

SLOVAKIA

**BRIEFING TO THE UN
COMMITTEE ON
ECONOMIC, SOCIAL AND
CULTURAL RIGHTS, 48TH
SESSION, MAY 2012**

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

Amnesty International is submitting this briefing to the UN Committee on Economic, Social and Cultural Rights (the Committee) in view of its forthcoming examination of Slovakia's second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights (the Covenant) during its 48th session between 30 April and 18 May 2012.

The briefing focuses on concerns regarding Slovakia's compliance with the provisions of articles 2.2 and 13 of the Covenant, with specific focus on the equal access of Romani children to education and the measures taken towards the full realization of such right.

Amnesty International has documented discrimination against and, in particular, racial segregation of Romani children in education in Slovakia since 2006. The segregation involves the separation of Romani children in Roma-only mainstream classes or schools as well as segregation of Romani children in "special classes" or special schools for children with "mild mental disabilities". In the cases of segregation that have been documented and researched by Amnesty International, Romani children were offered inferior education to the education provided in classes attended primarily by non-Roma children.¹ Amnesty International has also documented segregation in kindergartens and school cafeterias².

Two pieces of Slovak legislation prohibit discrimination in the field of education – the Anti-Discrimination Act and the Schools Act. However, in practice, the ban on discrimination, particularly concerning segregation, has not been accompanied by concrete measures to guarantee effective enforcement such as, among others, the adoption and operationalization of a definition of "segregation", introduction of a legal duty on all schools to desegregate, and adoption of guidelines on how to identify, monitor and combat segregation in practice. The government programme adopted in August 2010³ included a commitment to take measures to prevent and eliminate segregation in education on the basis of ethnic origin. However, this commitment has remained on paper only and has not been followed by specific measures yet.

¹ "Still separate, Still Unequal: Violations of the right to education for Romani children in Slovakia", Amnesty International, EUR 72/001/2007; "A Tale of Two Schools: Segregating Roma in special education in Slovakia", Amnesty International, EUR 72/007/2008, "Steps to End Segregation in Education: Briefing to the government of Slovakia", Amnesty International, EUR 72/009/2010.

² "Still separate, Still Unequal: Violations of the right to education for Romani children in Slovakia", Amnesty International, EUR 72/001/2007; "A Tale of Two Schools: Segregating Roma in special education in Slovakia", Amnesty International, EUR 72/007/2008

³ Government's programme for the term 2010-2014 was adopted in August 2010.

Amnesty International is concerned that Slovak authorities have claimed⁴ that the problem of segregation of Romani children in education has been successfully resolved by the adoption of legislation that bans discrimination and segregation. “The problem of access of Romani children to education was a result of social exclusion linked to poverty rather than ethnic discrimination” a representative of the Slovak embassy in Spain told Amnesty International delegates in January 2011. In reality, discrimination and segregation are still widespread. Amnesty International is concerned about the lack of political will at government level to confront the racism and prejudice towards Roma prevalent throughout society and to realise the rights of Romani people.

The Slovak government should urgently adopt the necessary measures to enforce the prohibition of segregation of Roma children in education, by:

- Confirming the political commitment to eradicate and reverse segregation;
- Developing and operationalizing a definition of what practices amount to segregation in education;
- Adopt a concrete plan of desegregation with clear identification of bodies responsible, timeline and indicators for its implementation;
- Introducing a clear legal duty – accompanied by effective support and incentives – on all schools to desegregate education;
- Empowering and guiding the State School Inspectorate to carry out regular and systemic monitoring;
- Initiate the collection of disaggregated data by the prohibited grounds of discrimination, accompanied by financial resources and incentives to implement concrete measures to prevent segregation of Romani children.

2. THE DOMESTIC LEGAL FRAMEWORK

Existing legislation in Slovakia prohibits discrimination in the field of education in two acts – the Anti-Discrimination Act and the Schools Act. However, Amnesty International is concerned (and has evidence) that such prohibition is not adequately enforced and discrimination and segregation of Romani children in education remains a reality that dramatically impacts the future life chances of thousands of Romani children across Slovakia. Such practice is illegal and by failing to act against it, the state is failing to meet its obligations under Article 2.2 and 13 of the Covenant and in line with General Comment 13 (on the right to education) to undertake all appropriate steps to ensure the realization of the right of everyone to education as recognised in the Covenant.

