.org/sites/default/files/2roma\\_20070329\\_0.pdf](http://www.opensocietyfoundations.org/sites/default/files/2roma_20070329_0.pdf).

In 2013, the Ministry of Education noted that the number of Roma pupils in special schools had decreased, but between 1997 and 2007, the number had actually increased: "...it was like an army of professors in that special school. And if the number of children from special schools was decreasing, those professors or teachers didn't have place to work .... They were attracting the students by different means, by promising clothes, food, saying the school program is easier. So these were the ways that they attract the Roma community to these schools" (G. Sarau, FXB Interview, December 5, 2013).

However, the misdiagnosis of Roma children in special schools should also be discussed in conjunction with the need for inclusive education for all children.

### **Segregated Classes**

According to the Ministerial Order, starting in 2007, schools were prohibited from forming segregated first and fifth grade classes. In the 2008-2009 school year, 66 percent of newly formed first and fifth grade classes were still segregated.<sup>38</sup>

Ethnically segregated classes, whether in separate facilities or in the main building, come with lower expectations for Roma children, ineffective teaching methods, underestimations of the children, and frequent absences from the classroom on the part of the teachers.

Some Roma parents also accept or prefer keeping their children in segregated classes or in special schools, as a means to protect them. Such parents often recognize the harmful effect of discrimination by teachers, non-Roma children, or their parents, and feel that if their children are with other Roma, no one will mock them for not having adequate clothing or school supplies, or bully them for being what they derogatory call "Gypsies." However, while segregation continues to exist at a large scale in Romanian schools, significant legal and policy progress has been made. The Desegregation Order offers an essential prevention and combating framework

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38 L. Surdu, *Monitoring the Implementation of the Anti-Segregation Measures in Romania*, Bucharest: MarLink, Romani CRISS, 2008, <http://www.unicef.ro/wp-content/uploads/monitorizare-aplicarii-masurilor-impotriva-segregarii-scolare-in-Romania.pdf>

that includes an official definition of segregation and delineates specific types of situations that are considered segregationist.<sup>39,40</sup> These legal and policy changes constituted significant effort, dialogue, and debate on the part of civil society and the Ministry of Education.

## **3. Strategies and Tactics to Advocate for Desegregation and Policy Change**

There are approximately 200 Roma organizations registered in Romania, and although a smaller number are consistently active, the vast majority has or has had initiatives focusing on access and participation of Roma children and youth in education (M. Mandache, FXB Interview, December 12, 2013). Organizations such as Equal Chances in Salaj or Roma ACCESS in Constanta have made a substantial contribution to piloting desegregation initiatives at county level and documenting cases of segregation. In addition, Amare Rromentza, Intercultural Institute Timisoara, Ovidiu Ro, Project for Ethnic Relations, Romani CRISS, and Save the Children—organizations which participated at the activities of the Informal Working Group formed around the Desegregation Order—have played an essential role in developing desegregation institutional mechanics, not solely through their contribution to the Working Group, but also through the projects they implemented in different schools and

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39 As translated by Romani CRISS, segregation is defined as "a severe form of discrimination" which "has as consequence the unequal access of children to quality education, the violation of exerting in terms of equality the right to education, as well as human dignity."

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The Desegregation Order described five situations that can be considered segregation: "a) Schooling Roma children in residential segregated schools, meaning in schools placed in or in the proximity of a 'compact' Roma neighborhood and without another school nearby, where all students or most of them are Roma; b) Deliberate guiding or directing Roma children to segregated schools/ pre-schools from or in the proximity of neighborhoods inhabited by Roma, when mix schools/ pre-schools are available; c) Placing all children who haven't attended pre-school in the same 1<sup>st</sup> grade class; d) Deliberate placing of Roma students from mix schools in groups/ classes/ buildings/ other facilities aimed for them only; e) Separation that results from practices such as: distribution in one class of all children who enrolled at school later than the rest or maintaining intact a Roma class when the students are transferred from a Roma only kindergarten or primary school to a mix school; f) Placing Roma children diagnosed as having learning difficulties or special educational needs in separate groups/ classes/ schools." (Translated by Romani CRISS.)





communities. While numerous other organizations have contributed significantly to desegregation efforts in Romania, this case study is limited to one model of medium term, multilayer advocacy strategy that led to policy and legal changes. This section focuses on the work of Romani CRISS and its partners, the initiators of the desegregation process in Romania, due to their clearly stated and continuous strategic focus on combating segregation.

**The Civil Society Role:  
The Romani CRISS Approach**

Established in 1993, Romani CRISS is one of the oldest Roma organizations in Central and Eastern Europe. Its aim is to defend and promote Roma rights; however, unlike some other human rights groups, Romani CRISS ties legal and policy actions with local interventions focused on health and education, research, and advocacy. According to a 2012 external evaluation, “Romani CRISS has grown and developed steadily over the course of its history. By most accounts, its development has been impressive. The organization has had three executive directors (including the founder) and is one of the few organizations in the region that has been able to build the next leaders from

within its ranks and therefore facilitate effective transitions. Its staff, local monitors and other Roma linked to the organization expressed a sense of pride in Romani CRISS [CRISS], as well as high expectations of the organization.”<sup>41</sup>

Most of the projects implemented by Romani CRISS have been informed by a human rights based approach. Previous projects have promoted equal participation and empowerment of Roma at all levels, kept institutions accountable for respecting human right standard, and focused on non-discrimination. Romani CRISS also employs an advocacy and educated centered approach. For example, the organization has pushed for intercultural education in schools and teacher training; prevention or combating of segregation and other forms of discrimination in schools; and giving an equal start at school to all children (C. David, FXB Interview, February 27, 2013).

Romani CRISS’s desegregation efforts have been built on four pillars: legal actions, research, pilot projects and interventions to prevent or

41 H. Cartner, *An Evaluation of the Human Rights Department of Romani CRISS*, 2012 (document on file with Romani CRISS/Romani CRISS).

combat segregation, and advocacy for policy and legislation changes. The organization gathers data through legal actions and research and utilizes this data to make an argument for desegregation in the respective institutions. Romani CRISS pilots projects on intercultural education, teacher training, and community interethnic relations in order to prepare the children, the community, and the school itself for a smooth transition during the process of desegregation.<sup>42</sup>

Romani CRISS works closely with human right monitors,<sup>43</sup> local organizations, and communities in implementing projects, documenting human rights abuses, and research. For advocacy purposes, they partner with other human rights groups and local organizations. Coalition building has historically comprised a twofold approach: (1) to contribute to the development of organizations and empowerment of advocates at the local level and (2) to prepare thematic groups to build a stronger voice in negotiations with institutions and share the tasks.

### **Education and Desegregation Projects**

The 90s in Romania were stamped by intense interethnic conflicts between non-Roma and Roma communities. Thus at first, Romani CRISS addressed the challenges of school participation in the communities affected by conflicts, as part of a larger plan to reduce ethnic tensions. At the same time, the interethnic tensions carried over into the school environment and pushed Roma children out of school. For instance, in Kogalniceanu, where ethnic conflict erupted in violence in

October 1990, a Roma parent explained that their method of protecting the children from bullying was to take them out of school: “Why should we send our children to school if the non-Roma children swear at them, beat them and chase them away with stones?”<sup>44</sup> A non-Roma parent shared his fear that Roma children would steal his children’s food and money.<sup>45</sup>

For this reason, Romani CRISS’ educational activities in the 90s focused on providing children with an equal start in education and creating a welcoming, non-discriminatory school environment. Such projects, through an indirect route, eventually led to the prevention segregation.

### **Early Childhood Development**

Children who did not attend kindergarten have often been placed into segregated classes due to their limited use of the Romanian language or a lack of school readiness, compared with non-Roma children who in turn benefited from kindergarten. In 1990s, as a solution for school readiness, Romani CRISS organized summer activities with first grade children and interethnic interactions and intercultural activities with Roma and non-Roma children. A decade later, in 2001, Romani CRISS began piloting projects to increase kindergarten participation for Roma children.

Romani CRISS adjusted the principles of successful interventions implemented for minority children in other countries to fit the needs of Roma children in Romania. For example, one project, implemented in Panciu at a Centre for Educational Support in 2001-2002, was modeled after the American “Head Start” program. The project offered summer kindergarten to children who had never attended kindergarten and were thus unable to enroll in school.<sup>46</sup> Following suit, other organizations began initiating similar programs, and in 2009, the Ministry of Education and Ruhama Foundation conducted summer kindergartens in 420 Roma communities.<sup>47</sup>

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42 Romani Criss website.

43 Romani CRISS, *Defending and Promoting of Human Rights in the Roma Communities* (working document), Bucharest, 2013. The document describes the mandate, history, and work of the Network of Human Rights Monitors established by Romani CRISS in 2002. It states, “The initiative of Romani CRISS was supported by Open Society Foundation – Budapest and by the Catholic Committee against Hunger and for Development through the program “Monitoring Network for combating discrimination against Roma... Initially, the network of local human rights monitors was formed by local Roma NGOs. Later, the activists of human rights without affiliation became part of the network. In these 10 years of activity, the network of local human rights monitors represented the core of the actions made by Romani CRISS in the field of promoting the human rights and combating of discrimination... Over the 10 years, Romani CRISS was working with 58 monitors. They received initial and on-going training in the field of combating the discrimination in general and specific areas, depending on the nature of human rights breaches, in the following areas: discrimination in education, especially in school segregation, discrimination in access to health services, violation of human dignity, access to public places etc.”

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44 Romani CRISS, *Educational Projects Implemented by the Ethnic Federation of Roma and Romani CRISS 1990-2008*, Bucharest, 2013. Interview with Nicolae Gheorghie.

45 Ibid.

46 Romani CRISS, *A Good Start in School*, Bucharest, 2003, [http://www.Romacriss.org/rap\\_narativ\\_start\\_scoala\\_mec\\_unicef.pdf](http://www.Romacriss.org/rap_narativ_start_scoala_mec_unicef.pdf).

47 Ruhama Foundation, *All Children in Kindergarten, All in*

However, it is worthwhile to underline that instead of building infrastructure and to encourage enrollment of Roma children in regular kindergarten programs, the Ministry of Education scaled up a measure that was aimed to answer to a “crises” situation (M. Taba, FXB Interview, April 2015).

Romani CRISS has piloted since 2010 early childhood development projects, which targets Roma children up to 7 years old, their parents, the kindergarten and the community.<sup>48,49</sup>

### **Intercultural Education**

Another practice developed by Romani CRISS (and subsequently developed by other organizations) began during the 2004-2005 academic calendar year and involved summer camps for Roma children who were the beneficiaries of affirmative action. The project aimed to better equip these children for interactions with their non-Roma peers and school personnel and to increase their self-esteem.<sup>50</sup> In parallel, the project developed information campaigns about affirmative measures in Roma communities. Information Centers run by Roma activists advised and counseled the local Roma communities on educational issues.<sup>51</sup>

Since 2006, Romani CRISS has organized camps for Roma adolescents. These camps have focused on raising the level of Roma adolescents' self-esteem, and by mixing Roma and non-Roma, have fostered cultural diversity within both groups, prior to their joint transition to the same integrated high school classrooms (C. David, FXB Interview,

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Grade I, 2011, <http://www.ruhama.ro/ro/formare-profesionala-si-servicii-de-ocupare/servicii-de-ocupare/59-servicii-de-ocupare>.

48 Romani CRISS, *A Good Start*, <http://www.romanicriss.org/romanicriss%20facts%20sheet%20mofleni%20final.pdf>

49 Romani CRISS, *A Good Start- Encouraging Roma Early Childhood Education in Glina*, [http://www.romanicriss.org/PDF/Incurajarea\\_Educatiei\\_Timpurii\\_in\\_comunitatea\\_din\\_Glina.pdf](http://www.romanicriss.org/PDF/Incurajarea_Educatiei_Timpurii_in_comunitatea_din_Glina.pdf)

50 Romani CRISS, *Roma Children Want to Learn, Educational Workshop: “A step towards you: Who am I, who are we, who are the others?”* Bucharest, <http://www.Romacriss.org/raport%20tabara%20de%20vara%20Copiii%20romi%20vor%20sa%20invete%202004.pdf>.

51 Romani CRISS, *Roma Children Want to Learn: Narrative Report May-October 2005*, Bucharest, 2005, <http://www.Romacriss.org/Raport%20narativ%20proiect%20Copiii%20romi%20vor%20sa%20invete%202005.pdf>.

February 27, 2013). Throughout the years, cultural diversity and human rights education for pupils and teachers were a priority of the organization, as they were regarded as preventive tools against segregation, bullying, and stigma. Romani CRISS has also regularly implemented training courses on combating segregation in education for school personnel and school inspectorates through various projects and in different regions of Romania.

### **Desegregation Initiative**

Romani CRISS drew on its experience piloting these earlier projects and translating successful examples into policy<sup>52</sup> to begin its own initiatives on desegregation. Between 2009 and 2011, Romani CRISS implemented the *Strategic Steps for Improving Roma Children's Access to Education* project in 90 schools across Romania. The goal was to build a model of school desegregation, and the approach involved the participation a variety of players, including the Ministry of Education, Schools Inspectorates, and three other local NGOs. This complex initiative was ambitious in terms of its purpose, variety of activities, number of beneficiaries, and number of workers involved (almost 1000 people at the local, regional and national levels).<sup>53</sup>

The project targeted three key groups: Roma and non-Roma children, the community, and the school personnel. All three groups were involved in activities that attempted to both raise the groups' own awareness about segregation and prepare them for the process of desegregation itself through activities organized in schools and communities. Desegregation preparedness activities included intercultural education classes, remedial classes for Roma children, school-community-parent meetings, workshops in painting, poetry, theatre, and literature, a “grandparents' evening” to enhance intercultural knowledge on each ethnicity's contribution to local history, an essay contest, a sports contest, documentation activity focusing on the town and community's history, celebration activities for all

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52 Ibid., referring to the health mediator program and the summer kindergartens.

53 Romani CRISS, *Project Outline: Strategic Steps for Improving Roma Children Access to Education*, Bucharest, 2009, [http://www.Romacriss.org/prez\\_proiect\\_pasi%20strategici%20educatie%20desegregare%202009-2011.pdf](http://www.Romacriss.org/prez_proiect_pasi%20strategici%20educatie%20desegregare%202009-2011.pdf).

ethnicities, and the creation of intercultural family albums on “the story of my colleague’s family.” At the wider community level, interactions between Roma and non-Roma families were promoted through screenings of thematic movies, debates, and mobile caravans to distribute information on education, health, and legal assistance.<sup>54</sup>

For the human resources responsible for the desegregation process (school and school inspectorate personnel), trainings on segregation were organized. These personnel were trained on how to affect desegregation in their school, how to prevent segregation, and how to form ethnically integrated classes at the beginning of each school cycle.

While there was no external evaluation available for the project, those involved brought to light a few criticisms: For example, the project was often financially compromised due to delays of reimbursements from the donor (which in turn created frustrations at the school level and difficulties in the proper implementation of certain activities), the project involved many schools and was demanding in terms of immediate response, monitoring and qualitative implementation; and while the intercultural activities were well received, some schools did not use them to bring about desegregation per se.<sup>55</sup>

Despite the resulting flaws (the absence of final monitoring phase in all schools among them), the approach that Romani CRISS undertook was especially meaningful in the way it uniquely included all players at the community level involved in the desegregation process. These players were informed, prepared, and trained so that the process took place with their consent and direct participation.

In 2012, Romani CRISS expanded its desegregation agenda at the regional level and initiated the DARE Net, a partnership comprised of other major organizations on desegregation from Central and Eastern European countries (and detailed in full earlier on in this report).<sup>56</sup>

In spite of Romani CRISS leadership and priority changes, the mosaic of different projects has inspired one another and have connected and built upon each other’s experiences and success in order to contribute to a more equal policy and legal framework. Many of their initiatives were then replicated by other NGOs, and some of the policies adopted in Romania based on Romani CRISS’s pilots were implemented other neighboring countries.

Romani CRISS has found that the human rights approach has been most successful because it ensures that project mechanisms and constituencies are grounded in the community. This can help ensure lasting impact even when the lead organization undergoes leadership and priority changes.

### **Monitoring Networks and Legal Actions**

In 2002, Romani CRISS established a network of human rights monitors, comprised first of individuals and later by local human rights groups trained and supported by CRISS or existing local NGOs. According to Romani CRISS, “the network members have contributed significantly and essentially for defending the Roma communities’ interests. They were representing an important role at the local level in the area of supporting the victims of discrimination, abuse and violation of human rights. The idea behind the network was to empower the local civic activists who should lead to improvement of human rights in Roma communities. The network of local monitors represented a major tool in Romani CRISS’s activity, which is orientated to human rights defense. Apart from the identification and documentation of the human rights abuses in order to proceed with litigation and juridical assistance actions, Romani CRISS used the situations documented through the human rights monitors for civic and advocacy actions.”<sup>57</sup>

The network has played a key role in identifying cases of segregation and contributing to the greater advocacy effort of Romani CRISS on this particular issue. In 2003, the local monitor

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54 Ibid.

55 Ibid.

56 Desegregation and Action for Roma Education Network, <http://www.dare-net.eu/>

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57 Romani CRISS, *Defending and Promoting of Human Rights in the Roma Communities* (working document), Bucharest, 2013. The document describes the mandate, history, and work of the Network of Human Rights Monitors established by Romani CRISS in 2002.

Robert Vaszi and Equal Chances Association worked with Romani CRISS to document the first case of segregation in Romania in Cehei, Salaj. *Romani CRISS vs. Salaj School Inspectorate and Cehei School* is a landmark case of segregation in education. Not only is it the first segregation case documented by a non-profit organization and sanctioned by the Equality Body, but it is also the case that led to a greater recognition of the phenomenon in Romania.

The case involved children and schools from two localities, Pusta Vale and Cehei, from Salaj County. According to their reports, children studying in the first four grades at Pusta Vale school, due to a lack of facilities, were sent in the first grade to the Cehei school, about five to six km (approximately three miles) distance. At the Cehei School, children were separated by ethnicity into two separate buildings. In the main building, 94 Romanian children were placed, 34 of whom were enrolled in the first through fourth grades, and 60 in the fifth through eighth grades. The building had four classrooms. The annex building had two classrooms, poorly equipped for 90 Roma children enrolled in fifth to eighth grade, learning in shifts. Romani CRISS filed a complaint in front of the Equality Body and informed the Ministry of Education and other relevant institutions about the case. The Equality Body sanctioned Cehei School with a warning for discrimination of Roma children.<sup>58</sup>

In 2004, the Cehei case led to the first document produced by the Ministry of Education—a Notification<sup>59</sup> that forbade the separation of children on ethnic criteria in schools. In the years to come, the Notification has not produced as many changes as expected. It was not legally binding, and did not contain sanctions for those schools or teachers who did not comply with it.

As Romani CRISS was monitoring the situation, it was aware the Notification lacked practical impact, and therefore they made consistent efforts between 2005 and 2007 to document other cases

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58 *Romani CRISS vs. County School Inspectorate Salaj and Cehei School – Simleul Silvaniei*, [http://www.Romacriss.org/Roma%20CRISS%20vs.%20I.S.%20J.%20Salaj\\_eng.pdf](http://www.Romacriss.org/Roma%20CRISS%20vs.%20I.S.%20J.%20Salaj_eng.pdf).

59 Ministry of Education and Research, The Cabinet of the State Secretary for Pre-University Education, *Notification no. 29323/20.04.2004*, 2004, <http://www.edu.ro/download/notadmrr3.pdf>.

and bring them before courts and/ or the Equality Body. In their complaints, along with requests to penalize discrimination, Romani CRISS has also asked for schools and school inspectorates to be obligated to initiate desegregation programs. Prior to the adoption of the Desegregation Order, in a joint effort of Romani CRISS and the human rights monitors, a large number of cases of segregated classrooms and schools were documented, with a twofold objective: (1) to stop discrimination in those particular cases so that children were not left to remain in that environment, and (2) to show the magnitude of segregation in order to push for the Order. The cases were documented in several regions of Romania: Josika Miklos School, Atid; Grupul Scolar Auto Craiova;<sup>60</sup> School no. 19, Craiova;<sup>61</sup> Constantin Brailoiu School in Targu Jiu;<sup>62</sup> High School with Sport program, and Roman (M. Mandache, FXB Interview, December 12, 2013).<sup>63</sup> In addition, there have been documented cases where Roma children learning in separated classes have been bullied by their non-Roma peers from other classes: “Romanian children beat us, slap us and... the teacher calls me ‘you, Indian’ and doesn’t let us play with non-Roma children”<sup>64</sup> or “the teacher is aggressive, she beats and swears at Roma children.”<sup>65</sup>

After the Order was in place, Romani CRISS continued to monitor instances of segregation and file complaints using the new legal tool. In 2009, CRISS filed a complaint against a school in Gorj County. In Albeni, there were two main schools: One of the schools was situated in the Rudari community, with the majority of children enrolled belonging to the community there, while the other school enrolled mainly non-Roma children. There were some notable differences between the two schools. For example, the school that enrolled students mainly from the Rudari community taught first and second grades and third and

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60 In 2007, the Equality Body acknowledged the act of discrimination and ruled a recommendation for the school to desegregate the classes.

61 In 2007, the Equality Body ruled that there was no discrimination and did not motivate the decision.

62 In 2006, the complaint was sent to the court.

63 In 2007, the Equality body acknowledged the act of discrimination and ruled a recommendation for the school to desegregate the classes.

64 Romani CRISS, *Documenting Report: Polovragi School*, Testimonial of a Roma child, Targu Jiu, 2006.

65 Ibid.



fourth grades simultaneously, its infrastructure was inadequate (although a Belgian foundation donated ten computers and new school desks to the school, those had never been used), and the school was not connected to the water or heating system. However, the other school (comprised mainly of non-Roma) had two computer labs, a physics lab, a chemistry lab, and a gym. This school was connected to the water or heating systems.<sup>66</sup>

Among other situations, in 2011, Romani CRISS, following a report by the Roma expert at the Olt Prefecture, documented a case of segregation in classes at the Ionita Asan School in Caracal, Olt. According to a report of the Prefecture Office, the school “has a tradition” of “[forming] social and educational segregated classes.”<sup>67</sup> Although the school claimed that children belonging to disadvantaged groups were randomly assigned to classes, it was found that the children enrolled in first and fifth grade were separated on ethnic and social grounds.<sup>68</sup> At the first day of school, the

Roma children were not given a flower to mark the occasion like the other children (a school tradition), and the first grade Roma class was lacking a teacher (the school director was trying to identify one). The class where the Roma children were placed was badly equipped compared to the other classes, with unfinished floors and filthy walls. The school director stated that when classes were formed, the ethnic background of the children was not considered, but rather the date of the application submitted by parents. The school directors also stated the Roma class was formed in order “to give them [Roma children] a chance too.”<sup>69</sup> Romani CRISS had copies of the parents’ applications, and the copies revealed none of the applications were in fact submitted after the final deadline. However, the Ministry of Education usually notifies school inspectorates with regard to a recommended period of enrolment, which is not mandatory. The Desegregation Order clearly specifies that the separation, which resulted from placing the students who enrolled later in the same class, represents a practice that leads to segregation (Article 5, Annex to 1540/2007 Order).

<sup>66</sup> Romani CRISS, Complaint filed against Ionita Asan School, Bucharest, 2011.

<sup>67</sup> Ibid.

<sup>68</sup> According to Romani CRISS, the complaint was filed against Ionita Asan School, Bucharest: 2011.

<sup>69</sup> Romani CRISS, Complaint filed against Ionita Asan School, Bucharest, 2011.

Romani CRISS has also tried other methods of intervention which involved direct communication with the schools. In 2009, Romani CRISS sent a letter to a school in Cugir, pointing out the situation of segregation in classes and offering support. In 2010, prior to the start of the school year, a team visited several schools in Tulcea and worked together with the School Inspectorate on the class composition of the first and fifth grades (M. Mandache, FXB Interview, December 12, 2013).

The existence of a Network of Human Rights Monitors, as well as organizations and individuals who collected information and evidence for the cases, were key components in documenting segregation. Romani CRISS's role in developing and empowering this network was crucial. By working at the local level, it was able to directly interact with plaintiffs and institutions and closely monitor each case. However, the number of human rights monitors and organizations involved in this program has not multiplied over the years. Also, Romani CRISS has not yet diversified its implementation methods. For instance, in the future the organization might multiply the number of monitors or use different communication tools in the field.

### **Coalition Work and Policy Advocacy**

The Romani CRISS agenda was to bring arguments in front of national institutions to improve the legal framework regarding segregation in schools. The techniques they used along with legal actions, involved a series of roundtable discussions, and debates with civil society and institutions responsible for education.

Not all Roma organizations were in favor of desegregation, and some activists held differing opinions. Roma leaders disagreed about the best course of action to remedy discrimination. Some groups, being more sensitive to cultural rights, were in favor of maintaining an ethnically homogenous environment that allowed for the introduction of Roma elements (e.g. language, history) to the school curriculum. Human rights groups were more concerned about the effects of segregated environments on Roma children and thus were more inclined to directly combat segregation and fight for better education. However, despite differences in goals, both sides

agreed that the quality of education, teacher qualifications, and infrastructure in Roma schools are lower than in other schools and needed to be improved. They acknowledged that some schools abuse the children's right to optional classes of Roma language to push segregation in classrooms. Their debates also led to a distinction—also introduced in the Desegregation Order—between the bilingual and entirely mother tongue education for minorities versus the segregated schools and classes.

In order to increase support for the cause, Romani CRISS decided to work in a coalition, and in 2006, took the lead of an informal group of NGOs,<sup>70</sup> which has worked and met with the Ministry of Education consistently with the objective to come up with a legal document more powerful than the existing Notification. The coalition brought on board international organizations (OSCE ODIHR Contact Point for Roma and Sinti Issues), and signed a Memorandum of cooperation<sup>71</sup> on ensuring access of Roma children and youth in Romania to quality education, through school desegregation and promotion of education for identity with the Ministry of Education. The partners agreed to elaborate a strategy to combat segregation and create documents and instruments to halt segregation and monitor the desegregation process.

Following this consultation process, the Ministry of Education adopted the Desegregation Order banning school segregation of Roma children and approving the methodology on preventing and eliminating school segregation of Roma children.

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70 The organizations involved in the informal group were Centrul Rromilor Amare Rromentza, Institutul Intercultural Timisoara, Romani CRISS, Salvati Copiii, Centrul Regional PER, and Ovidiu Rom.

71 Some of the tasks mentioned in the Memorandum included the following: The Ministry of Education and Research shall promote a policy of cultivating the Roma ethnic identity and intercultural education in school by introducing content on cultural diversity to the curriculum; the National Agency for Roma shall elaborate and finalize, in partnership with Ministry of Education and as result of consultation with the non-governmental organizations, the National Action Plan in the field of education of the Decade of Roma Inclusion 2005-2015; the tasks of the National Council for Combating Discrimination refer to the cases of segregation identified in schools. The NCCD shall inform MER and apply sanctions in case the desegregation plans are not implemented. In addition, information campaigns with regards to discrimination will be carried out in the school units; the working group shall elaborate, implement, and monitor educational policies that will ensure achievement of the objectives set forth in the Memorandum.

In addition, the Ministry adopted a complementary Order<sup>72</sup> on inclusion of cultural diversity into the national school curricula.

At the same time, Romani CRISS has tried to work with the Equality Body to draft an Instruction at the level of this specialized body to penalize discrimination, which would support the Desegregation Order. Romani CRISS elaborated and sent a proposal to the National Council for Combating Discrimination in order to adopt such an instruction but it was not considered or adopted.

Anti-segregation activists considered the insertion of the cause of Roma school integration into mainstream documents and the wider human rights agenda a pressing matter. When the Education Law changed in 2011, after several attempts in previous years, Romani CRISS partnered with other organizations to push for Roma and segregation related changes. They participated at public consultations organized by committees in Parliament, and they sent their proposals on the law to the Parliament. However, when the law was adopted, it did not address segregation, despite the strong advocacy efforts of non-profit organizations. It did introduce, at the request of this group of Roma organizations, an article on the misdiagnosis and abusive placement of children in special schools. The article stipulates that “the abusive diagnose of children on backgrounds of race, nationality, ethnic, language, religion, marginalized group, or any other criteria and their placement into classrooms with special education needs will be sanctioned.”<sup>73</sup>

The advocacy process that the organizations were involved in did not always follow a uniform strategy. This limitation had both positive and negative repercussions. On the one hand, it allowed activists to test out different tactics and adapt them readily to the changing social and political contexts. This was a necessity for advocates working in volatile political situations, where there was frequent turnover of staff. On the other hand, this approach had the potential to

work against ensuring a cohesive strategy. Along the way, important pieces could be dropped from legislation or the way legislation is pieced together over a period of time could fail to form a coherent legal and policy framework, having to adjust to new social and political contexts, people, and different approaches and agendas.

## Research

Romani CRISS commissioned reports to collect and use data for advocacy action to help approve or enforce the Desegregation Order. In 2006, Romani CRISS contracted Mihai Surdu, a sociologist, to draft a report entitled *An Analysis of the Desegregation Process*.<sup>74</sup> The paper was published in 2007 and analyzed the extent of segregation in Romania, looking at cases, measures, policy, and legislation in depth. The report also provided a set of indicators to measure segregation, and a list of factors that lead to segregation. The report was used by Romani CRISS in its actions prior to the approval of the Desegregation Order. One year after the Desegregation Order was approved, Romani CRISS published the report *Monitoring the Application of Measures against School Segregation in Romania* (2008) that analyzes the implementation of the Order in 134 schools across 10 counties in Romania. Their intention was to come up with similar reports every year in order to generate evidence of the lack of application of the Order and to shame policymakers into action, though they found themselves unable to meet this objective. The report showed that the Desegregation Order was not applied in 63 percent of the schools in the sample and is unknown by some teachers and principals, or, in some cases, the entire school staff. The report also demonstrated that most cases of school segregation were not caused by the residential isolation of the Roma community, but rather by active discrimination on the part of the staff.<sup>75</sup>

In 2011 and 2012, Romani CRISS partnered with other NGOs and research institutes to publish

72 Order no 1529/18.07, 2007, regarding the development of diversity in the national curriculum, <http://www.edu.ro/index.php/articles/8319>.

73 Ministry of Education, National Education Law, 1/2011, Art 50 (3), <http://www.edu.ro/index.php/legaldocs/14847>.

74 M. Surdu, *An Analysis of the Desegregation Process*, Bucharest: Romani CRISS, 2007, <http://www.Romacriss.org/PDF/O%20ANALIZA%20A%20PROCESULUI%20DE%20DESEGREGARE.pdf>.

75 L. Surdu, *Monitoring the Implementation of the Anti-Segregation Measures in Romania*, Bucharest: MarLink, Romani CRISS, 2008, <http://www.unicef.ro/wp-content/uploads/monitorizarea-aplicarii-masurilor-impotriva-segregarii-scolare-in-Romania.pdf>.



two additional research papers probing Roma children's participation in education in Romania, with special concern for the issue of segregation. The report, *School Participation, Absenteeism and Discrimination met by Roma in Romania*, covered the overall participation of Roma children and youth in education. It also addressed the interaction between Roma parents and schools: "Roma parents have emphasized that the mediator is the only person at school who is in direct contact with them, who can communicate with them and help them. Parents complain that teachers are neither involved in monitoring their children, nor do they visit them at home."<sup>76</sup> The second paper, *Inequity and Inequality: Teacher Absenteeism, Roma Pupils, and Primary Schools in Romania* analyzed teacher absenteeism in Roma schools and its consequences for Roma children. The report illustrated that schools that enroll Roma children face a lack of qualified personnel or have a higher migration and turnover rate compared to urban schools and schools in more affluent communities. The teachers' absenteeism rates in the educational establishments where Roma children study were also higher.<sup>77</sup>

Overall, according to the Romani CRISS representatives we interviewed, research initiatives have not been as instrumental to anti-segregation advocacy efforts at the national level as much as legal actions have been. According to Romani CRISS, political will is lacking to understand the issues, consider data, and address them. Institutions tend to react mostly to pressure from the international community or from legal actions (C. David, FXB Interview, February 27, 2013).

## 4. Policies and Measures

### **Roma Inclusion**

In the last two decades, Romania's efforts to create a legal and policy framework that

facilitates increased social inclusion for Roma was undertaken via a number of commitments to the UN, OSCE, the Council of Europe, and the EU. Of all these processes, the EU accession process was largely responsible for the level of progress in terms of policy and legislation making and human rights and minorities' standards. The criteria imposed by the EU upon the countries' seeking membership have been the engine for the development and adoption of progressive Roma related institutions and policies.

### **Anti-Discrimination**

In 2000, Romania approved its first Government Ordinance on preventing and penalizing all forms of racial discrimination.<sup>78</sup> In 2002, it established the Romanian Equality Body, called The National Council for Combating Discrimination (NCCD). The Ordinance was modified a few times to comply with the EU Race Equality Directive. The Romanian Equality Body is responsible for preventing discrimination, mediation in cases involving discrimination, investigation, determining and punishing acts of discrimination, monitoring cases of discrimination, and juridical support for the victims of discrimination.<sup>79</sup> However, Section III of the Ordinance, Access to Education, which defines types of violations in the area of education, does not specifically, define, or address segregation. Both the Ordinance and the institution have been subject to a number of changes; introducing multiple classes of discrimination, harassment, and victimization; shifting the burden of proof; and limiting the autonomy of the institution by placing it under the control of the Parliament.<sup>80</sup> Ultimately, only a small number of segregation cases have been investigated and sanctioned by the Equality Body (M. Mandache, FXB Interview, December 12, 2013).

Several factors have affected the smooth function of the Equality Body. For example, although the Romanian Ordinance on Preventing and

<sup>76</sup> L. Surdu, E. Vincze, and M. Wamsiedel, *School Participation, Absenteeism and Discrimination Met by Roma in Romania*, Bucharest: Vanemonde, Romani CRISS, 2011, <http://www.Romacriss.org/PDF/RC%202011%20-%20Participare.%20absenteeism%20scolar%20si%20experienta%20discriminarii%20%28ro%29.pdf>.

<sup>77</sup> Romani CRISS, CURS, and REF, *Inequity and Inequality: Teacher Absenteeism, Roma Pupils, and Primary Schools in Romania*, Bucharest, 2012, [http://www.romaeducationfund.hu/sites/default/files/publications/ref\\_ta\\_screen\\_doublepages.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/ref_ta_screen_doublepages.pdf).

<sup>78</sup> National Council for Combating Discrimination, Ordinance no. 137 from August 31, 2000, <http://www.ncnd.org.ro/legislatie/Legislatie-nationala/ORDONANTA-nr-137-din-31-august-2000-15/>.

<sup>79</sup> More information about the National Council for Combating Discrimination can be found at <http://www.ncnd.org.ro/?language=en>.

<sup>80</sup> Read about the legislative history of the National Council for Combating Discrimination at [http://ncnd.org.ro/new/istoric\\_legislativ/](http://ncnd.org.ro/new/istoric_legislativ/).

Sanctioning all forms of Racial Discrimination stipulates that the Equality Body should resolve all complaints within 90 days of their receipt, in several cases the decisions were delayed for months and even years.<sup>81</sup> In addition, cases are often challenged before the courts of justice or submitted directly to the court. Overall, it usually takes years for victims of school segregation to see a final judicial decision implemented in practice. Since the Romanian schooling system is organized in 4-year cycles, by the time the court decision can be implemented, segregated classes which are supposed to be desegregated often no longer exist, as children go onto secondary school or finish secondary school and enter high school. Thus, in practice, it is highly unlikely for a court to be able to impose desegregation in segregated classrooms, and pecuniary damages remain the only slightly reasonable solution. In practice, the Ministry of Education disapproves of altering the class compositions during an educational cycle, basically allowing segregated classes to continue freely until each cycle ends. As it seems, both courts and institutions fail to effectively redress the situation of Roma children segregated at class level (M. Mandache, FXB Interview, December 12, 2013).

The NCCD has an important role, as it was the first body to rule on the existence of segregation as a form of discrimination. National courts tend to look at how the NCCD comes to and justifies its decisions regarding discrimination, which is still a subject in which many judges are not particularly well versed. In this sense, the NCCD makes a positive contribution, as its decisions on school segregation cases often make use of the European Court of Human Rights' jurisprudence. But the NCCD also has its limits. As a juridical-administrative body, it has the power only to establish that a particular act is discriminatory and to impose administrative sanctions. In terms of redress, this was not very useful for segregation cases, as only civil courts are able to provide for remedies such as compensation or *restitutio in integrum*. In 2013, the Anti-discrimination Ordinance was modified again and, among others, the quantum of fines was increased.<sup>82</sup>

81 E-Juridic, Press Release Romani CRISS and Center for Legal Resources, <http://e-juridic.manager.ro/articole/cncd-ul-administreaza-in-mod-preferential-si-politizat-dosarele-in-care-sunt-implicati-inalti-demnitari-ai-statului-7126.html>.

82 National Council for Combating Discrimination, *Activity*

### **EU Projects: PHARE**

According to Gheorghe Sarau, the Ministry of Education became fully aware of the extent of segregation in 2003, when Romani CRISS brought it to their attention (G. Sarau, FXB Survey, December 5, 2013). After these revelations, desegregation measures were included in PHARE 2003, a third phase of the already existing PHARE EU program of the Ministry of Education, *Access to Education for Disadvantaged Groups*.<sup>83</sup> These measures went into effect in 2005 and included 37 desegregation initiatives in 15 of the 42 County School Inspectorates.<sup>84</sup> One of the main objectives was "to provide training and support for initiatives that would end the segregation and unequal treatment of Roma children where this was occurring in pilot schools."<sup>85</sup>

The progress report of the project shows that desegregation was easier in the schools serving those areas and neighborhoods in which the socio-economic standing of Roma and non-Roma families was roughly similar, due to the inter-community solidarity that existed between the two groups. Roma children living in ghettos or shantytowns were less likely to be accepted into the schools serving wealthier non-Roma areas. The quality of the management of the school was found by the authors of the report to be the most significant factor in successful desegregation. Conversely, it was observed that "[w]here school managers were not competent, confident and committed, desegregation initiatives did not get off the ground at all."<sup>86</sup>

The clarity of the 2004 Notification requests, outreach work and involvement by families and community, as well as culturally sensitive teachers, were other factors that also played a role in helping schools to desegregate.<sup>87</sup> Similar

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*Report 2013*, 2013, [http://www.cncd.org.ro/files/file/Raport\\_activitate\\_CNCD\\_2013.pdf](http://www.cncd.org.ro/files/file/Raport_activitate_CNCD_2013.pdf).

83 Ministry of Education, *The Access to Education of Vulnerable Groups*, <http://www.edu.ro/index.php/articles/c115/>.

84 Twelve of these counties were new, including Alba, Bacau, Braila, Covasna, Harghita, Ialomita, Iasi, Maramures, Mures, Neamt, Sibiu, and Valcea, and three more from the 2001 PHARE project (Arad, Cluj, and Dambovita).

85 "Access to education for disadvantage groups" project as detailed in *School Desegregation: Progress and Challenges: Experiences from the PHARE 2003*, Bucharest, 2006.

86 Ibid.

87 Ibid.

to other cases and countries, the children, both Roma and non-Roma, accepted desegregation more readily than their parents: “The children are perfectly happy to be in a mixed class, but I have seen mums come and pull their children away from their new friends.... In fact, what people fear is often completely out of proportion to anything that could happen in reality.”<sup>88</sup> The report states that by the end of PHARE 2003, 75 percent of the desegregation initiatives seem to have chances of succeeding after they continue to be implemented in PHARE 2004-2006.

In 2009, the PHARE program came to an end with an impact evaluation study of the program, including PHARE 2003 and PHARE 2004-2006, which address desegregation. However, according to this report, “in a significant 80 percent of the 45 schools studied under the Desegregation Component, the phenomenon of segregation is still met in the form of parallel classes or residential segregation, especially (but not exclusively) in primary school classes.”<sup>89</sup>

During the implementation of the PHARE program, the Ministry of Education Notification from 2004 and the Desegregation Order of 2007 also came into force. Although it seemed that the Notification had an effect, during PHARE 2003, on schools’ decisions to desegregate, by the end of 2009 only 9 schools out of 45 met the initial goal. These results were discouraging, as both bills were in place by then, and the PHARE program’s initiatives were also in effect.

However, the Desegregation Notification became an important document, for although it had narrow administrative powers, it was the first bill to recognize the existence of segregation in Romanian schools. By issuing this Notification, the Ministry of Education prohibited “setting up of pre-school, primary, and lower secondary classes comprising exclusively or mainly of Roma students.”<sup>90</sup> The Notification did not

include references to administrative sanctions for discrimination and the relevant legal framework. In its last paragraph, however, it did bring to the attention of the school inspectorates the Anti-Discrimination Ordinance, which includes penalties for all forms of discrimination. The County School Inspectorates were asked to examine the situation in their schools, report on the extent of segregation, and come up with desegregation plans so that in three years “the ratio of Roma children in such classes and schools is representative for the ratio of Roma school-aged children in the total school-aged population in the area.”<sup>91</sup>

The Desegregation Order that entered into force in 2007 is considered a reference bill, which supposedly offers a framework for schools in understanding, preventing, and combating practices that are considered segregationist, and supports institutions monitoring (de)segregation by providing a list of indicators for desegregation and inclusive schools. As with the Desegregation Notification, the Order also stipulates that schools and inspectorates should develop desegregation plans where the number of Roma children is disproportionate, starting with the 2007-2008 school year.

The Desegregation Order is progressive and unique in the European context in that it includes a methodology, indicators, and clear provisions. It also requests schools and inspectorates to report on desegregation. Relevant in the case of this bill is that it covers disciplinary sanctions, along with other liabilities: “The violation of provisions of the herein methodology, will draw upon disciplinary liability as per Law no.128/1997 regarding the Status of Teaching staff, art.115 and 116 or, depending on the case, administrative, civil or criminal liability as per the current legislation.”<sup>92</sup> Forming mixed classes for the first and fifth grades was mandatory beginning in the 2007-2008 school year.<sup>93</sup> Ministry of Education continues to inform schools annually about their obligation to form mixed first and fifth grade classes.

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88 A principal of a school in Iasi County is quoted in *School Desegregation: Progress and Challenges*.

89 C. Ulrich, *Access to Education for Disadvantaged Groups: Impact Study*, Bucharest, 2009.

90 Ministry of Education and Research, The Cabinet of the State Secretary for pre-University Education, *Notification no. 29323/20.04.2004*, 2004, <http://www.edu.ro/download/notadmrr3.pdf>,

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translation by Romani CRISS.

91 Ibid.

92 Ministry of Education, the Desegregation Order, Article 16 (translation by Romani CRISS), <http://www.legex.ro/Ordin-1540-19.07.2007-82075.aspx>.

93 Ibid.

However, the Desegregation Order implementation has had a lot of limitations. At the end of the school year, in July 2008, Romani CRISS published a monitoring report on the implementation of the Order in 90 schools in Romania. Of these 90, 77 schools (63 percent) continued to form segregated classes at the first and fifth grade level. At present, there is no public information available showing that a teacher or a schoolmaster from the 77 schools monitored by Romani CRISS has been administratively penalized for segregating Roma children in classes. Speaking about the way discrimination is generally sanctioned in Romania, Delia Nita observed that combating discrimination by punishing its agents is not a widespread practice within the civil institutions, including education, in Romania: "... It's important to note that institutions working in a field don't generally use internal mechanisms to sanction discrimination. They ghettoize it in the discrimination mechanisms [NCCD, *our note*], which have sanctions, but it's not proactive" (D. Nita, FXB Interview, December 5, 2013).

There have also been structural and institutional issues with interlinking the objectives of two of the departments of the Ministry of Education: the Directorate for the Pre-University Schooling and the Directorate for Teaching in the Languages of the National Minorities. The former is responsible for desegregation, the latter with teaching Roma language. Consequently, there are two separate sets of rights that need to be applied and policies amended to achieve a single goal, and often ideological and practical obstacles are met along the way. For example, in the city of Braila, a Roma language class was created within a school. A Roma teacher, who had gained the trust of the community, was employed. Textbooks were made available and the participation of the Roma children in education increased. However, measures were not taken to increase the quality of children's education, increase Roma students' chances of enrolling in high schools, or reduce the dropout rate.

