



# A LESSON IN DISCRIMINATION

## SEGREGATION OF ROMANI CHILDREN IN PRIMARY EDUCATION IN SLOVAKIA

**AMNESTY  
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The **European Roma Rights Centre (ERRC)** is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education.

Since its establishment in 1996, the ERRC has endeavoured to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services.

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*Cover photo:* Children on the halls of local mainstream school in the village of Šarišské Michalany, in Eastern Slovakia.

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# GLOSSARY

WORD	DESCRIPTION
<b>COMPULSORY SCHOOLING</b>	Begins at six and lasts 10 years or until the end of the school year in which the pupil attains the age of 16. <sup>1</sup>
<b>GOVERNMENT PLENIPOTENTIARY FOR ROMA COMMUNITIES</b>	The Plenipotentiary advises the Government and coordinates its activities in relation to Roma communities in Slovakia. The first Plenipotentiary was appointed in 2001.
<b>MAINSTREAM PRIMARY SCHOOL</b>	A school teaching according to the framework education strategy for primary education. The framework for mainstream primary schools is defined at paragraph 29 of the School Act. <sup>2</sup>
<b>MATURITA</b>	A leaving school examination confirming the accomplishment of full secondary education.
<b>MILD MENTAL DISABILITY</b>	Defined by the World Health Organization as a developmental disorder resulting in an impairment of cognitive and language skills classified by IQ scores scale between 50 and 69. <sup>3</sup> The Slovak School Act refers to mild mental disability as a “variant A disability”.
<b>NATIONAL EDUCATIONAL PROGRAMME</b>	Document developed by the Ministry of Education which defines the aims, key competencies, number of individual subjects and the framework of the curriculum for each level of education.
<b>PRIMARY AND LOWER SECONDARY EDUCATION</b>	A nine-year single structure system (primary education lasts for four years, lower secondary education lasts for five years). Primary and lower secondary education takes place in primary schools, where children start their compulsory education at the age of six.
<b>PSYCHOLOGICAL-PEDAGOGICAL CENTRES (PPCs)</b>	Diagnostic centres responsible for mainstream primary education. They work with children without diagnosed disabilities. <sup>4</sup>
<b>SCHOOL'S EDUCATIONAL PROGRAMME</b>	The curriculum for each school is determined by the school's educational programme, which is approved by the head teacher and is derived from the curriculum framework and the framework educational standards determined by the National Educational Programme adopted by the Ministry of Education.

<sup>1</sup> Act No. 245/2008 Coll. on Education (School Act) (*Zákon 245/2008 Z.z z 22. mája 2008 o výchove a vzdelávaní (Školský Zákon)*), paras 19-20.

<sup>2</sup> Act No. 245/2008 Coll. on Education (School Act).

<sup>3</sup> World Health Organization, The ICD-10 Classification of Mental and Behavioural Disorders, 1980, definition F70.a.

<sup>4</sup> Act No. 245/2008 Coll. on Education (School Act), para 132.

WORD	DESCRIPTION
<b>SOCIALLY DISADVANTAGED ENVIRONMENT (SDE)</b>	The School Act defines a child from a socially disadvantaged background as: “a child or a pupil living in an environment which is insufficient in terms of social, family, economic and cultural conditions, which causes under-development of mental and emotional characteristics and the will of the child or the pupil, does not support their socialization and does not provide adequate incentives for the development of their personality.” <sup>5</sup>
<b>SPECIAL CLASSES</b>	Classes within mainstream primary schools established for children with health disadvantages and disabilities. <sup>6</sup>
<b>SPECIAL PEDAGOGICAL CENTRES (SPCs)</b>	Diagnostic centres responsible for working with children diagnosed with health disadvantages and disabilities. They employ mainly special psychologists. <sup>7</sup>
<b>SPECIAL SCHOOL</b>	A school providing education according to the study programmes for children with mental and physical disabilities. <sup>8</sup>
<b>VOCATIONAL EDUCATION</b>	Lower secondary education which provides pupils with occupational skills, but does not qualify them to continue in tertiary education. The requirements of vocational education are set out at paragraphs 16 and 100 of the School Act.
<b>ZERO GRADE CLASSES</b>	Preparatory pre-school classes established to delay the school enrolment of children from socially disadvantaged backgrounds found not to be ready for enrolment following the school readiness test.

<sup>5</sup> Act No. 245/2008 Coll. on Education (School Act) para 2(p).

<sup>6</sup> Act No. 245/2008 Coll. on Education (School Act) para 94 (1b).

<sup>7</sup> Act No. 245/2008 Coll. on Education (School Act) para 133.

<sup>8</sup> Act No. 245/2008 Coll. on Education (School Act) paras 94-95.

# 1. EXECUTIVE SUMMARY

Romani children are systemically denied their rights to education and non-discrimination in primary education in Slovakia. They are overwhelmingly segregated in Roma-only mainstream schools and classes, or special schools and classes for children with “mild mental disabilities”. As a result, they are condemned to low-quality, segregated education.

An estimated 320,000 to 480,000 Roma live in Slovakia today, accounting for some 6% - 8% of the population. They have historically faced systemic and widespread discrimination and prejudice in all areas of life, including housing, employment and education.

The European Roma Rights Centre and Amnesty International have been monitoring and researching Romani children’s access to education in Slovakia since 1996 and 2006, respectively. This joint report presents a bleak picture: the piecemeal reforms and periodic declarations of intent by successive governments cannot obscure the fact that the discrimination and segregation of Roma in primary education remains widespread and that the Slovak authorities are fundamentally failing to address them.

Under national, European and international law, discrimination in the field of education is prohibited in Slovakia. However, in practice, Slovak authorities have not accompanied the ban on discrimination with concrete measures to address or prevent it. In the longer term, the failure to enforce the 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. Nominal prohibitions are worth little without concerted, proactive measures to address pervasive prejudice and structural flaws that facilitate discrimination and encourage segregation.

In April 2015, following continued criticism of the Slovak authorities’ inaction from national and international bodies, the European Commission initiated infringement proceedings against Slovakia for breaching the prohibition of discrimination in education set out in the EU Race Equality Directive. This report examines the Slovak government’s responses to the European Commission’s concerns, investigating Romani children’s access to primary education in Slovakia over a year and a half after the launch of the infringement proceedings.

This report reviews recent legislative changes intended to tackle the erroneous placement of Romani children in special schools and classes for children with “mild mental disabilities” and examines broader structural factors driving segregation and discrimination across the education system. Its findings are based primarily on case-studies of schools and educational options for children in four locations in the regions of Prešov and Košice in eastern Slovakia, which have some of the largest Romani populations in the country: Šarišské Michalany/Ostrovany, Moldava nad Bodvou, Rokycany and Kropachy.<sup>9</sup> The four qualitative case studies are indicative of widespread and systemic segregation and discrimination and, while the responsibilities of individual schools and local authorities are highlighted, the report focuses on structural issues that fuel and perpetuate these human rights violations, and that the government of Slovakia are failing to address.

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<sup>9</sup> For the list of the schools examined during the research, see Annex 1.

# SEGREGATION IN MAINSTREAM EDUCATION

Segregation of Romani children in mainstream primary schools persists in Slovakia, either in schools that are fully or primarily composed of Roma pupils, or in Roma-only classes. This report presents two case studies of segregation of Romani children in mainstream education, in Šarišské Michalany (affecting mainly the children from the nearby Roma settlement in Ostrovany) and Moldava nad Bodvou.

In the context of widespread anti-Roma prejudice, parental choice of school is a significant factor fuelling segregation of Romani children in mainstream settings. Non-Roma parents often remove their children from schools when they feel there are too many Romani pupils (so-called “white flight”). In Moldava nad Bodvou, the creation of a private church school precipitated departures from a mainstream school leaving it predominantly Roma. In many cases, but by no means all, Romani parents prefer schools which they assume are welcoming and which are accessible (because they do not have resources to commute greater distances). Their preference is not to send their children to the “Roma-only schools”, but the schools they prefer become “Roma-only” because of the large scale non-Roma departures.

Amnesty International and the European Roma Rights Centre found no evidence that authorities at the national, regional or local level are even attempting to intervene and incentivise non-Roma parents to enrol or keep their children in mixed schools or facilitate the enrolment of Roma in mixed or majority non-Roma schools. This is especially striking in the case of Šarišské Michalany, whose primary school was subject to a court case and ordered to desegregate by the Regional Court in Prešov in 2012. More than four years after the judgment, the situation has deteriorated further and the number of Roma-only classes at the school has almost doubled, in part due to “white flight” following the judgment. The school has not been provided with clear guidelines from the Ministry of Education or other state, regional or local authorities responsible for education on how to end and prevent further segregation.

Due to the low quality of the education received in segregated settings, Romani children in Slovakia have limited prospects of continuing their education beyond the age of 16 and if they do, it is usually in vocational schools, without the possibility of accessing university education later. When asked about her future plans, one Romani girl told us: “I will go to the vocational school and learn to be a seamstress. Like everyone here.”

Teachers’ low expectations of Romani pupils can contribute to lower achievement, as does deeply entrenched prejudice and the lack of individual support. These all reinforce a real or perceived decline in the quality of education in schools with high numbers of Romani pupils, which can also fuel “white flight”. The low educational attainment of Romani children continues to be overwhelmingly blamed on the home, not the school environment. Most teachers in the locations investigated had no hesitation in dismissing the impact of institutional discrimination and the structural obstacles Romani children face in the education system and in the wider Slovak society as contributing factors to underachievement.

In the absence of systemic and long-term measures at the national, regional and local level to eliminate prejudice and racism towards the Roma, efforts to desegregate schools, prevent “white flight” and ensure equal opportunities for Romani pupils will continue to be fragmented and ineffective.

Both in Moldava nad Bodvou and Ostrovany, plans were underway to create new schools in close proximity to or within Roma settlements. Whilst it might be argued that such an approach, also observed in other locations in Slovakia, makes education more accessible, it comes at an unacceptable price. Such schools exacerbate and perpetuate Romani children’s isolation not only from their non-Roma peers, but also from the general non-Roma population.

# OVERREPRESENTATION OF ROMANI CHILDREN IN SPECIAL EDUCATION

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

One of the two special education case studies presented in this report, Rokycany, paints a disturbing pattern of misdiagnosis by a private diagnostic centre and its channelling of Romani children for placement in a local



private special school. Following an investigation by the State School Inspectorate, a Regional Office of the Ministry of Education closed the diagnostic centre in early 2016 and ordered the school to close by August 2017. Despite this decision, the school has been renovated to comply with sanitation requirements it was found in breach of, received additional state funding for teaching assistants and continues to educate approximately 80 children, all of them Roma.

In response to the launch of the infringement proceedings, which raised overrepresentation of Romani children in special education as one of the European Commission's key concerns, in June 2015, the Slovak Parliament amended the School Act, the primary piece of legislation on education in Slovakia. The amendment provides, amongst others, that children whose special educational needs stem exclusively from the fact that they come from a "socially disadvantaged environment" ("SDE") cannot be placed in special settings but must be educated in mainstream ones. While this prohibition is not new in itself, Psychological-Pedagogical Centres were entrusted with the task, previously carried out by local labour offices, of determining whether pupils come from a "socially disadvantaged environment" on the basis of criteria relating exclusively to children's environment and not their intellectual abilities. In a further effort to influence diagnostic practices, rules on the per capita school subsidies for children from a "socially disadvantaged environment" were amended to remove their allocation to special schools.

Virtually all stakeholders in the Slovak education system interviewed in the course of this research spoke about the lack of coordination, clarity and information sharing from the Ministry of Education regarding the School Act amendment. While the new "socially disadvantaged environment" classification system may correctly seek to prevent further erroneous placement of Romani children in special schools and classes, its precise requirements and actual implementation are riddled with confusion and, as a result, it has had little positive impact in the year since it came into effect. The amendment does not address the issue of Romani children's existing overrepresentation in these settings. It has also not been accompanied by the necessary human and financial resources, nor did it introduce concrete measures to tackle the segregation of Romani pupils in mainstream primary schools.

Moreover, the Ministry of Education does not compile ethnically disaggregated data with respect to schools and testing procedures and has no system in place to monitor or evaluate the implementation and effectiveness of the new "SDE" testing system, which suggests a lack of engagement by the government with the objectives of the infringement proceedings.

In the case of the exclusively Roma special school in Krompachy, the School Act amendment, instead of addressing Romani children's overrepresentation in special education, has so far had no impact beyond removing some of the school's funding. The school enrolled 16 new children diagnosed with a "mild mental disability" in the first grade in 2016, five more than in 2015.

The reduced curriculum that Romani children are taught in special schools has a profound impact on their educational trajectories. As in segregated mainstream education, widespread prejudice and extremely low expectations for Romani children among teachers are other key contributors. When asked about their pupils' prospects, many special education teachers merely smiled at the children's "unrealistic" dreams of becoming teachers or doctors. Those at the special school in Krompachy identified family background as the primary factor influencing Romani children's placement at the school and not their mental disability. They told us: "Another problem is that they procreate among themselves, incest happens very often."

It would be a mistake to identify the segregation of Roma in special schools as the sole, or even the main driver of discrimination and segregation of Roma in the Slovak education system. Segregation, fuelled by unacknowledged prejudice, remains widespread in mainstream education as well: and until this is prioritised and tackled, the Slovak authorities will continue to fail to fulfil their obligations under international, EU and, indeed, national law.

## KEY RECOMMENDATIONS:

- **The Slovak government** should publicly acknowledge the existence of a systemic problem of ethnic discrimination and segregation of Romani children in education and swiftly put in place a comprehensive action plan, in consultation with civil society, representatives of Roma and non-Roma parents and children and other stakeholders, to combat discrimination and segregation of Romani children in primary schools;
- **The Slovak government** should progressively abolish the special education programme for children with "mild mental disabilities", the so-called "variant A", from the special education system and adopt a moratorium on placements of Romani children in schools and classes for pupils with "mild

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

- **The European Commission** should ensure that infringement proceedings against Slovakia remain open until the government takes effective measures to end discrimination and segregation of Romani children in education. Given the findings of this report, we call on the Commission to take the process to the next stage and issue a reasoned opinion, followed by the possibility of a referral of the matter to the Court of Justice of the European Union in the event of the absence of demonstrable progress within the coming year.

# 2. METHODOLOGY

This report is based on joint research by Amnesty International and the European Roma Rights Centre carried out in October and November 2016 into the current situation of Romani children in primary education in Slovakia.

The report is based primarily on four case studies, illustrating some of the organizations' key concerns about discrimination and segregation of Romani children in both mainstream and special educational settings. These cases, while limited in geographical scope, highlight systemic issues repeatedly raised by Amnesty International, the European Roma Rights Centre and a wide range of other organizations over a number of years, and illustrate the failure of the Slovak government to adopt measures that effectively tackle discrimination and segregation of Romani children in education.

Two of the cases have been brought to the attention of the authorities at the national level and received media visibility as they have been the subject of complaints by NGOs and the State Schools Inspectorate. The cases are particularly revealing, therefore, of the attitudes of local and national authorities to known problems of discrimination and the measures they have been willing or able to take within the current legislative framework. This report assesses recent legal changes on their face but also against the reality Amnesty International and the European Roma Rights Centre encountered in the four locations visited.

While the two organizations recognise that pupils with mental disabilities may also be negatively impacted by education in separate educational settings within the Slovak school system, this report is limited in its scope to the issue of segregation of Romani children on the basis of their ethnicity.

The research team visited four main locations in the regions of Prešov and Košice in eastern Slovakia, which have some of the largest Romani populations in the country.<sup>10</sup> The four locations, where the case studies were based, are:

1. Šarišské Michalany and the nearby Ostrovany: the case focuses on a 2012 landmark ruling by a domestic court, which found that the Šarišské Michalany school had discriminated against Romani children (mostly coming from the village of Ostrovany, which only has a special school) through segregation in separate classes. The research team focused on the measures taken by the authorities to implement the judgment and assessed the current educational options for the children of Ostrovany.
2. Moldava nad Bodvou: a number of state and private schools in the town offer a combination of mainstream and special educational curricula, as well as instruction in Slovak and Hungarian. The research team focused on the educational options for Romani children living in a Romani settlement informally known as Budulovská.
3. Rokycany: the case, which has been widely reported in the media, highlights the situation of Romani children in a location which only has a special school. The research focused on educational options for Romani children living in two settlements in the village. In addition to the special school in the village, these included the nearest mainstream school in the village of Bajerov.

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<sup>10</sup> *Atlas of Roma Communities in Slovakia* (2013), a comprehensive survey of Romani neighbourhoods and settlements in Slovakia, commissioned by the Slovak Ministry of Labour, Social Affairs and Family and compiled by the United Nations Development Programme and the University of Prešov, summary available at: [www.romadecade.org/cms/upload/file/9653\\_file2\\_atlas-romadecade.pdf](http://www.romadecade.org/cms/upload/file/9653_file2_atlas-romadecade.pdf). Specific data from the Atlas is available from the European Roma Rights Centre upon request.

4. Krompachy: a case included in the critical report by the Slovak Ombudsperson in 2013 on the education of Romani pupils with “special educational needs”.<sup>11</sup> Romani families interviewed were living in two of the three Romani settlements in the town: Družstevná and Hornádska.

Six Romani settlements were visited and a total of 37 Romani parents and 54 children were interviewed. Six mainstream schools, a special school for children with “mental disabilities”, a kindergarten, a community centre and two diagnostic centres (one private and one state-run) were visited. In-depth discussions were held with seven directors and/or deputy directors and 55 teachers took part in group interviews. In addition, the research team met local officials (mayors or deputy mayors) responsible for the schools. Requests for meetings with directors and staff were refused by one mainstream school and two special schools in Moldava nad Bodvou and Rokycany.

Amnesty International and the European Roma Rights Centre also held meetings with relevant officials including representatives of the Ministry of Education, the Plenipotentiary for Roma Communities, the Ombudsperson’s Office, the Slovak National Centre for Human Rights (the national Equality Body), the State School Inspectorate, and the Research Institute for Child Psychology and Pathopsychology. Researchers also met civil society organizations in Bratislava, Košice and Prešov including: the Centre for the Research of Ethnicity and Culture (CVEK), EduRoma, Documentation and Information Centre of Roma Culture, Centre for Civil and Human Rights (*Poradňa pre občianske a ľudské práva*) and the Slovak Governance Institute (SGI).

In addition to the qualitative field research, the organizations requested quantitative data from a total of 31 schools. These included 21 mainstream and special schools surveyed by the Ombudsperson in 2013,<sup>12</sup> three of which were in the locations featured in this report,<sup>13</sup> and an additional 10 special and mainstream schools mapped as potential educational options for children in the four locations visited.<sup>14</sup> Each school was asked to provide data on: the number of pupils in the various educational programmes; the number of mainstream, special and specialized classes; re-testing and potential transfers from/to mainstream/special schools or classes; student attainment and future educational trajectories; and the ethnic and social background of the pupils disaggregated by the various educational programmes. By February 2017, 20 schools had provided the data requested, but only 12 provided data disaggregated by ethnicity.

The same set of data was sought at the national level from the Ministry of Education, which stated that such data was not available. The Ministry forwarded links to general statistics on education for 2015/2016, which were not disaggregated by ethnicity. Since then, the Ministry of Education has also published similar statistics for the 2016/2017 school year, recorded in September 2016.

The names of all the Romani children and their parents quoted in this report have been withheld and pseudonyms have been adopted to protect their security and privacy. All have given their informed consent to the inclusion of their stories in this report.

Amnesty International and the European Roma Rights Centre would like to thank all the stakeholders interviewed as part of this research, the schools that responded to requests for data and agreed to discuss the challenges they faced and, in particular, all the Romani parents and children, who have shared their stories.

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<sup>11</sup> Office of the Ombudsperson, *Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs (Správa verejnej ochrankyne práv o uplatňovaní práva na vzdelanie detí/žiacov príslušníkov rómskej národnostnej menšiny so špeciálnymi výchovno-vzdelávacími potrebami)* 2013.

<sup>12</sup> A complete list of the 21 schools surveyed by the Ombudsperson is available at: [www.vop.gov.sk/files/Sprava%20VOP-Vzdelavanie%20Romov.pdf](http://www.vop.gov.sk/files/Sprava%20VOP-Vzdelavanie%20Romov.pdf). See also Annex 1.

<sup>13</sup> The Ombudsperson’s report covered the special school in Moldava nad Bodvou, the mainstream school in Šarišské Michalany and the special school in Krompachy.

<sup>14</sup> In relation to the locations visited, Amnesty International and the European Roma Rights Centre requested data from: four mainstream schools (the “Hungarian School”, the “Catholic Church School”, the “Northern Slovak School” and the “First Primary School”) in Moldava nad Bodvou and its only special school; the only special school in Ostrovany; the only special school in Rokycany and the only mainstream school in the nearby town of Bajerov; and three mainstream schools in Krompachy (*Maurerova*, *Zemanská* and *SNP* schools). Amnesty International and the European Roma Rights Centre did not request data from the newly established two preparatory/zero grades in the community centre in Ostrovany, however a meeting was held with the teachers at the location.

# 3. CONTEXT: OVERVIEW

The European Roma Rights Centre (ERRC) and Amnesty International have been monitoring and researching the right to education of Romani children in Slovakia since 1996 and 2006, respectively. The findings of the two organizations have been published in several reports, briefings and submissions to international human rights monitoring bodies and the European Commission.<sup>15</sup>

## 3.1 A HISTORY OF DISCRIMINATION AND SEGREGATION

There are thought to be approximately 320,000 to 480,000 Roma living in Slovakia today, mostly in the east and south of the country, amounting to some 6% - 8% of the total population.<sup>16</sup> Roma have historically faced systemic and widespread discrimination and prejudice in all areas of life including housing, employment and education. This discrimination persists today.

