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Meeting: 1436th meeting (June 2022) (DH)

Communication from the authorities (03/06/2022) in the case of D.H. AND OTHERS v. the Czech Republic (Application No. 57325/00).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1436^e réunion (juin 2022) (DH)

Communication des autorités (03/06/2022) relative à l'affaire D.H. ET AUTRES c. République tchèque (requête n° 57325/00) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



D.H. and Others v. the Czech Republic

Report on the Execution of the Judgment

3 June 2022

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ABBREVIATIONS

CSI	Czech School Inspectorate
DVPP	continuing education of teaching staff
KG	kindergarten
MEYS	Ministry of Education, Youth and Sports
MLSA	Ministry of Labour and Social Affairs
NPI	National Pedagogy Institute
NRP	National Recovery Plan
OP JAC	Operational Programme Johannes Amos Comenius
OP E+	Operational Programme Employment Plus
EPCC	educational psychology counselling centre
FEP PreE	Framework Educational Programme for Preschool Education
FEP SPS	Framework Educational Programme for Special Primary Schools
FEP PE	Framework Educational Programme for Primary Education
FEP PE UV	Framework Educational Programme for Primary Education with Adjusted Outcomes
FEP PE MMD	Annex to the Framework Educational Programme for Primary Education, Governing the Education of Pupils with Mild Mental Disabilities (revoked)
SES	socio-economic status
SPC	special-pedagogy centre
SCF	school counselling facilities
PS	primary school

CLARIFICATION OF KEY CONCEPTS

FEP PE – Framework Educational Programme for Primary Education

This is the basic document governing the curriculum at State level. It defines the content and objectives of education in mainstream primary schools.

FEP PE UV – adjusted outcomes of the primary education laid down in the FEP PE

Besides standard expected learning outcomes, the Framework Educational Programme for Primary Education also includes a clearly defined ‘minimum recommended level’ for adjustments to the expected outcomes within the scope of support measures.

These (‘adjusted’) outcomes serve as a guideline when learning outcomes are set in the preparation of individual education plans and are used in conjunction with support measures from level 3 (inclusive) up only for pupils with mild mental disabilities.

Consequently, in the context of this Report, it can be said that (Roma) pupils receiving education under the FEP PE UV are educated in line with the FEP PE, but their learning outcomes are typically scaled down to a level corresponding to each pupil’s mild mental disability.

FEP SPS – Framework Educational Programme for Special Primary Schools

This is a State-level curriculum document (used in **schools set up under section 16(9) of the Education Act**) defining the content of education. Its concept respects the delayed psychomotor development of pupils with moderate and severe mental disabilities, and their physical and working ability and aptitude.

It is split into two parts:

Part I – Education of Pupils with Moderate Mental Disabilities

Part II – Education of Pupils with Severe Mental and Multiple Disabilities

Schools and classes set up under section 16(9) of the Education Act

Section 16(9) of the Education Act provides that ***schools or classes, units, and study groups*** may be set up for children, pupils, and students with ***mental***, physical, visual or hearing disabilities, severe speech impairments, severe developmental learning disorders, severe developmental behavioural disorders, multiple disabilities, or autism. A child, pupil, or student referred to in the preceding sentence may be placed in such a class, study group or unit, or admitted to such a school, only if the school counselling facility finds that, in view of the nature of the special educational needs of the child, pupil, or student, or in view of the progress and results achieved in the provision of support measures thus far, support measures alone would be insufficient to realise his or her educational potential and to exercise his or her right to education. Placement is conditional on a written request from the pupil or student, if he or she has reached the age of majority, otherwise from the child’s or pupil’s statutory

representative, a recommendation from the school counselling facility, and the fact that this course of action is in the interests of the child, pupil, or student.

In the context of this Report, the placement of Roma pupils in schools set up under section 16(9) of the Education Act effectively means that, on the basis of a diagnosed (mild) mental disability, they are educated in schools dedicated to pupils with mild mental disabilities, i.e. outside mainstream education.

The placement of Roma pupils in classes set up under section 16(9) of the Education Act effectively means that, on the basis of a diagnosed (mild) mental disability, they are educated in mainstream schools but in classes dedicated to pupils with mild mental disabilities.

SCF – school counselling facilities

School counselling facilities, in accordance with *section 116 of the Education Act*, are responsible for providing children, pupils, and students, their statutory representatives, schools, and school facilities with explanatory, diagnostic, counselling, and methodological activities, expert services in the fields of special pedagogy and educational psychology, preventive educative care, and assistance in choosing education that is appropriate for the children, pupils, or students and in preparing them for a vocation in the future. School counselling facilities work with offices for the social and legal protection of children, youth and family care agencies, health service providers, and other authorities and institutions.

Under *section 3 of Regulation 72/2005 on the provision of counselling services at schools and school counselling facilities*, the types of school counselling facilities are:

- (a) educational psychology counselling centre;
- (b) special-pedagogy centre.

INTRODUCTION

This Report on the Execution of the Judgment is submitted in pursuance of point 8 of decision no. CM/Del/Dec(2020)1390/H46-8 of the Committee of Ministers of the Council of Europe, dated 3 December 2020. It supplements the Report on the Execution of the Judgment submitted to the Committee of Ministers on 30 September 2021 and provides further information in the light of a meeting with representatives of the Council of Europe held in December 2021. It reflects the current approach taken by the Ministry of Education, Youth and Sports to ensure that Roma pupils have equal access to education, including measures planned for implementation in 2022 and beyond. It is structured into the following nine thematic chapters:

- 1) Qualified estimates of the number of Roma pupils in primary schools in the 2021/2022 academic year;
- 2) Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV and outside mainstream schools and classes;
- 3) Diagnostics;
- 4) Preschool education;
- 5) Other programmes and measures;
- 6) Expert Forum's activities;
- 7) Observations on the submission made by the non-profit Forum for Human Rights on the execution of the judgment in *D.H. and Others*;
- 8) Interministerial cooperation;
- 9) Conclusion.

The following annexes constitute an integral part of the Report:

1. *Research assignment of the Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal of a set of measures for education and other relevant areas;*
2. Expert Forum's Conclusions on the execution of the judgment in *D.H. and Others*;
3. MEYS response to the Expert Forum's Conclusions.

1. QUALIFIED ESTIMATES OF THE NUMBER OF ROMA PUPILS IN PRIMARY SCHOOLS IN THE 2021/2022 ACADEMIC YEAR

Qualified estimates are derived from data obtained in regular polling at all primary schools registered in the Register of Schools and School Facilities.

The **imprecision** of the data remains a barrier to its interpretation. These are estimates made by school principals and may not correlate with the actual situation in classes. The imprecision of the data is exacerbated by the enduring stigma attached to the collection of this type of data among stakeholders on the ground, challenges raised as to whether it is necessary or worthwhile, and the related reluctance on the part of some principals to report on Roma pupils (see, for example, the coordinated campaign – backed on social media – opposing the idea of counting Roma pupils at primary schools). Accordingly, it should be borne in mind that the explanatory value of small year-on-year fluctuations in the data is thus unclear.

This concern is addressed by the current research '*Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9)*

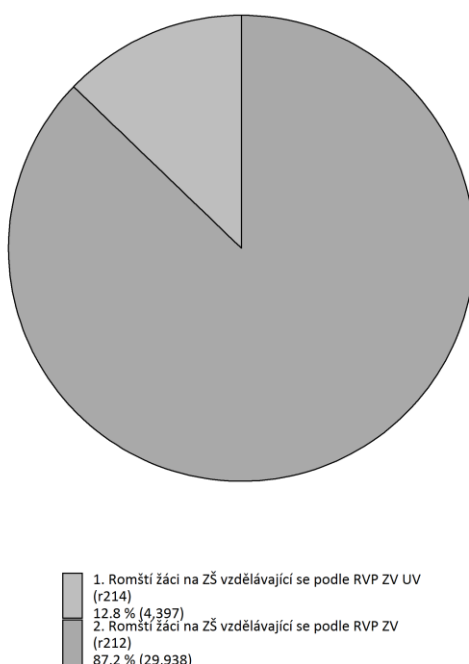
of the Education Act and the proposal of a set of measures for education and other relevant areas' (see below for details), part of which will include an **analysis of the reliability of school principals' estimates** in relation to other investigations (e.g. a comparison with data collected in the scope of activities under the Operational Programme Research, Development and Education), administrative data, and contextual information on the school (a check on whether the numbers reported are in line with those expected on the basis of contextual information, such as school size or the locality's social exclusion index). The preliminary results of the reliability analysis will be available at the research project's second review day in June 2022. It is primarily when the full findings are submitted following the completion of this research in November 2022 that the MEYS will gain a more informed idea of how meaningful these estimates are and will be able to interpret the data more accurately.

Roma pupil numbers

As at 30 September 2021, there were an estimated **34,942 Roma pupils, i.e. 3.62% of the total number of pupils**, at primary schools. This is an increase by 675 Roma pupils year on year (between the 2020/2021 and 2021/2022 academic years). If the overall rise in the number of pupils in primary schools is taken into account, **Roma pupils account for 30.36% of the year-on-year increase** (the number of Roma pupils grew far faster than the number of pupils from the majority population). This is a stark increase on the 5.3% of the total rise between 2019/2020 and 2020/2021. In our opinion, this is one of the reasons for the much higher increase in the number of Roma pupils being educated under the FEP PE UV in 2021 than in previous years compared to the majority population (see Year-on-year increase in the number of Roma pupils being newly educated under the FEP PE UV and their share of the total year-on-year rise in the number of pupils under that programme).

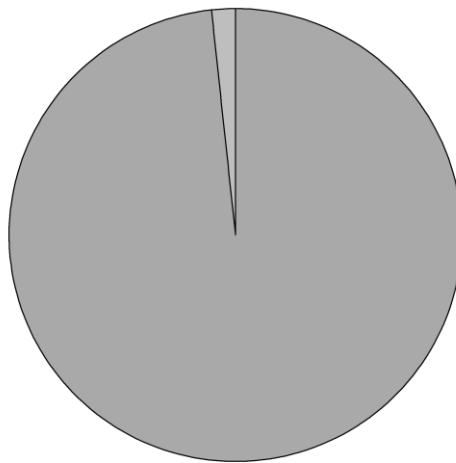
Education under the FEP PE UV

The number of Roma pupils receiving education under the FEP PE UV as a proportion of all pupils educated under that programme **increased year on year from 11.9% in 2020/2021 to 12.81% in 2021/2022**. Looking at the long-term year-on-year trend and considering the previously mentioned data reliability issues, however, these minor changes would appear to be inconsequential.



- 1. Roma pupils at primary schools receiving education under the FEP PE UV (r214)
12.8% (4,397)
- 2. Roma pupils at primary schools receiving education under the FEP PE (r212)
87.2% (29,938)

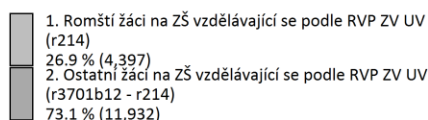
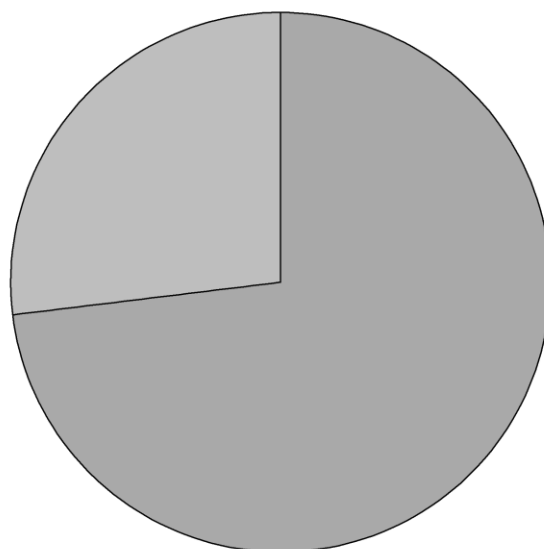
For the sake of comparison, the percentage of pupils receiving education under the FEP PE UV out of all pupils educated under the FEP PE also rose slightly, increasing from 1.66% in 2020/2021 to 1.71% in 2021/2022.