Monitoring the implementation of the Order has been a real challenge for the institutions involved. Problems have arisen even in trying to gather reports on the situation within schools. Gheorghe Sarau, a representative of the Ministry of Education who was interviewed for this report,

stated that "the schools send those reports but it was hard to verify if they conform to reality... It's hard to verify all schools in country. When you try to desegregate, another phenomenon appears. Teachers manipulate children's parents. They say it's better for the situation to be like it was. It's futile to desegregate schools because it won't be possible" (G. Sarau, FXB Interview, December 5, 2013). Sarau also believes that "the best fight is not on desegregation but on prevention of segregation" (FXB Interview, December 5, 2013). One does not necessarily exclude the other, and there is inherent value in both preventing segregation for future generations of children and allowing the current generation to learn in a desegregated environment. In addition, annual progress reports on desegregation are not available on the Ministry of Education site.

According to the Order, a permanent working group was intended to be established at the level of the Ministry of Education. Until 2014, the permanent working group was not set up. The permanent working group objectives were to monitor and oversee the implementation of the recommendations attached to the Order, assess the effects of the suggested methods for achieving school desegregation, access for Roma children and youth to qualitatively good education, and propose and test further innovative ways to close the gap in schooling opportunities for Roma and non-Roma children, amongst other things. In June 2009, Romani CRISS organized a conference where the Minister of Education announced the establishment of the working group. After independent Roma experts organized a selection process for the NGOs to become members of the Working Group, the Minister of Education was replaced. Her successor did not continue the initiative. At the time we conducted the interviews for this case study (December 2013), the Working Group still had not been put in place.

The European Commission against Racism and Intolerance "urged the Romanian authorities to develop a school curriculum that reflects, at all the school levels, the cultural diversity in Romania and that highlights the contribution of the minority groups in the formation of the national history."<sup>94</sup>

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94 European Commission against Racism and Intolerance, *Third Report on Romania*, [http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle\\_03/03\\_CbC\\_eng/ROM-CbC-III-2006-3-ENG.pdf](http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/ROM-CbC-III-2006-3-ENG.pdf).

In 2007, concurrent with the Desegregation Order, another Ministerial Order introducing cultural diversity to the school curriculum was approved,<sup>95</sup> as a result of the diversity of NGOs' objectives in the Informal Working Group. The Order mandated that the History curriculum for primary, middle, and high schools include the history of all national minorities in Romania.<sup>96</sup> It also stipulated increased information and knowledge on ethnic, linguistic, and religious diversity in all the subjects on the curriculum, and suggested the need for intercultural education as an optional subject.

Introducing cultural diversity into the school curriculum has a major effect by challenging stereotypes children may have adopted.<sup>97</sup> In addition, from a policy perspective, both the Desegregation and Diversity Orders are closely connected, as the integration of children from different backgrounds in a classroom should be followed up by activities aimed at reducing prejudice and preventing stigmatization. Introducing intercultural education to the educational system should help future generations of children abandon the stereotypes held by their parents and other adult figures. Such measures were proposed since 2001, when the Romanian Government approved the National Strategy for Roma. The Strategy's Action Plan for 2006-2008 includes (paragraph 32 on the training and development of teachers for cultural diversity and paragraph 33 on the insertion, in the curriculum and the common core curriculum and textbooks) some subjects and contents for preventing and fighting discrimination.<sup>98</sup> The Ministry of Education and the NCCD have been the institutions responsible for "the insertion of subjects and contents in the common core curriculum and textbooks to prevent and combat discrimination in the curriculum."

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95 Regarding the development of diversity in the national curriculum, see Ministry of Education, Order no. 1529/18.07. 2007, <http://www.edu.ro/index.php/articles/8319>.

96 Ibid.

97 G. Allport, *The Nature of Prejudice*, Cambridge: Perseus Publishing, 1979.

98 The Romanian Government, Decision no. 430 from April 25, 2001 (updated 2006), <http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/HOTARARI-DE-GUVERN/HG430-2001.pdf>

In March 2010, the Ministry of Education reiterated its desegregation goals by sending a new Notification to those School Inspectorates and schools that are in the process of desegregating and promoting minority languages.<sup>99</sup> It may be read as a signal to those schools that have not yet taken desegregation measures. Furthermore, in 2011 when the Law of Education had been changed, it included an article that bans abusive placement of Roma children in special schools.

There are several other policies that have contributed to the participation of Roma children and youth to education. The affirmative action program, initiated by the Ministry of Education in 1992/1993, is one of the most known.<sup>100</sup> Initiated at the Sociology and Social Work Faculty of the University of Bucharest, the program has spread to other universities since 1993-1994, and in 1998, classes for Roma students were created within pedagogical high schools. In 2000, by Ordinance no. 3294/2000, the affirmative action program was extended to the whole system of secondary education with a maximum of two places provided per class.<sup>101</sup>

Catalina Ulrich, expert on education concludes that "we had a very productive seven years; the legislation became clearer and stronger," and although "the policies have many elements of inclusion and diversity, the implementation is weak: neither the inspectorates, nor the schools implement the changes, which are very nice at the policy level" (C. Ulrich, FXB Interview, December 6, 2013).

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99 Ministry of Education, Notification no. 28 463/March 3, 2010, regarding the prevention and elimination of segregation of Roma children in kindergarten and school, measures for maintain the learning in minority languages/ inclusion of mother tongue lessons in the educational system in Romania, <http://www.edu.ro/index.php/articles/13466>.

100 G. Sarau, *History of Education for Roma*, Bucharest: Ministry of Education, Research and Innovation, Secretary of State Office, 2010.

101 Gallup and REF, *Analysis of the Impact of Affirmative Action for Roma in High Schools, Vocational Schools, and Universities*, 2009, [http://www.romaeducationfund.hu/sites/default/files/documents/gallup\\_Romania\\_english.pdf](http://www.romaeducationfund.hu/sites/default/files/documents/gallup_Romania_english.pdf). According to this study in 2000-2006, 10,300 students were enrolled in high schools and vocational high schools, and 1,420 students have benefited from enrollment in universities as part of the affirmative action program.

## 4. Conclusion

### Civil Society

After ten years of consistent institutional efforts, Romani CRISS and similar organizations have only succeeded in contributing to policy changes, and the Ministry of Education's actions and policies have led to some awareness of the issue—adopting a good legal framework, but to a much lesser extent in desegregation per se. The strengths, obstacles, and trends that were encountered during these processes are outlined further in this section.

In addressing segregation, NGOs in Romania have opted for different tactics. The advocacy tactics employed by Romani CRISS involved partnerships, networks at local level, and research. Romani CRISS started at the local level, by documenting a case of segregation in Cehei, and eight years later, moved to the national level, partnering with other organizations to advocate for the eradication of segregation.

Overall, civil society organizations, including Romani CRISS, have developed various effective practices to solve the education problem for Roma children. However, it has been found that “the problem is that the level of institutionalization of the practices is extremely low. It is done when civil society involves government and does the painful work of keeping it involved, and finally the government does its work” (D. Nita, FXB Interview, December 5, 2013).

In addressing segregation, the NGOs in Romania have not utilized Roma and non-Roma communities as much. In fact the involvement of the citizenry at large in the cause of desegregation has been fairly minimal in Romania. Targeting the non-Roma population was essential, as a quarter of Romanians think that Roma children should not even play with children from another ethnic group.<sup>102</sup> The Roma communities' direct and active participation in the desegregation struggles has also been insignificant. Therefore, NGOs might invest and diversify their activities by involving the Roma and non-Roma communities more substantially in their desegregation efforts. As this report will show in later sections (e.g., Bulgaria

case study, Czech Republic case study), the involvement of the community can be integral.

### Policy Implementation

At the level of policy formulation, Romania has made great strides in the past ten years. Its Desegregation Order, although somewhat limited, is a progressive and beneficial tool. It has set a standard in the European educational environment. Clearly, banning the abusive placement of Roma children in special schools, by the Education Law, has also been a significant outcome of NGO advocacy, as well as an indicator of the Romanian legislative progress.

Despite the development of these various laws and policies, there is still little progress when it comes to implementation, policy monitoring, and evaluation processes. There is also a lack of concrete change at the local level in terms of de facto desegregation. Some also argue that the baseline data on the extent of segregation at the national level in 2004 is missing, making it impossible to measure the results of the desegregation initiatives: “To know the positive results of these documents, you should know what the results on desegregation in schools were since 2004 and every year until now” (G. Sarau, FXB Interview, December 5, 2013). But at the moment, the exact number and percentage is not known. Nevertheless, little progress seems to have been made in implementation, for while there is no baseline data from 2004, there are some other figures available. About 80 percent of the 45 schools participating in the Desegregation component of the PHARE project, and thus exposed to information and training, continued to form parallel classes or schools.

The Ministry of Education actions for desegregation were twofold: (1) an interventionist/capacity building approach that tried to provide information and training that will lead to desegregation, as seen in the PHARE program, and (2) a legislative approach, pushed by the Desegregation Order, Desegregation Notifications and the Education Law. Neither of these actions seems to be enough to overcome the obstacles of the school management and non-Roma parents' resistance. There is a need for a more multi-layered intervention. The role of the Ministry of

102 INSOMAR, *The Discrimination Phenomenon in Romania*, Bucharest, 2009, <http://cncd.org.ro/files/file/Fenomenu%20discriminarii%202009.pdf>.

Education as the main engine for desegregation measures is not as well studied. At the central level, there are some missing key elements for successful desegregation acts. The permanent working group for desegregation, which has not yet been established by the Ministry of Education, contrary to the stipulations of the Desegregation Order, could have contributed to a different dynamic and interactions with schools. Regular monitoring of schools and annual reports including information on desegregation might have made schools more responsive to the laws and policies in place. In addition, in schools sanctioned by the Equality Body for segregating Roma children, that administrators were not administratively sanctioned, nor put under the Inspectorate or Ministry's radar for further monitoring, did not serve the cause of desegregation.

Regular reporting on the progress made on desegregation is a prerequisite of quality policies. However, although the legal framework obliges the schools to report to the county inspectorates and the Ministry with regards to the situation of school segregation of Roma children, both the Ministry and the Inspectorates have failed to release a report on the issue.

Segregation continues to be pushed either by the school environment and/or by Roma or non-Roma parents, even when a legal and policy framework is in place. Gheorghe Sarau has observed that segregation occurs because "in Romania, there are a lot of emotions about having 'Olympic children' in different subjects. This is an ambition which comes from the Russians and they can't get rid of" (G. Sarau, FXB Interview, December 5, 2013). Consequently, schools tend to invest more time in preparing a few students for an intense academic life, but leave behind marginalized children and place them in separate environments.

Essentially, segregated schools and classes remain an institution blunder only able to provide functional illiteracy. These environments limit Roma children from achieving a higher education. Regardless, segregated schools and classes are a clear violation of the fundamental rights of a child.

## 5. Recommendations

Romanian schools have encountered both ethnic and social segregation in schools. Segregation is a key indicator of routine inequality and future economic disadvantage in a labor market where elite education has strong ties to well-paid jobs. Segregation also translates to unequal and inferior education in the Romanian school environment.

Well-implemented desegregation projects and programs have thus far had modest impacts due to the absence of good institutional foundations at the local and national level, the lack of trained and rights sensitive school personnel, and the lack of administrative measures concerning segregation at school and school inspectorate level.

A regime of desegregation assembling social and political efforts needs to be compelled. A combination of international pressure for law enforcement, punitive measures, reform of the educational system, and human rights education is necessary to truly combat segregation in education. In addition, better teacher training, societal transformation, Roma economic empowerment, and genuine political will could contribute to desegregation and better quality of education.

**Reform is necessary in the educational system, not only based on policy measures, but rather on the readiness of the school system to offer equal and quality education for all.**

As shown in the case study, teachers in Roma schools often lack necessary formal training, which often lead to poor quality education. Higher standards and levels of education should be necessary in order to qualify as a teacher. In addition, teachers should receive better payment and benefits, a measure that would consequently attract better qualified candidates.

There should be a conscious shift from focusing on the advancement of the most competitive students ("Olympic") to addressing the needs of all children. Teaching methods should accommodate individual learning styles and should be sensitive to children who enter school with different skill levels or from disadvantaged backgrounds.

Elements of Roma history, including slavery as well as the Roma Samuradipen (the Holocaust), should constitute integrative components of the school curriculum. In addition, cultural diversity and human rights education might inform part of the curriculum. At present, mainly short, four-to-five day training courses on diversity, hosted by NGOs and the Ministry of Education, are available to teachers. This is no substitute for college level training, which should be included as a mandatory part of teacher training. Teachers' formal training on human rights and diversity need to be stepped up.

**There is a pressing need for the adequate enforcement of the desegregation regulations and policies by the local and national institutions, as the legal and policy framework in place is not implemented.**

National institutions should commit seriously—through funding, punitive measures, and monitoring—to the local implementation of the regulations and legislation in place and keep the schools and the local institutions accountable for implementation. Even more, institutions at local level, especially schools, should obey the national legislation in place and should be involved more proactively in leading desegregation initiatives as well.

There is still a need for international pressure in order to maintain the political commitments of local and national institutions to integrate Roma children into mainstream schools. European Commission, European political parties, FRA, and CoE should continue to push the desegregation agenda at the national and local level. More specifically, the EC should monitor and take action when European legislation is improperly translated or not respected in practice. The EU should take concrete steps to foster the adoption of more courageous implementation strategies by Romania to respect the Race Equality Directive.

Also, FRA and other institutions and organizations taking responsibility for monitoring the EU Roma Framework should develop clear indicators to monitor segregation, discrimination, and bullying in schools.

**Monitoring and sanctioning segregation should be a priority of the state institutions.**

According to the Desegregation Order, the extent of segregation should be constantly monitored, as the schools should provide data on segregation and the Ministry of Education should write reports about progress in desegregating schools and classes on annual basis. However, data on ethnic composition of classes and school or simply the extent of segregation is not precise, and often inexistent or publicly unavailable.

The educational bodies, including the agency responsible for the assessment of the quality of education, should start implementing the provisions of the Desegregation Order by monitoring segregation, annual reporting, and field assessments as soon as possible. NGOs and donors should play an independent role in the monitoring process as well.

Forming segregated groups, classes, buildings, schools or other facilities should be sanctioned unambiguously and in due time. All schools should be monitored at the beginning of the school year, checked for segregation in classes and asked to modify the composition of the classes, where necessary.

In ensuring desegregation, local and national institutions should intersect their interests and agendas with communities, schools, and NGOs. Better coordination between national and local institutions is required in order to plan activities and budgets that will ensure the provisions of existing regulations concerning desegregation and quality education.

Projects initiated by NGOs and international donors should benefit from the involvement of local authorities, which are able to ensure sustainability of successful interventions. Better interactions at the community level need to be developed in order to create a welcoming environment for desegregation. Interactions among school personnel and Roma and non-Roma parents are rare both inside and outside schools. Roma-non-Roma interactions cannot be encouraged simply by imposing desegregation, as in many cases the “white flight” effect is more prominent than achieving interethnic contact. Schools therefore must develop more creative



approaches to prepare desegregation both at community and classroom level.

Families and local authorities should work together to prevent and monitor the quality of education all children receive. Teachers should be encouraged to prioritize and prepare activities that encourage parents who do not actively participate in the education of their children to get more involved.

As shown in the case study, the whole community plays a role in developing social networks and valuable interethnic interactions that lead to productive desegregation.

**The NGO community should continue advocating for including provisions in the Education Law on prohibiting segregation.**

As several years passed since the adoption of the Desegregation Order, an evaluation of its implementation, as well as its limitations should be conducted. In addition, a follow up cooperating memorandum should be proposed to the Ministry of Education in view of stocktaking the Desegregation Order and finding opportunities for its de facto implementation.

NGOs should aim to continuously monitor desegregation actions in schools, write shadow reports annually on segregation, and keep the Ministry of Education accountable for its desegregation promises. NGOs could also benefit from more support from donors, including the EC, which will enable them to document and file segregation complaints and other forms of discrimination in education, increasing their presence at the community level.

**Romani CRISS should intensify its work on desegregation.**

Romani CRISS's tactics and focus have not diversified enough over the years. Perhaps, a turn, including amongst other, litigation before the ECtHR, mass number of cases before the national courts, increase significantly the number of human rights monitors and addressing more Roma communities could give the organization a better boost of desegregation outcomes. To gain more leverage though litigation before national and European Courts, Romani CRISS needs to identify a means to involve more qualified attorneys in their work. Romani CRISS

should consider building up a case for collective reparations -programs, measures, financial, moral and symbolic remedies.

**A more participatory approach of Roma families in the desegregation processes at local and national level is vital.**

Educating and empowering Roma communities to fight school segregation should be a top priority. The Roma and non-Roma NGO community should invest in more training on desegregation tools and effects to reduce the risk of piloting projects that lead to segregation.

**At all levels, there is a need for exploring methods of employing a "holistic approach" to address segregation and poor quality of education**

The donor community willing to guide and pilot different approaches and topics should be more aware of the need to provide steady support to long term processes as desegregation.

Economic empowerment cannot be ignored in aiming to achieve desegregation and ensure Roma and non-Roma children benefit from equal opportunities. Interlinking formal and non-formal education with income generating programs, which could involve whole, extended families, may be part of the solution.

Improved coordination, and budget and accountability lines specifically directed at inter-sectorial interventions are necessary condition for strategic transformation.

Lastly, new tactical innovations should be introduced by NGOs and schools to achieve desegregation.



**IV. Case Studies**  
*Strategic Litigation*

## IV. 1. Combating Segregation in Croatia

Between 1996 and 2000, 15 Roma children enrolled in mainstream primary schools in Macinec and Podturen villages in Međimurje County. At various points in their education, along with other Roma children, the schools decided to place these 15 children into separate, Roma-only classes due to alleged language difficulties. At the time, around 60 percent of Roma children attended segregated classes in Međimurje County.<sup>103</sup>

Community leaders in Međimurje County contacted the Croatian Helsinki Committee (CHC), with whom they already had a good relationship, regarding the segregation of the Roma students. In 2002, originally part of a larger group of plaintiffs, the families supported by CHC filed a complaint against their primary schools, the County of Međimurje and the Ministry of Education on the grounds of discrimination, infringement of the right to education, and violation of the rights to freedom from inhumane and degrading treatment. Having exhausted national courts, CHC joined forces with the European Roma Rights Center and Open Society Foundations Justice Initiative to address the European Court of Human Rights at the end of 2003.

This case highlights how strategic litigation by domestic and international human rights organizations working in partnership can challenge the segregation of Roma children in public education. Litigation at the European Court of Human Rights (ECtHR) can bring domestic law and practice in line with international standards relating to discrimination. This case study aims to provide an example of litigation to desegregate schools that can be analyzed and adapted by other civil society groups working on Roma rights in the area of education. It further seeks to highlight the challenges that remain for implementing effective educational programs

<sup>103</sup> European Roma Rights Centre (ERRC), *Legal Action at the Premiere European Human Rights Court Challenges Racial Segregation of Roma Children in Croatian Primary Schools*, 2004, [http://www.errc.org/popup-article-view.php?article\\_id=2080](http://www.errc.org/popup-article-view.php?article_id=2080).

and policies, but also opportunities for greater engagement by the Croatian government and other stakeholders.

### 1. Education System and Environment

Approximately 4.3 million people live in Croatia, a member of the European Union (EU) since 2013. According to official estimates, there are around 30,000 to 40,000 Roma in Croatia, although informal estimates place the population as high as 60,000 to 150,000.<sup>104</sup> Most Roma belong to one of two linguistic communities and speak either the Roma or Bayashi dialect.<sup>105</sup> The majority lives in the northern part of Croatia, particularly in Međimurje County (which is home to 30 percent of all Roma living in Croatia), and in the city of Zagreb.<sup>106</sup>

The Roma face severe discrimination and exclusion in all aspects of public life. Poverty and unemployment rates are very high among the Roma relative to the non-Roma population.<sup>107</sup> Low-income families receive social assistance and child allowances, which contributes to the majority population's resentment of the Roma.<sup>108</sup> Many Roma have also migrated from other parts of the former Yugoslavia and lack the proper documents to establish citizenship and obtain access to social services, employment, and voting rights.<sup>109</sup>

<sup>104</sup> REF, *Advancing the Education of Roma in Croatia: REF Country Assessment*, 2014, [http://www.romaeducationfund.hu/sites/default/files/publications/cro\\_country\\_assesment\\_2015.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/cro_country_assesment_2015.pdf).

<sup>105</sup> D. Berat, *The Roma Situation in the Republic of Croatia and Comparative Analysis with the Republic of Macedonia*, SEEU Review, Volume 8, no. 1, 2012.

<sup>106</sup> The European Commission against Racism and Intolerance (ECRI), *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

<sup>107</sup> OSF, *Decade of Roma Inclusion: Progress Report 2012*, 2012.

<sup>108</sup> T. Bass, *Oršuš and Desegregation in Međimurje County*, REF, 2013.

<sup>109</sup> Immigration and Refugee Board of Canada, *Croatia: Situation and Treatment of Roma; including State Protection Efforts*, November 22, 2012, <http://www.refworld.org/docid/51dd16ee4.html>.

However, there is no accurate statistical figure on the number of Roma in Croatia who do not have their status resolved (temporary residence, permanent residence, citizenship) (B. Tomljenovic, FXB Interview, April, 2015).

### Education in Croatia

Croatia's framework for public education includes the Primary and Secondary School Education Act (Official Gazette, Nos. 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12 and 94/13); The Act on the Use of Languages and Scripts of National Minorities in the Republic of Croatia (Official Gazette, Nos. 51/00, 56/00); and The Act on Education in the Languages and Scripts of National Minorities (Official Gazette, No. 51/02).

The Ministry of Science, Education and Sports (MSES) oversees the enactment of the legislation by developing educational policies and curricula at the national level. The National Curriculum Framework establishes common standards, objectives, and approaches for Croatia's education system.<sup>110</sup> Regional authorities are responsible for implementing the policies and co-finance a significant portion of education costs (material costs for school buildings, utilities, reconstruction, extended stay, pre-school, transportation and food for pupils).<sup>111</sup> The schools are permitted to develop their own subjects and programs and school curriculum (B. Tomljenovic, FXB Interview, April, 2015).

Due to the decentralization of Croatia's education system, local authorities often find themselves with limited capacity to meet the needs of all students. Schools are overcrowded and understaffed, requiring classes to be held in shifts throughout the day.<sup>112</sup> Human resource challenges plague the education system as well, including low teacher motivation, low payment systems for teaching, and few opportunities for teacher or administrator advanced training. There are also

quality issues related to outdated pedagogical standards, scant cooperation between schools, parents, and local health care and social welfare institutions.<sup>113</sup> These shortcomings have a particular impact on Roma and other marginalized children.

### Roma Education in Croatia

Prior to the EU accession and the Oršuš ruling, the Croatian government had introduced a number of measures aimed at improving educational opportunities for Roma children (e.g. affirmative action program).<sup>114</sup> The National Program for the Roma (NPR), adopted in 2003, identified school enrollment as a priority and helped double preschool enrollment and triple primary school enrollment by 2010.<sup>115</sup> Since 2007, the government has worked with the Roma Education Fund (REF) to integrate Roma children into mainstream kindergartens. In 2009, the Ministry of Education began offering preschool to all Roma children, with transportation and food provided.<sup>116</sup> If participation in a preschool is not possible, children are offered a special preparatory program the year before entry into primary education.<sup>117</sup> The government also covers the portion of preschool fees typically paid by parents.<sup>118</sup>

Even with these measures, a few years later, school completion rates remained extremely low at the primary, and by extension, the secondary and tertiary levels.<sup>119</sup> Around 80 percent of Roma children attended primary school but only 40 percent completed it.<sup>120</sup> In Međimurje County, as many as 84 percent of all Roma children dropped out of primary school.<sup>121</sup>

110 United Nations Educational, Scientific and Cultural Organization (UNESCO), *World Data on Education (7<sup>th</sup> edition)*, 2010/11.

111 Primary and Secondary School Act, Art. 143

112 Council of Europe, Commissioner for Human Rights, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visit to Croatia from April 6-9, 2010*, 2010.

113 ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

114 UNDP, *Monitoring Framework for the Decade of Roma Inclusion, Croatia*, 2008.

115 The Government of the Republic of Croatia, *The National Program for the Roma*, 2003.

116 ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

117 OSF, *Decade of Roma Inclusion, Progress Report 2012*, 2012.

118 Council of Europe, Commissioner for Human Rights, *Report by Thomas Hammarberg*.

119 ECRI, *ECRI Report on Croatia*, 2012.

120 D. Potocnik, *Access to Education and Educational Achievements of Roma Children and Youth in Croatia*, Presentation for Roma Decade, 2013.

121 ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

The Croatian government has long attributed these poor outcomes to “a lack of appreciation of the importance of education” in the Roma community, combined with social and cultural practices contrary to educational attainment.<sup>122</sup> Such an explanation fails to recognize how the education system itself has denied equal opportunities to Roma children, particularly through the persistence of Roma-only or Roma-majority classes. European bodies acknowledge that systematic measures are still needed to reinforce inclusion to combat discrimination at all levels of education.<sup>123</sup>

### Minority Rights and Education

The Roma are one of the 22 recognized national minorities in Croatia, whose rights are guaranteed through the constitution and other laws. Roma minority rights are further protected and represented by the Government Office for National Minorities and the Council for National Minorities at the national level, and the Councils for the Roma National Minority at the local level.<sup>124</sup> Under the Constitutional Act on the Rights of National Minorities and the Act on Education in the Languages and Scripts of National Minorities, the Roma have the right to education in their minority language. The Croatian attorney, Lovorka Kušan, argues that “the Roma do not exercise that right because such a request has not been made by the Roma minority.”<sup>125</sup>

As a result, classes on Roma language and culture are rarely offered, and only in isolated programs.<sup>126</sup> In addition, teachers lack specialized training on bilingual education. While Roma teaching assistants have been employed to facilitate integration, they have neither been trained as teachers nor received training in bilingual education methods. Observers have noted that as a result, they often serve as de facto translators for children, creating segregated micro-environments within the classroom (D. Berisha, FXB Interview, October 1, 2013). Croatian authorities do not seem to be aware of

the inefficiency of this approach, even though Roma teaching assistants are meant to facilitate the integration of Roma students.

Croatia has not succeeded in navigating the tension between inclusive education and minority language rights, in terms of ensuring that Roma children can learn Croatian “while also allowing those who so wish to be taught their Roma dialect and Roma culture.”<sup>127</sup>

Lastly, many teachers are not trained in multicultural and anti-bias methods. Roma children may face stereotyping and prejudice as a result, contributing to reduced academic expectations by teachers.<sup>128</sup>

## 2. Segregation Patterns and Consequences

### Anti-Discrimination Framework

The Croatian Constitution guarantees a number of rights directly relevant to equal access to quality education for Roma children. These include the prohibition of discrimination; the right to equality for members of national minorities; the prohibition of ill-treatment; the right to respect for and legal protection of personal and family life, dignity, reputation, and honor; the protection of children and young people; the right to education; and the general obligation of the state to respect human rights and the rule of law.<sup>129</sup>

The Anti-Discrimination Act, which entered into force in 2009, was Croatia’s first comprehensive anti-discrimination legislation. As the European Commission against Racism and Intolerance (ECRI) has noted, it “provides a clear legal basis for the protection against direct and indirect discrimination” on the grounds of race, ethnic origin, color, gender, language, religion, national or social origin, education, social status, and age, among others. Although the act further provides organizations seeking to litigate patterns of discrimination with the right to intervene as third parties in cases where they have the plaintiff’s

122 PHARE, *Roma Support Project*, HR 2005/2/1, 2005.

123 European Parliament, *The Employment and Social Situation in Croatia*, 2013.

124 REF, *Advancing Education of Roma in Croatia*, 2007.

125 L. Kušan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

126 REF, *Advancing Education of Roma in Croatia*, 2007.

127 ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

128 Ibid.

129 The Constitution of the Republic of Croatia, <http://www.constitution.org/cons/croatia.htm>.

consent, this stipulation only applies for groups, not for single individuals discriminated against. Targeted affirmative action measures are not considered discrimination “where the aim is to improve the status of ethnic, religious, language or other minorities.”<sup>130</sup>

The act explicitly prohibits segregation, which article 5 defines as the “forced and systematic separation of persons” on any of the enumerated grounds. However, the requirement of “force” departs from the Racial Equality Directive (RED), unless it is taken to mean an absence of informed consent, as Hungarian human rights attorney Lilla Farkas has noted.<sup>131</sup> Constitutional Court case law also considers intent as an element of discrimination, which again departs from the directive.<sup>132</sup>

### Segregation in Education

Even though segregation is outlawed, it persists on a de facto basis, particularly in counties with a significant Roma population. As Lovorka Kušan has written, “The school authorities justify this practice, which has existed for as long as Roma have attended these schools, by Roma children’s poor grasp of the Croatian language and by the high number of Roma pupils in schools close to Roma settlements.”<sup>133</sup> Schools have also declined to enroll Roma children on the grounds that they lack pre-school preparation (i.e., “social deprivation”) or because the schools are under the pressure of non-Roma parents unwilling to enroll their children in the same class or school as Roma children.

As a result, Roma children have been assigned to Roma-only or Roma-majority classes, often at an early age and as a measure of first resort. Moreover, schools have refused to reintegrate Roma students into mixed schools once they are deemed to have reached linguistic and academic proficiency. The justification given has been that to do so would be too disruptive to the mainstream

classes. As a result, segregation has sometimes become permanent and systematic. The UNDP Atlas of Roma settlements in the Međimurje county shows that of the 1621 Roma students enrolled in primary schools in 2013/2014, 1015 attended 4 schools with a ratio of Roma exceeding 58 percent per school, ranging to a peak of 73,20 percent in the primary school Macinec.<sup>134</sup> Another school, PS Mala Subotica (39,85 percent of Roma children in the Atlas), seemingly far below ratio of 50 percent when presenting aggregated statistics of the central school and the branch school, in fact disguises a 100 percent Roma-only branch school in Držimurec Strelec, which enrolls children from 1<sup>st</sup> to 4<sup>th</sup> grade of primary school. If we add the 208 pupils from this school to the total of 1015 Roma children attending schools with Roma pupils ratio above 58 percent, we can argue that behind the seemingly low number of Roma-only classes reported in Croatia (52), in reality 75 percent of all children in Međimurje County attend schools with an extremely high risk of segregation (B. Tomljenovic, FXB Interview, April, 2015).

Several types of inequalities in education have led to segregation and lower quality education for Roma students in Croatia. For instance, enrollment in the first grade can be delayed due to poor test results related to a limited grasp of Croatian. REF notes: “However, the delay in enrollment is not coupled with compensatory programs, such as high-quality integrated preschool. Consequently, the Roma students’ school readiness only worsens, so that they often end up enrolling in remedial classes or special education institutions.”<sup>135</sup> Also, once enrolled in primary school, Roma children who lack fluency in Croatian may be placed in separate first grade classes labeled as “adequate for the background of Roma children.” These remedial classes offer lowered criteria, ensuring that Roma children fail to advance in step with their non-Roma peers and remain in segregated classes throughout primary school. REF notes, “It is also common to see separate Roma classes for students who failed and have to repeat the same grade.”<sup>136</sup>

130 ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

131 L. Farkas, *Segregation of Roma Children in Education: Addressing Structural Discrimination through the Race Equality Directive*, European Commission, 2007.

132 L. Kušan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

133 Ibid.

134 UNDP, *The Atlas of Roma Settlements in the Međimurje County*, <http://www.hr.undp.org/content/dam/croatia/docs/Research%20and%20publications/socialinclusion/UNDP-HR-ATLAS-ROMA-MEDJIMURJE-2014.pdf>

135 REF, *Advancing Education of Roma in Croatia*, 2007.

136 Ibid.

The justification for segregating Roma children into separate classes varies from one school to the next. Particularly in Međimurje County, “those Roma children with the best skills and knowledge of the Croatian language are usually sent to integrated classes, and the other Roma children are sent to separate, segregated classes.” Additionally, “segregated classes also result from the fact that Roma children make up the majority of students in junior elementary grades in Međimurje.”<sup>137</sup> While the special language classes have been integrated into mainstream programs, de facto segregation of Roma pupils persists in some schools.<sup>138</sup>

Roma children are also overrepresented in special schools or special classes in regular schools featuring an adjusted program with lower requirements. REF notes that these placements are based on “an assessment of their ‘psychophysical condition’ before enrollment in the first grade of elementary school.”<sup>139</sup> REF underlines the overrepresentation of Roma children in such institutions, especially when special schools are placed near the regular school.

Residential segregation, combined with the removal of non-Roma children from schools with a substantial Roma population (the so-called “white flight” phenomenon), also produces de facto segregation. ERRC notes that the “‘ghetto school’ is often materially substandard and/or not adequately staffed, with both Roma and non-Roma pupils deprived of the possibility of equal quality schooling in a multicultural environment.”<sup>140</sup> In predominantly Roma schools, some school officials say they are unable to avoid forming Roma-only classes, yet deny segregation: “How can the Roma children be segregated in a school where they are the majority? We can’t form classes to avoid creating Roma-only ones. Who will we integrate them with when there are no

Croatian children?”<sup>141</sup> However, this argument substantially weakens if the size of individual counties and distances between schools and villages are analyzed (B. Tomljenovic, FXB Interview, April, 2015).

### **Political and Social Environment**

The recent economic downturn has heightened tensions, including resentment over governmental projects aimed at legalizing and improving Roma settlements. There is a misperception that the Roma consume municipal resources but do not contribute (e.g., garbage removal, electricity connection, receipt of EU urbanization funds). Observers have noted a recent escalation in threats, physical attacks, and expulsions of Roma, often incited by public authorities.<sup>142</sup>

This sentiment is also present in education. In mixed schools, majority parents continue to protest against integrated classes at the start of each school year, giving officials the incentive and support to segregate classes, to demand an enrollment fee, or to only place “advanced” Roma students into classrooms with Croatian students.

Higher engagement of the institutions due to the EU accession process may have tapered off. Authorities continue to attribute education achievement gaps to the failure of the Roma community to merge with the majority population, even though many live in isolated settlements, often in extreme poverty, and face severe discrimination. Moreover, this view fails to hold authorities responsible for ensuring that Roma children have access to integrated education, including the necessary supports.

## **3. Strategies and Tactics to Advance Desegregation**

### **Why Choose Strategic Litigation?**

Strategic litigation, also known as impact litigation, has been the main tool used by NGOs to challenge the segregation of Roma children

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137 Ibid.

138 Council of Europe, Commissioner for Human Rights, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visit to Croatia from April 6-9 2010*, 2010.

139 REF, *Advancing Education of Roma in Croatia*, 2007.

140 ERRC, Programme Strategy 2013-2017, <http://www.errc.org/cms/upload/file/programme-strategy-2013-2017.pdf>.

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141 Discussion with representatives of schools and local authorities in Kutina, Croatia, DARE exchange visit in Croatia, September 26, 2013.

142 Immigration and Refugee Board of Canada, *Croatia: Situation and Treatment of Roma; including State Protection Efforts*, November 22, 2012, <http://www.refworld.org/docid/51dd16ee4.html>.

in public education in Croatia. The outcome of successful impact litigation is a judicial decision that a policy or practice of segregation constitutes discrimination. This model of intervention is essentially based on the experience and lessons learned in fighting de jure segregation in the US. Sixty years after its judgment, *Brown vs. Board of Education* serves as a model for civil society organizations dealing with de facto segregation cases in Europe.

The goal of strategic litigation is to develop both national and European jurisprudence prohibiting segregation as one step in the process of producing social change, primarily through the full integration and inclusion of Roma children in public education. It can also aim for legislative and/or practice changes, as well as for increased public and institutional awareness on a specific topic. The litigation process itself involves selecting strong cases out of many discriminatory incidents, building a robust evidential record in support of the case, and developing the legal arguments and litigation strategy best suited for each forum. Finally, strategic litigation, in order to be successful, involves ensuring community support and political will to ensure implementation of the judgment (L. Farkas, FXB Interview, October 2, 2013).

The case must first be heard before domestic courts on the basis of national anti-discrimination laws as well as other laws relevant for the case. If the victims feel they were not given justice in the national courts and they exhausted the domestic remedies, then the case is brought before the European Court of Human Rights (ECtHR) under the European Convention on Human Rights. If the plaintiffs are not satisfied with the ECtHR judgment, they can request a referral to the Grand Chamber of the ECtHR (article 43 of the European Convention on Human Rights and Rule 73). Nevertheless, the Grand Chamber accepts cases only on exceptional basis.

For the case discussed below, *Oršuš and Others vs. Croatia*, strategic litigation was chosen as a method to challenge the systemic nature of school segregation and the unwillingness of Croatian authorities to stop the practice (D. Berisha, FXB Interview, October 1, 2013). The *Oršuš and Others* case involved initially 15 Roma children,

one of them withdrawing his application in 2007. All of them dropped out of school by the age of 15, which was consistent with a country-wide trend for Roma students.

Croatian attorney Lovorka Kušan, then working with the Croatian Helsinki Committee for Human Rights (CHC), pursued domestic litigation from 2002 to 2004. After CHC and Kušan exhausted all the national courts, the European Roma Rights Centre (ERRC), with the support of two attorneys, Lovorka Kušan and James Goldston (New York Bar), partnered with CHC and the Open Society Foundation Justice Initiative to pursue litigation before the ECtHR from 2003 to 2010.

The CHC is a Zagreb-based organization that promotes human rights in Croatia through education, research, documentation, and assistance to victims of human rights violations. Founded in 1993 as a branch of the International Helsinki Federation, it registered as a Croatian non-governmental organization (NGO) in 2003. Its is carried out by staff and by a voluntary association of lawyers, journalists, and other human rights activists. Key program areas include promoting public accountability and respect for the rule of law, and educating young people in the area of human rights and civic participation.<sup>143</sup>

The ERRC is a Budapest-based international public interest law organization working to combat anti-Roma racism and human rights abuses through strategic litigation, research and policy development, advocacy, and human rights education. Since 2004, it has pursued over 500 court cases in 15 countries to litigate cases and patterns of discrimination and violence and to ensure equal access to education, housing, health care, public services, and justice. The ERRC supports local lawyers in domestic legal proceedings and prepares legal submissions to international tribunals, including the European Court of Human Rights (ECtHR), the European Committee of Social Rights, and UN treaty bodies.<sup>144</sup> The ERRC has been instrumental over the past decades in supporting domestic human rights organizations and victims of discrimination from all over the CE Europe region to prepare and submit applications in front of the ECtHR.

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143 The CHC website is available at <http://hho.hr/>.

144 The ERRC website is available at <http://www.errc.org/>.



ERRC cases successfully challenging school segregation of Roma children include *D.H. and Others vs. The Czech Republic* (2007),<sup>145</sup> *Sampanis and Others vs. Greece* (2008),<sup>146</sup> *Oršuš and Others vs. Croatia* (2010),<sup>147</sup> and *Horváth and Kiss vs. Hungary* (2013).<sup>148</sup> The other three cases are also discussed in this report.

### Pre-litigation: Case documentation

A high percentage of Roma children in Međimurje County were placed in segregated school environments. When the Roma community leaders from Međimurje County approached CHC for support, litigation was the expected and the most adequate solution, given the human rights orientation of the organization and the existent evidence for building a strong case. The pressure on the CHC was not only to challenge the segregation of the 15 applicants, but the whole education system, which obviously had numerous breaches that led to segregation.

In order to build arguments for the case, the CHC conducted field research in collaboration with education experts and psychologists. They interviewed Roma children and parents in Međimurje County to learn how they felt about the language testing and the placement of Roma children into separate classes.<sup>149</sup>

The psychological study of Roma children attending Roma-only classes in Međimurje showed that 84.5 percent of the Roma children wanted to attend mixed classes, 89 percent felt unaccepted at school, and 92 percent said that Roma and non-Roma children did not play together. The study underlined the emotional and psychological harm produced by segregation, “in terms of lower self-esteem and self-respect and problems in the development of their identity.”<sup>150</sup>

145 ECtHR, *D.H. and Others vs. The Czech Republic Judgment*, 2007, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

146 ECtHR, *Sampanis and Others vs. Greece Judgment*, 2008, [http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-2378798-2552166#{"itemid":\["003-2378798-2552166"\]}](http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-2378798-2552166#{).

147 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

148 ECtHR, *Horváth and Kiss vs. Hungary Judgment*, 2013, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#{"itemid":\["001-116124"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#{).

149 L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

150 ECtHR, *Oršuš and Others vs. Croatia Judgment*,

CHC also collected data on Roma school enrollment from the ombudsman’s office and made efforts to communicate their concerns to the Croatian government.

### Domestic Litigation: 2002-2004

In April 2002, the applicants, through their attorneys, filed a complaint in front of the Čakovec Municipal Court against Podturen Primary School, Macinec Primary School, and Kuršanec Primary School, as well as the state and the Međimurje County. They claimed that the teaching was “significantly reduced in scope and volume” in the Roma only classes as compared with the others. The applicants argued that their placement in separate, inferior classes amounted to racial discrimination and a violation of the right to education and the right to not be subjected to inhumane and degrading treatment. As a result, Roma children attended segregated, inferior classes that deprived them of a multi-cultural learning environment and subjected them to a significantly reduced curriculum. The applicants experienced severe psychological and emotional harm, as well as a lower quality of education that damaged their future opportunities. To support this argument, they used the findings of the psychological study mentioned previously.<sup>151</sup>

The complaint also quoted portions of the landmark US Supreme Court case *Brown vs. Board of Education* (1954), which rejected the doctrine of “separate but equal” as a violation of the constitutional right to equal protection and ordered the desegregation of the US school system. The plaintiffs requested “a judicial finding of racial discrimination and segregation; an order that the defendants develop and implement a monitoring system and a plan to end racial segregation and discrimination and to achieve full integration, and an order that the plaintiffs be placed in racially integrated classrooms and provided with the compensatory education necessary for them to overcome the adverse effects of past discrimination/segregation.”<sup>152</sup>

2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

151 ERRC, “Croatian Roma Students Sue at European Court of Human Rights over Racial Segregation in Schools,” Budapest, December 16, 2004, <http://www.errc.org/article/croatian-roma-children-sue-at-european-court-of-human-rights-over-racial-segregation-in-schools/2080>.

152 ECtHR, *Oršuš and Others vs. Croatia Judgment*,

The responses submitted by the defendants mainly stated that they did not discriminate against the Roma children. To justify the Roma-only classes, the institutions argued that the children were placed into Roma-only classes because of their low Croatian language skills. The defendants also underlined that children received the same quality of education as in non-segregated classes. They further argued that school authorities did not return Roma children to mixed classes to preserve the homogeneity of the Roma group. Implicit in the government's position was the belief that enrolling Roma children would compromise the quality of education for non-Roma children.<sup>153</sup>

The Čakovec Municipal Court accepted the defendants' arguments that the segregation was neither intentional nor discriminatory and rejected the complaint in September 2002. An appeal was lodged with the Čakovec County Court, which upheld the lower court's decision two months later. Croatian authorities asserted that the segregation was justified because Roma students had difficulty with the Croatian language, as well as hygiene, motivation, and socialization.<sup>154</sup>

However, even after the children met the academic or linguistic proficiency standards set forth by the schools, authorities refused to reintegrate them, stating that doing so would be too disruptive to the mainstream classes. Segregation was reinforced by the anti-Roma sentiments of the local majority community, who did not want their children taught with Roma students.<sup>155</sup>

In December 2002, the applicants addressed the Constitutional Court and almost a year later, in November 2003, in absence of a solution, the attorney unsuccessfully asked the court to expedite the proceedings. As a matter of legal strategy, they also filed a pre-application letter to preserve the applicants' right to bring the case before the ECtHR in a timely manner, if the court

declined to provide a remedy. Only in February 2007, when the case was already in front of the ECtHR, the Constitutional Court concluded that the children were placed in Roma-only classes based on the needs and skills of each child. The Constitutional Court found "the approach applied correctly since only qualified experts, in particular in the fields of pedagogy, school psychology, and defectology, are responsible for assigning individual children to the appropriate classes."<sup>156</sup> Kušan notes:

*The Constitutional Court rejected their complaint and concluded that such separation of students was justified because their knowledge of the Croatian language was not sufficient to follow education with other children. At the same time, the Constitutional Court noted that such separation would constitute discrimination if Roma students had been placed in separate classes in higher grades of primary education when their knowledge of the language would not have been a problem.*<sup>157</sup>

In its 2010 judgment, the Grand Chamber of the ECtHR underlined this delay as violating the right to a fair trial stipulated in the convention: "a period exceeding four years to decide on the applicants' case and, in particular, in view of what was at stake, namely the right to education, appears excessive."<sup>158</sup>

During the domestic proceedings, the representation of the plaintiffs posed some difficulties. Many families feared being involved with the case due to pressures and intimidation from the primary schools, the local government, and municipal welfare centers. At least one parent-teacher meeting was organized to pressure Roma parents to withdraw their complaint, social programs aimed at improving the situation of Roma were cancelled, authorities threatened to withhold social benefits, and Roma parents were informed that they would have to pay for

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2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

153 Ibid.

154 Ibid.

155 I. Memdov, "European Court denounces segregated education again: Oršuš and Others vs. Croatia," ERRC, July 26, 2010, <http://www.errc.org/article/roma-rights-1-2010-implementation-of-judgments/3613/10>.

