

DISCRIMINATION OF THE ROMA IN THE EDUCATIONAL PROCESS



BREAKING THE WALL OF REJECTION AND SEGREGATION

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ANALYTICAL REPORT

SKOPJE, 2013



Institute for Human Rights

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LIST OF ABBREVIATIONS

| | |
|--------|--|
| IHR | Institute for Human Rights |
| REF | Roma Educational Fund |
| ECtHR | European Court of Human Rights |
| CoE | Council of Europe |
| ECRI | European Commission against Racism and Intolerance |
| ERRC | European Roma Rights Centre |
| MES | Ministry of Education and Science |
| MLSP | Ministry of Labour and Social Policy |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| UDHR | Universal Declaration of Human Rights |
| ECHR | European Convention on human rights and fundamental freedoms |
| SEI | State Education Inspectorate |
| MoH | Ministry of Health |
| RoP | Rules of Procedure |
| CEDAW | Committee on the Elimination of Discrimination against Women |

EXECUTIVE SUMMARY

This paper analyses the general situation concerning the primary and secondary education affecting the Roma students in Republic of Macedonia. The purpose is to achieve objective depicting of the existent problems, as well as the progress achieved in some areas concerning the education of this vulnerable group. The analysis makes reference to other reports, organizations and institutions that already presented data within the general topic in order to connect the valuable findings from the previously employed efforts. The legal aspect can be found in the listed laws and domestic, as well as international provisions. This is enriched with the latest developments in the case-law of the European Court of Human Rights, having the chance to deliberate in several occasions on the issue of segregation of Roma students. For the purpose of achieving relevant conclusions regarding the complete social, legal and policy background of the issues, the analyses brings into cases and examples from the interviewed parents and students. Their valuable contributions and their individual experience in very few sentences describe more than any existent report. Finally, the conclusions and recommendations focus on the biggest current concerns that need to be addressed and are attempting to direct the reader towards practical, direct and more effective solutions to some of those concerns.

Purpose and specific goals of the project

The Institute for Human Right was concerned with the many reports and information reaching the country, stating that the right to education without discrimination of the Roma population is severely threatened. In order to assess the situation in an overall, but at the same time detailed

manner, we approached the Roma Educational Fund (REF) Budapest to support this endeavor and accomplish the main goal of this research.

Researching the issue of discrimination of Roma in Macedonia and in particular the forms of segregation in the country's educational system was approached from several aspects. The many reports covering the situation with the Roma population in Macedonia were indicating that among the various aspects of discrimination, the education is a particular vulnerability in the treatment of this population. The alarming findings, which will be further elaborated, were sufficient instigation for our organization to undertake actions in order to research the matter of segregation in the education of Roma children.

The main activities involved teachers, parents, students and other interlocutors from six municipalities (the capital Skopje with the municipalities of Gjorce Petrov and Chair, the city of Bitola, Kumanovo, Shtip, Kichevo) who participated in our roundtables. They were given questionnaires in order for the IHR to find out the real issues in the area of the education of Roma children. They were also given opportunity to discuss their concerns and their own experiences.

This fact-finding mission had also its specific objectives, which included:

- Increasing the awareness among the local stakeholders regarding the anti-discrimination principle and the need for efficient desegregation policy in relation to education of Roma students.
- Increasing the awareness among Roma parents and students of their right to desegregated education without discrimination and the need to ensure their children's full participation in the compulsory primary education process.
- Identifying specific municipalities and primary schools within those municipalities where the segregation problem requests utmost attention. Other than that, our intention was to point out the specific issues existing in those areas and the reasons behind them.

This analytical report will address the identified shortcomings and provide for concrete recommendations aimed towards applying effective desegregation policies in the primary and secondary education country-wide. The manner in which the deficiencies and problems concerning

the education in the selected municipalities were outlined was through organizing round tables. The first group was composed of the national and local stakeholders (local authorities, teachers and directors of elementary and high schools, practitioners, local Ombudsman offices from the region and civil society). Each roundtable in the first part was visited by number of 25-40 participants. In total 186 participants attended the first session of the round tables and presented their opinion in the discussion, as well as through the given questionnaires. The second part of the sessions focused on informative sessions with the Roma children and their parents (supported and co-organized with local NGOs). During the second part of the roundtables the turn varied from 20-50 participants. In total 179 participants attended the second session of the roundtables and each participant filled-in two questionnaires during those sessions.

One of the main purposes of the second session was for the participants at this session to get the opportunity to be informed regarding their rights and obligations when it comes to education of the children belonging to the Roma community.

In addition to these sessions, we delivered questionnaires to the municipal governments, the central governmental institutions, as well as the schools. The targeted municipalities were delivered three questionnaires in different period of the project. Two requesting the number of students enrolled per school year and ethnic composition (particularly regarding the school classes' composition) and another regarding specific issues we have outlined and need to be addressed by the municipalities. The institutions were submitted questionnaire designed towards their area of responsibility again focusing on issues we have previously detected in regard to the subject of the analysis. In total 25 questionnaires were submitted to the targeted stakeholders.

The findings of this project and particularly the research led us towards several important conclusions. We noticed widespread prejudice among the general population towards the Roma. Furthermore the central government authorities as well as the school authorities tend to locate the responsibility with the parents when it comes to shortcomings in the education of the Romani students. The assessment shows that the quality of the laws is satisfactory, although minor amendments can be placed for a better legal protection. However the problem arises when implementation is needed, which applies as well to the policy strategies

designed by the authorities. The report includes many ECtHR¹ cases with similar background to the circumstances in the country, which represents indication that the country can be in breach of the Convention regarding segregation of Roma in the schools. The specific concerns from this analysis revolve around misplacement of Romani children in “special” schools, overrepresentation of Romani children in certain schools due to ghettoization, lack of understanding of the Macedonian language as primary language of command during the studies and the high drop-out rate among the Romani girls. Particularly concerning is the “white flight” phenomenon, which has been witnessed by many of our counterparts during the discussions.

Finally, we would like to acknowledge the state institutions, local NGOs and coordinators, teachers and other local authority representatives, as well as the students and their parents for the participation and contribution in this report. Particularly our partners: NGO Sumnal, NGO Dendo Vas, NGO Prerodba, NGO Bairska Svetlina, NGO NRC (National Roma Centrum) and the Association for protection of human rights Shtip.

¹ European Court of Human Rights.

I. INTRODUCTION TO THE ISSUE

We have all witnessed different forms of prejudice in our nearest surroundings. Many of those prejudices in the Macedonian society were and still are directed towards the Roma people. The wrong perceptions have been rooted for so long and spread so widely, that some of those are not any more perceived as prejudice, but a form of accepted “true” characteristic. Albeit wrongly, those perceptions affect people’s perspective regarding different groups of people. In such cases and occasions the school has large influence and responsibility, in eradicating such harmful and mostly false opinions. One parent from Roma origin told us that his son studies in a mixed class composed of children from different ethnicities. He personally witnessed how one of his son’s classmates (other ethnicity) was reproached by the grandmother not to socialize with the Roma classmates, particularly his son.

From the experience within the project implementation and discussions which were held, one can notice the detrimental effects of prejudice on the interpersonal relations. Such attitude among the general population creates more favorable grounds for discriminatory treatments, not only in the everyday life of the people, but also from the institutions, since the same people are part of those institutions and are involved in creating and implementing the policies.

SEGREGATION IN EDUCATION OF ROMA CHILDREN

If you look up the notion of discrimination in the dictionaries, you will find the following description: *unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, sex or other grounds.*²

People can rarely define discrimination or describe the aspects of that treatment, even though they personally felt it. Even in cases which concern the enrollment of students in special education, when the parents were asked if they consider the enrolment of their child in special education to be a form of discrimination, 19.8% of Romani parents confirmed and 76.4% stated that they do not know where to complain about discrimination.³

One helpful distinction is made through the division of direct and indirect discrimination.

Direct discrimination exists when person or group, found in the same or similar situation, are placed or could be placed in a more unfavorable position, by performing or not performing certain action. This treatment is due to some personal characteristic, which is already declared as basis that cannot be discriminated upon.

Indirect discrimination exists if a person or groups, due to their personal characteristics (ethnic or other) are being placed in more unfavorable position by neutrally formulated measure. This measure has a disproportionate prejudicial impact on a certain ethnic group, with the exception of the cases when such act or action or not undertaking any action is justified for achieving certain legitimate goal and the means to achieve that goal are necessary for the given situation.

Regardless of the forms that certain discriminatory treatment can have, the roots of such (unintentional) treatment can be found in the prejudice. Feeding prejudice, especially towards certain ethnic group, particularly a group which is economically and socially more vulnerable

² Oxford Dictionaries, web page <http://oxforddictionaries.com/definition/english/discrimination>.

³ Factsheet: Overrepresentation of Romani children in Special education in Macedonia (ERRC) <http://www.errc.org/cms/upload/file/macedonia-factsheet-education-en-30-august-2012.pdf>, 2012, p. 3.

creates a wall, mainly built from the other ethnic groups in the society. The problem is noticeable especially when the majority population starts treating these prejudices as a general truth, not providing for real favorable engagement of the marginalized groups in the social life. The European Court of Human Rights (ECtHR) has already dealt with cases where the negative stereotyping and prejudice is approached as a human rights issue.⁴

Different analyses have shown that the segregation in the case of Roma children in education can take several distinctive forms. Most of them can be classified in three different groups: **segregation between schools** (where the Roma children visit school where they are the majority), **segregation within schools** (when the Roma children are divided from the others in classes and other activities) and **segregation into special schools** (including schools with mentally disabilities).⁵

The possibility of having schools where the majority of the students are from one ethnic group, particularly the Roma community owes much to the segregated housing. This means that there is a form of ghettoization within different areas of the larger cities or the suburbs of the towns in the country. In Macedonia the responsibility to distribute the children adequately into different schools depends on the municipal authorities who are creating the plans depending on the place of residence of the children.

The second form of segregation, represented by the presence of both Roma and non-Roma students in the same school, is more subtle in its form and it is not that apparent in the beginning. Namely, it might happen that there are classes which are entirely of Roma students and the other classes are composed of students from other ethnic groups. One research locates these occurrences also in Macedonia among other countries such as Croatia, Turkey, Greece, Portugal, Serbia, Montenegro, Hungary etc.