1. Všichni žáci na ZŠ vzdělávající se podle RVP ZV UV (r214)
1.7% (16,329)
2. Všichni žáci na ZŠ vzdělávající se podle RVP ZV (r212)
98.3% (948,242)

- 1. All pupils at primary schools receiving education under the FEP PE UV (r214)
1.7% (16,329)
- 2. All pupils at primary schools receiving education under the FEP PE (r212)
98.3% (948,242)

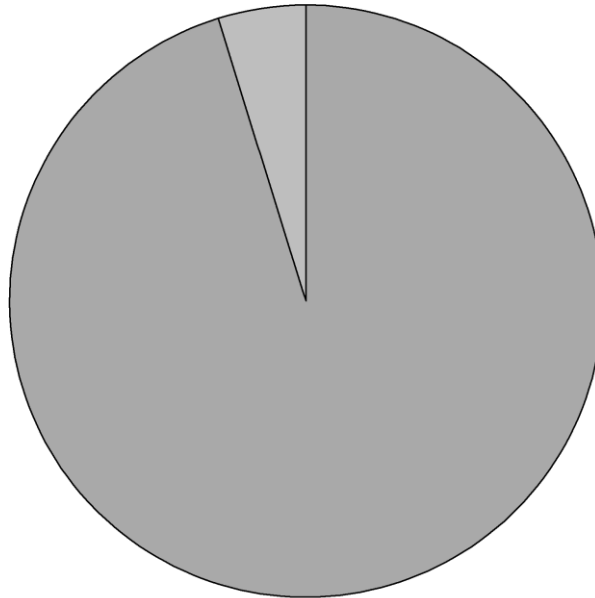
The number of Roma pupils receiving education under the FEP PE UV as a proportion of all pupils educated under that programme climbed slightly year on year, rising from 25.29% in 2020/2021 to 26.93% in 2021/2022.



- 1. Roma pupils at primary schools receiving education under the FEP PE UV (r214)
26.9% (4,397)
- 2. Other pupils at primary schools receiving education under the FEP PE UV (r3701b12 – r214)
73.1% (11,932)

The year-on-year **increase in the number of Roma pupils being newly educated under the FEP PE UV** was very pronounced. The number of Roma pupils receiving education under the FEP PE UV went up by 384, accounting for a sizeable majority of all pupils newly educated according to that curriculum document (459). **Roma pupils make up 83.66% of the total year-on-year increase in the number of pupils being newly educated under the FEP PE UV.** We believe that this leap can be read as a consequence of the fact that school counselling facilities' diagnostic services were greatly curtailed amid the COVID-19 pandemic. The easing of the anti-pandemic measures could have triggered a situation where schools prioritised referrals to school counselling facilities, particularly for pupils with the severest learning difficulties. The introduction of distance education could conceivably have aggravated learning difficulties more acutely among Roma pupils from socially excluded communities.

In the 2021/2022 academic year, 201 first-grade Roma pupils were placed under the FEP PE UV. **The percentage of first-grade Roma pupils receiving education under the FEP PE UV relative to the total number of Roma pupils remains unchanged year on year at 4.8% (4.82% in 2020/2021 and 4.79% in 2021/2022).**

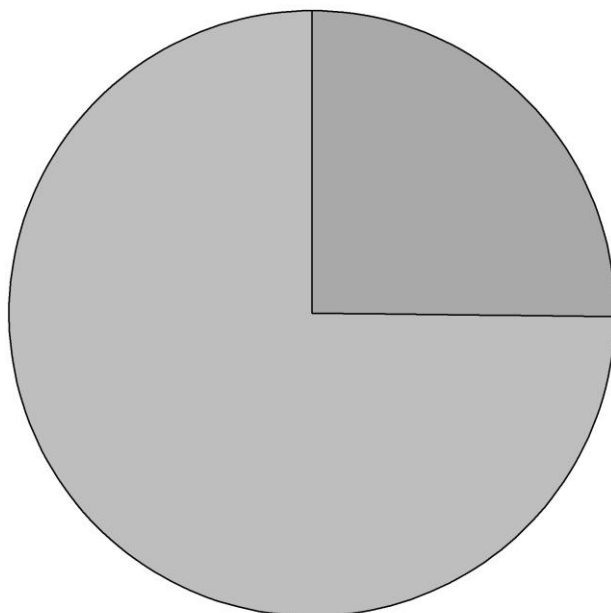


Romští žáci v první třídě, kteří se vzdělávají dle RVP ZV UV
(r244)
4.8 % (201)
Romští žáci v první třídě, kteří se vzdělávají dle RVP ZV
(r242)
95.2 % (3,993)

- First-grade Roma pupils receiving education under the FEP PE UV
(r244)
4.8% (201)
- First-grade Roma pupils receiving education under the FEP PE
(r242)
95.2% (3,993)

Education of Roma pupils in classes or schools set up under section 16(9) of the Education Act

The percentage of Roma pupils educated under the FEP PE UV who are taught in classes or schools set up under section 16(9) of the Education Act has been relatively stable year on year, at **75.5%** in the **2020/2021** academic year and **74.8%** in the **2021/2022** academic year. The mechanisms behind the overplacement of Roma pupils in these types of classes or schools are investigated in the '*Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal of a set of measures for education and other relevant areas*' (see below for details). Shining a light on the mechanisms behind the placement of Roma pupils in these types of classes and schools will help the MEYS to appropriately target policies and interventions aimed at eliminating discriminatory practices on the ground.



1. Romští žáci vzdělávání dle RVP ZV UV ve třídách nebo školách dle § 16 odst. 9 školského zákona (r224)	74.8 % (3,290)
2. Ostatní romští žáci vzdělávání dle RVP ZV UV (r214-r224)	25.2 % (1,107)

- 1. Roma pupils receiving education under the FEP PE UV in classes or schools set up under section 16(9) of the Education Act (r224)
74.8% (3,290)
- 2. Other Roma pupils receiving education under the FEP PE UV (r214-r224)
25.2% (1,107)

2. ANALYSIS OF THE CAUSES UNDERLYING THE HIGHER PROPORTION OF ROMA PUPILS RECEIVING EDUCATION UNDER THE FEP PE UV AND OUTSIDE MAINSTREAM SCHOOLS AND CLASSES

The root causes of the higher proportion of Roma pupils receiving education under the FEP PE UV and outside mainstream schools and classes have yet to be mapped comprehensively. The above-mentioned research project '*Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal of a set of measures for education and other relevant areas*', carried out by researchers from PAQ – Prokop Analysis and Quantitative Research, s.r.o. and STEM Ústav empirických výzkumů, z.ú., attempts to fill that gap. The research has been running since 1 December 2021 and is scheduled to end on 30 November 2022. It was commissioned in response to point 5 of the decision of the Committee of Ministers of 3 December 2020 and involves close collaboration between the MEYS and the Expert Forum, an advisory body to the Agent of the Czech Government before the European Court of Human Rights. The Government attach the **research assignment** as **Annex 1** to the Report on the Execution of the Judgment.

The research project's main goal is to **identify why Roma pupils receive education under the FEP PE UV and to devise a set of recommendations** for education and other sectors with a view to reducing the number of Roma pupils in schools and classes set up under section 16(9) of the Education Act, i.e. outside mainstream schools and classes. One of the important contributions made by this research is its analysis of regional differences (an analysis of data at least at the level of districts or municipalities with extended powers).

Among the potential research hypotheses for verification may be the assumption that in places where there is a segregated 'mainstream' school, there will be less of a tendency to place Roma pupils in special schools because the local system will be 'content' with relocating them to the 'mainstream' segregated school. A second research hypothesis is: 'There is inconsistency in school counselling facilities' practices both within individual facilities themselves and between regions' (see Annex 1 for more on the research assignment).

In the first stage of the project, international and national data collection and background research on the theme were initiated. An initial quantitative **analysis** was conducted on the **available administrative data**, and trends linked to the placement of Roma pupils in classes where they are educated under the FEP PE UV were described. These findings were presented at the first review day on 17 March 2022. As the quantitative analysis moves forwards, it will examine, among other things, how valid principals' estimates are (how they correlate with other surveys or variables).

Interim findings of the analysis

Placement in classes and schools set up under section 16(9) of the Education Act

- The **proportion of Roma pupils in classes set up under section 16(9) of the Education Act in mainstream schools** is rising. Although the total number of pupils in these classes has declined, the number of Roma pupils in them has actually gone up.
- There has been a **slight increase in the number of primary schools running classes set up under section 16(9) of the Education Act that have a high proportion of Roma pupils**.
- The number of **primary schools set up under section 16(9) of the Education Act** with a high number of Roma pupils has **declined** since legislation was revised in 2016. However, owing to

the increase in the number of Roma pupils in classes and schools set up under section 16(9), it will continue to be examined whether there has been a mere transfer of pupils.

Trends at schools over time

- There are only 10 schools where the number of Roma pupils in classes set up under section 16(9) **decreased** significantly between 2017 and 2021. **Three** of these are **mainstream schools with classes set up under section 16(9)** and **seven** are schools set up **under section 16(9)**.
- The schools where numbers of Roma pupils in classes set up under section 16(9) **rose** significantly between 2017 and 2021 are predominantly schools set up **under section 16(9)**. In the Czech Republic, there were 29 such schools set up under section 16(9) and 12 mainstream primary schools.

Education sector

- Roma pupils are **more likely** to be assigned **adjusted outcomes in mainstream schools** where no classes have been set up under section 16(9) of the Education Act. The percentage is **3%** for Roma pupils but around 0.5% for non-Roma pupils.
- In **classes set up under section 16(9)** of the Education Act, Roma pupils are predominantly educated under the **FEP PE UV**. This type of FEP accounted for 40% in 2017, rising to **more than 70% in 2021**. Now that the Annex to the Framework Educational Programme for Primary Education governing the education of pupils with mild mental disabilities (FEP PE MMD) has been removed, it is being replaced by adjusted outcomes (FEP PE UV) at an almost one-to-one ratio.
- Roma pupils in **schools set up under section 16(9)** are often not educated under the FEP SPS but only **according to the FEP PE UV**. The specific figures are **55% of Roma pupils** in schools set up under section 16(9) and over 30% of non-Roma pupils.
- In schools set up under **section 16(9)**, Roma pupils are much more likely than non-Roma pupils to be **educated under the FEP PE UV**. The difference, approximately 35 percentage points, suggests that there may be Roma pupils in these types of schools who could be educated in mainstream classes.

Analysis of the work of school counselling facilities (SCFs)

For this analysis, **artificial** educational psychology counselling centre **catchment areas** were created by identifying the nearest educational psychology counselling centre to each primary school as the crow flies. This analysis revealed a notable disparity: that there is no 'catchment area' where more than 20% of non-Roma pupils attend classes set up under section 16(9), but there are a number of 'catchment areas' where more than 50% of Roma pupils attend classes set up under section 16(9).

Following the background literature research and initial analyses mentioned above, school counselling facilities were identified as a **major influence** on the mechanisms being studied. In this respect, the Ministry and the research team agreed that they would go beyond the original research brief and that, in the follow-up research phase, they would analyse those facilities' practices (including regional disparities) in more depth.

On the subject of the use of **diagnostic tools**, the interim results indicate that school counselling facilities tend to be conservative. Although innovations have been rolled out, they **mostly stick to older tools**.

Qualitative research

The qualitative section of the research project will feature **case studies of schools and classes where a large number of pupils are educated under the FEP PE UV**. The sample will comprise three representative types of localities:

1. a regional capital where there is a sizeable Roma community;
2. a smaller town in the Moravian countryside with a mainstream primary school successfully integrating a small number of Roma pupils and a town with a small school set up under section 16(9);
3. a small municipality with a mainstream primary school where integration has been successful and with a school set up under section 16(9) where the majority of pupils are Roma.

Qualitative research is currently under way in these three types of site to map the attitudes of the various stakeholders (school staff, school counselling facilities, parents...), the mechanisms of support provision (e.g. the charting of differences in the approaches taken by mainstream schools and schools set up under section 16(9)), and the impact they have on pupils' educational trajectories. One important element of the research is the role played by special-pedagogy centres and educational psychology counselling centres in the ecosystem and the relationship between school counselling facilities, schools, and pupils' parents.