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156 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

157 L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

158 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

their children's textbooks. Additionally, non-Roma parents organized a petition requesting that Roma children be taught separately (D. Berisha, FXB Interview, October 1, 2013).

### **ECtHR Litigation: 2003-2008**

In this phase, the European Roma Rights Center played a key role, as it was already managing and supporting several cases related to the segregation of Roma children in schools in the Czech Republic, Greece, and Hungary (see the case studies referring to these countries). More generally, part of the ERRC work involves support for domestic organizations in filing complaints in front of the ECtHR. The ERRC has gained excellent expertise and credibility in this regard, and domestic organizations count on its participation and advice in filing complaints before the ECtHR.

In May 2003, the plaintiffs submitted an application to the ECtHR, assisted by the ERRC, the Croatian Helsinki Committee, the Open Society Foundation Justice Initiative, and two attorneys, Lovorka Kušan and James Goldston. Greek Helsinki Monitor and Interights joined as interveners in the interest of developing case law on the substantive right to education and promoting the principle of integrated education, respectively. The Greek Helsinki Monitor, a domestic organization from Greece, worked with the ERRC on building up the segregation case of *Sampanis and Others vs. Greece*, which it successfully won before the ECtHR in 2008. It is worth highlighting the added value of the support given by an organization from another country. The organization had basically no advocacy goals in Croatia, but it did have experience in dealing with an ECtHR application on segregation and was willing to support their fellows in Croatia. The government of Slovakia also intervened and sided with the Croatian government in the interest of establishing that states should be permitted to have separate programs for children with special needs.

The plaintiffs claimed that segregation in Roma-only classes violated the European Convention on Human Rights with respect to the right to nondiscrimination, the right to education, and freedom from inhuman and degrading

treatment.<sup>159</sup> In doing so, they relied on the previous body of ECtHR jurisprudence that the ERRC had helped to establish regarding school segregation, namely *D.H. and Others vs. Czech Republic* and *Sampanis and Others vs. Greece*, which rejected the segregation of Roma students into special schools for children with mental disabilities as well as within mainstream schools on the basis of ethnicity (D. Gergely, FXB Interview, October 1, 2013). The applicants also claimed that the proceedings in front of the national courts, namely the Constitutional Court, were excessively long.

In July 2008, the ECtHR failed to find discrimination, ruling that “the difference in treatment was based on adequacy of language skills” and that the segregation “allowed for a change from a separate class to a regular class without formalities.”<sup>160</sup> The court found, however, a violation of the Article 6, 1 of the convention, referring to the right to a fair trial on accounts of excessive length of proceedings in the national courts. As the convention stipulates, “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”<sup>161</sup>

### **ECtHR Litigation, Grand Chamber: 2008-2010**

In October 2008, the applicants, except the one who withdrew from the case in 2007, requested a referral to the Grand Chamber. The referral, according to Article 43 of the convention, can be asked within a period of three months from the date of the ECtHR judgment. The applicants drafted and submitted observations to support the admissibility of the case for a referral procedure and to show the merits of the case. The government was required to follow the same procedure.<sup>162</sup>

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159 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

160 Ibid.

161 European Court of Human Rights, Council of Europe, *European Convention on Human Rights*, Strasbourg: 1953, [http://www.echr.coe.int/documents/convention\\_eng.pdf](http://www.echr.coe.int/documents/convention_eng.pdf).

162 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).



In the submission to the Grand Chamber, the ERRC reiterated the details about how the applicants were assigned to Roma-only classes in the absence of any legal support and stressed that the methods used by the school to improve the Croatian language proficiency of Roma children placed in Roma-only classes were not adequate. The organizations argued that an integrative approach is the optimal method and that by placing children in the same class as children who speak the language well, the process of learning becomes motivating and engaging. They supported this claim with documents from the Council of Europe, the European Union, and the United Nations. While the documents acknowledged that some of the applicants received additional Croatian language classes, they also underlined that the Roma-only classes had a sub-standard curriculum. The partner organizations touched upon the test system and its limitations, the criteria for placing children in separate classes, the grading system, the limited practice of transferring children to mixed classes, and the separation of children for extra-curricular activities.

The government submission argued that the right to education was not infringed, as all the applicants were enrolled at school. It accepted that the curriculum in the Roma-only classes was reduced up to 30 percent, but they showed the legality of such a measure. Furthermore, the government argued that the Roma-only classes were “ordinary classes” in “ordinary schools,” but they were organized as such due to the large number of Roma children or based on limited language proficiency. It is relevant to stress that along with the justifications and explanations regarding the testing system, grading system, or teaching methods, the government stressed that parents possess the ability to challenge a teacher assessment and that the school master can address those complaints. Moreover, it was argued that the school had not received any complaints of that nature and that the parents did not question their children’s placement in Roma-only classes. Additionally, the Croatian government showed the involvement of Roma children in mixed extracurricular activities, as well as the participation of non-Roma children in Roma

culture related activities at the school.<sup>163</sup>

The arguments of Interights, the Greek Helsinki Monitor, and the government of Slovakia were also considered by the Grand Chamber, which granted the referral. The Grand Chamber assessed that although the applicants claimed a violation of the right to education not only taken alone (Article 2, Protocol 1 of the convention), but also taken in conjunction with the prohibition of discrimination (Article 14 of the convention), the case raised “primarily a discriminatory issue” and analyzed the case by taking the two articles in conjunction. The central question of the case, according to the Grand Chamber was “whether adequate steps were taken by the school authorities to ensure the applicants’ speedy progress in acquiring an adequate command of Croatian, and, once this was achieved, their immediate integration in mixed classes.”<sup>164</sup> This valuable argument made by the Grand Chamber can guide applicants and organizations dealing with similar cases of segregation throughout Europe. It essentially shows the indicators used by the chamber in assessing such alleged rights violations.

Also included in the court’s ruling was the conclusion that the statistical data provided by the plaintiffs on the extent of segregation in Međimurje County was not sufficient evidence to establish a *prima facie* case of discrimination. This ruling predated the 2007 ECtHR judgment in *D.H. and others vs. Czech Republic*, in which the Grand Chamber concluded that the statistical evidence constituted *prima facie* evidence that the effect of a measure or practice is discriminatory. The Grand Chamber decision in *Oršuš and Others vs. Croatia* showed that the statistical data provided by the applicants demonstrated that there was no policy to place Roma in separate classes. The court referred directly to Podturen School, where 10 percent of the students were Roma and less than 50 percent attended Roma-only classes. The court’s decision is questionable, as 36 percent of Roma placed in Roma-only classes is indeed a significant number, especially since the Roma population in the whole school is 10 percent. The ERRC and its partners chose a similar strategy

in using statistics with the *D.H. and Others* experience, when statistical data were taken as *prima facie* evidence. However, organizations planning similar strategies should take into account the court’s reluctance in considering statistical data lower than 50 percent.

A hearing was held on April 1, 2009, and the attorneys Kušan and Goldston, in addition to two advisers, represented the plaintiffs. On March 16, 2010, the Grand Chamber issued its judgment, finding that segregation of Roma children in separate classes based on language amounted to indirect discrimination on the basis of ethnicity.<sup>165</sup>

The court emphasized that due to a long history of discrimination, the Roma were members of a disadvantaged and vulnerable minority and required special protection, including in education. The court noted that while the statistical evidence presented did not establish *prima facie* evidence of discrimination, it still established a practice that disproportionately and exclusively affected the Roma as an ethnic group. The Croatian government therefore needed to show that this practice was objectively justified, appropriate, and necessary.

While temporary separation might serve the legitimate aim of adapting the education system to the children’s specific needs, appropriate safeguards are required when implementing such measures. In assessing the government’s practices, the court found that Croatian law did not provide a clear and specific legal basis for placing children lacking adequate command of the Croatian language in separate classes and that the placement tests assessed general psycho-physical condition, not language skills. Once in segregated classes, Roma children were not provided with a curriculum specifically designed to address language difficulties, and there was no monitoring of their progress in learning Croatian. If and when appropriate, special language lessons should only be a means to quickly move pupils into fully integrated mainstream education.<sup>166</sup> The court further noted that the government had failed to meet its obligation to implement positive

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163 Ibid.

164 Ibid.

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165 ERRC, *ERRC Report on Croatia for the 2010 EU Progress Report*, June 1, 2010.

166 Ibid.

measures to address the poor school attendance and high dropout rate among Roma children. The court concluded that no adequate safeguards had been put in place to ensure sufficient care for the applicants' special needs as members of a disadvantaged group. Because the Croatian government had failed to justify the segregation, it violated the applicants' right to education and their right to be free from discrimination. The court decided that there was a violation of the right to education in conjunction with the right to non-discrimination, but not the right to education taken alone.<sup>167</sup>

The dissenting opinion underscored the pervasiveness of the belief that the education of non-Roma children would be negatively impacted by being educated with Roma children. It is worth noting the language of the dissent:

In such a situation where a high percentage or a majority of pupils have special needs, it is obvious that the teaching has to be adapted to their needs, particularly when they share a common language among themselves. However, this may affect the interests of other pupils who do not have such needs and whose progress may thus be impeded... We accept that for this reason as well their placement in the same class could be justified from a pedagogical point of view, as it is known that children are considered to learn best in stable surroundings, and this is also why parents are often reluctant to make their children change classes. That argument should not have been set aside without balancing also the interests of the Croatian-speaking children: the importance for Croatian-speaking pupils of being able to progress properly at school is not mentioned at all in the judgment. (Internal references omitted)

The Grand Chamber also decided that the right to a fair trial had been violated. The court asked the Croatian government to pay 4.500 Euro to each applicant as non-pecuniary damage, in addition to the trial costs.

The judgment declined to recognize the segregation practice as direct discrimination

and refrained from ordering the government to desegregate or specifying the manner for doing so. The Grand Chamber did not make general recommendations for preventing and diminishing segregation in Croatia or specifically in Međimurje County. Prior to the judgment, the ERRC advanced comprehensive recommendations focused on the prohibition of segregated classes based on language ability and the immediate integration of all separated children, in addition to a comprehensive plan to overcome the adverse effects of past discrimination. Although the judgment did not order the government to undertake these actions, it did identify general measures to strengthen protections for Roma children based on the ERRC's arguments. These priorities included development of a legal framework and procedures for initial placement in separate classes, a language-specific curriculum, a transferring and monitoring procedure, and measures to address poor school attendance and high dropout rates. These form a framework for monitoring the government's progress in implementing the judgment (D. Gergely, FXB Interview, October 1, 2013).

Experts involved in the case, including Kušan, believed the judgment was approved only because it went before the Grand Chamber and involved judges from different countries (L. Kušan, FXB Interview, 29, 2013).

## 4. Changes Stemming from the Oršuš and Others Judgment

The ERRC's litigation and ensuing judgment had many positive results, including influencing the legal discourse around segregation at the EU and national levels, stimulating legislative and policy changes relating to inclusive education, incentivizing programming relating to preschool education and extracurricular language support, and providing some limited remedies to the plaintiffs. However, there have been obstacles to comprehensive and systematic implementation of the judgment, as well as the broader goal of integrating Roma children into the mainstream education system.

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167 ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

## Changes in the community

At the community level, the judgment and the whole process that led to it brought with it justice and rights awareness, but also tensions and mistrust.

In Podturen village, the applicants and the community acknowledged the relevance of the legal action both at the domestic and the European level, and one key indicator is that “now children go to school as they should,” in mixed classes (FXB Interview, October 2013).<sup>168</sup> The community members measure the change by looking back at their own experiences, which have been traumatizing and painful and compare them with the treatment Roma children receive in the school environment now. One plaintiff told us: “Worst thing I remember from school is when we went for lunch... we [Roma children] had to wait for Croatian kids to eat first.” Another one added, “at lunch, Croatian kids treated us poorly. [They] always called us *stinky gypsies*.” Therefore, they emphasize the positive change by analyzing the attitudes towards Roma children in the community now, which seems to improve at the school level. Most importantly, they concur with the school tendency to enroll Roma children in mixed classes. Some of the applicants in Podturen village report that there are good relationships between Roma and non-Roma children in the schools. One family felt that the judgment had delivered the message that Roma children are equal and should go to school. The eight-year period of the trial has also contributed to rights awareness amongst the community: “As a child, I thought segregation was normal but as parents, we know we have to complain... Even in line for lunch, kids were bullied, but as kids we didn’t know it was not fair” (FXB Interview, October 2013).<sup>169</sup> To the contrary, during our interviews in 2013, the community did not accept segregation in schools, pointed out forms of rights violations at the local level, and asked the ERRC for advice (FXB Interview, October 2013).<sup>170</sup>

The ECtHR decision to compensate each plaintiff with 4.500 Euro for non-pecuniary damages

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168 The survey included the mother of two Oršuš applicants and others, including D. Balag, E. Oršuš, D. Osrus, J. Kalanjós, B. Kalanjós. Dzavit Berisha of ERRC translated.

169 Ibid.

170 Ibid.

led to community tensions in Podturen. The total number of Roma children enrolled at the Podturen School in 2001 was 47, of whom 17 were placed in segregated classes; only ten of them filed a complaint in 2002, and one withdrew his application in 2007. Therefore, the families that were not involved in the case raised doubts about the ERRC and its partners’ methods to select the applicants and to inform the community about the whole process, although when the case was first brought before the court, they did not join. A representative of the school “told parents not to press charges because there could be repercussions.”<sup>171</sup> Indeed, when deciding to file a complaint against a public institution, people are aware of the possible negative effects and pressure put on the victims by the authorities and not all are willing to take that risk. The lack of a permanent presence of advocates and grassroots organizations at the community level also diminishes the chances to prevent institutional pressure and to trust the victims to file complaints.

The community leader in Podturen, who initially supported the case, shifted his attitude and communication with the plaintiffs and the ERRC. The local authorities calculated the judgment compensations as incomes and stopped the social benefits of the plaintiffs’ families until the ERRC legally reversed their decision. Such tensions are unsurprising. However, an investment of time and resources to communicate and discuss the judgment at the community level would have probably led to a better understanding of the case and its upshots.

In Macinec, the community dynamics, learning processes, and the case outputs differ from Podturen. The judgment has produced different effects. Many children continue to learn in segregated environments characterized by extremely poor quality of education. There is not much rights awareness at the community level and, as opposed to Podturen where the judgment has had a mobilization effect, in Macinec there is a different change in discourse, attitude, and trust in institutions. Even more, in 2012, when 44 Roma children from Macinec, were brought to the Gornje Hrašćan branch school just to attend the

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171 Interview with a local leader involved in the case, Croatia, October 2013.

preschool preparation program during the second shift when all majority children were not in the school and already went home they had to stand up to 50 non-Roma parents protesting against their use of the same classrooms as non-Roma due to their “poor hygiene.”<sup>172</sup> The lack of anti-bias education contributed to such attitudes. Broadly, in many other Međimurje communities, anti-bias and anti-segregation programs do not target the non-Roma population, teachers, and other institution employees. Some efforts were made recently by Open Academy Step by Step and CDRSEE to remedy this situation, both organizations implemented projects in the Međimurje County working with teachers and parents of non-Roma origin in 2013-2014 (B. Tomljenovic, FXB Interview, April, 2015).

For all 14 applicants in the *Oršuš* case, the non-pecuniary damages received were not able to compensate, by any means, the losses they incurred due to the poor education they received, the opportunities they continue to miss in competing on the labor market, and the lowered chances they have for a better life. The non-pecuniary damages are disproportionately small compared to the effects that segregation and stigmatization have had on each and every individual applicant.

The judgment emphasized the shared responsibility of school authorities and parents to ensure the school attendance of Roma children. However, when the ECtHR announced its judgment, the local and national authorities did not initiate any public discussion around the decision. According to the head of the Department of Education, there were no events or publicity of the judgment at county level, either. Despite some isolated outreach at schools in Međimurje County—including parent-teacher meetings and visits by Roma teaching assistants to students’ homes—there do not appear to be strong mechanisms to ensure regular and mutual communication and participation.

Of even greater concern, there remains a major gap in addressing school attendance and dropout rates. This remains low on the

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172 US Department of State, *Croatia 2012 human rights report*, 2013. Available at <http://www.state.gov/documents/organization/204483.pdf>

list of the government’s priorities, partly due to its complexity but also to the reality that as students approach the age of 15, they are no longer the legal responsibility of the government. This attitude was reflected in the government’s arguments during the ECtHR litigation, in which it denied that the applicants’ right to education had been violated since they completed primary education. A related component is the continuing perception that attendance and dropout rates are family matters—a belief similarly reflected in the litigation. To date, the government has begun to work on strengthening cooperation mechanisms between the school system and social services to better track attendance.

### **Changes at the County level**

The litigation helped incentivize programs to improve Roma access to and participation in education, particularly by actors at the municipal level. Following the judgment, directors and teachers of the primary schools asked Međimurje County authorities and the Ministry of Education to introduce free pre-school programs for Roma children to address language barriers,<sup>173</sup> which were not adequately addressed in the first two years of primary schooling.<sup>174</sup>

As a result, there is now free preschool education for all children in Međimurje County. In addition, preschool activities for children with insufficient command of Croatian operate throughout the school year, rather than for three months. They also operate for longer hours (five hours daily) and provide free transportation and meals to students. Where integrated preschool in regular institutions is unavailable, Roma students are enrolled in a preschool program provided in primary schools or preschools.

Another integration measure listed as one inspired by the *Oršuš* ruling was an after-school homework help program implemented in primary schools. Although this measure was promoted and advocated before the ruling itself, the *Oršuš* ruling helped it to become more visible, although systematic financing of this measure is still not fully ensured. Additional Croatian language lessons are financed by the Ministry of Education,

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173 T. Bass, *Oršuš and Desegregation in Međimurje County*, REF, 2013.

174 L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.



predominantly due to legislative changes caused by EU accession and the need for the education system to be prepared for Croatian non-speakers and migrants; however, the true after-school programs in schools are still relying on project-based financing and scarce local government funding (B. Tomljenovic, FXB Interview, April, 2015). The main aim of such programs is to help Roma students with their Croatian language lessons.<sup>175</sup> However, bilingual teaching methods are not used in preschool, when they would have the greatest benefit and address the specific deficit argued by the Croatian government in the litigation.<sup>176</sup>

While these measures have improved school participation, they have failed to systematically close the achievement gap. Just 3.5 percent of Roma students complete secondary education, compared to 85 percent of non-Roma students.<sup>177</sup> In 2012, only 28 Roma students attended university.<sup>178</sup>

Even though methods to teach Croatian as a second language do exist, they are not used in preschool, according to Kušan Lovorka (FXB Interview, September 29, 2013). In addition, the reliance on the teaching assistants as translators, as well as their limited authority in the classroom, has diminished the impact of this measure. As a result, many Roma children still lack the language skills to succeed academically.

The judgment appears to have had an energizing effect on governmental and school stakeholders already aware of the need for desegregation. This is particularly evident among established projects or among municipalities where authorities assume direct responsibility for their international legal obligations (e.g., Kutina). Some school districts, such as in the city of Kutina, have proactively addressed segregation by installing quotas for Roma students, offering extracurricular activities and experimenting with inclusive education methods modeled after other

European countries.<sup>179</sup> In addition, the judgment has strengthened existing partnerships. REF stated that after the *Oršuš decision*, it had a basis to approach municipalities to ask what they were doing to promote educational inclusion and to offer support for implementation measures.

However, Kušan concludes, “Despite many positive results, the ad hoc nature of these programs, both in number and in financing, suggests remaining issues in translating policy at the regional and local level. Authorities have demonstrated a lack of appreciation for the urgency of the need for integration, as well as their own role in the process, at least partly related to a perceived lack of support at central level.”<sup>180</sup>

### Legislative and Policy Changes

The ERRC’s litigation and ensuing judgment helped change the legal discourse related to segregation. *Oršuš* made it clear that language deficiency cannot serve as a pretext for racial segregation, a ruling that is binding not only on Croatia but on all EU member states.<sup>181</sup> Although the government is entitled to some level of flexibility for managing its schools, this does not permit or justify discrimination.

The ECtHR litigation helped influence the policy agenda on inclusive quality education for Roma by identifying priorities to be addressed in Croatia’s Action Plan: abolishing separate classes for Roma children, integrating them into mainstream education, and monitoring concrete results; introducing complementary classes and specific programs to raise the language competence of Roma children; and measures to address poor school attendance and the high dropout rates, including the active involvement of social services in ensuring their school attendance. The Action Plan also required periodic reporting by the government to the Committee of Ministers and the involvement of civil society organizations.<sup>182</sup>

<sup>175</sup> ECRI, *ECRI report on Croatia, forth monitoring cycle*, 2012.

<sup>176</sup> L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

<sup>177</sup> IRBC, 2012.

<sup>178</sup> ECRI, *ECRI Report on Croatia (fourth monitoring cycle)*, 2012.

<sup>179</sup> Discussion with representatives of schools and local authorities in Kutina, Croatia, DARE exchange visit in Croatia, September 26, 2013.

<sup>180</sup> L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

<sup>181</sup> ECtHR, *Oršuš and Others vs. Croatia Judgment*, 2010, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{"itemid":\["001-97689"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97689#{).

<sup>182</sup> The Government of Croatia, Revised Action Plan. Case: *Oršuš and Others vs. Croatia*, Application no 15766/2010, Judgment

In response to the judgment, the Croatian government has improved its legal framework for providing Roma children with targeted, language-specific support in integrated environments. In 2010, the Primary and Secondary School Education Act was amended to require schools to provide special assistance to children with insufficient Croatian language skills. Secondary legislation was adopted in 2011 requiring specific language testing and individualized recommendations from experts and oversight by the regional education authority.<sup>183</sup> Croatian authorities have declared that these measures will end segregated Roma-only classes. Students with weaker language skills will be given special classes at the beginning of the day followed by regular classes for the rest of the day. Children with a better command of Croatian are to be given additional language lessons.<sup>184</sup>

However, in practice, in the 2011-2012 academic year, there were 52 primary school classes with only Roma students and in 2012-2013, 50 Roma-only classes.<sup>185</sup> In communications to the Committee of Ministers, the Croatian government has emphasized that the abolition of Roma-only classes is complex, requires the action of multiple stakeholders, and might not be done in a short time.<sup>186</sup> At the same time, the central institutions have difficulties in overseeing implementation at the local and regional level, partly a product of the decentralized school system. As Kušan has noted, “In spite of all these measures, the number of Roma-only classes has increased. The authorities claim that this is the result of the fact that many more Roma children are included in primary education than before and that non-Roma parents move their children from schools where Roma children represent the majority.”<sup>187</sup> Also, according to a Roma leader, “[s]egregation was a problem, but now discrimination is camouflaged. Roma are considered hyper-active and put in school for

children with disabilities. It’s not always justifiable” (M. Mihanovic, Roma National Minority Council, FXB Interview, October 2013).

Activities to support Roma children to learn Croatian is done using inappropriate methods. Instead of training teachers to deliver bilingual education, schools use Roma teacher assistants (TAs) to translate during class: “Roma children work with the teacher and a Roma TA, who translates, helps accompany them to school, and follows up on attendance if the child is out sick. Roma TAs only have secondary education and continue translating, if needed, during primary school” (S. Tosic-Grlac, Head of Department of Education, Medjimurje County, FXB Interview, October 2013).

More precisely, Roma children are seated in one part of the classroom and the non-Roma in the other, and while the teacher delivers, the TA translates. As expected, this method does not lead to improving Roma children’s Croatian skills. In order to learn Croatian and benefit from integrated education, Roma children need to be involved in activities aiming to learn Croatian and in direct interactions with non-Roma children seated in the same class. Translation cannot be considered an efficient method to learn another language.

Last but not least, despite relatively strong policies at the national level, there do not appear to be strong monitoring mechanisms, including concrete timelines and bylaws or guidelines to specify compensatory measures (e.g., multicultural training, parent participation, etc.).<sup>188</sup> In addition, the role of the school inspectorate and the Education and Teacher Training Agency, which are institutions responsible for the supervision of the legality and quality of the work of schools and teachers should be re-examined and the capacities of the so called advisors and inspectors should be raised in order for them to be able to recognize practices which lead to reoccurring drop-out, segregation, poor quality of education for Roma children, the staff of these two agencies should be submitted to compulsory anti-bias training as well (B. Tomljenovic, FXB Interview, April, 2015).

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final on 16/03/2010, 2011.

**183** L. Kusan, *Report on Measures to Combat Discrimination. Country Report 2012*, 2012.

**184** ECRI, *ECRI Report on Croatia, Fourth Monitoring Cycle*, 2012.

**185** OSF, *Decade of Roma Inclusion: Progress Report 2012*, 2012.

**186** COM 1136<sup>th</sup>, 2012.

**187** L. Kusan, *Report on Measures to Combat Discrimination: Country Report 2012*, 2012.

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**188** Amnesty International, *Submission to the Committee of Ministries of the Council of Europe on Oršuš and Others vs. Croatia* (Application no. 15766/03), 2011.

## 5. Necessary steps to Complete Desegregation

### Policy Implementation and Reforms

Post *Oršuš and Others vs. Croatia* judgment, improvements have been made in the Croatian national approach to education, including the development of supportive legislation for integrated schooling. The steps taken by the Croatian government to ensure the free access of preschool facilities for Roma children is a good policy model in the desegregation process, as starting school with similar skills and language acquisitions with the non-Roma children can prevent schools from rejecting Roma children. However, the NGOs and institutions argue there is a need for a better preschool attendance and parental involvement. Nevertheless, this policy should be better implemented and expanded for all marginalized and disadvantaged children in Croatia.

Overall, there is still a need for improvements, especially in regard to the implementation of policy measures and the judgment at the local level. Following the judgment, the ERRC has monitored the situation and has conducted evaluation visits, and in 2010 it reported that the school system had not taken measures to desegregate classes and many Roma children continued to attend Roma-only classes.<sup>189</sup> The phenomenon of white or non-Roma flight has spread, especially since the number of Roma children enrolled at school has increased. Non-Roma parents removed their children from the Macinec School, where the percentage of Roma children has increased from 44 percent in 2001 to 63 percent in 2010.<sup>190</sup> There are also indicators of abusive placement of Roma children in special schools, and this issue has remained highly unaddressed. In addition, authorities have failed to exercise control over segregation mechanisms, including white flight.

The placement of Roma children in segregated classes on the basis of language deficiency has been considered by the ECtHR as unlawful. In spite of the *Oršuš* ruling and the civil society

and governmental efforts, this practice has continued to be used by schools. Therefore, along with its existing measures, the Croatian government should legally forbid and sanction all forms of segregation, through a separate bill, or as part of an existing educational law. Even more, code of conducts and other administrative and ethics related documents should clearly stipulate administrative sanctions for teachers and school masters responsible for segregating Roma children. The integration of Roma children into mixed classes should no longer be delayed. By integration, we do not refer only to mixing children, but also to preparing all children on anti-bias education in view of avoiding stigma and prejudice. Also, teachers would benefit from human rights and anti-bias training, as well as from methods to efficiently support children with limited Croatian knowledge in their efforts to catch up with their other peers. Outreach activities in the community should also be considered in order to prepare both Roma and non-Roma families for the change. Along with the school, other local institutions (e.g., local municipalities), would benefit from human rights and anti-bias training and active participation in the desegregation process.

Croatian language deficiency has been portrayed as an enormous weakness or infirmity of the Roma children. The missing part of the actual discourse is that they speak and understand well one language, their own language, and schools should build more upon language and cultural diversity and present it as an asset, a valuable attribute in the classroom rather than an obstacle.

There must be improved pedagogical and professional standards as well as oversight. There is still a lack of evidence-based pedagogy for bilingual language instruction, and even worse, there is little recognition that this is necessary. The objective of improving Croatian language knowledge is not met in Roma-only classes, which aim—according to the institutions—to help Roma learn the official language, or in integrated classes where the Croatian language learning is facilitated by a Roma teacher assistant who translates for the children. Legally and practically, the latter option of integrated classes is obviously the right and legitimate one, but government institutions must address its gaps. The preschool and primary

<sup>189</sup> ERRC, Greek Helsinki Monitor, Open Society Foundation Justice Initiative, *Submission to the Committee of Ministers: The Continued Segregation of Roma School Children*, 2010.

<sup>190</sup> ERRC, *ERRC Report on Croatia for the 2010 EU Progress Report*, June 1, 2010.



school curriculum must be adapted and enriched so that in a mixed classroom, children speaking the official language as a second language can improve their official language acquisitions and, in parallel, all children in the classroom can follow and benefit from the class objectives. Also, kindergarten and primary school teachers would benefit from training on methods to improve language acquisition for children speaking the official language as a second language in a classroom environment where not all children have that specific need.

The ongoing justifications for segregation include preventing Croatian children from being held back and dealing with the lack of socialization of the Roma. Therefore, schools should inform all parents, especially non-Roma parents, about the methods used in the class and reassure them that children would not be prevented from attending regular classes and would not be “held behind.”

In Croatia, there continues to be poor Roma retention and graduation rates, especially at the upper primary and secondary levels. Better outcomes involve better quality of education in Croatia in general and in order to achieve that, better formal teacher training is necessary. Given the financial opportunities provided by EU membership, higher objectives should be set up in relation to higher education of the Roma youth in Croatia. The direct involvement and awareness of the community, especially parents or other caregivers, in maintaining children, in spite of the socioeconomic issues, in school are also essential. There is a lack of mechanisms for engagement between school authorities and Roma parents and families. Therefore, schools and communities should work together to meet that goal, not only for Roma, but also for other children and adolescents at risk of dropping out.

## **Civil Society**

A major impediment to the successful implementation of the judgment is the absence of leadership around advocacy and monitoring at the local and national levels. At the grassroots level, there does not seem to be full recognition of the value of desegregation. The absence of a permanent NGO presence at the local level alienates potential plaintiffs, or even plaintiffs who, in face of pressure, feel they can get no immediate support. This situation sometimes leads to more violations of rights and increased pressure on the community members, especially the ones who question the measures and actions of institutions. Only isolated stakeholders work with community members for better community mobilization, empowerment, and campaigning on rights awareness. At the national level, only a few human rights organizations focusing, in part or fully, on Roma rights exist, and therefore the advocacy strength is almost nonexistent and the level of institutional accountability is low.

While the threat of litigation can motivate some local authorities, others may be unfamiliar with the international legal framework, and a judgment might offer little incentive to change. Some schools use angry majority parents or an inactive/non-enforcing national government to explain non-compliance with the ruling. Other schools, either because they have a good relationship with organizations and donors dealing with Roma rights—such as REF—or due to other motivational factors, use a rights-based approach to education that can effect real change.

The funding for both local and national organizations with a human rights perspective is decreasing. There is a need to fund civil society to strengthen the ability of NGOs at the grassroots and national levels to challenge government practices and to defend Roma rights. This may be partly improved by a more robust civil society presence, and there is a clear need to support the development of advocacy and litigation groups in Croatia.

The support from international human rights organizations and groups is also essential at both the local and the national level. Organizations willing to support the capacity building of civil society in Croatia could and should, when

possible, aim to invest in human rights related activities.

Overall, there must be more dialogue, involvement, and partnership points among the relevant actors—between NGOs, the Roma community, and local and national institutions.

## IV. 2. Combating Segregation in Hungary



As a child, István aspired to become a professional dance teacher like his father. But at the age of 7, together with András, another Roma boy, István was evaluated by an expert panel at the request of school authorities and was misdiagnosed with a mental disability. István and András were consequently placed in a remedial school in Nyíregyháza. Their parents were neither involved in the assessment nor informed of their right to appeal. The two boys were both tested again over the years, but the expert panel held they should remain at the remedial school despite their good grades. Their education, enrollment in a special curriculum, had limited their opportunities; their only option to continue their studies was to remain in special vocational secondary school. Because István could not enroll in a mainstream high school, he enrolled in a special vocational school and became a baker's assistant. András,

for his part, was precluded from becoming a car mechanic.

In August 2005, REF supported a summer camp for 61 Roma students who had been placed in remedial schools. Independent experts tested both István and András and found that neither of them had a mental disability. This finding provided the basis of a lawsuit. The Chance for Children Foundation (CFCF) filed a complaint at the domestic level and used REF's research to argue against the individual, as well as systematic, misdiagnosis of Roma children. The European Roma Rights Center (ERRC) joined this endeavor, which played out mainly before the European Court of Human Rights (ECtHR).

In parallel, significant policy and legislative measures have been adopted by the Hungarian

government to address all forms of segregation existing in the country. An influential founder of CFCF, Viktória Mohácsi, the former Ministerial Commissioner for the Integration of Disadvantaged and Roma people and EU lawmaker, prioritized desegregation as part of her political and NGO activity.

This case study examines the strategies used by CFCF and its partners to strategically challenge the misdiagnosis of Roma children as individuals with mental disabilities and, consequently, their placement in remedial schools in Hungary. The case study shows how CFCF's strategic litigation, the key driver of their advocacy efforts, led to an ECtHR decision and institutional and public awareness about the issue. The case study also examines the difficulties, established partnerships, and long term impacts of such actions.

The aim is to present a model of strategic litigation as a tool to prevent and/or combat segregation. In this capacity, it can serve as an opportune tactic for policy and practice changes.

## 1. Education System and Environment

### Roma Education in Hungary

According to the 2011 national census, there are 308,957 Roma living in Hungary, representing 3.1 percent of the total population of 9,937,628 people.<sup>191</sup> However, official estimates put the number at around 700,000,<sup>192</sup> making Roma the largest ethnic minority in Hungary. The Roma population is also younger than the non-Roma population, with 36.8 percent of the Roma population between 0 and 14 years old, compared to 15.4 percent of the non-Roma population in the same age category.<sup>193</sup> There are about 30 Roma subgroups in Hungary, with Romungro, Lovari,

and Beash as the main subgroups.<sup>194</sup> Most Roma speak the national language and list Hungarian as their primary identity. They experience significant social and economic disadvantages, including discrimination, segregation, and exclusion in education, health, housing, and employment. Around 75 percent of Roma are not employed in the formal economy,<sup>195</sup> and over 80 percent of Roma families live in poverty.<sup>196</sup> These vulnerabilities are strongly linked to poor educational conditions.<sup>197</sup>

According to the 2011 Fundamental Rights Agency (FRA) Roma survey, 83 percent of Roma children from age four up to the starting age for compulsory education attended preschool or kindergarten during the 2010-2011 school year. Additionally, 92 percent of Roma children between the ages 6 through 15 have attended preschool compared to 96 percent of non-Roma in the same age group.<sup>198</sup> The 2014 EU Roma Framework progress report underlines the 79 percent Roma preschool enrollment rate in Hungary as a positive development.<sup>199</sup> As of September 2015, kindergarten will be mandatory for all children at age 3.<sup>200</sup> This decision may lead to even better outcomes in school achievement and participation at all levels of education. However, NGO representatives believe the reduced number of seats available in kindergartens needs to be addressed as soon as possible, so that the policy can lead to good implementation.<sup>201</sup>

191 *It's my country*, <http://itsmycountry.net/hungary/facts/geography-and-society.html>.

192 Council of Europe, "Making Human Rights for Roma a Reality," [http://www.coe.int/t/dg3/romatravellers/default\\_EN.asp](http://www.coe.int/t/dg3/romatravellers/default_EN.asp).

193 Ministry of Social Administration and Justice, *National Social Inclusion Strategy: Extreme Poverty, Child Poverty, and Roma*, Budapest: Ministry of Public Administration and Justice, State Secretariat for Social Inclusion, December 2011, [http://ec.europa.eu/justice/discrimination/files/roma\\_hungary\\_strategy\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_hungary_strategy_en.pdf).

194 L. H. Balogh, *Minority Cultural Rights or an Excuse for Segregation? Roma Minority Education in Hungary* in *Education Policy and Equal Education Opportunities*, New York: OSF, 2012, <http://www.opensocietyfoundations.org/sites/default/files/education-policy-2012020228.pdf>.

195 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

196 European Union Agency for Fundamental Rights, UNDP, *The Situation of Roma in 11 EU Member States: Survey Results at a Glance*, 2012.

197 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012; Gabors 2011, 4, 22, 23.

198 FRA, *Education: The Situation of Roma in 11 EU Member States*, Vienna, Austria: FRA, 2014, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf).

199 European Commission, *Report on the Implementation of the EU Roma Framework for National Roma Integration Strategies*, Belgium, 2014, [http://ec.europa.eu/justice/discrimination/files/roma\\_implement\\_strategies2014\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_implement_strategies2014_en.pdf).

200 UNESCO, *Hungary: Education for All 2015 National Review*, <http://unesdoc.unesco.org/images/0022/002299/229933E.pdf>.

201 J. Geller, ERRC, 2015.

However, there are several barriers to Roma enrollment and performance. These include limited facilities in Roma settlements, preferential enrollment of majority children, and non-welcoming school management.<sup>202</sup>

At the primary level, although participation is as high as 95 percent for non-Roma and 94 percent for Roma,<sup>203</sup> strong selection and segregation mechanisms channel 30 percent of Roma students into ethnically segregated and lower quality schools and classes.<sup>204</sup>

Researchers estimate that two thirds of the segregation phenomenon is traceable to poverty and associated disadvantages, such as housing segregation or a lack of parental education. The other third is due to intentional and direct discrimination against Roma students by schools and majority, middle class parents that affects patterns of school enrollment, class placement, and transfer to special schools.<sup>205</sup>

Most Roma children complete primary school, but dropout rates are high, particularly in ninth and tenth grades. Students who continue their education tend to enroll in low-quality high schools, vocational schools, or technical schools, which do not provide baccalaureates. These “last resort” institutions are disconnected from employers’ needs.<sup>206</sup> In addition, the Hungarian government recently lowered the age of compulsory education from 18 to 16, forcing many Roma students to leave school early.<sup>207</sup> The government has also reduced the number of available spots in state-financed universities and state-financed scholarships for disadvantaged students.<sup>208</sup> At the secondary level,

the discrepancies in participation are extreme, as only 10 percent of Roma youth attend secondary education, compared with 80 percent of non-Roma.<sup>209</sup> Segregation and the poor quality of education partially explain this gap.

At the tertiary level, the data is even more worrying. According to a UNDP/World Bank/ EC household survey, less than one percent of young Roma completed university in all countries included in the survey, including Hungary.<sup>210</sup>

Hungary’s education system exacerbates social inequalities, as it lacks the capacity to compensate for the disadvantages arising from social background.<sup>211</sup> Roma children are routinely grouped with less advanced students and receive a lower quality education in terms of curriculum, classroom activities, and instruction. Researchers have noted that as the proportion of Roma students increases, it becomes harder to recruit and retain skilled and motivated teachers, due to inadequate compensation as well as poor infrastructure and conditions.<sup>212</sup> In addition, few teachers have the training to work in ethnically diverse environments,<sup>213</sup> which can include working with disadvantaged children and addressing discrimination and prejudice in the classroom.<sup>214</sup>

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202 REF, *Pitfalls and Bias: Entry testing and the overrepresentation of Roma children in special education*, 2012.

203 FRA, *Education: The Situation of Roma in 11 EU Member States*, Vienna, Austria: FRA, 2014, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf).

204 Decade of Roma Inclusion, *Progress Report 2012*, 2012.

205 G. Kertesi and G. Kezdi, *The Roma/Non-Roma Test Score Gap in Hungary*, American Economic Review, American Economic Association, 101/3, 2011.

206 REF, *Roma Inclusion in Education*, Strasbourg: REF/European Union, 2010, [http://www.romaeducationfund.hu/sites/default/files/publications/roma\\_inclusion\\_in\\_education\\_position\\_paper.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/roma_inclusion_in_education_position_paper.pdf).

207 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

208 Decade of Roma Inclusion Secretariat Foundation, *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategies and Decade Action Plan in*

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*2012 and 2013 in Hungary*, 2013.

209 Chance for Children Foundation, European Roma Rights Centre, Foundation for the Women of Hungary, Hungarian Association for Persons with Intellectual Disability, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Legal Defense Bureau for National and Ethnic Minorities, Minority Rights Group International, People Opposing Patriarchy, The City is For All, *Hungary-Submission to the UN Universal Periodic Review*, 2010, <file:///C:/Users/mlm500/Downloads/2010%20Joint%20submission%20to%20UPR%20HU.%20ERRC.pdf>

210 UNDP, *Roma Education in Comparative Perspective*, Bratislava: United Nations Development Programme, 2012, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

211 Decade of Roma Inclusion Secretariat Foundation, *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategies and Decade Action Plan in 2012 and 2013 in Hungary*, 2013.

212 A. Kegye and C. E. Morteau, *Handbook on Tackling the Segregation of Roma Children in Nursery and Primary Schools: From Investigation to Decision Making*, Part one, 2013.

213 REF, *Roma Inclusion in Education, Position paper of the Roma Education Fund for the High Level Meeting on Roma and Travellers*, Strasbourg: Council of Europe, October 20, 2010.

214 United Nations, General Assembly, Human Rights Council fourth session, *Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council.” Report of the Independent Expert on minority issues. Addendum. Mission*



Surveys show that at the society level, 60 percent of Hungarians describe criminality as existing in the “gypsy blood,”<sup>215</sup> whereas 42 percent of them agreed that Roma should be denied access to clubs, and two-thirds stated they would not allow their children to have Roma friends.<sup>216</sup> Such strong prejudices make the desegregation processes, and broadly the social inclusion project, difficult. There is a growing intolerance at societal level; as evidenced by demonstrations and marches, people are emboldened by the anti-Roma discourse. The ERRC notes that “Roma individuals and communities continued to be victims of intimidation, hate speech, and various violent physical attacks throughout the last two years.”<sup>217</sup> There are also credible reports of persistent discrimination by police, including racial profiling, physical and verbal abuse, and a failure to investigate hate crimes against the Roma.<sup>218</sup>

### Legal and Policy Framework in Hungary

Hungarian institutions adopted relevant anti-discrimination and anti-segregation measures during and after the EU pre-accession period. Viktória Mohácsi led efforts to secure a reform package that included laws, a financial incentive system, and a network to monitor desegregation.

During the Socialist-led coalition from 2002 to 2010, inclusive education efforts accelerated with the help of a strong partnership with Roma civil society. The Ministry of Education created a new ministerial appointment, the commissioner for the integration of Roma and socially disadvantaged children. Viktória Mohácsi, later a Roma Member of the European Parliament, held the position

from 2002 to 2005. Gabor Daroczi was the ministerial commissioner from 2005 to 2006.<sup>219</sup> The government also appointed a political state secretary for Roma matters in the Prime Minister’s Office and created an Office for Roma Matters.

As part of the reform package, in 2002, Viktória Mohácsi and her team contributed an amendment to the 1993 Hungarian Public Education Act (PEA) that aimed to prohibit “discrimination, indirect discrimination and segregation.”<sup>220</sup> Since the government does not collect ethnic data by law, the desegregation measures proposed to target children based on socioeconomic criteria,<sup>221</sup> but Roma children are often included since they make up around half of all socially disadvantaged children.<sup>222</sup>

The Act on Equal Treatment and the Promotion of Equal Opportunities (ETA) adopted in 2003, just before the Hungarian accession to the EU, prohibits direct discrimination, indirect discrimination, harassment, segregation, and retribution by public and private actors on 19 grounds, including race and ethnic origin.<sup>223</sup> It also expressly prohibits segregation, defined as “a conduct that separates individuals or groups of individuals from other individuals or groups of individuals in a similar situation on the basis of their characteristics as defined in Article 8, without any law expressly allowing it.”<sup>224</sup> Under this definition, lawful segregation thus includes the free choice of parents to send their children to other schools or provide their children with ethnic or national minority education.<sup>225</sup>

to Hungary, 2006 and Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

215 TARKI Social Research Institute and Friedrich Ebert Stiftung, *The Roots of Radicalism and Anti-Roma Attitudes on the Far Right*, 2012, [http://www.tarki.hu/hu/news/2012/kitekint/20121122\\_bernatkreko\\_prezentacio.pdf](http://www.tarki.hu/hu/news/2012/kitekint/20121122_bernatkreko_prezentacio.pdf).