⁴ Statement of the spokesperson of the Ministry of Education in response to Amnesty International’s report issued in September 2010

2.1 THE ANTI-DISCRIMINATION ACT

The Anti-Discrimination Act adopted in 2004⁵ transposed the Equal Treatment Directives of the European Union⁶ and introduced the principle of equal treatment and prohibition of discrimination on, among other grounds of, race, nationality or ethnic origin in education as well as other areas including social security, employment, healthcare, and provision of goods and services. The Slovak anti-discrimination law not only prohibits direct and indirect discrimination, but also imposes a duty to adopt measures that will protect individuals against discrimination (Article 2.3).

The Slovak National Centre for Human Rights (National Centre) is responsible for monitoring the implementation of the Anti-Discrimination Act, including in the field of education. Since the 2008 amendment of the Act, the Centre can carry out surveys on human rights and discrimination. However, its powers include issuing recommendations and monitoring their implementation. It does not have the power to impose sanctions on bodies that fail to follow its recommendations but can provide information to institutions that have the power to do so including the Ministry of Education, Regional School Authorities or local government.

In 2010, the National Centre carried out an inquiry into a complaint of Amnesty International and the Centre for Civil and Human Rights (Poradňa pre občianske a ľudské práva) against the discriminatory impact of an order of the town of Prešov on the schools districts. The organizations argued that the municipality assembled streets in such a way that streets inhabited primarily by Roma fell under a catchment area of one particular school which has been progressively becoming a “Roma only school”. Although the National Centre did not make any conclusive remarks on segregation in this particular case, it emphasized that segregation is unacceptable in any form and recommended that the government adopts legally binding definition of segregation, monitors cases of segregation, takes measures to decrease the number of Romani children in special education, stimulates schools to take desegregation measures and integrates pupils with health disability into the mainstream education.⁷

2.2 THE SCHOOLS ACT

Following its introduction in 2008⁸, the Schools Act expressly prohibits “all forms of discrimination,

⁵ The Act was further amended in 2007 and 2008.

⁶ Council Directive 2000/43/EC on equal treatment of persons irrespective of racial origin (“Race Directive”) and Council Directive 2000/78/EC on equal treatment in employment and occupation.

⁷ Slovak National Centre for Human Rights, Annual Report 2010, Bratislava 2011, pp. 128-129.

⁸ The new Act on Upbringing and Education (the Schools Act), introduced by the Slovak Parliament in May 2008 and entered into force in September 2008, replaced the 1984 Act and its various amendments.

mainly segregation⁹ and guarantees equal access to education for all children or pupils¹⁰. The State School Inspectorate is responsible for overseeing the compliance of the educational institutions with the legislation. In doing so, the Inspectorate is empowered to ensure that all educational programmes meet the goals and principles of education, including the prohibition of all forms of discrimination and segregation. The Inspectorate monitors educational processes and makes recommendations regarding such cases.

After Amnesty International raised concerns over irregularities of placements of Romani pupils in a special school in the town of Pavlovce nad Uhom in 2008, the State Schools Inspectorate carried out investigations into the issue of placement of pupils into special education. In the school year 2009/2010, the Inspectorate carried out investigations into the process of placement in 40 special schools. It found a small number of shortcomings which involved placement of a child without mental disability to a special school for children with “mental disabilities”; a failure to obtain an informed consent of the legal guardian; in a small number of cases the assessment was reported to be carried out only after the pupil has been placed to a special school.¹¹

3. THE CONTINUING PRACTICE OF SEGREGATION

Although discrimination and segregation are outlawed under Slovakia's own legislative framework, serious gaps in the enforcement and monitoring of the prohibition of segregation in the educational system prevented the legislation to be put into practice. Consequently, this led to a persistence of the *de facto* discrimination and segregation of Romani children across Slovakia, practice that results in a denial of equal treatment and the right to education free from discrimination. In the longer term, the failure to enforce prohibition of discrimination in access to education has far-reaching consequences for thousands of Romani children who remain segregated in inferior education that traps them in a cycle of poverty and marginalization.