Evaluation of project progress

From the MEYS's perspective, the project is progressing satisfactorily and the interim research reports are of good quality. The results obtained so far from the quantitative analysis highlight how the issue has evolved over time. A more in-depth quantitative and, above all, qualitative analysis will be important for understanding the specific mechanisms behind the placement of Roma pupils in different types of schools and classes and for identifying barriers to their placement in mainstream schools and classes. It is hoped that the insights gained from the research will enable the Ministry to target interventions in this area effectively.

The main risk to the project's success has been identified as the opportunity to physically gain access to schools when some of them have proved so defensive on this issue. The research team consults the Ministry on this risk on an ongoing basis. Having successfully made inroads into the first two study areas and established initial contact with a third site, we believe that this barrier has been broken.

3. DIAGNOSTICS

The diagnostic work done by school counselling facilities is a cardinal issue in the persistent disproportion of Roma children diagnosed with mild mental disabilities. Clearly, the current practices of school counselling facilities are unable to discern between mild mental disability and effects brought about by a different socio-cultural environment and different living conditions, i.e. social disadvantage. This inability may (does) result in a misdiagnosis of mild mental disability and the subsequent improper education of some Roma children under the FEP PE UV or their placement outside mainstream education, i.e. in schools or classes set up under section 16(9) of the Education Act. As such, the MEYS is aiming to improve this aspect of the work done by school counselling facilities, to ensure that appropriate diagnostic tools and procedures are used to identify 'social disadvantage' among children, to prevent the misdiagnosis of mild mental disability and, conversely,

to enable the clear identification and recommendation of suitable support measures directed at eliminating or at least mitigating the detrimental implications of social disadvantage.

In September and October 2021, an online inspection survey was conducted to gather relevant information related to the activities of school counselling facilities. The findings of the survey are summarised in a thematic report produced by the CSI in January 2022¹, which forms a basis for the direction to be taken by further support in this segment.

The CSI's thematic survey focused on the use of a development programme designed to provide counselling facilities with diagnostic tools, and looked at the more extensive mapping of diagnostic methods used by SCFs in their diagnostic and counselling work, as well as support measures used for children, pupils, and students with learning disorders, behavioural disorders, and social disadvantages.

Approximately four fifths of SCFs were involved in the development programme in the years when interest was at its highest. In the field of intelligence and aptitude diagnostics, the development programme has made it possible to increase the scope of activity at more than half the facilities by providing them with the most advanced diagnostic methods on the Czech market. The most frequent acquisitions by SCFs under the development programme were comprehensive methods for diagnosing intellect and cognitive abilities (IDS, IDS-P, WJ IV, CAS2, TOMAL-2) and short methods in the same field (KIT, CFT 20-R). Dynamic diagnostics (ACFS) and comprehensive diagnostics at preschool age (Klokanův kufr – 'Kangaroo Case') were also acquired. Other methods were adopted in relation to specific learning disorders and specific behavioural disorders (Conners 3, BDTG2).

The survey of the facilities shows that **older methods** are obviously being used (64.6% of educational psychology counselling centres and 49.3% of special-pedagogy centres in the 'over 20 years old' category). While respondents cite a variety of reasons for the use of these methods (their high diagnostic quality, the fact that they are proven, and their wide availability at these centres), they do recognise that older methods cannot be used without restriction. They report, for example, that older methods are used as a complement for clients in cases where other methods have already been used. Respondents mentioned the need for new standards or for the standardisation of new editions of frequently used tests (e.g. WISC-V).

The CSI survey also investigated the specific use of two older methods for diagnosing intellect, WISC-III and PDW. The responses show that WISC-III remains the prevailing method used at SCFs (88.7% of EPCCs, 83.7% of SPCs), albeit often as a complementary diagnostic method in combination with other diagnostic tools. The use of the PDW diagnostic tool has effectively been abandoned (some CSI survey respondents had never used the outdated PDW method in practice). These tools are being replaced by the IDS, IDS-P, and SON-R diagnostic tests, especially among younger children.

The use of other older tests as a first-line method (VIT, the Kohs block design test) is reported among a very small number of respondents. Much lower use of WJ (IE) and WJ IV is noted among SPCs, as some of their clients may find the method challenging. The CAS 2 method and, in isolated cases, the Vienna Test System were supplemented by respondents to a significant extent.

The MEYS is currently tackling the standardisation of newer types of diagnostic tools with representatives of Hogrefe - Testcentrum, s.r.o. The joint aim of this cooperation is to secure the high-quality adaptation of psychodiagnostic methods that can be used for a wide range of work with

¹ *Tematická zpráva České školní inspekce – Využívání diagnostických nástrojů a doporučená podpůrná opatření ve školských poradenských zařízeních z ledna 2021* [The CSI's Thematic Report from January 2021 – Use of Diagnostic Tools and Recommended Support Measures in School Counselling Facilities]. Available at: <https://www.csic.cz/cz/Aktuality/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-nastroj>.

children (e.g. WISC-V, Intelligence Structure Test – IST 2000R screening, IDS-2, etc.). As these negotiations are still in their early stages, it is impossible to set a specific date for the introduction of these diagnostic tools on the Czech market. The target date for the launch of WISC-V on the Czech market is 30 April 2023.

The MEYS is also aware that there are limits to the ability of any diagnostic tool to conclusively differentiate mild mental disability from the effects of social disadvantage, and that a focus needs to be placed on methodological support and guidance for school counselling facilities (as well as for counsellors working directly in schools as part of ‘school counselling units’) so that they can effectively pinpoint the causes, accompanying phenomena, and consequences of social disadvantage among children/pupils, and increase their skills in devising appropriate support mechanisms for socially disadvantaged children/pupils.

By the end of June 2022, the MEYS will initiate the **formation of a working group to prepare a methodological procedure for diagnosing and overcoming social disadvantage among children and pupils**. This group will be tasked with preparing methodological resources for counsellors at schools and school counselling facilities. One of the important prerequisites expected for their proper use is that with respect to children from different sociocultural backgrounds and living conditions (especially those from ‘socially excluded communities’) or, more generally, Roma children/pupils priority will be given to the use of tools for identification of social disadvantage and to the application of procedures aimed at overcoming social disadvantage and at the overall development of children/pupils. This intervention should precede any eventual diagnosis of mental disability.

The MEYS also believes that the early diagnosis of social disadvantage and the effective use of adequate tools to support socially disadvantaged pupils in mainstream schools will help to lessen the need to proceed to a subsequent diagnosis of mental disability. Consequently, one of the MEYS’s long-term goals is to provide substantial backing for the staffing of school counselling units (namely school psychologists, school special pedagogues, social pedagogues, and others) with a view to improving conditions at schools for the support of socially disadvantaged pupils.

Until 2025, the staffing of school counselling facilities will be supported, *inter alia*, with European funds from the Operational Programme Johannes Amos Comenius via the planned call ‘Templates for Kindergartens and Primary Schools I’. From 2025 onwards, the MEYS expects the work of school psychologists and school special pedagogues to be funded by the State budget.

More details on the communication that pupils and their statutory representatives will receive about the diagnosis and the impact that the diagnosis may have on their future educational pathway, as well as the option of challenging the results of the diagnosis by requesting a review.

The provision of psychological or special-pedagogy counselling services is conditional on the **delivery of information in accordance with section 1(3) of Regulation 72/2005** on the provision of counselling services at schools and school counselling facilities, as amended, and the **written consent** of the child/pupil (hereinafter the ‘pupil’) or his/her statutory representative. The counselling service will start without undue delay, i.e. within three months of the date on which the request is received at the latest. It also needs to be said that support measures at the second to fifth levels are provided on the basis of a SCF’s recommendation and with the informed consent of the pupil, if he/she has reached the age of majority, or the pupil’s statutory representative (section 2(3) of Regulation 27/2016 on the education of pupils with special educational needs and talented pupils, as amended).

After assessing a pupil’s special educational needs, the SCF will issue a report containing the assessment findings and recommendations for support measures to be taken for the pupil’s education. **When the report and recommendations are issued, the pupil, if he/she has reached the age of majority, or the pupil’s statutory representative is informed of their content and advised of the option of requesting a review under section 16b of Act no. 561/2004** on preschool, primary, secondary, post-secondary vocational and other education (Education Act), as amended (section 13(1) and (2) of Regulation 27/2016).

The content of the advice and the parents’ understanding of the impact that a diagnosis can have on a pupil’s future educational trajectory will be addressed, among other things, as part of a qualitative investigation within the framework of the research ‘*Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act*’.

Section 16b of the Education Act provides that a pupil, if he/she has reached the age of majority, the pupil’s statutory representative, or the school may, within 30 days of receiving a report or recommendation, request a legal person established and authorised by the Ministry to **review the recommendation**.² The review unit will consider the review request and the report or recommendation and, if necessary for the purposes of the review, will consider the educational needs and capabilities of the pupil (always with the consent of the pupil, if he/she has reached the age of majority, or the statutory representative of the child or pupil). The review unit will issue a review report on the outcome of its assessment within 60 days of receipt of the request. That review report may include a new report or recommendation for support measures (which replaces the reviewed report or recommendation).

Information on reviews conducted in 2016-2021:

YEAR	applicant – school	applicant – statutory representative	applicant – adult pupil	total
2016	8	2	0	10
2017	8	22	2	32
2018	12	34	5	51
2019	6	21	1	28
2020	7	11	0	18
2021	9	24	0	33

Information on whether all pupils educated under the FEP PE UV have been rediagnosed, when the testing took place, and what diagnostic tool was used.

Education is no longer provided according to the Annex to the Framework Educational Programme for Primary Education Governing the Education of Pupils with Mild Mental Disabilities. In all primary schools, pupils receive education under either the FEP PE or the FEP SPS.

Section 20(2) of Regulation 27/2016 also merits attention: ‘*Sections 11(2) to (4), 12, 13, and 15 shall apply mutatis mutandis to a recommendation pursuant to subsection 1 and to the procedure to be followed by the SCF in issuing that recommendation. This recommendation shall be valid for the period*

² National Pedagogy Institute of the Czech Republic – [Review Department](#), Head of the Review Unit: Gabriela Mikulková

*of time specified therein but not for more than **two years**; in justified cases, a validity of up to four years may be set. Where a pupil is recommended for a school or a class for pupils with **mild mental disabilities**, the first recommendation shall be valid for a maximum of **one year** and thereafter for a maximum of **two years**.' A diagnosis is therefore periodically reassessed. Against this background, it should also be added that the possibility of rediagnosis outside the prescribed periods if there is a change in the pupil's educational needs (section 15(4) of Regulation 27/2016) is not affected.*

EPCCs and SPCs proceed differently when diagnosing intellectual performance, e.g. by using older tests (Standford-Binet Intelligence Scale IV), non-verbal tests (SON-R), or short tests suitable for diagnosis in the context of career counselling or screening (IST 2000R, KIT). One of the tools used most commonly to diagnose intellectual performance is WISC III (IDS, IST 2000R, WJ III (IE), WAIS-III, WJ IV, SONR-R 2½-7, WJ II (IE), KIT, etc. For more information, see the answer to question 1a).

4. PRESCHOOL EDUCATION

In order to map and describe specific impacts and barriers to the implementation of the compulsory preschool education that was introduced in 2017/2018, the research '*Verification of the impacts of the introduction of the compulsory final year of preschool education*' was commissioned.

The research team from the Institute for Research and Development in Education at the Faculty of Education of Charles University, headed by David Greger, carried out the project from 1 December 2018 to 30 November 2021 and focused on stakeholders' views on the impact that the introduction of compulsory preschool education was having on children from socially excluded communities. Although this research was blind to the ethnicity of the children and pupils, its results can be regarded as generally relevant to Roma children and pupils. The study targeted children living in socially excluded communities, which generally have a distinct or dominant Roma profile.³

In a questionnaire survey carried out among principals of kindergartens where children from socially excluded communities are educated, more than a quarter (28%) said that the introduction of compulsory preschool education had improved attendance among socially disadvantaged children. Of the principals of the 35 kindergartens where more children from socially excluded communities are educated, a majority (57%) believe that attendance among socially disadvantaged children has improved.