Segregation is a form of discrimination. More than 60 years ago, the US Supreme Court found that racially segregated education is inherently unequal.<sup>17</sup> A decade ago, in *D.H. and others v the Czech Republic*, the Grand Chamber of the European Court of Human Rights condemned the Czech Republic for the widespread segregation of Romani children in special schools, which amounted to indirect discrimination.<sup>18</sup> For over a decade, the European Court of Human Rights has dealt with discrimination in school systems with respect to Roma: direct discrimination, for example, resulting from the separation of Romani pupils from their non-Roma peers in Greece;<sup>19</sup> and indirect discrimination, for example in Croatia, resulting from the creation of Roma-only classes for pupils who did not speak the national language at the time they started school, and where, instead of this being a temporary measure, children were kept in those classes for their entire schooling.<sup>20</sup>

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<sup>15</sup> See, for example: ERRC, Poradňa, *Joint submission to the UN CAT on Slovakia*, 13 July 2016, available at: [www.errc.org/article/errc-submission-to-un-comitee-against-torture-on-slovakia-july-2015/4382](http://www.errc.org/article/errc-submission-to-un-comitee-against-torture-on-slovakia-july-2015/4382); ERRC, Poradňa, *Joint submission to the UN Committee on the Rights of the Child on Slovakia*, 18 April 2016, available at: [www.errc.org/article/joint-submission-to-un-crc-on-slovakia-april-2016/4472](http://www.errc.org/article/joint-submission-to-un-crc-on-slovakia-april-2016/4472); ERRC, *Submission to the European Commission on the European Framework for National Roma Integration Strategies*, 19 February 2016, available at: [www.errc.org/cms/upload/file/2015-eu-roma-framework-written-comments-19-february-2016.pdf](http://www.errc.org/cms/upload/file/2015-eu-roma-framework-written-comments-19-february-2016.pdf); Amnesty International, *Letter submitted to the International Committee for Civil and Political Rights ahead of Slovakia's review in 2016*, available at: [internet.ohchr.org/Treaties/CCPR/Shared%20Documents/SVK/INT\\_CCPR\\_ICO\\_SVK\\_22792\\_E.pdf](http://internet.ohchr.org/Treaties/CCPR/Shared%20Documents/SVK/INT_CCPR_ICO_SVK_22792_E.pdf); ERRC, Poradňa, *Joint submission to the UN CEDAW on Slovakia*, 2 October 2015, available at: [www.errc.org/article/joint-submission-to-un-cedaw-on-slovakia-october-2015/4421](http://www.errc.org/article/joint-submission-to-un-cedaw-on-slovakia-october-2015/4421); ERRC, Amnesty International, Open Society Foundation, *Slovakia: Racist stereotyping should not determine education policy - International NGOs criticize Slovak Government*, 9 June 2015, available at: [www.errc.org/article/slovakia-racist-stereotyping-should-not-determine-education-policy-international-ngos-criticize-slovak-government/4368](http://www.errc.org/article/slovakia-racist-stereotyping-should-not-determine-education-policy-international-ngos-criticize-slovak-government/4368); ERRC, Amnesty International, Open Society Foundation, *Commission Takes Tougher Stance on Member States Discriminating Roma*, 29 April 2015, available at: [www.errc.org/article/commission-takes-tougher-stance-on-member-states-discriminating-roma/4359](http://www.errc.org/article/commission-takes-tougher-stance-on-member-states-discriminating-roma/4359); Amnesty International, *Slovakia's "container schools" worsen segregation of Roma children from society*, 13 March 2015, available at: [www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/](http://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/); Amnesty International, *Slovakia: Unfulfilled promises: Failing to end segregation of Roma pupils in Slovakia*, 2013, available at: [www.amnesty.org/en/documents/EUR72/001/2013/en/](http://www.amnesty.org/en/documents/EUR72/001/2013/en/).

<sup>16</sup> Government of the Slovak Republic, *National Roma Integration Strategy up to 2020*, 2012. [ec.europa.eu/justice/discrimination/files/roma\\_slovakia\\_strategy\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_slovakia_strategy_en.pdf). See also: UNDP, *Report on the Living Conditions of Roma Households in Slovakia in 2010*, Bratislava, 2012.

<sup>17</sup> *Brown v Board of Education of Topeka*, US Supreme Court, 347 U.S. 483 (1954).

<sup>18</sup> *D.H. and others v the Czech Republic* [57325/00] ECHR (13 November 2007).

<sup>19</sup> *Sampanis and others v Greece* [32526/05] ECHR (5 June 2008) para 96; *Sampani and others v Greece* [59608/09] ECHR (11 December 2012); *Lavida and others v Greece* [7973/10] ECHR (30 May 2013).

<sup>20</sup> *Oršuš and others v Croatia* [15766/03] ECHR (16 March 2010).

In Slovakia, Romani children are regularly segregated in Roma-only mainstream schools or classes, in special classes or special schools for children with “mild mental disabilities”.<sup>21</sup> As a result, they are condemned to low-quality education. The consequences of this are reinforced by the overall structure of the Slovak education system, which has been found to block social mobility.<sup>22</sup> According to the Organisation for Economic Cooperation and Development (OECD), in Slovakia the children of parents without secondary education are much more likely to miss out on secondary education themselves than children in similar circumstances in other OECD countries (42% compared to an OECD average of 27%).<sup>23</sup> This inevitably impacts on their employment prospects and career options.<sup>24</sup> According to a 2010 United Nations Development Programme (UNDP) household survey, almost one in five Roma did not finish primary education (18.4%) and only 17% continued into secondary education, 15.2% of whom entered vocational training. Only 0.3% of Roma entered tertiary education.<sup>25</sup>

The data and research available on the discrimination and segregation faced by Romani children in education in Slovakia are certainly alarming. In its July 2016 review of Slovakia, the United Nations Committee on the Rights of the Child expressed concern that Romani children continue to be subjected to de facto segregation in the school system, with over 50% being taught in Roma-only classes and/or attending classes in separate school facilities, often providing inferior education.<sup>26</sup> The 2016 EU Minorities and Discrimination Survey conducted by the EU Fundamental Rights Agency found that 62% of Romani children in Slovakia attend schools where all or most of their schoolmates are Roma.<sup>27</sup> A different survey, the 2012 UNDP education report, found that in 2011, 43% of Roma in mainstream schools in Slovakia were enrolled in ethnically segregated classes.<sup>28</sup>

Statistics provided by the Ministry of Education show that 21,498 pupils were educated in special educational settings in Slovakia in September 2016, a figure which is not disaggregated by ethnicity, however.<sup>29</sup> In 2013, the Slovak Ombudsperson highlighted that Roma accounted for over 88% of first-grade pupils in special classes and schools for pupils with “mild mental disabilities” that she had surveyed.<sup>30</sup> The 2016 EU Fundamental Rights Agency survey found that 18% of Romani children between the ages of six and 15 who were in education attended special schools in Slovakia.<sup>31</sup> The UN Committee on the Rights of the Child also noted in 2016 that a disproportionately high number of Romani children continued to be placed in schools for children with “mild disabilities”.<sup>32</sup>

In the absence of comprehensive, annually comparable data disaggregated by ethnicity, it is ultimately difficult to accurately determine trends and possible progress. This is itself both a problem and indicator of a lack of commitment to tackling discrimination in education. The findings of the organizations in the localities visited, however, point not to progress but, in fact, an alarming regression on the educational segregation of Roma in Slovakia.

Romani children educated in mixed educational settings (including Romani and non-Roma children) often face racial prejudice and harassment by non-Roma classmates and teachers. According to a 2016 report by the State School Inspectorate, 21.74% of pupils reported the use of derogatory language, including anti-Roma slurs, by teachers in schools.<sup>33</sup>

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<sup>21</sup> Amnesty International, *Annual report 2015/2016, Slovakia*, available at: [www.amnesty.org/en/countries/europe-and-central-asia/slovakia/report-slovakia/](http://www.amnesty.org/en/countries/europe-and-central-asia/slovakia/report-slovakia/) and ERRC, *Country Profiles – Slovakia, 2012*, available at: [www.errc.org/cms/upload/file/slovakia-country-profile-2011-2012.pdf](http://www.errc.org/cms/upload/file/slovakia-country-profile-2011-2012.pdf).

<sup>22</sup> Organisation for Economic Cooperation and Development (OECD), *Education at a Glance*, 2016, available at: [www.oecd.org/edu/education-at-a-glance-19991487.htm](http://www.oecd.org/edu/education-at-a-glance-19991487.htm).

<sup>23</sup> OECD, *Education at a Glance*. See also: OECD, *Country Note – Slovakia*, available at: [www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2015/slovak-republic\\_eag-2015-78-en](http://www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2015/slovak-republic_eag-2015-78-en), p. 4.

<sup>24</sup> OECD, *Education at a Glance*, pp. 85-102.

<sup>25</sup> United Nations Development Programme, *Report on the Living Conditions of Roma Households in Slovakia in 2010*, 2012, pp. 92-93.

<sup>26</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on Slovakia* (CRC/C/SVK/CO/3-5) 2016, para 44(a).

<sup>27</sup> European Union Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey Roma – Selected findings*, 2016, p. 27, available at: [www.fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings](http://www.fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings).

<sup>28</sup> Brüggemann, C., *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, p. 64.

<sup>29</sup> Ministry of Education, Science, Research and Sport, *Statistical Yearbook 2016/2017* available at: [www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page\\_id=9580](http://www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page_id=9580).

<sup>30</sup> Office of the Ombudsperson, *Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs (Správa verejnej ochrankyne práv o uplatňovaní práva na vzdelanie detí/žiacov príslušníkov rómskej národnostnej menšiny so špeciálnymi výchovno-vzdelávacími potrebami)*, 2013, p. 19.

<sup>31</sup> European Union Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey Roma – Selected findings*, 2016, p. 28.

<sup>32</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on Slovakia* (CRC/C/SVK/CO/3-5) 2016, para 44(d).

<sup>33</sup> State School Inspectorate, *Report on the situation and quality of upbringing and human rights education in primary schools in the school year 2015/2016*, May 2016, p. 3, available at: [www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/SPRAYVY/2016/SS\\_LP\\_ZS\\_15\\_16.pdf](http://www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/SPRAYVY/2016/SS_LP_ZS_15_16.pdf).

In May 2016, one year after the European Commission (EC) initiated infringement proceedings against Slovakia, the Director of the State School Inspectorate, Viera Kalmanová, raised segregation-related concerns in an interview with a Slovak daily newspaper, in which she admitted that Romani children have been discriminated against in the Slovak school system. She argued that there are actors in the Slovak education system deliberately and consciously streaming Romani children into special schools. She also confirmed the existence of “primitive forms of segregation in separate schools, floors and classes”, “biased diagnostic testing of mild mental disability” and anti-Roma racism including among the staff of the State School Inspectorate.<sup>34</sup>

The concerns raised by the Director of the State School Inspectorate have been echoed by several international human rights mechanisms in recent years. In addition to the concerns raised by the UN Committee on the Rights of the Child noted above, the UN Committee on the Rights of Persons with Disabilities in its review of Slovakia in May 2016 expressed concern that the right to inclusive education for all children and students with disabilities is not available and highlighted the continuing placement of Romani children in segregated schools for children with disabilities.<sup>35</sup>

Following his June 2015 visit to Slovakia, the Council of Europe’s Commissioner for Human Rights expressed deep concern about the continued chronic, pervasive segregation of Roma children in the education system and their very high school drop-out levels. While welcoming pilot projects and recent legislative proposals aimed at preventing the placement of Romani children in special schools, the Commissioner called on the authorities to adopt and promote inclusive education policies, to take measures to reduce the isolation of Romani children in mono-ethnic schools and to encourage interaction between Romani and non-Roma children.<sup>36</sup>

## 3.2 GOVERNMENTAL EDUCATION POLICIES

To date, the Slovak authorities have failed to adequately tackle the discrimination and segregation faced by Romani children in education. Successive governments have adopted a piecemeal approach and the impact of the very narrow reforms introduced on the daily school lives of Romani children has been extremely limited. Crucially, Slovak authorities have failed to acknowledge the breadth and the systemic nature of the discrimination and segregation faced by Romani children in education.

Two pieces of national legislation give effect to Slovakia’s obligation under the EU Race Equality Directive<sup>37</sup> to prohibit discrimination in the field of education: the Anti-Discrimination Act<sup>38</sup> and the School Act, which explicitly prohibits all forms of discrimination and especially segregation in education.<sup>39</sup> However, in practice, the ban on discrimination, particularly concerning segregation, has not been accompanied by concrete measures to guarantee effective enforcement. Consequently, de facto discrimination and segregation of Romani children persist across Slovakia, resulting in the denial of equal treatment and the right to education free from discrimination. In the longer term, the failure to enforce the 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.

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<sup>34</sup> DennikN, *Školská inšpektorka: Na východe neveria, že Róm sa zmení, my zo západu sme im na smiech*, 3 May 2016, available at: [www.dennikn.sk/450374/skolska-inspektorka-vychode-neveria-ze-rom-sa-zmeni-zo-zapadu-smiech/](http://www.dennikn.sk/450374/skolska-inspektorka-vychode-neveria-ze-rom-sa-zmeni-zo-zapadu-smiech/).

<sup>35</sup> United Nations Committee on the Rights of Persons with Disabilities, *Concluding observations on Slovakia* (CRPD/C/SVK/CO/1) 2016, para 67.

<sup>36</sup> Comm DH(2015)21, Strasbourg, 13 October 2015.

<sup>37</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>38</sup> The Anti-Discrimination Act transposed the Equal Treatment Directives of the European Union – Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (“Race Equality Directive”) and Council Directive 2000/78/EC on equal treatment in employment and occupation – and introduced the principle of equal treatment and a prohibition of discrimination on grounds including race, nationality and ethnic origin in education, as well as other areas, including social security, employment, health care and the provision of goods and services. Slovak anti-discrimination law not only prohibits direct and indirect discrimination but also imposes a duty to adopt measures that will protect individuals from discrimination.

<sup>39</sup> Act No. 245/2008 Coll. on Education (School Act), para 3(d). The new School Act entered into force in September 2008, replacing the 1984 Act and its various amendments.

## TIMELINE OF GOVERNMENTAL MEASURES ADDRESSING EDUCATION OF ROMANI CHILDREN

- August 2010: A government programme was adopted including a commitment to take measures to prevent and eliminate segregation in education on the basis of ethnic origin. However, this commitment was followed by specific practical measures.
- January 2011: The government adopted the Revised National Action Plan of the Decade of Roma Inclusion for 2011-2015. Improving the quality of education for Romani children was one of its top priorities.<sup>40</sup> The participation in the Decade of Roma Inclusion has not translated into tangible improvements for Romani children in education.
- June 2011: The Ministry of Education prepared a “Concept of Education in Kindergartens, Primary Schools and Secondary Schools”. It included 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. However, the Concept also used language which further stigmatized the Roma, and to date, the definition of segregation has not been adopted, nor has the monitoring, evaluation, or publication of information been acted upon.<sup>41</sup>
- January 2012: The government adopted the National Roma Integration Strategy 2020, which stated that one of the basic principles of public policies aiming at the integration of Romani communities was desegregation.<sup>42</sup> It defined segregation as the separation of a group of people, and it distinguished two main types of it: spatial (or residential) segregation and social segregation. The latter includes segregation in education. The Strategy further stated that “the implementation of the principles of desegregation in education” would be one of the principles on which the much needed reform of the Slovak education system would be based. One of the objectives in the chapter on education was to progressively reduce the number of Romani pupils in special education. The did not specifically make reference to the issue of segregation of Romani pupils in mainstream education. Further, so far the strategy has not resulted in any discernible reduction of the number of Romani children in special and/or segregated education.
- September 2012: The government and the Plenipotentiary for Roma Communities rejected the provisions in the National Roma Integration Strategy and announced a new the “Roma Reform Programme - The Right Way” (*Rómska Reforma – Správna Cesta*)<sup>43</sup> that proposed 14 measures specifically in relation to education. Among these was compulsory pre-school education for children from “at-risk families” (defined as such on the basis of various criteria, such as the educational and material situation of parents and their criminal record); all-day education for children from “at-risk families”; education for children from “at-risk families” during the summer holidays; prolonging the length of compulsory education to 12 years; and stopping the enrolment of pupils with “mild mental disabilities” into special primary schools. The provisions of the “Roma Reform Programme” were criticized by the UN Committee on Elimination of Racial Discrimination (CERD).<sup>44</sup> The CERD found, for instance, that compulsory pre-school education for children from “at risk families” might lead to discrimination and segregation.<sup>45</sup> The government did not implement the Programme.
- June 2015: School Act Amendments.<sup>46</sup> In response to the launch of the infringement proceedings by the European Commission, the Slovak Parliament adopted an amendment to the School Act that contained some provisions presented as aiming to gradually phase out the segregation of Romani children in education. For more detail, see Section 3.4.
- October 2016: the Ministry of Education launched a new national programme called “Schools Open to All”, which includes programmes dedicated to marginalized Roma communities. The objective of the programme is to promote inclusive education and to “ensure equal access to education for all kindergarten and primary school children”. The programme aims to create over 500 new teaching assistant positions and professional staff to ensure the integration of Romani children in mainstream schools.<sup>47</sup>

<sup>40</sup> Slovakia, *Revised National Action Plan of the Decade of Roma Inclusion 2005-2015 for years 2011-2015*, 2011, available at: [www.romadecade.org/decade\\_action\\_plans](http://www.romadecade.org/decade_action_plans).

<sup>41</sup> For example, it suggested that the lack of access to quality education for “marginalized groups” is a result, among other things, of “indirect support for segregation from the side of the Romani community” and of



Far from tackling the disadvantage faced by Romani children, the Slovak authorities have in recent years introduced measures that instead further reinforce segregation. In 2012, the Slovak government began financing and building so-called “container schools” inside or close to Roma settlements, a practice that is reinforcing segregation rather than enabling the integration of Romani students in ethnically-mixed mainstream schools.<sup>48</sup> Indeed, the government-coined term “container school” is meant literally, as a reference to the style of construction, which is reliant on pre-fabricated buildings, but it can also be read figuratively as referring to schools for the containment of Romani children.

A 2012 study conducted by CVEK concluded that existing tools to promote the integration or inclusion of Romani children in mainstream education (such as preparatory/zero classes, teaching assistants, multicultural education, individual integration, the use of the Romani language) have had a very limited impact, because they have not been accompanied by systemic and comprehensive reforms to tackle the core issue of discrimination and segregation in education.<sup>49</sup>

A 2013 inquiry by the Ombudsperson into the ethnic composition of special schools found that only 15.02% of Romani children in the sample had previously been enrolled in kindergartens. In contrast, 65.63%<sup>50</sup> of the Romani children had been enrolled in preparatory/zero classes. Preparatory/zero classes, supposedly established to facilitate the entry and integration of Romani children in mainstream education, have had very little impact, but instead, zero classes were found in many instances to reinforce existing segregation.<sup>51</sup>

### 3.3 EUROPEAN COMMISSION’S INFRINGEMENT PROCEEDINGS

On 29 April 2015, following continued criticism from both national and international organizations and bodies, the European Commission (EC) initiated infringement proceedings against Slovakia for breaching the prohibition of discrimination in education set out in the EU Race Equality Directive (Directive 2000/43 EC).<sup>52</sup> The proceedings call into question Slovakia’s compliance with the Directive’s Articles 2.2(a), 2.2(b), 2.3 and 3.1(g), which prohibit discrimination in access to education on the grounds of race or ethnicity.<sup>53</sup>

Infringement proceedings provide the EC with a legal tool to engage with EU Member States to ensure compliance with EU law. If the EC has concerns about a possible breach of EU law by a Member State, it informs the concerned Member State which then has the opportunity to respond and suggest measures to ensure compliance.<sup>54</sup> If the EC is not satisfied, it states the reasons why it believes the Member State has breached EU law (a reasoned opinion). If the Member State does not respond, or responds in an unsatisfactory manner, the EC may bring the case to the Court of Justice of the European Union. If the Court finds that the Member State has failed to fulfil an obligation under EU law, it may impose severe

“natural self-defence of the majority from unadaptable citizens”, who were further described as prone to “poor hygiene, stealing and physical assaults”.

<sup>42</sup> *Stratégia Slovenskej republiky pre integráciu Rómov do roku 2020*, pp. 9-10. Available at: [www.minv.sk/?programove\\_obdobie\\_2014-2020](http://www.minv.sk/?programove_obdobie_2014-2020).

<sup>43</sup> Office of the Plenipotentiary for Roma Communities and Ministry of Interior of the Slovak Republic, *The Roma Reform Programme – The Right Way*, 26 September 2012. Although the measures are called *The Roma Reform*, the authors refer to Roma people as “socially unadaptable citizens”.

<sup>44</sup> United Nations Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on Slovakia* (CERD/C/SVK/CO/9-10) 2013.

<sup>45</sup> CERD, *Concluding observations on Slovakia*, 2013, para 11(d).

<sup>46</sup> Act No. 245/2008 Coll. on Education (School Act) and on Changing and Supplementing Certain Laws, amendment of 30 June 2015.

<sup>47</sup> Ministry of Education, *School for All Programme*, available at: [www.minedu.sk/vyzvanie-pre-narodny-projekt-%E2%80%99Eskola-otvorena-vsetkym%E2%80%99C/](http://www.minedu.sk/vyzvanie-pre-narodny-projekt-%E2%80%99Eskola-otvorena-vsetkym%E2%80%99C/).

<sup>48</sup> Amnesty International, *Slovakia’s “container schools” worsen segregation of Roma children from society*, 2015, available at <https://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/>. See also: [www.oecd.org/edu/school/CBR\\_School%20Resources\\_SK\\_Slovak%20version.pdf](http://www.oecd.org/edu/school/CBR_School%20Resources_SK_Slovak%20version.pdf).

<sup>49</sup> CVEK, *Are the measures adopted for improving the education of Romani children inclusive? (Sú opatrenia na zlepšenie vzdelávania rómskych detí inkluzívne?)*, 2012, available at: [www.multikulti.sk/ine/su\\_opatrenia\\_na\\_zlepsenie\\_vzdelavania\\_romskych\\_deti\\_inkluzivne.html](http://www.multikulti.sk/ine/su_opatrenia_na_zlepsenie_vzdelavania_romskych_deti_inkluzivne.html).

<sup>50</sup> Office of the Ombudsperson, *Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs (Správa verejnej ochranky práv o uplatňovaní práva na vzdelanie detí/žiacov príslušníkov rómskej národnostnej menšiny so špeciálnymi výchovno-vzdelávacími potrebami)*, 2013.

<sup>51</sup> CVEK, *Are the measures adopted for improving the education of Romani children inclusive?* 2012.

<sup>52</sup> Directive 2000/43/EC, Article 2: direct and indirect discrimination, Article 3.1(g): education being within the material scope of the Directive.

<sup>53</sup> Amnesty International, European Network Against Racism, the European Roma Rights Centre and Open Society Foundations Press Release, *Commission takes tougher stance on Member States discriminating Roma*, April 2015, available at: [www.errc.org/article/commission-takes-tougher-stance-on-member-states-discriminating-roma/4359](http://www.errc.org/article/commission-takes-tougher-stance-on-member-states-discriminating-roma/4359).

<sup>54</sup> See: [www.ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/index\\_en.htm](http://www.ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/index_en.htm).

penalty payments. These could be either periodic (that is, a Member State would have to pay them while its breach of the EU law persists), or a lump sum based on an assessment of the effects of the breach, or both.<sup>55</sup> In general, the threat of penalty payments has been reasonably effective and non-compliance with Court judgments has so far been limited to relatively few cases.<sup>56</sup>

Regrettably and rather tellingly, in a widely reported communication that followed the EC's decision to launch infringement proceedings against Slovakia, the government justified the disproportionate number of Romani children in schools and classes for children with "mild mental disabilities" on the basis that there is a higher prevalence of genetic disorders among Slovak Roma due to the community having "the highest coefficient of inbreeding in Europe."<sup>57</sup>

## 3.4 AMENDMENT TO THE SCHOOL ACT

In response to the launch of the infringement proceedings, the Slovak Parliament adopted an amendment to the School Act that contained some provisions presented as aiming to gradually phase out the segregation of Romani children in education.<sup>58</sup> Drafted in a matter of weeks and with no expert consultation or parliamentary scrutiny, five legal provisions were hastily amended and adopted in an accelerated legislative process. While the amendment correctly prioritizes integration in mainstream schools and provides financial incentives for schools educating pupils from disadvantaged backgrounds, it does not contain any specific provisions for eliminating ethnic discrimination of Romani children.