The third form of segregation is located in the high presence of the Roma children in special schools. These special schools are established to assist children mostly with mental disabilities and children that are mentally challenged to understand and reproduce the school programs designed for the regular schooling system. The reasons for such large presence of the Roma children in these schools are mostly the result of

⁴ Aksu v. Turkey, application no. 4149/04 and 41029/04.

⁵ Human Rights of Roma and Travelers in Europe, Council of Europe, February 2012, p. 123.

the lack of understanding of the language of testing, culturally insensitive tests etc. It is fair to say that many parents place their children in these schools due to the opportunity to receive state support in case of having such child. The findings of the research conducted by the Institute for Human Rights in terms of this problem will be further elaborated.

The other forms of treatment which can be characterized as segregation will be further elaborated through our findings.

II. GENERAL ASSESSMENT OF THE SITUATION IN EDUCATION OF ROMA CHILDREN IN REPUBLIC OF MACEDONIA

According to data presented by the Council of Europe (CoE) in September 2010, the percentage of Roma population in the country is estimated up to 10% and the state official numbers regarding the Roma population⁶ are 1/4 from the CoE's average estimate. The last REF report rounds up the percentage of the Roma population in the country at six percent.⁷ The state organs of the country have reported 53.879 in 2002 and the CoE estimates the number at averagely 197.750. This situation has much to do with many Roma children not being registered when born as well as living in unregistered settlements.

According to the 2002 census from the population in the Republic of Macedonia older than 10 years, 63,562 or 3.6% are officially illiterate. There are 67,358 persons without education. It is considered that one out of ten Roma children complete their elementary education.⁸

The European Commission in its yearly progress report on Macedonia has devoted significant attention to issues concerning the minorities and in particular the Roma minority in the country. The persisting problems noted by this report are: widespread segregation in schools concerning ethnic or language minorities and the slow process of legislative changes aiming to address the overrepresentation of Roma children in special

⁶ Communication from the Commission to the European Parliament, the Council, the European economic and social Committee and the Committee of the regions, An EU Framework for National Roma Integration Strategies up to 2020, http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf, 2011, p. 17.

⁷ Roma Education Fund, Country Assessment Macedonia 2012, p.6, http://www.romaeducationfund.hu/sites/default/files/publications/ref_ca_2011_mac_english_screen.pdf

⁸ State Statistical Office Republic of Macedonia, <http://www.stat.gov.mk>.

schools. However, the detected issues concerning education have roots in the general living conditions of this community, many Roma children are not registered and most of them are either not fully vaccinated or not vaccinated at all. Furthermore there is a high unemployment rate, particularly for this community and problematic access to unemployment benefits. The Commission further notices that the institutions responsible for promoting the rights of Roma remain underfunded, posing a serious obstacle to the implementation of existing strategies.⁹ The report also focuses on one of the previously established successful projects such as the Roma Information Centers. There is a concern over their sustainability, in terms of their funding and functionality.

Nils Muiznieks, Council of Europe Commissioner for Human Rights issued very recently a report following his visit in Macedonia in which he underlines several issues concerning the education of the Roma community.¹⁰ He concludes that apart from having comprehensive policy framework for the improvement of the situation of Roma as a welcomed development, concrete results are still lacking on the ground. According to his assessment, Roma continue to face serious difficulties in access to quality education, employment, health care and housing, all of that stressed with poverty. One of the key problems pointed out in this report was the over-representation of Roma children in special-needs schools for children with mental disabilities and in special-needs classes within mainstream schools.

Another report emphasizing the same issue was the European Commission against Racism and Intolerance (ECRI) 2010 report concerning Macedonia. In that report, the authorities were urged to end any practice of improperly sending Roma children in schools for children with mental disabilities, to identify the children concerned and to reintegrate them in mainstream schools.

The Ombudsman also issued report on the special-needs schools. The European Roma Rights Centre (ERRC) carried out a survey in 2012 where the same problem was assessed in details. Related to that, concerns have been made as well regarding the insufficient knowledge of the Macedonian

⁹ Commission staff working document, the Former Yugoslav Republic of Macedonia 2012 Progress Report (COM(2012) 600 final) p. 55.

¹⁰ Report by Nils Muiznieks, Council of Europe Commissioner for Human Rights, following his visit to “the former Yugoslav Republic of Macedonia”, from 26 to 29 November 2012, [https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH\(2013\)4&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH(2013)4&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

language by Roma children at the time of entrance into the first grade of primary school, which places them in a disadvantaged position and brings consequences to their interest in school. This problem is interrelated to the lack of opportunities for Roma children to attend pre-schools. At the same time according to the Ombudsman's reports, extremely high number of the street children is from the Roma population (95%).

In order to address the persistent problems concerning the Roma community, the European Commission has drafted Framework for National Roma Integration Strategies until 2020, which should reach all Member States and naturally should be seriously taken into consideration by candidate countries and other accession states. In the area of education, the countries should ensure that all Roma children complete at least primary school. According to their findings children who miss out on schooling, enter late into the school system, or leave too early, subsequently experience significant difficulties, ranging from illiteracy, language problems to feelings of exclusion. This results in harder adaptation to further education or a good job. Having no job or chances for a job creates the vicious circle of poverty affecting the next generations in their persistence to pursue education.

Positive changes

Among the various findings from the reporting, some positive changes have been noted as well. The Ministry of Education and Science (MES) undertook actions to promote access to education for the communities, through the development of relevant textbooks and manuals. The country has been complimented for engaging in the Roma Decade, as well as taking part in the new Joint Project of the European Union and the Council of Europe entitled "Regional Support for Inclusive Education". Several strategies concerning the education of Roma children have been adopted, among which the strategy on social inclusion of Roma 2012-2014 and especially the MES's strategy on integrated education. The Centers for Social Work were equipped with a new database and case management system to improve the quality of social services delivered to vulnerable children. The Ministry of Labour and Social Policy (MLSP) started activities to ensure registration of children without documents. The same reports inform that steps were taken to address the problems of persons without documents, access to housing or education.

The representative from MES, during the discussions at the round-table in Skopje-Chair presented some of the positive changes in the country,

such as: the joint project of the MLSP and the REF, where 500 children in pre-school level are supported to attend the pre-school facilities, the attendance of Roma children in first grade of primary school according to his data has been increased for 7%, the primary school attendance in general was increased for 23% and the secondary school for 57%. Some changes were made to increase the attendance and incentivise the children for the elective subject *Roma language and culture*. The existent strategies however face budgetary restrictions and the financial support for Roma programs was maintained at the 2009 and 2011 level.

Some of the positive measures aimed at promoting the inclusion of Roma in mainstream education have borne results, such as a reduction of the drop-out rate between fifth and sixth grade among girls and the doubling of Roma enrolment in public universities in the past seven years (from 150 in 2005 to 300 in 2012). Apart from the quota system which has been in place in universities for several years, the measures have included: an exemption from payment of administrative tax for immunization certificates, which are required for school enrolment; the provision of free textbooks and school transportation to Roma children attending primary and secondary schools; scholarships for Roma secondary school students; and the reduction of the average mark required of Roma children in order to enroll in the secondary school of their choice by 10%.

However, some of these promoted efforts by the authorities are not entirely functional and consistent. For example, we were informed that in Kumanovo, the school transportation of the Roma children which should be organized by the local authorities is actually organized by one local NGO.

From the round-table held in Skopje-Gjorce Petrov we received positive experience examples presented by one school teacher and one director from two different schools. Both of them stated that the teachers are personally engaged in visiting the houses of the Roma families and trying to instigate the parents to enroll the children in school. The necessity of such pro-active approach is a result from the fact that there are children in their area that are not listed from the Ministry of Internal Affairs, since these children were most probably not registered at birth. We were also informed that they try to provide free meal at school for the children that cannot afford such meal. Usually the meals that the children at school get are paid on private basis. The school director stated that in the process of enrollment of the students in the first grade, the school uses non-verbal and culture free tests. She also presented their projects

directed at conflict resolution and multi-cultural education, especially with a purpose of breaching the gaps created by prejudice.

REF discusses the improvements in the multi-cultural education from the perspective of policies and programs. At the central level this include the establishment of the Directorate for the Development and Promotion of Education in the Languages of the Communities within the MES, the adoption of a curriculum for teaching Romani language and culture in primary education, developing training programs aimed at teachers and school directors and for Romani parents for the explicit purpose of supporting Romani pupils and students in the education process, etc.¹¹

¹¹ Roma Education Fund, Country Assessment Macedonia, p. 22, see footnote 6.

III. HUMAN RIGHTS STANDARDS CONCERNING EDUCATION OF ROMA

Importance of the Right to Education (International Standards)

The right to education as common necessity and advancement of all human beings has been covered and acknowledged by many international documents. Some of those documents focus generally on the rights of the people and some of them focus specifically on the right to education and/or minority rights, as well as covering the prohibition of discrimination. The following international documents which will be presented are already signed and/or ratified by Republic of Macedonia and hence oblige the country to abide by these international rules. Not all international documents focusing on the issues of minority protection, education and discrimination are covered with the analysis, taking into consideration the vast international legal framework covering these areas.

One of the oldest documents, the *Universal Declaration of Human Rights (UDHR)* declares the following within its *Article 26*: “(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages... (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups... (3) Parents have a prior right to choose the kind of education that shall be given to their children.”

The *Article 27 of the International Covenant on Civil and Political Rights (ICCPR)* gives emphasis and protection of the rights and respect of minorities, whereas the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* protects and guarantees education within its article

10, 13 and 14. In the ICESCR the right to education has been guaranteed with the following text: "The widest possible protection and assistance should be accorded to the family... while it is responsible for the care and education of dependent children... The States Parties to the present Covenant recognize the right of everyone to education... They further agree that education shall enable all persons to participate effectively in a free society... Primary education shall be compulsory and available free to all... Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;... Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education..."

Article 30 of the Convention on the Rights of the Child, states that: "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, ...or to use his or her own language."

Article 5 of the UNESCO Convention Against Discrimination in Education entails similar text as in UDHR and the ICCPR. *Article 4 paragraph 4 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* also gives similar protection in this area.