Kindergarten principals say that the greatest benefit of making the final year of preschool education compulsory is that children are more prepared for the start of compulsory schooling, noting that this improved preparedness is particularly evident among children who attend kindergarten regularly. They are better prepared because of their improvements in psychomotor development (e.g. the faster development of graphomotor skills, improved gross motor skills, and spatial awareness) and the adoption of core habits critical for successful schooling. It is also important to acquire social skills, forge relationships, get into the habit of communicating with peers, and cultivate a pattern of respect for the teacher's authority.

³ The *Analysis of Socially Excluded Communities in the Czech Republic* (GAC, 2015) shows that the proportion of socially excluded communities where Roma do not constitute a majority had increased compared to 2006 (18% in 2006, rising to a quarter in 2014). However, the 2014 survey found that 24% of socially excluded communities are ethnically homogeneous (inhabited only by Roma), in 37% of communities the Roma population exceeds 90%, and in 62% of communities the Roma population exceeds 75%.

The effect that the introduction of compulsory final year of preschool education has had on participation in preschool education is evident from MEYS data showing that the proportion of children engaged in compulsory preschool education is steadily increasing. Since 2016, when this policy was introduced, the proportion of children thus engaged has increased by 2.99%. Currently, **97.96% of children** are engaged in compulsory preschool education. However, as these figures do not factor in ethnicity or socio-economic status, it is not possible to determine conclusively the exact proportion of socially disadvantaged children or Roma children who are not receiving compulsory preschool education. Nevertheless, as the lowest share of participation in compulsory preschool education is detected in regions with the highest concentration of socially excluded communities, we can infer that a large proportion of children not participating in compulsory preschool education are likely to be Roma or, more generally, children from families with low socio-economic status.

Table 1: Results of the estimate of the number/proportion of 5-year-olds not receiving preschool education as at 30 September 2021

Results of the estimate of the number/proportion of 5-year-olds not receiving preschool education						
		Mainstream kindergarten classes	Special kindergarten classes	Primary school preparatory classes	Special primary school preparatory level	Total
5-year-olds	face-to-face education	105,218	2,323	1,319	75	108,935
	home education	2,661	32	×	×	2,693
		107,879	2,355	1,319	75	111,628
Estimate of 5-year-olds as at 1 September 2021, based on CZSO data as at 31 December 2020						113,958
Proportion of 5-year-olds in preschool education						97.96%
Number of 5-year-olds not receiving preschool education						2,330
Proportion of 5-year-olds not receiving preschool education						2.04%
Estimated minimum number of 5-year-olds abroad						570

Number of 5-year-olds in the Czech Republic not receiving preschool education								1,760
Proportion of 5-year-olds in the Czech Republic not receiving preschool education								1.54%

Table 2: Results of the estimate of the number/proportion of 5-year-olds not receiving preschool education, 2014-2021

	2014	2015	2016	2017	2018	2019	2020	2021
Proportion of 5-year-olds in preschool education	91.50 %	92.77 %	94.97 %	96.94 %	97.53 %	96.83 %	97.37 %	97.96 %

The MEYS views the absence of data on the social disadvantages of children and pupils as a major barrier to the formulation and implementation of policies and interventions, and to the assessment of their impact. The MEYS is currently holding discussions with the Ministry of Labour and Social Affairs on the possibility of the one-off acquisition of pseudonymised data on the drawing of welfare benefits, as this would enable the MEYS to better identify pupils in need and target support at them. The aim, within five years, will be to share this data on a sustainable annual basis via the basic registers of the Ministry of the Interior.

The need for a coherent system of support for socially disadvantaged pupils and families, as mentioned by the research team, is addressed by the subsidy scheme Support to Increase Children’s Participation in Preschool Education in the Karlovy Vary and Ústí nad Labem Regions for 2022.⁴ The call for applications for the period from January to December 2022 has been allocated CZK 20,000,000. Besides support for school dinners, this latest call for applications has also been expanded to include activities supporting the all-round personal development of socially disadvantaged children and children whose family is experiencing chronic or temporary financial hardship. Additionally, initiatives aimed at establishing cooperation with the family and removing other financial barriers (e.g. transportation to kindergartens, the necessary supplies) will be supported.

As the Ministry expands its data-driven coverage and systematises the support provided, there should be a move away from the dependence of these activities on subsidies in order to establish a fixed component of funding that schools can use for planning. One measure that will contribute substantially to this goal is the introduction of index-based funding for the regional education system, which is planned for 2026 onwards. Under component 3.2.2 (Support for schools) of the National Recovery Plan, a school social disadvantage index (based in part on data about the drawing of welfare benefits) and a mechanism for allocating funds to schools will be proposed.

⁴ The research *Verification of the impacts of the introduction of the compulsory final year of preschool education* shows that, for example, the participation rate of preschool children in the Karlovy Vary Region increased from 87.4% to 95.4% between the 2016/2017 academic year and the 2018/2019 academic year. In the Ústí nad Labem Region in the same period, the participation rate of children in preschool education rose by 2.5%.

The securing of access to kindergartens and support related to the conditions, methods, and forms of work at kindergartens are covered by the 'Preschool education support' implementation card under the Strategy for the Education Policy of the Czech Republic up to 2030+.

Measures designed to remove barriers to participation in preschool education are gradually being implemented:

1. Analysis of the effectiveness of measures taken for compulsory preschool education

The research *Verification of the impacts of the introduction of the compulsory final year of preschool education* shows that, for example, the participation rate of preschool children in the Karlovy Vary Region increased from 87.4% to 95.4% between the 2016/2017 academic year and the 2018/2019 academic year.

2. Preparation of methodology for communication with statutory representatives – analysis of current places open at kindergartens

The methodological guide 'Communicating with Statutory Representatives of Kindergarten Children' is an MEYS resource to help and support teachers in their communication with statutory representatives. It will be published in 2023. The manual aims to familiarise kindergarten teachers with the possibilities and various forms of communication with statutory representatives before children start kindergarten, during the school year, and when children are at risk of academic failure. An equally important goal of this publication is to promote effective communication between the school and the family, covering the following topics: group class meetings, the school council, focus groups with the statutory representatives of selected groups, sessions for statutory representatives, or consultations on a child's portfolio.

3. Update of the Framework Educational Programme for Preschool Education

Principal objectives are currently being set as part of a revision of the FEP PE. The FEP PreE is being further reworked by an MEYS-appointed working group. The public will be kept transparently informed, and part of the measures includes the establishment of extensive methodological support for kindergartens as they transition to education under the revised FEP PreE.

4. Establishment of pedagogical diagnostic methodology

The methodological manual 'Pedagogical Diagnostics in Kindergartens' was prepared in 2021 so that it would be ready for publication during the first half of 2022. Continuous pedagogical diagnosis in a kindergarten environment is an important tool in collecting the data necessary to identify a child's individual needs and set individual goals. It is also a means of assessing children's individual progress and evaluating progress towards the goals they have been set.

Getting to know a child, and hence an entire class, is a lengthy process that should involve all school staff and statutory representatives. The aim of pedagogical diagnostics is to identify, evaluate, and assess all conditions during the course of children's education in kindergartens. These findings facilitate the formulation of effective and targeted measures tailored to each child, primarily for use in kindergarten and secondarily to identify the child's future special educational needs at primary school.

The factors specific/unique to each child must be taken into account when planning and implementing the education offered to them, both in terms of their age (age appropriateness) and their personal disposition and capabilities (individual appropriateness). Pedagogical diagnostics is also well suited to disparities in the development of individual children's abilities and skills, to differences in social background, and to the intermingling of cultures, where performance-oriented diagnosis may yield

misleading information. Each individual's knowledge, performance, and disposition is shaped by the environment in which they live. A child's development is guided by the culture in which they grow up, the family's social environment, and school. These influences can also greatly inform the results of the diagnosis, which continues to work with them. Properly conducted pedagogical diagnostics will stimulate children's fullest educational potential and thus ease their integration into primary education.

5. Update of continuing education for managers among the teaching staff

In partnership with the NPI, continuing education courses for teaching staff are being prepared that include a focus on the diagnosis of preschool children. These courses will seek to familiarise kindergarten teachers with the different types of diagnostics, their objectives, and their use in accordance with the requirements of the FEP PreE (2021). In line with the Strategy for the Education Policy of the Czech Republic up to 2030+, the NPI has now submitted proposals which it is starting to pilot, and according to which the kindergarten principal standard is to be revised. The range of courses of continuing education for teaching staff in all regions of the Czech Republic is constantly updated. These courses are intended for all school authorities running kindergartens and are now also offered online.

The principal standard needs to be targeted specifically at kindergarten principals. A kindergarten principal is the pedagogical figurehead of change within a school, which makes supporting this role crucial. Support for principals will be aimed particularly at the following areas: pedagogical management of the school (support for the systematic, comprehensive, and objective evaluation of the quality of teaching in the school), in-class observation and evaluation (the provision of feedback using formative assessment), and support for novice teachers and mentors (support of the system for the induction of novice teachers into the profession). The main goals are to ensure the quality of kindergarten management, the establishment of a clear vision, and the continuity of the education provided.

5. OTHER PROGRAMMES AND MEASURES

The MEYS recognises that intervention is needed to reduce inequalities (including the removal of barriers impeding equal access to education). The Operational Programme Johannes Amos Comenius (2021-2027) and the National Recovery Plan (2022-2025) provide extensive funding for these interventions and pursue objectives that support improvements to the conditions in place for the education of pupils from socially disadvantaged backgrounds. Socially disadvantaged Roma pupils are one of the groups targeted by the planned interventions.

Operational Programme Johannes Amos Comenius (OP JAC)

Under Specific Objective 2.4 (*Promoting socio-economic integration of marginalised communities such as Roma people*), the OP JAC will support interventions aimed at reducing inequalities in education and developing the potential of all children, pupils, and students from marginalised groups, such as the Roma, or children, pupils and students who are from socially disadvantaged backgrounds or are at risk of academic failure. The supported activities will lead to the removal of barriers to access to education and will focus on ensuring that conditions are in place for the high-quality inclusive education of children, pupils, and students in all types of schools and at all levels of the school education system. More intensive support will be given to areas where there are socially excluded communities. Interventions under the specific objective will appropriately complement the resources

of the State budget and the National Recovery Plan aimed at supporting marginalised groups, such as the Roma, or children, pupils, and students from socially disadvantaged backgrounds or at risk of academic failure, thus ensuring support at all levels of education.

The interventions will result in:

- a reduction in educational inequality and an increase in fairness in access to education between and within schools;
- greater motivation to learn and support for the academic success of children, pupils, and students from marginalised groups at all levels of the education system (especially in the transition between levels of education), with a view to reducing academic failure and drop-out rates;
- an increase in the proportion of children from marginalised groups in all grades of preschool education.

Examples of the types of supported activities:

Equality in education:

- support for tools preventing the formation of segregated schools and support for the elimination of segregated schools;
- support for measures encouraging children from marginalised groups, especially Roma, to begin preschool education at an early age;
- the creation of conditions motivating children, pupils, and students to remain in the education system (e.g. support for scholarships in tertiary education by non-governmental non-profit organisations, providing examples of good practice promoting the social success of individuals from marginalised groups such as the Roma);
- individualised support to facilitate transitions between different levels of the education system (e.g. through educational and career counselling activities, prevention of risk behaviour patterns, preparation for teaching, mentoring, etc.);
- support for tools to root out anti-Roma sentiment;
- activities enabling children, pupils and students to experience success in formal, leisure and informal education;
- early identification of special abilities in order to fully develop the talents of children, pupils, and students, and targeted support for their development;
- introduction of mechanisms to prevent the exclusion of children, pupils, and students from distance education;
- targeted support through school assistants and other support positions;
- support for cooperation between schools and educational institutions and the families of children and pupils; development of competences, the encouragement and active involvement of parents (or statutory representatives) in the field of education of children and pupils;
- support for networking and collaboration between schools, NGOs, and other institutions that deal with marginalised Roma communities in order to improve the motivation of Roma children/pupils and their parents/statutory representatives to pursue education and achieve academic success.

Educational staff:

- training and methodological support for staff providing counselling in the school education system, particularly in the identification and diagnosis of Roma and other disadvantaged children, pupils, and students, including the use of appropriate tools in counselling and diagnosis;
- development of the competences of educational staff in working with the socio-cultural context of children and pupils, openness to otherness, recognising and addressing discrimination, including anti-Roma sentiment and unconscious prejudice;
- methodological support and networking for education professionals in the field of education of children, pupils, and students from marginalised and other disadvantaged groups.