- The first two amended provisions state that children whose special educational needs stem exclusively from their "socially disadvantaged background" (a commonly used coded reference to Roma) cannot be placed in special schools or special classes<sup>59</sup> and should be placed in classes "together with other children or pupils."<sup>60</sup> Although the government presented these as new measures, they were in fact already contained in the School Act.<sup>61</sup>
- The third provision deals with so-called "specialized classes", which can be established for pupils who are assessed as temporarily incapable of mastering the regular curriculum. Pupils can be placed in these classes for a maximum of one year, with the consent of their parent or legal guardian.<sup>62</sup>
- The fourth provision introduces a new system of financial incentives for schools that educate children from "socially disadvantaged backgrounds" in mainstream classes.<sup>63</sup> However, given the very low level of the subsidy (extra €109 per pupil per annum in 2016)<sup>64</sup> and chronic underfunding of mainstream primary schools,<sup>65</sup> it is very unlikely that this provision alone will improve the educational prospects of Romani children who may require additional support.
- The fifth provision broadens the responsibilities of the State School Inspectorate, especially in terms of monitoring the work of educational counselling centres (Psychological-Pedagogical Centres (PPCs)

<sup>55</sup> European Commission, MEMO/05/482, *Financial Penalties for Member States who fail to comply with Judgments of the European Court of Justice: European Commission clarifies rules*, 2005, available at: [www.europa.eu/rapid/press-release\\_MEMO-05-482\\_en.htm?locale=en](http://www.europa.eu/rapid/press-release_MEMO-05-482_en.htm?locale=en).

<sup>56</sup> European Commission, MEMO/05/482.

<sup>57</sup> Amnesty International, the European Roma Rights Centre, Open Society Foundations Bratislava, *Racist stereotyping should not determine education policy*, 9 June 2015, available at: [www.errc.org/article/slovakia-racist-stereotyping-should-not-determine-education-policy--international-ngos-criticize-slovak-government/4368](http://www.errc.org/article/slovakia-racist-stereotyping-should-not-determine-education-policy--international-ngos-criticize-slovak-government/4368).

<sup>58</sup> DennikN, *Vláda reaguje na kritiku Európy, deti z osád nesmú odsúvať do špeciálnych škôl*, 16 June 2015, available at: [www.dennikn.sk/161367/vlada-reaguje-na-kritiku-euro-py-pre-segregovanie-romov-prepisuje-zakon/](http://www.dennikn.sk/161367/vlada-reaguje-na-kritiku-euro-py-pre-segregovanie-romov-prepisuje-zakon/).

<sup>59</sup> Act No. 245/2008 Coll. on Education (School Act) and on Changing and Supplementing Certain Laws, amendment of 30 June 2015, para 107(2).

<sup>60</sup> Act No. 245/2008 Coll. on Education (School Act), para 107(3).

<sup>61</sup> Para 3 of the previous wording of the School Act, on "Teaching and education principles" stated: "Under this Act, teaching and education are based on the principles of: ... (d) prohibiting of all forms of discrimination and especially segregation." Further, para 107(1) stated: "Teaching and education for children and students from a socially disadvantaged environment is provided in [mainstream] schools in accordance with this Act, using specific methods and forms."

<sup>62</sup> Act No. 245/2008 Coll. on Education (School Act), para 29(11).

<sup>63</sup> Act No. 245/2008 Coll. on Education (School Act), para 107(4).

<sup>64</sup> See [www.minedu.sk/prispevok-na-rok-2015/](http://www.minedu.sk/prispevok-na-rok-2015/).

<sup>65</sup> According to the OECD, Slovakia earmarks 3.7 % of the state budget for education, which is below the average of all OECD countries (5.2 %), see: [www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2015/slovak-republic\\_eag-2015-78-en](http://www.keepeek.com/Digital-Asset-Management/oecd/education/education-at-a-glance-2015/slovak-republic_eag-2015-78-en), p. 4; Slovak Press Agency (SITA), *Regional education is long-term underfinanced according to Sadlon* (President of the Association of the Directors of Secondary Grammar Schools in Slovakia), 31 January 2016, available at: [www.webnoviny.sk/slovensko/clanok/1034782-regionalne-skolstvo-je-dlhodobu-podfinancovane-tvrdi-sadlon/](http://www.webnoviny.sk/slovensko/clanok/1034782-regionalne-skolstvo-je-dlhodobu-podfinancovane-tvrdi-sadlon/).

and Special Pedagogical Centres (SPCs)) and intervening in their diagnostic processes.<sup>66</sup> Prior to the amendment, the State School Inspectorate did not have any authority or control over the functioning of diagnostic centres,<sup>67</sup> but was mandated to assess the compliance of schools with the principle of non-discrimination and non-segregation, while at the same time having limited ability to act upon violations of the law in this area. The increased mandate has not been accompanied by increased financial and human resources.<sup>68</sup> Moreover, the Inspectorate's ability to make schools comply with its recommendations remains limited as it does not have the power to request that the Ministry of Education act nor is it able to initiate legal proceedings when violations are identified. Indeed, the Inspectorate has referred cases to civil society organizations to litigate.<sup>69</sup>

## 3.5 ASSESSMENT OF SOCIAL DISADVANTAGE AND MENTAL DISABILITY

One of the few measures taken by the Slovak authorities in response to the European Commission's infringement proceedings was to revise the system of financial support for "socially disadvantaged children", a term commonly used to denote Romani children. Before the June 2015 amendment, which came into force in January 2016, this financial support was coordinated by local labour offices. Schools, whether mainstream or special, educating children from families in material need (with incomes below the official minimal subsistence level) were entitled to extra financial support to cover their educational needs and meals and sometimes the salaries of teaching assistants.

The law was also amended to stipulate that children whose special educational needs stem exclusively from their socially disadvantaged background cannot be placed in special schools or special classes, but must be placed in classes "together with other children or pupils" in mainstream settings. According to the new legislation, only those schools in which pupils from socially disadvantaged backgrounds are taught in an "ordinary mainstream class" will receive the extra financial support. The aim, the right one, was to block the enrolment in special schools of Romani children whose learning needs stem from their social disadvantages and not any mental disability. The government argued that re-introducing a diagnostic category of social disadvantage and connecting it to a financial incentive would act as a major deterrent to widespread misdiagnosis of Romani children as having "mental disabilities".<sup>70</sup> However, considerable confusion reigns as to how the new requirements are to be implemented and how the two tests relate to each other. In the absence of clear guidelines on this point, none of the practitioners Amnesty International and the European Roma Rights Centre spoke to were able to explain precisely how the new system worked. In practice, the changes to the School Act appear to have made no significant dent on the number of Romani children enrolled in special schools in the first school year since they came into effect.

The new system, in force since January 2016, expands the understanding of social disadvantage and entrusts diagnosis to Psychological-Pedagogical Centres (PPCs), whose primary function is to diagnose school readiness, special educational needs and IQ scores. PPCs have no institutional connections or relevant expertise with respect to the functions of labour offices, which were responsible for assessing social disadvantage before 2016.

The Ministry of Education issued methodological guidelines to PPCs in March 2016 with criteria for determining "socially disadvantaged background". However, some of these are vague and fail to equip PPCs with the necessary tools to carry out such assessments. The guidance contains eight criteria, all related to the child's environment, not their abilities; but it does not specify how many are to be met for a child to fall in this category.<sup>71</sup>

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<sup>66</sup> Act No. 596/2003 Coll. on State Administration in the School System and on School Self-Governance and on Changing and Supplementing Certain Laws, as amended, para 13 (15-17).

<sup>67</sup> See: European Roma Rights Centre, Poradňa, *Submission to the UNCRC on Slovakia*, 18 April 2016, available at: [www.errc.org/article/joint-submission-to-un-crc-on-slovakia-april-2016/4472](http://www.errc.org/article/joint-submission-to-un-crc-on-slovakia-april-2016/4472).

<sup>68</sup> Interview with the Director of the State School Inspectorate, 4 November 2016.

<sup>69</sup> Interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>70</sup> DennikN, *Vláda reaguje na kritiku Európy, deti z osád nesmú odsúvať do špeciálnych škôl*, 16 June 2015, available at: [www.dennikn.sk/161367/vlada-reaguje-na-kritiku-eurovy-pre-segregovanie-romov-prepisuje-zakon/](http://www.dennikn.sk/161367/vlada-reaguje-na-kritiku-eurovy-pre-segregovanie-romov-prepisuje-zakon/).

<sup>71</sup> The criteria are: the family is not performing a socializing-educational function; poverty and destitution; at least one parent is long-term unemployed and belongs to the category of disadvantaged job applicants; insufficient education of legal guardians; inadequate housing and sanitation; language of school instruction is different from the language spoken at home; the family lives in a segregated environment; social exclusion of the family or community from the majority population. Ministry of Education, *Guide for pedagogical-psychological counselling and prevention centres for school readiness assessment of children from a socially disadvantaged environment*, 4 March 2016.

The Ministry of Education's failure to issue comprehensive, detailed instructions to PPCs on how to measure and identify social disadvantage means that the PPC employees have been left to decide on this socio-economic category without the necessary training or expertise. Indeed, it is unclear why the identification of social disadvantage has been entrusted to PPCs at all, or how in diagnostic terms the two assessments are supposed to relate to each other, and there is considerable confusion within PPCs on this point.

Ostensibly, they are two unrelated tests: the first related to environment and the second to ability. In principle, therefore, there is no reason why a child cannot be both identified as coming from a socially disadvantaged background and diagnosed as having a "mild mental disability". And yet the new law appears to exclude this possibility: or, at least, to impose two contradictory requirements: according to Slovak law, children diagnosed with a "mild mental disability" may, with parental consent, be educated in the special education system, and yet, if their educational needs are identified as coming from a socially disadvantaged background, this is prohibited. Clear guidelines on the relationship between the two tests are urgently required.

The Director of the State School Inspectorate told researchers that the children categorized as being from a socially disadvantaged environment (SDE) under the previous system who attend mainstream schools must now have this "diagnosis" confirmed through testing in order for the schools which they attend to continue receiving subsidies.<sup>72</sup> The SDE subsidies received by special schools have now been removed due to the fact that a child can no longer be classified as being from an SDE and at the same time having a diagnosis of mental disability. Diagnostic centre staff and teachers and a representative of the Slovak Research Institute for Child Psychology and Pathopsychology stated that the centres are overwhelmed by the number of assessments they must carry out to confirm the SDE diagnoses.<sup>73</sup>

It is unclear when exactly the new SDE testing started being used after coming into force in January 2016. While it is likely that this began following the issuance of the new methodological guidelines in March 2016, the various stakeholders interviewed in the course of this research provided varying information in this regard, further pointing to the confusion around the new system.

PPCs across Slovakia were put under pressure to mass produce SDE diagnoses by 15 November 2016, the deadline set by the Ministry.<sup>74</sup> The Director of the State School Inspectorate described some of the difficulties this poses:

**"We do not have a lot of information, but I can tell you about the situation in Jarovnice. The school has a lot of [Romani] pupils [from a socially disadvantaged environment] and there is no way for [the centres] to meet the deadline [15 November 2016], therefore the school will lose around €70,000 which they used for teaching assistants' salaries and it will no longer be able to afford to have them."<sup>75</sup>**

While there has been a rush to confirm the SDE status of Romani children in mainstream education, there has been no case reported in the 2015/2016 school year of a child whose diagnosis has been corrected from mental disability to social disadvantage, prompting their transfer to mainstream education. Psychologists from a special pedagogical centre explained that transfers from special to mainstream schools are highly unlikely as the study plans are totally incompatible, which would make practically any child from a special school fail in the mainstream curriculum.<sup>76</sup>

There is, in any case, no incentive for special school directors to send children for testing as their schools are not eligible for the SDE-based additional funding anyway.

The reform has also not resulted in a decline in the number of special educational facilities in this school year. In fact, the Ministry of Education confirmed to the Slovak Ombudsperson that their number increased in 2016.<sup>77</sup> According to the Ministry's Statistical Yearbooks, the number of special primary schools in the school year 2015/2016 was 195, increasing by one in the 2016/2017 school year.<sup>78</sup> The number of special classes in mainstream primary schools increased by 6 (See Table 1 in Annex 2).

Despite the increase in special educational facilities in 2016/2017, the Ministry of Education's latest statistical Yearbook, recorded in September 2016, shows that the number of pupils diagnosed with mental disabilities and other special needs (stemming, for instance, from communication, behavioural, and

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<sup>72</sup> Interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>73</sup> Interview with a representative of the Slovak Research Institute for Child Psychology and Pathopsychology, 4 November 2016.

<sup>74</sup> The deadline for reporting was originally 15 September 2016, but it was extended. Interview with the Director of the Diagnostic Centre (PPC) in Sabinov, 28 October 2016; interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>75</sup> Interview with the Director of the State School Inspectorate and her team, 4 November 2016

<sup>76</sup> Interview with the staff of the Special Pedagogical Centre in Košice, 24 October 2016.

<sup>77</sup> Interview with the Slovak Ombudsperson and her advisers, 4 November 2016.

<sup>78</sup> Ministry of Education, Science, Research and Sport, Statistical Yearbooks 2015/2016 and 2016/2017 available at: [www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page\\_id=9580](http://www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page_id=9580).

developmental disorders) slightly decreased (21,498 in September 2016 as compared with 22,189 in September 2015. See Table 2 in Annex 2).

The Ministry of Education's statistical Yearbooks do not provide data disaggregated by ethnicity and thus do not provide any information on the number of Romani children in special schools and classes in the given years. Despite previous commitments to monitor, evaluate and publish information on segregation and desegregation practices, the Ministry of Education informed the organizations that it was not compiling ethnically disaggregated data with respect to schools and testing, and it was not in possession of data regarding numbers of Romani children in various types of schools.<sup>79</sup> It is worrying that the Ministry does not appear to monitor or evaluate the implementation and effectiveness of the new testing system. In the absence of such data, it is also difficult to see how the Ministry intends to report on the progress and effectiveness of the new provisions to the European Commission, as required by the infringement proceedings.

While the new amendments do have the potential, once the significant kinks are ironed out, to address the erroneous placement of Romani children in special schools, this is only one of the many drivers of segregation, and only one aspect of the discrimination that remains pervasive in the Slovak education system, as the remainder of this report seeks to highlight.

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<sup>79</sup> Email to Amnesty International, 21 November 2016.

# 4. SEGREGATION IN MAINSTREAM EDUCATION

The segregation of Romani children in mainstream education in Slovakia has been ruled unlawful by Slovak courts. On 5 December 2011, the District Court in Prešov found that the primary school in the village of Šarišské Michaľany had violated the law and ordered the school to desegregate.<sup>80</sup> The school segregated Romani pupils within classes and in Roma-only classes on a separate floor of the school. The decision of the District Court was upheld by the Regional Court in Prešov in October 2012.<sup>81</sup>

## 4.1 CASE STUDY 1: ŠARIŠSKÉ MICHAĽANY/OSTROVANY

**“There was a time when we were able to create bonds with the non-Roma. I had non-Roma friends as a child”**

Klement, Roma parent from Ostrovany

Ostrovany, a village of some 1,803 people,<sup>82</sup> is situated approximately 3km from Šarišské Michaľany, a neighbouring village in the Sabinov district of the Prešov region. Most of the majority Roma population live in a large settlement on the outskirts of Ostrovany, separated from the rest of the village by a 150m-long wall constructed in 2009 by the local council, according to media reports, on request of local non-Roma residents.<sup>83</sup>

Šarišské Michaľany has one mainstream primary school, whose catchment area, up until at least 30 December 2016, covered Ostrovany.<sup>84</sup> Ostrovany, home to an estimated 360 Romani children of primary

<sup>80</sup> District Court in Prešov, *Poradňa pre občianske a ľudské práva v. Základná škola s materskou školou Šarišské Michaľany* (25C 133/10-229), 5 December 2011, available at: [www.sarisskemichalany.sk/dokumenty/skola/rozsudok\\_zs\\_okres.pdf](http://www.sarisskemichalany.sk/dokumenty/skola/rozsudok_zs_okres.pdf).

<sup>81</sup> Poradňa, *Krajský súd potvrdil segregáciu rómskych detí na základnej škole v Šarišských Michaľanoch*, press release, 2 November 2012, available at: [www.poradna-prava.sk/?p=579](http://www.poradna-prava.sk/?p=579).

<sup>82</sup> 2011 Population census, available at: <https://census2011.statistics.sk/tabulky.html>. Ministry of Labour, Social Affairs and Family, UNDP, *Atlas of Romani Communities*, 2013, available at: [www.romadecade.org/cms/upload/file/9653\\_file2\\_atlas-romadecade.pdf](http://www.romadecade.org/cms/upload/file/9653_file2_atlas-romadecade.pdf).

<sup>83</sup> The Economist, *Walls are going up again*, 25 July 2013, available at: [www.economist.com/blogs/easternapproaches/2013/07/slovak-and-roma](http://www.economist.com/blogs/easternapproaches/2013/07/slovak-and-roma).

<sup>84</sup> Municipality of Ostrovany, *General Regulation 3/2016 on the determination of the catchment area of the Primary School in Ostrovany (Obecné zastupiteľstvo v Ostrovanoch, Všeobecne záväzné nariadenie číslo 3/2016 o určení školského obvodu Základnej školy v Ostrovanoch)* 30 December 2016, available at: [www.ostrovany.sk/files/2016-12-02-105609-N\\_V\\_R\\_H\\_VZN\\_3-2016\\_o\\_ur\\_en\\_a\\_kolsk\\_ho\\_obvodu\\_Z\\_Ostrovany.pdf](http://www.ostrovany.sk/files/2016-12-02-105609-N_V_R_H_VZN_3-2016_o_ur_en_a_kolsk_ho_obvodu_Z_Ostrovany.pdf).

school age,<sup>85</sup> does not have a mainstream primary school and 99 children from the settlement attend a special primary school in the centre of Ostrovany, all of whose pupils are Roma.<sup>86</sup> According to the data provided by the mainstream school in Šarišské Michalany, the school has 440 pupils, 325 of whom are Roma (from the Ostrovany settlement, Šarišské Michalany and possibly other locations).<sup>87</sup>

## 4.1.1 FAILURE TO ADEQUATELY IMPLEMENT LANDMARK COURT RULING

In the 2008/2009 school year, the majority of Romani pupils at the mainstream primary school in Šarišské Michalany still attending classes with non-Romani children were transferred to separate classes. In October 2012, the Regional Court in Prešov upheld a 2010 complaint filed by the Slovak NGO Centre for Civil and Human Rights (*Poradňa pre občianske a ľudské práva*) that the school had discriminated against Romani children by segregating them from their non-Roma peers.<sup>88</sup> The Court found that the school had violated the principle of equal treatment enshrined in the Slovak Anti-Discrimination Act and the School Act, and had infringed human dignity.<sup>89</sup> This was the first time that a court in Slovakia had concluded that segregation of Romani pupils in separate educational settings on the basis of ethnicity violated the right to equality and Slovakia's international obligations to end discrimination.

More than four years after the judgment, and despite various efforts by the school management and staff to end segregation, the situation has deteriorated: more than half of the classes at the Šarišské Michalany school are Roma-only (14 out of 23).<sup>90</sup> In 2008/2009 and 2009/2010 school years, when the school was found to have segregated pupils by the Regional Court, there were 9 and 8 Roma-only classes, respectively.<sup>91</sup>

The school introduced a number of positive measures designed to implement the judgment. However, this was done without clear guidelines from the Ministry of Education and other state, regional or local authorities responsible for education. School staff told researchers: "Nobody was interested in helping... Nobody explained to us how to desegregate."<sup>92</sup>

The canteen, where only non-Romani children were previously allowed to eat, was refurbished and enlarged, with the help of grants from the municipality and the Office of the Plenipotentiary for Roma Communities.<sup>93</sup> Joint activities between Roma and non-Roma children, such as cinema and theatre excursions and a trip to Poland, were organized.<sup>94</sup> Free bus transport for children from Ostrovany to the school was provided. In 2012/2013, the school ran a two-year EU-funded project which offered comprehensive support to Romani pupils through two full-time Roma teaching assistants. However, since the project ended and the funding ran out, there have been no Romani or Romani-speaking teaching assistants at the school and fewer teaching assistants in general.<sup>95</sup> The school currently has two teaching assistants and has secured funding for three additional assistants who are due to start in February 2017.<sup>96</sup>

For approximately 18 months, beginning in mid-2013, the school cooperated with a Slovak NGO, EduRoma, which worked with teachers and community members, organized extracurricular activities, provided volunteers and donated books.<sup>97</sup> However, progressive realization of every child's right to education is a state obligation under the International Covenant on Economic, Social and Cultural Rights<sup>98</sup> and while it is possible for the state to draw on non-state resources, this obligation cannot be devolved to NGOs. The involvement of EduRoma received no help or support from the national and regional authorities. The experience of Šarišské Michalany shows that underfunded and non-systemic initiatives cannot replace informed guidance and adequate support from local, regional, or national authorities.

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<sup>85</sup> Interview with the Mayor of Ostrovany, 26 October 2016.

<sup>86</sup> Questionnaire received from the Ostrovany special school on 22 November 2016; Interview with the Mayor of Ostrovany, 26 October 2016.

<sup>87</sup> Questionnaire received from the Šarišské Michalany school on 22 November 2016.

<sup>88</sup> The Prešov District Court ruled on 5 December 2011 that the school had discriminated against Romani children by teaching them in separate classrooms without reasonable justification. The decision was appealed by the school and upheld on 30 October 2012 by the Regional Court of Prešov.

<sup>89</sup> Prešov Regional Court judgment, 20Co125/2012 20Co126/2012, 30 October 2012.

<sup>90</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>91</sup> Prešov Regional Court judgment, 20Co125/2012 20Co126/2012, 30 October 2012.

<sup>92</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>93</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016; Interview with the Deputy Mayor of Šarišské Michalany, 27 October 2016.

<sup>94</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>95</sup> Interview with a Romani parent and children in Ostrovany, 25 October 2016.

<sup>96</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>97</sup> EduRoma, [www.eduroma.sk/en/home-2/](http://www.eduroma.sk/en/home-2/).

<sup>98</sup> International Covenant on Economic, Social and Cultural Rights.