216 Hungary Around the Clock, “International ‘radicalism index’ puts Hungary fifth of 33 countries; belief in genetic roots of Roma crime widespread,” December 5, 2011, <http://www.politics.hu/20111205/international-radicalism-index-puts-hungary-fifth-of-33-countries-belief-in-genetic-roots-of-roma-crime-widespread/>.

217 ERRC, *Written comments by the European Roma Rights Center concerning Hungary. For consideration by the European Commission on the transposition and application of the Race Directive and on the legal issues relevant to Roma integration*, 2013.

218 United Nations, General Assembly, Human Rights Council, Twentieth session, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Addendum, Mission to Hungary*, 2012.

219 G. Kezdi and E. Suranyi, *A Successful School Integration Program*, REF, 2009, [http://www.romaeducationfund.hu/sites/default/files/documents/ooih\\_english\\_kezdi.pdf](http://www.romaeducationfund.hu/sites/default/files/documents/ooih_english_kezdi.pdf).

220 UNICEF, *A Review of the Roma Education Initiatives in Central and South-Eastern Europe*, 2010.

221 Decade of Roma Inclusion, *Progress Report 2012*, 2012.

222 J. Greenberg, *Report on Roma Education Today: From Slavery to Segregation and Beyond*, Columbia Law Review, vol. 110, no. 4, May 2010.

223 United Nations, General Assembly, Human Rights Council, Twentieth Session, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Addendum, Mission to Hungary*, 2012.

224 Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, <http://www.egyenlobanasmod.hu/data/SZMM094B.pdf>.

225 A. Kegyé and C. E. Morteau, *Handbook on Tackling the Segregation of Roma Children in Nursery and Primary Schools: From Investigation to Decision Making*, Part One, 2013.

The Equal Treatment Authority, an administrative body, was established under the Ministry of Public Administration and Justice.<sup>226</sup> The body is responsible for looking into cases on its own initiative as well as receiving and investigating individual complaints, *actio popularis* actions submitted by civil society and advocacy organizations. Its decisions are binding and can be made public.<sup>227</sup>

The ETA establishes a favorable burden of proof for victims of discrimination on one of the protected grounds.<sup>228</sup> It also facilitates group justice through *actio popularis* claims, a procedure that confers legal standing to prosecutors including the Equal Treatment Authority, among others, on civil society and advocacy organizations to litigate on their own name broad patterns of discrimination<sup>229</sup> if “the violation or the direct threat of equal treatment is due to a characteristic that is essential to the personality of the individual and the violation or the threat affect a larger group of individuals that cannot be defined precisely.”<sup>230</sup>

The Ministry of Education approved the Decree 57/2002 that aims to achieve integrated and quality education for Roma and other disadvantaged groups and offers guidance and support to schools willing to commit to desegregation. A per-capita financing system for integrated education was part of the decree. The government offered financial incentives to municipalities to integrate schools with a higher proportion of Roma children. In 2006, the PEA was amended to require towns and villages to prepare equal opportunity action plans and ensure a balanced distribution of socially disadvantaged children.<sup>231</sup> The per capita financing put in

place was also translated into more funds for desegregation (J. Szira, FXB Interview, October 1, 2013). The National Integration Network was established in Budapest to coordinate and monitor the implementation of the desegregation plans of kindergartens, schools, and community centers. The network included 53 offices throughout Hungary.<sup>232</sup> In 2008, the Parliament required all local schools to develop equal opportunity plans.

Local educational authorities have had the power to decide whether a school would participate in the integration program, irrespective of the community’s needs or opinions. However, many local governments have not taken advantage of desegregation funding. In addition, the funding was primarily designed for mixed schools and classes; therefore Roma-only schools did not benefit from funds that would allow them to increase the quality and improve the infrastructure of the school. Residential segregation, selectivity in the school system, and white-flight were not targeted. The research available shows that the number of Roma in segregated schools or classes has not decreased significantly. In fact, from 1980 to 2011, the overall trend has indicated an increase in ethnic segregation in schools, with a small decrease between 2006 and 2008.<sup>233,234</sup> Broadly, the whole reform put in place by Mohacsi and her staff has been significantly impacted by the decentralized system of education, which has shown mixed results for the Roma. The translation of international commitments and national policies that relate to Roma into real measures has been a continuous challenge for Roma advocates in the whole region, largely due to the presence of these decentralized systems.<sup>235</sup> The challenge here was not only to enact good laws and policies, but also to convince local authorities to understand the benefits of implementation. As Rorke shows, there

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226 United Nations, General Assembly, Human Rights Council, Twentieth Session, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Addendum, Mission to Hungary*, 2012.

227 Ibid.

228 A. Kegye and C. E. Morteau, Handbook on Tackling the Segregation of Roma Children in Nursery and Primary Schools.

229 L. Farkas, *Limited Enforcement Possibilities under European Anti-Discrimination Legislation: A Case Study of Procedural Novelties: Action Popularis Actions in Hungary*, Erasmus Law Review, Volume 3, Issue 3, 2010.

230 [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0300125.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0300125.TV)

231 L. Farkas, *Limited Enforcement Possibilities under European Anti-Discrimination Legislation*.

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232 M. G. Sleeper, *The Movement Towards Anti-Discrimination and Integration of Roma in Hungary*, Columbia University School of Law, 2003.

233 G. Kertesi and G. Kezdi, *Ethnic Segregation between Hungarian Schools: Long-Run Trends and Geographic Distribution*, Hungarian Statistical Review, 2012.

234 G. Kertesi and G. Kezdi, *School Segregation, School Choice, and Educational Policies in 100 Hungarian Towns*, 2013.

235 For instance, the well-known health mediators program in Romania experienced a breakdown when the decentralization process was put in place in the Romanian health system. A significant number of health mediators could not continue their contracts, since although paid by the Ministry of Health, mayors refused to have them in the municipality office.

are political relations, interests, and prejudice involved at the community level. For instance, the authorities in Miskolc have requested per capita funds for integration and have reported desegregation, but in reality, segregation has persisted.<sup>236</sup>

Between 2002 and 2010, Hungarian institutions advanced significantly in adopting desegregation and anti-discrimination measures. These measures included the reversal of the burden of proof, *actio popularis*, the adoption of a national plan that included legislative and policy measures, financial support, and a monitoring system to achieve desegregation.

However, although segregation is prohibited by law, there is no requirement for inclusive education, nor do adequate teacher training or cultural sensitivity programs exist.<sup>237</sup> Moreover, the government invokes the protection of sensitive data provisions as grounds for refusing to provide data on segregation levels in schools. This restriction impedes civil society efforts to hold the government accountable for its obligations to prevent discrimination and ensure equal treatment.<sup>238</sup>

The minority education system was an additional factor that influenced the desegregation process. Hungary's 1993 Law on the Rights of National and Ethnic Minorities recognized 13 official minority groups, including the Roma. Minority groups were entitled to establish national and local minority self-governments<sup>239</sup> and to run local minority schools.<sup>240</sup> Legislation also provided for the teaching of minority languages in public

education, most commonly as a second or foreign language option.<sup>241</sup> The new 2011 Act on the Rights of Nationalities stipulates that "all ethnic groups resident in Hungary for at least one century are nationalities which are in numerical minority amongst the population of the State, are distinguished from the rest of the population by their own language, culture and traditions and manifest a sense of cohesion that is aimed at the preservation of these and at the expression and protection of the interests of their historically established communities."<sup>242</sup>

Some experts argue that Hungary's minority education system has actually contributed to school segregation.<sup>243</sup> Several municipalities have used the Roma education framework to maintain separate schools and classes with inferior facilities, unskilled staff, and poor curricula.<sup>244</sup> This arrangement forces Roma parents to choose between inferior minority education and regular education offering better opportunities (J. Szira, FXB Interview, October 1, 2013). In some cases, Roma parents who consent to minority classes may not even be aware that their children are receiving an inferior education.<sup>245</sup>

### The Fate of Hungary's Desegregation Policies

Since the Fidesz government returned to power in 2010, it has affirmed its commitment to school integration "via a direct support system based on conditions of equal opportunity."

236 Bernard Rorke, *Civic Advocacy: Desegregation*, 2002.

237 Chance for Children Foundation, European Roma Rights Centre, Foundation for the Women of Hungary, Hungarian Association for Persons with Intellectual Disability, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Legal Defense Bureau for National and Ethnic Minorities, Minority Rights Group International, People Opposing Patriarchy, The City is For All, *Hungary-Submission to the UN Universal Periodic Review*, 2010, <http://www.errc.org/cms/upload/file/hungary-upr-08112010.pdf>.

238 A. Kegye and C. E. Morteau, *Handbook on Tackling the Segregation of Roma Children in Nursery and Primary Schools: From Investigation to Decision Making*, Part One, 2013.

239 United Nations, General Assembly, Human Rights Council Fourth Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled "Human Rights Council." Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006.

240 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

241 United Nations, General Assembly, Human Rights Council Fourth Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled "Human Rights Council." Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006; Chance for Children Foundation, European Roma Rights Centre, Foundation for the Women of Hungary, Hungarian Association for Persons with Intellectual Disability, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Legal Defense Bureau for National and Ethnic Minorities, Minority Rights Group International, People Opposing Patriarchy, The City is For All, *Hungary-Submission to the UN Universal Periodic Review*, 2010.

242 The 2011 Act on the Rights of Nationalities, <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF%282012%29014-e>.

243 United Nations, General Assembly, Human Rights Council Fourth Session, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled "Human Rights Council." Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006.

244 L. H. Balogh, *Minority Cultural Rights or an Excuse for Segregation? Roma Minority Education in Hungary in Education Policy and Equal Education Opportunities*, OSF, 2012.

245 Ibid.

As part of its centralization efforts, Hungary has begun to channel students from the expensive special education system into mainstream schools. The government has also amended its testing, assessment, and referral procedures for special schools. This has lowered the identification rate of children with special needs, but a lack of ethnic data makes it impossible to determine whether Roma children have actually benefited.

Yet some governmental developments run contrary to integration goals, such as lowering the age of compulsory schooling, eliminating financial incentives to teach in integrated schools, reopening segregated, church-run schools, and failing to address white flight. Some experts argue that the government's efforts to nationalize Hungary's schools and to centralize its curriculum and teaching methods are a missed opportunity to create a mainstream, inclusive pedagogy. Instead, it represents a uniform approach to education that increasingly leaves Roma and other disadvantaged children behind.<sup>246</sup> More and more, schools and public education are controlled by the state and teachers must obtain a membership to a professional association (J. Szira, FXB Interview, October 1, 2013). Nevertheless, decentralization has also affected Roma education, as it was revealed when some local authorities rejected the desegregation measures adopted by the government.

Segregation is emerging in new forms as well. The Ministry of Human Resources has financed the reopening of a "catch up" school in a Roma settlement in Nyíregyháza, the city involved in the *Horváth and Kiss vs. Hungary case* at the ECtHR. The school is run by the Greek Catholic Church, which also manages a mainstream non-Roma school just a few kilometers far from the Roma settlement. The ministry argues that the school is not an instance of segregation, but rather "the opposite," stating that the new school gives Roma students a specialized "catch up" curriculum in preparation for later integration and that it provides students with free school choice. The CFCF has filed a complaint against the school and the Ministry of Human Resources, arguing that the school was segregating Roma

children. In February 2014, the Court ruled in favor of CFCF,<sup>247</sup> but in 2015 the Supreme Court ruled in favor of Roma-only religious schools.<sup>248</sup> In this particular case, the Roma children should have easily be placed in the mainstream school together with their non-Roma peers, as the other school was not far away.

Residential segregation opens a lot of debates concerning the best methods to offer quality education and remedy discrimination. Some opt for maintaining an ethnically homogenous environment that allows for introduction of Roma elements to the school curriculum. Others are more in favor of combating segregation as a more predictable indicator of better education. This debate continues amongst Roma advocates throughout the CEE region.

## 2. Segregation Patterns and Consequences

Experts identify four forms of segregation in Hungary: 1) *intra-school segregation*, referring to separate all-Roma classes, in which students are taught either according to the general curriculum or according to an inferior curriculum; 2) *intra-class segregation*, in which pupils are taught according to different standards/curricula within the same classroom; 3) *inter-school segregation*, which refers to all-Roma schools that have resulted by regional or housing separation; and 4) *individual segregation*, which involves the practice of offering the option of home schooling for Roma pupils (L. Farkas, FXB Interview, October 1, 2013). In this case study, in line with the whole report, we differentiate between *segregation of Roma children in special schools, Roma-only schools, and Roma-only classes*.

### Special Schools

Roma children have been systematically misdiagnosed with mental disabilities and transferred to remedial schools and classes, as reported by NGOs, community members, intergovernmental organizations, and

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246 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

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247 BBC, *Hungary Court Orders School Closure over Roma Segregation*, February 28, 2014, <http://www.bbc.com/news/world-europe-26390357>.

248 CFCF, *Supreme Court of Hungary allows Roma-only religious schools*, <http://www.cfcf.hu/>

academics.<sup>249</sup> Roma children make up 10 percent of the total student population, but 30 percent to 90 percent of the students in remedial schools.<sup>250</sup>

Powerful financial incentives perpetuated this form of segregation, and political and social interests have also complicated the picture. For instance, Hungary's special education system formerly received funding on a per capita basis, which fueled recruitment of potential students in Roma neighborhoods (J. Szira, FXB Interview, October 1, 2013). Municipalities received higher per capita funding for children with mental disabilities, resulting in institutional quotas and fueling recruitment in Roma neighborhoods. In addition, Roma parents were not informed of the long-term consequences of consenting to placement in special education (J. Szira, FXB Interview, October 1, 2013). Once transferred, like the example of István and András showed, Roma children were not adequately reassessed or monitored, meaning they had little to no chance of being reintegrated into mainstream education.

According to the new governmental rules, education budgeting is now centralized. However, educators in remedial schools fear that integration will eliminate their jobs, and mainstream educators fear an increase in their workloads.<sup>251</sup>

Misdiagnoses and placement of Roma children in special schools and classes is also fueled by discriminatory psychological and pedagogical arguments, flawed and culturally/racially biased testing methods, and poor oversight of the relevant professional bodies.<sup>252</sup> In 2012, a REF study showed a continuation of the placement of Roma children in special schools under the excuse of bad diagnostic testing results.<sup>253</sup>

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**249** United Nations, General Assembly, Human Rights Council Forth Session, *Implementation of General Assembly resolution 60/251 of March 15, 2006 entitled "Human Rights Council." Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006.

**250** REF, *Pitfalls and Bias: Entry Testing and the Overrepresentation of Roma Children in Special Education*, 2012.

**251** M. Matache and S. Dougherty, *Equal, But Not in Our Yard: Closed Thinking on the Inclusion of Roma Children in Europe*, Center for European Studies, Harvard, 2014.

**252** REF, *Roma Inclusion in Education*, 2010; J. Geller, *Horváth and Kiss vs. Hungary: The Misdiagnosis Case*, Roma Rights, ERRC, January 6, 2014.

**253** REF, *Pitfalls and Bias: Entry Testing and the*

The Educational Counseling Service (ECS) and the Rehabilitation Committee of Experts Examining the Ability to Learn are tasked with assessing children for intellectual and developmental disabilities. National committees assess and diagnose intelligence and personality in the context of physical disabilities, while county/local committees diagnose or rule out intellectual disability, autism, and psychiatric disorders and whether disorders have organic origins. A teacher may refer a child to the ECS for assessment for school readiness. Under Hungarian law, it can be justifiable to transfer children to special education based on the concept that the socio-cultural background of the children delays their mental development.<sup>254</sup> According to ERRC, "the concept of familial disability developed exclusively for the Roma and the concept of socio-economic disadvantage characteristic of the Roma were used as factors which legitimized placement in special schools and IQ scores on mild mental disability did not comply with WHO standards."<sup>255</sup> Similarly, children with learning or behavioral disabilities (category B) are entitled to remedial education in mainstream schools. However, children with organic special needs or cognitive disabilities (category A) can be sent to special schools and classes. Roma children are overrepresented only in the mild intellectual disability category (L. Farkas, FXB Interview, October 1, 2013). This subjects them, along with the other children, to a reduced curriculum, and as a result, they are never able to catch up and avail themselves of their legal right to reintegration. Even though parental consent is required, parents may not be fully aware of their rights or of the long-term consequences of placement in special education, so they often give their consent.

The special school system, as a whole, prevents children with actual or misdiagnosed disabilities to integrate in the broader community, and benefit from mainstream school. Remedial education is "the last resort for socially and academically excluded young people, many of whom are Roma. The system is disconnected from employers'

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*Overrepresentation of Roma Children in Special Education*, 2012.

**254** J. Geller, *Horváth and Kiss vs. Hungary: The Misdiagnosis Case*; REF, *Pitfalls and Bias*.

**255** ERRC, Comments in reply to the observations of the Government of Hungary (GO) concerning the Application No. 11146/11., 2012.

needs, with few apprenticeship opportunities and high drop-out rates, i.e. around 20-25 [percent] in grades nine and 10.”<sup>256</sup>

### Roma-only Schools and Classes

Segregation in Roma-only schools affects a large number of Roma children in Hungary. For instance, in 2009, segregated Roma-only schools existed in 170 localities in Hungary. Residential segregation, student mobility, proportions of Roma students in schools, and local education policies strongly affect segregation in Roma-only schools. Researchers have found that from 1980 to 2011, ethnic segregation has increased,<sup>257</sup> but did note a decrease between 2006 and 2008.<sup>258</sup>

In 2008, the Hungarian Supreme Court ruled that the Hajdúhadház Education Authority and two primary schools had discriminated against 500 Roma children by unlawfully enrolling them in separate classes and school buildings.<sup>259</sup>

Segregation often takes place in mainstream schools through the mechanism of “free choice.”<sup>260</sup> According to this mechanism, parents may choose to send their children to non-local schools, while schools can select which students to accept or exclude from outside their catchment area.<sup>261</sup> Thus, it would seem as though free choice would naturally reduce the level of segregation by permitting minority students to commute to schools in majority neighborhoods. However, what actually happens is different: majority students also become more mobile and, subsequently, commute to non-local schools, increasing segregation and inter-school inequalities. The “white flight” phenomenon is another consequence, which occurs when Roma enrollment in a school increases to a point that

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256 REF, *Roma Inclusion in Education*, 2010, [http://www.ose.be/files/midi\\_OSE/RomaInclusionEducation\\_PositionPaperREF.pdf](http://www.ose.be/files/midi_OSE/RomaInclusionEducation_PositionPaperREF.pdf).

257 G. Kertesi and G. Kezdi, “Ethnic Segregation between Hungarian Schools: Long-Run Trends and Geographic Distribution,” *Hungarian Statistical Review*, 2012.

258 In Hungary, sociologists who examine the ratio of the Roma and non-Roma children in schools consider segregation to exist if more than 50% children in a classroom are Roma.

259 More about CFCF can be found here: <http://www.cfcf.hu/en>.

260 REF, *Roma Inclusion in Education*, 2010.

261 United Nations, General Assembly, Human Rights Council Fourth Session, *Implementation of General Assembly Resolution 60/251 of March 15, 2006 entitled “Human Rights Council.” Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006.

the best teachers leave and non-Roma parents withdraw their children.

Therefore it’s yet to be determined how the mechanism of free choice could be used in favor of desegregation, and how Roma parents could use it more efficiently. Parents and advocates could highlight the 2005 amendments to the Public Education Act (PEA), which require schools to accept “disadvantaged students” first and to guarantee a certain ethnic balance in the student body, in their arguments for desegregation.<sup>262</sup>

In mainstream schools, Roma students are often placed in Roma-only classes or “C” classes (*Cypany* is the pejorative term for Roma in Hungarian) with either a regular or reduced curriculum. This occurs due to per capita financing of school budgets, which incentivizes school administrators to attract as many students (including Roma students) as possible. However, “to prevent the ‘emigration’ of non-Roma children, which usually happens as a consequence of the rising proportion of Roma students, some schools set up segregated classes for Roma students. These segregated classes can, in most cases, also be found in separate, lower quality buildings,”<sup>263</sup> also known as satellite schools. In *Horváth and Kiss vs. Hungary*, the government’s justification for such practices was to “protect” the education of majority students from the specific needs and distractions of Roma students.

Lastly, under the pretext of improvement, Roma children are segregated in second-chance schools. Occasionally, Roma may be targeted for added academic support, such as the extracurricular “afternoon school” (*Tanoda*) program, which has been described as a good practice.<sup>264</sup> In other instances, however, the government also finances segregated “second-chance” or “catch up” schools that had been maintained by churches, but were previously closed due to litigation and advocacy by civil

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262 United Nations, General Assembly, Human Rights Council fourth session, *Implementation of General Assembly resolution 60/251 of March 15, 2006 entitled “Human Rights Council.” Report of the Independent Expert on minority issues. Addendum. Mission to Hungary*, 2006.

263 REF, *Roma Inclusion in Education*, 2010.

264 Decade of Roma Inclusion Secretariat Foundation, *Progress Report 2012*, 2012.

society organizations.<sup>265</sup> While their stated purpose is to support integration, in practice the institutions offer inferior quality education without any mechanisms to reintegrate children into mainstream schools. The same churches often run elite, non-Roma schools just kilometers away.<sup>266</sup>

### 3. Strategies and Tactics Used by CFCF to Advance Desegregation

Under the leadership of CFCF, the NGO community in Hungary has been challenging all of these forms of segregation through litigation, community interventions, research, and advocacy to change the policies and measures in place.

The Chance for Children Foundation was established in 2004 to fight structural discrimination against Roma and other socially disadvantaged children in public education. It is the only organization in Hungary, and broadly in the CE Europe, with desegregation as its main focus. It uses a range of litigation, advocacy, and community organizing tools to eliminate segregation and promote integration.

From 2005 to 2008, CFCF focused on school segregation created or maintained by local governments and schools. From 2009 to 2011, CFCF also challenged the Ministry of Education and central authorities for failing to address segregation and pursued individual cases of misdiagnosis. Most recently, CFCF has focused on unusual forms of segregation, such as private foundations and church schools.<sup>267</sup>

In 2008, CFCF won an unprecedented Supreme Court decision for the Hajdúhadház case, which stated that schools have the legal obligation to remedy residential segregation and the

resulting school segregation through integrated education. In 2010, another two Supreme Court decisions established important milestones in desegregation. CFCF, with the support of a law firm, succeeded in claiming damages in the amount of 100,000 HUF (approximately 300 Euro) for each of the five Roma adolescents who attended segregated primary schools in Miskolc. The other case created a landmark decision in the field, as the Supreme Court established that the court can make clear desegregation orders (e.g. a desegregation plan submitted by the plaintiffs in a segregation case can be enforced as part of the court ruling). Other distinctive results were gained through strategic litigation. In 2010, the Miskolc municipality decided to close the József Attila Primary School, citing segregation as one of the reasons. In the same year, the Supreme Court found the county council and the expert panel that had diagnosed the children in Nyíregyháza with developmental and/or learning disabilities liable of misdiagnosing Roma children and awarded compensations to the victims.<sup>268</sup>

CFCF also brought the *Horváth and Kiss vs. Hungary* case before the ECtHR to prove the abusive placement of Roma children in special schools and to create a jurisprudence to support other cases in Hungary.

Using settlement as a means to achieve desegregation was another strategy used by CFCF. For instance, in Taktaharkány, the Equal Treatment Authority mediated the negotiations between CFCF and the school, and as a result, the school agreed to tackle inequalities documented by CFCF in selection of the children for SEN (special educational needs) and talented classes, as well as for meals.<sup>269</sup>

Along with strategic litigation, CFCF's work involves advocacy efforts in the desegregation area as well as community work aiming to support Roma children who transition from segregated to mainstream educational environments.

In its desegregation endeavor, CFCF often partners with ERRC for litigation purposes, given

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265 Decade of Roma Inclusion Secretariat Foundation, *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategies and Decade Action Plan in 2012 and 2013 in Hungary*, 2013.

266 J. Greenberg, *Report on Roma Education Today: From Slavery to Segregation and Beyond*, Columbia Law Review, Volume 110, No. 4, May 2010.

267 A. Kegye and C. E. Morteau, *Handbook on Tackling the Segregation of Roma Children in Nursery and Primary Schools: From Investigation to Decision Making*, Part Two, 2013.

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268 CFCF, *Annual Report 2010*, 2010, <http://www.cfcf.hu/en/about-us/annual-reports/187-beszamolo2010.html>.

269 Ibid.

ERRC's<sup>270</sup> proven expertise and experience in litigation at both the national and European level. CFCF also partners with the Roma Education Fund (REF), a Budapest based foundation, which aims to ensure quality education and desegregation in the region.

Since its establishment, CFCF has succeeded to systematically tackle all forms of segregation present in Hungary. It has also used diverse and complementary tools that have involved litigation, advocacy, community work, and strategic partnerships.

### **Strategic Litigation: *Horváth and Kiss vs. Hungary Case***

*Horváth and Kiss vs. Hungary* was the first CFCF case that addressed the practice of Roma children being both misdiagnosed and subsequently placed in remedial schools.<sup>271</sup> According to CFCF, “[t]he case grew out of a strategic litigation effort initiated by then Member of European Parliament, Viktória Mohácsi. The clients were handpicked out of 60 children by experts. In 2005, five sets of cases were taken to civil courts in Hungary, and the only one that succeeded in at least one domestic instance was *Horváth and Kiss*. The Hungarian Roma rights movement sought to establish much of what the ECtHR found in this case.”<sup>272</sup>

Referenced anecdotally at the beginning of this case study, István Horváth and András Kiss are two Roma men from the city of Nyíregyháza who, in elementary school, were misdiagnosed with mental disabilities and placed in the Göllesz

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<sup>270</sup> The ERRC is a Budapest-based international public interest law organization working to combat anti-Roma racism and human rights abuses through strategic litigation, research and policy development, advocacy, and human rights education. Since 2004, it has pursued over 500 court cases in 15 countries to litigate cases and patterns of discrimination and violence and ensure equal access to education, housing, health care, public services and justice. The ERRC supports local lawyers in domestic legal proceedings and prepares legal submissions to international courts, including the European Court of Human Rights (ECtHR), the European Committee of Social Rights and UN treaty bodies. ERRC played an important role in challenging school segregation of Roma children in successful cases such as *D.H. and Others vs. The Czech Republic* (2007), *Sampanis and Others vs. Greece* (2008), *Oršuš and Others vs. Croatia* (2010), or *Horváth and Kiss vs. Hungary* (2013).

<sup>271</sup> Before, CFCF's focus was on the litigation of segregation in mainstream schools and classes.

<sup>272</sup> L. Farkas, *Misdiagnosis is a Form of Racial Discrimination: Interpreting the Horváth and Kiss vs. Hungary Judgment*, CFCF, 2013.

Viktor Remedial Primary and Vocational School. These school decisions made more than a decade ago continue to affect István's and András's opportunities for jobs as well as social and economic stability.

Prior to school enrollment, István Horváth, born in 1994, attended a local nursery. Due to illness, he missed many classes and consequently performed badly on tests. In 2001, without considering the causes of his absenteeism and his poor results, the nursery requested István's examination by an expert panel, based on a claim that “his mental and social abilities were lower than normal for his age, which showed in his sense of logic, drafting skills, and communication.”<sup>273</sup> The Expert and Rehabilitation Panel of Szabolcs-Szatmár-Bereg County had asked István's parents to sign the expert opinion prior to the examination, and it had also informed them about István's placement in a remedial school prior to the tests. The expert panel concluded that István had mild mental disabilities, was “two and a half years behind normal,” and had an “immature central nervous system.” Thinking back to this experience, István recalls, “I didn't understand why I had to go to a special school. I had the feeling that I just didn't belong there. As a child, I had the impression that I didn't fit in. They told me that I had to go there because I could hardly understand what I was told. It hurt me so much when the psychologist said this to me. I wanted an explanation but she just grabbed her bag and left.”<sup>274</sup> The courts that decided on István and András's complaint have been effective at identifying the errors in the testing system and examining how such a neutral measure has affected Roma children, including István and András. However, the fact that the expert panel had made their decision prior to the test and even asked the parents to sign consent was not questioned either as an intention to discriminate or simply as direct discrimination.

Prior to school enrollment, in January 1999, a local pedagogical advisory committee diagnosed András Kiss with learning difficulties caused by his

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<sup>273</sup> ECtHR second section case of *Horváth and Kiss vs. Hungary*, Judgment, Strasbourg, January 29, 2013, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#%7B%22item\\_id%22:%5B%22001-116124%22%7D](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#%7B%22item_id%22:%5B%22001-116124%22%7D).

<sup>274</sup> I. Horváth, Interview Testimonial DARE, Budapest, 2014.



“disadvantaged social and cultural background.” The committee concluded that he should attend a special program in a mainstream school. In September 1999, András Kiss, born in 1992, enrolled at school in the mainstream Primary School Nr. 13 in Nyíregyháza. In December of the same year, the school requested to have András examined by an expert panel, as he “had poor results, was often tired, his attention was volatile, and his vocabulary poor.”<sup>275</sup> Although András’s IQ results conflicted with other tests, the expert panel conclusions did not include information explaining the discrepancy, but instead unequivocally determined András with mild mental disabilities. Consequently, András was placed in the Göllesz Viktor Remedial Primary and Vocational School. Although both children were re-examined by the expert panel a few times, despite significant progress (i.e. András was an A grade student), they were kept in remedial education.

Neither István’s nor András’ parents had been informed about their right to appeal the expert panel decision regarding their children’s diagnoses. Both families did not approve of the decision, and István’s father signed only the first evaluation in 2001. The 2007 ECtHR judgment in *DH and Others vs. Czech Republic*—in which the Czech government argued that in placing Roma children in special school, the written consent of their legal guardians was a decisive factor—was useful for CFCF in developing an argument on parental consent in their case. In its 2007 judgment, the ECtHR concluded that “any such consent would signify an acceptance of the difference in treatment, even if discriminatory, in other words a waiver of the right not to be discriminated against.”<sup>276</sup>

### Domestic Litigation

In 2005, CFCF partnered with REF and organized a summer camp in Felsotarkany for 60 Roma children who had been diagnosed with mental disabilities and placed in remedial schools. REF invited independent experts to test the children,

and they reported a “consistent misdiagnosis.”<sup>277</sup> The aim of the independent testing was to provide CFCF with a valid argument concerning misdiagnosis to be used later on in court. On November 13, 2006, after receiving the experts’ conclusions, the CFCF supported the applicants’ efforts to sue the expert panel, the county council, and the remedial school in Szabolcs-Szatmar-Bereg Regional Court, claiming violations of the right to equal treatment and education. The applicants argued that the expert panel had discriminated against István and András and misdiagnosed them. Additionally, they argued that there had been systemic errors in the diagnostic system, which did not take into account the social and cultural background of Roma children, and that, in violation of the applicable rules, their parents had not been informed of the panel’s procedure.

The regional court ordered Horváth and Kiss to be tested by the National Expert and Rehabilitation Committee (NERC), which found in 2008 that Horváth should be taught in a special school but Kiss should not.<sup>278</sup> The NERC diagnosed Kiss with immaturity of the nervous system in addition to dyslexia, and it also assessed and recommended that he should be educated in a mainstream school. In line with CFCF’s intent to prove that the tests were culturally biased, the NERC noted that “the diagnostic methods should be reviewed, and that Roma children could have performed better in the tests if those had not been designed for children belonging to [the] other ethnic majority.”<sup>279</sup>

On May 27, 2009, the regional court found a violation of the rights to equal treatment and education and ordered the respondents to pay one million HUF (3,450 Euro) damages to each applicant.<sup>280</sup> It held that the expert panel had failed to individually identify the applicants’

<sup>275</sup> ECtHR, second section application no 11146/11, István Horváth and András Kiss against Hungary lodged on February 11, 2011.

<sup>276</sup> ECtHR, *D.H. and others vs. Czech Republic*, 2007. Available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#i%22itemid%22:\[%22001-83256%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#i%22itemid%22:[%22001-83256%22]}).

<sup>277</sup> REF, “Wrongful Placement of Roma Children in Special Schools of Europe Must Come to an End,” January 29, 2013, <http://www.romaeducationfund.hu/news/ref/news-and-events/wrongful-placement-Roma-children-special-schools-europe-must-come-end>.

<sup>278</sup> ECtHR second section case of *Horváth and Kiss vs. Hungary*, Judgment, Strasbourg, 29 January 2013, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#i%22itemid%22:\[%22001-116124%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#i%22itemid%22:[%22001-116124%22]})

<sup>279</sup> Ibid.

<sup>280</sup> DARENet, CFCF, *Guide for Monitoring and Documenting School Segregation in Hungary*, <http://www.dare-net.eu/cms/upload/file/guide-for-monitoring-and-documenting-school-segregation-hungary-english-2014.pdf>.

special educational needs and the social services administering the placement had been stalled due to restructuring and shortages. The county council and the school appealed; the expert panel did not appeal within the legal deadline. In November 2009, the court of appeal reversed and dismissed the decision. The Court accepted the remedial school's argument stating that it enrolled András and István based on the expert panel decision. It also concluded that there was no connection between the Roma origin of the applicants and the lack of appropriate diagnostic methods. Nevertheless, it acknowledged that a new diagnostic testing system is necessary in Hungary in order to address cultural, linguistic, and social differences among the children. Disagreeing with the decision, CFCF and the applicants used the existing ECtHR jurisprudence on segregation of Roma children in special schools (*DH and Others vs. Czech Republic*, discussed in the Czech Republic case study) to submit a request before the supreme court. However, in August 2010, the Supreme Court held that the remedial school and the county council had not violated the right to equal treatment as neither direct nor indirect discrimination had occurred. Yet, it also held that the expert panel had violated the parents' rights and considered the county council responsible for deficient control. The court upheld the first decision regarding the payment of one million HUF to each applicant by the expert panel and the county council. Furthermore, it acknowledged "systemic errors of the diagnostic system leading to misdiagnosis" and noted that it was the state's responsibility to create "an appropriate professional protocol, which considers the special disadvantaged situation of Roma children."<sup>281</sup>

### ECtHR Litigation

For litigation at European level, the CFCF asked for and benefited from the ERRC's support. The two applicants were represented by Lilla Farkas, the attorney acting on behalf of ERRC, who has relevant non-profit experience in building strategic litigation on school segregation as a collaborator of CFCF in addition to her institutional insights, as the former president of the Hungarian Equal Treatment Authority's Advisory Board.

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<sup>281</sup> ECtHR second section case of *Horváth and Kiss vs. Hungary*, Judgment, Strasbourg, January 29, 2013, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#%7B%22item%22%3A%5B%5D%22%7D>.

The ERRC and the attorney lodged a complaint with the ECtHR on February 11, 2011. They led the litigation before the ECtHR with the aim to prove the overrepresentation of Roma children in special schools due to a flawed system that misdiagnoses them with mild mental disabilities.<sup>282</sup> The CFCF also built on the *DH and Others vs. Czech Republic* gains in which the ECtHR established that statistical data can be used as evidence.

The applicants claimed that their placement in a remedial school violated their right to education, breaching Article 2 Protocol No. 1 of the ECHR,<sup>283</sup> in conjunction with Article 14 of the ECHR.<sup>284</sup> They also argued that the definition of "mental disability" as comprising social deprivation and/or having a minority culture amounted to bias and prejudice. Testing protocols were not developed and the threshold for disability was identified as higher than that of the World Health Organization. Moreover, the tests had been culturally biased, failing to take into account the applicants' disadvantaged status, and the examination process had not been sufficiently individualized.

The Hungarian government argued that the applicants had not been treated less favorably or differently than non-Roma children but if they had, it had an objective and reasonable justification. The government argued that the tests measured the effect of cultural deprivation on the mental development of children irrespective of ethnic origin, and these factors concerned social development, which fell outside the right to education or other rights under the ECHR. The government also showed that the regional court found the expert panel responsible for violating the rights to equal treatment and education and the Supreme Court found the county council responsible for failing to supervise the expert

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<sup>282</sup> ECtHR, second section application no. 11146/11, István Horváth and András Kiss against Hungary lodged on February 11, 2011.

<sup>283</sup> "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

<sup>284</sup> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

panel's work. It also pointed out that the applicants had been granted non-pecuniary damages. Considering these decisions, they argued that the applicants could not be considered victims within the meaning of Article 34 of the ECHR, as they already received full remedies for the violation of their rights.<sup>285</sup>

The applicants showed, however, that the national court decisions as well as the non-pecuniary damages received did not address the direct and indirect discrimination claim, but were limited to the omissions of the county council and expert panel. Moreover, ERRC argued that both István and András continued to be victims; it showed that the expert panel by itself could not change the testing system, and therefore the national court decisions did not fully address the applicants' claims on discrimination.

The application was accepted as admissible before the ECtHR with one exception: the claim regarding the unsuitability of the diagnostic tests applied to the applicants, as there was no action in national courts against it.

Further, the applicants claimed indirect discrimination, as the remedial school system and the culturally biased diagnostic tests led to a less favorable treatment of Roma children in comparison with the other children in comparable situations. The government denied both claims and in relation to the testing system argued that the "tests and standards tailored to the Roma population would have no sensible meaning from the point of view of assessing a child's ability to cope with the mainstream education system."<sup>286</sup>

### ECtHR Decision

On January 29, 2013, the judgment was publicly announced in favor of the applicants. The court held that the misdiagnosis of Roma children and their resulting segregation amounted to

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<sup>285</sup> "The Court may receive applications from any person, nongovernmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

<sup>286</sup> ECtHR second section case of *Horváth and Kiss vs. Hungary*, Judgment, Strasbourg, January 29 2013, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124#%7B%22item%22%3A%22001-116124%22%7D>.

indirect discrimination. They received a remedial education and were refused reentry into the mainstream system, even once they achieved the necessary marks. The court found that Hungary's diagnostic procedures disproportionately impacted Roma children on the basis of their ethnic origin and lacked an objective and reasonable justification for doing so. István and András jointly received 4,500 Euro for costs and expenses made before the Court. The plaintiffs could not ask for damages, as they received damages in the domestic procedures.

Undoubtedly, the amount received by each applicant before domestic and ECtHR courts are far from equalizing the financial losses and missed opportunities both applicants had as a result of their misdiagnosed and segregation. The *restitutio in integrum* principle (e.g. remedies for physical and mental harm, lost opportunities in education, and as a consequence very limited employment opportunities) it's not addressed in court decisions, but reparation programs should be considered by the Hungarian government to remedy the consequences of school segregation. Dialogue about "collective reparations" taking the form, among others, of programs and measures for child victims of segregation has not been initiated.

Nevertheless, the court introduced the concept of positive measures. It referred to the long history of discrimination against Roma children in education, requiring special consideration be given to their vulnerability.<sup>287</sup> The court emphasized that states must introduce positive measures to address past and current discrimination and "undo a history of racial segregation in special schools." However, it did not order Hungary to undergo desegregation and other related actions at the community level. In line with the Council of Europe's practice on the execution of ECtHR judgments, the government was required to address the concerns raised by the court within a specific length of time or failing that, develop an action plan detailing what measures will be taken (D. Gergeley, FXB Interview, October 1, 2013).

The ECtHR failed to make a concrete obligation on Hungary to come up with plan that "promises

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<sup>287</sup> J. Geller, *Horváth and Kiss vs. Hungary: The Misdiagnosis Case*, Roma Rights, ERRC, 2014.

realistically to work and promises realistically to work now” in order to desegregate Roma children, let alone to establish a few mandatory lines/targets for such a plan. As a parallel, in sharp contrast with the stand of the Hungary, as well as that of the European Court of Human Rights, the US Supreme Court<sup>288</sup> established the necessity of a desegregation plan that “promises realistically to work and promises realistically to work now.” Further, the school was placed under the burden to provide such a plan. This was later upheld in *Swann vs. Charlotte Mecklenburg*. By contrast, the ECtHR was reluctant to come up with a concrete obligation for the Hungarian state in the case of Horváth and Kiss. The simple request to change the testing system is insufficient to address the main finding that the same court made when it referred to the long history of discrimination against Roma children in education and noted that it required special consideration to be given to their vulnerability. To its credit, the ECtHR did address the systemic discrimination of Roma children in education, and it did so by establishing a general, vague obligation of the states to redress the situation and the obligation to change the testing system. In fact the court has the legal attributions to do so by using general measures to remedy the wrong established in the case, in addition to the individual measures. The court established such an obligation in the 2005 case of *Moldovan vs. Romania*<sup>289</sup> (judgment no. 2), where the government was asked to implement a plan in favor of a local community and the court established the main features of the plan. Additionally, in *Oršuš and Others vs. Croatia* (see the case study on Croatia) the government drafted an action plan that aimed to abolish separate classes for Roma children, integrating them into mainstream education, and monitoring concrete results; introduce complementary classes and specific programs designed to raise the language competence of Roma children; and create measures to address the problem of poor school attendance and the high drop-out rate of Roma children, including the active involvement of social services in ensuring their school attendance. The action plan also required periodic reporting by the government to the Committee of Ministers, and involvement of civil society organizations.

The implementation of the *Horváth and Kiss vs. Hungary* judgment is monitored by the Committee of

288 Green vs. County School Board of New Kent 391 US 430.

289 ECtHR, *Case of Moldovan and Others vs. Romania*, 2005, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69670#i=001-69670-22>;

Minsitry, a Council of Europe body which supervises the execution of the ECtHR judgements.<sup>290</sup> Post-judgement, the Committee of Ministers has overseen the implementation of the ECtHR individual and general measures on the case using the enhanced supervision procedure. The Committee supervises the implementation of both individual measures (e.g., costs and expenses), and general measures, which refer mainly to the tests to evaluate learning abilities of Roma children, as well as to the inclusiveness of the education policy for children with special education needs. The Committee also oversees the legislative changes and the training activities.<sup>291</sup>

### Litigation Results and Impact

It is fair to say that segregation in remedial schools persists in Hungary, despite Hungarian court decisions made at the highest level condemning such forms of discrimination, as well as policy measures adopted and implemented at the national level for over a decade. A possibly more efficient approach would be to probe the causes for the current short results and implement new models of desegregation, possibly following positive precedents adopted elsewhere.<sup>292</sup> Nevertheless, measure consistency and continuity is necessary at the level of government in order to achieve results.

*Horváth and Kiss vs. Hungary* has led to a review of the diagnostic testing system for placement of children in remedial schools and to a decrease in the number of children diagnosed with special needs (J. Szira, FXB Interview, October 1, 2013). According to the Committee of Ministers, “As a step towards ensuring more adequate testing of the learning abilities of Roma children, the Wechsler Intelligence Scale for Children (WISC-IV Child Intelligence Test) was recently standardized in Hungary on a representative sample of children.”<sup>293</sup> However, REF argues that the WISC-IV Child Intelligence Test is biased against children

290 Council of Europe, About the Committee of Ministers, 2013, [https://www.coe.int/T/CM/aboutCM\\_en.asp](https://www.coe.int/T/CM/aboutCM_en.asp).

291 Council of Europe, Committee of Ministers, Enhanced Supervision, 2013, [http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp?CaseTitleOrNumber=horvath+and+kiss&StateCode=HUN&SectionCode](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=horvath+and+kiss&StateCode=HUN&SectionCode).

292 M. Matache and S. Dougherty, *Equal, But Not in Our Yard: Closed Thinking on the Inclusion of Roma Children in Europe*, Center for European Studies, Harvard, 2014.