Education management:

- development of competences in the area of project management, in particular the development of general principles of project management (for example how to reach an objective correctly by making use of all available tools and methods, how to plan properly, work with risks, etc.);
- support for action planning processes for the development of education in regions with socially excluded communities, and the effective cooperation of all stakeholders in those areas;
- support for school authorities in the field of inclusive education and the prevention of segregation in education;
- methodological support for schools and school facilities in the management of the organisation, which will lead to the prevention of discriminatory and segregationist approaches in the education of children, pupils, and students from socially disadvantaged backgrounds or marginalised groups, especially Roma.

National Recovery Plan (NRP)

The National Recovery Plan is part of the MEYS's response to the impact that the coronavirus crisis has had on education, particularly for socially disadvantaged pupils. Under component 3.2.3 (Tutoring), CZK 1 billion has been allocated for 2022-2023 to tutor pupils who are at risk of academic failure due to the disruption of their education. To calculate the funding allocated to individual schools, a mathematical model was developed (in partnership with PAQ Research) that factored in the criterion of the social exclusion index and the reported numbers of socially disadvantaged pupils.

Under component 3.2.2 (Support for schools), the MEYS responds to wide disparities in the quality of schools, both regionally and in individual municipalities (taking into account the existence of segregated schools). At least 400 of the most disadvantaged schools will be selected for financial and methodological support in 2022-2025. In the first wave, 262 primary schools were selected according to a set of criteria that included a higher proportion of Roma pupils in schools, the drop-out rate, the reported number of socially disadvantaged pupils, etc. Besides financial methodological support for schools (the staffing of support positions, teacher training, cooperation with social services, etc.), comprehensive support for schools will also include guidance for school authorities on desegregation,

collaboration with the counselling system, and follow-up social services for families. This programme has been allocated CZK 2 billion and will be implemented in partnership with the NPI.

Following an evaluation of this support for schools, an **index-based school funding system** will be proposed in 2026.

6. EXPERT FORUM'S ACTIVITIES

In response to points 4 and 5 of the decision of the Committee of Ministers of the Council of Europe dated 25 September 2019, the Expert Panel for the Execution of the Court's Judgments (*Kolegium expertů pro výkon rozsudků Soudu*), an advisory body of the Agent of the Czech Government before the Court which coordinates the execution of the Court's judgments at the national level, set up a special Expert Forum as its working group in January 2020. This working group is tasked with identifying the causes of the persisting excessive number of Roma pupils who are receiving education under the FEP PE UV because of their mild mental disabilities, and with formulating recommendations helping to ensure Roma pupils' equal access to education.

Expert Forum's Conclusions

The Expert Forum formulated its Conclusions, identifying the current obstacles that Expert Forum members believe Roma pupils may face on their path to equal access to education, in the wake of six meetings held between June 2020 and January 2022. The Government attach the **full text of the Expert Forum's Conclusions** as **Annex 2** to this Report on the Execution of the Judgment. The Conclusions are structured into six thematic parts and, in addition to describing the current situation and the problems identified in each area, they present recommendations for the authorities concerned.

MEYS response to the Expert Forum's Conclusions

The Expert Forum's conclusions and recommendations were submitted to the MEYS for written observations and proposals for action that can be taken in order to implement them. The Government attach the **MEYS's response to the Expert Forum's Conclusions** as **Annex 3** to this Report on the Execution of the Judgment. In its response, the MEYS comments on all identified problem areas and describes what steps are currently being planned to improve the situation. It believes that interministerial cooperation and the involvement of relevant stakeholders, including the MLSA, regions, and municipalities, in tackling the desegregation of the education system and promoting co-education are the key to moving forward. The MEYS's response will be forwarded to the Expert Forum for discussion. The MEYS's response to the Expert Forum's Conclusions is also reflected in the wording of the present Report on the Execution of the Judgment because there is interplay between the topics addressed and the remedial measures proposed.

There are plans for the Expert Forum to remain active for the next year in order to monitor further progress on the road to ensuring equal access to education for Roma pupils in the light of the obstacles identified and the remedial measures proposed. It will continue to serve as a platform for the sharing of knowledge and experience between representatives of the State, the staff of schools and school counselling facilities, academics, sociologists, non-governmental organisations and, last but not least, representatives of the Roma community.

7. OBSERVATIONS ON THE SUBMISSION MADE BY THE FORUM FOR HUMAN RIGHTS ON THE EXECUTION OF THE JUDGMENT IN *D.H. AND OTHERS*

In its submission of 29 March 2022, the non-profit organisation Forum for Human Rights points out that the problem of the exaggerated perception of Roma as persons with disabilities persists and should not, it says, be masked behind adjusted outcomes. In the organisation's opinion, the discrimination faced by Roma in access to education cannot be remedied unless the right to inclusive education *per se* is properly enforced. In this respect, the organisation argues that no child should be segregated but should always be allowed to learn in an inclusive environment within a mainstream school (opposite to the possible separation of pupils into schools and classes set up under section 16(9) of the Education Act). In the organisation's opinion, the system of providing support measures to children is erroneously based on a medical/expert approach to determining a child's educational needs. This system relies on diagnostics, i.e. the use of diagnostic tools without sufficient provision for the participation of the child or their parent in the results, which in the organisation's view is unacceptable. The Forum for Human Rights suggests that individual support for a child should be rooted in the concept of providing appropriate measures based not on an expert assessment of the individual's needs but on dialogue with the individual. It stresses, in this connection, the need for greater participation by a child and their parents in determining the child's learning needs.

The MEYS acknowledges the facts pointed out by the Forum for Human Rights. In its plans and procedures, the MEYS will concentrate specifically on the timely diagnosis of social disadvantage and on the effective use of a new diagnostic tool – in particular, on the guidance and training of staff in schools and SCFs. The planned increase in the capacity of school counsellors (see Annex 3, point IV-1) will allow for the greater involvement of pupils and their statutory representatives in the diagnosis and in decision-making on the provision of support measures, especially when as regards the determination and provision of first-level support measures. However, the MEYS regards the involvement of pupils and their parents in the diagnostic process by enabling them to engage in dialogue as complementary to expert assessment, in that expert assessment is crucial for a high-quality diagnosis and the recommendation of support measures at higher levels. The problem being raised by the organisation, i.e. the excessive number of Roma pupils in the total number of pupils receiving education under the FEP PE UV, is addressed by *Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal of a set of measures for education and other relevant areas*, and the presentation of the results will be followed by appropriate measures to reduce this high proportion, i.e. to effect desegregation in the education system.

8. INTERMINISTERIAL COOPERATION

In order to progress in addressing inequalities in education, the Czech Republic believes that it is essential to establish effective interministerial cooperation and to involve other important stakeholders in efforts to desegregate the education system and to promote co-education. To this end, the MEYS and MLSA have an interministerial working group on the drop-out rate, where the common topic of Social Work in Education is also discussed. The following can be considered priorities of interministerial cooperation:

- Data sharing between the MLSA and the MEYS with the aim of properly targeting the interventions of the MEYS (and also the MLSA) geared specifically towards helping children from socially disadvantaged backgrounds. This is crucial, in particular, for the general pursuit of one of the two objectives of S2030+ (to reduce inequalities in education), and for the proper establishment of a system of support for the most disadvantaged schools that is financed by the State budget;
- The joint establishment of methodology for cooperation between schools and social services for the support of socially disadvantaged pupils and their families;
- The introduction of an allowance linked to the costs of education for low-income families, with the school facility as the ‘special beneficiary’.

In order to implement the measures put forward to increase equal access to education for Roma children and pupils, it is also considered necessary to involve representatives of regions (as the authorities running secondary schools, schools set up under section 16(9) of the Education Act, and EPCCs) and municipalities (as the authorities running kindergartens and primary schools), bearing in mind that standard mechanisms of rights-based support intended for pupils with special educational needs are also used for the benefit of Roma children. In addition, the steps outlined above will be taken to clearly identify the need for support and to make greater use of rights-based support in relation to this target group of children and pupils who have support needs stemming from social disadvantage, which is largely made up of Roma children and pupils.

9. CONCLUSION

The Czech Republic is conscious of the fact that, for all the measures taken to date, a disproportionately high proportion of Roma pupils is still receiving education under the FEP PE UV. The Czech Republic continues to attach great importance to the dismantling of barriers impeding Roma pupils’ access to education. The Czech Republic views full interministerial cooperation, the implementation of the measures outlined in this Report, and the MEYS’s increased data awareness (primarily as a result of implementing the aforementioned research project to understand the causes and mechanisms underlying the placement of a high proportion of Roma pupils in schools and classes set up under section 16(9) of the Education Act) as steps that will greatly enhance the effectiveness of public policy in addressing this problem. In the light of new analytical data, the Czech Republic will continue to track developments in the issue over time and adapt the measures taken so that they are aimed at effectively eliminating barriers to the education of Roma pupils.

ANNEX 1 – RESEARCH ASSIGNMENT OF THE ANALYSIS OF THE CAUSES UNDERLYING THE HIGHER PROPORTION OF ROMA PUPILS RECEIVING EDUCATION UNDER THE FEP PE UV IN CLASSES SET UP UNDER SECTION 16(9) OF THE EDUCATION ACT AND PROPOSAL OF A SET OF MEASURES FOR EDUCATION AND OTHER RELEVANT AREAS

The research project's main goal is to identify why Roma pupils receive education under the FEP PE UV and to devise a set of recommendations for education and other sectors with a view to reducing the number of Roma pupils in schools and classes set up under section 16(9) of the Education Act.

Among the potential research hypotheses that could be tested is the assumption that in places where there is a segregated 'mainstream' school there will be less of a tendency to place Roma pupils in special schools because the local system will be 'content' to relegate them to the 'mainstream' segregated school.

A second research hypothesis is: 'There is inconsistency in school counselling facilities' practices both within individual facilities themselves and between regions.'

Description of how the research is conducted:

In order to achieve the primary objective, the research – data collection and processing – will comprise both a quantitative and a qualitative part. Beforehand, there will be desk research into the most pertinent research results from the Czech Republic (e.g. the quantitative findings of Gabal, Čada, Hule, Katrňák, Fónadová, and others, qualitative ethnographic or other studies by, for example, Bittnerová, Kohout-Díaz, Levínská, Souralová, Moree, Kaleja, and others, and the outputs of projects – the Czech School Inspectorate's Comprehensive Evaluation System, APIV B, etc.) and from abroad (e.g. Slovakia and the UK). All research strategies seek to understand the trends and mechanisms underlying the placement of Roma pupils in classes educated under the FEP PE UV. The available analyses, both types of data collection, and the processing thereof will be used to formulate a set of recommendations for education and other areas of public administration (health, social policy, etc.) aimed at reducing the proportion of Roma pupils in schools and classes set up under section 16(9) of the Education Act.

The project – taking into account the findings of all the research strategies used – will also deliver methodology for the non-targeted collection of ethnically sensitive data in schools.

The quantitative part will be based on data available at school level, and plans to provide answers to the following questions with an aggregated presentation of data (including map visualisation) at the level of municipalities with extended powers:

1. How has the number and reporting of Roma pupils evolved over time? Does the reporting correlate with the characteristics of the area? If so, can the true number of Roma pupils be modelled on the basis of data about the area?
2. How has the proportion of Roma pupils receiving education in schools and classes set up under section 16(9) evolved over time?
3. Is the proportion of Roma pupils receiving education in schools and classes set up under section 16(9) in line with the profile of the school (e.g. preparatory classes, deferrals, drop-outs) and the area (e.g. enforcement orders, substandard housing, unemployment)?
4. How do the diagnostic practices of school counselling facilities (SCFs) in the area vary when recommending that pupils be educated in schools and classes set up under section 16(9) and how does this correlate with the number of Roma pupils in the area? If applicable, what phenomena is this further related to?

5. In what way is the incidence of children in kindergartens who are identified as having special educational needs on account of different cultural and living conditions related to trends in the data on the number of Roma pupils entering primary schools at the level of municipalities with extended powers (identification of any disproportion between the number of Roma pupils in primary schools and the number of children in the surrounding kindergartens)? How are these trends related to other mechanisms, such as deferred schooling, education in preparatory classes, or whether a kindergarten and primary school have the same management?