3.1 FAILURE TO PREVENT AND ADDRESS SEGREGATION

The Levoča case featured below is indicative of the practical repercussions of the failure of the government to adopt effective measures to prevent the occurrence of discrimination and to establish a

⁹ Slovak Schools Act, para 3(d)

¹⁰ Slovak Schools Act, para 144[1]d

¹¹ The State School Inspectorate, Report about placements of first year pupils to special schools in 2009/2010.

Available at: http://www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/UZP_prijim_1_roc_SZS.pdf

system in which individual cases of discrimination would be addressed.

Primary School in Levoča: Romani pupils put into separate classes

In September 2011, at the beginning of the new school year, a number of Romani parents learned that the primary school in Francisciho Street, in the town of Levoča, had established two separate first grade classes for Romani children. According to figures provided by the school director to Amnesty International in November 2011, all but three out of 29 Romani children attending the first grade in Francisciho elementary school were placed in these two separate classes. Two more classes operate in the first grade educating primarily non-Roma pupils.

When the Romani parents attempted to complain about the separation of their children from their non-Roma peers the school management reportedly dismissed their complaints. Subsequently the Romani parents complained to the media.

The school established the classes allegedly following a petition submitted by non-Roma parents calling for a restriction on the number of children from “anti-social” communities.¹² The school’s director stated that the classes were intended to create a “suitable education environment” for the Romani children.¹³ The Government Plenipotentiary for Roma Communities expressed concerns that the establishment of separate classes may amount to segregation based on ethnicity.¹⁴

The Romani parents told Amnesty International that they fear their children will not be able to progress as separation in school affects what children learn and compounds their difficulties, as, for example, they do not interact with children for whom Slovak is the first language. The parents are also concerned there is no competition or learning from other pupils in the separate Roma-only classes. “The school is destroying their dreams. We may be uneducated, but we want our children to be educated” one of the mothers said.¹⁵

Romani parents told Amnesty International that despite their complaints to both the school and the municipality the school has refused to transfer the children in integrated classes.¹⁶

3.1.1 CONTINUED FAILURE OF THE GOVERNMENT TO TAKE CONCRETE MEASURES TO END ETHNIC SEGREGATION IN EDUCATION

In August 2010, the new coalition government adopted its four year programme for 2010 – 2014. The programme included a commitment to take measures to end segregation on the basis of ethnic origin in

¹² <http://video.markiza.sk/archiv-tv-markiza/televizne-noviny/67991>

¹³ <http://video.markiza.sk/archiv-tv-markiza/televizne-noviny/67991>

¹⁴ <http://video.markiza.sk/archiv-tv-markiza/televizne-noviny/67991>

¹⁵ Amnesty International interview with Romani parents in Levoča, 12 November 2011.

¹⁶ Amnesty International interview with Romani parents in Levoča, 12 November 2011.

Slovakia's schools.¹⁷

The Ministry of Education, as part of the four year plan, has begun working on a strategic "Concept of Education in Kindergartens, Primary Schools and Secondary Schools" (Concept). The draft of the Concept was made available for comments in June 2011, but has not been adopted by the government so far. It includes some positive measures, such as the recommendation to adopt a definition of segregation in the Anti-Discrimination Act, and the recognition of the need to monitor, evaluate and publish information on segregation and desegregation practices in schools. Despite these positive measures, Amnesty International is concerned that the first draft of the Concept used language which further stigmatizes Roma. For example, it suggested that the lack of access to quality education for "marginalized groups" is a result, among other things, of an "indirect support in segregation from the side of the Romani community" and of a "natural self-defence of the majority from the unadjustable citizens" who are described as prone to "ill-hygiene, stealing, physical assaults".

In January 2012, the government adopted the National Roma Integration Strategy 2020, which states that one of the basic principles of public policies aiming at the integration of Romani communities is *desegregation*. It defines segregation as a separation of a group of people, and it distinguishes two main types: spatial (or residential) segregation and social segregation. The latter includes segregation in education.¹⁸ The Strategy further states that the Slovak education system needs a complex reform which will be based – among other things – "on the implementation of the principles of desegregation in education".¹⁹ One of its objectives in the chapter on education is to progressively eliminate the number of Romani pupils in special education.²⁰ The Strategy does not specifically address the issue of segregation of Romani pupils in the mainstream education.