The Paragraphs 34 and 35 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE include that the participating States will endeavor to ensure that persons belonging to national minorities will have the opportunity to learn on their mother tongue. Additionally the effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities is being included in the protection from these provisions.

Articles 5, 6, 12, 13, 14 and 15 of the Framework Convention for the Protection of National Minorities cover several segments regarding the protection of the national minorities, *emphasis given on the undertaking to promote equal opportunities in the access to education at all levels for the persons belonging to national minorities*. Other documents of importance to this issue are: The Council of Europe European Charter for Regional or Minority Languages, the thematic commentaries of the Advisory Committee on Education, the Compilation of Advisory Committee on the Framework Convention Opinions

on Articles 12, 13 and 142 and the OSCE-High Commissioner on National Minorities' The Hague Recommendations Regarding the Education Rights of National Minorities and the Lund Recommendations on the Effective Participation of National Minorities in Public Life.

Specifically concerning Republic of Macedonia, the *Ohrid Framework Agreement (OFA)* has brought about novelties in the legislation, foreseeing wide range of measures which were meant to provide for better integration of all minorities in the country.

The European Convention on Human Rights (ECHR) together with the European Court of Human Rights (ECtHR) is considered to be the most efficient mechanism in protection of the rights enclosed within the Convention. The cases concerning discrimination or segregation in the education of the Roma population are usually based on the Article 14 from the ECHR (prohibition of discrimination) in conjunction with Article 2 from Protocol 1 (right to education). The text of the Convention concerning the prohibition of discrimination states that: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." The protection of the right to education is phrased with the following text: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".

ECHR standards and case-law

In the outline of the international standards protecting vulnerable groups we declared the ECHR and its mechanism the ECtHR as the most significant international protection of violated human rights. Our claim is supported by the cases which we will outline in the following paragraphs.

The ground-breaking case related to this issue is the case of **D.H. and Others v. the Czech Republic**¹² which concerns 18 Czech nationals of Roma origin, who claimed that they were placed in special schools because

¹² Case of D.H. and others v. The Czech Republic, *Application* no. 57325/00 , 13 November 2007.

of their origins. They were placed in these schools following conducted tests by the authorities. The case file shows that the applicants' parents had consented and/ or expressly requested their children's placement in a special school. The Education Authority that had the chance to revise the decisions found them to be in compliance with the legislation.

The applicants have required from the Court to bring a ruling in which the Government would be found responsible for the violation of article 14 (the right not to be discriminated) in conjunction with article 2 of Protocol 1 (right to education). They submitted that by being placed in special schools they had been treated less favourably than non-Roma children in a comparable situation and that this amounted to "indirect" discrimination. One of their main arguments was that for that treatment the Government has not provided for objective and reasonable justification. They had produced statistical evidence based on information supplied by the head teachers showing that more than half the pupils placed in the local special schools were Roma children, whereas Roma children accounted for only 2.26% of the city's primary school children.

Firstly, The Grand Chamber noted that as a result of their turbulent history the Roma had become a specific type of vulnerable minority and they should be provided with special protection, including and especially in the field of education. Since there were no official national statistics on pupils' ethnic origin, it was stated by the Court that the statistics submitted by the applicants might not be entirely reliable. However, the Court also accepted that these statistics reveal a dominant trend that had been confirmed by the respondent State and by independent supervisory bodies. These are the main reasons why the evidence submitted by the applicants could be regarded as sufficiently reliable and significant to confirm strong presumption of indirect discrimination. The Court also stated that the burden of proof lay with the Government to show that the difference in the impact of the legislation was the result of objective factors unrelated to ethnic origin. Additionally it was particularly mentioned that it was not necessary for the applicant to prove any discriminatory intent on the part of the relevant authorities.

The Court did not question the Czech authorities' decision and motivation to maintain the special-school system. However, it pointed out that various independent bodies of the Council of Europe (the Advisory Committee on the Framework Convention for the Protection of National Minorities, ECRI and the Commissioner for Human Rights) had expressed doubts over the appropriateness of the tests used for assessing the children.

The tests evaluating the children's intellectual capacities were the same for all the children, irrespective of their ethnic origin. Even in 1999 the Czech authorities acknowledged that "Romany children with average or above-average intellect" were often placed in such schools on the basis of the psychological tests results and in particular that the tests did not take Roma specifics into consideration.

Important aspect of the case is the parental consent, which according to the Government is one of the decisive factors if not the prevailing factor. The Court was not satisfied that the parents of the Roma children, members of a disadvantaged community and often poorly educated, were capable to decide on all the aspects and the consequences of giving consent for their children to be placed in special schools. In the view of the Grand Chamber no waiver of the right not to be subjected to racial discrimination could be accepted under the Convention.

In conclusion, the schooling arrangements for Roma children were not attended by safeguards that would ensure that their special needs as members of a disadvantaged class were taken into consideration. Placing these children in schools for children with mental disabilities where a more basic curriculum was introduced compared to ordinary schools left them isolated from pupils from the wider population. As a result, they received an education which compromised their future personal development instead of resolving their real problems or helping them to develop the skills that would facilitate their life among the majority population. In these circumstances the Court was not satisfied that the difference in treatment between Roma children and non-Roma children was objectively and reasonably justified and that there existed a reasonable relationship of proportionality between the means used and the aim pursued.

This decision was ground-breaking since the Court for the first time found a violation of Article 14 of the Convention in relation to a pattern of racial discrimination in a particular sphere of public life, in this case, public primary schools. Further on, it was confirmed with a court judgment that *segregation is or amounts to discrimination*. The judgment clearly indicates that *equal access to education for Roma is a persistent problem throughout Europe*.

The second case which is relevant for this report is the case of *Sampanis and others v. Greece*.¹⁵ The 11 applicants (Greek nationals of Roma origin) brought the case out of concern that the authorities' failed

¹⁵ *Sampanis and others v. Greece*, Application no. 32526/05, 05 June 2008

to provide schooling for their children during the 2004-2005 school year. The authorities subsequently placed their children in special classes, in an annexe to the main Aspropyrgos primary school building, which they considered as a measure related to the Roma origin of their children.

On 21 September 2004 the applicants visited, with other Roma parents, the premises of the, Aspropyrgos primary schools in order to enrol their children. The head teachers of two schools refused to enrol the applicants' children explaining that they did not receive instructions from the competent ministry. The parents claimed that they were never invited to enrol their children.

In this case similarly to the case of DH, the applicants complained that their children had been subjected to less favorable treatment than the non-Roma children in a comparable situation and this constituted a violation of Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 1 (right to education). Their main argument was that for such measures the authorities did not present to the applicants any objective or reasonable justification.

According to the Court, although the applicants never received explicit refusal by the school authorities, the approach taken in this case is again from the perspective of the Roma community's vulnerability and considering that Article 14 requires in certain circumstances a difference of treatment in order to correct inequality. Therefore, the competent authorities should have recognised the sensitivity of the case and facilitate the enrolment of the Roma children, even in cases of lack of administrative documents or conditions not being entirely fulfilled. Moreover, the Court established that the applicants were not able to assess all the aspects of the situation and the consequences of their consent to the transfer of their children to a separate building. The conclusion was that the placement in special preparatory classes of these children resulted in discrimination against them and constituted a violation of Article 14 of the Convention taken together with Article 2 of Protocol No. 1.

The following and also highly important case regarding this topic is the case of *Orsus and Others v. Croatia*¹⁴, concerning segregation of the Roma children. The Court found that the separate education of many Roma children in several Croatian towns (in one school most Roma were put in separate classes, in another most were put in mixed classes), violated the

¹⁴ *Orsus and Others v. Croatia*, Application no. 15766/03, 16 March 2010

prohibition of discrimination taken together with the right to education. The main reason for such decision was the fact that justification based on the language deficiencies of the Roma children could not stand and further and more importantly this was not accompanied by sufficient safeguards.

In this case, fifteen applicants described their stories and experiences in the primary school system in the area where they lived. The applicants attended Roma only classes since they tested poorly on the test for knowledge of Croatian language. The existent Roma-only curriculum was significantly reduced in volume and content compared to the official national curriculum. They also submitted a psychological study which reported that such segregated education produces emotional and psychological harm in Roma children, affecting their self-esteem and development of identity.

In addition to the lack of clear legal basis for placing children lacking adequate command of the Croatian language in separate classes, the Government did not present that such practice was ever applied regarding other pupils with insufficient knowledge of Croatian in any other part of the country. Such practice could therefore hardly have been regarded as common or general practice designed to address the problems of children who lacked adequate command of the language of instruction. In the Court's view, instead of simply reducing the curriculum in Roma-only classes, the State was called upon to adopt appropriate positive measures with a view to assisting the applicants in acquiring the necessary language skills in the shortest time possible. The Court further noted that there wasn't any designed program for addressing the needs of Roma children with insufficient command of the Croatian language which includes particularly assessed time-frame.

Emphasizing the role and responsibility of the Government for positive measures, the Court considered that they were necessary in areas of high drop-out rate of Roma pupils and in addition to that, active involvement of the social services with the purpose of raising awareness of the importance of education among the Roma population. Similarly as in DH, the facts of the applicants' case indicated that their schooling arrangements were not sufficiently accompanied by safeguards that would ensure that the State had paid attention to their special needs as members of a disadvantaged group.¹⁵

¹⁵ Antoine Buyse, Roma Education Grand Chamber Judgment in Orsus, 16 March 2010 <http://echrblog.blogspot.com/2010/03/roma-education-grand-chamber-judgment.html>

The latest Roma school segregation case *Horváth and Kiss v. Hungary*¹⁶, concerns two young Roma men, who were diagnosed as having mild mental disabilities when they were children. As a result of these diagnoses, they were placed in a remedial school. Their education there was poor: the curriculum was underdeveloped, their schooling did not give them access to the type of job they wanted, and they ended up *de facto* segregated from the wider population. In this case as well the applicants claim violation of the prohibition of discrimination related to the right to education. The same as in the case of *DH* and the case of *Orsus*, this case concerns indirect discrimination, where the Court was considering whether and to what extent *special safeguards were applied which would prevent misdiagnosis so that the children do not end up in the wrong classes with a curricula that can damage their entire future educational process. The Government itself had acknowledged that the tests, which were the same for Roma children as for children from the ethnic majority, were partly culturally biased* (par. 120).