All waves of the survey on qualified estimates of the number of Roma pupils in primary schools will be used for quantitative analysis. These estimates will be joined by other data from the MEYS's reporting (e.g. primary school reporting, data from school counselling facilities) and other local contextual data. Current publicly available data on the social situation in municipalities with extended powers will also be used. This includes the proportion of parents faced with enforcement orders, the proportion of children living in precarious housing and in socially excluded communities, and divorce and unemployment rates.

The findings obtained in the quantitative part will be used to develop a classification of schools that will serve as a basis for sampling in the qualitative part of the project. Although the classification will not be established until the analysis is complete, at least the following factors will be taken into account: (1) the number of Roma pupils; (2) the average proportions of pupils receiving education in schools and classes set up under section 16(9); (3) trends over time; (4) the approach taken by SCFs; and (5) local characteristics.

The quantitative part of the research will also test the basic research hypotheses: first, the assumption that in places where there is a segregated mainstream school there will be less of a tendency to place Roma pupils in schools set up under section 16(9) because the local system will be 'content' to relegate them to the 'mainstream' segregated school. We will also test a second research hypothesis: whether there is inconsistency in school counselling facilities' practices both within individual facilities themselves and between regions. In relation to SCFs, the CSI will also be consulted on findings from its inspection work.

The primary objective of the qualitative part of the research is to describe in detail the processes that occur in individual schools and, more broadly, in the local context that (do not) lead to the placement of pupils of Roma origin in classes and schools set up under section 16(9) of the Education Act, as well as the experience of this type of education gained not only by teachers but also, and more importantly, by pupils and their families. These processes will be charted in detail in six schools/classes that have a high proportion of Roma pupils. The majority of the sample will comprise special schools and classes.

The basic research method will be qualitative in-depth interviews in the school/classroom. At least 36 interviews will be conducted with school staff, 18 interviews with primary caregivers, and 18 interviews with male and female pupils. To gather a broader set of data, the interviews will be supplemented with other research strategies – focal interviews, workshops, and ethnographic observations.

One important aspect of the research is collaboration with a local coordinator. This may be a school employee, a social services worker, an NGO active in the area, or a member of the local Roma community. The local coordinator will cooperate in gaining access to pupils' families, as this is a pivotal group in obtaining a comprehensive perspective of the local situation and in assessing the overall situation relating to the education of Roma pupils. The involvement of a local coordinator is a strategy

that minimises the biggest challenge for the qualitative part, that of gaining access directly to the Roma community.

The final report will describe in detail the situation in each school and location and provide general responses to the following questions:

1. What are the current educational trajectories of Roma pupils? What institutions influence these trajectories and in what ways?
2. What is the standing of Roma pupils in schools? How do principals, teachers, and other staff view them?
3. What do pupils' families think about their educational situation? What role has been played by families in the process of having pupils placed in special schools and classes?
4. What role do kindergartens, local NGOs, the social and education departments of local government, and school counselling facilities play in the situation? How do special classes function in the broader local context?

The findings derived from both the quantitative and qualitative parts of the research will be used to devise concise methodology for the non-targeted collection of ethnically sensitive data, which will be included in the research report as a separate annex. A member of the research team – a legal expert on the subject – will prepare a handbook briefly outlining the legislative background, the key positions of public administration bodies, and relevant case law. This document will also incorporate the outputs of current research projects (e.g. the project Creation of a Quantitative Data Collection System for Evaluating the Situation of the Roma in Czech Society, as implemented by Výzkumný ústav práce a sociálních věcí, v. v. i. [the Research Institute for Labour and Social Affairs]).

Timetable:

Implementation from 1 December 2021 to 30 November 2022

ANNEX 2 – EXPERT FORUM’S CONCLUSIONS ON THE EXECUTION OF THE JUDGMENT IN D.H. AND OTHERS

INTRODUCTION – ESTABLISHMENT AND MISSION OF THE EXPERT FORUM

In response to points 4 and 5 of the decision of the Committee of Ministers of the Council of Europe dated 25 September 2019,⁵ adopted in connection with the supervision of the execution of the judgment in *D.H. and Others v. the Czech Republic*, the Expert Panel for the Execution of Judgments of the European Court of Human Rights (“the Court”), an advisory body of the Agent of the Czech Government before the Court, which coordinates the execution of the Court’s judgments at the national level, set up the Expert Forum (“the Forum”) as its working group in January 2020. The Panel instructed the Forum to identify the causes of the persisting disproportionately large number of Roma pupils who are receiving education under educational programmes with lower learning outcomes because of their mild mental disabilities and to formulate specific recommendations helping to ensure Roma pupils’ equal access to education.

The Forum is composed of representatives of the State (the Ministry of Education, Youth and Sports [“the MEYS”], the Ministry of Labour and Social Affairs [“the MLSA”], the Office of the Government, the Committee for the Rights of the Child of the Government Council for Human Rights, the Government Council for Roma Minority Affairs, the Office of the Public Defender of Rights [“the Ombudsman”], the Czech School Inspectorate [“the CSI”], and the National Pedagogy Institute [“the NPI”]), representatives of schools’ and school counselling facilities’ staff, as well as university experts, sociologists, non-governmental organisations, and representatives of the Roma community.

These conclusions are a summary of the discussions held by the Forum’s members during its six meetings to date and identify obstacles on Roma pupils’ path towards equal access to education. The conclusions are thematically organised into relevant areas. Each section comprises an introduction to the theme, a description of the situation and problems observed by Forum members, and Forum members’ conclusions and recommendations outlining both the general and specific changes that are needed. The themes chosen relate solely to areas of direct relevance to education. Nevertheless, there are broader factors affecting Roma children’s equal access to education, such as housing quality, the labour market, and poverty, which are not covered in this document.

The thematic blocks are structured as follows:

- I. [Framework Educational Programme with Lower Learning Outcomes because of Mild Mental Disabilities](#);
- II. [Diagnostics](#);
- III. [Teachers](#);
- IV. [Other Educational Staff \(Psychologist, Special Pedagogue, Teaching Assistant, and Social Pedagogue or Worker\)](#);
- V. [Preschool Education](#);
- VI. [Segregated Schools](#).

⁵ Decision CM/Del/Dec(2019)1355/H46-7 of the Committee of Ministers of the Council of Europe of 25 September 2019 is available at [http://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2019\)1355/H46-7E](http://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2019)1355/H46-7E).

I. FRAMEWORK EDUCATIONAL PROGRAMME WITH LOWER LEARNING OUTCOMES BECAUSE OF MILD MENTAL DISABILITIES

Effective as of 1 September 2016, a new Framework Educational Programme for Primary Education (“FEP PE”) was introduced that includes a section on pupils with special educational needs, whose learning outcomes are adjusted to accommodate their mild mental disabilities (“the FEP PE UV”). The FEP PE UV makes it possible, on the basis of a recommendation from a school counselling facility, for individual pupils to have their learning outcomes adjusted – through support measures in the form of individual education plans – only in those areas where this is necessary. As a whole, the FEP PE UV is a curriculum for education in mainstream schools. Pupils under the FEP PE UV may be placed in a school or class set up under section 16(9) of the Education Act only on the basis of a recommendation from a school counselling facility.

Qualified estimates indicate that:

- in 2019/2020, 33,768 Roma pupils were enrolled in primary schools, accounting for 3.5% of all pupils enrolled in primary schools; in 2020/2021, the number of these Roma pupils increased to 34,267, i.e. 3.6% of the total number of pupils in primary schools;
- in 2019/2020, 10.8% of the total number of Roma pupils enrolled under the standardised FEP PE were educated according to the FEP PE UV; in 2020/2021, this proportion increased to 11.9%; of all pupils from the majority population enrolled under the FEP PE, the proportion receiving education under the FEP PE UV was 1.2% in 2019/2020 and 1.3% in 2020/2021;
- in 2019/2020, 24.2% of all pupils educated according to the FEP PE UV were Roma; in 2020/2021, this figure was 25.3%;
- in the 2019/2020 academic year, the number of Roma pupils receiving education under the FEP PE UV increased by 83 pupils year-on-year, while the total year-on-year increase in the number of pupils under this programme was 2,040, i.e. Roma pupils accounted for only 4% of this rise; in the 2020/2021 academic year, the total number of pupils under the FEP PE UV increased by 1,298, with the number of Roma pupils under the programme climbing by 480, i.e. Roma pupils accounted for approximately 37% of the increase;
- of all Roma pupils receiving education under the FEP PE UV, the share of children taught in classes or schools set up under section 16(9) of the Education Act was 72.8% in 2019/2020; in 2020/2021, this share rose to 75.5%.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

As a rule, only pupils who have been diagnosed with mild mental disabilities should receive education under the FEP PE UV; only in very rare instances may other pupils be involved. It is therefore reasonable to assume that **all pupils receiving education under the FEP PE UV have been diagnosed with mild mental disabilities.**

Under the FEP PE UV, learning outcomes can be reduced to fit the needs of the individual pupil. Forum members believe, however, that, depending on how much the learning outcomes have been adapted for a pupil who is receiving education under the FEP PE UV, that pupil may not have a realistic chance of continuing their studies at a secondary school that ends with the *maturita* qualification granted at the end of upper-secondary education. While such pupils can formally finish primary (lower-secondary) education with the same certificate as pupils under the mainstream FEP PE, they are less likely to pass, for example, the secondary-school entrance exam. Furthermore, some Forum members have witnessed a wholesale decline in learning outcomes in practice. The FEP PE UV is appropriate for pupils with mild mental disabilities. This individualised approach enables their learning outcomes to be adjusted only in areas where this is necessary so that it is then easier to place these pupils in mainstream schools and classes. However, difficulties arise when pupils who have been misdiagnosed with mild mental disabilities should not be – but are – receiving education under the

FEP PE UV. This situation also entails lower learning outcomes, which has a direct bearing on an individual's education, self-esteem, and prospects in life.

As is evident from the figures cited above, a disproportionately high number of Roma pupils receive education under the FEP PE UV compared to pupils from the majority population. The manifest lopsided representation of Roma pupils under the programme essentially implies that a **considerable number of Roma pupils receiving education under the FEP PE UV do not, in fact, have mild mental disabilities and their learning outcomes should not be at a reduced level. A different diagnosis, accompanied by appropriate support measures, should be reached in response to their educational needs.** As will also be discussed below in the section on diagnostics, social disadvantages can have consequences for intelligence test scores and may be misinterpreted in practice as mild mental disabilities. The mistaking of social disadvantage for mild mental disabilities needs to be prevented. If the effect of social disadvantage on a child's readiness for education is identified correctly, specific support measures exist for children who are diagnosed with a need for support stemming from their different cultural background and living conditions. Such support also precludes the education of these children under the FEP PE UV, i.e. with lower learning outcomes, or their placement in a school or class set up under section 16(9) of the Education Act, and therefore their diagnosis should not result in their segregation.

Forum members suggest that the number of Roma pupils receiving education with adjusted learning outcomes may actually be even higher because, in practice, schools where a larger number of pupils are receiving education under the FEP PE UV (upwards of some 30%) often reduce learning outcomes *de facto* across the board for all their pupils.

Besides the inordinate number of Roma pupils receiving education under the FEP PE UV compared to the majority population, another specific phenomenon is that the **majority of pupils receiving education under the FEP PE UV are placed in schools or classes set up under section 16(9) of the Education Act, i.e. outside mainstream schools or classes.**⁶ The causes underlying why the majority of Roma pupils receiving education under the FEP PE UV are being educated in schools and classes set up under section 16(9) of the Education Act and why these children are not being educated in mainstream schools have yet to be analysed. For this reason, the barriers preventing these pupils from being educated in mainstream schools are not well understood, but knowledge of these obstacles is essential if evidence-based strategies are to be formulated so that education in mainstream schools can be made more accessible and of a better quality for these pupils. Analysis of both the amount of support given to each child and the level of assistance provided to schools and teaching staff is lacking. In the eyes of Forum members, segregation tends to be a consequence of the fact that teachers are at a loss about how to properly support children across the entire spectrum of their needs. Professional services for multidisciplinary cooperation, i.e. sufficient support capacities, are frequently in short supply on the ground.