Despite the adoption of the National Roma Integration Strategy, Amnesty International remains concerned that to date Slovak Republic has failed to present a more specific plan for desegregation in schools with a clear timeline and budget and specific targets to achieve desegregation in all of the country's schools. Amnesty International considers that the adoption of such comprehensive measures is a matter of urgency as this continued violation of Roma children's right to education has a cumulative impact on the quality of education they receive and their ability to derive benefit from it.

3.1.2. CONTINUED FAILURE OF THE GOVERNMENT TO EFFECTIVELY ENFORCE ANTI-DISCRIMINATION LEGISLATION

The Schools Act bans discrimination and segregation in access to education. To date such prohibition has failed to be enforced, as it has not been followed by the necessary measures to guarantee effective

¹⁷ Government Programme 2010-2014, Section 3(4) Education, Science, Youth and Sport. Available at: <http://www.government.gov.sk/data/files/6257.pdf>

¹⁸ Slovak Government, Roma Integration Strategy 2020, adopted on 11 January 2012, p. 6.

¹⁹ Roma Integration Strategy 2020, p. 16.

²⁰ Roma Integration Strategy 2020, p. 17.

implementation of the new provision.

The State School Inspectorate has a legal duty to monitor the education system and to ensure its compliance with the law. The 2008 Schools Act introduced a prohibition of discrimination, and segregation in the field of education. As a result, the Inspectorate holds the responsibility to look into cases of violation of such prohibition. However, the amendment of the Schools Act was not followed by any regulation that would facilitate the work of the Inspectorate to monitor the implementation of the prohibition of discrimination. Currently, the Inspectorate is failing to exercise the monitoring of the compliance with the anti-discrimination provisions due to the lack of a clear mandate and the lack of a definition of segregation.

In January 2012, in its decision into the case of the Šarišské Michal'any primary school (See the Šarišské Michal'any case below), the Prešov District Court held that by separating pupils solely on the ground of their Romani ethnicity, the school committed an act of unlawful segregation.²¹ This Court's decision provides guidance for the Slovak legislators with regard to a legislative definition of segregation. Amnesty International appreciates that in a response to the Court's decision, the Government Council for Human Rights, Minorities and Gender Equality highlighted the need to adopt the definition of "segregation" and "inclusion" in the Slovak legislation.²²

3.1.3 CONTINUED FAILURE TO COLLECT DISAGGREGATED DATA ON "RACE AND ETHNICITY"

According to the General Comment 13²³ of the UN Committee on Economic, Social and Cultural Rights, the government of Slovakia is obliged to collect data disaggregated by the prohibited grounds of discrimination, including „race and ethnicity“. Such data are essential in order to assess the scope and nature of segregation and the impact of educational policies on Roma children in the Slovak educational system, as part of its duty to address the situation of minority and disadvantaged groups in general. Slovak authorities do not currently collect ethnically disaggregated data. The main argument against collection of such data used by the authorities is the according to which “data revealing ethnic or racial origin or... religious [affiliation] are considered to be of sensitive nature and that is why the processing of such data in accordance with the law shall be... prohibited”²⁴. However, such interpretation of the obligation to protect personal data fails to differentiate between *individual personal data* and *anonymous aggregate* data. As was clarified by a report of the European Commission on data collection, “[c]ontrary to widespread belief, the international, European and national rules on the protection of privacy data do not categorically prohibit the collection of data in relation to discrimination.”²⁵

²¹ Decision of the Prešov District Court no. 25C 133/10-229, 5 December 2011, p. 10.

²² Decision from the 38th meeting of the Government Council for Human Rights, Minorities and Gender Equality, 20 February 2012.

²³ CESCR, General Comment No. 13, para 37

²⁴ Para 8.1, para 9.1 of the Act. No 428/2002 on the Protection of Personal Data.