The Court concluded that: “As a consequence, the applicants received an education which did not offer the necessary guarantees stemming from the positive obligations of the State to undo a history of racial segregation in special schools. The education provided might have compounded their difficulties and compromised their subsequent personal development instead of helping them to integrate into the ordinary schools and develop the skills that would facilitate life among the majority population.” The Court further notes that: “...a general policy or measure exerted a disproportionately prejudicial effect on the Roma, a particularly vulnerable group.”

The major novelty of this judgment lies in the Court’s reasoning about positive obligations. For the first time that the Court has talked of “*the positive obligations of the State to undo a history of racial segregation in special schools*” (par. 127). In *Oršuš*, for example, the Court spoke of the obligation to put in place “safeguards that would ensure that . . .the State had sufficient regard to [Roma children’s] special needs as members of a disadvantaged group” (*Oršuš*, par. 183). In the present case, the Court goes a step further by insisting on a *substantive* positive obligation, namely to “*undo a history of racial segregation in special schools*”.¹⁷

¹⁶ *Horváth and Kiss v. Hungary*, Application no. 45407/05, 29 January 2013.

¹⁷ Alexandra Timmer, *Horváth and Kiss v. Hungary: a strong new Roma school segregation case*, 6 February, 2013. <http://strasbourgobservers.com/2013/02/06/horvath-and-kiss-v-hungary-a-strong-new-roma-school-segregation-case/>

Finally, in all these cases, several common elements can be underlined. The Court accepts that the Governments which were found responsible for the aforementioned violations undertook actions to change or improve the situation in the education of the Roma children. However, the fact that appropriate safeguards and controls were not implemented and functional within the entire educational system makes the undertaken actions insufficient for amending the existent problems. Those problems were already reported for years, not only for the countries concerned in these cases (Czech Republic, Greece, Croatia and Hungary), but also many other European countries. The various international bodies and reports for all the Government found responsible were already for several years warning on the existent problems and alarming the Government, before the Court had the chance to deliver judgments in such cases.

The justification that the parents should be responsible and were informed or in some cases even gave consent for their children to attend those schools does not absolve the government from its responsibility. Even more since the parents of these children are also mostly with low level of education or illiterate, which according to the many findings live in marginalized society and have limited level of awareness in order to reach the right decision for their children.

IV. NATIONAL FRAMEWORK REGULATING THE RIGHT TO EDUCATION OF ROMA STUDENTS

1. LEGISLATIVE FRAMEWORK

The Constitution of the Republic of Macedonia¹⁸ sets in its article 9 that the citizens of the country are equal in their freedoms and rights, regardless of the color of their skin, national and social origin, social status etc. Furthermore, it has been set out in article 44 that: “Everyone has a right to education. Education is accessible to everyone under equal conditions. Primary education is compulsory and free.” According to Amendment VIII: “Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied.”

The Law on Primary education¹⁹ guarantees the right to primary education to every child with article 2 and particularly explicitly forbids the discrimination within its paragraph 2. It should be kept in mind that article 46 para. 2 prescribes that the parent should submit the vaccination chart for the child when enrolling the child in first grade. This requirement can be impediment in cases when the authorities are not engaged in assisting the vulnerable communities in fulfilling this condition.

The same law arranges the issue of enrolment of students with special educational needs with Article 51 (2) determining that the Minister upon

¹⁸ Constitution of the Republic of Macedonia, <http://www.ustavensud.mk/domino/WEBSUD.nsf>

¹⁹ Law on Primary Education (“Official Gazette of Rep. of Macedonia” No. 103/08 from 19.08.2008, 33/10, 116/10, 156/10, 18/11, 51/11, 6/12)

proposal from the Bureau for development of the education arranges the manner and conditions of such enrolment. The Rulebook on the criteria and methods for implementation of the primary education for students with development difficulties²⁰, based upon the rights and obligations provided for in the Law on primary education regulates in details the process and system of specialized education of the students.

In addition to the Law on primary education, the Law on secondary education²¹ prohibits explicitly discrimination within its article 3.

For the purpose of assessment and supervising the proper fulfillment of the educational processes in the country, article 8 of the Law on Educational Inspection delegates such competence to the State Education Inspectorate (SEI). The inspectors within this Inspectorate supervise the fulfillment of educational standards, the quality of education, the effectiveness of the work of educational institutions, as well as the enforcement of laws, other regulations and general acts in the field of education. In addition to that, according to article 10 from the same law, the mayor of the municipality can authorize person from the municipal administration to do the educational inspection. The inspector supervises the legality of the undertakings related to the education under competence of the municipality, in particular the enrolment of students in the schools and especially in accordance with the distribution of schools according to municipal areas. The document titled "Indicators for the quality of the work of schools" issued by the SEI in 2009 includes a list of quality indicators relating to the work of schools, the acceptance and respect for multiculturalism.

One particular problem already detected by REF regarding the fact that the legislation creates form of a gap for children seeking to enroll in school for the first time between the ages of ten and 14. The Law on Primary Education allows for the children to enroll in primary schools until the age of nine and the 2008 Law on Adult Education sets the minimum age for participation in adult education at fifteen. Therefore, the laws are creating a situation in which the children, older than nine and younger than 15 officially cannot enroll in formal education, since the law forbids such actions by the authorities. It has been concluded that the absence

²⁰ Rulebook on the criteria and method for implementation of the primary education for students with development difficulties ("Official Gazette of Rep. of Macedonia" No. 27/96 from 05.06.1996).

²¹ Law on secondary education, *Official Gazette* of the Republic of Macedonia, no. 55/2005.

of a systemic solution leaves enrolment decisions to the good will of the individual schools. This gap particularly affects Romani children, which often move together with their families in Western Europe and upon their return in the country, cannot continue their education.²²

Mechanisms for judicial protection and quasi-judicial protection

The country's Constitutional Court has the competence under article 110 to: "protect the freedoms and rights of the individual and citizen relating to ... prohibition of discrimination among citizens on the ground of sex, race, religion or national, social or political affiliation".

The Rules of Procedure (RoP) of the Constitutional Court with Article 51 allow for any citizen to request protection (under art.110 para 3) in the timeframe of 2 months from the day of delivery of a final legally enforced individual act or from the date the citizen became aware of the activity which violates his right, but no longer than 5 years from the date of the undertaking. If the court finds a violation of the invoked right, according to Article 56, it has the power to annul the individual act, prohibit the action causing the infringement or refuse the request. The court has the power to impose temporary measures, such as passing a resolution for ending the execution of the individual act or action until adopting final decision. However, this legal remedy is rarely used in practice, since the Constitutional Court is reluctant to accept claims under art.110 para.3. There have been debates over the effectiveness of this legal remedy and possible legal changes that would allow for the provisions from the RoP to reach the status of law. This would formally satisfy the condition for the Constitutional Court to annul the individual act or prohibit the action causing the infringement.

Within the regular court procedures one of the effective legal measures is the one provided under the Criminal Code in article 137, named **Injury to the equality of citizens**. This legal provision states that the person which is convicted of such act can be punished with imprisonment of three months to five years. The legal entities are subject to fine punishment.

Apart from the regular criminal court procedures, as well as the **civil** and **administrative** disputes and after exhausting all available effective

²² Roma Education Fund, Country Assessment Macedonia p. 27, see footnote 6 and 10.

domestic remedies, the citizens can always file application to the European Court of Human Rights. It will be further explained the cases in which the right to education of the Roma students were violated by the respective governments.

The possibility for the citizens to submit complaint to the Ombudsman's office as independent body is valuable for determining the background and circumstances of the case, as well as additional facts and figures that can be useful in the regular court proceedings or possible complaints to international mechanisms. Article 2 of the Law on the Ombudsman determines this institution to be a body that shall protect the constitutional and legal rights of citizens and all other persons when these are infringed by acts, actions and omissions by the state administration bodies or any entity with public authority. The Ombudsman shall undertake actions and measures for protection of the principle of non-discrimination and adequate and equitable representation of community members in the state administration bodies, the local self-government units and the public institutions and agencies. Article 13 describes the procedure for protection of the constitutional and legal rights of citizens before the Ombudsman which is initiated with a submission. According to the same article anyone may put forward a submission to the Ombudsman when he assesses that his constitutional and legal freedoms and rights have been infringed or when the principal of non-discrimination and adequate and equitable representation of community members in the bodies set out in Article 2 of this Law has been breached. The Ombudsman may initiate a procedure on his own initiative if he assesses that the constitutional and legal rights of citizens, stipulated in Article 2 of this Law, have been infringed. Article 29 gives the right and competence of the Ombudsman to follow the situation regarding the respect and protection of the constitutional and legal rights of citizens and respect of the principles of non-discrimination and adequate and equitable representation of community members and by means of visits and insights into the bodies set out in Article 2 of this Law. With article 34-a of this law, fine charges are determined if the official will not act in accordance with the articles 31-b and 34-a, in fact that are not acting in accordance with the recommendations of the Ombudsman.²⁵

One of the recent laws which was brought in Macedonia and concerns directly the issue of discrimination is the Law on Prevention and Protection

²⁵ *Law on the Ombudsman (Official Gazette of RM No. 60/03)*

against Discrimination.²⁴ The IHR has already published one short analysis pointing out the concerns deriving from the text of this law.²⁵ We have established lack of clarity and confusion in some legal provisions, which in some sense make these provisions unfit for implementation. As an example, the forms of discrimination from art. 6, 7, 8, 9, 10, 11 and 12 are identified as basis for discrimination. The text itself in addition to the working conditions, the time and manner of functioning, insufficient staffing of the *Commission for protection from discrimination* are not grounding solid basis for professional functioning of the Commission. Regarding the implementation it is not clear whether the unsatisfied party can react upon the recommendations from the Commission. It is further noted that there is no fine for ignoring the recommendation from the Commission. Only determining discrimination does not necessarily make this sufficient to remedy the created violation. In addition, the court is not obliged to wait for the decision of the Commission. On the contrary, the Commission acts upon the initiative in case there is no procedure at the court for the same matter (art. 26 para. 1). The biggest concern is the role of the Commission from a perspective of efficiency and effectiveness in this system for protection from discrimination. The main confusion in this system is created by the fact that apart from the relatively new law and the competences of the Commission, there are different court procedures such as the criminal, the civil, the administrative and eventually the constitutional court procedure, which are applicable at the same time.