The Director and staff of the Šarišské Michalany school blamed the failure to desegregate in large part on the ethnic composition of the school, the numbers of Romani children enrolling and the shifting demographics of the Šarišské Michalany and Ostrovany communities: “Based on the number of Romani children we have, we cannot eliminate segregation... After the judgment we had a higher number of Roma... Within a year [of the judgment], 80 non-Roma had left the school so the Roma/non-Roma ratio changed.”<sup>99</sup> A former teacher from Šarišské Michalany school estimated that since the judgment around 150 non-Roma children had been transferred to other schools: “That’s a lot for a town and a school of this size. But that’s just an estimate... Yes, and they left just because of the Roma”<sup>100</sup> (see section 4.1.2 below on “The impact of ‘white flight’”).

A former teacher at the Šarišské Michalany school also told researchers that desegregation was not successful because most Romani children transferred to previously non-Roma classes struggled to attain good results.<sup>101</sup>

**“[The school] tried every possible option [to desegregate]... the best solution, which was also approved by the parents, was to take the best and non-problematic ones from the Roma class and put them into the other, based on their results. About four or five were able to be transferred, four or five out of a class... But out of those who were transferred, three stopped going to school because they were no longer the best, because their level was around a good third classification mark. So they stopped going... and based on that, parents requested their transfer back because they did not want their children there, so we transferred them back”.**<sup>102</sup>

The Director of the State School Inspectorate, in post since 2015, informed researchers that she was not involved, as the case preceded her appointment and that the Inspectorate was investigating new segregation reports rather than seeking remedies to past cases.<sup>103</sup> However, while it is important that new cases are investigated, it is also crucial that schools where segregation occurred in the past are monitored and supported, and their progress towards desegregation is evaluated. In Šarišské Michalany, for example, school staff felt that the Inspectorate’s engagement with their school consisted solely of inspecting it and reporting issues at the time while they would have welcomed more active support. They felt that they didn’t receive any support or guidance whatsoever from national institutions and authorities, including the Ministry of Education.

When asked about concrete steps by the Ministry of Education with regard to the Šarišské Michalany school, the Secretary of State for Education told researchers that the Ministry made recommendations to the school’s management and that at the end of the day, remedying the situation was in the school management’s hands and the Ministry was unable to influence the ethnic composition of Slovak schools.<sup>104</sup> While addressing and preventing segregation in mainstream schools is clearly a complex issue, it requires cooperation at all levels. The Ministry of Education not only has the means to address it, through informed and systemic measures, but also has the responsibility to do so under international human rights law, EU anti-discrimination law and the national School Act.

## 4.1.2 THE IMPACT OF “WHITE FLIGHT”

Šarišské Michalany’s mainstream primary school’s catchment area covered Ostrovany up until at least 30 December 2016,<sup>105</sup> As Ostrovany does not have a mainstream school and other schools in the district are quite far away, the majority of Romani children from Ostrovany attend the Šarišské Michalany school.

The joint catchment area and the presence of Romani children from Ostrovany in the Šarišské Michalany school has continued to be a source of tension. In 2014, the Šarišské Michalany municipality tried to separate its catchment area from Ostrovany. However, the district authorities confirmed that for the school year 2015/2016, the two localities would continue to share the catchment area. Following an appeal from the municipality, in June 2016, the case was referred back to the district authority, which upheld the decision that the catchment area should remain joint during 2016/2017 school year.<sup>106</sup>

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<sup>99</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>100</sup> Interview with preparatory/zero grade teachers at the Ostrovany community centre, 26 October 2016.

<sup>101</sup> Interview with a former Šarišské Michalany school teacher, 26 October 2016.

<sup>102</sup> Interview with preparatory/zero grade teachers at the Ostrovany community centre, 26 October 2016.

<sup>103</sup> Interview with the Director of the State School Inspectorate, 4 November 2016.

<sup>104</sup> Interview with representatives of the Ministry of Education, 2 November 2016.

<sup>105</sup> Municipality of Ostrovany, General Regulation 3/2016 on the determination of the catchment area of the Primary School in Ostrovany, 30 December 2016.

<sup>106</sup> Decision of the Regional Office in Prešov (Okresný úrad Prešov), Department of Education, 1 June 2016, available at: [sarisskemichalany.sk/dokumenty/uradna\\_tabula/2016\\_rozne/Rozhodnutie\\_o\\_urceni\\_spolocneho\\_skolskeho\\_obvodu.pdf](http://sarisskemichalany.sk/dokumenty/uradna_tabula/2016_rozne/Rozhodnutie_o_urceni_spolocneho_skolskeho_obvodu.pdf).



The Šarišské Michalany municipality is evidently under significant pressure from inhabitants (only 57 out of 2,832 of whom are Roma).<sup>107</sup> For example, non-Romani parents have mounted a campaign to split the catchment area so as to make it more difficult for Romani children from Ostrovany to attend the mainstream school in Šarišské Michalany. In 2016, they drafted a petition to the Minister of Education, calling on him to separate the catchment areas. By the end of the year they had collected around 1,000 signatures.<sup>108</sup>

On 30 December 2016, the Ostrovany municipality issued a regulation “to demarcate the catchment area for a primary school” in the village.<sup>109</sup> In order for a new primary school to be established in Ostrovany, however, registration by the Ministry of Education will be required. In an interview with Amnesty International and the European Roma Rights Centre in November 2016, the Ministry’s representatives indicated that they did not support the idea of separating the catchment areas and establishing a new school in the Ostrovany Roma settlement (see below at 4.1.4 “Creating school facilities close to the settlement”).

**“Around two years ago, the physical education class was done together, and four [non-Roma] children were taken out of the school just because of that.”**

Former teacher at the Šarišské Michalany school

The Deputy Mayor told researchers that the Šarišské Michalany school has been accepting more and more Romani children from Ostrovany every year since the Regional Court judgment.<sup>110</sup> According to data provided by the school, in the 2016/2017 school year, 81 children were enrolled in the first grade, 67 of them Roma. In the previous school year, 75 children started in first grade, 57 of them Roma, in addition to 31 pupils (all Roma) in the zero grade.<sup>111</sup>

There have been no interventions from the school or the local authorities to prevent “white flight”. When asked about outreach programmes, one of the school staff told researchers: “No outreach programmes are in place but anyway they [Romani parents] would not come as they don’t care!”<sup>112</sup> The Ministry of Education, school authorities, teachers and municipal authorities in Šarišské Michalany all identified parental choice as the determining factor behind the segregation and felt that so-called “white flight” became more pronounced after the 2012 judgment.

A Roma parent, who went to school in another village in eastern Slovakia, told researchers: “There was a time when we were able to create bonds with the non-Roma. I had non-Roma friends as a child.”<sup>113</sup> A local teacher had similar memories: “Our parents were not able to put us [in a school] in Prešov, for example. We went wherever our district was, at 7 in the morning, left at 4pm and nobody ever cared about who is and who is not Roma.”<sup>114</sup>

According to law, parents have the right to choose their child’s school, a right that they began exercising in practice in the early 1990s.<sup>115</sup> While this is an important parental freedom, research by Amnesty International and the European Roma Rights Centre over a number of years has found that in some contexts, it has in fact contributed to segregation and has reduced interaction between Roma and non-Roma children in Slovakia.<sup>116</sup>

Both the Deputy Mayor of Šarišské Michalany and the school Director and teachers, as well as non-Romani parents interviewed, expressed dismay at the fact that so many non-Roma children from the municipality attend schools elsewhere, particularly after the judgment. Romani parents, on the other hand, are often not aware of their right to choose the school nor do they have similar capacity and resources to move their

<sup>107</sup> 2011 Population census, available at: <https://census2011.statistics.sk/tabulky.html>.

<sup>108</sup> Petition of 15 July 2016 to the Department of Education at the District Office in Prešov. Interview with the Deputy Mayor of Šarišské Michalany, 27 October 2016.

<sup>109</sup> Municipality Council of Ostrovany, General Regulation 3/2016 on the determination of the catchment area of the Primary school in Ostrovany, 30 December 2016.

<sup>110</sup> Interview with the Deputy Mayor of Šarišské Michalany, 27 October 2016.

<sup>111</sup> Questionnaire received from the Šarišské Michalany school on 22 November 2016.

<sup>112</sup> Interview with Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>113</sup> Interview with a Romani parent in Ostrovany, 25 October 2016.

<sup>114</sup> Interview with preparatory/zero grade teachers at the Ostrovany community centre, 26 October 2016.

<sup>115</sup> For instance, under the International Covenant on Economic, Social and Cultural Rights, Article 13(3); ECHR Protocol 1 Article 2, Right to Education; School Act, para 20 (5-9).

<sup>116</sup> Amnesty International, *Still separate, Still Unequal. Violations of the Right to Education of Romani Children in Slovakia*, 2007 (Index: EUR 72/001/2007); European Roma Rights Centre, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, 2004.

children to another school. According to the Deputy Mayor, there are about 800 available places in schools in the regional capital in Prešov located 15km from Ostrovany. The Ministry of Education, however, has not been willing to consider bussing Romani children from Ostrovany to Prešov, a measure which could help address segregation in Šarišské Michalany.<sup>117</sup>

### 4.1.3 “IT’S A LITTLE ZOO”: INSTITUTIONAL RACISM AND PREJUDICE

Teachers’ low expectations of Romani pupils can contribute to lower achievement, as does prejudice and a lack of understanding and individual support. These all reinforce a real or perceived decline in the quality of education, which can also fuel “white flight”.

All of the Romani children from the Ostrovany settlement interviewed said that after primary school they would go on to a vocational school, either learning to be a pastry chef or a car mechanic. All the young Roma interviewed for this report who had attended the special school in Ostrovany or the mainstream one in Šarišské Michalany, were at vocational schools, mainly in Prešov. None had continued their education at a general secondary school.

According to data provided by the Šarišské Michalany school, since 2013, no Romani children have continued their education in a gymnasium (which, in the Slovak system, is a combined higher level primary school and secondary school). Since 2013, only one Romani pupil a year had gone to a secondary school where they would have the option of obtaining the *maturita* school certificate and going on to university. The vast majority went on to study at a two-year vocational school, some at a three-year vocational school and 16 did not continue their education at all.

Staff at the Šarišské Michalany school attributed Romani children’s limited educational trajectories to their parents’ lack of interest in education and indicated that Romani children generally leave education at 16, when compulsory education ends. Teachers in Šarišské Michalany, and in several of the other locations visited, also stated that Romani parents ‘use’ their children to obtain social assistance benefits and do not care about them or their education in general.<sup>118</sup> When asked if it would be beneficial for Roma and non-Roma children to be mixed, one teacher answered that “it would be for those [Roma] who want to learn as their environment doesn’t give them anything.”<sup>119</sup>

Such statements were commonplace in interviews with staff and help explain why many Romani parents here and elsewhere expressed concern that education in non-Romani settings risks exposing their children to prejudice and discrimination. For example, one father, following an anti-Roma march in Šarišské Michalany a few years ago and the “atmosphere of fear” it created, had asked for his son to be assessed and transferred to the special school in Ostrovany. He explained that Romani parents had feared for their children’s safety at the school and had taken steps to ensure a more secure educational environment for them.<sup>120</sup> It is telling that none of the local education officers or teaching staff had engaged with parents’ fears to offer alternative ways of ensuring their children’s safety other than relocation to a school which would not meet the children’s educational needs and limit their future prospects.

It is clear that parents’ opinions and actions affect how children from Roma and non-Roma communities interact with and perceive each other. As one Romani parent told us, segregation is both a cause and a consequence of continued tensions.<sup>121</sup> The situation is further exacerbated by the deeply entrenched stereotypes and prejudice towards Roma, evident in the views expressed by school staff. For example, one teacher at the Šarišské Michalany school stated that she would never send her own children to the school because of the high number of Romani children there: “Did you see the children from Ostrovany? How they speak? How they smell? No wonder the non-Roma don’t want to be with them... It’s a little zoo.”<sup>122</sup>

There was little awareness, if any, among teaching staff of the impact of systemic and institutional discrimination on the education of Romani children. The low educational attainment of Romani children was blamed on the home, not the school, environment. It was extremely worrying that teachers had no hesitation in dismissing the impact of institutional discrimination and the structural obstacles Romani children face in the education system and in wider Slovak society. The views expressed highlight the urgent need for implementation of the UN Committee on the Rights of the Child’s Concluding Observations. Issued in July

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<sup>117</sup> Interview with the Deputy Mayor of Šarišské Michalany, 27 October 2016.

<sup>118</sup> Interview with Director and teachers of the special school in Kropachy, 24 October 2016; interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>119</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

<sup>120</sup> Interview with a Romani parent in Ostrovany, 25 October 2016.

<sup>121</sup> Interview with a Romani parent in Ostrovany, 25 October 2016.

<sup>122</sup> Interview with the Director and teachers at the Šarišské Michalany school, 26 October 2016.

2016, these call on Slovakia to carry out awareness-raising programmes among non-Roma on the prohibition of discrimination and related sanctions, with special attention paid to Romani children, and to implement measures, including sensitization and awareness-raising, to end the stigmatization of Roma communities.<sup>123</sup>

Romani children do not start education on an equal footing with non-Roma children and segregation entrenches inequality at every stage of their lives. For example, the 2016 EU Fundamental Rights Agency survey found that in 2015, only 25% of Roma respondents aged between 20 and 64 were in employment.<sup>124</sup> Even those who manage to finish primary or higher education encounter prejudice and discrimination in the labour market, housing and access to public services.<sup>125</sup> A Roma man who had completed further education told researchers that despite his qualifications, he had difficulty finding work because he felt that he was being discriminated against as a Roma.<sup>126</sup> He said: “Kids can see this and it affects their motivation”.<sup>127</sup> It is clear that in the absence of systemic and long-term measures at the national, regional and local level to eliminate prejudice and racism towards Roma, efforts to desegregate schools, prevent “white flight” and ensure equal opportunities for everyone, will be fragmented and ineffective.

#### 4.1.4 CREATING SCHOOL FACILITIES CLOSE TO THE SETTLEMENT

### “Nobody wants these children.”

Mayor of Ostrovany

In September 2016, two preparatory/zero classes for 31 Romani children from the Ostrovany settlement started to be run at a community centre on the edge of the settlement.

The village Mayor told researchers that in the coming years, more classes would be run there. The school's location was temporary and he was looking for land on which to build new premises to open a primary mainstream school in Ostrovany. He stated that the school would need to be large, with around 27 classes, in order to accommodate the many children living in the settlement, and that the school was being set up in response to the wishes of Romani parents, who wanted to have a mainstream primary school in their village.

Teachers of the preparatory/zero grades were also hopeful that from 2017/2018 school year, the children from Ostrovany would be able to go to a local school instead of having to travel to Šarišské Michal'any (3km away) or elsewhere. They also hoped that following this, the non-Romani children from Šarišské Michal'any would not “have to” travel to schools elsewhere anymore because of Romani children's presence at their school.<sup>128</sup>

Plans to establish a mainstream primary school in Ostrovany have been under way for some time. In 2015, a container school, supported by a grant from the Ministry of Education, was to be constructed. However, the location suggested, behind the wall dividing the settlement from the village, was considered to be too close to the settlement and thus amounting to segregation, and the Ministry withdrew its support. The Mayor of Ostrovany stated that he did not agree that creating the school close to the settlement would amount to segregation: “I'm not trying to hide that if the school was built here [in Ostrovany] it would be a purely Romani school... Everyone seems to be against the ethnic schooling but I honestly want to give a chance to these children... We don't want the children to go to a school where nobody wants them. That's why we need to give them a chance. Everyone rejects them even before taking any steps”.<sup>129</sup>

An extension of the special school in the centre of Ostrovany was suggested as an alternative by the former Plenipotentiary for Roma Communities, but the municipality did not agree that this would provide enough space.<sup>130</sup>

<sup>123</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on Slovakia* (CRC/C/SVK/CO/3-5) 2016, paras 16(b),(f).

<sup>124</sup> European Union Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey Roma – Selected findings*, 2016, p. 19.

<sup>125</sup> European Union Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey Roma – Selected findings*, 2016.

<sup>126</sup> Interview with a Romani parent in Ostrovany, 25 October 2016.

<sup>127</sup> Interview with a Romani parent in Ostrovany, 25 October 2016.

<sup>128</sup> Interview with preparatory/zero grade teachers at the Ostrovany community centre, 26 October 2016.

<sup>129</sup> Interview with the Mayor of Ostrovany, 26 October 2016.

<sup>130</sup> Interview with the Mayor of Ostrovany, 5 March 2015.

Representatives of the Ministry of Education told researchers they did not believe that a new school would be built in time before the next school year. Following the 30 December 2016 regulation issued by the Ostrovany council, delineating a catchment area for a new school in Ostrovany,<sup>131</sup> it is very likely that in the 2017/2018 school year, children from the Ostrovany settlement will, in the interim, attend first grade classes at the community centre just outside the settlement as opposed to going to the Šarišské Michal'any school.

A representative of the Office of the Plenipotentiary for Roma Communities told Amnesty International and the European Roma Rights Centre that he believed creating a mainstream primary school in Ostrovany was the solution to the segregation issue at Šarišské Michal'any.<sup>132</sup>

There are clearly positive aspects to providing children from the Ostrovany settlement with preparatory classes, as currently done at the community centre. However, separating Romani children by creating a separate school risks further marginalizing them. In a village where Roma make up the overwhelming majority of the population, the school, even if built on the outskirts of the village will most likely have a Roma-only intake of pupils. While education should be accessible and while it is understandable that parents may wish their children to be educated locally, pressure from the non-Roma residents of Šarišské Michal'any should not be the primary consideration in the context of establishing and running educational facilities, especially if the creation of such facilities would impact negatively on the children's rights. Such decisions should be informed by the best interests of the children in question and international human rights law obligations, as well as the positive duties of Slovak authorities to facilitate integration and ensure non-discrimination and equality.

The Slovak Ministry of Education should ensure that no new segregated facilities are built and that schools are provided with guidelines and support, including the necessary resources, to prevent and address segregation while resolving their capacity issues adequately.

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<sup>131</sup> Municipality Council of Ostrovany, General Regulation 3/2016 on the determination of the catchment area of the Primary School in Ostrovany, 30 December 2016.

<sup>132</sup> Interview with representatives of the Office of the Government Plenipotentiary for Roma Communities, 4 November 2016.

## 4.2 CASE STUDY 2: MOLDAVA NAD BODVOU

Between 10% and 19% of the population of Moldava nad Bodvou, a town of approximately 11,000 inhabitants<sup>133</sup> in the Košice region, are Roma.<sup>134</sup> While some Roma live among the non-Roma population in town, an estimated 900 people, including 420 children, are based in a settlement on the outskirts of the town, approximately 2km from the centre.<sup>135</sup> The settlement, informally called Budulovská, is located close to industrial plants and a busy road, behind railway tracks.

The many Romani families in the settlement do not have access to a reliable electricity supply or sanitation. Access to water is limited to a hand-operated pump, which functions for two hours a day.<sup>136</sup> In June 2013, the settlement was raided by police and legal proceedings regarding allegations of excessive use of force by police were continuing at the time of writing.<sup>137</sup> Romani is the first language of the majority of people living in Budulovská, followed by Hungarian and then Slovak, which is spoken mainly by the older generations. In practice, the Roma from Budulovská often speak a combination of all three languages.

There are five primary schools in Moldava nad Bodvou: three mainstream, one special and one privately-run church school teaching the mainstream curriculum.

<p>The “Hungarian School” (<i>Základná škola a gymnázium s vyučovacím jazykom maďarským</i>)</p>	<p>An estimated 70% of Romani children from Budulovská go to the mainstream primary “Hungarian School”, where Hungarian is the language of instruction.<sup>138</sup> Around 97% of the 470 children currently enrolled at the school are Roma.<sup>139</sup></p> <p>The children have to walk for around half an hour to get to school from the settlement. The journey involves walking along a busy road with no pavement and then through the town. No school bus is provided and no public buses operate between Budulovská and the town centre.</p> <p>According to the town’s Mayor, helping Romani children get to school on public transport has not been considered as this would require state subsidies, which were unlikely to be forthcoming. He told researchers that, in his view, using the town’s budget for this purpose would constitute “discrimination against the majority.”<sup>140</sup> The lack of free school transport was previously found to be one of the key contributors to segregation in education in Slovakia.<sup>141</sup></p>
<p>Special School (<i>Spojená škola s organizačnými zložkami Špeciálna základná škola, Speciális alapiskola a Praktická škola</i>)</p>	<p>The remaining 30% of Romani children from the settlement attend a special primary school.<sup>142</sup> This school comprises special primary school classes, some of which are taught in Hungarian and others in Slovak, as well as part of a vocational secondary school. The school did not provide researchers with information about what percentage of its 135 pupils are Roma, however, the Atlas of Roma Communities shows that in 2012, there were 163 Roma pupils at the school.<sup>143</sup> Its Romani pupils from</p>

<sup>133</sup> 2011 Population census, available at: <https://census2011.statistics.sk/tabulky.html>.

<sup>134</sup> 2011 Population census; Ministry of Labour, Social Affairs and Family/UNDP, *Atlas of Romani Communities*, 2013, available at: [www.romadecade.org/cms/upload/file/9653\\_file2\\_atlas-romadecade.pdf](http://www.romadecade.org/cms/upload/file/9653_file2_atlas-romadecade.pdf).

<sup>135</sup> Interview with a Romani community activist in Moldava nad Bodvou, 19 October 2016.

<sup>136</sup> Interview with Roma in the Budulovská settlement, 20 October 2016.

<sup>137</sup> Joint European Roma Rights Centre and Amnesty International statement, available at: [www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/](http://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/).

<sup>138</sup> Interview with a Romani activist in Moldava nad Bodvou, 19 October 2016; interview with the Director of the community centre in Moldava nad Bodvou, 20 October 2016; interview with the Director of the “Hungarian School”, 21 October 2016.

<sup>139</sup> Interview with the Director and teachers at the “Hungarian School”, 21 October 2016; questionnaire received from the “Hungarian School”, 23 November 2016.

<sup>140</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

<sup>141</sup> Amnesty International, *Still Separate, Still Unequal. Violations of the Right to Education of Romani Children in Slovakia*, 2007 (Index: EUR 72/001/2007) p. 16. As a signatory of the International Covenant on Economic, Social and Cultural Rights, Slovakia is obliged to ensure that education is “accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds”, comprising physical accessibility. United Nations Committee on Economic, Social and Cultural Rights, General Comment 13, The right to education, UN Doc. E/C.12/1999/10, paras 6(b)(i) and (ii).

<sup>142</sup> Interview with a Romani community activist in Moldava nad Bodvou, 19 October 2016; interview with the Director of the community centre in Budulovská, 20 October 2016; interview with the Director of the “Hungarian School”, 21 October 2016.

<sup>143</sup> Ministry of Labour, Social Affairs and Family/UNDP, *Atlas of Romani Communities*, 2013.