293 Council of Europe, Committee of Ministers, Enhanced Supervision, 2013, [http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp?CaseTitleOrNumber=horvath+and+kiss&StateCode=HUN&SectionCode](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=horvath+and+kiss&StateCode=HUN&SectionCode).

coming from a minority or socially excluded group.<sup>294</sup>

To a certain extent, the *Horváth and Kiss vs. Hungary* judgment has also contributed to the development of inclusive education mechanisms, a larger number of children being enrolled to mainstream education. However, there is an absence of current official data regarding the number of Roma children who continued to be placed in special schools, as collection of ethnic data was not legal until recently. Nevertheless, a recent resolution adopted in Hungary allows collection of ethnic data at testing, if legal guardians declare it.<sup>295</sup>

It is equally important that *Horváth and Kiss vs. Hungary* gave some sort of justice to István and András, although the non-pecuniary remedies received at domestic level and costs received at ECtHR level were far from fair, given the ongoing consequences of this practice on the job opportunities for the two young adults. Still, István's greatest desire was to prove that he should have been enrolled in a mainstream school: "Most importantly, I always wanted the court to finally establish that I did not have a disability."<sup>296</sup> The ECtHR judgement not only led to public and institutional awareness of the importance of desegregation, but also allowed the applicants to understand the phenomenon: "Now I know exactly why I was declared to have a disability: because I am a Roma."<sup>297</sup>

CFCF has been using litigation and research as arguments in their desegregation advocacy efforts. Broadly, CFCF litigation work led to desegregation in large cities where it was active and no desegregation where it was inactive (L. Farkas, FXB Interview, October 1, 2013). The ECtHR ruling, as well as the publicity of the case, has also opened the dialogue between advocates for the rights of the Roma and of people with disabilities, mostly in terms clarifying the discourse and the stigma put on mental

disability. Nevertheless, the dialogue could and should potentially transform into cooperation on a common advocacy agenda for inclusion education.

## 4. Conclusions and Recommendations

*Horváth and Kiss vs. Hungary* consolidates the existing ECtHR jurisprudence on segregation, and indicates that structural disadvantages should be addressed through positive measures. In the *Horváth and Kiss* case, the national Courts recognized the *lacunae* of the testing system, and the European Court interpreted the placement of Roma children in special schools as indirect discrimination. The strong significance of the judgment is given by the fact that the ECtHR established the state's positive obligation to "undo a history of racial segregation in special schools" and asked the government to change the testing system in place.

However, the court failed to recognize direct discrimination. Direct discrimination seemed obvious in István's case, for instance, in which the expert panel had asked the parents to sign the expert opinion prior to the examination and had informed them about István's placement in a remedial school prior to the tests. In light of this, István was not the victim of a seemingly neutral policy (the testing system) that disproportionately impacted Roma, but was rather the victim of a direct form of discrimination by being labeled with mental disability even before testing. In a 2013 paper, Lilla Farkas, the attorney representing the applicant in *Horváth and Kiss vs. Hungary* argues that under the Race Equality Directive definitions of direct and indirect discrimination, István and András had been directly discriminated against. "Once the Court suggests that the seemingly neutral criterion or practice (meaning: IQ tests or diagnosis) runs at least the risk of being culturally biased (paragraph 121 and 123), then it essentially admits that the impugned practice is biased against the Roma. In other words, it is not neutral *vis-à-vis* the Roma. This is the key finding, because seemingly neutral means that the impugned practice shall be apparently neutral *vis-à-vis* the protected ground. If tests run the risk of being culturally biased, misdiagnosis

294 ERRC, Comments in reply to the observations of the Government of Hungary (GO) concerning the Application No. 11146/11., 2012.

295 J. Geller, ERRC, 2015.

296 István Horváth, DARE Interview Testimonial, Budapest, 2014.

297 Ibid.

cannot in fact be construed as indirect race discrimination. The bottom line is that in none of the Roma education cases has the Court found the justification offered by respondent States plausible.”<sup>298</sup> Moreover, the argument that the testing system provisions were neutral and by default it caused overrepresentation does not stand as since early 1970’s there has been a pattern of overrepresentation of Roma children in special schools.<sup>299</sup>

Nevertheless, Horváth and Kiss must be seen as a landmark case in combating segregation in Europe. Along with strategic litigation, another key factor contributing to CFCF’s success was coalition building. Both ERRC and REF supported CFCF in challenging the overrepresentation of Roma children in special schools, alleging Roma children are misdiagnosed with mild mental disabilities due to the flawed diagnostic system and are segregated in special schools. CFCF combined its expertise in domestic litigation with that of the ERRC at the European Court, and it benefited from REF’s recognized competence in the area of education of Roma children, as well as from their financial capacity to support the 2005 summer camp and the experts involved.

Poverty, race, and other structural disadvantages have been used to deprive Roma children of their rights, as these factors often constitute the cause of their placement in special schools. In addition, the path of placement in special schools builds on the idea that both the Roma and people with disabilities are inferior. More generally, such a perspective confines both the misdiagnosed Roma children and all children with mental disabilities into an inferior status and deprive them from inclusive education.<sup>300</sup>

The education system’s inability to accommodate children with different learning needs continues to be a larger problem in Hungary — both for children classified as having special education needs and those who fall outside of this diagnostic

threshold. At the same time, there must also be equal emphasis on improving the quality of education for Roma students in general. This requires institutionalized mechanisms for providing Roma children with academic support in an integrated learning environment instead of a “colorblind, one-size-fits-all” approach to education.

In addition, as a negative development, under the new government some segregated schools which have been closed, have been reopened as “church schools.” For instance, in April, 2015, the Supreme Court in favor of segregated the church school in the Huszár (or Guszev) Roma settlement in Nyíregyháza.<sup>301</sup>

Political, institutional, and social resistance to desegregation runs very deep. In Hungary, the EU anti-discrimination framework operates *de jure*, but *de facto*, it is often just symbolic and there is ample evidence of its limited application. There is not enough political will at the international level to put pressure on states like Hungary to respect the anti-discrimination mechanisms in place and put an end to institutional discrimination or segregation. The EU should take urgent and concrete steps to foster the adoption of more courageous implementation strategies by the member states to respect the Race Equality Directive, with a special focus on the situation in Hungary.

The infringement proceedings initiated against the Czech Republic in 2014 and against Slovakia in 2015 are not enough. The EC should address all similar cases in all member states, with a special focus on Hungary. Insofar as antidiscrimination is concerned, the European Commission supervises member states’ application of the European legislation on an exceptional basis rather than on a regular basis. The EC should take a proactive stand and follow the findings of its own reports with political and legal action. The EC should have annual reports on the practical implementation of the EU antidiscrimination law, and these findings should be followed by political and legal action to redress the systemic discrimination.

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298 L. Farkas, *Misdiagnosis is a Form of Racial Discrimination: Interpreting the Horváth and Kiss vs. Hungary Judgment*, CFCF, 2013.

299 J. Geleir, ERRC, 2015.

300 M. Matache and S. Dougherty, *Equal, But Not in Our Yard: Closed Thinking on the Inclusion of Roma Children in Europe*, Center for European Studies, Harvard, 2014.

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301 CFCF, *Supreme Court of Hungary Allows Roma-only Religious Schools*, 2015, <http://www.cfcf.hu/>.

As the economist Kezdi notes, “[s]upporters of integrated education see two main tasks, one technical and one political. The technical task is to find appropriate institutional arrangements and educational methods in order to make sure that all students, minority and majority alike, progress better in an integrated environment. The political task is to convince the society of the mutual gains of integrated education.”<sup>302</sup>

Indeed, the political and social environment reflects and shapes the willingness of all actors to address Roma education. Extremist, anti-Roma messages from high levels of government to local citizens fuels and reinforces low levels of political engagement with the desegregation project. Some political parties in Hungary run on anti-Roma platforms and encourage hatred through inflammatory rhetoric often published in the media. This has been met with a lack of response by “key senior figures in the government” responsible for Roma issues.<sup>303</sup>

Combining advocacy, research, litigation, and interventions to push for desegregation proved to be an effective strategy especially for achieving policy and legislative changes. CFCF has been a pioneer in proving that segregation, in all its forms, constitutes a reality in many Hungarian schools. However, all of these gains, along with legislative and policy changes, have led to desegregation particularly in the locations where CFCF has worked. As schools and institutions seem to respond better to implementation measures, NGOs might follow suit and initiate as many lawsuits as possible.

CFCF has been extraordinarily successful in choosing and addressing strategic cases in court, but it does not have the capacity to continuously sue as many schools as possible all over the country. For that, a higher participation of human rights organizations and groups in Hungary is needed to move the desegregation battle forward. With adequate funding, CFCF could also

transfer its knowledge, litigation techniques, and advocacy methods to local Roma organizations, local leaders, and attorneys in order to strengthen their capacity to pursue litigation. In managing desegregation, human and social capitals are determinant factors in the success of integration efforts.

Donors and NGOs should invest more in empowering communities, attorneys, and local NGOs to fight desegregation. A few specialized rights groups and institutions at national level cannot tackle discriminatory practices at the local level nationwide. Along with litigation and advocacy, there is a need for better mobilization and participation of communities themselves to bring about change. On the litigation front, NGOs should benefit from more support from donors to document and file more complaints for segregation and other forms of discrimination in education. This is a continuous battle that would not stop after the approval of a bill, but needs constant monitoring and evaluation.

However, litigation is not enough. Human rights approaches focusing on litigation are often reactive and address past injustices. There is a need for steady prevention mechanisms as part of law and policy. Community mobilization and training of parents is equally important to litigation, as is school (teachers, non-Roma peers and parents) preparation and readiness for desegregation.

Civil society needs to adapt its approach to address the current challenge—influencing the implementation of the antidiscrimination policies but also making a change in practice. This may include focusing on the betterment of the implementation mechanisms of the anti-segregationist policies or the training of the relevant stakeholders in anti-segregationist policies and legislation.

These methods would work to supplement current initiatives, such as litigation. Educating and empowering Roma communities to fight school segregation should be one of the top priorities. More community and school based actions to inform, raise awareness, and tackle this phenomenon that affects the education and employment opportunities of Roma children and

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302 G. Kezdi and E. Suranyi, A Successful School Integration Program, REF, 2009, [http://www.romaeducationfund.hu/sites/default/files/documents/ooih\\_english\\_kezdi.pdf](http://www.romaeducationfund.hu/sites/default/files/documents/ooih_english_kezdi.pdf).

303 ERRC, *Written comments by the European Roma Rights Center concerning Hungary. For consideration by the European Commission on the transposition and application of the Race Directive and on the legal issues relevant to Roma integration*, 2013.

youth should be organized. Young people and Roma parents should participate in the design and implementation of such actions that should aim at turning Roma from hesitant, resignedly impoverished parents into informed Europeans demanding rightful treatment for their children.

Schools should not limit desegregation solely to mixing Roma and non-Roma children, but should instead seriously aim to address all of the obstacles that prevent inclusion and diminish opportunities for quality education.

Inclusive education in mainstream schools of all children with actual and misdiagnosed disabilities should become a priority for the Hungarian government and its implementing agencies, in line with its international commitments under the Convention on the Rights of Persons with Disabilities, among others.<sup>304</sup>

The local and national authorities should also put in practice an array of measures aimed at the reduction and ultimate elimination of the segregation of Roma children, as well as the improvement of the quality of education. This may take the form of pro-active measures (e.g. specialized training and support for desegregation) and disciplinary sanctions.

Lastly, Hungarian society at large needs a moral incentive to value human rights and to reject racism in all of its forms. Along with human rights education, more visible Hungarian elites also play a relevant role in rejecting racism. Regardless, transforming Roma-phobia from an acceptable behavior into a shameful social conduct is extremely challenging, but it's essential for a healthy and democratic society for all of its citizens.

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304 The Convention on the Rights of Persons with Disabilities is available at <http://www.un.org/disabilities/default.asp?id=284>.





*V. Case Studies  
Community Development*

# V. 1. Combating Segregation in Czech Republic

## 1. Introduction

The laws of the Czech Republic prohibit the segregation of protected minorities.<sup>305</sup> The legal framework to guarantee this protection has been well established since 2009. This accomplishment, however, has been difficult to achieve, since the Czech government was the last in its European Union incoming class to pass legislation on anti-discrimination.<sup>306</sup> The Czech government's general lack of enthusiasm toward establishing an environment of equality and respect for all citizens has resulted in the poor implementation of the laws and a failure to improve the laws as they currently stand. As a result, segregation in education persists in the form of separate schools, separate classes, and the gross misdiagnosis and overrepresentation of Roma children in special schools.

Historically, the Czech Republic has struggled with fair and equal access to education. While the existence of ghetto communities complicates efforts to equitably distribute Roma students in quality, mainstream schools, the discriminatory and systemic manner in which Roma children are guided to special schools is of greater concern. Today, 30 percent of Roma children who attend school go to a special school,<sup>307</sup> and 35 percent of special school students are of Roma ethnicity.<sup>308</sup>

**305** The Anti-discrimination Act prohibits discrimination in the access to education, employment, healthcare, and when establishing a business. See Act No. 198/2009 on Equal Treatment and Legal Protection Against Discrimination (Anti-discrimination Act), [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=91497&p\\_country=CZE&p\\_count=261](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91497&p_country=CZE&p_count=261).

**306** See Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 18-19, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

**307** See Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 18, 126, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>; European Commissioner on Human Rights, *Human Rights of Roma and Travellers in Europe*, February 2012, [https://www.coe.int/t/commissioner/source/prems/prems79611\\_GBR\\_CouvHumanRightsOfRoma\\_WEB.pdf](https://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf).

**308** See Amnesty International, *The Czech Republic's*

This case study evaluates the forms of school segregation that exist in the Czech Republic and the necessary strategies that organizations employ to address these specific problems. Given the overwhelming level of disengagement by leaders in the Czech government in addressing the issue of school segregation, this case identifies the successful “bottom up” initiatives in community development, capacity building, advocacy, and empowerment. Community programs, such as Life Together (detailed in this case study), have achieved noteworthy success in their local areas and have seen ripple effects of sustainable expansion that could lead to a stronger push for national change.

## 2. Education System and Environment

During the communist era, there was a rapid migration of Roma from Slovakia in the east to the Czech region of Czechoslovakia. In response, the Czechoslovakian government passed Act No. 47 (1958), which provided “comprehensive assistance to enable [people] to go to a settled way of life; in particular... to assist these persons in obtaining suitable employment and housing, and to act consistently with appropriate educational resources to become ordinary working people.”<sup>309</sup> This law, which was broad in its language, but in reality targeted the Roma, allowed significant opportunities for exploitation. Moreover, the language stated that, “[w]hoever remains in the nomadic way of life, although he was assisted to a permanent settlement, will be punished for an offense by imprisonment from

*Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 5, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

**309** DARE-NET, “Introduction to the Czech Republic,” 2014, <http://www.dare-net.eu/introduction-to-roma-in-the-czech-republic>. See also, M. Scheinost, *Czech-Romani Conflict in Criminological Aspect*, 146, Institute of Criminology and Social Prevention: Prague, Czech Republic, 2015.

6 months to 3 years.”<sup>310</sup> Additionally, a 1952 Czechoslovak Interior Ministry decree ordered that “Gypsy children are to be assigned to... schools with other children” and that temporary special classes and schools exclusively for Roma would be established when integration was not possible.<sup>311</sup>

The onset of the Velvet Revolution and the end of the Cold War brought many changes. Roma were not recognized as a national minority until Czechoslovakia’s transition to democracy in 1989. The country officially split into the Czech Republic and Slovakia in 1993, and a focus on education and employment was critical. In the transition to a market economy, the Czech Republic’s citizens would not fare equally and Roma communities would soon struggle with the changing economic conditions.<sup>312</sup> In 1997, the Czech Minister of Education was tasked with addressing the inequality in education between Roma and non-Roma. The ministry established “preparatory” pre-school classes for unprepared children. While this was race neutral on its face, the effect was clearly targeted at Roma.<sup>313</sup>

Today, there is an estimated 150,000 to 300,000 Roma people living in the Czech Republic, totaling about 1.4 to 2.8 percent of the national population.<sup>314</sup> Many working age Roma in the country are unemployed, due to both discriminatory hiring practices and poor education. As a result, the community has been pushed farther and farther to the margins of Czech society. This continued segregation fosters deeper social and economic poverty, leading to future generations of Roma expecting the same outcomes.

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310 DARE-NET, “Introduction to the Czech Republic,” 2014, <http://www.dare-net.eu/introduction-to-roma-in-the-czech-republic>. See also, M. Scheinost, *Czech-Romani Conflict in Criminological Aspect*, 146, Institute of Criminology and Social Prevention: Prague, Czech Republic, 2015.

311 I. Rostas, *Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe*, CEU Press: Hungary, 2012, 189.

312 Ibid.

313 Ibid.

314 OSF, *Roma in Political Life: Czech Republic: Dependency and Political Development*, 2013, <http://www.opensocietyfoundations.org/voices/roma-political-life-czech-republic-dependency-and-political-development>

## Education Act and Subsequent Legislation

At the school level, social exclusion has had obvious adverse effects on the Czech Roma community. Only 93 percent of Roma children attend compulsory primary education (compared to 98% of non-Roma).<sup>315</sup> For those who are even able to complete elementary school, many Roma students are still unable to read or write and are ill prepared for secondary school.<sup>316</sup> Rates of late starts and early leaving in education are both extremely high within the Roma community in the Czech Republic: 40 percent of all Roma of kindergarten-age (6 years) do not start school on time, and 72 percent of Roma between the ages of 16 and 24 left school early (52 percent leaving before age 16, compared to 8 percent of non-Roma).<sup>317</sup> Overall, only 21 percent of all Roma in the Czech Republic have completed upper secondary education (vocational or general), compared to 84 percent of non-Roma.<sup>318</sup> With this obvious historical record of injustice, one might assume that measures would be taken by the Czech government to mitigate this inequity. While a normative framework has been established, the impact has been limited.

The development of the Czech Republic’s legal framework to prevent segregation has been trying. The Czech Republic adopted the EU principles in 2009, though this was a difficult achievement, requiring enormous political pressure and occurring five years after the Czech Republic joined the European Union and 10 years after the creation of the EU Race Directive. The Czech Republic is also a state party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as all other core human rights treaties.<sup>319</sup>

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315 European Agency for Fundamental Rights, *Education: The Situation of Roma in 11 EU Member States*, 2014, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf)

316 See Amnesty International, *The Czech Republic’s Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 15, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

317 European Agency for Fundamental Rights, *Education: The Situation of Roma in 11 EU Member States*, 2014, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf).

318 Ibid.

319 See Office for the High Commissioner for Human Rights, Treaty Body Database for the Czech Republic, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=46&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=46&Lang=EN).

The Czech government does have the institutional framework in place to monitor school access and implement change.<sup>320</sup> The Czech Government's responsible authorities for education, in order of hierarchy, are the Ministry of Education, Youth, and Sport, the School Inspectorate, the Regional Authority, the Municipal Authority, and the schools themselves. An additional institution with a substantive role in the education system is the Pedagogical-Psychological Counseling Center. But while there is a framework in place and international pressure to achieve further reform, it is this structure that has actually maintained the status quo.

### ***DH and Others vs. Czech Republic***

In 2000, the European Court of Human Rights heard the first ever case addressing school segregation of Roma students, *DH and Others vs. Czech Republic*. This case was brought by the European Roma Rights Centre (ERRC) on behalf of 18 Roma students from Ostrava who were misdiagnosed and placed in special schools.<sup>321</sup> The plaintiffs argued that the children had been placed in the special schools due to their race and without any objective justification. After exhausting local remedies,<sup>322</sup> the ERRC filed a complaint with the European Court of Human Rights (ECtHR), alleging that officials had violated articles 3, 6, and 14 of the European Convention.<sup>323</sup> The ERRC presented statistics showing that the proportion of Roma pupils placed in special schools in Ostrava was 50.3 percent, whereas the proportion of non-Roma students in special schools was only 1.8 percent.<sup>324</sup> The plaintiffs argued that the distribution of Roma children in special schools could only have occurred through a discriminatory evaluation process.<sup>325</sup>

<sup>320</sup> See Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical and other education (the 2004 "Schools Act"), <http://www.msmt.cz/dokumenty/act-no-561-of-24th-september-2004>.

<sup>321</sup> See *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, February 7, 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

<sup>322</sup> The Czech Constitutional Court dismissed the case on October 20, 1999. The court reasoned that 1) 13 of the students had not exhausted the school system appeals process regarding their placement in the special school and lacked standing to petition the court; and 2) the court lacked the competency to hear the case because no law had been applied or interpreted in an unconstitutional manner. See *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, 7 February 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

<sup>323</sup> *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, 7 February 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

<sup>324</sup> Ibid.

<sup>325</sup> Ibid.

The Czech education system has historically excluded Roma children and children with disabilities from mainstream education and has marginalized them into segregated "special" schools and classes. The plaintiffs argued that although Roma children are no more likely to have a learning or developmental disability, it is estimated that 35 percent of pupils at special/practical schools are Roma.<sup>326</sup> In some schools, the percentage of Roma was as high as 90 percent.<sup>327</sup> The curriculum in these special schools and classes is reduced. This system prepares these children for only the most menial jobs and, for many, diminishes their long term opportunities to emerge from cycles of poverty and exclusion. The longer children remain in these classes, the harder it is to catch up with peers in mainstream education and have a chance at getting a decent education.

In 2007, the ECtHR delivered its decision in the case, holding that the government had a clear tendency to place children of Roma origin in special schools and that this action amounted to discrimination.<sup>328</sup> This historic decision marked the first time that the ECtHR found a violation of Article 14 in relation to any component of public life (public primary school).<sup>329</sup> The court also clarified that even if a difference in treatment results from a policy that is framed in neutral terms, such indirect discrimination could also lead to a breach of the Convention; intent is not required to prove that discrimination has occurred. The court, in fact, accepted in this case the use of statistics to constitute prima facie evidence of indirect discrimination.

The Grand Chamber made a number of recommendations for implementing the DH decision and establishing safeguards to prevent future discrimination. Primarily, the Czech government should work towards creating a "unified" system of schooling, in which no child would be placed in special or segregated classes.<sup>330</sup> In doing so, the Ministry of

<sup>326</sup> See Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 5, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

<sup>327</sup> Ibid.

<sup>328</sup> *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, February 7, 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

<sup>329</sup> Ibid.

<sup>330</sup> *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, February 7, 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

Education, Youth, and Sport would need to develop procedures for children in practical primary schools to integrate with the mainstream system. The government could assign children to these schools only after all support has been exhausted by the mainstream system.<sup>331</sup>

Additionally, if teachers and administrators need to consider placing a student in a separate or special class, the test to assess the child must identify clear criteria to meet an educational need; and if the child is placed in the separated education, the ultimate goal is to return that child to the mainstream education system.<sup>332</sup>

The DH judgment made it clear that the Czech government should end the system of special primary schools, and instead train teachers from these schools to work as co-teacher or consultants to develop supports, methods, activities, and materials for all students who need them. The Grand Chamber also stated that the government should also provide free and compulsory kindergarten to better prepare all students for primary school; the Ministry of Education should work with the Ministry of Health and the Ministry of Labor and Social Affairs to provide educational activities to help children succeed in schools; no assessment should determine the placement of a child in a special or practical school, nor is parental consent a justification for placing a student in a special school; and the Pedagogical-Psychological Counseling Centers and Special Pedagogical Center (SPC) should be restricted to provide support for all students and teachers in all schools.

Given this mandate by the ECtHR, the policy framework for education from which the Czech government would need to work on reforming was based on the Schools Act of 2004.<sup>333</sup> Developed in part as a response to the DH Case, the law “eliminated” special schools simply by renaming the system as practical schools. The Act also introduced the concept of “social disadvantage” as a justification for the placement of students in practical schools. Then in 2005, policymakers

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331 Ibid.

332 Ibid.

333 Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical and other education (the 2004 “Schools Act”), <http://www.msmt.cz/dokumenty/act-no-561-of-24th-september-2004>.

introduced two amendments: Decrees 72 and 73, which now accompany the Act. The Decrees regulate the testing centers that diagnose children with disabilities or disadvantage (Decree 72) and the administration of special schools (Decree 73).

In 2007, subsequent to the Grand Chamber decision in the DH Case, the Ministry of Education led by Ondrej Liska developed the National Plan for the Educational Inclusion of Roma which would implement the ECtHR decision and eliminate the special/practical school system. Under a groundswell of political pressure (70,000 teachers and psychologists signed a petition to keep the Special School System), the National Plan was rejected by the Czech Parliament. Minister Liska was later removed from office and the potential for a plan with such significant reform departed with him.

In less than six years, five ministers have followed Liska, and each one seems less and less focused on inclusion. Even if there was a minister as committed as Liska to help push through a controversial policy, the frequent changeovers in leadership has created a lack of political continuity. Regardless of who’s in the leadership, however, efforts of inclusion have been so widespread thus far that no one we interviewed felt that it would be reversed. The question was how long it would take to be fully implemented.

### ***International Complaints Against Czech Republic***

Regardless of the excuses by the Czech government, time continues to toll since the 2007 ECtHR decision and policymakers continue to not act. This fact has not gone unnoticed by the rest of Europe and the international community. In August 2011, the Committee on the Rights of the Child announced that the Czech Republic still had “serious and widespread issues of discrimination, particularly against Roma minority children... including the systemic and unlawful segregation of children of Roma origin from mainstream education.”<sup>334</sup> One month later, in September 2011, the Committee on the Elimination of Racial Discrimination (CERD) noted the “persistent

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334 Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child, Czech Republic*, U.N. Doc. CRC/C/CZE/CO/3-4 (2011), para. 30-31, <http://www1.umn.edu/humanrts/crc/czech2011.html>.

segregation of Romani children in education.” The CERD urged the Czech Republic to “take concrete steps to ensure effective desegregation of Romani children and students and to ensure that they are not deprived of their rights to education of any type at any level.”<sup>335</sup>

In January 2012, a report was released by the Organization for Economic Cooperation and Development focusing on education in the Czech Republic. In the report, the Czech government is put on notice that “attendance of special schools is still very high in spite of the decision to progressively integrate disadvantaged students into mainstream schools.”<sup>336</sup> Additionally, in 2012, an OSCE report called on the Czech government to “assume a leadership role” in taking steps to address marginalization and segregation of Roma in the education sector.<sup>337</sup>

In a 2013 evaluation report on national Roma integration strategies, the European Commission stated that several member states continued to struggle with systemic discrimination in education. The report noted that even though these member states had passed anti-discrimination policies, school segregation was widespread, citing the Czech Republic as a clear example.<sup>338</sup>

Most recently, on September 25, 2014, the European Commission initiated infringement proceedings under the Race Equality Directive against the Czech Republic. The European Commission’s infringement proceedings call into question the Czech Republic’s compliance with Article 21(1) of the Charter of Fundamental Rights of the EU, prohibiting discrimination based on any ground such as race or ethnic origin, and the Race

Equality Directive (2000/43/EC (RED)) Articles 2.2a, 2.2b, 2.3, 3.1.g, prohibiting discrimination in access to education on the grounds of race or ethnicity.<sup>339</sup>

### 3. Segregation Patterns and Consequences

#### Policy Framework (Roma Inclusion, Roma Education)

More than seven years beyond the DH judgment, school segregation in the Czech Republic remains widespread, and occurs in three different forms: 1) enrolling students in Roma-only schools; 2) placing children in Roma-only preparatory and primary classes; and 3) enrolling Roma students into special schools. In the case of Roma-only schools, many times the establishment of a school in or near a Roma ghetto can often ensure that the Roma children of a specific area attend a Roma-only school, instead of the mainstream school just a little farther away. Additionally, the increase of Roma students in some mainstream schools has led to “white flight,” thus creating a Roma-only school once the non-Roma students transfer away.

Demographics and geography play a role in segregation; however, for the most part, Roma pupils find themselves in separated education as a result of the education system’s inability to integrate students with varying educational needs.<sup>340</sup> In fact, the Agency for Social Inclusion stated “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.”<sup>341</sup>

Roma-only preparatory classes and Roma-only classes within mainstream schools are also common. Preparatory classes are intended for preschool children who are deemed not ready for

<sup>335</sup> Committee on the Elimination of Racial Discrimination, *Czech Republic: Concluding Observations*, September 2, 2012, para. 12, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CZE&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CZE&Lang=EN).

<sup>336</sup> P. Santiago, et al., *OECD Reviews of Evaluation and Assessment in Education: Czech Republic 2012*, OECD Publishing, 2012, <http://dx.doi.org/10.1787/9789264116788-en>; See also *OECD Reviews of Evaluation and Assessment in Education, Czech Republic, “Main Conclusions,”* January 2012, [http://www.oecd.org/document/48/0,3746,en\\_2649\\_39263231\\_44567984\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/48/0,3746,en_2649_39263231_44567984_1_1_1_1,00.html).

<sup>337</sup> OSCE/ODIHR, *Equal Access to Quality Education for Roma Children: Field Assessment Visit to the Czech Republic*, October 2012, <http://www.osce.org/odihr/96661>.

<sup>338</sup> See European Commission, *Steps Forward in Implementing National Roma Integration Strategies*, 2013, [http://ec.europa.eu/justice/discrimination/files/com\\_2013\\_454\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/com_2013_454_en.pdf).

<sup>339</sup> See EU Council Directive 2000/43/EC of June 29, 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

<sup>340</sup> Amnesty International, *Five More Years of Injustice*, 2012, 13, <http://www.errc.org/cms/upload/file/five-more-years-of-injustice-november-2012.pdf>.

<sup>341</sup> Ibid.

enrollment into primary school. This is different from regular nursery schools, which most non-Roma children attend. Indeed, the Czech School Inspectorate has stated that 97.5 percent of all preparatory class students are Roma.<sup>342</sup> As a result, preparatory classes have functioned as feeder systems into separate and unequal schooling for Roma children, leading the Czech Ombuds in April 2015 to publicly state that all children should be taught in nursery schools and not preparatory classes.<sup>343</sup>

In regard to mainstream schools, many times a limited “practical” curriculum will be offered to Roma students that will separate them from the main class.<sup>344</sup> For every student that is “diagnosed” with special learning needs and, thus, requiring a reduced curriculum, a greater level of funding is allocated to the school to support that child.<sup>345</sup> The existence of such practices reveals a troubling incentive against keeping all students in the same mainstream curriculum. Indeed, as school administrators struggle each year to maximize their budgets, the attraction to pad the rolls with special needs students is alluring.<sup>346</sup>

While unequal treatment between Roma and non-Roma is prevalent in Czech classrooms, the existence of special / practical schools has been the most public concern over school segregation in the Czech Republic, and was the focus of the DH case. The ECtHR has stated that this parallel system, which predominantly relegates Roma students to a separate and inferior level of education, must be eliminated.<sup>347</sup> But, seven years after the DH Case decision, the only recognizable change is that of the name – from “special” schools to “practical” schools.

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342 Ibid.

343 Romea.cz, “Czech Republic: OSF Prague agrees with ombud that “preparatory classes” are not the same as nursery school,” 2015, <http://www.romea.cz/en/news/czech/czech-republic-osf-prague-agrees-with-ombud-that-preparatory-classes-are-not-the-same-as-nursery-schools>.

344 Amnesty International, *Five More Years of Injustice*, 2012, 13, <http://www.errc.org/cms/upload/file/five-more-years-of-injustice-november-2012.pdf>.

345 Ibid.

346 Ibid.

347 *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, February 7, 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

## Parallel Systems: Special Schools

Even though the European Court of Human Rights directed the Czech government to eliminate the special school system, pejoratively called by some non-Roma as “gypsy” schools, segregation remains grounded in parallel systems of education for mainstream and “special” students. Indeed, a 2013 survey by the Czech Schools Inspectorate (the national body responsible for ensuring that schools comply with national legislation) exposed the disproportionately high number of Romani children in schools for pupils with ‘mild mental disabilities.’<sup>348</sup> The School Inspectorate estimated that 35 percent of students in practical schools are Roma.<sup>349</sup> In a separate study by Amnesty International in Ostrava, Romani students account for 41 percent of those attending practical schools.<sup>350</sup> In other regions, Roma students make up the majority of those diagnosed.<sup>351</sup> Another survey, performed by the Czech Schools Inspectorate and evaluated 483 schools with five or more pupils diagnosed with a ‘mild mental disability,’ found that 28.2 percent of those students were Roma.<sup>352</sup> As noted for emphasis, the Roma community makes up less than 3 percent of the total population. In 2012, the Czech Ombudsperson (responsible for monitoring and ensuring compliance with anti-discrimination legislation) stated that this situation was clearly discriminatory.<sup>353</sup>

Aside from its name change from special schools to practical schools, the system has changed

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348 See Amnesty International, *EU Action Against Czech Republic for Discrimination in Schools is a Victory for Rights, Justice, and Roma*, September 2014, <http://www.amnesty.org/en/news/eu-action-against-czech-republic-discrimination-schools-victory-rights-justice-and-roma-2014-09>.

349 See Amnesty International, *The Czech Republic’s Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 5, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

350 Amnesty International, *Five More Years of Injustice*, 2012, 13, <http://www.errc.org/cms/upload/file/five-more-years-of-injustice-november-2012.pdf>.

351 Ibid.

352 Council of Europe, *Fourth Report Submitted by the Czech Republic Pursuant to Article 25, Paragraph 2 of the Framework Convention for the Protection of National Minorities*, ACFC/SR/IV(2014)011, July 2014, 20, [http://www.coe.int/t/dghl/monitoring/minorities/3\\_fcnmdocs/PDF\\_4th\\_SR\\_CzechRepublic\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_4th_SR_CzechRepublic_en.pdf).

353 <http://www.amnesty.org/en/news/eu-action-against-czech-republic-discrimination-schools-victory-rights-justice-and-roma-2014-09>.

little since the DH judgment.<sup>354</sup> The practical schools that remain in existence are meant to offer a reduced curriculum to accommodate the learning capabilities of its students. The teaching of “practical” classes simply prepares a pupil for daily life. They are not administered to prepare a student for secondary or higher-level education. As a result, this simplified curriculum severely reduces a pupil’s future options.

The concern over placement in practical schools is compounded when a Pedagogical-Psychological Counseling Center (PPP) can make a diagnosis of “social disadvantage.” In addition to a diagnosis of mental disability, a student may also be placed in a special/practical school if they are identified as having a “social disadvantage.” The Ministry considers a child to have a social disadvantage using a three-part criteria: 1) a family environment with a low social and cultural status, threat of pathological social phenomena; 2) institutional education ordered or protective education imposed, or 3) 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.<sup>355</sup> The criteria of “low social/cultural standing” include pupils who lack sufficient Czech language skills or do not receive necessary educational support outside of school, which can include communication between guardians and school. While the policy’s language is geared to provide additional support to students with greater needs, in practice, however, this basically allows PPP evaluators to determine that any Roma child is eligible for placement in a special curriculum. The Committee on the Elimination of Racial Discrimination expressed its concern over the use of social disadvantage to qualify ethnicity as a disability for class assignment.<sup>356</sup> Citing the DH Case, the Committee objected to the fact that

<sup>354</sup> The majority (63.9%) of practical elementary schools officially operate under the name of mainstream elementary schools. Amnesty International, *Five More Years of Injustice*, 2012, 9, <http://www.errc.org/cms/upload/file/five-more-years-of-injustice-november-2012.pdf>

<sup>355</sup> Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical and other education (the 2004 “Schools Act”), Sect. 16, <http://www.msmt.cz/dokumenty/act-no-561-of-24th-september-2004>.

<sup>356</sup> Amnesty International, *The Czech Republic’s Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 8, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

the practice had not been removed by recent regulations.<sup>357</sup>

According to the practitioners we interviewed, when a child is failing in regular school, they can be placed temporarily in a special school; for a child with social disadvantage, they may spend a maximum of 6 months; for a child with a health disadvantage (such as asthma), the time is unlimited (FXB Interview, Prague, Czech Republic, December 2013). The official intent is for children to come back to regular schools. However, it is not uncommon for social disadvantaged students to finish their 6 month stay and then be diagnosed with a health disadvantage to keep their place in the practical school (FXB Interview, Prague, Czech Republic, December 2013). As a matter of data collection and tracking, socially disadvantaged students remain pupils of their original school, so the data doesn’t accurately reflect the numbers of students in practical schools (FXB Interview, Prague, Czech Republic, December 2013).

Ideally, an expert from the PPP would help develop an individual plan to help the child catch up to his or her peers, and do so in collaboration with the parents and teachers. More often, however, the PPP diagnosis simply is used to identify disability or disadvantage and then recommend placement in a special school. No instructional plan is normally tailored for the pupil in order for him or her to work back into the mainstream program, nor does the Ministry of Education require one.<sup>358</sup>

### **Participation and Roles of Parents and Communities**

School officials and NGOs alike recognize that parents and family are critical for the success of students. According to the Schools Act, a child cannot be placed in a practical school without a parent or caregiver’s consent. Unfortunately, due in large part to decades of exclusion from the education system, some Roma parents give

<sup>357</sup> Ibid; See also Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under Article 9 of the convention CERD/C/CZE/CO/8-9, para. 12, September 2011, [http://www2.ohchr.org/english/bodies/cerd/docs/CZECH\\_REP\\_COBs\\_CERD79.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/CZECH_REP_COBs_CERD79.pdf).

<sup>358</sup> See Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical and other education (the 2004 “Schools Act”), <http://www.msmt.cz/dokumenty/act-no-561-of-24th-september-2004>



uniformed consent and have trouble engaging teachers in their child's schooling.

Some Roma parents do not trust the school system and are skeptical that it will be of much benefit for their child. With discrimination and limited employment opportunities available, parents are disenchanted by the idea of their child staying in school to only later be unemployed upon graduation (FXB Interview, Ostrava, Czech Republic, December 2013). This demotivating attitude of the parent often then negatively influences their ability to fight for their child's placement in a mainstream school, as well as to support the child as he or she progresses through the school curriculum.

In the context of the Czech Republic, this lack of engagement translates to a poor understanding of parent's rights and the laws that support them, which is most evident when school administrators attempt to place a Roma student in a special / practical school. Too often Roma parents do not receive adequate information about the differences between the mainstream schools and practical schools, nor the consequences of enrolling their child in one versus the other.<sup>359</sup> This lack of knowledge on the part of the parents can be attributed to the educational officials' failure to provide effective information on school choice and parental rights. Some parents, who themselves attended a practical school, may feel that practical schooling will also be satisfactory for their own child. However, even when a Roma parent is aware that practical school placement limits the educational potential for their child, they are actually often rejected from the mainstream school they are considering for their children.<sup>360</sup>

In addition, as mentioned above, more and more mainstream schools are including practical classes, which create another layer of confusion for parents. Parents, in fact, often are not informed that mainstream schools have special classes.<sup>361</sup> The lack of clarity as to what classes are available

can leave a parent unaware that their child, though enrolled in a mainstream school, is placed in a practical class.

More broadly, the engagement of parents is critical in supporting children in their general educational development. Unfortunately, communication between parents and schools is often limited. In a number of key interviews, the case writing team was told that school-parent interaction often succeeds only up to about fifth grade, which is the time when parents traditionally stop walking their child to school (FXB Interview, Ostrava, Czech Republic, December 2013). Once parents stop the consistent interaction with teachers during the drop off and pick up of their kids, communication with the school often begins to fail. In addition, some Roma parents do not attend parent's meetings at schools, often because of a lack of respect from school employees.

Parents are critical, and the lack of engagement of Roma parents is a recognized concern. The steps taken to increase the level of parental involvement, however, have basically been assumed by local NGOs, which will be described below (FXB Interview, Ostrava, Czech Republic, December 2013).

### **Public Sector Lack of Capacity/ Lack of Accountability**

It is widely recognized that the mainstream education system would struggle to absorb the students in practical school system and adequately address their needs.<sup>362</sup> In many of the case writers' interviews, individuals also stated that the current system can handle neither those in need nor those who excel (FXB Interview, Ostrava, Czech Republic, December 2013).

It should be noted that the education system has implemented some support measures for minority populations. The main problem, however, is that most programs are underfunded

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359 Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 15, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>

360 Ibid.

361 Ibid.

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362 See Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 5, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>. See also Czech Ministry of Education Youth and Sport, *Analysis of an Individual Teacher's Approach to the Pupils with Special Education Needs: The Final Report of the Czech Ministry of Education Project*, 115-120, 2009, <http://www.msmt.cz>

and underutilized. For example, the Ministry of Education has developed a program to provide Roma teaching assistants to support the needs of Roma students at school. While on paper this seems like a helpful program to assist students, in practice there are a number of flaws. First of all, there is little internal promotion of the program and most schools do not take advantage of it (FXB Interview, Prague and Ostrava, Czech Republic, December 2013). Success also depends on the principal of the school, in which many fail to use the assistants effectively, and instead use them to substitute teach and even just clean classrooms. Additionally, very few of the Roma teaching assistants are actually Roma, themselves. Lastly, the Ministry cut funding by about 50 percent in 2011, demonstrating weak commitment to the program. Only 10 percent of schools have an assistant for socially disadvantaged students.<sup>363</sup>

According to a study commissioned by the Czech Ministry of Education, elementary schools are simply not equipped to support children individually. Regardless of whether the pupil has special learning needs or is an exceptional, high-performing student, the education system is unable to accommodate the various needs of its students.<sup>364</sup> Indeed, in its 2011 Strategy for Combating Social Exclusion, the Ministry of Education noted that the education 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.”<sup>365</sup> In addition, many education experts recognize that the Czech baby boom is coming of age.<sup>366</sup> As

a result, class sizes are quickly increasing and regular school teachers are becoming more and more concerned about inclusion and the burden it will create for class sizes (FXB Interview, Prague, Czech Republic, December 2013).

### **Lack of Accountability**

Regardless of whether the Czech Ministry of Education is capable of taking measures to put an end to school segregation, it is clear that there is little political accountability to implement any reform within the education system. The responsibility of implementing a national desegregation plan rests in a number of different hands, from the Ministry’s role to develop concepts and set policy, the Inspectorate’s and Ombudsman’s role to monitor and report, and the regional and local level’s role to implement. This diverse set of actors allows each institution to defer blame for implementation failure to all other stakeholders.

Moreover, the ever-changing political sphere has had a detrimental effect on education reform.<sup>367</sup> Frequent changes in the Ministry have disrupted any momentum to implement a national plan. From Ondrej Liska, to Miroslava Kopicova, to Josef Dobes, to Petr Fiala, to Dalibor Stys, to Marcel Chladek; each time a new minister comes into office, the entire process practically begins anew. Each minister prepares a new plan, thus delaying any significant reform. It should also be noted that with each new minister and action plan, the staff and resources dedicated to social inclusion decreases.

In addition to the general lack of political will, the influence of the special school system lobby has been very effective in dragging the process to a halt. Shortly after *the DH and Others* judgment, the Czech government released its National Action Plan for Inclusive Education, announcing its commitment to phase out the existing system of practical schools.<sup>368</sup> That strategy, however, has been slowly scaled back over time and now

<sup>363</sup> DARE-NET, “Introduction to the Czech Republic,” 2014, <http://www.dare-net.eu/introduction-to-roma-in-the-czech-republic>

<sup>364</sup> See Amnesty International, *The Czech Republic’s Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 5, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>. See also Czech Ministry of Education Youth and Sport, *Analysis of an Individual Teacher’s Approach to the Pupils with Special Education Needs: The Final Report of the Czech Ministry of Education Project*, 115-120, 2009, <http://www.msmt.cz>.

<sup>365</sup> Government of the Czech Republic, *Strategy for Combating Social Exclusion for the Period of 2011-2015*, 19, <http://www.socialni-zaclenovani.cz/dokumenty/strategie-boje-proti-socialnimu-vyloucenim/strategy-for-combating-social-exclusion-for-the-period-2011-2015/download>.

<sup>366</sup> European Commission, *ET 2020 National Report Questionnaire*, 10, 2014, [http://ec.europa.eu/education/policy/strategic-framework/doc/et2020-national-report-cz\\_en.pdf](http://ec.europa.eu/education/policy/strategic-framework/doc/et2020-national-report-cz_en.pdf). See also Radio Praha, “Is the Czech Baby Boom Over and Did It Ever Happen?”, 2011,

<http://www.radio.cz/en/section/curaffrs/is-the-czech-baby-boom-over-and-did-it-ever-happen>; See also Government of Czech Republic, *ET 2020 National Report Questionnaire*, 10, 2014, [http://ec.europa.eu/education/policy/strategic-framework/doc/et2020-national-report-cz\\_en.pdf](http://ec.europa.eu/education/policy/strategic-framework/doc/et2020-national-report-cz_en.pdf)

<sup>367</sup> I. Rostas, *Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe*, Hungary: CEU Press, 2012, 180-81.