The notion that **schools and classes set up under section 16(9) of the Education Act for the education of pupils under the FEP PE UV are among schools or classes with a high proportion of Roma pupils is a hypothesis** that needs to be verified. It does seem, however, that segregated schools and education provided under the FEP PE UV are interrelated phenomena. Notwithstanding that impression, as of yet there has been no research to paint an accurate picture of the situation. It is also impossible to tell whether classes set up at a mainstream primary school under section 16(9) of the Education Act are segregated classes because qualified estimates of the number of Roma pupils are given for the entire school, not for individual classes.

⁶ According to information from the MEYS, the study "*Analysis of the causes behind the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal for a set of measures in the education sector and other relevant areas*" was launched on 1 December 2021 and is expected to end on 30 November 2022.

In addition, Forum members report that, in more recent years, Roma pupils may have been diagnosed with a **specific behavioural disorder, a learning disorder, or ADHD** rather than mild mental disabilities.⁷ There is no clear data available in the Czech Republic to prove this conclusively as no ethnicity-based data on the number of pupils diagnosed in this way is collected centrally. Nonetheless, statistics recorded in recent years indicate a considerable overall increase in the number of pupils falling into these diagnostic categories. For example, the statistical yearbook published by the MEYS shows that the number of pupils diagnosed with behavioural disorders soared from less than 8,000 (7,974) in 2015 to more than 18,000 (18,329) in 2019.⁸ But at the same time, there is no hard data to provide a satisfactory explanation for this jump. The fact that this surge is occurring at a time when school counselling facilities are being steered towards a reduction in the number of diagnoses of mild mental disabilities among Roma pupils raises the suspicion, at the very least, that the overall problem with the disproportionate representation of Roma pupils in special education, i.e. in classes or schools set up under section 16(9) of the Education Act, is not getting any better, but is simply being passed around between different categories.⁹ These disorders should not be a reason for pupils to receive education under the FEP PE UV. Certainly, though, pupils with a specific behavioural disorder or learning disorder may be educated in schools or classes set up under section 16(9) of the Education Act, where they may be segregated. It would thus appear that an analysis of the impact that these diagnoses have on the content and outcomes of pupils' education and their placement, in the light of possible segregation, is also of the essence.

B. EXPERT FORUM'S CONCLUSIONS AND RECOMMENDATIONS

- 1. Take action to prevent Roma pupils from being misdiagnosed as having mild mental disabilities, which could result in their receiving inappropriate education under the FEP PE UV or in their segregation by being placed in schools or classes set up under section 16(9) of the Education Act (see the diagnostic process).**
- 2. Analyse the causes behind the predominance of Roma pupils receiving education under the FEP PE UV in schools or classes set up under section 16(9) of the Education Act, including barriers impeding their education in mainstream schools, and take corrective action.**
3. Monitor and assess the forms, extent, and benefits of the common education of pupils in mainstream schools where special classes are set up under Section 16(9) of the Education Act, with a view to defining guiding principles for the teaching of pupils in such schools that will facilitate the successful pursuit of educational goals.

⁷ See, for example, Zbyněk Němec (2020). *“Zvedněte ruce, kdo půjde do míst, kde necítí uznání”*: O segregaci romských žáků ve vzdělávání [“Those Going Where They Do Not Feel Recognised, Raise Your Hand”: On Segregation of Roma Pupils in Education]. Prague: Charles University, Faculty of Education.

⁸ MEYS (2020). *Statistická ročenka školství – výkonové ukazatele*. Tab. C1.7.1 Základní vzdělávání – žáci/dívky podle druhu postižení – podle území a formy integrace [Annual Statistics on Education – Performance Indicators. Table C1.7.1 Primary Education – Pupils / Girls According to the Type of Disability – According to Territory and Form of Integration]. [online, accessed 11 April 2020]. Available at: <http://toiler.uiv.cz/ročenka/ročenka.asp>

⁹ Notable foreign studies on the general phenomenon of the overrepresentation of pupils from ethnic minorities in special education programmes have documented that, looking at the entire range of special education, it is usually programmes for pupils with mild mental disabilities and programmes for pupils with behavioural disorders where there tend to be many more ethnic minority pupils than their average numbers in the overall population of pupils would suggest. See, for example, Beth Harry and Janette Klinger, (2014). *Why Are So Many Minority Students in Special Education? Understanding Race & Disability in Schools*. New York: Teachers, Columbia University. See also Gabriela Walker (2008). *Overrepresented Minorities in Special Education in the United States and Romania: comparison between African-American and Roma populations in disability studies*. *Research in Comparative and International Education*, 3(4), pp. 394–403.

4. Examine the standard of education provided to children who are formally receiving education under the mainstream education framework and attend a school where the majority of pupils follow the FEP PE UV, and if necessary take corrective action.
5. Examine whether Roma pupils are excessively and incorrectly diagnosed with behavioural disorders, learning disorder, or ADHD, and how such a diagnosis affects their learning outcomes or placement outside mainstream schools and classes. Take corrective action where findings of possible discriminatory treatment are discovered.

II. DIAGNOSTICS

In the 2020/2021 academic year, Roma pupils were more than nine times more likely to be diagnosed with mild mental disabilities than children from the majority population enrolled at primary schools. As the statistics above indicate, 1.3% of all pupils from the majority population receiving education under the FEP PE were receiving education under the FEP PE UV in that year, as opposed to 11.8% of all Roma primary-school pupils.

These figures illustrate the continuing imbalance in the diagnosis of mild mental disabilities among Roma children. Roma pupils obviously do not have mental disabilities on such a scale. This makes it imperative to investigate whether the diagnostic tools and procedures being used are adequate to differentiate mild mental disabilities from the effects of social disadvantage or the need for support deriving from a pupil's different cultural background and other living conditions. The fact of the matter is that diagnosis has a direct bearing on the extent and types of support measures pupils receive for their education. Pupils who are misdiagnosed as having mild mental disabilities may wrongly be educated under the FEP PE UV or placed outside mainstream education in a school or class set up under section 16(9) of the Education Act.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

Numerous factors contribute to the overdiagnosis of mild mental disabilities among Roma pupils:

- Forum members flagged the **lack of a diagnostic procedure that would effectively distinguish mild mental disabilities from the effects that social disadvantage has on test results**. Failure to properly identify the causes of a child's impaired performance in the diagnostic process may result in these causes being mistaken and the child incorrectly ending up with the "stigma" of mental disability.
- "Different cultural backgrounds and living conditions" are listed as a distinct cause of special educational needs in section 16 of the Education Act, with Regulation 27/2016 enabling up to level-three support measures to be granted for this reason. This diagnostic category also precludes the education of these children under the FEP PE UV, i.e. with lower learning outcomes, or their placement in a school or class set up under section 16(9) of the Education Act. In practice, however, they are rarely and only very inconsistently used in diagnostics.¹⁰
- Social disadvantage, or disadvantage deriving from "different cultural backgrounds and living conditions", is a very nebulous concept, making it difficult for school counselling facilities to

¹⁰ Zbyněk Němec, Tereza Philippová. "Diagnostika sociálního znevýhodnění žáků v praxi pedagogicko-psychologických poraden" [Diagnostics of Students' Social Disadvantage in the Practice of Pedagogical-psychological Counselling Facilities]. In *Sborník z mezinárodní 35onference pro inkluzi osob se speciálními vzdělávacími potřebami – ICIPSEN* [Proceedings of the International Conference on Inclusion of People with Special Educational Needs – ICIPSEN] [manuscript provided by the authors]. Hradec Králové: Faculty of Education, University of Hradec Králové.

determine who should be classified as belonging to this group of pupils and on what basis. In practice, school counselling facilities do not possess methodological resources that would enable them to identify social disadvantage or different cultural backgrounds and living conditions among pupils. There is no uniformity in the procedures followed by these facilities. **Counsellors lack the guidance** that would improve and unify their procedures, including the setting of quality standards.¹¹ The position of coordinator of school counselling facilities could be created. There are at least some situations where counsellors need more time for an anamnestic interview with parents or more freedom to elicit information from the school. These are both of vital importance in determining a pupil's social disadvantage.¹²

- There is no separate diagnostic tool that can discern how the cultural and social circumstances in which a child lives may affect their intelligence test score. In Czech psychological research, the work of Páchová and Rendl has **shown that Roma pupils are socially conditioned to perform poorly in intelligence tests**.¹³ Intelligence tests can only determine a child's intellect at a given moment in time. A child from a background that is not stimulating could very well score poorly simply because they have never encountered the concepts and tasks covered by a diagnostic test before. Yet children from socially disadvantaged areas exhibit a high propensity to improve if they are coached. Forum members believe that dynamic diagnosis, which addresses a child's learning potential, is beneficial for children from socially disadvantaged backgrounds who are suspected of having mild mental disabilities. The fact that Roma pupils are unprepared for test situations can often be attributed to their family background.
- The MEYS, particularly since 2017, has made certain efforts to improve the situation. It has sought to avoid the use of unsuitable tests, in particular WISC-III, and to endorse modern tools instead. It remains questionable **how the newly promoted tools themselves allow to distinguish mild mental disability from the influence of social and cultural conditions**. It is also a known fact that, in practice, school counselling facilities continue to use outdated diagnostic tools. The CSI's January 2022 report on the use of diagnostic tools in practice notes that the troublesome WISC-III continues to be used by more than 90% of school counselling facilities.¹⁴
- Another pivotal factor aside from the type of diagnostic tool applied is the diagnostician's personality and experience. In this context, it is necessary to provide methodological support and guidance, and also to motivate the staff of school counselling facilities to remain working there in the long term. School counselling facility staff too should be steered towards upholding values that reflect non-discrimination in access to education.
- School counselling facilities **do not have the time, funding, or staffing** to conduct thorough diagnoses, e.g. in the form of dynamic diagnostics that could explore the aspect and effect of learning on examinees' performance, or the impact of pupils' cultural and social backgrounds.¹⁵ Forum members feel that dynamic diagnostics would not need to be

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Anna Páchová, Miroslav Rendl (2013). "Proč romské děti selhávají v inteligenčních testech" [Why Do Roma Children Fail Intelligence Tests]. In *Pedagogika* 01/2013, pp. 54–69.

¹⁴ *Tematická zpráva České školní inspekce – Využívání diagnostických nástrojů a doporučená podpůrná opatření ve školských poradenských zařízeních z ledna 2021* [The CSI's Thematic Report from January 2021 – Use of Diagnostic Tools and Recommended Support Measures in School Counselling Facilities]. Available at: <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-nastroj>.

¹⁵ For more on dynamic diagnostics see, for example, Barbora Lucká, Lucie Chadimová, *et al.* (2019). *Metodika ke kurzu „Využívání dynamicko-diagnostického přístupu v poradenské praxi* [Methodology for the Course "Use

conducted on all school counselling facility clients, but would be warranted for those who exhibit signs of social disadvantage.

- Under section 13(3) of Regulation 27/2016 on the education of pupils with special educational needs and talented pupils, school counselling facilities are required to complete a diagnosis within three months. However, in many cases, a three-month time limit is not enough to carry out a sound and comprehensive diagnosis.
- Forum members, while welcoming the MEYS's support for appropriate tools, noted that, alongside diagnostic tools, a more important role was played by the **time available to school counselling facility staff** to evaluate diagnostic tests, as well as their experience of the tools they were using. If school counselling facility staff were given time to learn about a child's social background, they would then be able to take that factor into account in the test results. This was pointed out, for example, in a study by Člověk v tísní (People in Need) entitled *Nemoc bezmocných: lehká mentální retardace* [The Illness of the Powerless: Mild Mental Retardation].¹⁶
- Stereotypical, outdated, and even prejudicial practices still persist among counsellors. Political or social pressure to exclude Roma pupils from mainstream primary schools has also been observed (this was the case in the Ústí nad Labem Region).