Additional body established within the country with the focus on minority communities is the Agency for Minority Rights Realization following the Law brought on 17 July 2008. The Agency is established with the purpose of assisting in better integration of the communities in the country, which are less than 20% within the general population. Among the rights under its competence is the right of the minorities to study in their own language, as well as the education of the minorities in general. The work of the Agency is funded by the State budget and the main responsibilities of the Agency are revolving around supervision, analysis, cooperation with other state organs etc. One of the benefits of having such Agency can be seen in their reports and analysis regarding

²⁴ Law on Prevention and Protection against Discrimination, *Official Gazette* of the Republic of Macedonia. No. 170/2010

²⁵ Institute for Human Rights, Analysis of the implementation of the Law on prevention and protection from discrimination, http://www.ihr.org.mk/images/pub/IHR-brosura_web_diskriminacija.pdf

the rights the Agency promotes, especially since these reports are being produced by independent state body.

2. POLICY FRAMEWORK

The policy framework concerning this issue is defined and marked by several crucial documents. We have selected the following as relevant to the topic of the report.

Being part of the Roma Decade as participating country, Republic of Macedonia has drafted the strategy of its inclusion in the Decade of Roma 2005-2015. These documents have been followed with the Strategy on social inclusion of Roma 2012-2014 and Action Plan drafted by the MLSP. The issue of discrimination has been covered with the National strategy on equality and non-discrimination and the strategic action plan for 2012-2015 of the Commission for Protection from Discrimination, as well as the 2010 Strategy for Integrated Education in co-operation with the OSCE High Commissioner for National Minorities. Macedonia is also part of the “Regional support for inclusive education” joint project of European Union and Council of Europe.

Within the Strategy on social inclusion of Roma 2012-2014 and Action Plan, the Government itself refers to the findings of the 2009 EC Country Report in which for the education of the Roma children has been stated that: “The number of Roma children attending school was still low and the drop-out rate high. *Segregation of Roma pupils was still practiced.* The practice of sending Roma children with learning difficulties to special institutions for mentally disabled children continued. The number of Roma street children is growing. Many Roma children, rural girls and children with disabilities still do not complete their education.” The strategy further accepts the reality of the Roma population, pointing out the high rate of unemployment, unfit living conditions and other preconditions that affect negatively on the attendance and performance of children in the educational system. It has been further pointed out that the budget funds allocated for implementation of the planned activities for 2010 is around 466,000 euros. The strategy however does not include fixed amount or percentage of the budget allocated for the next years for which the strategy has been drafted. This leaves the actions planned within the strategy to depend on

the budget that the Parliament will adopt year by year, making the long term planning unstable.

In addition to this strategy, 8 municipalities have developed local action plans for improving the situation of Roma: Suto Orizari (employment and housing local action plans); Tetovo, Gostivar, Bitola and Prilep (employment); Kumanovo, Stip and Delchevo (education, employment, health and housing). Furthermore, 19 municipalities have signed the Memorandum for Understanding with the Government to jointly implement the Roma Strategy: Aracinovo, Berovo, Bitola, Chair, Debar, Delcevo, Kicevo, Kocani, Kratovo, Kriva Palanka, Kumanovo, Pehcevo, Prilep, Staro Nagorichane, Stip, Sveti Nikole, Tetovo, Veles, Vinica. Three of these municipalities were included with this project on segregation in the education, conducted by IHR and all municipalities answered that they haven't yet produced operational and action plans regarding the integrated education, which also should focus on the Roma students. The logical question arises in which sense these 19 municipalities were involved in the national Roma Strategy.

The country for its Presidency within the Decade for Roma Inclusion 2005–2015 has drafted Program which selects the early childhood education of Roma as one of its priority areas. The Presidency started in June 2011 and lasted for one year. The program itself is well written and focuses on the necessary aspect which needs the Governments attention. However, the reports and external evaluation of what has been done until 2010 were highly critical.

Within the assessment of the policies and strategies under the country's commitments within the Roma Decade, one report criticizes the dysfunctional communication of the state institutions when undertaking mutual projects. According to this report, the misunderstandings occurred mainly because of weak communication and co-ordination between involved ministries and insufficiently clear division of responsibilities and mandates. Hence, it can be concluded that the division of roles and responsibilities within the system is a highly important element for the practical application of public policies. According to the same report the financial resources for the implementation of Roma policy in the State budget amounted to an average of 0.009% of the total State budget from 2005 to 2010.

The 2010 Decade Watch monitoring report presents quantitative data on the relationship between planned and achieved measures in Macedonia and other countries. It is reported that only 7 activities have been fully completed according to the Decade Action Plan and only 8% of the Action Plans of the Decade have been implemented.²⁶

The 2010 Strategy for Integrated Education includes policy measures which are divided in five thematic strands. The strands touch on the issues of joint curricular and extra-curricular activities, language acquisition, the complex of curricula and textbooks and teacher training as well as questions of democratic school governance in a decentralized environment.²⁷ The strategy is aimed at raising the overall quality of education, promoting the learning of each other's languages and increasing inter-ethnic interaction between pupils. When the authorities reported to the Advisory Committee on the Framework Convention for the Protection of National Minorities (AC FCNM) in 2011, it was stated that several actions were being taken in pursuance of this strategy, including the review of school textbooks, improving teachers' qualifications, as well as the promotion of integration of pupils through joint activities.

The National strategy on equality and non-discrimination and the strategic action plan for 2012-2015 of the Commission for Protection from Discrimination has been prepared in cooperation with the OSCE Mission in Skopje. The general and specific goals of this strategy focusing on the ethnic issues in the country outline the following: improving the legal framework concerning the equal opportunities and the principle of non-discrimination, strengthening the capacities of the institutions and other mechanisms involved in prevention and protection from discrimination, raising the public awareness for detecting the forms of discrimination present in the society, etc. The strategy also places a focus on the Roma population pointing out that as part of the non-majority community with representation under 20% in the society, this community should be paid particular attention and access to services. This strategy includes many goals which are well-noted and applicable to the reality concerning the minorities

²⁶ Initiative for Social Change – InSoC, MK DECADE WATCH 2010: ROMA ACTIVISTS ASSESS THE PROGRESS OF THE DECADE FOR ROMA INCLUSION 2005-2015, September 2010 http://www.romadecade.org/cms/upload/file/9317_file4_decade-watch_2010_macedonia_en.pdf, p.89

²⁷ Steps Towards Integrated Education in the Education System of the Republic of Macedonia, Ministry of Education and Science of the Republic of Macedonia, http://www.ucimezaedno.mk/Documents/Strategy_IE_English.pdf

and the Roma population in particular. The main practical issue is that the Strategy does not include budget plan or give concrete assessment of the necessary funds for these goals to be achieved within the time-frame for which the Strategy is produced. Goals such as raising awareness of the population or institutional capacity building need budgetary commitment from the authorities. From practical perspective the strategies very often remain a simple well-written plan and plain promise.

The National Strategy for the Development of Education 2005–2015 identifies the reinforcement of ethnic and cultural co-operation and stresses that integration should start at pre-school age and urges for more attention to curricula and textbooks. It also argues in favor of finding common denominators among ethnic groups in order to increase internal cohesion.

V. DETECTED PROBLEMS

The primary education in Republic of Macedonia is organized in three cycles, each taking three years. The system in the first years of primary school is structured in the way that the assessment of the pupils' performance is descriptive and the numerical assessment begins in the fourth grade. This is the reason why in the first years of education the students cannot actually fail the school year leading to their advancement to the next grade without having developed the necessary level of knowledge and skills, leading in turn to frustrations and drop-outs in the upper cycles of primary education and even having illiterate students in the later years. This approach apart from having the intention of keeping the children in the school, affects with only postponing the dealings with the problems that the students have regarding their handling of the program. Regarding the secondary education, the students enroll on the basis of their performance in primary education and it has been mandatory according to the laws, since the 2008–2009 school year.

1. GENERAL LIVING CONDITIONS

This chapter of the analysis focuses on the issues and pressing problems existing in the Roma community which directly or indirectly influence the process of education of the Roma children and youth.

As mentioned in the introduction of the analysis, within the project we managed to visit six cities, covering the capital Skopje on two locations, Kichevo, Kumanovo, Bitola and Stip. In all these cities almost unanimously the Roma parents stated that their poor economic status places them and their children in a disadvantaged position. Plainly stated, the fact that many parents do not have money so that their children would buy

something to eat at school is obviously influencing their motivation and willingness to go to school. In support to those statements are the official statistical data from 2010 indicating that Roma account for 5.2 percent of all unemployed persons. Many teachers during the sessions complained that the parents are not cooperative and not eager to send the children to school. However, those same teachers stated in several accounts that they see these children coming to school underfed and sleep deprived. This happens particularly in the winter season, during the time when the temperatures are low and some families do not have proper heating or do not have heating at all. It has happened many times that the children are falling asleep during the classes or are simply not capable to sit through 6 or 7 classes in that condition. The teachers told us that many of the children do not have the appropriate clothing and shoes, particularly in the winter season, in order to be able to reach the school. These problems were emphasized in Kichevo and Bitola, although in the other locations the situation was not much different.

These statements are corroborated by one research conducted by the ERRC presenting that families are living in sub-standard housing without proper access to services. Overcrowding is the main issue, where, for instance, 69% live in accommodation with less than 10m² per family member. 50-year-old Romani woman reported that there were 12 family members living in a house of 23m² without a wood stove. The family do not have beds and have to sleep on the floor.²⁸ The same issue has been elaborated in one analysis done by REF where they report on Romani families living in substandard housing conditions in segregated settlements, with approximately 29.5 percent living in dilapidated and montage houses, and 7.25 percent live in improvised houses built from non-construction materials (for example, cardboard, nylon, tin, plastic). More than half of families included in the research had less than five square meters per family member, with approximately 40 percent living in houses shared with at least one other family.²⁹

²⁸ Fact Sheet: Overrepresentation of Romani children in Special education in Macedonia (ERRC) <http://www.errc.org/cms/upload/file/macedonia-factsheet-education-en-30-august-2012.pdf>.