	<p>Budulovská also told us that there were few non-Roma pupils at the school.<sup>144</sup></p> <p>Romani children from Budulovská are mainly enrolled in classes where Hungarian is the language of instruction. Romani pupils told researchers that the very few non-Roma Slovak pupils at the school all had severe disabilities.<sup>145</sup> The 2013 Ombudsperson’s report indicates that in September 2013, the school enrolled four children in the first grade and all of them were Roma. Despite repeated requests, the school’s Director refused to meet Amnesty International and the European Roma Rights Centre researchers in October 2016.</p>
“First Primary School” ( <i>Základná škola, Československej Armády 15</i> )	<p>The “First Primary School” is next door to the “Hungarian” primary school, and also teaches the mainstream curriculum. Some Romani children living in the town attend the school, whose language of instruction is Slovak. It is the understanding of the researchers that children from the Romani settlement do not attend this school.</p> <p>The Director of the “First Primary School” refused to meet Amnesty International and European Roma Rights Centre delegates in October 2016 and did not reply to a written request for information or respond to phone calls.</p>
The “Northern Primary School” ( <i>Základná škola, Severná 21</i> )	<p>A handful of Romani children living in the northern part of the town near the school are pupils at this school, which teaches the mainstream curriculum in Slovak.</p>
The Catholic Church School ( <i>Cirkevná MŠ, ZŠ a gymnázium bl. Sály Salkaházi s vyučovacím jazykom maďarským</i> )	<p>The Catholic Church School was established in 2015, according to its Director, at the request of non-Romani parents who wanted a church-based education for their children.<sup>146</sup> According to the “Hungarian School’s” Director and Roma people from Budulovská, the school, whose language of instruction is Hungarian, was largely set up to accommodate “white flight” from the “Hungarian School” for ethnic Hungarian pupils.</p> <p>Although privately owned and run by the Catholic Diocese, the school receives state funding from the Ministry of Education, as well as subsidies from the Hungarian government. The vast majority (150 out of 196) of non-Romani children were transferred to the Catholic School from the mainstream “Hungarian School” and, according to the Church School’s Director, it currently has 15 Romani pupils among the total of 196 (including those attending its kindergarten).<sup>147</sup></p>

The “Hungarian School” and the “First Primary School” are next door to each other. However, in terms of their intake, the two are poles apart; indeed, the Romani people interviewed referred to the first one as “the Roma school” and the latter one as “the Slovak school”. The schools share a main gate and a football pitch at the back of the school buildings. Once inside the front gate, however, the two schools are entirely separate.

Some Romani parents from Budulovská told researchers that they thought one of the reasons why Romani children from the settlement – as opposed to some from town – did not go to the “Slovak School” was because it was not within the settlement’s catchment area. This was a surprising response given that the two schools are situated no more than 50m apart. A Moldava nad Bodvou Council Regulation from 2004

<sup>144</sup> Interviews with Romani children in Budulovská, 20 October 2016.

<sup>145</sup> Interviews with Romani children in Budulovská, 20 October 2016.

<sup>146</sup> Interview with the Director of the Catholic Church School, 21 October 2016.

<sup>147</sup> Interview with the Director of the Catholic Church School, 21 October 2016.

available on the municipality's website, states that there is one catchment area for its schools.<sup>148</sup> In any case, catchment areas alone do not determine which school a child will go to as parents have the right to choose their preferred school if its capacity allows.

The "Hungarian School" has 27 mainstream and two special classes. Some 97% of enrolled pupils are Roma and most come from the Budulovská settlement. In October 2016, the school had 470 pupils, 313 of whom were classified as being from a "socially disadvantaged background" and 36 diagnosed with a "mild mental disability".<sup>149</sup> The school is oversubscribed and for many years operated a shift system, whereby some children would attend in the morning and some in the afternoon. The Director told researchers that with 70 new enrolments expected in 2017/2018 school year, the "shift" system may need to be re-established to accommodate all the children.<sup>150</sup>

As a school established for the legally recognized Hungarian national minority, both the school and the parents receive funding from the Hungarian government. According to Romani people interviewed, the annual grant paid to parents is €80 per child, with €10 having to be reimbursed to the parents' assembly.<sup>151</sup> The Director said that many Romani parents "keep their children in the school because of the subsidies for parents".<sup>152</sup> The Director also told researchers that the composition of the school pupil population (Hungarian-speaking children and children with "mild mental disabilities") had attracted additional funding that had enabled the school to refurbish the interior.

The nearby "First Primary School" has a large canteen, currently shared by children attending this school and the Catholic Church School, who walk to it for lunch. However, children attending the "Hungarian School" (primarily Roma) are not allowed to use it because of capacity reasons, according to the "Hungarian School's" Director.<sup>153</sup> At present, these pupils receive a cold packed lunch, although the provision of hot meals at the "Hungarian School" is planned for the future.

## 4.2.1 THE IMPACT OF "WHITE FLIGHT"

**"Before, it was the way it should be, Roma and non-Roma, all in one building. Now [they're] separate"**

Jozef, a Romani parent whose children attend the "Hungarian School"

One of the factors that contributed to segregation of Romani children in the "Hungarian School" is the so-called "white flight". Large-scale transfers of non-Roma pupils out of schools with large numbers of Romani children to schools in other locations began in Moldava nad Bodvou approximately in 2014.<sup>154</sup> Parental choice was given as the reason for such transfers by Romani parents, school directors, local officials and the Ministry of Education during the course of this research. None of the interviewees responsible for education, at the national or local level, questioned the potential discriminatory effects of this trend. Indeed, in some cases they facilitated it, as was the case, for example, with the establishment of the private Catholic Church School in Moldava nad Bodvou.

The Mayor of Moldava nad Bodvou informed researchers that "white Hungarians" moved out of the mainstream school as they were unable "to tolerate 'Roma values' anymore."<sup>155</sup> According to the Mayor, the Catholic Church School "was established on the basis of solving the problems of the Roma... Roma live for today, they do not care about yesterday and they do not care about tomorrow. And this is the basic principle of their life and also of how they live with others... they are socially on a very low level and basic needs are the most important thing that is put first."<sup>156</sup>

<sup>148</sup> Moldava nad Bodvou Council Regulation 47, 2004, available at: [www.moldava.sk/web\\_object/vzn-47.pdf](http://www.moldava.sk/web_object/vzn-47.pdf).

<sup>149</sup> Interview with the Director of the "Hungarian School", 21 October 2016.

<sup>150</sup> Interview with the Director of the "Hungarian School", 21 October 2016.

<sup>151</sup> Interviews with Roma people from Budulovská, 19 October 2016.

<sup>152</sup> Interview with the Director and Deputy Director of the "Hungarian School", 21 October 2016.

<sup>153</sup> Interview with the Director of the "Hungarian School", 21 October 2016.

<sup>154</sup> Interview with a Romani parent from Budulovská, 19 October 2016; interview with the Director of the Catholic Church School, 21 October 2016.

<sup>155</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

<sup>156</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

Such was the pressure from non-Roma parents to separate their children from Romani children that the Catholic Church School was created before a building was secured. Until September 2016, the school rented a building at the “Hungarian School”, with Romani children using another school building. In September 2016, the Catholic Church School moved to its current location. The Director of the Catholic Church School stated: “People from organizations look at it [establishing the church school] from different angles; you may say it’s segregation, but here we look at it as needed change.”<sup>157</sup>

School representatives, directors, local authorities and Ministry of Education officials interviewed for this report spoke of parental choice of school as an absolute right that they had the duty to respect and no power, authority or ability to influence. Yet, the impact of parental choice is a key driver of segregated education. Non-Roma parents overwhelmingly seek out schools with no or low numbers of Romani pupils. In many cases, but by no means all, Roma parents tend to prefer schools which they can afford, which they assume are welcoming and not rejecting their children, and schools which are accessible (because they do not have resources to commute greater distances). Their preference is not to send their children to the “Roma-only school”, but the schools they prefer become “Roma-only”, because of the “white flight”. Many Roma parents recognize the fact that the quality of education at these schools may be or may become worse than at others, but they are reluctant or lack the necessary resources to enrol their children in mixed school. These factors taken together make it difficult for individual schools and local municipalities to combat segregation. However, Amnesty International and the European Roma Rights Centre found no evidence that officials at the local, regional or national level had even attempted to desegregate, combat prejudice and incentivise non-Roma parents to enrol or keep their children in local mixed schools.

## 4.2.2 REINFORCING SEGREGATION THROUGH LANGUAGE

Primary schools in Slovakia, including those established for the Hungarian national minority, are legally obliged to provide Slovak classes.<sup>158</sup> Many Romani children from the Budulovská settlement, however, attending both the “Hungarian School” and the special school, did not speak basic Slovak. The Director of the community centre in the settlement also told researchers that the children attending the “Hungarian School” who came to the centre to get help with homework did not speak much Slovak.<sup>159</sup>

A teacher at the “Hungarian School” told researchers: “It can be challenging as you need to teach them the language first”.<sup>160</sup> Parents living in the settlement confirmed that Hungarian was their children’s second language, and not their first. This has a profound impact on children’s interactions with others and their future in the broader Slovak-speaking society. Educating them in Hungarian and not in Slovak greatly reduces children’s chances of continuing their education at Slovak-speaking secondary and higher education institutions and their future life chances.

The “Hungarian School” is the only school in Moldava nad Bodvou with preparatory/zero grades, in which Romani children are usually placed following school readiness tests, in preparation for primary education. Thus their chances of continuing their education at a Slovak speaking primary school or class are immediately greatly reduced if not completely removed. Parents told Amnesty International and the European Roma Rights Centre that for the past three or four years, Romani children have routinely been placed in the preparatory/zero classes, without adequate schools readiness testing.<sup>161</sup> The “Hungarian School’s” Director expressed some concerns with current practice, reflecting that placing Romani children in Hungarian schools was “not the way to integrate.”<sup>162</sup>

The placement of Romani children in schools and classes with Hungarian as the language of instruction in Moldava nad Bodvou is clearly not based on their linguistic needs, their linguistic abilities when they start school, nor on their belonging to the Hungarian minority. Jan, some of whose children have been going to the mainstream “Hungarian School”, while others to the special school, told researchers that he was disappointed that they were growing up not learning the language of their country. According to his father, Jan’s eldest son, 17-year-old Miloš, who completed his primary education after finishing all nine classes at the special school, is unable to read, write or speak Slovak.<sup>163</sup>

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<sup>157</sup> Interview with the Catholic Church School Director, 21 October 2016.

<sup>158</sup> Act No. 245/2008 Coll. on Education (School Act), para 8(3).

<sup>159</sup> Interview with Romani parents from Budulovská, 20 October 2016.

<sup>160</sup> Interview with a teacher at the “Hungarian School”, 21 October 2016.

<sup>161</sup> Interview with Romani parents from Budulovská, 20 October 2016.

<sup>162</sup> Interview with the Director of the “Hungarian School”, 21 October 2016.

<sup>163</sup> Interview with a Romani parent from Budulovská, 21 October 2016.



## 4.2.3 QUALITY OF EDUCATION AND EDUCATIONAL TRAJECTORIES

**“I will go to the vocational school and learn to be a seamstress. Like everyone here.”**

Soňa, a Romani girl from the Budulovská settlement

**Soňa lives in the Budulovská settlement and is in the eighth grade of the special school in Moldava nad Bodvou. She said that she was never tested for placement in the special school, which, if confirmed, would be in breach of the School Act.<sup>164</sup> All the children in Soňa’s class are from the settlement and she has no non-Roma friends. She said that all the non-Roma children at the school, as opposed to the Roma ones, have severe disabilities. Maths and Slovak are Sonia’s favourite subjects but she doesn’t speak Slovak to a level to have a conversation. Sonia said she likes her teachers generally, except for one, who calls the children “monkeys”.<sup>165</sup>**

Quality education is a fundamental component of the right to education and it is “inextricably linked with equality of opportunities”.<sup>166</sup> Most Romani parents and children found that the quality of education at the mainstream “Hungarian School” was satisfactory.<sup>167</sup> For the first time in several years, the school has created a final, ninth grade. Prior to this, many pupils repeated grades and left the school on reaching the age of 16 after 10 years of compulsory education without completing the full primary curriculum.<sup>168</sup>

The quality of education at the school is undermined, however, by the fact that there are currently no Roma teaching assistants and no staff members speak Romani. The Director told Amnesty International and the European Roma Rights Centre that she would like to employ Roma teaching assistants but is struggling to find suitably qualified candidates.

Educational trajectories are informative when looking at the quality of education children receive. The vast majority of Romani children from Budulovská who continue their education beyond the age of 16 attend the “annexed branch” of a vocational school, situated in the same building as the special school.<sup>169</sup> The vocational school accepts pupils who did not complete all of the nine primary education grades and offers two-year vocational programmes (for seamstresses, cooks, car mechanics and builders) with certificates of completion. It does not offer the possibility of obtaining the final secondary school completion certificate, the *maturita*, which is a prerequisite for accessing university education.<sup>170</sup>

In her 2013 report, the Slovak Ombudsperson unequivocally stated that the Slovak school system “makes it practically impossible for a pupil educated in a special elementary school or a special class to complete a full vocational secondary education or a full general/technical secondary education.”<sup>171</sup>

Inequality, segregation and discrimination in the Slovak primary education system place often insurmountable obstacles before Romani children and have profound consequences on their access to further education, development and employment.

The data provided by the mainstream “Hungarian School” – not disaggregated by ethnicity – shows that in 2015, only 20 children completed the full nine years of primary education. The data shows that large numbers of children at the school repeat grades.<sup>172</sup> Asked about the future, Romani parents said that they thought if their children did well at school, it would translate into better lives in the future.<sup>173</sup> The children themselves often indicated that they would continue their education at the vocational school.

Some young Roma were, however, far from being resigned to a lesser education and limited career options. One said he was planning to become a teacher and open his own school in Moldava nad Bodvou because

<sup>164</sup> As the school refused to meet with the researchers, we were unable to obtain its comment.

<sup>165</sup> Interview with a Romani pupil from Budulovská, 20 October 2016.

<sup>166</sup> Report of the Special Rapporteur on the right to education, Kishore Singh, A/HRC/20/21, 2012, p. 19.

<sup>167</sup> Interview with Romani parents and pupils from Budulovská, 20 October 2016.

<sup>168</sup> Act No. 245/2008 Coll. on Education (School Act), paras 19-20. Compulsory education ends when a pupil reaches the age of 16.

<sup>169</sup> Interviews with Roma from Budulovská, 19-21 October 2016.

<sup>170</sup> The Slovak National Centre for Human Rights pointed out that there are only a few schools offering complete primary education after the compulsory education period, which makes it extremely difficult for anybody to finish primary education outside the period of compulsory education. Interview with the Director and staff of the Slovak National Centre for Human Rights, 3 November 2016.

<sup>171</sup> Office of the Ombudsperson, *Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs*, 2013, p. 8.

<sup>172</sup> Questionnaire from the “Hungarian School”, received on 23 November 2016.

<sup>173</sup> Interview with a Romani parent from Budulovská, 19 October 2016.

“better education would make a difference to Romani children and they would know better how to defend themselves from discrimination.”<sup>174</sup>

## 4.2.4 DISCRIMINATION AT THE HANDS OF TEACHERS

The expectations and attitudes expressed by teachers are an important determinants of the quality of education and of outcomes for children. Some of the views expressed by teachers at the “Hungarian School” during interviews were troubling, therefore, and underscore a lack of motivation to address challenges. For example, a teacher of ninth graders told researchers that the “knowledge level [of the children] is low, there is no will to learn, to be eager for something.” Regarding the educational trajectories of children, one teacher said that “it is difficult to form their goals” while another suggested that children “do not get support from parents”. When asked what should be done to help the children perform better, the immediate response was: “They should not go home... they [parents] party until late and the young [children] sleep in class [the next day].”<sup>175</sup> They provided no suggestions, however, on how the teachers themselves could support the children if such issues occur.

Many parents and children said that teachers had insulted, threatened and yelled at pupils and imposed punishments, such as kneeling or standing in the classroom corner for long periods of time.<sup>176</sup> According to parents, when incidents of violence were reported to the Director, she dismissed them. They also told researchers that they had been threatened with having their children moved to the special school or “somewhere else” if they complained.<sup>177</sup> The Mayor of Moldava nad Bodvou dismissed these allegations as “absurd” and informed that he never received an official complaint.<sup>178</sup> When asked about this, the Director of the “Hungarian School” indicated that while it is her duty to investigate any reports of violence, the only reports she received concerned altercations among children themselves or attacks on staff by parents and that so far, any such reports turned out to be made up by the children. She also said that in order to protect its staff, the school had CCTV cameras in several areas and that teachers would never use physical force towards Romani children as “the community would kill them.”<sup>179</sup> She added that teachers received continuous anti-bullying and anti-harassment training.<sup>180</sup>

Prejudiced attitudes against Romani children are not just limited to staff of the “Hungarian School”. The Director of the community centre stated that, compared to past generations, the children were more difficult as they had “no role models in their elders.”<sup>181</sup> The Mayor referred to issues with Romani children “stealing” or “fighting for food” and the fact that “their values were different”.<sup>182</sup> According to him, they needed to be helped to “install the value system of the majority” in them.<sup>183</sup>

Desegregation measures must be accompanied by strategies and actions to eliminate prejudice and racism towards Roma among educational staff and in society as a whole. Teachers should receive continuous anti-racism and diversity training, and appropriate complaints and investigation mechanisms should be put in place.

## 4.2.5 CREATING SCHOOL FACILITIES CLOSE TO THE SETTLEMENT

Romani parents, the “Hungarian School’s” Director, as well as the Mayor of Moldava nad Bodvou, told Amnesty International and the European Roma Rights Centre researchers about plans to build a new school close to the Budulovská settlement. The Director had identified a building close to the settlement that could be used for this purpose, however, she stated that the town assembly wanted to build the new school inside the settlement. While she did not oppose the establishment of the school near the settlement, she believed that a school at the settlement would be oversubscribed and that “it would be hard to guarantee the safety of teachers and of the facility”. She added: “How do you want to integrate Roma when you do not let them out

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<sup>174</sup> Interview with a Romani parent from Budulovská, 20 October 2016.

<sup>175</sup> Interview with teachers at the “Hungarian School”, 21 October 2016.

<sup>176</sup> Interview with a Romani parent from Budulovská, 19 October 2016.

<sup>177</sup> Interviews with Romani parents from Budulovská, 19-20 October 2016.

<sup>178</sup> Interviews with the Mayor of Moldava nad Bodvou, 21 October 2016.

<sup>179</sup> Interview with the Director of the “Hungarian School”, 21 October 2016.

<sup>180</sup> Interview with the Director of “Hungarian School”, 21 October 2016.

<sup>181</sup> Interview with the Director of the community centre in Budulovská, 20 October 2016.

<sup>182</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

<sup>183</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

of the settlement?” According to her, it is the municipality which should ensure that Romani children from the settlement are not segregated as a result of a school being built inside it.<sup>184</sup>

The Mayor confirmed that the idea of building a new school inside the settlement was one proposed solution to the issue of capacity and that the settlements’ inhabitants needed facilities within the community so that they didn’t have to walk in traffic and in harsh weather. Providing Romani children with free transport to the schools in town was not an option and, in his view, constituted “discrimination towards the majority.”<sup>185</sup>

The tendency to build new schools, often in containers, close to or inside Roma settlements is not a new phenomenon in Slovakia; for instance, Amnesty International documented three such cases in 2015.<sup>186</sup> Whilst it might be argued that such an approach makes education more accessible, it comes at an unacceptable price. Such schools exacerbate and perpetuate Romani children’s isolation not only from their non-Roma peers, but also from the general non-Roma population. Many people living in settlements are not formally employed and interact with the majority population only in limited contexts, of which schools are an important instance.

In a meeting with Amnesty International in May 2016, representatives of the Slovak Ministry of Education agreed that they would guarantee that no new “container schools” would be built in marginalized or predominantly Romani areas.<sup>187</sup> All local plans, such as those in Moldava nad Bodvou, should be closely monitored, and local authorities and schools must be provided with guidelines and support on preventing and addressing segregation while resolving schools’ capacity issues adequately.

Romani children’s segregation in mainstream primary schools in Slovakia violates Slovak, European and international human rights law. The difference in treatment between Romani and non-Romani children through segregated education, such as in the cases documented above, is not based on an objective and reasonable justification, and is thus a violation of the European Convention of Human Rights, as confirmed, for instance, in the cases of *Sampanis and others v Greece* in 2008<sup>188</sup> and *Lavida and others v Greece*.<sup>189</sup> The low quality of education provided in segregated schools, impacting on the educational trajectories of the Romani pupils, is a breach of the prohibition of discrimination, as well as the right to education.

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<sup>184</sup> Interview with the Director of the “Hungarian School”, 21 October 2016.

<sup>185</sup> Interview with the Mayor of Moldava nad Bodvou, 21 October 2016.

<sup>186</sup> Amnesty International, *Slovakia’s “container schools” worsen segregation of Roma children from society*, 2015, available at <https://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/>.

<sup>187</sup> Meeting with representatives of the Ministry of Education, Amnesty International, 23 May 2016.

<sup>188</sup> *Sampanis and others v Greece* [32526/05] ECHR (5 June 2008).

<sup>189</sup> *Lavida and others v Greece* [7973/10] ECHR (30 May 2013).

# 5. SEGREGATION IN SPECIAL PRIMARY SCHOOLS

For decades, large numbers of Romani children in Slovakia have been placed in schools and classes for pupils with mental disabilities, so called “special educational settings”. Many Romani children have been misdiagnosed with mental disabilities as a result of culturally-biased diagnostic tools and anti-Roma prejudice among psychological and pedagogical experts.<sup>190</sup>

In a 2013 report on Romani children’s access to education in Slovakia, the Slovak Ombudsperson found that Romani children represented over 88% of the newly enrolled first-grade pupils of special classes and schools that she had surveyed.<sup>191</sup> Amnesty International and the European Roma Rights Centre selected two municipalities with special schools investigated by the Ombudsperson and examined the current educational prospects for Romani children there.

## 5.1 CASE STUDY 3: ROKYCANY

The small town of Rokycany is some 12km from the regional capital Prešov. There are two Romani settlements in the town, Jastrabie and Svinka. The Roma represent slightly more than half of Rokycany’s 1,036 officially registered inhabitants.<sup>192</sup> There is no mainstream school in Rokycany. The municipality administers the kindergarten and since 2006 has entrusted the running of a special school to a private entrepreneur.<sup>193</sup> Representatives of the special school refused to meet researchers. Its founder stated that the school was closed on the date suggested for the meeting due to an outbreak of a disease.<sup>194</sup> Repeated attempts by Amnesty International and the European Roma Rights Centre to seek the school’s views proved unsuccessful.

On 13 November 2015, the then Plenipotentiary for Roma Communities called a press conference to report on the case of the private special school in Rokycany in which he claimed Romani children had been

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<sup>190</sup> E. Friedman, E. Gallová Kriglerová, M. Kubánová, and M. Slosiarik, REF, *School as Ghetto: Systemic Overrepresentation of Roma in Special Education in Slovakia*, Budapest, 2009.

<sup>191</sup> Office of the Ombudsperson, *Report on the right to education of children/pupils belonging to the Roma national minority with special educational needs*, 2013.