²⁵ Timo Makkonen, Measuring Discrimination. Data Collection and the EU Equality Law, European Commission, 2007, p. 72

3.1.4 CONTINUED FAILURE TO TAKE MEASURES TO PREVENT DISCRIMINATION

The Anti-Discrimination Act imposes an obligation on the authorities to take measures to prevent discrimination.²⁶ Such measures should include – among other things – promotion of the principle of equal treatment and dissemination of information on the forms of discrimination in schools and other institutions. Amnesty International is concerned that Slovakia so far failed to adequately promote the principle of equal treatment to prevent discrimination in education. The government's obligation to ensure non-discrimination requires it to not only prohibit discrimination but also to identify and address factors which prevent Romani children from accessing education in order to eliminate racial discrimination in all its forms.

The Šarišské Michal'any case

On 5 December 2011, in its judgement in the case²⁷ of *Centre for Civil and Human Rights*²⁸ v. *Primary School with Nursery Šarišské Michal'any*, the Prešov District Court²⁹ ruled that the primary school in the Slovak village of Šarišské Michal'any, violated the principle of equal treatment and discriminated against Romani children on grounds of their ethnicity by creating separate classes for children of Roma ethnicity.³⁰ The Court ordered the school to “remedy the unlawful situation which has been suffered, by placing Romani children [...] into classes with children who are not of Roma ethnic origin.”³¹

Furthermore, drawing on a range of international and regional human rights standards including judgements of the European Court of Human Rights, the District Court stated that the school practice of segregated education violated Slovakia's human rights obligations.

For years the primary school of Šarišské Michal'any has been operating separate mainstream classes attended exclusively by children of Roma origin. This situation was compounded in the school year 2008/2009 when the school transferred to the separate classes all the remaining Romani children who had previously attended integrated classes with other children from the majority population and placed Roma classes on a different floor of the building.

²⁶ Art. 2.3 of the Anti-Discrimination Act, 356/2004.

²⁷ The proceedings against the Primary School with Nursery Šarišské Michal'any were initiated by the Centre for Civil and Human Rights in June 2010.

²⁸ The Center for Civil and Human Rights is a non-governmental organization focusing on the protection of human rights in the Slovak Republic, with special emphasis on the rights of minorities and protection from discrimination. More information on its activities at www.poradna-prava.sk.

²⁹ The Prešov District Court is a court of first instance.

³⁰ Ruling of the Prešov District Court, file number 25 C 133/10, delivered 3 January 2012, available at <http://poradna-prava.sk/wp-content/uploads/2012/01/PDF-568-kB.pdf>.

³¹ Ruling of the Prešov District Court, file number 25 C 133/10, delivered 3 January 2012.

The school had argued that “the reason for forming the Roma classes was not motivated by the ethnicity of the pupils, and was meant to provide an individual approach to children from socially disadvantaged backgrounds, who are more likely to suffer from learning difficulties.”³² The school further argued that “by separating the children of Roma ethnic origin from children who are not of Roma ethnic origin, they managed to offset the differences in learning, and that the Roma children felt better not knowing that other children were achieving better results than them.”³³

However, the school failed to provide any evidence of the benefits for the Romani children of being taught in separate classes and that the measure was only temporary rather than long term. The Prešov District Court rejected the school’s proposition that the education of Romani children from socially disadvantaged background in separate classes is the only means to provide equal quality of education for all pupils.

Following the decision of the first instance court, the school decided to appeal against the ruling and the case will move to the Regional Court in Prešov. The Regional Court might hear the case in the following months. In the meantime, the Romani pupils remain separated from their non-Roma peers in the primary school of Šarišské Michal’any and the injustice they suffered remains unremedied.

3.2 LACK OF ACTION OF THE SLOVAK AUTHORITIES AGAINST SEGREGATION

In a response to Amnesty International’s report published in September 2010, the spokesperson of the Ministry of Education stated that the Ministry “does not perceive it [segregation] as a crucial problem” and that the legislation in this area is adequate.

During a meeting with Amnesty International delegates in January 2011, the representative of the Slovak embassy in Spain stated that the cases highlighted by Amnesty International reflect the past, not the present, and that the problem of access of Romani children to education is a result of social exclusion rather than ethnic discrimination.