²⁹ Roma Education Fund, Country Assessment Macedonia p. 11, see footnote 6, 10 and 21.

1.1. Cases of general discrimination

The fact that the children are avoiding school on many occasions due to the lack of basic financial means that they should be provided by their parents, directed us to the unemployment issue at the Roma population. The high unemployment rate of the Roma parents has been noted so far by several reports, and has been confirmed to us by the parents themselves. In Bitola, the parents openly stated that they face discrimination in their everyday lives, they confront prejudice and this also affects their pursuit of employment. According to one previous analysis done by REF, the data from 2008 provide insight into the educational profile of the unemployed Romani population: 33 percent had not completed primary education, seven percent had complete or incomplete secondary education, and only 0.1 percent (31 persons) had completed tertiary education. An analysis completed in 2010 further found that Roma's unemployment rate in 2008 was 75 percent, the highest of all of Macedonia's ethnic communities and more than double the national average of approximately 30 percent.³⁰

One of the parents stated that he wanted to apply for taxi driver, since he saw one advertisement where the taxi company needed drivers. He called by the phone and asked if he can apply to which he was told that he can and that they have open positions and he can visit the company. On his arrival to the company, as soon as he established personal contact and told his name, he was told that they do not have enough cars for new drivers and that there is no open positions at that moment.

One parent told us that he is qualified electrician, who until now does not have one day registered working experience, since he cannot find employment. He says that his children also cannot be employed although they have higher education. He stated that the benefits that they should have as minority only work on paper, but not in their reality. This statement was supported by a representative from the NGO Roma Youth Center from Kumanovo, who stated that in Kumanovo currently there are at least 10-15 graduated young people with Roma origin, some of whom are with master level education and they are from various educational backgrounds. He says that none of them are employed and the state does not act in practice to resolve this issue.

³⁰ Ibid, p. 10.

Some of the young people stated that they are not allowed to enter in bars, coffee-places or other entertainment facilities in Kumanovo and Skopje, only because they are Roma.

During the roundtable in Skopje-Chair, the uncle of two girls currently in 5th and 6th grade respectively, described a situation in which his family faced discrimination in the school. Namely, one of his nieces was pushed through the stairs by one boy from the Macedonian students. She fell, hit her head and had concussion which was documented when they visited the hospital. After the case was reported to the director of the school, he told them that the girl must be lying and the family decided to move the girls from that school to another one. Fortunately right now the girls are one of the best students and have the willingness to continue their education.

One parent from Bitola described a case in which his son who is attending high school was banned by the director of the school to use the school transportation. The parent explained that his son fulfills all the pre-conditions to use the transportation (lives far enough from the school and does not have the means to provide transport for himself). The parent is convinced that the director did this only because his son is Roma.

1.2. Parent responsibility and consent

During many occasions within the held roundtables, the teachers and other local authorities pointed out that the parents should work with their children and help them to achieve better grades and stay in school. However, from our notes, many parents stated that they are either illiterate or not capable to help the child with the homework. The proper knowledge of the Macedonian language, which is the working language during the classes is additional problem. The parents, as well as the children do not have proper knowledge of the language and if the parents cannot help the children, then they are facing problems of understanding the school curricula.

The fact that many Roma children are not registered after birth, creates another problem which later on affects their enrolment in the schooling system. The primary responsibility is on the parents to inform the authorities and register properly their children. However, as previously mentioned, many of the Roma parents are simply not well aware, not informed or illiterate and cannot fulfill these obligations.

Regarding the placement in special schools, during the roundtables we received statements from parents, teachers and local authorities stating that many parents sent the children to these schools, since they receive state funded money to support the mentally challenged children. Some of the parents don't send their children, but never complain to the decisions brought by the school authorities or any other authorities that indicate or decide for their child to be enrolled in these specialized schools. However, we came accross cases in which the parents disobeyed the decision of the school authorities for the child to be transfered to specialized school and tested the children at proper medical facilities. In many cases they managed to keep the children within the regular schooling system.

The Macedonian authorities very often direct the blame towards the parents and rarely discuss of their own responsibilities. This was proven with a statement given by the than Minister for labor and social policy and nowadays Minister of education and science, Spiro Ristovski. He, inter alia, stated that the Romani parents are the ones to be blamed for the substandard education received by their children, backed with the statement that they also encouraged their children to act disabled in order to get into special schools and receive benefits.³¹ The ERRC reacted with several statements, as well as NGOs from the country, sending a letter to the authorities. We can agree with the statement given by the ERRC's Executive Director, Desideriu Gergely that "It's outrageous to suggest that children at the age of six or older could fake a disability that would fool any competent authority responsible for deciding who goes into special education."³²

Although it can be acknowledged that the assistance and proper supervision from the parent is in no doubt improtant and necessary, one must never shift the burden of reponsibility from the state institutions to the parents. The state has the opportunity and means to put in place adequate system which includes measures adapted towards the vulnerable groups. This is corroborated by the abovementioned judgments from the ECtHR. And it is far from logical for any state authorities to leave to the awareness of the parents to double check such decisions of placing children

³¹ <http://www.sitel.com.mk/dnevnik/makedonija/morale-da-glumat-invalidi-za-4200-denari-mesechno>.

³² ERRC, Macedonia Cannot Blame Parents for Failures in Education System, <http://www.errc.org/article/errc-editorial-in-dnevnik-put-the-blame-on-me-sir/4038> and <http://www.errc.org/article/macedonia-cannot-blame-parents-for-failures-in-education-system/4033>, August 2012.

in specialized schools. Some children have no parents, some are placed in foster homes and some remain in state institutions without parental supervision. One governmental authority must have in place functional mechanism that allows for several checks and revisions of those decisions. Otherwise the children are left with permanent damages which are in fact done by the state system.

Referring to the already conducted research on the matter of specialized education, ERRC reports that the parents in 68.5% of the cases were recommended by the school officials, an education expert, a doctor or a social centre to send their children for testing with the purpose of attending the special education. And in 97.5% of the cases parents did not oppose the recommendation to send their child for testing. The same report states that the parents are given little or no information about the aim of testing their child. Moreover, in 78.9% of the cases parents were not told that they can challenge the recommendation for enrolment in special education and in 67.6% of cases parents said they were not told that attending special education will severely limit the ability of their child to access to higher education and employment.

2. SPECIFIC CONCERNS – SEGREGATION IN THE SCHOOLING SYSTEM

The segregation in the education of the Roma students as abovementioned can take many different forms. Sometimes it is a matter of discriminatory acts which do not qualify as segregation, however in many occasion the policies or general behavior towards this group of students amounts to segregation. Within our visits to the municipalities we were informed about cases and personal experiences that can be entailed within this notion. We also sent out questionnaires to the State Educational Inspectorate, the municipalities and the Department of mental health for children and youth “Mladost” - Skopje. We only received reply to our questions from the municipalities Gjorce Petrov, Chair, Kumanovo, Stip and Kichevo. The other institutions remained silent.

Many students have informed us that in the mixed classes where they are placed, they usually sit at the back of the classroom or are seated together with other Roma student. One school mediator for Roma children, who was present at the roundtable in Skopje-Chair, notified us that she witnessed how the Roma children in one school are placed at the one

side of the classroom and the other children (usually Macedonian ethnic group) are being placed at the other side of the classroom. These forms of discriminatory acts do not always qualify as segregation actions, although depicting an image of clear division within one mixed group.

The representative from NGO Umbrella who has worked as mediator in the schools informed us that many parents from the other nationalities, in particular the Macedonian nationality are complaining and refusing their children to study in the same class with children from Roma origin. For this reason many of the children from Macedonian ethnicity are being transferred to other schools. This statement was confirmed by many teachers through the country, saying that this phenomenon causes many problems when they are forming the composition of the classes at the beginning of the school year. Apart from Skopje, this problem was particularly emphasized in Bitola. The so-called “white flight phenomenon” is closely related to the fact that children and parents can choose in which school they will study, if the school approves their enrollment.

Regarding the grading criteria, the students were stating that even if they try harder and study to achieve the higher grade, the teachers in many occasions are giving them lower grades. When assessing the students, the standards and criteria according to them are more severe towards the Roma in comparison to the students of other ethnicities. In Kichevo, we have been informed that one high school student was given a lower grade by the teacher who told him that he is giving him lower grade, because he is Roma. He was also told that if he complains he will be given the lowest grade and will fail that course. One high school girl stated that during many occasions when they complain about their grades, the teachers are noting them in the records as if they are absent from the class, which affects their entire file records at the end of the school year.

Giving the primary and especially high school students lower grades in an unjustified manner, affects their grade point average, which further affects their application for scholarships, particularly the state funded scholarships (MES). This can be seen as one of the demotivation factors.

Survey³⁵ which was previously done among the Roma population states that 20.4% said that the teachers ignored their child in class, 13.4% said that their child was placed at the back of the class, 5.1% reported that

³⁵ Fact Sheet: Overrepresentation of Romani children in Special education in Macedonia (ERRC) <http://www.errc.org/cms/upload/file/macedonia-factsheet-education-en-30-august-2012.pdf>.

teachers humiliated their child in front of the class and 2.5% reported that teachers physically harmed their child.

Regarding the bullying by peers: 73.3% of survey respondents confirmed that their child was bullied while in a mainstream school and among that number 50% believe that the treatment is based on poverty and 17% based on ethnicity. Allowing for such actions to happen within the school and not undertaking subsequent measures to resolve such discriminatory events only adds to the repulsiveness of the Roma children towards to idea of going to school and finishing the education levels.

2.1. Placement in Schools

According to the Area of Residence

According to the Law on primary education in art.46 (5), the municipality has the right and responsibility to determine which area of residence falls under the scope of the primary school. The para.3 states that the primary school has the duty to encompass the pupils from its area and para.4 allows for enrolling students from other municipality only if the school has free places for enrollment. Article 50 explains that the parent has right to enroll the child in primary school within the area in which he/she lives or where they reside permanently. Paragraph 2 of the same article allows for the parent to enroll the child in another school in the same or other area if they have permission from the school in which he/she wants to be enrolled. The list from the children that are selected for a particular school is composed by the competent authorities from the municipal government, with the assistance of the records by the Ministry of Internal Affairs. During the schooling, the student can be transferred in another primary school if there is consent from the school in which is being transferred (para.5).