<sup>368</sup> Ibid.

such plans are no longer articulated in the most recent Action Plans.<sup>369</sup> In fact, in March 2013, in response to a petition calling for the preservation of practical schools, the Minister of Education, Petr Fiala, stated that “under no circumstances do we intend to go from one extreme to another, to discard the time-tested practices of the Czech school system or to start intruding onto something that has long functioned in our system and has a foundation here, i.e., the practical primary schools.”<sup>370</sup> Additionally, the Education Minister, Marcel Chladek, stated in January 2014, “the Czech Republic can proudly promote its system of special and practical schools to other European countries.”<sup>371</sup>

As government officials even attempt to address ethnic inequalities in school segregation, another great challenge to holding programs accountable has been the availability of ethnic data, or rather the lack thereof. In order for stakeholders to understand the degree to which a program has succeeded in desegregating schools and classes, there needs to be a method of measurement using data which observes ethnicity as one of its variables. In the Czech Republic, however, the collection of ethnic data has been quite difficult for two reasons. First, many Roma choose not to self-identify; and second, historical experience with the Holocaust and World War II has created a culture that discourages the collection of ethnic information, especially minorities. For example, the National Minority Member Protection Act states that civil service bodies do not keep files on national minorities, nor can data from the census be used for any purpose other than for which it was gathered, and must be destroyed after its official use.<sup>372</sup> Additionally, even though the EU data protection law does not prevent ethnic data collection, as long as appropriate safeguards

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369 Decade of Roma Inclusion, *Strategy for Combating Roma Exclusion for the Period 2011-2015*, September 2011, [http://www.romadecade.org/cms/upload/file/9307\\_file1\\_strategy-for-combating-social-exclusion-for-the-period-2011-2015.pdf](http://www.romadecade.org/cms/upload/file/9307_file1_strategy-for-combating-social-exclusion-for-the-period-2011-2015.pdf).

370 Romea.cz, “Czech Minister of Education: “Practical primary schools” will not be closed,” March 2013, <http://romea.cz/en/news/czech/czech-edmin-practical-primary-schools-will-not-be-closed>.

371 Idnes.cz, “Inclusive Conditions Absenting in Schools,” January 2014, [http://zpravy.idnes.cz/skolam-chybi-podminky-na-inkluzi-d4n/-domaci.aspx?c=A131017\\_164157\\_domaci\\_jj](http://zpravy.idnes.cz/skolam-chybi-podminky-na-inkluzi-d4n/-domaci.aspx?c=A131017_164157_domaci_jj).

372 Act No. 273/2001 I.c. on the Rights of Members of National Minorities (National Minority Member Protection Act), Section 4, <http://www.migrationonline.cz/en/act-on-the-rights-of-members-of-national-minorities>.

are in place, many government officials across the EU believe that prohibited or excessively cumbersome.<sup>373</sup>

The lack of ethnic data, however, has had a number of negative effects on accountability. Not only has it made the process of desegregation more difficult, as limited official state statistics make it difficult to either identify violations or track progress,<sup>374</sup> but it also allows complacent government officials to use an excuse that they are unaware of the level of segregation in their schools. Without concrete data to confront the problem, many administrators remain conveniently ignorant (FXB Interview, Prague, Czech Republic, December 2013).

More than seven years beyond the conclusion of the DH Case, the only progress that government officials can admit to having accomplished is that the judgment has led to larger public discussions on the subject of segregation (FXB Interview, Prague and Ostrava, Czech Republic, December 2013). While this seems rather minor, many Czech people do not see substandard and segregated schooling as an important issue, nor do they know about the DH Case or the fight of the Roma community for inclusive quality education. More attention and action, however, is obviously needed.

## Strategies and Methods to Advance Desegregation through Community Development

Even though the Czech Republic has been instructed by the ECtHR to reform its education system, it struggles to take the political initiative to affect change. At the same time, critics claim that the government lacks the capacity and resources to fulfill the judgment even if the political will were there. In the Czech Republic, given these circumstances, what can be done to support Roma families and the community at large as they

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373 European Commission, *Report on Discrimination of Roma Children in Education*, 2014, 40-41, [http://ec.europa.eu/justice/discrimination/files/roma\\_childdiscrimination\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_childdiscrimination_en.pdf)

374 Ibid.

try to engage with the education sector? What can an NGO do, if the public sector continues to be an obstacle toward desegregation or, at best, is ambivalent toward integration?

## Life Together

*(specific pattern/mechanism targeted, stakeholders, tools/activities)*

Life Together (LT) is an organization that has been in operation in Ostrava since 1997. Born from the floods that year in Ostrava – Hrusov, Life Together responded to the displaced Roma community which had then been relocated to Liscina. The tensions between local residents and the new tenants were high, and Life Together staff worked to mitigate the situation through community activities, workshops, and education.<sup>375</sup>

Using an ethos of mutual coexistence, Life Together works with the Roma community of Ostrava and the surrounding area to promote greater community empowerment, skills development, and counseling. The organization runs three community centers in Hrusov, Liscina, and Zarubek, and offers an extensive set of services, such as professional counseling, financial counseling, legal counseling, and community organizing. In 2014, LT consisted of 47 staff (including one lawyer, child assistants, and adult-focused assistants specializing in housing and finance), as well as numerous volunteers.

## School Programs

Life Together also places a high priority on education, recognizing that it is the key to long-term social inclusion for the Roma community.<sup>376</sup> While not an education focused NGO, Life Together does support a number of education programs both independently and in collaboration with other local organizations. LT works with preschool and primary school students.<sup>377</sup> For example, the Community Centers offer tutoring to help students stay in mainstream schools; they

run a preschool program; they provide primary school and psychological support, as well as offer social support and make contact with school officials on behalf of families when necessary. In addition, LT expects active involvement of parents; providing opportunities for parents to learn with their children and become experienced and responsible caregivers.

The preschools employ curricula developed by experts in early child development, focusing



on cognitive skills, social skills, and physical movement. Special educational experts teach twice a week to assist in the program. Additionally, mothers are encouraged to join the class on Fridays so that they can be a part of their child's learning experience as well as learn for themselves how to extend the educational experience back at home. The objective is to build the foundation for learning and a positive environment at home that can get a child off on the right foot in the mainstream schools.

In the primary schools, LT has worked to help children get started on the right foot by providing individual and group tutoring. At times, the tutoring both has been with parents and individually with students. Also, when the need arises, LT has been in contact with the school teachers and administrators, either to advocate on behalf of a student or to provide assistance to school staff through experienced pedagogues.

375 Life Together, Annual Report, 2014, <http://vzajemnesouziti.cz/>.

376 Ibid.

377 Ibid.

## Community Empowerment

The concept of community empowerment was the most commonly raised topic in our interviews. As the policy framework in the Czech Republic is slow to change and government officials seem uninterested in affecting that change, organizations must focus on preventing as many students and families as possible from falling through the cracks. This is relevant whether you are working with education, or employment, or housing.

Life Together, for example, takes a complex approach to empowerment through their Community Centers. As Kumar Viswanathan, Director of LT, stated “with the focus on social services, one thing leads to another. If a child is having problems in school, we can help the entire family; whether it be housing or finances, or anything else. If we can support the family,



the family can then support the student” (FXB Interview, Ostrava, Czech Republic, December 2013). With that same approach, LT looks to transfer competencies (common tutoring) and information through empowering parents, who can communicate with the school to advocate for their needs, as well as understanding the importance of education for their children and the consequences of an indifferent approach to education. In addition, these parents can pass on the information they have learned to other parents and children.

Life Together chooses to work with parents and children in their own environment – in areas

where they live and in local community centers for children and youth. At their three centers, which are open Monday through Friday and each support about 50-80 children and youth, LT provides a litany of services, from tutoring and mentoring for students, to financial counseling, housing support, and information campaigns for families. As a result, LT aims to assist community members to develop key competences so that they have greater capacity to engage with the public sector, understand what their rights are, and be better informed to improve decision making.

## Mother’s Clubs

Life Together also hosts weekly meetings to support active participation of both mothers and their preschool-aged children. Led by respected mothers and grandmothers from the community, with the assistance of an external pedagogical expert, the Mother’s Clubs help parents share information on the education system and practical schools, as well as learn good practices in caregiving. Parents were informed about the differences between regular and special/practical schools. LT taught parents about their basic legal rights, the Schools Act, and what the DH Case ensures them of in school access. They were also told what to expect during the enrollment process, what basic skills their child will need in order to be accepted in their grade level, as well as what skills are necessary for entering first grade. As a result, the clubs help encourage parents to fight the placement of their children in special schools. Additionally, LT has helped incorporate some parents into school councils, an effort that has attempted to build greater trust in institutions and create a level of ownership in the process.

Finally, LT partially contributes funds to purchase and jointly prepare healthier children’s snacks for school. This program has been positively rated as a good practice by the Ministry of Education.<sup>378</sup>

## Advocacy for Policy Change

While the political environment seems intractable, the importance of advocacy cannot be diminished. Many NGO’s have continued to advocate for

378 Decade of Roma Inclusion, *Desegregating Education in CEE: Good Practices and the Way Forward*, May 2011, [http://www.romadecade.org/egy-cikk.php?hir\\_id=9382](http://www.romadecade.org/egy-cikk.php?hir_id=9382).

change on both the grassroots and national levels. The Czech Society for Inclusive Education, for instance, continues to apply pressure for legislative change, focusing primarily on lobbying the parliament to fully implement the DH Case. Advocacy efforts such as this, though they have been unsuccessful in affecting immediate changes, maintain the political relevance of the issue of desegregation so that policymakers can act when conditions are more favorable, hopefully in 2015.

For Life Together, its involvement in advocacy for policy change has evolved over the life of the organization. In the early years, LT was heavily involved in advocacy. For example, in the aftermath of the Ostrava-Hrusov floods, local officials made several attempts to declare condemned housing as “habitable.” In addition, non-Roma in the area were given preference over local Roma residents for relocation outside of Lower Hrusov.<sup>379</sup> Many Roma, in fact, were being informed that they could not be allocated a flat outside of Lower Hrusov. LT’s involvement in coming to the aid of many Roma residents helped defend the community’s rights and guarantee adequate accommodation.

As years progressed, however, Life Together moved away from advocacy. Not only was it clear that working with the Czech government would yield little return on investment, but there were also a number of other organizations that were specifically dedicated to rights and policy change. As a result, Life Together saw its role as more of a service provider for the Ostrava community. This period of limited activity in the policy and advocacy realm was short-lived, however, as Life Together quickly discovered that the organization needed to remain engaged. For example, in 2012, Life Together joined Amnesty International and the European Roma Rights Center in a successful campaign against the eviction of Roma families in Ostrava by calling on local authorities to engage with individuals and develop long-term housing solutions. The result was a decision by the Regional Court of Ostrava that sided in favor of

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379 European Roma Rights Center, *Life Under the Bridge: Ghettoizing Roma in Lower Hrusov*, Ostrava, Czech Republic, July 2000, <http://www.errc.org/article/life-under-the-bridge-ghettoising-roma-in-lower-hrušov-ostrava-czech-republic/842>.

the 300 families involved.<sup>380</sup>

First, from a perspective of solidarity with the Roma rights movement, it is critical for all organizations supporting the Roma community to demonstrate a unified front. Life Together feels that its participation in advocacy is vital, regardless of how small or how substantive it may be at times. For example, in November 2014, LT joined several organizations, in releasing a statement marking the seven year anniversary of the historic *DH vs. Czech Republic* decision, applauding the European Commission’s infringement proceedings, and calling on the Czech government to use the proceedings as an opportunity to reform the education system.<sup>381</sup>

Second, from a community perspective, Life Together also recognizes that grassroots advocacy is important. The organization has found it vital not only to affect local municipal policies, as difficult as that may be, but also to raise community spirit and mutual solidarity when the whole community is involved in solving problems. As Kumar Viswanathan stated, “maintaining a focus on community organizing for policy change also leads to community empowerment, in which you build knowledge of an individual’s or community’s rights. You are creating a better informed community to engage with government institutions and advocate for change, whether it be in education, health, housing, or any other concern.”

### Analysis

Results so far have been very positive. In 2014, the parents of 45 children were involved in LT’s parental counseling. Out of the 45 families, 38 of them committed to enroll their child in non-segregated mainstream primary schools. In the seven other instances, school assistants had convinced two families to enroll their child in practical schools, and the parents of five children decided to postpone attendance for one year so that their child would be better prepared.<sup>382</sup>

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380 Amnesty International, *Ostrava Regional Court Quashes Local Authorities’ Plan to Evict Roma Families*, May 2013, <https://www.amnesty.org/en/documents/EUR71/006/2013/en/>.

381 Life Together joined Amnesty International, the European Roma Rights Center, the Open Society Fund Prague, the Open Society Justice Initiative, the League of Human Rights, and IQ Roma Servis in the press statement, <http://www.errc.org/article/czech-republic-must-put-an-end-to-unlawful-segregation-of-romani-children/4330>.

382 See Life Together, Annual Report, 2014, <http://>

Of the 38 children enrolling in a mainstream school, two were not allowed to take the entrance exam. The parents were told to enroll their children in *their own* schools. The other 36 succeeded in their school readiness tests. Of those 36 students, 30 were admitted to the 7 non-segregated elementary schools in Ostrava. The remaining 6 were denied enrollment on the basis of their ethnicity. Even after writing an appeal to the director of the school, the children were refused entry. LT is working with the families as they consider filing a complaint.<sup>383</sup>

Life Together's experience in building capacity among Roma families has been effective, albeit not unique. In Ostrava, a number of NGOs are supporting preschool-aged children in Roma neighborhoods and, for many, the recognition of the need to build parental capacity has been quite similar. Putting a focus on both preschool-aged children and their caregivers has been critical in preparing students for the mainstream public schools. For example, Centrom, a Roma NGO that also works with Life Together, runs two centers for families with preschool children in Ostrava; one in the neighborhood of Vitkovice and one in Radvanice.<sup>384</sup> These programs have been critically helpful in developing the knowledge and skills that enable a child's successful entry into the mainstream system. This five-day a week program focuses on instructional games, exercises aimed at developing fine motor skills, cognitive abilities, and word pronunciation.<sup>385</sup> Special teachers work twice a week to help with the teaching and the development of the lesson plans (FXB Interview, Ostrava, Czech Republic, December 2013). As of 2014, this growing program had 15 children in preschool, 10 graduates in kindergarten and 5 graduates in first grade (FXB Interview, Ostrava, Czech Republic, December 2013).

However, Centrom builds upon the preschool program with an initiative that helps caregivers (parents, grandparents, etc.) develop skills that can improve their engagement with their child's learning, as well as authorities, schools and

healthcare facilities, among others. For adults, Centrom's work focuses on the specific needs of the individual. Most often, the support is related to the fields of employment, health, housing and debt. In these cases, the service providers provide support through accompaniment, individual training, or group counseling.

In addition, Centrom hosts group activities for children together with parents - motion games, art activities, walks, and group discussions. The aim is to better develop the necessary social habits for preparation for school. Also, parents have the opportunity to discuss various topics and exchange experiences with their children. In the preschool classes, mothers are also recommended to join on Fridays and participate in the day's curriculum.<sup>386</sup>

Outside of Ostrava, another NGO, IQ Roma Servis (IQRS),<sup>387</sup> which was a 2014 winner of the EESC Civil Society Prize,<sup>388</sup> has also focused on a holistic approach to support young Roma students. Along with tutoring and career counseling programs for youth aged 6 to 26, Servis supports a program focused on developing parental skills in looking after younger children, with focus on quality pre-school and primary education based on inclusive principles of elementary education, successful passage to the right high school and successful continuing the education process and career. Servis' program is designed for parents and their children (0-8 years) with the aim of not only to developing a child's, skills and knowledge base, but also teaching parents how to better support their children in their physical, personal, and social development, as well as to prepare them for entry into the mainstream education system.

In addition, Servis provides parents and caregivers a large array of other services, such as individual counseling in coordination with other specialists of related social services; consulting in child welfare, education, and economic management of the household; support of children's readiness for mainstream education

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[vzajemnesouziti.cz/](http://vzajemnesouziti.cz/).

383 Ibid.

384 See Centrom, Annual Report, 2013, <http://www.centrom.cz/index.php/poskytovane-sluby/nzdm/nzdm-radvanice>

385 Centrom, Annual Report, 2013, <http://www.centrom.cz/index.php/poskytovane-sluby/nzdm/nzdm-radvanice>

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386 Ibid.

387 IQ Roma Servis operates in Brno, Breclav, and Vyskov.

388 IQ Roma Servis, IQ Roma Servis is One of the Winner for the 2014 Civil Society Prize, 2013, <http://www.iqrs.cz/en/clanky/iq-roma-servis-is-one-of-the-winner-for-the-2014-civil-society-prize>

and help with choosing good preschool and elementary school; and family assistance and accompaniment when engaging with government bodies.

### *Advocacy and Empowerment*

Maintaining an advocacy strategy is critical. Life Together's choice to maintain involvement in local, national, and regional politics plays its part in keeping the interests of the marginalized Roma community relevant. As an additional example, IQ Roma Servis coordinates a number of local campaigns to combat social prejudice and discrimination in the communities in which it works. Additionally, it has also joined Life Together, the European Roma Rights Center, and others as a cosigner to the November, 2014 press statement marking the seventh anniversary of the *DH vs. Czech Republic* decision and recognizing the European Commission infringement proceedings as an opportunity for the Czech government to reform the education system.

Regardless of whether the political environment improves, NGOs must focus on all levels of advocacy. It must advocate for and empower the local community; continue to pressure the national government to implement the policies they are obligated to fulfill; and appeal to the other member states of Europe to uphold the principles that are grounded within the European Charter.

For example, an NGO should work with local offices to advocate for individuals and communities. Both Government and NGOs must work with families in order for their programs to succeed. It is critical to get buy in and participation from the community. After all, the Czech Government's legal obligations to desegregate and establish an environment of educational equality is owed directly the Roma children and their parents. They are the rights-holders and should be involved in the determining that manner in which their rights are fulfilled.

There is a constant need for an NGO to maintain a strong human rights focus. When Life Together shifted to a role of service provider, they shifted the focus of their efforts from advocating for rights to what they deemed to be the more immediate needs in the delivery of services. As a result, for a short time, they admittedly lost track of principles

of empowerment that can build capacity and self-reliance over the long-term. Moreover, from a human rights perspective, Life Together realized that while they were providing services to those most in need, they weren't strengthening the rights-holders (those same children and parents receiving services) to be able to demand and negotiate the fulfillment of their rights on their own. They are now getting back to a focus on rights while continuing to provide services. Everything should go hand in hand: Rights, Services, Advocacy.

NGOs must also work together on the national level to push the Ministry of Education to uphold its obligations to the *DH vs. Czech Republic* judgment. The focus must return to removing the parallel system of practical schools, just as the government set out to do in its national plans. Mainstream schools will require massive support in this transition. The Czech government should ensure the training of teachers and the hiring of specialists from the practical schools. With this transformation, and the subsequent integration of students with specific learning needs, all stakeholders (NGOs and families, alike) must work with the government offices to identify the sufficient resources for support to address specific needs of each student. Considering the funds that were used to maintain a parallel system of special education, strategic approaches to allocate those funds for mainstream integration and support should occur. In addition, Ministry guidelines should make clear to schools that prejudice and intolerance is not acceptable, and that adherence to these guidelines will be closely monitored by the Czech School Inspectorate. Separate, practical classrooms for Roma within mainstream schools will not be tolerated.

Additionally, over time, the Ministry of Education should also begin to assume many services that are being provided by NGOs but are widely considered public goods, such as parent/community outreach and tutoring. After years of the government failing to fulfill needs of Roma students, the NGO community has stepped into that void to provide services. This development has, to a great degree, relieved the government of the obligations it owes all of its citizens and, over time, the education system has becoming reliant on NGOs to continue providing those public goods. NGOs can help on an individual level, but



they are not meant to provide services on a large scale, in place of the public sector. Life Together recognizes that the objective of their work, like most other NGOs, is to reinforce the public system, not replace it.

Currently, however, while the Parliament seems to lack the political will to draft and pass legislation to properly amend the Schools Act and Decree 73, many advocates remain encouraged in the fact that working with the Czech School Inspectorate and the Ombudsman could have huge potential. Thanks to efforts of both bodies, more organizations and agencies are working with better data that can assess the needs for children in the Czech education system. Many principals and teachers still protest the tracking of ethnicity. But, continued leadership from the Ombudsman, through improved forms for Headmasters and greater direct observation, and the School Inspectorate, through advocacy of their own on the use of ethnic data within the Ministry, should help change institutional attitudes.<sup>389</sup>

Advocates must also work at the EU level to ensure that breaches of Race Equality Directive<sup>390</sup> are not tolerated. The upcoming infringement proceedings are a historic opportunity for Europe to show that discrimination is taken very seriously among its member states. As mentioned earlier, this is not the first time that the Commission has brought infringement proceedings against the Czech Republic for failure to implement policies

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**389** It should also be noted that better data is needed in the work of all stakeholders. It is quite common that NGOs and donors seem to more often report on process indicators (fliers distributed, clients consulted, etc.) rather than outcome indicators, as measures of activity and success. Better data and indicators are needed to track progress and reach objectives. The use of process indicators demonstrates that work is being done, but provides little information as to what impact is being made. The use of process indicators for measurement may be due to the difficulty in measuring the actual impact, such as happiness or empowerment, or maybe it is due to the lack of time and resources that would be required for an NGO to engage in a proper monitoring and evaluation project. Oftentimes, being able to use resources to look back on past performance is a luxury, especially when the next family in need of your support is at your office door. Those not-so-insignificant concerns aside, a greater focus on outcomes will be a benefit in both advocating to government and appealing to funders.

**390** Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>.

of equal treatment among its citizens.<sup>391</sup> NGOs should continue dialogue with Brussels, to encourage them to remain firm with the Czech government and to demand reform.

## 5. Conclusions and Recommendations

In an environment, such as the Czech Republic, in which the government education system lacks the political will to facilitate an environment of inclusive education, the NGO community practically is left as the sole actor in ensuring equality. As a result, NGOs often take a comprehensive approach to community development to address the wide array of needs of the students and families. In that regard, Life Together has found a valuable role taking a holistic approach to service delivery, community empowerment, and advocacy.

Life Together has shown that it can effectively address immediate needs in its community center/ service delivery approach. Its support of preschool helps prepare children for schools and eases the transition to mainstream education. At the same time, Life Together works toward achieving long-term, sustainable change through community empowerment and advocacy. Empowering parents to know their rights and responsibilities will lead to greater numbers of children enrolled in mainstream education in the future, as well as greater retention of current students in the system. In addition, its involvement in community campaigns and national advocacy plays its part in changing the attitudes of teachers, Roma parents, non-Roma parents, and even policymakers.

More generally, sustained and unified advocacy from the Czech Roma rights community, with Life Together included, will lead to long-term, permanent reform. Coordination with the international community can help accomplish the following recommendations:

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**391** See Amnesty International, *The Czech Republic's Discriminatory Treatment of Roma Breaches EU Directive*, 2013, 18-19, <http://www.errc.org/cms/upload/file/czech-roma-submission-the-czech-republics-discriminatory-treatment-of-roma-breaches-eu-race-directive-19-april-2013.pdf>.

### **Fully implement the DH judgment and integrate the practical schools into the mainstream system**

The National Action Plan for Inclusive Education is not being implemented and the recommendations of the DH judgment have yet to be fulfilled.

The needs of Roma students should never be attempted to be met by taking a child out of the mainstream system and placing them in a segregated school. Instead, the mainstream system should be strengthened to address the needs of the child within the school he or she is currently studying. Inclusive education is a widely-promoted strategy to identify specific needs and providing appropriate support within the context of mainstream education.<sup>392</sup> This approach, as a result, can help address all forms of discrimination and exclusion resulting from differences in ethnic origin, disability, and other vulnerabilities.<sup>393</sup> In addition, to facilitate greater levels of success in the mainstream, primary school system, preschool should be made compulsory for Czech children (ages 4-6).<sup>394</sup> NGOs should not be obligated to provide this public good.

### **Thoroughly evaluate the testing system with the ultimate goal of inclusive education**

The Ministry of Education should review the system of diagnostic assessments that are used to identify the range of issues that have justified removing a student from mainstream schools and classes. The tests themselves and the manner in which they are implemented should be evaluated with the objective of eliminating any discriminatory impact in their application. Ultimately, any future use of similar assessments will not be for the purpose of placing a student in a class or school with a reduced curriculum. As stated in Recommendation 1, the goal of inclusive education should be to identify needs and provide support within the mainstream system. Any assessment should assist in providing the necessary support in the student's current learning environment.

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392 UNICEF, *The Right of Children with Disabilities to Education: A Rights-based Approach to Inclusive Education*, 2012, [http://www.unicef.org/ceecis/UNICEF\\_Right\\_Children\\_Disabilities\\_En\\_Web.pdf](http://www.unicef.org/ceecis/UNICEF_Right_Children_Disabilities_En_Web.pdf).

393 Ibid.

394 See *D.H. and Others vs. Czech Republic*, 57325/00, Council of Europe: European Court of Human Rights, February 7, 2006, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{).

### **Set authoritative guidelines that prejudice and intolerance is not acceptable**

If and when the integration of the practical schools occurs, the greatest threat to inclusive education will be the existence of separate, reduced curriculum classes for Roma children and children with disabilities within the mainstream schools. The Ministry of Education must guarantee that proper policies are in place to prevent intramural segregation. To ensure that these policies are respected, the School Inspectorate and Ombudsman must thoroughly monitor schools. Since there is a long history of school principals and teachers cloaking the ethnic composition of their classrooms, monitoring must be transparent and must carefully use data on ethnicity in compliance with EU data protection requirements.

### **Create a new system of supportive measures and provide sufficient resources for mainstream schools**

Integrating practical school students into the mainstream system will also require the Ministry of Education to create a new category of assessments to address the needs of students within regular schools. These assessments should come with a specific plan to address student learning needs, with the resources to support it. The Czech government will undoubtedly have to perform a massive training of teachers. In addition, the mainstream schools should hire the education specialists from the practical schools, who will be able to better assist students who fall behind. Finally, the schools must employ more Roma to work with students. The Ministry should aggressively increase the placements of Roma assistants.

## V. 1. Combating Segregation in Bulgaria



### 1. Introduction

Segregation on an ethnic basis is prohibited under Bulgarian law, yet it persists in the form of separate schools, separate classes, and overrepresentation of Roma children in special schools. This is historically linked to the system of “gypsy schools” built in Roma settlements during Bulgaria’s socialist period.<sup>395</sup> Today, education segregation remains strongly linked to residential patterns. Approximately 50 percent of Roma children attend schools with all or mostly

Roma students, including 34.5 percent who attend schools in geographically segregated neighborhoods.<sup>396</sup>

This case study examines the extent of de facto segregation on Roma children in schools and subsequent strategies employed by NGOs and municipalities to prevent discriminatory education through community development.

<sup>395</sup> REF, *Advancing Education of Roma in Bulgaria: Country Assessment and the Roma Education Fund’s Strategic Directions*, 2007, 9, [http://www.romaeducationfund.hu/sites/default/files/publications/bulgaria\\_report.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bulgaria_report.pdf); J. Greenberg, *Report on Roma Education Today: From Slavery to Segregation and Beyond*, 4/110, May 2010, 971, <http://columbialawreview.org/report-on-roma-education-today-from-slavery-to-segregation-and-beyond/>; Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Bulgaria*, 2012, 8, 33, 35. Available at [http://www.romadecade.org/cms/upload/file/9270\\_file4\\_bg\\_civil-society-monitoring-report\\_en.pdf](http://www.romadecade.org/cms/upload/file/9270_file4_bg_civil-society-monitoring-report_en.pdf).

<sup>396</sup> C. Brüggemann, *Roma Education in Comparative Perspective: Analysis of the UNDP/World Bank/EC Regional Roma Survey 2011*. Roma Inclusion Working Papers, Bratislava: United Nations Development Programme, 2012, 65, <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>; United Nations, General Assembly, Report of the independent expert on minority issues, Addendum: Mission to Bulgaria (July 4-11, 2011), A/HRC/19/56/Add.2, 8, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2_en.pdf); European Roma Rights Centre, “The Impact of Legislation and Policies on School Segregation of Roma Children: A Study of Anti-Discrimination Law and Government: Measures to Eliminate Segregation in Education in Bulgaria, Czech Republic, Hungary, Romania and Slovakia,” February 2007, 12, <http://www.errc.org/cms/upload/media/02/36/m00000236.pdf>.

Community development programs, such as the initiative employed by Integro Association (detailed first in this case study), have achieved noteworthy success in their individual enclaves by empowering Roma students, parents, teachers, and school officials to challenge the gap in educational outcomes between Roma and non Roma. Community enterprises espoused through municipalities have also played a significant role in helping Roma children gain access to mainstream schooling, as evidenced by initiatives in the Sofia and Tundzha municipalities. In sum, the complexity of the educational disparity between Roma and non Roma in Bulgaria requires a cross-cutting approach, which employs the full participation and commitment of NGOs and municipalities at the same time Roma are empowered and become full participants in the integration process.

## 2. Education System and Environment

The Roma are the second largest minority in Bulgaria, only after the Turks. Official estimates place the number of Roma at 325,000 (5 percent of the population), with unofficial estimates ranging from 800,000 (6 percent) to 1 million (8 percent). Many Roma live in poverty, often in substandard housing in remote rural areas or in isolated neighborhoods in larger cities and towns.<sup>397</sup> Roma children raised in these segregated environments face stark disparities in their access to education, including segregated schools and classes, low quality of education, and discrimination inside and outside of the classroom. Various education efforts have been underway in Bulgaria for over a decade but have failed to achieve the desired results – equal access to quality education for all Roma children.

### Roma Education Policies in Bulgaria

As part of the Decade of Roma Inclusion, Bulgaria developed the “Decade Action Plan 2005-2015.”<sup>398</sup> According to the Plan, education

desegregation involves “moving children out of Roma neighborhoods and closing the ethnically segregated kindergartens and schools, with steps to secure the necessary transport while taking the parents’ preferences into account.” In 2004, Bulgaria created the Strategy for the Educational Integration of Children and Students from Ethnic Minorities (updated 2010). The Strategy identified policy targets as “complete integration of Roma children into ethnically diverse kindergarten groups, and that of pupils from Roma background into mixed ethnicity classes in (host) schools outside the Roma neighborhoods.” There were few specific measures to eliminate physical separation of Roma at mixed schools. The measure retains “the lowest possible normative status,”<sup>399</sup> and unless mainstreamed into the Public Education Act, it will have practically no effect.

In 2007, Bulgaria initiated major education system reforms. The government closed down and consolidated many smaller, rural schools and introduced per capita financing. On the one hand, this may have supported desegregation by shutting down all-Roma schools and creating financial incentives for authorities to enroll more Roma students (D. Mihaelova, FXB Interview, December 2, 2013). However, it may have also reinforced inaccurate attendance reporting. Schools can receive funding for Roma students who have left school early due to strict definitions of what constitutes a “drop out,” inaccurate reporting procedures, and inadequate supervision by regional inspectorates.

Bulgaria’s National Program for Development of School Education and Pre-school Upbringing and Preparation (2006-2015) retreats from earlier commitments and does not address specific problems identified in the Decade Action Plan. For example, there is no mention of the need for desegregation, and while the program foresees major restructuring of regional and municipal authorities, it does not describe the type, extent, and process of decentralization. Additionally, although certificates of preschool completion

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397 OSF, REF, and UNICEF, *Roma Early Childhood Inclusion: Overview Report*, 2012, <http://www.unicef.org/Romania/RECI-Overview.pdf>.

398 Roma Inclusion in Education Position paper of the Roma Education Fund for the High Level Meeting on Roma and Travellers

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organized by the Council of Europe in close association with the European Union, Strasbourg, October 20, 2010, 10, [http://www.romaeducationfund.hu/sites/default/files/publications/roma\\_inclusion\\_in\\_education\\_position\\_paper.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/roma_inclusion_in_education_position_paper.pdf).

399 Ibid., 35.

are mandatory to enter first grade, regional inspectorates do not punish segregated schools for enrolling Roma children without certificates. Daniela Mihaelova, representative of the Equal Opportunities Initiative Association, notes of Sofia, the Bulgarian capital, “the municipality is not interested in making inspections in all-Roma schools because they’re well aware that if they close the schools, they should accommodate all these children in the mainstream schools. And I don’t think they want to. I think that the administration prefers to keep these children somewhere else.”<sup>400</sup>

### Roma Education in Bulgaria

Roma children in Bulgaria experience lower enrollment, attendance, and completion levels than average at all levels of education.<sup>401</sup> Access to noncompulsory preschool education (before age 5) is limited due to the attendance fees that registration requires and preferential registration for children with employed parents.<sup>402</sup> Additionally, many Roma children are excluded from compulsory preschool education due to space limitations.<sup>403</sup> Access to primary education is higher,<sup>404</sup> yet Roma children still face barriers related to inferior and segregated schools, poverty, language, transportation, and a lack of supportive family environment.<sup>405</sup> In fact, according to a recent OSF report, the Roma in Bulgaria consistently achieve the lowest educational level compared with other ethnic communities.<sup>406</sup>

According to 2011 census data, 23.2 percent of Roma children of compulsory school age do not attend school, compared to 5.6 percent of

Bulgarian children on the whole.<sup>407</sup> Around 10 percent of Roma children between the ages 7 and 15 attend school irregularly (i.e., missing at least four school days a month).<sup>408</sup> During the 2010/2011 school year, only 42 percent of Roma children in Bulgaria attended preschool or kindergarten, a “striking phenomenon” according to a 2013 FRA report, especially considering Roma children “gain the most” from early childhood schooling in the long run.<sup>409</sup> In addition, dropout rates for Roma children are generally extremely high, particularly between the first and fourth grades. It has also been shown there is a lack of interest on the part of teachers and school officials in ensuring the attendance and literacy of Roma children. Teachers do not adapt their methods to the needs of different students, even though most Roma children speak another language.<sup>410</sup> Furthermore, there is a dearth of programs and activities to prevent early school leaving at upper educational levels.<sup>411</sup>

Roma parents have few opportunities to be involved in their children’s education. As Mihaelova notes, “It’s not only the Roma parents, it’s some sickness of Bulgarian society too” (D. Mihaelova, FXB Interview, December 2, 2013). This seeming ambivalence may be due to lack of time or resources. Experts also note that for parents, the education system is based on sanctions rather than incentives. They are forced to send their children to school in order to be eligible for social benefits.<sup>412</sup> However, this method fails to address access barriers such as lack of transportation and resources. It also disregards the systemic drivers of parental inability to value education, which often derives from the fact that the parents, too, were deprived of their education from a young age. Moreover, few institutional mechanisms are put in place

400 Ibid.

401 United Nations, General Assembly, Report of the independent expert on minority issues, Addendum: Mission to Bulgaria (July 4-11, 2011), A/HRC/19/56/Add.2, 9, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2_en.pdf).

402 Decade of Roma Inclusion Secretariat Foundation, Civil Society Monitoring Report, 8, 33, 35; C. Brüggemann, *Roma Education in Comparative Perspective*, 33.

403 REF, *Advancing Education of Roma in Bulgaria*, 2010.

404 Ibid.

405 K. Butler, *Roma in Bulgaria* (CERS Working Paper), 2012, 6, [http://cers.leeds.ac.uk/files/2013/05/Roma\\_in\\_Bulgaria\\_Katrina\\_Butler.pdf](http://cers.leeds.ac.uk/files/2013/05/Roma_in_Bulgaria_Katrina_Butler.pdf).

406 V. Milenkova, “Policy Measures for Equal Educational Opportunities for Roma in Bulgaria,” in *Education Policy and Equal Education Opportunities*, 224.

407 OSF, REF and UNICEF, *Roma Early Childhood Inclusion: Overview Report*, 2012, <http://www.unicef.org/Romania/RECI-Overview.pdf>.

408 C. Brüggemann, *Roma Education in Comparative Perspective*, 2012, 24.

409 FRA, Education: The Situation of Roma in 11 EU Member States, Vienna, Austria: FRA, 2014, 14, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf).

410 Decade of Roma Inclusion Secretariat Foundation, Civil Society Monitoring Report, 34.

411 See footnotes 423 and 426.

412 Decade of Roma Inclusion Secretariat Foundation, Civil Society Monitoring Report, 34.

for parents to better participate in children's education, let alone interact with Bulgarian parents (D. Mihaelova, FXB Interview, December 2, 2013).

Poor quality education, particularly in the early years of school, contributes to even worse educational outcomes for Roma and prevents many Roma children from achieving higher levels of education.<sup>413</sup> Around 87 percent of Roma between the ages 18 and 22 have not completed secondary school, compared to 44 percent of Bulgarians (R. Russinov, FXB Interview, December 12, 2013).<sup>414</sup> Illiteracy is widespread, and many Roma lack the skills and qualifications needed for employment.<sup>415</sup> The government maintains that Roma families and culture are responsible for poor education outcomes.<sup>416</sup> However, this position fails to recognize the many structural and systemic factors that contribute to unequal educational opportunities for Roma children in the country.

### 3. Segregation Patterns and Consequences

#### Anti-Discrimination Framework

Bulgaria completed EU negotiations in 2004 and officially joined the EU in 2007. The pre-accession period was arguably the most productive for Roma inclusion. Rumyan Russinov, former Director of the Roma Participation Program of the Open Society Institute (OSI), noted that in 2000, OSI began implementing school desegregation in Vidin and soon extended the program to other towns (R. Russinov, FXB Interview, December 12, 2013). This was the beginning of the educational reform movement for Roma children in Bulgaria.

In 2003, the Protection against Discrimination Act was passed,<sup>417</sup> a difficult process even backed by strong support from the European Commission (D. Mihaelova, FXB Interview, December 2, 2013). Under this law, racial segregation amounted to a prohibited form of discrimination, so long as it was forcible — i.e., it was against the will of the persons affected. This was inconsistent with the EU Racial Equality Directive as well as ECtHR jurisprudence.<sup>418</sup> As such, this definitional loophole likely contributed to the “failure of the authorities to enforce desegregation policies.”<sup>419</sup> The government maintained that “segregation” was not a problem as such, since there has never been a policy of de jure or de facto segregation.<sup>420</sup>

This critical issue aside, experts noted that the law was progressive and incorporated the requirements of the EU Racial Equality Directive. Some provisions even went further, such as granting standing to NGOs to initiate cases before the Equality Body or the courts.<sup>421</sup> The Bulgarian Parliament also passed a special Law on the Ombudsman in 2003.<sup>422</sup>

The Protection against Discrimination Act did not provide a sufficient framework to ensure equal education opportunities for Roma children. There were some provisions that should have been included within the Educational Act on the national level, particularly since education administrators are more aware of these requirements than the antidiscrimination requirements. The previous parliament was working on a new law on education to replace the existing one, but the government resigned before the law was passed.

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413 REF, *Advancing Education of Roma in Bulgaria*, 2010; R. Russinov, *Testimony to Helsinki Commission Hearing*, 2012, [http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewWitness&ContentRecord\\_id=248&ContentType=D&ContentRecordType=D&ParentType=H](http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewWitness&ContentRecord_id=248&ContentType=D&ContentRecordType=D&ParentType=H).

414 C. Brüggemann, *Roma Education in Comparative Perspective*, 2012, 47.

415 Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring Report*.

416 United Nations, General Assembly, Report of the independent expert on minority issues, Addendum: Mission to Bulgaria (July 4-11, 2011), A/HRC/19/56/Add.2, 8, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-56-Add2_en.pdf).

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417 Later the Act's title was changed to Protection from Discrimination Act. Under this Law, a national equality body was established in 2005.

418 Ibid.

419 Immigration and Refugee Board of Canada, *Bulgaria, Situation of Roma, including access to employment, housing, health care, and education; state efforts to improve the conditions of Roma*, Canada: October 19, 2012, <http://www.refworld.org/docid/50a9eea32.html>.

420 C. Brüggemann, *Roma Education in Comparative Perspective*, 2012, 65-71; K. Butler, *Roma in Bulgaria* (CERS Working Paper), 2012, 6, [http://cers.leeds.ac.uk/files/2013/05/Roma\\_in\\_Bulgaria\\_Katrina\\_Butler.pdf](http://cers.leeds.ac.uk/files/2013/05/Roma_in_Bulgaria_Katrina_Butler.pdf).

421 The interview with Daniela Mihaelova was conducted by the FXB Center in Sofia on December 2, 2013.

422 REF, *Advancing Education of Roma in Bulgaria*, 2010.

## Segregation in Education

### **Roma Ghetto Schools**

Roma children seldom attend mainstream schools due to residential segregation, lack of transportation, and the inability to pay for busing, attendance fees and other schooling costs.<sup>423</sup>

Roma parents may also fear sending their children to hostile environments.<sup>424</sup> In addition, as REF notes, “Many Roma children are simply not allowed to enroll in Bulgarian mainstream schools.” As a result, Roma children often attend schools in their isolated communities.<sup>425</sup> Explaining the troubling climate of Roma children in schools, Ivan Ivanov, former director of the European Roma Information Office, states: “The all-Roma schools today are usually overcrowded and lack basic facilities: classes are not held regularly, some Roma students who graduate from these schools can hardly read and write. These children are unable to continue their education at a higher level. Poorly motivated teachers in ghetto schools often give better grades to children than they deserve, because it is an easier way of coping with the challenges to teach pupils from disadvantaged backgrounds.”<sup>426</sup>

### **Segregated Classes**

Some Roma children attend integrated schools, which is the result of two developments: (1) decade-long desegregation efforts by Roma NGOs, and (2) national education reforms aimed at closing down and consolidating smaller schools. Yet even within integrated schools around 12 percent of Roma children attend ethnically-segregated classes.<sup>427</sup> This phenomenon — referred to as “secondary segregation” — sometimes occurs when Roma children enroll in

mixed classes and the number exceeds a certain institutional threshold, such as 5 students. In some cases, non-Roma parents take their children out of the integrated schools and enroll them in other schools that are farther away (i.e., “white flight”). As a result, the number of segregated schools has not changed or even increased in some larger towns.

### **Special Schools**

Most children in Bulgaria’s special schools and residential care institutions for orphans are Roma (60 percent). In some cases, Roma children represent more than half the student population in special schools.<sup>428</sup> The rate of Roma students attending special schools is decreasing, but observers note that this remains a concern.<sup>429</sup> Although the Ministry of Education and Science’s new policy supports the downsizing of special schools, the process is slow. Many Roma children in these classes in fact do not demonstrate learning impairments but are enrolled by their parents due to incentives such as free meals and clothing.<sup>430</sup>

### **Discrimination**

Discriminatory and negative attitudes limit Roma educational opportunities, including enrollment in mainstream schools. For example, a 2012 government survey found that 20 percent of teachers felt that children from different ethnic backgrounds have different abilities and that 25 percent of teachers believed that different ethnicities should study in separate schools.<sup>431</sup> Non-Roma children also express discriminatory attitudes, partly due to schools’ failure to promote multicultural tolerance.<sup>432</sup> Stereotyped and prejudiced descriptions of Roma also persist in textbooks and teaching materials.<sup>433</sup>

423 Decade of Roma Inclusion Secretariat Foundation, Civil Society Monitoring Report; Immigration and Refugee Board of Canada, Bulgaria, *Situation of Roma, including access to employment, housing, health care, and education; state efforts to improve the conditions of Roma*, Canada: September 2009- 2012, October 19, 2012, <http://www.refworld.org/docid/50a9eea32.html>; J. Greenberg, “Report on Roma Education Today.”

424 Immigration and Refugee Board of Canada, Bulgaria, *Situation of Roma, including access to employment, housing, health care, and education*, October 19, 2012.

425 REF, *Advancing Education of Roma in Bulgaria*, 9; J. Greenberg, *Report on Roma Education Today*, 971; Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring Report*, 8, 33, 35.

426 I. Ivanov, *Segregation of Roma in ghetto schools – Romania & Bulgaria*, ENAR/ERIO Conference, Brussels, April 2006.

427 C. Brüggemann, *Roma Education in Comparative Perspective*, 2012, 65.

428 Immigration and Refugee Board of Canada, Bulgaria, *Situation of Roma, including access to employment, housing, health care, and education; state efforts to improve the conditions of Roma*, Canada: September 2009- 2012, October 19, 2012, <http://www.refworld.org/docid/50a9eea32.html>.

429 Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring Report*, 33.

430 REF, *Advancing Education of Roma in Bulgaria*, 2010.

431 Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring Report*, 35.

432 Ibid., 37.

433 K. Butler, *Roma in Bulgaria* (CERS Working Paper), 2012, 6, [http://cers.leeds.ac.uk/files/2013/05/Roma\\_in\\_Bulgaria\\_Katrina\\_Butler.pdf](http://cers.leeds.ac.uk/files/2013/05/Roma_in_Bulgaria_Katrina_Butler.pdf).