In December 2011, following the adoption of the Concluding Observations of the Human Rights Committee that reiterated “concerns at the continued reports of de facto segregation of Roma children in the education sector”³⁴, the Slovak government allocated the responsibility for the recommendation on desegregation to the Ministry of Social Affairs. Amnesty International is concerned that such a decision reflects the limited understanding of the problem by the Slovak government which seems to be reducing it to the lack of access to education of “socially excluded communities”. Amnesty considers that responsibility for the desegregation of Slovak education should be placed on the Minister of Education.

³² Ruling of the Prešov District Court, file number 25 C 133/10, delivered 3 January 2012

³³ Ruling of the Prešov District Court, file number 25 C 133/10, delivered 3 January 2012

³⁴ Concluding observations of the UN Human Rights Council on Slovakia, UN Doc. CCPR/C/SVK/CO/3, para 17

3.3 LACK OF ACCOUNTABILITY

Amnesty International is concerned that the two institutions mandated to oversee the implementation of the anti-discrimination provisions in the Slovak educational system – the State School Inspectorate and the National Centre for Human Rights - in practice do not provide an effective institutional framework to ensure sufficient accountability for those acting in breach of the legal prohibition of discrimination in access to education.

Although the Centre can provide legal aid in individual cases of discrimination and represent the complainants in legal proceedings, its capacities to actually do so are constrained as it is understaffed and underfunded.³⁵ The Centre has seven regional offices throughout Slovakia, but each office has only one member of staff.³⁶ The Centre's lack of adequate human and financial resources was recognized as a major problem by the EU Fundamental Rights Agency (FRA).³⁷ When it comes to the monitoring of cases of discrimination, the Centre cooperates with the State School Inspectorate on an *ad hoc* basis. In June, the government adopted a report on the role of the National Centre for Human Rights. The report concluded that the Centre's governance does not meet the criteria for independence, transparency and plurality; and that the Centre lacks the necessary powers and capacities to act as an equality body.

Despite the formal powers of the Inspectorate to monitor the education system and to ensure its compliance with the law, no regulation to facilitate its work has been adopted (see section 3.1.b paragraph 2). Despite the fact that Amnesty International has repeatedly raised with the Ministry of Education the need for comprehensive guidelines for the Inspectorate and other monitoring bodies, on how to identify, monitor and address the problem of segregation of Romani children in education, to date none of these have been provided.

4. RECOMMENDATIONS

The government of Slovakia should:

- Confirm an unequivocal political commitment to eradicate and reverse segregation in education. This commitment should be the guiding principle in all education policies impacting on Romani people;
- Adopt and operationalise a definition of what acts amount to “segregation” in education. Utilize the definition of segregation provided by the Prešov Court in the case of Šarišské Michal’any;

³⁵ Amnesty International Interview with the representatives of the Slovak National Centre for Human Rights, 20 April 2010, Bratislava.

³⁶ Reports submitted by States parties under article 9 of the Convention. Slovak Republic. CERD/C/SVK/6-8, September 2009, p. 18.

³⁷ FRA, Annual Report 2010, Vienna. p. 30

- Introduce a clear legal duty – accompanied by effective support and incentives – on all schools to desegregate education;
- Adopt a concrete plan of desegregation with a clear identification of bodies responsible and timeline with annual indicators and benchmarks for its implementation. The plan should clearly state that ethnic discrimination and segregation of Roma is unacceptable and will be combated as a matter of priority;
- Strengthen the mandates and powers of the State School Inspectorate and the Slovak National Centre for Human Rights to effectively oversee implementation of the anti-discrimination provisions. These mandates should clarify the respective roles of both these institutions in order to ensure that victims of discrimination are aware of their remedies and to strengthen the accountability of the Centre and Inspectorate for monitoring discrimination;
- Develop, adopt and enforce robust, detailed guidelines and procedures and disseminate them to all schools on how to identify, monitor and combat segregation in practice.
- Provide access to effective remedies for discrimination to all victims, including through the establishment of a complaints mechanism and by strengthening the mandates of the monitoring bodies;
- In order to assess the impact of the policies and measures taken, the government should initiate the collection of data disaggregated by the prohibited grounds of discrimination – including race and ethnicity – in education in order to monitor the situation of segregation of Roma in the schools. The collection of data needs to be accompanied by concrete financial resources and incentives to implement the concrete measures to prevent the segregation of Romani pupils.