<sup>192</sup> Rokycany official website: [www.obecrokycany.sk/-sucasnost](http://www.obecrokycany.sk/-sucasnost). Three out of seven members of the current Council are Roma.

<sup>193</sup> Kindergarten in Rokycany: [www.obecrokycany.sk/-skolstvo](http://www.obecrokycany.sk/-skolstvo). Although the official website of the town mentions the special school, there is no further reference or link associated with the site. According to its current Director, the kindergarten was established in Rokycany in 1974, but the first Romani child was not enrolled until 2005. There are five Romani children in the kindergarten now. Interview with the Director of the kindergarten in Rokycany, 28 October 2016.

<sup>194</sup> Phone call with Amnesty International, 24 October 2016. Romani parents and the Director of the kindergarten told researchers that the school was open as usual on the day in question.

collectively discriminated against by being unlawfully enrolled at the school without meeting the legal conditions for diagnostic testing and transfer.<sup>195</sup>

The Plenipotentiary referred to the findings of the State School Inspectorate, which revealed multiple violations of the School Act connected to sanitation, staff employment contracts and other infringements of the law.<sup>196</sup> The Inspectorate also found that 13 randomly chosen Romani pupils, who were first tested by the state diagnostic centre and found not to have a disability, were re-tested by the private diagnostic centre shortly afterwards, incorrectly diagnosed with “mild mental disabilities” and transferred to the Rokycany special school.<sup>197</sup> This information was widely reported by the Slovak media and civil society organizations.<sup>198</sup>

## 5.1.1 QUESTIONABLE DIAGNOSIS

The nearest mainstream primary school for children in Rokycany is 3km away in the neighbouring village of Bajerov. The Bajerov school’s catchment area covers five neighbouring villages and towns, of which Rokycany is the largest, and Romani children from Rokycany make up some 40% of pupils currently enrolled there.<sup>199</sup> The school does not run Roma-only classes and has created mixed classes.<sup>200</sup> The number of Romani children in the school has however decreased in the last couple of years as more and more Romani children have started attending the private special school.

The special school is located in the centre of Rokycany and shares the building with the Mayor’s office and a shop. It is attended solely by local Romani children and is so oversubscribed that it operates a two-shift system: children attend either morning or afternoon classes. The school also runs a preparatory/zero class. There is one teaching assistant for 80 pupils. The school has no canteen.

The Director and the Deputy Director of the mainstream primary school in Bajerov first notified the authorities about problems at the private special school in Rokycany in 2013. Soon after her appointment, the Director asked the local authorities of the five localities in her school’s catchment area to share with her the list of school-age children. She realized that while Romani children from Rokycany were registered on her school’s enrolment list, the parents had not come to the official registration. She contacted the Mayor of Rokycany and reached out to Roma families, but was told that the children were directly enrolled at the private special school at the request of their parents. The Bajerov school has capacity for some 400 children. However, since the establishment of the private special school in Rokycany, the number of children enrolled in Bajerov has fallen significantly. In the 2016/2017 school year, the Bajerov school educates 151 children, of whom 85 were Romani children from Rokycany.

In 2014, the Director sought to enrol all children of school age in the first grade at the Bajerov school. According to the Director of the Bajerov school, the decision caused uproar and sparked strong reactions from the private school’s founder, the Regional School Department, the private school’s Director and the local authorities in Bajerov and Rokycany.<sup>201</sup> When, despite this pressure, the Director refused to change her approach, she was given a list of children of pre-school age by the Mayor of Rokycany, with the names crossed out of Romani children who would be enrolled in the special school. Following the spring school holiday in March 2015, several Romani children did not come back to the Bajerov school. The Director received no notification from any official or legal guardian about the change, but soon afterwards was handed the results of diagnostic tests. These stated that the missing children had been given the obsolete diagnosis of “mild debility” (*ľahká debilita*) and recommended specifically for transfer to the private special

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<sup>195</sup> Media coverage of the Rokycany school case: [www.teraz.sk/slovensko/pollak-specialne-zs-preverenie/166109-clanok.html](http://www.teraz.sk/slovensko/pollak-specialne-zs-preverenie/166109-clanok.html); [www.gipsytv.eu/gipsy-television/spravyslovensko/peter-pollak-vladny-splnomocnenec-podava-trestne-oznamenie-pre-obchodovanie-s-detmi.html?page\\_id=3787](http://www.gipsytv.eu/gipsy-television/spravyslovensko/peter-pollak-vladny-splnomocnenec-podava-trestne-oznamenie-pre-obchodovanie-s-detmi.html?page_id=3787); [www.ta3.com/clanok/1077848/ministerstvo-zatvara-dve-skolske-zariadenia-dovodom-su-vazne-pochybenia.html](http://www.ta3.com/clanok/1077848/ministerstvo-zatvara-dve-skolske-zariadenia-dovodom-su-vazne-pochybenia.html); [www.dennikn.sk/314579/specialnu-skolu-chce-draxler-zavriet-mentalnu-retardaciu-podla-inspekcie-vmysleli/?ref=tit](http://www.dennikn.sk/314579/specialnu-skolu-chce-draxler-zavriet-mentalnu-retardaciu-podla-inspekcie-vmysleli/?ref=tit); <https://dennikn.sk/450374/skolska-inspektorka-vychode-neveria-ze-rom-sa-zmeni-zo-zapadu-smiech/?ref=tit>.

<sup>196</sup> Ministry of Education’s website, *School in Rokycany should be closed down*, 7 December 2015, available at: [www.minedu.sk/skola-v-rokycanoch-by-mala-skoncit/](http://www.minedu.sk/skola-v-rokycanoch-by-mala-skoncit/).

<sup>197</sup> DennikN, *13 children sent to special school despite having no disability*, 7 December 2015, available at: [www.dennikn.sk/314579/specialnu-skolu-chce-draxler-zavriet-mentalnu-retardaciu-podla-inspekcie-vmysleli/](http://www.dennikn.sk/314579/specialnu-skolu-chce-draxler-zavriet-mentalnu-retardaciu-podla-inspekcie-vmysleli/).

<sup>198</sup> European Roma Rights Centre, Poradňa, *Joint Submission to the UN Committee on the Rights of the Child on Slovakia*, 18 April 2016.

<sup>199</sup> 30 children from Bajerov, 85 Romani children from Rokycany, 24 from Kvačany, three from Brežany, one from Bzenov and one from Prešov. The school has also recently been renovated with the financial support of the European Social Fund (The Operational Programme Education, 2011-2015). Educating Romani children was one of the criteria for being awarded this funding. The school participated in several projects relating to education for children from Marginalized Roma Communities (MRK).

<sup>200</sup> Moreover, there are 22 students with individual school plans, but, according to the Director, the majority of them are non-Roma.

<sup>201</sup> Interview with the Director and the Deputy Director of the Bajerov mainstream primary school, 27 October 2016.

school in Rokycany.<sup>202</sup> Recommendations by diagnostic centres can only be made for types of school placements (mainstream or special), but cannot provide suggestions for specific schools.

In addition, according to Director of the Bajerov school, many Romani pupils from higher grades were also transferred to the special school at the request of their parents.<sup>203</sup>

## 5.1.2 QUALITY OF EDUCATION

Jolana, a Romani mother of three, told researchers that her son was transferred from the Bajerov school to the special school in Rokycany in the eighth grade because he had missed many classes and the school refused to accept her explanations for the absences and threatened to report the parents to the child protection office and the police. According to Jolana, the special school did not express any concern about her son's absences. He did not have to sit any tests, she told researchers, and she "just signed some papers". Jolana's daughter has been enrolled in the special school since the first grade and is now in the sixth grade. In the aftermath of the problems discovered at the special school in 2015, Jolana placed her youngest son at the Bajerov school. She was soon able to see a tangible difference between the schools:

**"[T]he older children have been bringing no textbooks and no homework home, they've had no after-school activities. But my youngest son does bring both and he also has activities in the afternoon."**<sup>204</sup>

Although the Bajerov school Director and her Deputy reported the situation to several regional and national authorities in person and in official written reports, the State School Inspectorate failed to take any action for 18 months.<sup>205</sup>

Following a visit by the Plenipotentiary for Roma Communities to Rokycany and media exposure of the issue, several Romani parents transferred their children to the Bajerov mainstream school. Pavol and Jan, two brothers from the Jastrabie neighbourhood, were among them. Jan remembered the meeting with the Plenipotentiary for Roma Communities: "He asked us there: 'Are your children stupid?' We said no, and then he asked: 'So what are they doing in the special school?'"<sup>206</sup> The special school's Director argued that their children would not be able to cope and would suffer because they would not receive enough attention at the mainstream school. The brothers were, however, determined to send their children to Bajerov. The final straw was when the special school Director said that both of Pavol's sons were very good students and should stay at the school for their own sake. Pavol responded that if they are so good, they should not be in special school.

The transfer to the mainstream school was quite smooth, according to the brothers. They visited the Director in Bajerov and reportedly filed a single request, and with no further administrative procedure, the children were transferred. The Bajerov school organized a test of educational abilities (the staff of the diagnostic centre from Prešov attend the school to carry out the tests in a room specifically designed for this purpose) and their children were transferred to mixed classes. Pavol said his sons Erik and Samo, who were previously diagnosed with communication problems, have been coping well in Bajerov.<sup>207</sup>

Many Romani children, especially from the larger Svinka neighbourhood, however, continue to attend the special school. There are various reasons for this. Some parents find it more convenient for their children, as the walk to the special school takes only a couple of minutes while the school in Bajerov is 3km away. There is no pedestrian pavement along the busy main road, which is surrounded by the forest, and parents are afraid of cars and possible accidents. While there are some public buses operating between Rokycany and Bajerov, the cost of the child ticket is 0.5 EUR return, a considerable expense for many families. There are no free school buses. According to a Romani parent, families might be able to obtain refunds for the bus tickets from the municipality, however, almost none of the families interviewed were aware of this.<sup>208</sup>

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<sup>202</sup> Interview with the Director and the Deputy Director of the Bajerov mainstream primary school, 27 October 2016. The Director showed the tests to the European Roma Rights Centre researcher.

<sup>203</sup> Interview with the Director and the Deputy Director of the Bajerov mainstream primary school, 27 October 2016.

<sup>204</sup> Interview with Roma from the Svinka neighbourhood in Rokycany, 29 October, 2016.

<sup>205</sup> Interview with the Director and the Deputy Director of the Bajerov mainstream primary school, 27 October 2016. The Inspection team was newly formed. In addition to inspectors from the Bratislava headquarters and the regional branch in Prešov, it included representatives of the Office of the Government Plenipotentiary for Roma Communities and the civil society. This ad-hoc team inspected some eight schools in 2015. Following this round of inspections, schools in eastern Slovakia petitioned the Ministry of Education requesting that they should not be inspected by the State School Inspectorate headquarters but by inspectors from its regional offices in Prešov and Košice. The State Secretary for Education refused to act on the petition, so the inspectors from the Bratislava headquarters did seven more inspections in eastern Slovakia in 2016. Interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>206</sup> Interview with Pavol and Jan from the Jastrabie neighbourhood in Rokycany, 28 October 2016.

<sup>207</sup> Interview with Pavol and Jan from the Jastrabie neighbourhood in Rokycany, 28 October 2016.

<sup>208</sup> Interview with Romani parents from the Svinka neighbourhood in Rokycany, 28 October 2016.

Moreover, the special school runs preparatory/zero classes; the capacity of the kindergarten in Rokycany is limited and the Bajerov mainstream school does not run zero grades.

Many Romani children have been channelled to the first grade of this special school without any experience of pre-school education.<sup>209</sup> Others are enrolled in the zero class operated by the special school. A psychologist from the private diagnostic centre comes to the school to test them and, according to many Romani parents, parents would be asked to wait outside during the tests, which took no longer than 30 minutes per child.<sup>210</sup> Iveta, a Romani mother, remembered that when the psychologist finished testing her son Roman, she was told: “He is very clever and he knows how to speak Slovak well”. Yet, despite this positive assessment, the psychologist recommended he enrolls in the first grade of the special school without giving her any explanation.

Martina, from the Svinka neighbourhood, attends the special school. Her end-of-year certificate for 2014/2015 shows that she attended grade IV, but she followed the fifth grade curriculum and she was in her sixth year of compulsory education. This is because Martina attended the preparatory/zero class in the special school, which counts in the compulsory education period, and repeated a class. She will finish compulsory education in the seventh grade. Many Romani children are directly or indirectly discouraged to continue their education cycle after the seventh or eighth grade, if they have reached the age of 16 or completed 10 years in education, even if they have not completed the full curriculum. The economics behind this is simple: per capita funding drops by 90% after this point, so there is no economic incentive for schools to retain pupils.

Martina’s eight-year-old brother Šimon was enrolled in the first grade of the private special school last year. He did not attend kindergarten or a zero class. Šimon’s certificate shows that he is an excellent student, receiving top marks. Šimon’s excellent school performance may have been a signal to the teachers and diagnostic centre that transfer to the mainstream primary school would be appropriate for him, but this has not occurred so far and Šimon has not been re-tested.

Although Martina’s and Šimon’s school certificates list the subjects taught, including the Slovak language, several parents and children told researchers that the children are often instructed to draw and paint during the Slovak language classes instead.<sup>211</sup>

### **5.1.3 LOOKING AHEAD - THE FAILURE OF AUTHORITIES TO FIND SOLUTIONS**

In 2015, the State School Inspectorate and the Plenipotentiary for Roma Communities requested that the Ministry of Education remove the private special school and the private diagnostics centre in Rokycany from the list of registered school facilities in Slovakia. The Plenipotentiary also told the media that he had filed a criminal complaint with the General Prosecutor and sent a request to the Ministers of Education and the Interior and the Parliamentary Education Committee to take immediate measures to stop the practice of collectively channelling Romani children into special education.<sup>212</sup>

The Regional Office of the Ministry of Education in Prešov initially decided to close the facility, but the school and the diagnostic centre appealed the decision. In May 2016, the appeals body (under the Ministry of Education) allowed the appeal and returned the case to the first instance decision-making body at the Ministry, which confirmed its original decision. The private diagnostics centre was closed in early 2016 and the school was ordered to close and will be removed from the register of educational facilities by 31 August 2017, as confirmed by the Ministry of Education during a meeting with Amnesty International and the European Roma Rights Centre.<sup>213</sup> The school can, however, take the matter to court.

Despite the decision by the Ministry of Education to close it down, at the time of writing, the special school continued to educate about 80 children, all of them Roma. Moreover, it has in the meantime been renovated to comply with sanitation requirements and received additional state funding for teaching assistants.

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<sup>209</sup> The PPC Director in Sabinov mentioned that the founder of the private special school in Rokycany approached her with a request to carry out diagnoses for his school. She informed us that she declined after finding out that the children in question did not have any pre-school experience. Interview with the Psychological-Pedagogical Centre Director in Sabinov, 28 October 2016.

<sup>210</sup> Interviews with Romani parents from the Svinka neighbourhood, 28-29 October 2016.

<sup>211</sup> Interview with Romani parents from the Svinka neighbourhood, 29 October 2016.

<sup>212</sup> *Government Plenipotentiary for Roma Communities files criminal complaint against business involving children*, available at: [www.gipsytv.eu/gipsy-television/spravyslovensko/peter-pollak-vladny-splnomocnenec-podava-trestne-oznamenie-pre-obchodovanie-s-detmi.html?page\\_id=3787](http://www.gipsytv.eu/gipsy-television/spravyslovensko/peter-pollak-vladny-splnomocnenec-podava-trestne-oznamenie-pre-obchodovanie-s-detmi.html?page_id=3787).

<sup>213</sup> Interview with representatives of the Ministry of Education, 2 November 2016.

The State Secretary for Education and other Ministry of Education representatives were unable to explain to researchers what will happen to the children if the school closes down in 2017. They referred to the Rokycany Mayor's plan to build a new school, but they could not say whether it would be a special or a mainstream school or when it might open. The State Secretary admitted that it would be impossible to build a new school by August 2017.

Given the demographics of the town, a new school in Rokycany would become a majority-Roma school. Moreover, it could possibly result in the school in Bajerov having to close down as it would not have enough pupils to be financially sustainable. Moreover, although the Director of the mainstream school in Bajerov accepted some Romani children from the special school, she told the researchers that non-Roma parents from Bajerov had informed her that they would occupy the school in protest if most of the 80 Romani children were transferred there.<sup>214</sup>

Even if local animosities are resolved and the Bajerov school accepts the Romani children from Rokycany, questions around the quality of education they receive will persist. The Director admitted that since she took up her post, none of the Romani children at the school has continued education in a programme with a full-fledged high school certificate (*maturita*). The vast majority of Romani families interviewed had a family member attending a vocational school in Prešov, which they referred to as "our school" or "the vocational school for people with disabilities."<sup>215</sup>

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<sup>214</sup> Interview with the Director and the Deputy Director of the Bajerov mainstream primary school, 27 October 2016.

<sup>215</sup> Interviews with Romani parents from Rokycany, 28-29 October 2016.



## 5.2 CASE STUDY 4: KROMPACHY

The town of Krompachy is a former mining town, built around a large metal industry complex in the 1960s.<sup>216</sup> Around 10% of Krompachy's 8,000 inhabitants are Roma, most of whom live in two neighbourhoods, around Hornádska and Družstevná streets, adjacent to the industrial plant complex.

In 2013, the Ombudsperson found that the public special school in Krompachy registered 13 new pupils in the first grade for the school year 2013/2014. All 13 children were Roma.<sup>217</sup> Although this finding is in itself alarming given that the Roma only account for 10% of the town's population, it is only part of an even more troubling bigger picture. The special school operates a two-shift regime and currently educates 145 pupils diagnosed with a disability, all of them Roma.<sup>218</sup>

The school enrolled 16 new Romani children diagnosed with a "mild mental disability" in the first grade in 2016, five more than in 2015.<sup>219</sup> All first-graders came from the preparatory/zero class at the nearby mainstream school. The fact that in 2016 even more Romani children were diagnosed and enrolled at the special school than a year ago shows that the School Act amendment, whose stated goal is to address Romani children's overrepresentation in special education, has not so far had any impact in Krompachy.

The special school in Krompachy is only 30km from Rokycany and 40km from Šarišské Michalany. However, the well-publicized controversy over segregation in these areas, instead of resulting in greater awareness of these issues, appears to have hardened positions. In 2013, the then Director of the Special School made public his opposition to the so-called "Roma Reform Programme" advocated for by the Ministry of the Interior and the Plenipotentiary for Roma Communities which proposed phasing out special schools. The Director also signed a petition urging the government to abstain from any reform of the special education. The special school has not been inspected by the State School Inspectorate for more than five years.<sup>220</sup>

The town has three mainstream primary schools (*Zemanská* school, *Maurerova* school, and *SNP - Slovenske narodne povstanie* - school), and one special school. Two of the mainstream schools are located in the centre and although a few Romani children attend these, the vast majority of Romani children attend two schools on the outskirts of their neighbourhoods – the mainstream primary school on SNP Street and the special school next to it. Together with a secondary vocational school, the local Roma refer to them as "our schools".

Both the SNP mainstream school and the special school operate a two-shift regime as the number of Romani children enrolled exceeds the schools' capacities.<sup>221</sup> The SNP school also runs three preparatory/zero classes and a kindergarten in a building across the street, in which all the children are Roma.

The special school dates back to 1968 and has always been located in the town centre. In 2008, it purchased a new building on the outskirts of Krompachy, next to two Roma neighbourhoods. Soon after, the school's Director and staff relocated to the new building, which is now the school's main administrative building.<sup>222</sup>

### 5.2.1 FABRICATING DISABILITY

There are currently about 500 Romani children of school age in Krompachy: 315 attend the Roma-only SNP mainstream school, 145 attend the special school and a few others attend the two mainstream schools in the town centre.<sup>223</sup> The SNP School has three special classes, each of up to eight pupils. Together with the

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<sup>216</sup> More information on the Iron foundry in Krompachy available at: [www.zlievaren-sez.sk/app/index.php](http://www.zlievaren-sez.sk/app/index.php).

<sup>217</sup> Office of the Ombudsperson, *Report on the right to education of children/ pupils belonging to the Roma national minority with special educational needs (Správa verejnej ochrankyne práv o uplatňovaní práva na vzdelanie detí/žiakov príslušníkov rómskej národnostnej menšiny so špeciálnymi výchovno-vzdelávacími potrebami)* 2013, p. 18.

<sup>218</sup> A total of 121 Romani children diagnosed with "Variant A" ("mild mental disability"), 16 children diagnosed with "Variant B" ("medium mental disability"), and eight with "Variant C" ("severe disability"). Interview with the Director and the Deputy Director of the special school in Krompachy, 24 October 2016.

<sup>219</sup> Questionnaire received from the special school in Krompachy.

<sup>220</sup> Interview with the Director and the Deputy Director of the special school in Krompachy, 24 October 2016.

<sup>221</sup> The afternoon shift applies only to the pupils in the fifth grade and above. They also change every second week. Interview with the SNP school Director, 25 October 2016.

<sup>222</sup> Interview with the Director and the Deputy Director of the special school in Krompachy, 24 October 2016.

<sup>223</sup> Numbers were provided by the school directors interviewed.

number of Romani children at the special school, this means that about a third of all Romani children in Krompachy have been diagnosed with a “mental disability” and follow the special school curriculum.

The Director of the special school also pointed out that most of the children in her school were diagnosed with dyslexia and communication difficulties.<sup>224</sup> The fact that Romani children with dyslexia routinely end up in special schools was confirmed by psychologists from the special diagnostic centre in Košice.<sup>225</sup>

Maria lives in the Družstevná neighbourhood. Both her daughters were enrolled at the SNP school and transferred to the special school. Maria and her family moved to the UK in the hope of starting a new life there, but found it difficult to settle there and returned to Krompachy.<sup>226</sup> Maria was told that her daughters were transferred from the SNP school to the special school because of the incompatibility of the British and Slovak education systems and their problems with communicating in Slovak. Maria told us that at the SNP school her daughters did not receive any support from the teachers and found it difficult to catch up. Researchers met several other Romani children with a similar educational trajectory.

Teachers at the special school admitted that many pupils who have spent some time in the UK education system do not know how to adjust to the Slovak education system and are confused about the Slovak language. None expressed an interest or awareness of how they could assist the transition from one educational system to another:

**“Well, it may be the problem that these kids go to the UK where they catch a few English words then they return and are not able to speak neither English nor Slovak fluently... for us the problems start with the grammar. They automatically start pronouncing in English, they have problems with reading, writing and they are also behind with the study programme.”<sup>227</sup>**

The starkest irony perhaps is that these children who were transferred to the special school in part due to their encounter with the British education system and the English language, have no foreign language classes at the school.

Interestingly, children who left for the UK or another country remain officially registered at both the SNP (69 pupils) and the special school (15). The special school’s Director admitted that the school continues receiving per capita funding for these children, albeit in a reduced form. The fact that receiving reduced funding for absent children is possible suggests that the state authorities are at least aware of the issue.