According to the plan adopted by the municipality of Stip, the distance between the place of residence of the student and the school, must not be more than 2000m. The municipality has provided us with the detailed plan of distributing the children to the primary schools within the municipality. The municipality authorities have informed us that they haven't adopted action plans for integrated education.

The municipality of Bitola has adopted also a plan which distributes the children from certain areas to the nearest school. This municipality also hasn't brought the action and operational plan for integrated education.

The same case is with the municipality of Kumanovo. In this municipality we have been informed that they adopted in 2009 the same plan for distribution of the children to schools as firstly adopted in 1976. The reason for this, according to the municipality is that there are no new schools in order for the plan to be changed. Last time this plan was adopted, (2009) was after the Law on local governance authorized the municipalities as responsible for organizing the local schooling system.

The municipality of Gorce Petrov has provided us with justification for the created plan for distribution of the students, which according to their interpretation has the purpose of allocating equivalent number of students to the municipal schools and rational usage of the schooling capacities within the municipality. However, the authorities from this municipality pointed out that the distribution of students to certain schools is not mandatory and depends mostly on the willingness of the parent to enroll the child in that particular school. The municipality does not have action plan for integrated education and explains that the responsibility for these plans lies within the MES and the schools within the municipality.

The municipal organization in terms of distribution of the children in different schools depending on the place of their residence does not always help in resolving the issue of segregation. In fact it might worsen the situation since the first logic of the distribution is for the children to attend their closest school³⁴. In that manner, all children living in majority Roma populated areas (concentrated in segregated settlements around cities or within cities) naturally are distributed to the same school. Even if there is a possibility of students from other ethnic communities to attend the same school, it occurs that parents pull those children out of that school and take them to another school. Even if children from the Roma community want to study in another school, this is mostly hindered by the lack of economic support to cover the transportation, in case the school is further than their homes.

³⁴ Law on Primary Education, art. 46 “*Official Gazette* of the Republic of Macedonia“ no. 103/2008; 33/2010; 116/2010; 156/2010; 18/2011; 42/2011, 51/2011; 6/2012, 100/2012 and 24/2013.

2.2. Over Representation in the Specialized Schools

According to article 23 from the Convention on the rights of the child, Macedonia took upon responsibility to provide adequate support for the child with mental and physical challenges in the development, in conditions that provide for its dignity, encouraging its independence and to enable the child to be actively involved in the community. The state should provide for special care and assist the parents in providing for better conditions. In order for some of these purposes to be achieved, the legal framework determines the conditions for including the children with special needs in the educational process, which according to the Law on primary education, includes producing special teaching plans and programs.

The Ombudsman reported³⁵ on the existent data for the specialized schools. The primary school “Dr Zlatan Sremac” and also the dispersed classes which are opened in addition to this school, include more than 50% of the students from the Roma population.

The primary school “Ilinden” with the dispersed classes have more than one third students pertaining to the Roma population. The High school “St. Naum Ohridski” – Skopje includes almost half of the students in the first year from Roma minority, the second and third year of High school include almost one third of the students from the Roma minority.

The Ombudsman’s office has determined that the enrolment in these schools is being conducted based on opinion given by the competent commission or other health facility and only small number of the children has been directed in these special schools by the Centers for social work. According to the legal framework, the opinion is being drafted and signed by the expert team composed of: psychiatrist, pediatric expert, social worker and other competent professionals.

More concerning is the fact that many children although not categorized as children with special needs are still being sent from the regular to the special schools and at the same time are still enrolled in the regular

³⁵ Ombudsman report Information regarding the visit to the special primary schools “Zlatan Sremac” and “Idnina” Skopje, “St.Kliment Ohridski” – Novo Selo and the State High School “St. Naum Ohridski” Skopje and “Iskra” Stip. Skopje, February 2010, http://www.ombudsman.mk/ombudsman/mk/pred-metno_rabotenje/posebni_izveshtai.aspx.

schools. These children are following classes at the special schools, during which certain period of time are under observation, after which the school submits request to the competent commission for their categorization. In cases when the parents request that their children follow classes in specialized school, they give separate statements.

The European Commission in its progress report also comments on the over-representation of Roma in the special classes and schools for children with intellectual disabilities. Several reports suggest Roma children may be enrolled in special schools without appropriate assessments, especially not taking into consideration that the language of testing and schooling is not their mother tongue. ECRI's 2010 report urges the authorities to "end any practice of improperly sending Roma children to educational facilities for pupils with a mental disability, to identify the children concerned and reintegrate them in mainstream schools and to implement streaming system which guarantees that only children effectively suffering from a mental disability are guided towards the specialist education sector." In the case of *DH v. the Czech Republic*, the ECRI also reported on similar practice which eventually led to declaring the Government as responsible for violation of the prohibition of discrimination and the right to education.

In 2011 the ERRC found that Romani children accounted for over 46% of the children in a selection of special schools and special classes, with 42.5% of them in special schools and 52% in special classes in mainstream schools. If it is taken into consideration that the Roma population in the country account for only 2.66% according to the last census (in reality around 9.8%), this clearly alarms for significant overrepresentation of Romani children in special education.

From the round-table the IHR conducted, only few of the present parents commented that their child is placed in specialized school. We can confirm that the parents stated that the authorities that initially recommend the parents to send the child to specialized school are the school authorities. We could also notice that the parents cannot quite make a difference between having difficulty to remember the school material which might be related to the fact that the children do not cope well with the language and real mental problems and challenges of the children. The representative from the MES stated that it is the Ministry's responsibility to follow that the students are properly categorized. According to him in several cases the State educational inspectorate discovered that the students are not properly categorized and against the directors of the schools they undertook proper sanctions. The Ministry of Health (MoH) is the one that

implements the rulebook for categorization of the students and according to our counterparts this Rulebook has problematic provisions for which the MES suggested changes although the MoH is reluctant to cooperate. The MES already drafted Manual for discrimination which is drafted for the purpose of prevention of discrimination and for the purpose of training the educational inspectors. The representative acknowledged that in the cases where there is wrong categorization, apart from punitive measures towards the schools and the involved authorities, the re-categorization procedure is not properly regulated.

2.3. Language Issues

The Law on Primary Education provides for mother-tongue tuition in Article 9, while the law on secondary education does the same in Article 4. Additionally the state adopted the Law on the Use of a Language Spoken by at Least 20% of Citizens in the Republic of Macedonia and in the Units of Local Government, which identifies education as an area at the national level in which a minority language can be used and provides details on the use of languages at all levels of education (Article 2 and Section 14, respectively). Not only these laws and the ones elaborated within the legal framework covering this issue, but also the Constitution and the international legal documents that the country has ratified allow and recommend that such practice is promoted. This is in some aspect left to the capacities, particularly financial ones of the state authorities, especially if it is concerning a minority less than 20%.

In Republic of Macedonia the languages of instruction in public schools at primary and secondary level are Macedonian and the languages of minorities. In practice, primary education is available in Macedonian, Albanian, Turkish and Serbian, secondary education in Macedonian and Albanian and to some extent in Turkish and Serbian, whereas university education is offered in Macedonian and Albanian. Although most Roma in Macedonia speak Romanes as their first language, over 95 percent of Romani pupils studied in Macedonian in the 2008–2009 school year, with the remainder generally studying in Albanian or Turkish.

Through our research and discussions, it was confirmed to us that many schools where Romani students enroll have the possibility of studying the teaching course of Romani language and culture. This is an elective subject and it is taught from the fifth grade of primary school. In

practice when the child enrolls in the fifth grade, he/she has the option of choosing between this subject, other language and learning computer skills. To most of the parents and children, the other subjects are much more attractive from the perspective of future skills and employment in addition to the fact that rarely the essence of the subject Romani language and culture is properly explained to these children. In addition to this, many parents stated that they are rarely and scarcely explained about the content of this subject, leaving them to think that it is unnecessary and that they already know the Romani language, so they don't need to study this language additionally.

The representative of the MES on the first round table in Skopje-Chair, stated that there were issues regarding the studying of the subject Roma language and culture. One of those issues burdening the process was the fact that the parents had to give consent each year for their children to study this subject. Furthermore, the grades were not part of the grade point average and the subject was treated as optional. After the changes done by the MES, the subject now is elective as part of the regular curricula and the parents only need to give consent when the students are starting to study this subject. Still, problems persist in the area of adequate books for this subject, qualified teachers etc. According to the last report of the AC FCNM, only 1/5 of the Roma student population in primary school attended the classes of Roma language and culture.

Another problem which was noticed during all the roundtables and which calls for close attention is the lack of knowledge of the Macedonian language by the Roma students when they enroll in the first grade. Since the main language of instruction is the Macedonian language, solid and fluent command of the Macedonian language by the Roma children is more than necessary in order for them to have the same chances of success in school when they start with the classes. This leads to the inevitable conclusion that the Roma children should have real opportunity of attending the pre-school facilities.

Во врска со претшколските установи, законодавството пропишува дека тие се основаат главно од општините, но исто така може да се основаат и приватни претшколски установи. Активностите се спроведуваат на македонски јазик, а за децата кои се дел од други заедници може да се Regarding the pre-school facilities, the legislation prescribes that they are established mainly by the municipalities, but also private pre-school facilities can be established. The activities are conducted in the Macedonian language and for the children part of other communities

can be conducted in their language. The curriculum in the pre-school facilities is established or is supposed to be established on the principle of equal opportunities and respect for the differences among the children. By this principle, the election of the activities should be according to the respect for multi-culturalism enabling the children to nourish their own identity and acquiring knowledge for the differences among the people and the cultures.³⁶ According to one report, in the school year of 2011/2012 only 4.54 % from the smaller minority communities (Turks, Roma, Serbs, Bosniacs and Vlavs) were included in the pre-school education system. In addition to that, it was established by the Ombudsman that the teachers in these facilities are rarely part of the Roma minority, which affects conducting the activities in the language of this community.

In Kichevo representatives from the NGOs informed us that a significant number of the parents think that the pre-school facilities are unnecessary and refuse to send the children there even if the funds are already provided. It should be noted that the attendance at the pre-school facilities is usually privately funded (paying participation fees). However, through projects and other subsidized measures, the possibilities for the Roma children to attend pre-school facilities are increasing.