## **Political and Social Environment**

The political and social environment has become more hostile to desegregation. During the pre-accession period, external support from the EU, European governments, and the United States helped legitimize Roma civil society and strengthened their position in negotiations with authorities (R. Russinov, FXB Interview, December 12, 2013). Following accession, however, the central government was less willing to follow the advice of the European Commission, and Roma activists could no longer rely on EU factors to pressure the government (D. Mihaelova, FXB Interview, December 2, 2013).

There is widespread anti-Roma discourse and actions in Bulgaria, further undermining a desegregation agenda. This includes explicitly racist political parties, inflammatory media language, implementation of policies targeting Roma, and public protests against Roma individuals. The Independent Expert on Minority issues notes, "The Roma remain extremely poorly represented in national Government, and inadequately represented within municipal authorities. Consequently, the Roma lack a level of political participation that would enable them to influence national and local policy and decision-making on issues that affect Roma communities."

## **4. Strategies and Tactics to Advance Desegregation through Community Development**

### **The Integro Approach**

Established in 2002 as a non-profit organization, Integro Association is based in Razgrad, a city of 33,000 inhabitants located in northeastern Bulgaria. Integro's aim is to support Roma communities to improve their social economic status and social inclusion and combat discrimination in society on the whole. The association's activities aim to build structures of active citizenship in Roma communities, uniting the efforts of these structures for adequate representation of Roma at all levels of

decision-making and responsibilities and create conditions for dialogue and cooperation with local authorities and national institutions.

Integro works from the bottom up, focusing on Roma community development and social innovation at the local level. Initiatives are designed to increase the participation of Roma in civic life and strengthen "the voice of Roma." To accomplish these goals, Integro routinely negotiates with local authorities to improve different aspects of Roma rights and strives to increase the representation of Roma at all levels of decision-making. For example, established in 2008, their five-year project, "Strengthening the Roma voice," focused on increasing the capacity for advocacy at the local and regional level by bringing together 30 Roma activist groups. In 2010, Integro developed a campaign to promote the understanding that Roma integration is a process that benefits society as a whole. The "Thank You Mayor" program built a coalition of fourteen Roma organizations to develop a national advocacy campaign strategy. Throughout the initiative, Integro was responsible for creating an ideal framework to support and facilitate campaign partners, conducting research and advocacy at the local level, and preparing press releases to creating newsletters and brochures for dissemination.

Finally, recognizing that education is instrumental toward participation in civic life, since 2006, Integro has made addressing the attendance, participation, and success of Roma students in secondary school a top priority. To this end, Integro has created several programs in Bulgarian localities. Notably they have partnered with secondary schools to bolster material support in the classroom, foster parental engagement, and encourage mentoring and peer-networking among Roma and non-Roma students. These programs are detailed in the following section.

### **Community Development in Ruse and Razgrad**

Most Roma NGOs in Bulgaria are social service providers, which exist to meet daily needs but do not focus on developing the community,



particularly a robust middle class of Roma who are socially integrated. Integro responds to this gap. The goal of community development in the Integro sense is to empower Roma communities as a group, rather than as individuals, and to improve communication between institutions and authorities responsible for Roma issues. Integro does not focus explicitly on “desegregation,” but rather on targeted programs – for example, investing in the educational achievement of young people – which are integral to breaking the cycle of deprivation and poverty.

Described in some detail below, Integro has employed three programs in the Ruse and Razgrad regions that are both cross sectoral and participatory in order to get Roma children back in a mainstream school setting or prevent Roma children from lapsing into substandard educational environments. The programs are inclusive – involving teachers, students, and parents – as well as holistic, recognizing Roma students’ needs for both social and material support. Finally, Integro’s mode of promoting multicultural tolerance in secondary schools derives from a participation model. Peer mentorship networks, for example, are led by students themselves, and students have the autonomy to propose their own agenda in community meetings.

### ***Prevention of Early School Leaving in Primary Education***

Beginning in September and ending in October 2011, Integro adopted an “early school leaving” program in order to increase enrollment and retention rates of Roma children in schools. To begin, Integro assembled a team of seven community workers to survey all primary school ‘drop outs,’ and quickly identified a discrepancy between official school records and results from the new survey. Integro found that although schools define “drop outs” as those who have missed five or more school days, children often were missing extended periods of school and were still marked present. Since schools receive half their budgets in September and the second half in February, there was a strong incentive to inflate attendance along with little oversight from the regional inspectorate. In response, Integro threatened reporting culpable schools to the regional inspectorate, which would require the schools to return money for children not in school.

Next, Integro conducted a mixed-methods study by visiting the children at their homes and gaining a holistic picture of their situation. Why were these children not in school? What problems had arisen from within the family network? What factors would encourage the children to return? Integro developed an individual plan for each child, including the provision of makeup classes. Teachers were compensated to provide these classes and received training in multiculturalism and the integration of minority students. Community workers coordinated with parents to help them understand the children’s needs, including six months of interactive training. Integro connected families with social and employment services, and in some instances, reported families to child protection services for failing to send their children to school.

The program successfully returned 40 children to school from the Ruse and Razgrad regions. While the number of assisted children is low relative to the high number of drop outs, the program was deemed innovative in the way it gained support from parents and employed a holistic approach. A government program had previously assisted students considered “at risk” of dropping out, but had only dealt with children and not parents. The Integro method went a step further by going into the community and bridging gaps between connected institutions. The program succeeded in supporting parents and improving the response of teachers, social workers, and civil servants from the local administration. Integro dispensed financial incentives to encourage school directors and teachers to participate and provided leverage for community workers to pressure schools into reporting more accurate attendance. Kadrin Hasanov, project coordinator from the Integro Association, viewed the project as a veritable success. “Before us, nobody did this,” he said (K. Hasanov and V. Ibryam, Integro Association, FXB Interview, December 3, 2013).<sup>434</sup>

However, at the same time, the project only lasted for one year – just enough time to identify the initiative as a “good practice,” but not enough time to influence and change the attitudes of stakeholders. Project staff noted that the project’s short duration was a shortcoming of EU programs

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434 K. Hasanov no longer works at Integro Association.

in general. Furthermore, Integro could not work with all the children who needed support because they were not officially identified as drop outs. One activist noted, “What are the children – money or persons? Students are like currency. You have children, you have money.”

### ***Provision of Textbooks in Secondary Education***

Integro established a “textbook program” in 2006 after teachers and Roma parents shared that secondary level students lacked essential schools materials. In order to incentivize students to take active ownership of their education, Integro formalized the dispensing of free textbooks through an application process. Before receiving materials, Roma students were required to explain, in the form of a short essay, how they viewed their community situation and their individual role in their community. Integro contracted with various secondary schools to purchase textbooks. The school coordinated the application process, and Integro selected successful applicants. Students were loaned textbooks for the academic year and then returned them to the school at the end of the year.

In its pilot year, the program supported 150 students, and each year, the number has increased by 150 students. During the program’s fourth year, approximately 600 students benefited. Equipped with textbooks, Roma students reported feeling equal to other students and more empowered to learn. Schools also became beneficiaries as students were more prepared for class, and more Roma students enrolled in schools, contributing to increased financing. The program has also helped build libraries at the schools for subsequent students to use.

Incidentally, the response of some Roma parents presented a challenge, as some parents did not want to participate because the program was intended for “Roma children.” Integro noted that this has been an ongoing problem. However, other Roma parents were happy to receive support for their children.

After three years of textbook support, Integro helped students organize themselves into peer mentorship networks. Coordinators brought the

students together and gave them opportunities to connect and learn from each other, as well as express and identify their educational needs. For example, in some schools, students lacked internet access; in other schools, students were achieving very low academic scores.

### ***Civic Journalism and Debate Clubs in Secondary Education***

Beginning in 2008, Integro organized citizen journalism and debate clubs to build youth leadership skills and create a network of students able to think critically on issues of national importance. Participants were 70 percent Roma students and 30 percent non-Roma students. The clubs focused on helping students write civic journalism articles and then expanded to a focus on debate. “Headmasters,” consisting of non-Roma teachers, were recruited and paid a small stipend to supervise and serve as mentors. “Virtual libraries,” provided with the support of REF, gave students access to computers and printers. During the debates, students broached complex social issues, like early childhood development, school dropout rates, and early marriage. The debates were organized among different schools and helped show positive examples of Roma youth to local, regional and national authorities and media. One debate competition was in front of the mayor, and another was held in Ruse and streamed live on Bulgarian national TV.

The clubs created a platform through which Roma and non-Roma students could socialize on an equal basis. Roma and non-Roma challenged prejudices, developed new friendships and ideas, and visited each other’s cities. Parents were also looped into these activities. To determine longer term impact, program coordinators maintained strong relationships with participating teachers to assess changes in teachers’ attitudes.

An unexpected outcome of the journalism and debate clubs was the willing participation of mentors and the development of strong connections between students and teachers. Teachers learned that Roma students are more than capable of success and started to treat them as such. Non-Roma students too learned that their Roma peers can also be mentors. The clubs also helped change the perceptions of Roma students themselves.

The clubs started at five schools and eventually expanded to 14. In the seven years since the clubs started, most participants improved their grades and finished their secondary degrees with good grades. Roma student enrollment also increased at the university level. Finally, some witnessed the impact of the program and invited Integro to implement their method. Still other schools implemented the concept of the program and parts of the program in their own projects.

### **Results and Impact**

As the three programs have illustrated, the work of Integro has focused on establishing linkages and trust between students, school authorities, and parents alike. Collaboration between several parties fueled programmatic success, as well as the manner in which Integro was able to establish trust within the community and ensure students return back to school. For example, in some cases, principals or parents having issues with children called Integro, and Integro served as an instrumental resource. In other cases, Integro communicated with parents and empowered parents to speak directly with the schools.

Overall, Integro minimized the number dropouts amongst Roma school children, so that nearly 100 percent of Roma children achieved primary education in the region, and the number of Roma children significantly increased. Students from even the poorest and most marginalized families became consistently and increasingly involved in school life, and parents began to play an active role in their children's education. Community leadership increased on the part of Roma leaders, and Roma leaders and local authorities collaborated more regularly. Integro's textbook program enhanced the performance of 200 students in school and was so successful that additional schools in nearby towns, observing the results, sought to replicate the program (K. Hasanov and V. Ibryam, Integro Association, FXB Interview, December 3, 2013). As a result of the journalism and debate clubs, 80 students demonstrated an increased level of participation in public school life.<sup>435</sup>

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435 REF, List of Approved Projects: 2005-2013, pg. 3, [http://www.romaeducationfund.hu/sites/default/files/documents/copy\\_of\\_projects\\_list\\_october\\_2013.pdf](http://www.romaeducationfund.hu/sites/default/files/documents/copy_of_projects_list_october_2013.pdf).

However, Integro's intervention was limited. For instance, Integro notes that the decentralization of schools in Bulgaria posed an almost insurmountable dilemma. Small schools in villages often combine children across grade levels, inevitably inhibiting the quality of education. Yet education reform has not been implemented because it would mean a decrease in the number of teachers. One activist suggested, "The big problem in our educational system in the center of values isn't children. The center of values is the school institution. Because when we have school, we have good buildings, we have jobs for the teachers." Partly due to this dilemma, Bulgaria's success in education has been decreasing every year, not just for Roma children but generally. Despite efforts over the last decade, desegregation has not succeeded in Bulgaria. Integro noted the need for greater scalable practices.

## **5. Municipal Social Inclusion Programs**

Thus far this case study has explored the efficacy of a progressive community development program, espoused by an NGO, to make strides in raising the level of substandard education for Roma children. Importantly, it should be noted that Integro's community initiatives were established in partnership with Roma and led by Roma. As this section will illustrate, a small handful of community development programs, driven by municipalities in Bulgaria, have also made significant strides in Roma communities. Examples from Sofia and Tundzha are a strong case in point.

### **Participatory Community Building in Fakulteta, Sofia**

A Roma education initiative in Sofia is notable for its model of participatory community building. Community efforts were primarily focused on Fakulteta, a large Roma neighborhood on the outskirts of Sofia, where children continued to face segregation and unequal treatment in schools. According to data from NGOs, the Roma population in this area lives in poverty and substandard housing. Across the board, educational attainment levels are extremely low.<sup>436</sup>

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436 Sofia Municipality, "Mayors Making the Most of EU Funds for Roma Inclusion: Proposal of Municipality of Sofia," August 27,

Beginning in 2011 and eventually with support from REF<sup>437</sup> and OSI, Sofia adopted an education program that brought together municipal leaders, Roma community members, and local Roma rights advocates and researchers to work towards eliminating the segregation of Roma children in schools. Establishing trust and open dialogue between the municipality and community members, between both Roma and non-Roma, was a central tenet of the program. During these meetings, which spanned a three month period, stakeholders and community members discussed the specific education needs of the community as well as push and pull factors keeping Roma children out of mainstream schools.

After understanding the education needs of the community, Sofia prepared the mainstream school environment for Roma integration. The municipality communicated with school directors and headmasters and trained pedagogical teams on creating a supportive educational environment for Roma children. Within a period of three months, the following topics were covered: family involvement, effective models for integration, awareness raising, multilateral partnership, conflict management, communication with partners (Sofia Municipality, FXB Interview, February 2, 2014).

Preparation of the school environment also involved school mediators. School mediators, largely consisting of Roma youth educated at the secondary school level, were trained to facilitate communication between teachers and administrators and Roma families, particularly when students missed school.

The Sofia municipality also sponsored extracurricular activities for all students, including sports, art, and cultural activities, which were made free for Roma students. In addition, between May 2011 and August 2012, Sofia established “Schools of Inclusion,” initially financed by REF and now from the municipal

budget.<sup>438</sup> Through this sub-program, the municipality funded the transportation of Roma students from Fakulteta to mainstream schools throughout Sofia’s five districts. A particularly successful program, Sofia municipality has deemed “Schools of Inclusion” one of its best practices (Sofia Municipality, FXB Interview, February 2, 2014).

Integration efforts extended beyond the school environment. For instance, Sofia financed an information campaign on social rights and benefits related to education. The municipality also sponsored innovative public parent-school meetings in Fakulteta, which were scheduled five times during the school year.

### **Participatory Community Building in Tundzha**

The municipality of Tundzha sets another positive precedent. Operating under its strategic framework, “Improvement of the condition and integration of the minority groups in an unequal position, with special focus on the Roma,” Tundzha has developed an educational program motivated by a needs-based rather than ethnicity based approach.

Tundzha has a population of 25,530, with 3,881 identifying as Roma of varying levels of socioeconomic integration. Recently, the Ministry of Education eliminated many schools in the region in order to optimize school networks, and as a result of these closings, many Roma children stopped attending school regularly. The falling participation of Roma children in schools was impetus for the municipality to introduce new programming to address the problem.

Beginning in 2011, Tundzha oversaw several activities to promote access to education for Roma children. For example, the municipality revoked all fees for compulsory kindergarten schooling and reduced fees by 50 percent for noncompulsory preschool education. Recognizing that the cost of lunch was a barrier to school attendance, in 2008, Tundzha constructed canteens and kitchens in all community schools, and introduced free lunch to all students in community and non-community schools. The municipality also extended the use

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2012, 1, [www.logincee.org/file/25745/library](http://www.logincee.org/file/25745/library).

**437** “Established in 2004 within the framework of the Decade of Roma Inclusion, REF aims to close the gap in educational outcomes between Roma and non-Roma. REF receives support from many donors, the Open Society Institute and the World Bank among the largest.” Read more at <http://www.worldbank.org/en/results/2013/09/11/replicating-roma-success-stories-in-bulgaria>.

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**438** Sofia Municipality, “Mayors Making the Most of EU Funds for Roma Inclusion: Proposal of Municipality of Sofia.”

of the canteens to other groups receiving services from the municipality.

The municipality also developed an all-day learning process to help overcome the problem of early school leaving, particularly among students of Roma background. In 2009, the municipality opened a municipal center for art and extracurricular activities. Much like program employed by Integro in Razgrad and initiatives adopted by Sofia municipality, Tundzha developed programs targeting parents, primarily aimed at increasing their involvement in their children's schooling. The mayor and his staff held regular meetings with parents in schools, discussing various municipal policies and initiatives and obtaining community feedback. Workshops, funded by UNICEF Bulgaria, emphasized the importance of sending children to school and the role of the family in supporting education. The municipality also offered adult literacy classes funded by the Ministry of Education.

Finally, the program implemented a mentoring aspect. Tundzha employed eight tutors as educational mediators and as social mentors. The tutors worked with Roma students and teachers to assist with integration in compulsory preschool, homework, and voluntary extracurricular activities. The tutors also played a role in supporting the parents, both in helping children integrate into school and during the parental workshops.

### **Results and Analysis**

Both municipal programs, that of Sofia and Tundzha, showed tangible results. The initiative in Sofia successfully integrated secondary Roma students into mainstream schools, in addition to 120 first graders. Of the 1500 Roma primary school students enrolled in 2014, 430 were successfully integrated into mainstream schools. In addition, "Schools of Inclusion" secured transportation for 548 Roma children. These results were obtained in a context where, previously, it was commonplace to drop out of school at the seventh grade level and most students did not have the means to transport to the mainstream school. Therefore, overall outcomes measures in Sofia clearly demonstrated that municipalities wield the power to develop integration initiatives that make an impact.

By waiving and subsidizing preschool fees, Tundzha succeeded in increasing enrollment levels from 69 percent in 2009/2010 to 85 percent in 2010/2011. As a result of the lunch program and the all-day learning process, the municipality saw a sharp increase in the number of students able to attend school, from 418 students (38 percent) in 2008 to 961 students (85 percent) in 2012. The municipality's integration policies have supported Roma children by creating a more supportive environment at the level of schools, families, and communities. At the same time, the free lunch programs have had an unexpected impact on Roma parents. Children share nutritional and behavioral practices learned at school in their homes, including food handling, inclusion of more fruits and vegetables, and communal eating. The authorities we spoke with indicated that Tundzha's practices have been shared widely through a municipal network.

In the case of Integro, the focus was not on desegregation. It was rather on leveraging community development to identify and help reintegrate school drop outs in Razgrad. During its pilot year, the program ultimately reintegrated 40 students, an improvement that earlier government initiatives were not able to achieve. Moreover, Integro's success with secondary school students, through its textbook model and journalism/debate club programs, has made a compelling case for a more deliberate adoption of programs that work with this special (and often forgotten) population. By putting secondary education on its core agenda, Integro has added a nuanced contribution to this case study and future work in Bulgaria and beyond.

Whether focused fundamentally on "desegregation" (Sofia and Tundzha) or leveraging "community development" (Integro), all three programs were pathbreaking in the way they involved and incentivized Roma students and parents, teachers, and local authorities to take ownership of the process to improve education for Roma. In Razgrad, for example, Integro focused on strengthening channels of communication between parents and school authorities. In Sofia, dialogue between parents and municipal officials helped set the agenda moving forward. Finally,

Tundzha identified parents as a key component of its program structure. Adult literacy classes were just as fundamental as the training of students.

The programs in Ruse and Razgrad, Sofia, and Tundzha demonstrated integration was possible in Bulgaria, and within the respective municipality, dispelled the myth that Roma are uninterested in education, which had historically driven Roma education policies in the past. The three approaches detailed in this case study in fact contradicted what a 2012 Includ-Ed report termed “discourses that tend to blame students or their environment for school failure, especially students with minority or immigrant backgrounds.”<sup>439</sup> As a representative from Integro Association pointed out, “Even teachers started to rethink their [Roma students’] capacity and understand that, if given the opportunity, success is possible” (Integro Association, FXB Interview, December 2, 2013).

In fact, according to Milen Milanov, REF Country Facilitator, Roma children who are desegregated demonstrate increased educational outcomes, and in a survey conducted in Sofia, Bulgarian children, educated with their Roma peers, showed no lowering in performance (M. Milanov, FXB Interview, December 23, 2013). Moreover, research by Equal Opportunities revealed that Roma children in all-Roma schools performed worse than Roma children in the mixed schools, and Bulgarian children attending mixed schools did not perform more poorly than Bulgarian children in all Bulgarian schools (D. Mihaelova, FXB Interview, December 2, 2013). Reflecting on factors that drove success, Tundzha specifically cited its need-based, rather than ethnicity-based approach. First, it has facilitated broader public acceptance of programs that benefit the Roma. Additionally, there have been several cost-saving benefits — allowing facilities to service different types of populations, not only by ethnicity and need but also by age, as well as making deliberate choices to save money, such as choosing a catering company rather than making food in the kitchen.

However, although both municipal programs, as well as Integro Association, were able to help

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439 Includ-Ed, *Strategies for Inclusion and Social Cohesion in Europe from Education*, March 28, 2012, <http://www.nesetweb.eu/sites/default/files/includEDD25-2-final-report.pdf>.

Roma kids achieve better schooling, Roma students in Bulgaria still demonstrate generally poor outcomes. For example, only a small fraction of students in Fakulteta and Tundzha continue on to secondary school. Fakulteta also still remains segregated at the primary school level. Additionally, whereas Integro Association was able to assemble a team of community workers to go into the community, the Sofia municipality lacked the resources to identify students missing from school. Municipal authorities in Sofia also noted that an important challenge to the success of integration was motivating parents to become active participants in school life. While public hearings were successful, regular communication was difficult to maintain because it was done through mediators. Roma parents also expressed a general mistrust of institutions.

It is also important to highlight that decentralization comes at a cost, as municipalities generally lack the resources, capacity, and expertise to carry out sustained activities. For example, in Sofia, sufficient resources from the Ministry of Education have been lacking to carry out desegregation efforts; and therefore all efforts, including teacher training, facility maintenance and activities, fell under the burden of the municipality. Furthermore, neither municipality conducted official monitoring of activities in the field, nor was there an official assessment to document long term results (D. Mihaelova, FXB Interview, December 2, 2013).

In addition, interventions were isolated and expensive, and in the case of both municipal program, lacked appropriate monitoring, meaning that ultimately there were no policy implications or opportunities to optimize long term sustainability (M. Milanov, FXB Interview, December 23, 2013). Additionally, the government’s failure to institutionalize desegregation has made the issue perhaps even more vulnerable to the current anti-Roma political climate and slowed if not reversed a decade of progress.

Finally, Integro’s projects, as well as both municipal interventions, could not be scaled up nationally and lacked sustained and coordinated NGO support. Neither movement, for example, has thus far bolstered a national push to completely shut down schools that segregate

Roma children. Full integration and systemic change, on the other hand, require the thoughtful cross-cutting coordination of “ministers, municipal counselors, mayors” and cannot be carried out solely by one willing party.

## 6. Conclusion

Despite successful community-centered initiatives adopted by NGOs like Integro, detailed in full in this case study, as well as by the Sofia and Tundzha municipalities respectively, segregation in Bulgarian schools, and beyond, remains an entrenched practice. Government resources are limited, and adequate coordination between NGOs and municipalities is insufficient, with municipal actors often lacking resources and the capacity to ensure that programs are sustainable and achieve full potential. The Bulgarian government has also failed to take ownership of the process. It has failed to develop a supportive legal and policy framework; develop funding, coordinating and implementation mechanisms; and adequately monitor, evaluate, and document results.<sup>440</sup> At the national level, central authorities lack the will to address desegregation due to its political unpopularity, exacerbated by government changeover (M. Milanov, FXB Interview, December 23, 2013).

Though the central authorities have a greater understanding of the inclusion process, in part because they are pressured by EU mechanisms, this case study has also indicated there is an urgent need for greater understanding at the local level (D. Mihaelova, FXB Interview, December 2, 2013). Although municipal and local authorities may be proactive about attempting to solve the education issues in their communities, as illustrated by Sofia and Tundzha, translating these problems for local authorities and school officials has proved difficult. At the same time, local actors can be far more reluctant to change the status quo, perhaps in part due to pressure from non Roma parents. In both scenarios, the central authorities have a vital role to play in developing policies, creating guidelines, and enforcing the implementation. The latter may be done through

the use of specific metrics showing long term results, such as graduation and retention rates (although not the fake checking system of keeping kids in school in the beginning of the year, as done in Ruse and Razgrad and also in Greece).

Meanwhile, more research should be done to demonstrate that decentralization creates financial benefits for all. In addition, when a large part of the population becomes educated, they are able to attain better employment. As Milanov notes, once the Roma are integrated, “the economics of the country will use these human resources as normal people in the business” (M. Milanov, FXB Interview, December 23, 2013). However, this can absolve the government of its responsibility to address those at risk of drop out. Increased enrollment does not automatically translate into improved outcomes, at least not without institutional mechanisms to keep Roma children in mainstream schools. There may be less oversight over desegregation and less capacity at the local level; and it may relieve central level from responsibility to pay for desegregation.

Finally, efforts to improve donor coordination must be stepped up. So far, REF, for example, has attempted to facilitate communication among international donors focused on improving Roma education policies and programs (M. Milanov, FXB Interview, December 23, 2013). In particular, REF has tried to establish certain standards in implementing projects related to early childhood education or primary education. However, without the government taking leadership and imposing standards, donors tend to focus on disparate priorities.

Foreign support can be positive in the form of money, creating legitimacy, and transfer of technical knowledge. At the same time, this kind of support creates too much of a comfort zone for the government, which is not required to exert itself in terms of political will to push forward a desegregation agenda, develop expertise, or create additional resources. Once international support is withdrawn, it leaves Bulgarian civil society extremely vulnerable — not only unable to carry on its work but open to accusations of corruption with outsiders or racism. This then perpetuates the notion that the Roma are not “of” Bulgaria — but rather external to it.

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440 OSF, REF and UNICEF, *Roma Early Childhood Inclusion: Overview Report*, 2012, <http://www.unicef.org/Romania/RECI-Overview.pdf>.

## 7. Recommendations

That Roma children still confront insurmountable obstacles in order to attend school should no longer be tolerated. It is therefore time for Bulgaria to take on and replicate the community-driven good practices that have been highlighted in this case study. In communities where the majority of children are still relegated to separate schools (or simply do not attend school), it is time for other municipalities and NGOs to take to the helm in introducing similar and far reaching interventions.

Integro Association's program, for example, has demonstrated the well thought out collaboration that can ensue between an NGO and its community, and thus generate a model of participatory community building powerful enough to play a role in reversing the extreme hardship and discrimination school children have faced in previous decades. Finally, the inclusion initiatives born out of Tundzha and Sofia have evidenced the potential of municipal intervention, along with the importance of community participation in the process of social inclusion. These initiatives have made significant strides in granting Roma children human dignity and access to their basic rights.

Moving forward, and as the example from Integro Foundation has especially helped show, the development of linkages and trust between NGOs, municipal authorities, students, school authorities, and parents should be cultivated as part of the first phase of future efforts to improve education for Roma children. Cross-sectoral collaboration can play an essential role in creating tangible success as well as impacting the long-term sustainability of an intervention. Furthermore, the concept of "full participation" calls on the responsibility of school authorities as well as students, teachers, and parents. Rather than simply sanctioning parents to send their children to school, a cross-cutting approach allows civil society to critically address access barriers, such as lack of transportation and resources.

In addition, with adequate and coordinated support, Sofia and Tundzha have evidenced that municipalities have a influential role to play in preventing de facto segregation. Ideally adopting an integrated approach, municipalities should call upon all relevant institutional, community

and NGO actors. Activities might include the development of programs that train teachers and staff, the creation of social activities that promote exchange between Roma and non-Roma children, as well as initiatives that provide social support to Roma families. Ideally, the municipality should spend an adequate period in discussion with Roma leaders in order to establish trust and learn the community's needs. Municipalities should finance desegregation efforts from their annual budget and ensure allocated funds are adequate for the scope of the problem.

Of course, to fully support the education of Roma children in schools, relevant stakeholders need to incentivize a national push to completely shut down segregated schools. So far, the government's failure to institutionalize desegregation has made any possible progress vulnerable to the current anti-Roma political climate and has slowed, if not reversed, a decade of progress. Furthermore, segregation models need be scaled up nationally through efforts to coordinate between NGOs and stakeholders. This kind of approach is necessary to ensure "efficient use of resources," including cooperation between national, regional, and local actors.<sup>441</sup>

Finally, programs should also be monitored in order to assess long-term impact. In turn, research on education desegregation should be stepped up in order to widely publicize the societal benefits that result when Roma children are treated fairly in the mainstream schooling system. Information on Roma education in Bulgaria, and beyond, is thin,<sup>442</sup> and therefore we must continue to research and publish expeditiously on the many structural and systemic factors that have thus far contributed to unequal educational opportunities for Roma children to start with.

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441 European Commission, *Reducing Early School Leaving: Key Messages and Policy Support*, November 2013, [http://ec.europa.eu/education/policy/strategic-framework/doc/esl-group-report\\_en.pdf](http://ec.europa.eu/education/policy/strategic-framework/doc/esl-group-report_en.pdf).

442 UNICEF, *Towards Roma Inclusion: A Review of Roma Education Initiatives in Central and South-eastern Europe*, 2010, 5, [http://www.unicef.org/ceecis/ROMA\\_PAPER\\_FINAL\\_LAST.pdf](http://www.unicef.org/ceecis/ROMA_PAPER_FINAL_LAST.pdf).



V. Case Study  
Intercultural Learning

5 Αντζιου

σημα μέρα των ΡΟΜΑ

ΡΟΜΑ ΞΕ ΟΛΟ  
ΤΟΝ ΚΟΣΜΟ

ΞΙ ΜΟ ΤΟΝ ΡΟΜΑ

6 Αυγούστου

9 Αυγούστου 1941

4000 ρομά

στόμα ξίρο

μάτια καύρα

χείλη, παχυνμένα

ξλοπή.

καρδιά ρασιμένη

δίχος ψυχή

δίχος φωνή

κι ούτε ένα δάκρυ.



ΚΡΟΣΜΙΟΣ. ΠΟΛΕΜΟΣ

ΜΕΔΑ ΣΙΓΚΕΝΤΡΑΟΥΣ



# V. 1. Combating Segregation in Greece

## 1. Introduction

Despite the tradition of tolerance and diversity in Greek society, the Roma minority has not historically been well accepted. The presence of the Roma in Greece traces back to the 14<sup>th</sup> century,<sup>443</sup> but were not granted Greek nationality until 1979. Despite their long history in Greece and Greek identity, the Greek state's delay in granting citizenship to some of them reveals that the majority of the populace still perceives the Roma as "unwelcome outsiders."<sup>444</sup> This perception, in turn, reinforces the unwillingness of Greek society to prevent the social exclusion and segregation of the Roma.

Official estimates place the number of Roma in Greece at around 100,000;<sup>445</sup> however, due to a lack of documents and the inability to register in many municipalities, this number could be inaccurate.<sup>446</sup> According to the National Commission for Human Rights, the Roma population is estimated to be around 250,000, while the Greek Helsinki Watch group suggests that the number reaches 300,000. Roma settlements are scattered throughout Greece, with a greater density found in the Greater Athens area and West Attica or in Epirus and Thessaly in the north. These are either major urban areas or rural areas with ample employment for the Roma. Roma can be also found in isolated settlements,

far from the rest of the non-Roma population.<sup>447</sup> A large number of Roma work on the margins of the Greek economy, as peddlers, flea market sellers, musicians, and agricultural labor.

## 2. The Social Exclusion of the Roma in Greece

The Greek Roma community is not a homogenous cultural or linguistic entity. They vary in their degree of assimilation, dialects, and degree of establishment in residential areas.<sup>448</sup> Because of these differences in the community, most Roma, pejoratively known as Gypsies or Athigganoi, face social exclusion.

The exclusion of Roma from the broader Greek society is often romanticized. Roma are perceived as bursting with spirit, family integrity, and artistic expression. These perceptions take a benign form. However, the more common and infinitely more dangerous form that exclusion takes is in the prejudiced beliefs that Roma do not want to participate in society due to ethnic specificities.<sup>449</sup> It is common to believe Roma do not want to be educated, are lazy and irresponsible, and neglect personal hygiene. It is also believed that Roma have an inclination to engage in criminality, especially drug dealing and kidnapping, and choose "parasitic" jobs, such as petty theft and begging.<sup>450</sup>

**443** D. Ziomas, N. Bouzas, and N. Spyropoulou, *Promoting the Social Inclusion of Roma: A Study of National Policies*, National Centre for Social Research (On behalf of the European Commission DG Employment, Social Affairs and Inclusion), 2011, <http://ec.europa.eu/social/BlobServlet?docId=8971&langId=en>.

**444** A. Abdikeeva and MRG Partners, *Roma Poverty and the Roma National Strategies: The Cases of Albania, Greece and Serbia*, Minority Rights Group International, Macro Study, 2005, <http://www.unhcr.org/refworld/docid/469cbfd50.html>.

**445** C. Cahn and G. Elspeth, *Recent Migration of Roma in Europe*, OSCE, 2008, <http://www.osce.org/hcnm/78034?download=true>.

**446** After the war conflicts in the former Yugoslavia (in the early 1990s), a large number of Roma migrated to Greece. However, not all Roma settled permanently in the country. Many moved to and from the Balkan countries in which they were installed before 1990.

**447** D. Ziomas, N. Bouzas, and N. Spyropoulou, *Promoting the Social Inclusion of Roma: A Study of National Policies*, National Centre for Social Research (On behalf of the European Commission DG Employment, Social Affairs and Inclusion), 2011, <http://ec.europa.eu/social/BlobServlet?docId=8971&langId=en>.

**448** S. Xatzisabbidis, *Linguistic Minorities and School Failure: The Case of the Roma in the European Union*, Greece, 2007, [http://6dim-diap-efeth.thess.sch.gr/Greek/Ekpaidefsi\\_Tsigganopaidon/EishghseisEkpshsTsigg/EishghseisEkpshsTsigg1999/glossikes\\_meionotites\\_kai\\_xoliki\\_apotychia.pdf](http://6dim-diap-efeth.thess.sch.gr/Greek/Ekpaidefsi_Tsigganopaidon/EishghseisEkpshsTsigg/EishghseisEkpshsTsigg1999/glossikes_meionotites_kai_xoliki_apotychia.pdf).

**449** V. Pantazis and D. Marouli, *Roma Children in Primary Schools. Cultural Enrichment or Suspending Factor: The Attributions of Parents of Students Who Study in the Primary Schools of the Prefecture of Hleia*, IE, 2001, 60.

**450** M. Lampridis, *Aspects of Social Representation of Roma*,

Many non-Roma avoid interactions with Roma and try to exclude Roma from their neighborhoods.<sup>451</sup> This negative attitude instigates conflict within communities, involving the local government in these biases and perpetuating prejudice against the Roma.<sup>452</sup> The average citizen believes that the Roma, as a group, should be restricted to the sidelines of society. The more isolated the Roma are, the better for the rest of the population. In fact, an old myth about Roma people (“eat your food or otherwise I will call the Gypsies to take you away”) has been revived again very recently in Greece,<sup>453</sup> perpetuating the adoption of these stereotypes, which normalize and justify the Roma’s social segregation.

The Greek government, in an effort to promote social unity and multiculturalism, has rethought and broadened the cultural foundations of modern Greece.<sup>454</sup> However, its attitude towards the Roma is routinely colored by negativity, or at best, indifference. For example, recently, media coverage of Roma cases has only “helped to disseminate negative myths and prejudice against them.”<sup>455</sup> Moreover, since 2012, the rise of the far-right political party “Golden Dawn,” with its extreme anti-Roma racism, has led to a series of violent attacks against Roma by the party’s members. Golden Dawn does not only organize violent killings and attacks against the Roma, but also turns against any non-Roma who strives for the social integration of the Roma.

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2004, <http://repository.edulll.gr/edulll/handle/10795/275>.

451 E. Karagounis, *Human Relations in School: Intervention of Social Representations on Student Intergroup Relations*, PhD thesis, Pantion University, 1998.

452 S. Xatzisabbidis, *Linguistic Minorities and School Failure: The Case of the Roma in the European Union*, Greece, 2007, [http://6dim-diap-eflefth.thess.sch.gr/Greek/Ekpaidefsi\\_Tsigganopaidon/EishghseisEkpshsTsigg/EishghseisEkpshsTsigg1999/glossikes\\_meionotites\\_kai\\_sxoliki\\_apotychia.pdf](http://6dim-diap-eflefth.thess.sch.gr/Greek/Ekpaidefsi_Tsigganopaidon/EishghseisEkpshsTsigg/EishghseisEkpshsTsigg1999/glossikes_meionotites_kai_sxoliki_apotychia.pdf).

453 We also reference here the case of little Maria: a young, blonde, green-eyed girl found in a Roma camp and thought to be an “abducted western kid.” Roma parents were accused by the police, the media, and Greek society as abductors and child traffickers, an accusation which revived and justified prejudices against Roma people. DNA tests proved that young Maria is an albino Roma child from Bulgaria that was left in the Greek Roma family by her parents who could not afford to raise her.

454 Oikokoinonia, *Roma’s Life*, Greece: 2014, [http://www.oikokoinonia.gr/roma\\_history.asp?submenu\\_id=1](http://www.oikokoinonia.gr/roma_history.asp?submenu_id=1).

455 According to Nils Mouzniek, European Commissioner of Human Rights in *Commissioner for Human Rights: Mass Media, Respect the Roma*, Eleutherotopia: October, 24, 2013, <http://www.enet.gr/?i=news.el.article&id=394162>.

Since 1996, the Greek government, following the initiatives of the European Union and other international bodies, has employed a human rights based approach to advance the social inclusion of the Roma through education. However, deeply rooted preconceptions and societal prejudices have impeded progress.<sup>456</sup> Though Roma children are well integrated within the school environment, non-Roma parents fundamentally do not want their children in school with Roma children, resulting in the latter group’s continued segregation. This is especially true in preschool and elementary school. As a consequence, a significant percentage of Roma children abandon school altogether, a percentage that reaches 77 percent in some areas.<sup>457</sup>

### 3. School Segregation of Roma Children in Greece

#### Institutionalization of Prejudice

School segregation includes the separation of students into separate classes or schools based on their race, ethnicity, or other protected grounds. Even though this practice violates the Greek Constitution’s guarantees of equality and is not implemented officially, Greece has already been sanctioned three times by the ECtHR for discrimination against Roma children for segregating Roma children and depriving them of their right to education. In all cases,<sup>458</sup> though the Greek State has ensured that Roma children would join mixed schools close to their residence (so that transportation would not be an issue), the measure was not put into practice, due to non-Roma community and municipal opposition. In 2 of the 3 cases, Greece was sanctioned because the country failed to secure the right to equal education for Roma children.

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456 E. Karathanasi, *The Living Condition of Roma: The Life-Space and Social Space of Roma*, Gutenberg, 2000.

457 A. Triandafyllidou, *(In)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children*, “Accept Pluralism” Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

458 Case of Sambanis et al vs. Greece, 2008; case of Lavidia et al vs. Greece, 2013.



Sampanis vs. Greece:

*The applicants in the Sampanis Case claimed that in 2004-05, the local school authorities in Aspropyrgos, Attica, refused to enroll their children in primary school but instead placed them in a segregated Roma-only annex five kilometers from the school following protests by non-Roma parents against including them in the main school. The Court sanctioned the Greek State for failing to enroll the Roma children in school during the 2004-05 school year. It also found that the segregation of Roma children into the annex was the product of a system of assessment that took into account ethnicity when placing children into special preparatory classes and that a more legitimate method for assessing children with educational challenges was necessary.*<sup>459</sup>

459 ECtHR, *Sampanis and Others v Greece*, Application no. 32526/05, June 2008, <http://cmiskp.echr.coe.int/tkp197/view.asp?acton=html&documentId=836273&portal=hbkm&source=externalbydocnumber&table=?F69A27FD8FB86142BF01C1166DEA398649>

Greece practices several forms of discriminatory practices. One type involves the refusal to enroll Roma children in local schools, using a lack of appropriate enrollment papers or vaccinations as justification.<sup>460</sup> Roma children are also misdiagnosed with mental disabilities and placed in separate groups or classes on the grounds that their needs are better served this way. Another type of segregation occurs in the form of Roma ghetto schools. These schools are exclusively comprised of Roma children situated in or near Roma settlements. Officials justify the development of these schools by arguing these institutions are better adjusted to the needs of Roma children and located closer to Roma neighborhoods.<sup>461</sup> Though this practice violates the Greek Constitution, it is supported by the general population and many local authorities.

460 A. Triandafyllidou, *(In)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children*, "Accept Pluralism" Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

461 Ibid.

Many non-Roma parents remain opposed to integrated schooling, arguing that the integration of Roma children (and immigrant children) will compromise the quality of their children's education.<sup>462,463</sup> They fear that non-Roma students will require more attention from teachers, diverting time away from other students. Entrenched ethnic prejudices underlie these assumptions.

### The Greek Educational System

The national educational system is under the auspices of the Ministry of Education and Religious Affairs, which exercises centralized control over schools by appointing staff, controlling funding, and imposing a mainstream curriculum. Primary and secondary lower education is compulsory for all children between the ages 6 and 15. Post-compulsory education consists of the Unified Upper Secondary General Education Schools ("Eniaia Lykeia") and the Technical Vocational Educational Schools ("TEE"), and lasts for 3 years. Access to University Institutes is ensured after the successful graduation from a very competitive national examination.<sup>464</sup>

The Greek education system today emphasizes memorization over critical analysis.<sup>465</sup> Moreover, there are very few university entrance spots relative to the number of candidates, making the national entrance examination a highly competitive and stressful process that forces weaker students to abandon all hopes of going on to university.<sup>466</sup> As a result, post-secondary education serves largely as a preparatory level for the universities.<sup>467</sup> As the competition for a

university degree increases, more students take expensive, private tutoring classes after school,<sup>468</sup> as it is commonly believed that the instruction in the school cannot prepare students adequately to pass exams. Therefore, though Greek education is free for every child, it is often described as an "expensive free education,"<sup>469</sup>—a privilege of wealthy students, since less affluent families facing economic problems cannot afford it.

Until 1986, the Greek state did not monitor the Roma children's school performance and instead placed blame for the absence of Roma children from school (and their resulting poor test scores) on their parents. In 1987, the Ministry of Education (General Secretariat of Popular Education), the Ministry of Health, and the Ministry of Internal Affairs made a first attempt to understand underlying causes of the endemic failure in school by Roma children.<sup>470</sup> It was in 1993 that the Ministry of Education finally acknowledged that school segregation and failure rates of Roma children were caused by reasons other than their "innate" differing educational needs.

### The Current Educational Situation of Roma Children

Prejudice within the classroom context is adopted not only by parents and teachers but also by children themselves, leading to discrimination against Roma children even within integrated school environments. This type of discrimination is difficult to monitor and underscores the need for diversity and inclusion education both in the school environment and in wider society. Roma students, who are frequently discriminated against and subject to bullying and name-calling, find themselves accused of instigating conflicts they did not initiate and feel segregated even amongst the other children.<sup>471</sup>

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462 The quality of education depends on the capability of the students to complete their homework, the supervision parents exert on them in order to help them gain more knowledge, and on teachers' efforts to do their job diligently and efficiently. UNICEF, *Defining Quality in Education*, paper presented at the meeting of The International Working Group on Education, Florence, Italy: 2000, <http://www.unicef.org/education/files/QualityEducation.PDF>.

463 A. Triandafyllidou, (*In*)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children, "Accept Pluralism" Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

464 Greek Ministry of Education and Religious Affairs, "The New School," 2012, <http://www.minedu.gov.gr/neo-sxoleio-main.html>.

465 Department of Statistics, Athens University of Economics and Business, "An Introduction to the Greek Educational System," <http://www.stat-athens.aueb.gr/~jpan/oecd-report/oecd-report-ch3.pdf>.

466 M. Marseilles, *GREECE: An Expensive Free Education*, University World News, January 24, 2010, <http://www.universityworldnews.com/article.php?story=2010012409184186>.

467 Department of Statistics, Athens University of Economics

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and Business, "An Introduction to the Greek Educational System," <http://www.stat-athens.aueb.gr/~jpan/oecd-report/oecd-report-ch3.pdf>.

468 D. Grathwohl, *Education Falls Victim to Greek Debt Crisis*, Deutche Well Akademie, December, 27, 2012, <http://www.dw.de/education-falls-victim-to-greek-debt-crisis/a-16481846>.

469 M. Marseilles, *GREECE: An Expensive Free Education*, University World News, January 24, 2010, <http://www.universityworldnews.com/article.php?story=2010012409184186>.