Teachers at the special school expressed disturbingly prejudicial views to explain Romani children’s placement at the special school, identifying family background as the main factor. One stated:

**“In other [non-Romani] families, parents push their children to have them educated enough to go to university or at least find a job. Romani parents do not care. Mental disabilities may play some role in special school placement, however, the family factor is crucial. These children do not even know what a healthy lifestyle is. Smoking, alcohol, intoxication are their daily life. And then they make babies. Another problem is that they procreate among themselves, incest happens very often.”<sup>228</sup>**

Besides employing prejudicial and factually incorrect language towards Roma, none of the factors mentioned are permitted grounds for special school placement under Slovak law. The only legal reason for enrolment at a special school is a mental disability diagnosis and the full and informed consent of parents. However, teachers at the Krompachy special school saw this as merely an additional factor, which should support the transfer of a child from a “dysfunctional” family to the “functional” environment of the special school.

Following the 2015 School Act amendments, which removed funding to special schools for children from socially disadvantaged backgrounds, the special school in Krompachy saw a vast proportion of its funding removed, as all of its pupils were categorized as being from such an environment under the previous system. Consequently, this school year, the school did not provide educational aids, such as pencils and notebooks, and switched from hot to cold meals. It also lost a teaching assistant.<sup>229</sup>

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<sup>224</sup> Interview with the Director and the Deputy Director of the special school in Krompachy, 24 October 2016.

<sup>225</sup> Interview with the Special Pedagogical Centre in Košice, 24 October 2016.

<sup>226</sup> According to teachers at the special school, some children spent six years in the UK before they returned to Krompachy, Interview with teachers at the special school in Krompachy, 24 October 2016.

<sup>227</sup> Interview with teachers at the special school in Krompachy, 24 October, 2016.

<sup>228</sup> Interview with teachers at the special school in Krompachy, 24 October 2016.

<sup>229</sup> Interview with Director and the Deputy Director of the special school in Krompachy, 24 October 2016.

## 5.2.2 QUALITY OF SEGREGATED EDUCATION AND LIFE CHOICES

The SNP mainstream school is Roma-only.<sup>230</sup> According to its Director, the school used to be mixed, but “white flight” started some 20 years ago when a huge increase in the Roma population was registered and many non-Romani families moved out of the neighbourhood and the remaining ones transferred their children to the schools in the centre.<sup>231</sup>

There are no Romani teachers or teaching assistants, but some teachers in the kindergarten speak Romani. The school provides education up to seventh grade only. The Director confirmed that they are not currently running eighth and ninth grade classes and did not recall a ninth grade class being offered at the school during her almost 10 years there. Hence, children at the school cannot complete their primary education there and have to be transferred to one of the schools in the town centre.<sup>232</sup>

The Director stated that in 2015, five children went to the eighth grade. The most common scenario is that following the school readiness test at the age of six, a Romani child is recommended for a preparatory/zero class. Children are supposed to be re-diagnosed after completing the zero class. However, in reality children are diagnosed again after six months in the zero class, although such a short period of time does not allow a meaningful possibility for children to learn the Slovak language (most of the time not their mother-tongue) and all the things required to pass the school readiness test. The re-diagnosis also includes tests to identify those with mental disabilities.<sup>233</sup>

Many Romani children enrolled at the SNP school repeat one or more grades, which means that their period of compulsory education is finished by the time they finish the seventh grade, if not before. School administrators have little incentive to motivate a pupil in such circumstances to finish her/his primary education as the school’s per capita funding for a pupil after accomplishing 10 years of education is cut to just 10% of standard per capita funding.<sup>234</sup>

If a Romani child enrolled at the SNP school wants to finish their primary education, they need to enrol for the last two grades in one of the other mainstream schools in town. The researchers found that only a handful of Roma children manage to do so and even they encounter a number of obstacles. These include, for example, the long walk from home or the fact that, according to a pupil interviewed, Romani children had to sit at the back of the class.

Albert’s daughter, Anna, who was an excellent student at the SNP school, was accepted into the eighth grade at the *Maurerova* school. Her study results quickly deteriorated in the new school, according to Albert, because the level of education is significantly higher. The SNP school’s practice follows the special school system in many regards: pupils are not allowed to bring textbooks home, nor do they receive any homework. Anna said that her workload had increased at the new school and that the new classmates and the long walk home were not helping. The Romani children told us that they had to sit at the back of the class and the non-Roma “didn’t know how to act around them”, having never met any Romani children in the class before.

As the vast majority of young Romani people interviewed, who went to the SNP school, finished their education in seventh grade, likewise, children from the special school, if they wish to continue their education, they have few options but to enrol at the private secondary vocational school, which is run by the company which runs the town’s industrial plant.

The vocational school also came closer to the Romani children as it established a detached branch (*elokované pracovisko*) next to the Romani neighbourhoods.<sup>235</sup> Several male Romani pupils attending it told us that they spend most of their time in school putting together electric plugs, which the company that funds the school then sells. The pupils confirmed that they had been receiving a financial reward of €64 per month.<sup>236</sup>

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<sup>230</sup> Interview with the SNP school Director, 27 October 2016.

<sup>231</sup> Interview with the SNP school Director, 27 October 2016.

<sup>232</sup> Five children were transferred to continue in the eighth grade in the 2015/2016 school year, the rest of the seventh graders ended their education. Interview with the SNP school Director, 25 October 2016.

<sup>233</sup> Interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>234</sup> Interview with the Director of the State School Inspectorate and her team, 4 November 2016.

<sup>235</sup> In October 2015, CVEK published a research paper that drew attention to the practice of building state-supported, so-called annexed (*elokované*) secondary vocational schools (school facilities located away from main school buildings) near marginalized Romani communities. The paper concluded that these facilities reinforce segregation and deepen the social exclusion of disadvantaged Romani children. CVEK, *Elokované pracoviská stredných odborných škôl pri marginalizovaných rómskych komunitách*, 2015, available at: [www.cvek.sk/publikacie/](http://www.cvek.sk/publikacie/). See also: SME daily, [www.komentare.sme.sk/c/20384073/vzdelavanie-romov-je-nastavene-tak-aby-neuspeli.html#ixzz4QpV97T1U](http://www.komentare.sme.sk/c/20384073/vzdelavanie-romov-je-nastavene-tak-aby-neuspeli.html#ixzz4QpV97T1U).

<sup>236</sup> Interviews with Romani families from Hornádska and Družstevná streets, 22-23 October 2016.

Thus, instead of realizing their right to education, Romani children in Krompachy provide cheap labour force for a private company. Further, Romani girls' secondary education at the vocational school is limited to the "Practical Woman" (*Praktická Žena*) programme, where they can learn how to cook and do housework.<sup>237</sup> This is a nationwide programme which gives a clear message about the intended place and purpose of Romani women and girls in Slovak society and, particularly in segregated environments such as Krompachy, significantly restricts their life choices.

Teachers at the special school complained about the fact that Romani girls often start families early or that the communities do not, in their opinion, value education and work but prefer to "live on benefits."<sup>238</sup> Such statements are not backed by evidence and are prejudicial against Roma. Surprisingly, the teachers did not see programmes such as the "Practical Woman", or indeed the practices at their own school, as in any way contributing to the difficulties many Roma, particularly Romani women and girls, have in finding employment.

### 5.2.3 GENERATIONS SENTENCED TO STIGMA AND HOPELESSNESS

A number of factors conspire to limit the educational trajectories of local Romani children. Perhaps one of the most significant are the pervasive and widespread attitudes of teachers and their extremely low expectations for Romani children. For example, when asked about their prospects, the teachers merely smiled at the children's "unrealistic" dreams of becoming teachers or doctors. The following are a sample of the statements made to researchers:

**"All of them want to be teachers or doctors, however, they have only little information what it takes to become one of those professions. So there is a big difference between what they fancy to be and how they end up eventually. Although the older ones, especially boys, are more realistic and end up being bricklayers, for example."**

**"We are glad there is a vocational school newly opened in our town where they can continue studying... The Practical Woman programme is the one most effective for girls because they learn a lot about domestic work and so on."<sup>239</sup>**

Similarly, the Director of the SNP mainstream school, although acknowledging some positive aspects of mixed schooling, shared this scepticism about Romani children's ability to catch up with their non-Roma peers:

**"I think from the perspective of education, it [desegregation] would not work out because these [Romani] children in mixed classes would be sitting at the back of the classroom and they would be doing nothing. I am not saying the children are not skilful, but they are simply not capable of catching up with the others."<sup>240</sup>**

The two cases analysed in this chapter illustrate that the Slovak government has failed to adopt and implement a sound legal framework and appropriate policies to address and combat the disproportionate numbers of Romani children in special education. The 2015 School Act amendment intended to promote greater inclusion of Romani children into mainstream education has provided very limited potential to advance these objectives. Measures taken by the government have not been adequate and the Slovak education system continues to discriminate Romani children through placement in schools offering a reduced curriculum designed for pupils with "mild mental disabilities", while concerns over the quality of and bias behind the diagnoses remain. Through the continued streaming of Romani pupils to special schools or classes for pupils with "mild mental disabilities", Slovakia continues to breach national law, but also international and regional human rights standards, leading to violations such as those highlighted by previous European Court of Human Rights judgments against the Czech Republic and Hungary.<sup>241</sup>

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<sup>237</sup> More details on the programme can be found at [www.web.stonline.sk/spozs/files/svp-3161200.pdf](http://www.web.stonline.sk/spozs/files/svp-3161200.pdf).

<sup>238</sup> Interview with teachers from the special school in Krompachy, 24 October 2016.

<sup>239</sup> Interview with teachers of the special school in Krompachy, 24 October, 2016

<sup>240</sup> Interview with the Director of the SNP school, 25 October 2016.

<sup>241</sup> *DH and others v the Czech Republic* [57325/00] ECHR (13 November 2007), *Horvath and Kiss v Hungary* [11146/11] ECHR (29 April 2013).

# 6. INTERNATIONAL LAW

## 6.1 THE UN CONVENTION ON THE RIGHTS OF THE CHILD

As a party to the UN Convention on the Rights of Child, Slovakia is obliged to ensure that in all actions concerning children – including the administrative decisions of schools – the best interests of the child shall be a primary consideration.<sup>242</sup> Education of a child shall be directed to, among other things, the preparation of a child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.<sup>243</sup> Such understanding of education goes beyond formal schooling; it embraces the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.<sup>244</sup> Only effective inclusion of Romani children in integrated mainstream education together with non-Roma children could lead to a model of education that meets these values.

## 6.2 RIGHT TO EDUCATION UNDER OTHER INSTRUMENTS

The authorities in Slovakia are bound to respect, protect and fulfil the right to education without discrimination under a number of other international and regional human rights treaties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Under these standards, education must be accessible to all, including the most vulnerable groups, in law and fact without discrimination.<sup>245</sup>

Education has a vital role in the promotion of human rights and democracy and is a primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.<sup>246</sup> By becoming a party to the ICESCR, states, including Slovakia, have agreed “that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among... all racial, ethnic or religious groups.”<sup>247</sup>

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

- Compulsory and available free to all – education must be adequate in quality, relevant to the child and must promote the realization of the child’s other rights;
- Accessible – physically and economically – to everyone, without discrimination;
- Acceptable – in other words relevant, culturally appropriate and of good quality; and
- Adaptable to the needs of changing societies and communities and responsive to the needs of students within their diverse social and cultural settings.<sup>248</sup>

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<sup>242</sup> UN Convention on the Rights of Child, Article 3(1).

<sup>243</sup> UN Convention on the Rights of Child, Article 29(1)d.

<sup>244</sup> Committee on the Rights of the Child, General Comment No. 1, The Aims of Education (CRC/GC/2001/1) para 2.

<sup>245</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, The Right to Education (E/C.12/1999/10) para 6(b).

<sup>246</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, para 1.

<sup>247</sup> International Covenant on Economic, Social and Cultural Rights, Article 13(1).

<sup>248</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, para 6.

## 6.3 RIGHT TO NON-DISCRIMINATION

International human rights monitoring bodies, including the Human Rights Council, the Committee on the Elimination of Racial Discrimination (CERD),<sup>249</sup> the Special Rapporteur on the Right to Education and the Council of Europe, emphasize that states must give particular consideration to the educational needs of economically and socially marginalized groups, such as those living in poverty, ethnic and linguistic minorities, children with disabilities and indigenous children.<sup>250</sup>

In 2011, the Human Rights Council urged states to give full effect to the right to education by ensuring adequate legal protection and addressing multiple forms of inequality and discrimination in education through comprehensive policies.<sup>251</sup> The CERD recommended that states, including Slovakia, “act with determination to eliminate any discrimination or racial harassment of Roma students.”<sup>252</sup>

Under the CERD recommendation, states should, among other measures: prevent and avoid the segregation of Romani students; recruit school personnel from among members of Romani communities; and consider adopting measures in favour of Romani children, in cooperation with their parents, in the field of education.<sup>253</sup>

International law is clear that differential treatment, including enforced separation of persons based on ethnicity and in the absence of an objective and reasonable justification, is a particular form of racial discrimination which violates human rights.<sup>254</sup> Discrimination in access to education based on racial or ethnic origin – of which segregation is a specific form – is explicitly prohibited.<sup>255</sup> Article 14 of the European Convention on Human Rights requires state authorities to ensure that people within their territory enjoy the right to education without discrimination on any ground, including race or social origin, birth or other status. Under international human rights law, enforcement of the prohibition of discrimination has to be implemented immediately – equal treatment is neither subject to progressive realization nor to the availability of resources.<sup>256</sup>

The UN Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education, to which Slovakia is a party,<sup>257</sup> clarifies that establishing separate institutions – including separate classes – for persons or a group of persons violates the principle of equal treatment and constitutes discrimination.<sup>258</sup>

Although international law recognizes that in some circumstances, separate educational systems or institutions – such as schools established for religious or linguistic reasons – shall be deemed not to constitute a breach of prohibition of discrimination,<sup>259</sup> such separation must be optional; and the education offered must conform to standards for education of the same level laid down by competent authorities.<sup>260</sup>

## 6.4 EUROPEAN COURT OF HUMAN RIGHTS

In cases related to the right of Romani children to an education without discrimination, the European Court of Human Rights has recognized that providing separate institutions to separate groups of people based on ethnicity or similar grounds violates the European Convention on Human Rights.

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<sup>249</sup> CERD, *Concluding observations on Slovakia* (CERD/C/SVK/CO/9-10) 2013.

<sup>250</sup> CERD, General Recommendation No. 27: Discrimination against Roma; Report of the Special Rapporteur on the Right to Education, para 83.

<sup>251</sup> The Right to Education: Follow-up to Human Rights Council Resolution 8/4, A/HRC/17/L.11, 9 June 2011, para 4b.

<sup>252</sup> CERD, General Recommendation No. 27, para 20

<sup>253</sup> CERD, General Recommendation No. 27, paras 17 and 19.

<sup>254</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 27, Non-discrimination in Economic, Social and Cultural Rights, para 19; CERD, General Recommendation No. 27, para 18.

<sup>255</sup> Article 26 of the International Covenant on Civil and Political Rights states: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” and Article 2(1) requires “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

<sup>256</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, para 31.

<sup>257</sup> Notification of succession 31/03/1993.

<sup>258</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education, Article 1(1)c.

<sup>259</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, para 33.

<sup>260</sup> UNESCO Convention against Discrimination in Education, Article 2.

A decade ago, in *D.H. and others v the Czech Republic*, the Grand Chamber of the European Court of Human Rights condemned the Czech Republic for the widespread segregation of Romani children in special schools, which amounted to indirect discrimination.<sup>261</sup> Segregated education of Romani pupils was denounced by the European Court of Human Rights in the case of *Sampanis and others v Greece* in 2008. The Court did not accept the Greek government's contention that the difference in treatment between Romani and non-Romani children was due to "an objective and reasonable justification and that there was a reasonable proportionate relationship between the means and the intended objective." In particular, the Court held that, notwithstanding the intention of the authorities to educate Romani children, the different methods for the registration of Romani children and their placements in segregated preparatory classrooms effectively resulted in discrimination.<sup>262</sup> In a subsequent case, *Sampani and others v Greece* in 2012, the Court again found a violation: the authorities' actions taken to implement the previous judgment had been so botched as to violate the Convention anew.<sup>263</sup>

In 2010, in its judgment in the case of *Oršuš and others v Croatia*, the Court's Grand Chamber found that the placement of Romani pupils in Roma-only classes at certain times during their primary education had no objective and reasonable justification and found Croatia in violation of Article 14 of the European Convention on Human Rights taken together with Article 2 of Protocol No. 1.<sup>264</sup>

In 2013 *Lavida and others v Greece*, the Court established that a failure to take anti-segregation measures implied discrimination and a breach of the right to education. The case involved a primary school which was attended solely by Romani children. Attempts to enrol them in other schools in the area were unsuccessful due to the hostility of non-Roma parents. Although the Greek Ministry of Education had been informed about the existence of ethnic segregation in the school, it failed to take measures to address it. These measures could have included redrawing catchment areas or transferring Romani pupils into other schools.<sup>265</sup>

Also in 2013 in *Horvath and Kiss v Hungary*, the Court upheld the complaints of two men of Roma origin that their education in schools for pupils with mental disabilities had been the result of misplacement and had amounted to discrimination. The Court underlined in particular that there was a long history of misplacement of Romani children in special schools in Hungary. The Court found that the applicants' schooling arrangement indicated that the authorities had failed to take into account their special needs as members of a disadvantaged group. As a result, the applicants had been isolated and had received an education which made their integration into majority society difficult.<sup>266</sup> The judgment was notable for its insistence on the positive obligations on authorities to undo a history of segregation.

## 6.5 MONITORING AND DATA COLLECTION

Under the UN Convention on the Elimination of All Forms of Racial Discrimination and other standards, Slovakia is bound to "particularly condemn racial segregation... and undertake to prevent, prohibit and eradicate all practices of this nature."<sup>267</sup> In order to do so, it is obliged to closely monitor education – including all relevant policies, institutions, programmes, spending patterns and other practices – so as to identify and take measures to address any *de facto* discrimination. The authorities should collect data in the field of education disaggregated by the prohibited grounds of discrimination, including gender and ethnicity.<sup>268</sup> Slovakia, as a number of international and regional monitoring bodies have highlighted, continues to fail to ensure adequate monitoring and disaggregated data collection.

In July 2016, the UN Committee on the Rights of the Child shared the concern of Council of Europe's European Commission against Racism and Intolerance that the implementation of the Anti-Discrimination Act is not being adequately monitored and that the Slovak National Centre for Human Rights, as the monitoring body, does not function effectively and independently. The Committee went on to reiterate its previous recommendation that the government expeditiously improve its data-collection system to cover all areas of the Convention in order to ensure effective analysis and monitoring of the situation of all children, particularly those in situations of vulnerability, as well as undertake impact assessments of the measures taken. The data should be disaggregated by different grounds of discrimination including sex, age, ethnicity, and socioeconomic status and, together with relevant indicators, shared among the ministries concerned

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<sup>261</sup> *D.H. and others v the Czech Republic* [57325/00] ECHR (13 November 2007).

<sup>262</sup> *Sampanis and others v Greece* [32526/05] ECHR (5 June 2008) para. 96.

<sup>263</sup> *Sampani and others v Greece* [59608/09] ECHR (11 December 2012).

<sup>264</sup> *Oršuš and others v Croatia* [15766/03] ECHR (16 March 2010) paras 184, 185.

<sup>265</sup> *Lavida and others v Greece* [7973/10] ECHR (30 May 2013) para. 73.

<sup>266</sup> *Horvath and Kiss v Hungary* [11146/11] ECHR (29 April 2013).

<sup>267</sup> Convention on the Elimination of All Forms of Racial Discrimination, Article 3.

<sup>268</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 13, para 37.

and used to formulate, monitor and evaluate policies, programmes and projects with a view to the effective implementation of the Convention.<sup>269</sup>

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<sup>269</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on Slovakia* (CRC/C/SVK/CO/3-5) 2016, para 10.



# 7. CONCLUSIONS AND RECOMMENDATIONS

Romani children continue to face various forms of segregation in primary schools in Slovakia, despite different initiatives and strategies by international donors, government and civil society.

The research set out in this report draws a bleak picture of the situation of Romani children in educational settings. The four qualitative case studies presented shed light on structural issues that perpetuate discrimination and segregation.

Recent reforms introduced have failed to address, if not exacerbated, segregation. The 2015 amendments to the 2008 School Act did not introduce concrete measures aimed at tackling the segregation of Romani pupils in mainstream primary schools.<sup>270</sup> The targets proposed to date for the planned national education reform, announced in October 2016, fail to include any desegregation plans.<sup>271</sup> Implementation of the legal prohibition of discrimination is not being sufficiently monitored and evaluated. Moreover, the Slovak authorities, at the national, regional and local levels, deny responsibility for addressing and preventing segregation and explain the existence of Roma-only mainstream schools and classes as a result of merely two factors: where people live and parental choice.

To date, the School Act amendment adopted in 2015 has had minimal impact on the educational trajectories of Romani children enrolled in special schools and has not succeeded in ending, or even beginning to reverse, the disproportionate placement of Romani children in special schools. Although the competence of the State School Inspectorate has been broadened, this has not been accompanied by the human and financial resources necessary to enable it to address effectively the flawed system of diagnosis and segregation in special schools. This has thwarted the promising course set by the new leadership of the State School Inspectorate.

Since the early 1990s, parents have exercised the option to choose the school their children will attend.<sup>272</sup> Although the law allowing them to do so appears neutral, research by Amnesty International and the European Roma Rights Centre in recent years has found that its implementation has in fact contributed to segregation and reduced interaction between Romani and non-Romani children in Slovakia.<sup>273</sup> The “white flight” phenomenon of wholesale transfers of non-Romani pupils from schools with large numbers of Romani children has been previously reported.<sup>274</sup>

For example, in Moldava nad Bodvou, segregation was facilitated by the creation of a private church school allowing a mass transfer of non-Romani children. In Šarišské Michalany, more than four years after a national court ordered the school to desegregate, various measures introduced by the school’s management

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<sup>270</sup> Act No. 245/2008 Coll. on Education (School Act) and on Changing and Supplementing Certain Laws, amendment of 30 June 2015.

<sup>271</sup> Proposed targets of the National Education Development Programme (*Návrh cieľov Národného programu rozvoja výchovy a vzdelávania*), 14 October 2016.

<sup>272</sup> Act No. 245/2008 Coll. on Education (School Act), para 20(5).

<sup>273</sup> Amnesty International, *Still separate, still unequal* (Index: EUR 72/001 Amnesty International, *Still separate, Still Unequal. Violations of the Right to Education of Romani Children in Slovakia*, 2007 (Index: EUR 72/001/2007); European Roma Rights Centre, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, 2004.