Regarding the necessity for the minority communities to study on their own language or to study subjects in their language, issues are often raised referring to gradual separation of pupils along linguistic and ethnic lines. ECRI expressed concerns that this entails a risk that having been educated in different languages and separated from the earliest stage, members of the different communities might co-exist without knowing each other and communicating, leading to mutual mistrust and intolerance. Therefore ECRI recommends “strengthening the multilingual teaching at all levels of the educational system and implementation of a deliberate policy of developing common schools and extracurricular activities promoting contacts, mixing and interaction between children of all linguistic and ethnic backgrounds.” According to an analysis performed by the OSCE Mission to Skopje, “maximally 26% of kids in primary education (but in reality most probably close to half this number) and 37% in secondary education have an actual chance to interact in the school environment by at all being in the same building at the same time.”

³⁶ Donce Boskovski, Realization of the rights of the communities, practice, mechanisms and protection, OSCE 2012.

2.4. Concerns over Romani Girls

Many teachers also pointed out the concern that young Roma girls drop out of school. This occurrence has been as well reported by external assessments concerning the Roma issues in the country. One of the reasons reported by the teachers for dropping out of school is the fact that these girls enter in early marriages.

According to the UNDP-World Bank-European Commission regional Roma survey, in 2011 only 73% of Romani girls in Macedonia are enrolled in elementary education, compared to 87% of non-Romani girls. The same survey says that 70% of Romani women and girls aged from 15 to 64 are unemployed, compared to 35% among non-Romani girls and women.³⁷

While conducting the visits at the institutions, the Ombudsman's office determined that the children from the Roma community not always finish the primary school, even in the specialized schools. This is even more emphasized with the female children, who in many cases abandon school (regular and specialized) after the fourth grade in primary school. In the Shadow report prepared by ESE Republic of Macedonia in association with Akcija Zdruzenska and submitted to the CEDAW, concerns were raised regarding the insufficient coverage and inclusiveness of girls in the educational process. Although the mandatory secondary school has raised the numbers of enrollment, still within the female population only 89% continue with the secondary education. Most affected by this occurrence are the vulnerable society groups. Part of the reasons according to them are the patriarchal structure of the family, the insufficient infrastructure, the limited financial resources etc.

This analysis does not intend to enter in details concerning the particular issue related to the school attendance by the Roma girls, since this is a matter which has to be analysed in details in a separate report. This topic includes gender sensitive policies, as well as recommendations. The intention was to alarm the reader about this problem. In our opinion, not only that the Roma community is vulnerable and their right to education seriously affected by the general conditions they live in, but girls in particular are even more affected as a sub-group within this vulnerable group.

³⁷ Shadow report on the implementation of the CEDAW, ESE in cooperation with Akcija Zdruzenska 2012.

V. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

This analysis focuses on reaching conclusions from several aspects depending on the particular issue analysed within the right to education of the Roma population.

As a general overview from the six extensive discussions both groups (teachers, local authorities and the students with their parents) the project team could easily notice the existence of prejudice towards the Roma community. This impression was supported by the witnessing of the large number of students and parents, each describing their personal stories. The negative treatment and attitude originates mostly from other parents, who transfer their personal feelings onto their children. But, sometimes these prejudice can be noticed among the teachers as well.

Teachers tend to locate the responsibility for better and consistent education at the Roma parents, initially disregarding the fact that it is the state's responsibility and their own as civil servants to make sure that each student/ child is taken care off.

The responsibility of each parent to make sure that the child is attending school is more than a fact. It is prescribed within the laws and it is expected from each parent regardless of the social status, ethnicity or even belonging to a minority group. However, the engaged authorities in the schooling system must take into account the circumstances and background of the Roma population. It has been reported extensively by local, national and international institutions and organizations of the circumstances in which the majority of the Roma population lives and the parents themselves state that the lack of basic financial means is burdening the whole process. This must be adressed particularly from the central government level, since measures such as free pre-school facilities

or free meal during classes for the economically disadvantaged children should be taken on the state level.

The legal protection of the right to education and prohibition of discrimination is well in place. The existent laws and the international conventions are more than enough for the authorities to have the competence in undertaking the necessary measures. Certain amendments can be brought, particularly in regulating the special schooling system with the effect of reintegration of the children that were previously misdiagnosed. There is a noted legal gap leaving children from age nine and younger than 15 out of the schooling process, since they cannot enroll in formal education being forbidden by the law.

The outlined case-law from the European Court of Human Rights is indicating many similarities with the existent situation concerning the actual segregation of the Roma students. Particularly worrying are the statistical similarities referring to the representation of high number of Roma students in the special schools. Although the ECtHR does not rely entirely on the statistical data provided from non-governmental national and international organizations, these reports and analysis have proven as valuable indication for the Court to take into consideration such cases. Starting from these statistics, the Court entered into further assessment of the circumstances in the cases and found violation of the prohibition of discrimination in conjunction with the right to education. The fact that the parents gave their consent for the children to attend such schools has not discharged the government from having the responsibility in these cases. Among these cases is the issue of knowledge of the official language of instruction in education which the authorities should make sure that the Roma students will manage to learn and cope with the curriculum without being separated from the other students.

Regarding the policy framework, it can be noted that the Government has made sure to take part in the major regional and global campaigns for Roma inclusion and this undertaking should be acknowledged. Apart from that, the Government has made detailed strategies covering various aspects of the issues affecting the Roma population including the education issues. However, the budget allocated for such detailed and elaborated activities does not cover sustainable approach in achieving the outlined goals. Many of the strategies does not even include budget for the upcoming years, even though the activities for the upcoming years are already outlined. There are more than enough policy documents covering the area of education of Roma students, which need to be properly implemented and supported

by adequate budgetary funds. In addition to that, without the intra-ministerial cooperation among the MES, the MoH, the Ministry of Local Self-Government (MLSG) or the MLSP or another competent institution, all the legal documents and policies cannot be properly finalized or used. At the level of policy, multicultural education in practice remains still an exception.

The specific concerns from this analysis apart from the special schools revolve around the distribution of children to certain schools according to the municipal plans, the general treatment from certain teachers and school staff, the understanding of the Macedonian language as primary language of command during the studies and the high drop-out rate among the Romani girls. Particularly concerning is the “white flight” phenomenon, which has been witnessed by many of our counterparts during the discussions. For instance, such occurrences were particularly reported in Bitola, among other locations.

Regarding the misbalanced representation of Romani children in schools within the borders of one municipality as stated before results from the area where they reside, the municipal governments should find a way and affirmative measures to encourage more balanced representation and mixed environments. This is closely related to the fact that many parents from the non-Roma communities avoid for their children to study in an environment where the Roma community is being represented.

It has been also concluded that the issue of having illiterate children in the upper classes is pointing towards inadequate or lack of attention from the teachers towards these students that are progressing in the upper classes not because of their skills and knowledge, but because of the educational system.

The lack of proper understanding or fluency in the Macedonian language is particularly damaging for the younger students and it can affect their education and assessment on several levels. This issue should be resolved and alternative measures adopted for introducing them smoothly into the system in order to start the education on the equal level as their classmates from the other communities.

RECOMMENDATIONS

The general recommendations that we can suggest are first and foremost directed towards the responsible state institutions. The state needs to make sure that the system which is in place is fully functional in practice

and takes care of all students, paying particular attention to their needs and problems. The recommendations are useful for the NGOs and other interested parties, however the state cannot avoid responsibility and hence the following suggestions should be useful:

❖ **Affecting the general population:**

- Raising the awareness of the general population through the country regarding the Roma population in order to diminish the negative effects of the “white flight” phenomenon.
- Information campaigns designed for the vulnerable society groups, among which the Roma regarding the latest changes in the law concerning education. This will avoid missing on deadlines and other conditions necessary to be fulfilled.
- Assess and control over the municipal plans for distribution of children to certain schools with the purpose of avoiding schools attended by predominantly Roma children and allow for proper integration and interaction among children with various cultural backgrounds.
- Larger engagement of the municipal authorities and distribution of budget for the needs of the vulnerable groups in the local community.
- Unification of the tests for enrolment in the schools, designing them as non-verbal and culture free.
- Initiation of projects designed for guidance and counselling of the female students, targeting particularly the Roma girls.
- The civil sector should cooperate as much as possible with the existent independent state agencies such as the Commission for prevention and protection from discrimination, the Agency for Minority Rights Realization, the Ombudsman office and others.
- Re-evaluating the curricula and the study plans and programs since the teachers often complain to the overburdened program that the children have difficulties to cope with.
- The few existent legal gaps should be addressed by the relevant Ministries in order to fully cover the issues within the legal framework.

- The state authorities should take into consideration the case-law of the European Court of Human Rights and undertake preventive measures, so that future cases submitted to this Court and violation found are avoided.

❖ **Affecting the Romani population:**

- Information campaigns for raising the awareness among Romani parents about their roles and rights as the primary decision makers regarding their child's education, and the benefits of integrating children into mainstream education. Particularly pointing out the differences between the regular schooling program and the program for the special schools
- Raising the awareness of Romani parents on the importance of their children studying Romani language and culture and similar courses
- Increased school counselling with Romani parents whose children are often missing schools or showing reasons for concern, in order to reach mutual solution designed for the need of the particular child
- Assistance to Romani parents when enrolling the children in schools, particularly when selecting the elective subjects
- Allocate budget funds for pre-school attendance of the Roma children and other vulnerable groups who cannot afford to fund this education on private terms
- Allocation of funds for the sustainability of the Roma Information Centres with continuous assessment of their efficiency in assisting the local Roma community
- Capacity building and trainings of teachers from the Roma community as a form of affirmative measure, which will be employed in all stages of the educational system, starting from pre-school
- Regarding the specialized education, re-categorization and subsequent actions are needed to be designed with the purpose of amending the years of injustice and segregation of Romani students

- In many aspects concerning the education of the Roma students, the State Educational Inspectorate should be more engaged and particularly start from the schools for specialized education
- The parents should also be warned and made aware of the consequences of sending the children to schools providing specialized education and how that transpires into the future of the child
- The Roma population should have access to information presenting the available legal remedies and institutions available for their assistance in cases of potential discrimination complaints

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