ANNEX: FINDINGS BY INTERNATIONAL HUMAN RIGHTS BODIES AND INSTITUTIONS

Since the Committee's last examination of Slovakia in 2002, a number of human rights institutions and authorities have called on the government of Slovakia to meet its human rights obligations in regard to everyone's equal right to education.

UN COMMITTEE AGAINST TORTURE

In November 2009, the UN Committee against Torture issued the following concluding observation to Slovakia following the review of Slovakia's second periodic report:

15. The Committee [...] is also concerned about the high percentage of Roma children in schools for children with mental disabilities.

In the light of its general comment No. 2 on the implementation of article 2

(CAT/C/GC/2), the Committee recalls that the special protection of certain minorities or marginalized individuals or groups especially at risk is part of the State party's obligations under the Convention. In this respect, the State party should:

(a) Strengthen its efforts to combat ill-treatment of Roma detainees by ensuring the exercise of their legal rights from the outset of detention;

(b) Enforce the School Act No 245/2008 by ensuring that Roma children are admitted to mainstream education, unless a proper assessment concludes that the child has a mental disability and the child's legal guardian has requested placement in a special school. In particular, it should decouple the term "socially disadvantaged" from the term "mental disability"³⁸.

³⁸ Concluding observations of the Committee against Torture on Slovakia, UN Doc. CAT/C/SVK/CO/2, para 15

UN COMMITTEE FOR ELIMINATION OF RACIAL DISCRIMINATION

In 2010, The Committee for Elimination of Racial Discrimination adopted the following concluding observation in March 2010 following the review of Slovakia's joint 6-8th periodic report:

16. While welcoming the various measures adopted by the State party to ensure equal access to quality education for Roma children, the Committee reiterates its previous concern about the de facto segregation of Roma children in education. It expresses its concern at their large overrepresentation in special schools and classes for children with mental disabilities. The Committee is particularly concerned about decision-making processes for placing children in such special schools, which may not take into account the cultural identity of, and specific difficulties faced by Roma. (arts. 2, 3 and 5(e))

Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to bring to an end and to prevent segregation of Roma children in the field of education. It further recommends that the State party

- (a) Assess, on a more frequent basis, all pupils placed in special schools with a view to removing all children without mental disability from them;
- (b) Revisit the procedure used for the determination of which children are to be enrolled in special schools, with a view to avoiding discrimination against Roma based on their cultural identity, and to closely monitor whether the criteria established are followed in practice, in light of paragraph 27 of the recommendations of the First Forum on Minority Issues on "Minorities and the Right to Education" (A/HRC/10/11/Add.1);
- (c) Consider offering incentives to local authorities so that they develop action plans aimed at desegregating schools and promote active consultation and cooperation between parents of children of minorities and school authorities at the local level;
- (d) Address de facto segregation of Roma in education in a global manner, taking into account its close relation to discrimination in the fields of housing and employment.³⁹

UN HUMAN RIGHTS COMMITTEE

In 2011, Human Rights Committee adopted the following concluding observation following the review of Slovakia's third periodic report:

17. The Committee recalls its previous concluding observations (CCPR/CO/78/SVK para. 18) and is concerned at the continued reports of de facto segregation of Roma children in the education sector. The Committee is further concerned at the continuing reports of the placement of Roma children in special needs classes that are meant for pupils with psychological disabilities, without conducting proper medical assessments to establish their mental capacity (arts. 26 and 27).

The State party should take immediate steps to eradicate the segregation of Roma children in its

³⁹ Concluding observations of the Committee on Elimination of Racial Discrimination on Slovakia, UN Doc. CERD/C/SVK/CO/6-8, para 16

education system by ensuring that the placement in schools is carried out on an individual basis and is not influenced by the child's ethnic group. Furthermore, the State party should take concrete steps to ensure that decisions for the placement of all children, including Roma children, in special needs classes may not be made without an independent medical evaluation nor based solely on the capacity of the child.⁴⁰

⁴⁰ Concluding observations of the UN Human Rights Council on Slovakia, UN Doc. CCPR/C/SVK/CO/3, para 17

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