<sup>274</sup> See, for instance, Amnesty International, *Unfulfilled Promises: Failing to End Segregation of Roma Pupils in Slovakia*, 2013 (Index: EUR 72/001/2013).

have failed due to a lack of systemic support from the Ministry of Education. In both Moldava nad Bodvou and Ostrovany, plans to build new schools in close proximity to Roma settlements threaten to perpetuate and exacerbate Romani children's segregation from the rest of society.

In addition, Romani children are continuously confronted with other obstacles to realizing their right to education, such as racism, prejudice, stigmatization and lack of expectations from educational staff, observed in all locations studied for this report. Segregation often begins even before primary school. Romani children who do not attend kindergarten are routinely assessed as not ready to start primary education and are placed in preparatory/zero grades, which are overwhelmingly Roma-only. Romani children tend to continue their primary education in the same Roma-only cohort as in the zero class.<sup>275</sup>

It is evident that parental choice in the context of anti-Roma prejudice is a significant factor fuelling the segregation of Romani children. In theory, parents have the right to freely choose which school their child attends. However, there are economic constraints on the exercise of that choice. In practice, the decision to send a child to a school outside a catchment area is only available to families with the resources to pay for transport. This is rarely the case of Roma families. On the other hand, as the examples of Moldava nad Bodvou and Šarišské Michalany demonstrate, non-Romani parents often seek out schools with no or low numbers of Romani pupils and remove their children from schools once they feel there are too many Roma. If parental choice is to be available to all parents in practice, school transport subsidies should follow the child, whichever school they are enrolled in.

Worryingly, during a meeting with Amnesty International and the European Roma Rights Centre, the State Secretary of the Ministry of Education stated that segregation in education in Slovakia was solely caused by non-Roma "white flight" and the Ministry had no intention of intervening to prevent this. This position was previously presented to Amnesty International by the representatives of the Ministry of Education in March 2015.<sup>276</sup> This is despite the fact that appropriate interventions could raise the standards of education for all children thereby incentivising and increasing the confidence of non-Roma parents to keep their children in mixed schools.

Individual schools have limited ability to counter "white flight" and the resulting segregation. Slovakia urgently needs a comprehensive national desegregation plan that provides sustainable support for individual schools in their efforts to end segregation through precise, informed guidance and resourcing. Moreover, these measures must be accompanied by strategies and actions to eliminate prejudice and racism towards the Roma in society as a whole and to adopt positive measures to address causes of "white flight".

It took 18 months for the State School Inspectorate to deal with discrimination in the private special school in Rokycany, and in any case, their recommendations were challenged and bypassed by relevant authorities. Although the Ministry has announced the intention to close the school by August 2017, developments in Rokycany give little hope that the situation will change for the better for Romani children there in the near future. The educational prospects of more than 80 Romani children enrolled at the school remain bleak, even after the intervention of the Ministry of Education, the State School Inspectorate and the Plenipotentiary for Roma Communities.

The special school in Krompachy has not been monitored by the Inspectorate for more than five years. This is in part the consequence of structural underfunding and understaffing, but is also the result of the reluctance of the regional inspectorate branches in Košice and Prešov to tackle the discriminatory status quo. The School Inspectorate is the only state body that has shown some commitment to tackling the discrimination criticized by the European Commission. The infringement proceedings launched by the European Commission have been largely ignored by other responsible state bodies such as the Slovak National Centre for Human Rights, the Office of the Plenipotentiary for Roma Communities and the Ministries of Education, Interior and Foreign Affairs.

Although in principle the distinction between mental disability and social disadvantage - already present in the School Act but not implemented - is a positive thing, it fails to address segregation, has had no impact so far in terms of reducing placements in special schools, and in fact is having a negative impact through reduced support for pupils who need it.

Notwithstanding the fact that social disadvantaged status should not be treated as a diagnostic category, no cases of a Romani child's diagnosis being corrected from "mental disability" to "social disadvantage" were reported in the 2015/2016 school year. In fact, Romani children diagnosed with "mild mental disabilities" have not been subject to the new SDE testing at all. While the overall number of "mental disability"

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<sup>275</sup> It is practically impossible to desegregate zero classes as they are mandated by the law for Romani children only. In this sense, zero classes directly reinforce segregation of Romani children in education.

<sup>276</sup> Amnesty International, *Slovakia's "Container Schools" Worsen Segregation of Roma Children from Society Segregation of Roma*, 2015.

diagnoses has slightly decreased in the 2016/2017 school year, no data on Romani children's placement in special educational settings is available. Further, the number of special educational facilities has increased.

Moreover, the diagnostic centres tasked with confirming the SDE classification under the new system do not have the capacity to manage the huge number of requests by mainstream schools to diagnose pupils classified as socially disadvantaged under the previous system. Hence, instead of delivering the hoped for improvement for Romani children, the principal consequence of the new SDE testing system is the withdrawal of subsidies for Romani children from socially disadvantaged environments in special schools, which have suffered cuts in education support items like notebooks, writing utensils and hot meals, and sometimes also the loss of their teaching assistants. As far as the quality of the education provided and their consequent educational prospects, the situation has not improved for the vast majority of Romani children in the special schools in Krompachy and Rokycany.

Virtually all stakeholders in the Slovak education system interviewed – staff at mainstream schools, special schools, diagnostic centres, municipalities, as well as parents and pupils, Roma and non-Roma – spoke about the astonishing lack of coordination, clarity and information sharing from the Ministry of Education regarding the School Act amendment. Since hastily passing the amendment through the Slovak Parliament, the Ministry of Education has carried out little monitoring or support to enable the stakeholders in the education system to understand and cope with the changes. It is worrying that the Ministry does not appear to monitor or evaluate the implementation and effectiveness of the new testing system. It is also difficult to see how the Ministry intends to report on the progress of the new provisions to the European Commission, suggesting a lack of engagement by the government with the objectives of the infringement proceedings.

Despite the government's intention, the newly reintroduced per capita funding for children diagnosed with SDE provides little financial incentive to stop labelling Romani children as having mental disabilities as the funding earmarked for SDE is significantly lower. Anti-Roma prejudice is still leading to Romani children with dyslexia or communication difficulties being transferred to special schools.

Interviews with school teachers revealed very troubling and widespread discriminatory attitudes and low expectations regarding Roma, coupled with the fact that the children are not allowed to bring textbooks home and are routinely not given any homework, which casts serious doubts about the quality of education that Romani children are receiving in those segregated educational settings.

The persistent segregation of Romani children in primary education demonstrates that the prohibition of discrimination in law is not sufficient for the realization of Romani children's right to education and needs to be accompanied by concrete measures.

The Secretary of State for Education assured Amnesty International and the European Roma Rights Centre that the Ministry of Education was committed to investigating and addressing reports of practices that may amount or lead to segregation.<sup>277</sup> The authorities must urgently translate their assurances into concrete actions and systemically address existing segregation of Romani pupils, in cooperation with regional and local actors.

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<sup>277</sup> Interview with representatives of the Ministry of Education, 2 November 2016.

# RECOMMENDATIONS

To this end, Amnesty International and the European Roma Rights Centre make the following recommendations to the Slovak authorities and the European Commission:

## TO THE SLOVAK AUTHORITIES

### ON POLITICAL COMMITMENT FOR CONCERTED ACTIONS:

The Prime Minister and the Minister of Education should:

- Publicly acknowledge the existence of a systemic problem of ethnic discrimination and segregation faced by Romani children in schools and unequivocally commit to swiftly and comprehensively address the concerns raised by the European Commission in the infringement proceedings launched against Slovakia in 2015;
- Adopt a comprehensive action plan on combating discrimination and segregation in education, in consultation with civil society, representatives of Roma and non-Roma parents and children and other stakeholders. The plan should include a defined timeline, specific targets for its development and operationalization, identify the necessary financial, human and technical resources, designation of bodies responsible for its implementation and monitoring (and their cooperation at the national, regional and local levels), and a mechanism of yearly public reporting on progress.

### MEASURES TO PREVENT SEGREGATION AND IMPLEMENT DESEGREGATION:

The Ministry of Education should:

- Adopt comprehensive methodological guidelines on desegregation of schools, in cooperation with all relevant stakeholders, which:
  - Outline a national roadmap for desegregation prepared with the active consultation and cooperation with the Ombudsperson, the State School Inspectorate, the Slovak National Centre for Human Rights, school founders, public and private (including religious institutions), school staff, Roma and non-Roma parents and children, and civil society;
  - Include a binding and comprehensive definition of “segregation” adopted after a genuine consultation with civil society and other relevant bodies, including the Ombudsperson and the Slovak National Centre for Human Rights, drawing on the definition provided by the courts in the case of Šarišské Michaľany and in line with Slovakia’s international human rights obligations;
  - Clarify and detail the obligation of schools, their founders – both public and private - not to discriminate on any grounds, including on the basis of ethnicity. Instruct all school authorities, public and private, about their explicit responsibility to desegregate education;
  - Include an “assessment of segregation risk” among the mandatory criteria to be met by new schools in order to receive the approval for registration; approval of the creation of new schools presenting such a risk should be conditional on the adoption of clear, fully resourced measures to combat the risk of segregation;
  - Ensure no so-called “container schools” are further built in predominantly Romani areas;
  - Abolish preparatory/zero grades and ensure that other forms of pre-school education are prioritised as channels for integration. For example, a compulsory last year of kindergarten free of charge could be introduced, subject to sufficient capacity, resources and access being available to all children in mixed settings, without discrimination;
  - In line with the positive obligations under Art. 2.3 and 2.4 of the Anti-Discrimination Act, adopt measures to tackle racial discrimination and segregation in schools. These measures should include:
    - the provision of free transport for children (including preschool children with suitable escort) to local mixed schools;
    - support with educational materials for families in need to ensure children can adequately undertake school activities (books, stationary etc.); and

- the adoption of temporary special measures such as quotas or others to combat segregation and ensure effective integration of Romani children into mixed classes and schools;
- Provide guidelines for school enrolment instructing that no segregated classes must be established or maintained;
- Ensure that the State School Inspectorate monitors the establishment of classes for gifted children and specialized classes to ensure that they do not camouflage ethnic segregation;
- Ensure effective dissemination of the guidelines on desegregation to all educational establishments and that the Ombudsperson and the Slovak National Centre for Human Rights assume an active role in their enforcement, progress monitoring and addressing lack of action.

Local authorities should:

- Periodically review the situation in schools to identify factors that might facilitate ethnic segregation. The review should also focus on the potential impact of school catchment areas on segregation. When situations or trends of segregation are identified, local authorities (together with school founders when different from the municipalities) must be required to adopt immediate measures to take remedial action against emerging segregation or put in place desegregation plans where segregation exists;
- Such plans should be developed by local authorities (and school founders when different from municipalities) in cooperation with the State School Inspectorate, school authorities and staff, Roma and non-Roma parents, and civil society, and under the oversight and support of the Ministry of Education, the Ombudsperson and the Slovak National Centre for Human Rights.

### **MEASURES TO ADDRESS “WHITE FLIGHT”**

The Ministry of Education should:

- Put in place targeted and effective steps to combat the increase of segregation in practice, including as a result of “white flight”. Such measures could include:
  - A review, carried out jointly with the State School Inspectorate and the Slovak National Centre for Human Rights, of the potential discriminatory impact of parental choice of schools;
  - An obligation on schools to collect data on transfers in order to enable school authorities to capture potential trends of “white flight”, and to report such trends to school founders and authorities at the regional and national levels, seeking guidance and support for interventions. The data collection method could involve a detailed “exit interview” with parents and children requesting the transfer, to unveil the reasons behind their decision, the type of school chosen for the transfer, etc.;
  - When the quality (or perceived quality) of education appears consistently as one of or the main reason for the “white flight”, the Ministry should consider providing increased resources and incentives to schools facing transfers to generate an increase in the quality of education. Such support could include, among others, enabling (additional) extra-curricular activities, allocation of special resources to enable hiring extra teaching assistants to support children struggling in schools, etc.

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

The Ministry of Education should:

- Reform and empower, including through adequate, continuous training and sufficient financial resources, the State School Inspectorate to ensure that they take effective action to prevent and eradicate segregation in education;
- Adopt detailed guidelines and a mechanism for the State School Inspectorate to identify, monitor and report on the progressive elimination of all forms of segregation in the organization of education across all ages including kindergarten and non-curricular activities (including in school cafeterias);
- Strengthen the powers of the State School Inspectorate to prevent the emergence of segregation in educational settings, impose sanctions on educational establishments and municipal authorities violating

the ban on segregation, following timely investigations initiated ex-officio and/or upon complaints and the failure to implement recommended remedial actions;

- Ensure that the monitoring of bullying, harassment and violence with discriminatory motive is included in the State School Inspectorate's mandate and plan;
- Ensure that the State School Inspectorate, in cooperation with the Slovak National Centre for Human Rights and/or professional bodies (e.g. teachers' unions) periodically provides training, monitors and evaluates the implementation of equal treatment principles in education by pedagogical personnel and all school staff;
- Ensure that the State School Inspectorate provides annual public reports of progress towards inclusive education, including desegregation, with recommendations for further actions to the school founders, Ministry of Education, Prime Minister and the Slovak National Centre for Human Rights.

### **MEASURES TO ADDRESS PREJUDICE BY TEACHERS AND EDUCATIONAL STAFF:**

The Ministry of Education should:

- Ensure that the obligation to treat pupils and parents equally and without racial prejudice is included in the Professional standards and training courses for teachers;
- Introduce nation-wide training programmes on multicultural and human rights education to ensure understanding and dissemination of the equal treatment and non-discrimination principle among teachers;
- Amend the methodological guidelines to include a definition of racially-motivated bullying and other forms of harassment and intimidation, as well as indications for schools' personnel on how to react to racially-motivated bullying and/or harassment, including by taking disciplinary measures;

Introduce a complaint mechanism for cases of racially-motivated bullying and other forms of harassment and intimidation. Awareness raising of the existence of such mechanism should be increased among parents and schools' staff. The Slovak National Centre for Human Rights should report yearly on the inquiries received and the outcomes, in line with data protection regulations;

- Ensure that any discriminatory treatment by teachers, other school staff and staff at the diagnostic centres is properly investigated and addressed within the performance review system (including with the possibility of disciplinary action where allegations are substantiated);

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

The Ministry of Education should:

- Progressively abolish the special education programme for children with "mild mental disabilities", the so-called "variant A" from the special education system and adopt a moratorium on placements of Romani children in schools and classes for pupils with "mild mental disabilities" while developing a plan with a realistic timeline, budget, concrete targets and a deadline for the integration of children previously diagnosed as such into mainstream education;
- Oblige diagnostic centres to carry out a peer re-assessment of all placement decisions of children currently placed in special educational settings in order to identify any unlawful or erroneously placed pupils within a specific timeline; develop a plan to secure their transfer in the new school year to mainstream schooling and adequate support to facilitate their successful integration;
- Monitor and evaluate the implementation of the new SDE testing system;
- Provide the diagnostic centres tasked with confirming the SDE diagnosis of pupils with additional financial and human resources and training.

### **MEASURES TO ENSURE DISAGGREGATED DATA COLLECTION:**

The Ministry of Education should:

- Develop a data-collection system – that follows established best practices in the area and meets the standards of European Union legislation concerning the protection of personal data - with a view to

provide long-term and accurate statistics on school enrolment (including type of school), attendance, transfers, drop-outs, class repetition, attainment and achievement, disaggregated by ethnicity and other appropriate characteristics including age, citizenship, gender, disability, national origin and socio-economic status and that this is used to identify and address discrimination and segregation;

- Secure annual publication of data on primary education disaggregated by school, locality and ethnicity, study plan and curricula and other relevant features.

## **TO THE EUROPEAN COMMISSION**

The European Commission should:

- Ensure that infringement proceedings against Slovakia remain open until the government takes effective measures to end discrimination and segregation of Romani children in education. Given the findings of this report, we call on the Commission to take the process to the next stage and issue a reasoned opinion, followed by the possibility of a referral of the matter to the European Court of Justice in the event of the absence of demonstrable progress within the coming year;
- Scrutinise allocation of EU funds to ensure no discriminatory action or effect result from implementation of EU-funded projects in Slovakia.

# ANNEX 1

## List of schools part of Amnesty International's and the European Roma Rights Centre's field research:

### 1. Šarišské Michalany and the neighbouring village of Ostrovany:

Mainstream primary school in Šarišské Michalany ( <i>Základná škola s materskou školou, Pod lesíkom 19</i> )	Visited on 26 October 2016
Special school in Ostrovany ( <i>Špeciálna základná škola, Ostrovany 11</i> )	Not visited
Zero-grades at community centre in Ostrovany	Visited on 26 October 2016

### 2. Moldava nad Bodvou

"Hungarian" mainstream school ( <i>Základná škola a gymnázium s vyučovacím jazykom maďarským</i> )	Visited on 21 October 2016
"First primary school" (mainstream) ( <i>Základná škola, Československej Armády 15</i> )	Refused meeting during research mission
"Northern primary school" (mainstream) ( <i>Základná škola, Severná 21</i> )	Not visited
Catholic church school (mainstream) ( <i>Cirkevná MŠ, ZŠ a gymnázium bl. Sára Salkaházi s vyučovacím jazykom maďarským</i> )	Visited on 21 October 2016
Special school ( <i>Spojená škola s organizačnými zložkami Špeciálna základná škola, Speciális alapiskola a Praktická škola</i> )	Refused meeting

### 3. Rokycany

Private special school ( <i>Súkromná špeciálna základná škola Rokycany</i> )	Refused meeting
Bajerov mainstream school ( <i>Základná škola s materskou školou, Bajerov 96</i> )	Visited on 27 October 2016

### 4. Krompachy

Special school ( <i>Špeciálna základná škola, SNP 49</i> )	Visited on 24 October 2016
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SNP mainstream school ( <i>Základná škola s materskou školou, SNP 47</i> )	Visited on 27 October 2016
Maurerova mainstream school ( <i>Základná škola s materskou školou, Maurerova 14</i> )	Not visited
Zemanská mainstream school ( <i>Základná škola, Zemanská 2</i> )	Not visited

Questionnaires were sought from all of the above schools (with the exception of the preparatory/zero grades established at the community centre in Ostrovany), as well as the remaining schools among the 21 included in the Ombudsperson's 2013 report, all of which are listed below:

1. Základná škola v Giraltovciach, Budovateľská 164/4, Giraltovce
2. Základná škola, Herľany 37, Herľany
3. Základná škola s materskou školou, Hermanovce 374, pošta Hendrichovce
4. Spojená škola – ŠZŠ, Chminianske Jakubovany 21, Chminianske Jakubovany
5. Špeciálna základná škola, Odborárska 2, Košice
6. Základná škola s materskou školou Krivany, Nachajky 1, Krivany - Markušovce
7. Špeciálna základná škola, Michalská 39, Markušovce
8. Spojená škola – Špeciálna základná škola, Hlavná 53, Moldava nad Bodvou
9. Špeciálna základná škola, Ostrovany 11, Ostrovany - Škola Matice Slovenskej
10. Spojená škola – ŠZŠ, Matice slovenskej 11, Prešov
11. Základná škola, Matice slovenskej 13, Prešov - Rudňany
12. Spojená škola, Zimné 83, Rudňany
13. Základná škola s materskou školou, Pod lesíkom 19, Šarišské Michaľany
14. Spojená škola, J. Fabiniho 3, Spišská Nová Ves - Malacky
15. Spojená škola, Pribinova 16/1, Malacky
16. Spojená škola internátna- ŠZŠ, Levočská 22, Stará Ľubovňa - Klenovec
17. Špeciálna ZŠ. Partizánska 909, Klenovec
18. Špeciálna základná škola, SNP 49, Krompachy
19. Základná škola, Veľká Ida 1, Veľká Ida - Markušovce
20. ZŠ s MŠ, Školská 16, Markušovce
21. Základná škola Muránska Dlhá Lúka, Muránska Dlhá Lúka 52, Muránska Dlhá Lúka

# ANNEX 2

**Table 1. Special educational facilities in Slovakia, 2015/2016 and 2016/2017 school years.<sup>278</sup>**

Type of special educational facility	School year 2015/2016 (evidence registered on 15 September 2015)	School year 2016/2017 (evidence registered on 15 September 2016)
Special primary schools	195 (177 state schools + 11 private schools + 7 church schools)	196 (176 state schools + 12 private schools + 8 church schools)
Special classes in mainstream primary schools	252 (243 state schools + 1 private schools + 8 church schools)	258 (250 state schools + 1 private schools + 7 church schools)
Total number of special schools and classes	447	454

**Table 2. Pupils in special schools and special classes in Slovakia in 2015/2016 and 2016/2017 school years.<sup>279</sup>**

	School year 2015/2016 (data registered on 15 September 2015)	School year 2016/2017 (data registered on 15 September 2016)
Number of pupils in special primary schools diagnosed with a mental disability and other special needs (e.g. communication, behavioural and developmental disorders)	15,551 (14,953 in state schools + 346 in private schools + 252 in church schools)	15,101 (14,483 in state schools + 364 in private schools + 254 in church schools)
Number of pupils in special classes in mainstream primary	6,638	6,397

<sup>278</sup> Ministry of Education, Science, Research and Sport, Statistical Yearbooks 2015/2016 and 2016/2017 available at: [www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page\\_id=9580](http://www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page_id=9580).

<sup>279</sup> Ministry of Education, Science, Research and Sport, Statistical Yearbooks 2015/2016 and 2016/2017 available at: [www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page\\_id=9580](http://www.cvtisr.sk/cvti-sr-vedecka-kniznica/informacie-o-skolstve/statistiky/statisticka-rocenka-publikacia.html?page_id=9580).

schools, diagnosed with a mental disability and other special needs (e.g. communication, behavioural and developmental disorders)	(6,520 in state schools + 7 in private schools + 111 in church schools)	(6,299 in state schools + 5 in private schools + 93 in church schools)
Total number of pupils in special schools and special classes	22,189  (21,473 in state schools + 353 in private schools + 363 in church schools)	21,498  (20,782 in state schools + 369 in private schools + 347 in church schools)









# A LESSON IN DISCRIMINATION

## SEGREGATION OF ROMANI CHILDREN IN PRIMARY EDUCATION IN SLOVAKIA

Romani children are systemically denied their rights to education and non-discrimination in primary education in Slovakia. They are segregated in Roma-only mainstream schools or classes, or special schools and classes for children with “mild mental disabilities”.

In April 2015, following continued criticism of the Slovak authorities' inaction from national and international bodies, the European Commission initiated infringement proceedings against Slovakia for breaching the prohibition of discrimination in education set out in the EU Race Equality Directive.

This report is based on a review of recent legislative changes intended to tackle the erroneous placement of Romani children in special schools, as well as qualitative case-studies of educational options for children in four locations in eastern Slovakia, indicative of widespread and systemic segregation and discrimination.

A year and a half on from the launch of the infringement proceedings, Slovak authorities continue to deny responsibility for Romani children's discrimination and segregation in primary education and are failing to adequately address them. In the longer term, the failure to enforce the 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.

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