

Roma school segregation continues today

By Ivan Ivanov, ERIO Executive Director

10 years after the judgment of the European Court of Human Rights on the D.H. and Others v. Czech Republic case

The 13th November 2007 judgment of the Grand Chamber of the European Court of Human Rights in the case of D.H. and Others v. Czech Republic constituted a major legal victory. In 2000, 18 Roma plaintiffs from the city of Ostrava filed a complaint at the European Court in Strasbourg, alleging the violation of: Article 3 of the European Convention on Human Rights (prohibition against degrading treatment), Article 6 (right to fair trial), and Article 2 of Protocol 1 (right to education) together with Article 14 (prohibition of discrimination). The Court declared that, as a result of their segregation in special schools for children with special needs, the plaintiffs, like many others in Czech Republic, had suffered severe educational, psychological and emotional harm.¹ The Court highlighted that this is a systemic discriminatory treatment and has no justification. In reaching its conclusions, the Court went further noting that, despite its decision being legally binding only in Czech Republic, the problem is also of European importance.

Arriving to this verdict was not an easy task. During the research work, we have spoken with hundreds of Roma parents in the city of Ostrava, but only 18 agreed to join the complaint procedure. Another challenge concerned how to obtain data to support the claim. As there was no official policy to record ethnicity-related data, we put a lot of efforts in convincing school authorities to provide us with lists of students broken down by ethnicity. This intensive research demonstrated that 56% out of all the pupils placed in special schools in Ostrava were Roma, and that Roma children were 27 times more likely to be sent to special schools than non-Roma children. The biggest problem at that time, not only in the Czech Republic but in the entire former socialist block, was to challenge these discriminatory practices.

The D.H. and Others judgment of the Grand Chamber represents a revolutionary breakthrough within the case law of the European Court of Human Rights. It was expected to influence the law in countries with segregated schooling. Although the education law in Czech Republic and in other countries of the region was slightly improved, 10 years later after the judgement, many Roma children still experience segregation in education and are attending segregated classes, where the curriculum is significantly inferior. In many EU member states, Roma children are physically cut off from the rest of society, channelled into separate schools or classes in which they are provided with poor quality education. It has been observed that school segregation of Roma migrant children is becoming an increasingly common practice in Western European primary education systems.

Even if successful, this litigation was not able to bring a final and permanent solution. Nevertheless, D.H. and Others v. Czech Republic had its great importance in providing new impetus to be used in negotiations, especially when authorities deny their responsibilities. This case is a good example of indirect discrimination and of how *prima facie* discrimination can be established by using statistical data. We hope very much that, in addition to the litigation initiated mainly by civil society, the European Commission will use its tools - such as infringement procedures for the non-effective implementation of the Racial Equality Directive - against EU member states carrying out school segregation practices, which keep Roma at the margins of society and stuck in the vicious circle of poverty.

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The **European Roma Information Office (ERIO)** is an international advocacy organisation which promotes political and public discussion on Roma issues by providing information to the EU institutions, civil society and governments. Through its wide network, it aims to combat racist discrimination against Roma through awareness raising, lobbying and policy development.

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¹ D.H. and Others v. Czech Republic, Application No:57325/00, judgment of 13 November 2007