470 A. Triandafyllidou, (*In*)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children, "Accept Pluralism" Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

471 C. Rinne, *The Situation of the Roma in Greece*, Dom

The majority of Greek educational books still do not include Roma history and culture. This shortcoming is not only a challenge for achieving a robust Greek education, but is also perceived by many Roma as a threat to Roma culture and rights.<sup>472</sup>

According to a study, 54.7 percent of Roma have not attended school at all, and 33.4 percent have completed certain levels of primary education. Also, only 7 percent of Roma complete primary school, and 1 percent attended certain secondary education.<sup>473</sup>

As the European Roma Rights Centre (ERRC) and the Greek Helsinki Monitor (GHM) wrote in 2009, “Roma children in Greece remain at a great disadvantage with regard to education. In particular, in several localities Roma children are not enrolled in primary schools and local authorities have not acted to ensure the enrolment of the children. This is, for example, the case in the Riganokampos settlement in Patras [city], where none of the children in a Roma community of 222 people are registered in or go to school, although the closest school is located approximately 150 meters from the settlement.”<sup>474</sup>

## 4. Successful Intercultural Learning Approaches

Supported by the NSRF, the Ministry of Education, the University of Ioannina, University of Thessaly, Aristotle University of Thessaloniki, and the National and Kapodistriakon University of Athens, have made efforts to facilitate and promote equal education of Roma children.<sup>475</sup> The Education

of Roma Children program begun in 1996 has succeeded in enrolling many Roma children, decreasing their dropout rates, introducing intercultural education to schools, and combating prejudices.

### Background

In 1989, the Ministry of Education initiated working groups focusing on improving access to school for children of vulnerable groups. However, no effort was made to adopt an intercultural approach to meet their educational needs. Ignorance of Roma culture instead led to the adoption of views that did not reflect reality,<sup>476</sup> forcing the Greek state to conduct more research on the topic. In a 1988 research paper, for the first time, the need for a more multicultural and intercultural education was acknowledged.<sup>477</sup>

It was only in 1992 that the Ministry of Education realized that it needed to move beyond a theoretical discussion of the school integration of Roma and adopt a practical approach. The Ministry worked to modernize the curriculum and textbooks and adopted contemporary pedagogical practices. Though the educational system has suffered from chronic under-funding (often an easy excuse in the face of problems),<sup>478</sup> since the mid-1990s, some schools have taken an intercultural educational approach to the poor school performance of minority children (Roma and Muslims), adjusted to EU standards regarding the education of migrant students, and helped Greek students integrate into the globalized and competitive European Union.<sup>479</sup> This approach fosters the development of positive interactions between groups from different cultural backgrounds and cultural enrichment – both crucial components of ending discrimination and prejudice.<sup>480</sup>

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Research Center, 2002, <http://www.domresearchcenter.com/journal/16/greece6.html>.

472 Ibid.

473 Integrated Program for the Social Inclusion of Roma, *Recording the Current Situation of Roma in Greece and Drafting an Action Plan for the 4th Programming Period*, Greece, May 27-28, 2009.

474 Submission of the European Roma Rights Centre Concerning Greece for Consideration under the Universal Periodic Review by the United Nations Human Rights Council (HRC) at its 11th Session on May 2-11, 2011 in D. Ziomas, N. Bouzas, and N. Spyropoulou, *Promoting the Social Inclusion of Roma: A Study of National Policies*, National Centre for Social Research, 2011, <http://ec.europa.eu/social/BlobServlet?docId=8971&langId=en>.

475 National Strategic Reference Framework, the reference document for the programming of European Union Funds at national level.

476 According to working groups, teachers pointed to Roma children's poor dress and lack of parental supervision as justification for their negative attitudes. P. Leutheriwou et al., *Education of Roma Children in Greece*, Athens, 2011.

477 Ibid.

478 In 2000, Greece spent 7.3% of its total public expenditure on education. In 2012, the country spent 2.75%.

479 A. Triandafyllidou, *(In)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children*, “Accept Pluralism” Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

480 M. Hohmann and R. Hans., *Ein Europa für Mehrheiten und Minderheiten: Diskussionen um interkulturelle Erziehung*, Munster-New York: 1989.

As a first step, the Ministry created 26 intercultural schools, which catered children's social and cultural specificities. These schools followed the mainstream curriculum, but provided a friendly environment to minority students and adjusted the material to children's individual and specific needs. However, because this system prevented the interaction of minorities with the general school population, "reception classes" were introduced into the mainstream schools, offering Greek language, history and culture lessons to students who did not speak the Greek language.<sup>481</sup>

Simultaneously, university students and potential future teachers were introduced to intercultural and multicultural education. In Greece universities, the Department of Education began to teach specific courses on multiculturalism, dialoguing with students about how to embrace a new multicultural reality.

### **The Case of the Program "Education of Roma Children" in Greece (1996-2013)**

Funded by the European Union (NSRF), in 1997, the *Education of Roma Children* program was introduced. The program was implemented by the University of Ioannina (1997-2004), the University of Thessaly (2006-2008), the National and Kapodistrian University of Athens, and the Aristotle University of Thessaloniki (2010-2013). Developed in order to more effectively integrate Roma children in schools, the program was staged in four parts. In each stage, efforts were made to develop a baseline understanding of how many Roma children were or were not attending school, as well as what supports were needed by Roma students. The program also sought to develop appropriate educational materials and improve the intercultural and professional abilities of teachers and school administrators. Finally, it sought to improve the quality of and access to education for Roma children by building capacity at the level of schools, parents, and communities.

### **The First Stage (1997-2001)**

During the first phase of the program, targeted efforts were made to better understand Roma

community and culture.<sup>482</sup> It quickly became clear that in order to achieve the acceptance of Roma children in schools, school authorities had to be adequately prepared as well as society itself. Therefore a vital aspect of the program was shifting the focus to better understanding Roma culture. Education interventions were framed as a means to "integrate" the Roma minority, not "assimilate" them.

During the same period, the second phase focused on the evaluation of existing educational material to assess its viability and relevance for Roma and other minorities. At the same time, pilot educational seminars were organized in specific areas that presented "best case" examples of Roma integration.<sup>483</sup>

The third phase was intended to gather the experience of the two previous phases and transform those experiences into practice. Greater understanding of the culture of Roma (first phase) and the experiences from the pilot seminars (second phase) led to the production of educational materials that could be utilized for effective intercultural education. The program also recruited a body of properly trained educators, specializing in multicultural education, to be used as trainers of current teachers.

The fourth phase focused on the study of bilingual education for Roma children.<sup>484</sup> Taking into consideration that the majority of Roma children could not speak the Greek language, it was important to create special educational material that could facilitate bilingual teaching. In 1999, support classes, consisting of pupils with either no or limited knowledge of the Greek language, were organized during school hours and divided into two levels. Pupils augmented some classes with their "normal" class, but depending on which of the two levels they were in, were also given remedial classes to assist their learning. These support classes were held after school in order to help children with limited knowledge of the Greek language.<sup>485</sup> The program's evaluation concluded

481 A. Triandafyllidou, *(In)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children*, "Accept Pluralism" Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011, 45-63.

482 The results were based on field work in the Roma camps.

483 P. Leutheriwou et al., *Education of Roma Children in Greece*, Athens, 2011.

484 Ibid.

485 A. Triandafyllidou, *(In)tolerance of Difference in Greek Schools: The Case of Migrant and Roma Children*, "Accept Pluralism"

that the basic aim of the first stage was fulfilled, since during the 1996-1997 school year, 2640 were enrolled in schools while in the school year 1999, the number reached 8460 students.<sup>486</sup>

### **The Second Stage (2001-2004)**

The positive and promising evaluation led to the continuation of the program, initiated by the University of Ioannina. The program was applied to 40 prefectural regions with a large Roma population in cooperation with 227 schools.<sup>487</sup> The purpose of the program remained the same, and it was strengthened and realized through 4 actions. The first action focused on pedagogical monitoring and support. It aimed to create and maintain an inventory of “active” or “inactive” Roma students at school, municipality, and county level for the period 2002-04. The database included demographic data and painted a comprehensive picture of the social situation and reality of Roma students.<sup>488</sup>

At the same time, the official partners of the program monitored the enrollment and school performance of Roma children in kindergarten and elementary schools to prevent drop-off during their first years in school (an extremely critical time for the future educational development of the child). To do this, program partners helped students with extra support classes by mediating between the school, family environment, institutions, the local and prefectural governments and the central services of the Ministry of Education in order to overcome the difficulties that might arise. The program also adjusted specific forms of teaching for cultural specificity.<sup>489</sup>

Teacher training formed part of the second action. Teachers and principals were trained in order to become better aware of the need for multicultural education and the education of minority children.

This was achieved by recording and discussing the problems faced by teachers in schools in their effort to teach, informing them about the problems the students might face, and by presenting successful multicultural teaching methods. The second action involved Roma parents. Specialized sessions taught parents how to best to support their children in schools and combat social and ethnic prejudices through ongoing training seminars and parent group-meetings.<sup>490</sup>

The third action involved the production and improvement of existing teaching materials. These materials were intended for use in multicultural educational classes within primary schools and within supplemental classes. The teaching materials also confronted other issues, including racism, social exclusion, stereotypes, and prejudice. The fourth and last action of this stage concerned the assessment of the overall project in its various counties of operation. In this final stage, conferences were also developed, which publicized good practices of desegregation.<sup>491</sup>

Evaluations emphasized both the importance and success of the program. In 2004, 8774 Roma children were enrolled in school and only 2264 Roma children dropped out of school. Following the curriculum, 5829 Roma children were integrated into mixed classes, and approximately 1400 students attended special support and preparatory classes. 2746 teachers were trained in multicultural education; 4 conferences were organized in order to inform the general population about Roma identity and school desegregation practices; and 1316 Roma parents participated in parent group meetings.<sup>492</sup>

### **The Third Stage (2006-2008)**

The third stage began in 2006, under the supervision of the University of Thessaly. While basic objectives of the program remained the same, this staged placed special emphasis on improving the conditions of Roma education. Implemented in three actions, the first action aimed to improve school conditions in order to boost attendance rates amongst the Roma and lower dropout rates, until at least the end of

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Working Paper, Italy: The European University Institute Robert Schuman Centre for Advanced Studies, 2011.

**486** G. Markou, *The Effort to Develop a National Policy for Economic and Social Integration of the Roma* in Troubeta (ed.), *Roma in the Modern Greek State*, 2008.

**487** University of Ioannina, *Summary of the Programme «Integration of Roma Children at School*, University of Ioannina, 2004, [http://6dim-diap-efleth.thess.sch.gr/Greek/Ekpaidefsi\\_Tsigganopaidon/ProgrammataEkpshtsigganopaidon/kepyse/webpage/program.htm](http://6dim-diap-efleth.thess.sch.gr/Greek/Ekpaidefsi_Tsigganopaidon/ProgrammataEkpshtsigganopaidon/kepyse/webpage/program.htm).

**488** Ibid.

**489** Ibid.

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**490** Ibid.

**491** Ibid.

**492** Ibid.



compulsory education requirements. The other two actions contributed to this aim by improving the performance of Roma children and changing the attitudes of teachers towards them. The second action, relying on the valuable experiences of previous years, modified educational procedures so that they were better suited to facilitate an inclusive and supportive environment for Roma students. The third action focused on changing the prejudices and stereotypes adopted by teachers specifically.<sup>493</sup> This was an important step, as teachers have the ability to both empower Roma children through education and influence the views of non-Roma children towards their Roma peers.

At the end of the third stage, qualitative and quantitative data showed that by supporting the Roma community, as well as the school, school enrollment and performance on the part of Roma children was increasing. Consequently the program was continued from 2010 through 2013.

#### **The Fourth Stage (2010-2013)**

Two universities (the Aristotle University of Thessaloniki and the National and Kapodistrian University of Athens) implemented the fourth stage of the program, with help from the Institute of Adult Continuing Education (IDEKE). More than 1100 schools and 26000 Roma students from all over Greece participated in this stage. The basic aims of the program remained the same: to increase Roma student enrollment, and increase the acceptance level of Roma children by society on the whole.<sup>494</sup>

This stage took on a systematic approach, implementing greater preschool and adult education for the Roma population. The first action dealt with access to preschool for Roma children. Roma parents were encouraged to leave their children in preschools and nurseries, and efforts were made to integrate Roma and non-Roma children in order to produce a better environment. Once toddlers were enrolled, health issues, such as vaccination, were dealt with.

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493 P. Leutheriwto, et al., *The Education of Roma Children in Greece*, Athens, 2011.

494 National and Kapodistrian University of Athens, *Program Education of Roma Children 2010-2013: Interventions and Actions for the Educational Integration of Roma Children*, Athens, 2013, <http://www.keda.gr/roma/files/ROMA14PagesEnglish-2.pdf>.

The second action focused on developing motivational programs to encourage Roma children to attend school, and also developed linguistic and learning support within and beyond the school curriculum. For the first time, school integration was facilitated by moderators and Roma coordinators (mediators)<sup>495</sup> with strategies and practices that encouraged cross cultural understanding, communication, and cooperation. The operation of two very important school structures—the intra-school host classes and after school tutorial classes—helped cover cognitive and cultural gaps during various phases of integration, while summer schools helped smooth the transition from elementary to high school and motivated Roma children to participate in schools. Along with the specialized educational materials that were distributed to schools for Roma students,<sup>496</sup> transportation was provided to facilitate their transfer to new schools. The initiative also piloted “Creative Employment Workshops.” These specialized classes taught students how to create, organize, and implement creative animation, and ultimately aimed to enhance Roma students’ interest in school and workplace opportunities beyond school.<sup>497</sup>

To target the problem of adult illiteracy amongst Roma, the third action aimed to reinforce access of Roma to adult education centers and “second-chance” schools. Adults bolstered their knowledge on basic legislation, Roma rights, and the rights of girls. After achieving completion of the curriculum, Roma parents received public school certificates, and program managers worked with them to secure employment.

The fourth action focused on teacher training and education. With the support of specialized media and new educational material, diverse methods of teaching were introduced as “best practices” to teachers in order to foster a multicultural classroom environment. The training was also intended to remove stereotypes that are held

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495 Mediators were often Roma, either formally trained through long-term seminars or with previous experience facilitating the increased access of Roma children to school.

496 Educational materials included school bags, pencil cases, pens, etc.

497 National and Kapodistrian University of Athens, *Program Education of Roma Children 2010-2013: Interventions Actions for the Educational Integration of Roma Children*, Athens, 2013, <http://www.keda.gr/roma/files/ROMA14PagesEnglish-2.pdf>.

by the majority of teachers and education professionals against Roma children.

The fifth action dealt with psychosocial support for students, Roma parents, and schoolteachers. Psychologists worked with both teachers and parents, recorded the needs of children, and facilitated communication between school officials and consultants. They provided individual and group counseling, offering help and support to those who needed it.

The sixth action aimed to establish permanent lines of communication and cooperation among all schools that Roma students attended, their families, and the local community. The seventh and eighth actions focused on the publication of the program, particularly to underscore the need for and importance of Roma integration, while the ninth action concentrated on the evaluation of the program. The last action aimed to identify interventions that were most successful in order to attract as many Roma students as possible to schools and provide the Ministry of Education with guidelines necessary to integrate Roma children in the future.<sup>498</sup>

Evaluating the program between 2010 and 2012, it was clear that the number of Roma children enrolled in preschools increased based on data gathered from the more than 170 preschools that participated in the program. Additionally, more than 120 summer schools and 85 “Creative Employment Workshops” were organized; more than 1600 Roma parents attended second-chance schools or adult-education classes; and more than 10000 teachers were trained in multiculturalism, Roma history and culture.<sup>499</sup> These promising results led to the continuation of the project during the 2013-2014 school year.

## 5. General Conclusions and Recommendations

Based on the increased numbers of Roma enrolled in schools, the program demonstrated a significant positive impact in reducing school abandonment. The program also increased the

number of students who completed their basic education and progressed to secondary school, particularly influenced by the number of teachers who were trained and challenged to change the adopted stereotypes against Roma and by Roma parents who were educated.

However, there was no data, nor an evaluation, on how well the training provided to teachers was adopted. Furthermore, tutorial teaching, even though well organized, was impermanent in its implementation, as the Ministry that created it was not able to support it. The teachers who taught at the intra-school host classes and the after school tutorial classes were appointed only after the official verification of the needs of the school, causing a huge delay in the start of teaching. Since 2011, these classes do not function in many schools due to the severe cutbacks in all branches of the Greek public sector.

Undoubtedly the Greek state in recent years has made significant efforts to address minority issues related to Roma. However, almost 17 years after the launch of the program, the state of affairs of Roma in Greece remains more or less the same. Their living conditions are inhumane, and they remain deprived of a wide range of their fundamental rights.

However, implementation of the program proved that the Greek State, along with the Greek academic world and the general population, might make important steps towards the integration of the Roma people.

Taking into consideration the serious pressures exercised on Greek society by the fiscal and economic crisis that the country is currently undergoing, there is widespread fear that funding for these sorts of initiatives will disappear, as even EU funding is very limited at this time. While political and social will has been established, it seems that the national implementation is still at the very beginning.

Because research has revealed that the state of housing for Roma children has an enormous influence on their prospects in education (and in most cases Roma children do not live in conditions that allow them to study and develop effectively), it is important for the government to take appropriate measures to facilitate the

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498 Ibid.

499 Ibid

inclusion of the Roma in urban and suburban housing. By granting soft loans, the government can facilitate entry into the housing market in the cities,<sup>500</sup> thus providing the Roma with the basic facilities that they require in their residences.

Though the efforts of the Ministry of Education and universities towards the adoption of a more intercultural education must be acknowledged, the majority of Greek mass media and messaging still does not accurately represent Roma history and culture. This insensitivity is a steep challenge for Greek society, and the State has to face this challenge by strengthening and promoting Roma cultural representations.

Additionally, efforts have to be made by the Ministry of Education to extend the implementation of the good strategy (described in this study) to all schools in Greece, as the program had a significant positive impact on reducing school drop-out rates and segregation against Roma children. Naturally, this effect was only seen in the schools where the program was implemented. The incomplete implementation of the program cannot lead to long-term results and crucial changes.

Last but not least, as it is widely acknowledged that teachers have an important role to play in turning exclusion into inclusion, and can influence the situation when racism comes to the surface, their continuous and unending education in intercultural issues is necessary. Holding the continuous updating and training of active teachers as a key priority, the Greek Departments of Education should continue to strengthen the requirements for knowledge of intercultural issues for both students and future teachers, whilst extending the mission of intercultural education into other scientific disciplines as well, and including it in the Curriculum of each university department. After all, knowledge and education is one of the best ways to confront racism and stereotypes within society.

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500 However, it is important to control the number of dwellings per area, in order to avoid creating ghettos.



## VII. Reflections

A large number of Roma children and youth affected by segregation in European countries in the past twenty years have been left behind in school, have had no chances on the labor market, and have received no remedies for the harm and the educational, economic and emotional losses they were exposed to. Along with children who have not been involved in ECtHR landmark segregation cases, 33% to 58% Roma continue to learn in segregated classes in Czech Republic, Hungary, Slovakia and Greece.<sup>501</sup>

In *Strategies and tactics to combat segregation of Roma children in schools*, Harvard FXB explores the strategies used by civil society organizations active in six EU countries to push and/or support the state institutions to develop and implement measures to stop and prevent segregation of Roma children in education. Each NGO chose a particular approach, according to the profile and the experience. Using an array of developmental and human rights approaches, the organizations we worked with succeeded to get the desegregation ball going, either by proposing laws and policy measures, or by obtaining landmark court decisions on segregation, as well as by working with communities and schools to prevent segregation. In this section, we underline the NGOs achievements and shortfalls, but we also propose ways forward to make desegregation a reality in the CEE region.

### Remedies Before and Beyond Courts

The majority of the NGOs analyzed in this report documented violations of Roma rights have determined jurisprudence in the area of school segregation at the level of the European Court of Human Rights, and civil remedies were offered to individual victims. In the *D.H. vs. Czech Republic*, for instance, the ECtHR acknowledged the applicants were victims of humiliation and frustration caused by discrimination, but it affirms

that the Court cannot “speculate on what the outcome of the situation complained of by the applicants would have been had they not been placed in special schools.”<sup>502</sup>

The ECtHR has been reluctant in making concrete requirements on states (Hungary, Czech Republic, Greece) to come up with desegregation plans for Roma children, and to establish mandatory lines/targets for such a plan. However, the Court does have the legal attributions to use general measures to remedy the wrong established in cases, in addition to the individual measures; it established such an obligation in the 2005 case of *Moldovan vs. Romania*, where the Government was asked to implement a plan in favor of a local community and the Court also established what were the main features of the plan.

The *restitutio in integrum* principle (e.g. remedies for physical and mental harm, lost opportunities in education or employment) and reparation programs to remedy the consequences of school segregation have not appeared in governments’ debates to date. Preventive mechanisms are under the institutions and civil society radar to a certain extent, and so are the punitive measures for concrete strategic segregation cases. However, the vast majority of children who have been or are currently segregated are not subject of any sort of remedies. The quality of education they have received is undoubtedly much lower than children having the privilege to learn in mainstream schools. The opportunities for competing on job markets have been much lower, especially for those who have been misdiagnosed and abusively placed in special schools. The latter don’t even have the right to apply for high school, as they went to schools with an inferior curriculum.

In the reparation framework, Czech Republic is discussing a policy decision that can support

501 FRA, *Education: The Situation of Roma in 11 EU Member States*, Vienna, Austria: FRA, 2014, [http://fra.europa.eu/sites/default/files/fra-2014\\_roma-survey\\_education\\_tk0113748enc.pdf](http://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf).

502 ECtHR, *D.H. and Others v. Czech Republic*, 2007, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#%7B%22itemid%22:%5B%22001-83256%22%5D%7D>.

further claims on reparations for segregation as well. In October 2014, the Czech government announced a bill aimed at compensating unlawful sterilization of Roma women in the former Czechoslovakia. Approximately 1000 women sterilized between 1972 and 1991 (also after) could potentially be compensated. This initiative is in response to a UN Human Rights Committee report that underlines the inequality of the Roma people in Czech Republic, questioning along with sterilization, the segregation in education, as well as discrimination on labor market.<sup>503</sup>

In 2014, the EC took a historic step in challenging the continuity of segregation practices in the Czech Republic by starting pre-litigation proceedings against it. The EC announcement that it has started infringement proceedings against the Czech Republic, and its potential for the European Court of Justice to consider a breach of the country obligations under the anti-discrimination legislation is without precedent. The decision to take such action is a result of the efforts and strategies of the organizations involved in desegregation advocacy in the past decades, including those we analyze in this report. In 2015, EC announced infringement proceedings against Slovakia for segregationist practices in education as well.

There is progress on building jurisprudence on segregation at the level of national courts, too. In Hungary, CFCF has challenged in court different forms of school segregation since 2005 and obtained landmark Supreme Court decisions. A notable gain is the Supreme Court decision that the courts can make clear desegregation orders, including desegregation plans submitted by the plaintiffs in segregation cases which can be enforced as part of the court ruling. In Romania, the NCCD judgment on *Romani CRISS vs. Cehei School* finding segregation of Roma children pushed for a whole set of policy and practice changes, including the adoption of the Desegregation Order by the Ministry of Education.

Nevertheless, most of the NGOs we worked and discussed with during this research project have had limited organizational capacity for litigation.

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503 Czech Press Agency/ ROMEA, "Czech Govt tells UN that law to compensate forced sterilization will be ready in one year," October 20, 2014, <http://www.romea.cz/en/news/world/czech-govt-tells-un-that-law-to-compensate-forced-sterilization-will-be-ready-in-one-year>.

Only a few donors in the region have been supporting litigation, and also a few attorneys have been willing to involve in cases supporting Roma against mainstream institutions. Only a few human rights organizations focusing in part or fully on Roma rights exist, and therefore the advocacy strength is very limited and the level of institution accountability is low. There are only a few NGOs at national level in all countries we visited which use litigation as a tool to combat segregation, and even those NGOs restrict their work to strategic cases.

Overall, on both the national and European level, litigation strategies used by the project partners led to milestone gains. In *D.H. and others vs. Czech Republic* statistics were accepted as evidence by the ECtHR to prove the discrepancies in treatment of two groups on similar situations. *Horvath and Kiss vs. Hungary* challenged the diagnostic testing system for placement of children in remedial schools and led to a decrease of the children placed in special schools. *Oršuš and Others vs. Croatia* led to supportive legislation for integrated schooling, including free access of Roma children to pre-school facilities. *Romani CRISS vs. Cehei school* led to the adoption of the 2004 Ministerial Notification on desegregation and heled to the approval of the 2007 Desegregation Order. In Hungary, due to CFCF and Viktória Mohácsi's advocacy efforts, in 2006, the Public Education Act was amended to require towns and villages to prepare equal opportunity action plans and to ensure a balanced distribution of socially disadvantaged children; the per capita financing was introduced and it also translated into more funds for desegregation.

### **National Commitments, Grass-root Praxis**

From the countries we studied, extreme implementation lacunae exist both in centralized (Hungary) and decentralized (Croatia) educational systems in the countries studied. All countries analyzed in this report made concrete commitments at the national level to develop regulations and policy measures to counter segregation. However, a common feature we encountered all across the region was the limited to almost nonexistent implementation of the policies and measures adopted. There is a huge gap between policies and praxis, which has been acknowledged by the EC itself in all spheres of

Roma inclusion. As the EC former President, Emanuel Barroso, stated, “[i]mplementation is key for the success of our policies.”<sup>504</sup>

For instance, Romania’s Desegregation Order includes concrete measures for schools and school inspectorates. However those measures are not only poorly implemented, and the monitoring methods and indicators established by the same order have not been used through regularly evaluations. In addition, Czech Republic was applauded in the 2007 ECtHR decision for adopting new legislation that abolished special schools and provided for children with special educational needs (including socially disadvantaged children) to be educated in ordinary schools. However, civil society showed that the change only affected the name of the schools from “special remedial” to “practical schools”. In Croatia, the government developed an action plan in response to the ECtHR judgment; however, the ERRC reported that the school system had not taken measures to desegregate classes and many Roma children continued to attend Roma-only classes.

Well implemented projects and programs run by NGOs, some of them described in this report, have had modest impacts because the absence of good institutional foundations at the local and national level, lack of formally trained and rights sensitive school personnel, and the lack of administrative rules concerning segregation at school and school inspectorate level. Each NGO we visited has also rarely benefited from local authorities support, including the willingness to take over or to financially support projects that have proved to be successful. For instance, in Greece, the *Education of Roma Children* project we analyzed sought to develop appropriate educational materials, and to improve the intercultural and professional abilities of teachers and school administrators. When the EC funding came to an end in 2013, the Greek institutions failed to continue the project due to lack of finances, partly related to the impact of the economic crisis. As a result, the implementing partners had to put an end to the project.

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504 European Commission, *Speech by President Barroso at the European Roma Summit, Brussels*, April 4, 2014, [http://europa.eu/rapid/press-release\\_SPEECH-14-288\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-288_en.htm).

Lastly, coordination between the national and local authorities is a must in planning and implementing activities and budgets committed through policy measures, laws and ECtHR judgments. The NGOs we evaluated had to put a lot of efforts in raising awareness at the level of schools and school inspectorates regarding the policies and laws adopted by the ministries of education in all six countries in relation to desegregation.

### **Capacity Strengthening: Civil Society and Communities**

Different approaches have been used by DARE Net NGOs in order to push for desegregation and improvement of the quality and access to education for Roma children. Teacher training on intercultural learning (Greece), strategic litigation (Croatia and Hungary), community development (Bulgaria and Czech Republic), and policy development (Romania) have proved to be efficient strategies in achieving relevant desegregation gains.

Separately, each choice of these organizations, mostly based on their previous experiences, in tackling segregation has proved to have weaknesses, as well. Not only the projects described in this report, but also overall in the Roma desegregation movement, there is no consistent, long term evaluation regarding the impacts of the projects on the Roma children, in terms of desegregation per se, quality of education, performance and enrollment to higher education, job opportunities. For instance, in Bulgaria NGOs have run bussing projects for more than two decades, transporting the Roma children from residentially segregated communities to mainstream schools. However, there is no systematic review of these projects, using randomized control trials or other evaluation methods to show the actual outcomes. It is likely that such projects have made a significant impact.

One strategy used by the DARE-Net partners was to strengthen the capacity of parents, schools, and communities, recognizing that a lack of good preparation can result in the failure of desegregation measures at school level. For example, Life Together in the Czech Republic built on the 2007 ECtHR judgment and worked with children, parents, community, local institutions.

Life Together focused on additional educational support for Roma children who were placed in special schools or were having difficulties in mainstream schools. Life Together succeeded to bridge schools and families in view of enrolling Roma children into normal schools, social mobilization and support of the Roma families (employment, counseling). The organization pushed for a holistic approach, by addressing educational support, school enrolment support, quality of housing, employment of parents, legal and financial counseling of the family, community empowerment, and school personnel training.

A major impediment to the successful implementation of the ECtHR judgments is the absence of leadership around advocacy and monitoring at the local level. At the grassroots, there does not seem to be full recognition and value of desegregation. Only a scarce number of stakeholders has been working with community members on community mobilization and empowerment or campaigning on rights awareness. The absence of a permanent NGO presence at the local level alienates potential plaintiffs, or even plaintiffs who, in face of pressure, feel they have no immediate support. The funding for both local and national human rights organizations is decreasing.

### **Coalition Building to Fight Segregation**

In all countries visited, case writers identified a need for more dialogue, involvement and partnership among NGOs, Roma community, local and national institutions. A more coordinated, collaborative, and proactive approach towards desegregation is necessary amongst all relevant stakeholders.

As seen in the work of the DARE Net partners leading up to the ECtHR decisions, as well as in the interventions of these NGOs at local level, partnering with other organizations can really make a difference in achieving positive results. Through its partnership with REF in Hungary in 2005, CFCF was able to use REF findings to prove that Roma children were misdiagnosed and placed in special schools in its case before the ECtHR. The amicus curiae intervention of organizations, such as Human Rights Watch or International Step by Step Organization, in *D.H and Others vs. Czech Republic* provided the

ECtHR with strong arguments in favor of Roma children. In addition, the Greek Helsinki Monitor, who led *Sampanis and Others vs. Greece*<sup>505</sup>, intervened in *Oršuš and Others vs. Croatia* and transferred its lessons learned and experience with the Court to the Croatian Helsinki Committee. The working group established by a group of NGOs in Romania was the driving force for the adoption of the Desegregation Order. Overall, these regional partnerships and actions of support constituted key success strategies for the accomplishments in desegregation.

A relevant model of cooperation between local NGOs, donor organizations and local authorities was developed in Bulgaria. In 2000, the Open Society Foundation's (OSF) Roma Participation Program began school desegregation projects aimed at integrating Roma children living in segregated neighborhoods into mainstreams schools. In 2005, REF took over the project and succeeded to involve the local municipality in co-funding desegregation. Recently, Integro Association from Razgrad has modified the community development model promoted by OSG and REF and partnered with local authorities to employ prevention tools against segregation.

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505 In 2007, ECtHR decided in favor of Roma children.

## VIII. Recommendations

### Policymakers at the National Level

A common feature we encountered across the region was the severely deficient implementation of the policies and measures formally adopted. There was a huge gap between governance theory and implemented praxis. Changes are urgently needed to address this serious gap. They include more carefully crafted policies in many cases, but then efficient and consistent monitoring mechanisms, effective social development measures rooted in relevant neighborhoods, well trained and incentivized human resources, and overall educational measures aiming for a more welcoming society.

#### 1. Policymakers can and should take urgent steps to ensure widespread desegregation outcomes.

- First, as most national and European institutions prioritize Roma education as a means for social inclusion, the focus on desegregation should be clearer in the policy papers.
- Secondly, policies should be reconfigured to combine social development and human rights approaches. Human rights approaches focusing on litigation are often reactive and address past injustices. This is important but the strategy needs to be complemented with forward-looking measures that enhance the chances of effective and sustainable desegregation. A range of social inclusion methods should be added to facilitate this sort of “holistic approach” to the complexities of future Roma desegregation. Roma economic empowerment is obviously a critical starting point. Widespread employment discrimination cannot be ignored when aiming to achieve desegregation and equal opportunities in education.
- Indeed, interlinking formal and non-formal education, to non-discrimination and income

generating programs, which could involve entire, extended families, must be part of the solution. Children thrive when their families thrive, children in school are likely to succeed when parents can support and encourage them.

- Economic destitution and pervasive stigma militate against such inclusive aspirations. From a policy perspective, if European and national institutions address education, economic and social inclusion agendas as a concerted plan of action, they are more likely to be successful.
- A necessary condition of this sort of strategic transformation, however, is improved coordination, and budget and accountability lines specifically directed at inter-sectorial interventions.

#### 2. The anti-discrimination framework should be rigorously enforced.

- The policies and legislation in place should not only prohibit Roma segregated classrooms and segregated school buildings, but should also monitor seriously the implementation of desegregation policies at the national level, in each school.
- Equality bodies and other relevant institutions should sanction schools along with the schoolmasters and teachers responsible for such violations. In additions, they can also provide schools with training and support to remedy such practices.
- Parents from all communities of students need to be actively recruited to participate in school monitoring, with special efforts made to make Roma parents welcome and equal players.
- Precedents from countries where school integration across racial or citizen/immigrant divides have been successful should be drawn on.



### **3. Close the monitoring gaps.**

- We recommend that relevant governments conduct and/or commission monitoring and evaluation studies to assess desegregation measures. Again it is critical that Roma themselves participate in the design and implementation of such actions.
- Roma community leaders have a responsibility in this regard to encourage their members to step forward and to make the effort and time for these important civic contributions.

### **4. Local authorities also play a key role in addressing desegregation.**

- Local authorities should be closely involved in planning desegregation initiatives.
- In addition, we recommend local authority support for projects initiated by NGOs and international donors, and efforts by these bodies to ensure sustainability for successful interventions.
- Related to these recommendations, it is clear that better coordination between national and local institutions is required in order to plan activities and budgets in order to fulfill the provisions of the existing regulations concerning desegregation and quality education.

### **5. Adequate desegregation policy measures should be introduced and backed by specialized human resources in all relevant school districts.**

- For instance, higher standards and levels of education should be necessary to become a teacher (e.g. In Finland, impacts in education were maximized when children's education was provided by teachers holding a masters degree).
- In addition, throughout the region, there is a need for more qualitative teacher training on human rights education and for school based campaigns and projects to tackle prejudice and discrimination.
- Following the now well-established consensus regarding bilingual education, programs should aim to preserve the Roma language and not solely promote foreign language learning among the majority population.

- Additionally, shifting the social school program (e.g. free lunch, subsidized preschool) towards a need-based approach rather than an ethnic approach could be further explored as an approach to non-ethnicization of poverty by diminishing potential prejudice and ethnic-tensions.
- Again precedents from other initiatives along these lines can provide good precedents and learning opportunities for policymakers involved in promoting Roma educational integration.

### **6. The welcoming and just school environment to which they are entitled should be created for all children.**

- We recommend that all children should be provided access to inclusive education in mainstream schools, in line with commitments under the RED and the Convention on the Rights of Persons with Disabilities, among others.
- States should include anti-bias and anti-bullying education in schools as a recognized part of the curriculum. Some governments have already made formal commitments to these curricular innovations but the regulations are yet to be implemented.
- We also recommend that central elements of Roma history, including slavery as well as the Roma Samuradipen (the Holocaust), be included in the teaching of history and should be part of the mainstream curriculum. Every child should be provided with the opportunity to learn about his or her own history, but the majority population should also have access to information about the history and the social and economic situation of their Roma peers.
- Additionally, we recommend that the authors of school manuals avoid stereotyping Roma in textbooks and teaching materials.
- Schools could usefully organize campaigns to raise awareness, and develop projects to tackle segregation as it affects the dignity, education, and employment of Roma children and youth. Models such as "black history month" in the US or dedicated annual anniversaries for drawing attention to gender related issues provide useful precedents in this regard.

In the long-term, we recommend a reorientation of educational policies, vis-à-vis the Roma community, towards higher expectations and goals for non-discrimination and participation in secondary and tertiary education. During the process of modifying existing National Strategies for Roma in the EU countries, governments should include more measures, better financing, and higher output goals for secondary and tertiary education. We also recommend that governments include young people in the creation of policies that concern their futures in education and employment.

## Intergovernmental Bodies

There is still a need for international pressure in order to keep the political commitment of local and national institutions to integrate Roma children into mainstream schools. European Commission, European political parties, FRA, as well as CoE and ECtHR should continue to advance a desegregation agenda in their dealings with states.

### 1. Political pressure on countries in Central, Southern, and Eastern Europe has substantially decreased, now that these states are full members of the EU.

The EC still has some leverage for dialogue, particularly in regard to EU funding and the use of the infringement procedure. So far, however, it has proven rather shy in making use of these political and legal tools.

- The infringement procedure is not a discretionary tool but rather an obligation that must be initiated by the EC when a violation occurs.
- The EC should monitor and take action when European legislation is improperly transposed or is not respected in practice. Failing to do so would mean failing in its role as the guardian of treaties and ultimately undermine the trust European citizens place in the institution.

### 2. A challenge remains in implementing the Race Equality Directive (RED), adopted by EU governments but not practiced by local institutions and individuals.

- The EU needs to generate new monitoring and sanctioning mechanisms to ensure proper RED implementation.
- The EU should take urgent and concrete steps to foster the adoption of more courageous implementation strategies by the member states to respect the Race Equality Directive.
- In particular, the infringement procedure against the Czech Republic in 2014 is a singular example. The EC should address all similar cases in all member states, with a special focus on the countries discussed in this report.
- FRA and other institutions and organizations taking responsibility for monitoring the EU Roma Framework should develop clear indicators to monitor segregation, discrimination and bullying in schools. They should also conduct more research analyzing the consequences of stigma and discrimination on Roma children.

### 3. The impact of ECtHR jurisprudence needs to be amplified by other European institutions to ensure legislative and regulatory change.

- Related to this, the Court's history of modest damages, while well established as an indication of the emphasis on policy rather than financial redress, depends on robust economic follow up by other institutions to ensure that the generational impacts of stigma and segregation are progressively addressed and, going forward, reversed.
- We recommend active engagement by EU and national bodies with the judgments of the human rights court to ensure that the transformative spirit of the findings is reflected in policy and economic measures consistent with the aims of the judgments.

## Community-school Cooperation

### 1. Schools and communities should intensify their public communication and community engagement work to enhance the impact of their desegregation efforts.

- This entails moving beyond a narrow focus on mixing the Roma and non-Roma children, important though that is.

- Schools should seriously aim to also address the obstacles that prevent inclusion and diminish opportunities for quality education, by reviewing internal school regulations, stimulating teacher mentorship, participation and encouragement, including through salary related incentives.
- There is a need for a clear and genuine desegregation agenda at the level of local and national public institutions.

**2. The potential of teaching assistants and school mediators should be leveraged more fully to close the achievement gap and speed up desegregation.**

- A larger proportion of human resources could be directed toward empowering and informing Roma families on child rights and the consequences of segregation. Such measures should come from the ministries and schools, as these mediators are usually the employees of the public institutions, and many would not dare to challenge segregation without a clear mandate.
- Where this is not yet the case (and following the good practice of Hungary), local authorities should proportionately employ Roma candidates where possible —mediators, facilitators, and social workers—especially in communities exposed to the risk of ethnic tension.

**3. Teacher training should include tools to manage teacher interaction with communities and parents, especially in the case of children from disadvantaged or minority groups.**

- Encourage teachers to prioritize and prepare activities that support parents to more actively participate in the education of their children. The involvement of Roma parents in their children’s education is critical to strengthening children’s ability to meet with teachers without feeling fear or shame or a lack of confidence.

**4. Both community- and school-based actions should be organized to inform, raise awareness, and combat segregation.**

- NGOs and schools should organize regular joint activities for the local community that

serve as opportunities for families from different ethnic and social groups to meet and communicate directly.

- Young people and Roma parents should participate in the design and implementation of such actions that should aim at turning Roma from hesitant, resignedly impoverished parents into informed Europeans demanding rightful treatment for their children.

**5. Good interethnic interactions should set the basis for effective desegregation.**

- Schools and communities should work together to meet desegregation goals.
- Genuine social interactions and networks between schools, Roma parents, and non-Roma parents are necessary.
- Schools should propose more creative approaches to prepare desegregation both at community and classroom level. But it is the whole community that plays an important role in developing strong social bonds and NGOs can play a critical role in fostering these relationships.

**6. NGOs and donor community**

Roma organizations have used a range of strategies and tactics to initiate litigation and advocacy for policy and legal changes. However, their efforts have been restricted by limited human and financial resources, as well as little to no long-term regional partnerships.

**1. Though litigation has been one of the most successful desegregation tactics only a few national NGOs in all countries we visited use this tool.**

- Organizations could benefit more from training and mentoring by experienced organizations imparting expertise on litigation tools.
- NGOs could also benefit from more support from donors, including the EC, which would enable them to document and file more complaints of segregation and other forms of discrimination in education and have a greater presence at community level.
- There is a need to fund civil society to strengthen the ability of NGOs at grass roots and national level to challenge government practices and to defend Roma rights. This

goal may be partly accomplished by a more robust civil society presence, as well as a the development of new advocacy and litigation groups. Organizations willing to support capacity building of Roma civil society should, when possible, aim to invest in human rights related activities.

## **2. Regional cooperation has been a valuable asset for Roma NGOs.**

- We recommend that the Fundamental Rights Agency and other bodies monitoring the Roma EU Framework further exploit the common indicators for measuring segregation across countries established by the DARE Net partners. These indicators should also be used by NGOs to write shadow reports on governments' implementation of desegregation measures.
- Joint regional NGO monitoring reports on desegregation could strengthen advocacy efforts.
- More broadly, NGOs should move towards joint advocacy strategies and actions across the region, targeting governments, the EU, and other intergovernmental organizations.

## **3. Donor support is essential at both the local and national level.**

- Organizations willing to support the capacity building of Roma civil society could and should, when possible, aim to invest in human rights and desegregation related activities.
- A consistent level of funding from the donor community for the development of a range of approaches and foci for desegregation activity would strengthen work in this area.
- NGOs would benefit from the ability to file more complaints, human rights trainings and capacity strengthening courses would broaden expertise, and consistent engagement with this approach would create a more regular and robust monitoring and evaluation track record.
- Outreach activities in the community and holistic/integrated approaches should be increased and diversified by NGOs and supported by donors all over the region in order to prepare both Roma and non-Roma families for the change.

## **4. The *restitutio in integrum* principle has not yet been raised in Roma civil society debates.**

At present preventive mechanisms fall sharply under the institutional and civil society radar, as do punitive remedies where segregation has been established.

- We recommend that NGOs, intergovernmental organizations, and individual governments start the process of discussing reparation programs to remedy the consequences of school segregation.
- We recommend consideration of collective reparations in the form of programs, and other financial, moral and symbolic remedies by countries where segregation has a long history and legacy.

Overall, we recommend that NGOs introduce tactical innovations to advance a robust desegregation agenda. These innovations should take careful note of political opportunities across the spectrum, from government responses to opposition interest to NGO capabilities.

We propose a more coordinated, collaborative, proactive approach amongst all relevant stakeholders discussed above:

- Focus on community empowerment. Empowered, economically independent Roma parents would refuse to permit the continuing placement of their children in segregated educational environments. Rather they would confidently advocate for their children's rights; therefore, armed with the vigorous human and social capital needed to engage long established privilege and prejudice.
- We also recommend a focus on anti-bias education. Non-Roma parents sensitized to minority needs and rights through formal and informal education tools, would be less likely to display explicit biases.
- There is a need to reform the educational system with a strong focus on teacher training and payment.
- Donors should invest more in supporting Roma organizations. Better-resourced NGOs would significantly expand the scope of their strategic litigation beyond the current limited number of cases.

- Equality bodies and other national institutions in charge of education and anti-discrimination should engage in monitoring and sanctioning segregation.
- Local authorities should fund Roma rights related initiatives, including desegregation, fuelled by a more active and politically developed Roma community armed with negotiation and leadership techniques. These aspirations would be supported by measures to enhance community organizing capacity and economic empowerment.
- National education institutions and government entities should become more proactive in combating segregation. The European institutions should track more energetically the implementation of the anti-discrimination framework within communities and should also sanction flagrant abuses.

Institutions should enforce desegregation frameworks assembling social and political efforts from bottom to top, as mainstream education proves to lead to positive results:

*"I am proud that my son is graduating from high school this year. There are few Roma children in our community in Jibou who finish high school. If my boy would have also learned while separated from the other children, he would no longer be in school now, he would hardly have finished 8 grades, and he would have been a child without an education. Now he has more chances in life."<sup>506</sup>*