Another reason why there is so little time for diagnosis is that there is **pressure on completing a child's diagnosis quickly so that they can get the support they need promptly in a situation where such support is conditional on the diagnosis**. This makes it impossible for a sound, thorough diagnosis to be reached. The **release of funding for support measures is currently tied to the diagnosis**. Forum members made the general suggestion that it might be worth considering a system where support is provided on the basis of the initial granting of a support measure, advancing to the diagnosis of a child only if that support proves ineffective.¹⁷ This is because they feel it is important to provide timely support right from the very first stages of education. It would also mean that children would not always have to be exposed to the diagnostic process, which they can find stressful. At present, the situation is the opposite to that, with relevant legislation currently construed to mean that a hurried diagnosis is needed before support can be granted at all. The possibility of introducing index-based funding according to the number of pupils from socially excluded communities was given as an example. This change in approach would not only have an impact on the accuracy of diagnosis, but also on the timely provision of the necessary support to a particular child (see the section on preschool education).

Diagnosis is not limited to the realm of school counselling facilities alone, as clinical psychologists may also diagnose mild mental disability directly. This can create problems in practice,

of Dynamic Diagnostics Approach in the Practice of Counselling Services"]. Prague: National Pedagogy Institute of the Czech Republic. Available at:

http://www.nuv.cz/uploads/KIPR/Vystupy_z_klicovych_aktivit/KA_6/Metodika_4.8_Vyuzivani_dynamicko_dia_agnostickeho_pristupu_v_poradenske_praxi.pdf, or Lenka Felcmanová *et al.* (2015). *Metodika ke katalogu podpurnych opatreni k dilci casti pro zaky s potrebou podpory ve vzdělávání z důvodu sociálního znevýhodnění* [Methodology for the Catalogue of Support Measures, specifically Section on Pupils in Need of Support in Education on the Ground of Social Disadvantage]. Olomouc: Palacký University. Available at: <http://katalogpo.upol.cz/wp-content/uploads/katalog-szn-metodika.pdf>.

¹⁶ Simona Pekárková, Adéla Lábusová, Miroslav Rendl, Tomáš Nikolai (2010). *Nemoc Bezmocných: Lehká mentální retardace* [The Illness of the Powerless: Mild Mental Retardation]. Člověk v tísní. Available at: <https://www.clovekvtsni.cz/media/publications/1079/file/038-nemoc-bezmocn-ch-lehk-ment-ln-retardace.pdf>.

¹⁷ Foreign systems may serve as inspiration. Forum members pointed to the US system, which employs a three-tiered system of educational support based on pedagogical diagnosis and relying on data-based teacher decision-making as to whether a child needs increased Tier 2 support or individualised Tier 3 support. These are known as multi-tiered systems of support (MTS). In a Czech setting, it might be useful to consider complementing in-depth diagnosis with a system of simple pedagogical diagnosis.

as a school counselling facility cannot revise a diagnosis – even if it disagrees with it – for six months following the most recent assessment of a pupil’s intellectual abilities. **The effect that a clinical psychologist’s earlier diagnosis has on the placement of children in schools or classes set up under section 16(9) of the Education Act is unclear.**

As detailed in the previous chapter, in recent years Roma pupils may have been diagnosed with a specific behavioural disorder, learning disorder, or ADHD rather than mild mental disabilities. Pupils thus diagnosed may be placed in schools or classes set up under section 16(9) of the Education Act instead of in mainstream education. It would therefore appear that an analysis of the impact that these diagnoses have on the content and outcomes of pupils’ education and their placement, in the light of possible segregation, is also of the essence.

B. EXPERT FORUM’S CONCLUSIONS AND RECOMMENDATIONS

1. **Effectively put into practice a diagnostic procedure that enables mild mental disabilities to be differentiated from the effects that social disadvantage (or different cultural backgrounds and living conditions) has on diagnostic outcomes and avoids the misdiagnosis of mild mental disabilities. To this end, consider introducing dynamic diagnostics into school counselling facilities’ practices.**
2. **Set clear rules for counselling facilities to diagnose “the need for support deriving from different cultural backgrounds and living conditions”. To this end, prepare methodology and a screening test for school counselling facilities that is intended for the elementary identification of pupils’ social disadvantages.**
3. **Make sure that only supported diagnostic tools are used and that they are applied correctly. To this end:**
 - a) ensure that school counselling facilities are provided with quality guidance in order to standardise practices and improve the quality of services rendered;
 - b) set uniform rules governing the provision of counselling services so that counselling facilities follow uniform diagnostic procedures ensuring that the impact of a child’s social disadvantage is distinguished from that of mild mental disabilities;¹⁸
 - c) increase school counselling facilities’ staffing to ensure that there is enough time to diagnose pupils;
 - d) set up effective supervision of school counselling facilities’ activities to determine which diagnostic tools are actually used in practice and to filter out unsupported diagnostic tools such as WISC-III;
 - e) explore the feasibility of expanding the existing range of entities that are entitled to apply for a review of diagnostic findings and recommendations;
 - f) consider the possibility of conducting random re-examination of Roma children’s diagnoses, whether as part of a review or research.
4. **Establish clear values and approaches expected of school counselling facility staff or the psychologists who diagnose children, based on the values of a civilised society that reflect non-discrimination in access to education. These should also be targeted in teaching at universities.**

¹⁸ Uniform rules on the provision of school counselling services and the monitoring of the development of counselling services in the context of support measures were addressed in Key Activities 3 and 4 of the Quality-Inclusion-Counselling-Development (KIPR) project, the outputs of which can be found at <http://www.nuv.cz/kipr/zaverecne-vystupy-z-ka3-a-ka4>.

5. **Make sure that support is provided to children in a timely manner and, to this end, seek to identify early on the need to support pupils who are at risk of academic failure** (see the section on preschool education).
6. Consider the possibility of restructuring the provision of support so that children can be helped from the very beginning of their education without any pressure being placed on reaching an early diagnosis.

III. TEACHERS

Available data suggests that up to 92% of teachers who work in schools dealing with pupils from socially disadvantaged backgrounds have limited understanding of topics linked to social exclusion. Teachers are not equipped to work with a heterogeneous class. They lack both sufficient undergraduate training and further education in this area. As many as 96% of teachers believe that pupils from socially disadvantaged backgrounds exhibit signs of mental disability, even in the absence of a diagnostic finding to that effect.¹⁹ It is also common for teachers to assume that inclusion is eroding the quality of education they provide to their classes.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

It is vital that teachers uphold the **values and outlook of a civilised society that reflect the Czech Republic's international commitments which define the right to equal treatment and non-discrimination in access to and the provision of education**. The MEYS and the school principals should spell out clearly what the State requires of teachers; the upholding of the principles and objectives of education as set out in section 2 of the Education Act should be the lowest common denominator in this respect.

Teachers need **professional assistance, methodological support, guidance and counselling**. Further teacher training is important, but it must be flexible and respond to genuine needs at individual schools. Direct exchanges of good practice and experience between schools should be encouraged.

Teachers are not sufficiently trained to work with pupils who have specific educational needs as a result of their different cultural background and living conditions. They do not receive the necessary training in this area prior to graduating or, later, during subsequent further training or methodological guidance. Consequently, many teachers, especially those in socially excluded communities, do not know how to work with these pupils.

In schools where children from socially excluded communities are concentrated, teachers need the **support of a social worker or social pedagogue, or a teaching assistant**, to help them with aspects specific to the teaching of these pupils and when communicating with the family. There is very little in the way of a comprehensive mentoring programme for primary schools teaching these pupils, including a way to link these schools to social services and other support bodies. Teachers are also not given education and training on how to work with teaching assistants.

Framework educational programmes should focus on quality rather than quantity, as this would enable teachers to tailor their teaching to the children's individual needs. Pathways should also be sought to relieve teachers of the administrative burden.

Teacher training prior to graduation does not focus on **eradicating bias against Roma pupils**. Knowledge of history, language, or ethnolect, which is to be promoted under the Education Policy

¹⁹ See *Strategie romské rovnosti, začlenění a participace (Strategie romské integrace) 2021–2030* [Strategy for Roma Equality, Inclusion and Participation (Roma Integration Strategy)], p. 53.

Strategy 2030+, is also very much needed and welcomed but tends to be rather marginal. Nor do teaching materials for future teachers sufficiently describe Roma culture or factors specific to the education of Roma pupils.

B. EXPERT FORUM'S CONCLUSIONS AND RECOMMENDATIONS

1. **Establish clear values and approaches expected of every teacher which are based on the values of a civilised society that reflect non-discrimination in access to education. These should also be targeted in teaching at universities.**
2. **Provide teachers, in the course of their work, with training, professional assistance, methodological support, guidance, and counselling in connection with educational needs specific to pupils from socially disadvantaged backgrounds in order that an individualised approach might be taken to the teaching of these pupils.**
3. **Provide training for teachers so that they are able to work effectively with teaching assistants, social workers, and other teachers. Guide teachers to work with natural partners in the region's social, health, education, and non-profit sectors.**
4. **Provide support and training to teachers on Roma culture and the specific educational needs of Roma pupils.** In addition to teaching *per se*, support is also needed in handling everyday situations and dealing with any fears or frustrations.

IV. OTHER EDUCATIONAL STAFF (PSYCHOLOGIST, SPECIAL PEDAGOGUE, TEACHING ASSISTANT, AND SOCIAL PEDAGOGUE OR WORKER)

The following section examines the role played in practice by a school's specialist and other staff. The Educational Staff Act lists these positions primarily as special pedagogue, psychologist, and teaching assistant. Specialist staff also include the position of social pedagogue, which has previously been considered for enshrinement in legislation. These specialist staff provide support services in schools in order to improve the quality of education for pupils with special educational needs, whether in the form of direct teaching, educational, or remedial activities, or educational psychology.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

Schools often lack a high-quality, well-staffed **school counselling unit comprising school-based specialist educational staff** and funded not only by support measures and templates, which by their very nature are time-limited, but also by a stable financial source that would permit the long-term employment of school specialists.

In practice, school specialists, whether psychologists, special pedagogues, or teaching assistants, are not in a position that provides them with the **stability** needed to lead their private lives. They are not a fully integrated component of the teaching staff and thus often do not enjoy the support and trust of their colleagues, the school management, or pupils and their families. Their working hours are often below an appropriate level and are not tied to a permanent contract.

There is no viable support infrastructure for school specialists. Neither the MEYS nor the National Pedagogy Institute is structured to have an **expert team providing guidance to school counselling units, special pedagogues, school psychologists, or teaching assistants.**

Teaching assistants are effective, but in practice they do not receive proper training. There is also room for improvement in their interaction with teachers. Many schools and teachers do not know how to work with or make use of teaching assistants.

There is no uniformity in the practices of teaching assistants. Teaching assistants are not given the quality of training they need, nor are they provided with methodological support and supervision. It is not considered necessary for them to hold a university degree. Their training should not be conditional on a higher level of previous education. It may be useful for teaching assistants to specialise in certain types of disability or support needs stemming from different cultural backgrounds and living conditions. Although teaching assistants are available to work with all pupils, they are usually assigned as a support measure to a particular pupil in response to a need for increased educational support, so it is essential that they have a good knowledge of the specific nature of the pupil's disability or disadvantage. Therefore, further targeted training and methodological support for teaching assistants would appear to be preferable for their professional development and for the proper support of variously disadvantaged children. Forum members agreed that, specifically with respect to Roma pupils' needs, Roma teaching assistants have played an important role in the past as they formed a bridge between families, pupils, and teachers.

Forum members believe that efforts should be made to stabilise the position of teaching assistants, too, by securing a reliable source of funding. Nevertheless, in this respect, they also pointed out that a mainstream class may consist of a challenging mix of children, children with incompatible needs, and perhaps a child with a higher level of individual support, such as a pupil with mild mental disabilities, in which case one teaching assistant might not be sufficient. The parallel possibility of allocating a teaching assistant as a support measure on grounds meriting special consideration should be maintained.

In some localities, there are **not enough school specialists**, either school psychologists or teaching assistants. Their numbers should be increased in line with the actual needs of the region, as determined in studies conducted by institutions such as the CSI, the MLSA, and the Agency for Social Inclusion. To this end, interministerial cooperation is needed.

Social work is not available in many schools, despite the fact that the composition of pupils calls for it. There is a shortage of **social pedagogues and school social workers** here. Discussions are currently in progress for the Education Staff Act to enshrine the position of social pedagogue or social worker in the school environment. The MEYS has advised that the position of social pedagogue is not one of those specialist positions whose funding is to be brought under the State budget as of 2025. According to the MEYS, having a social pedagogue only makes sense in certain schools, not everywhere. Parallel to this, the MEYS and the MLSA are debating the concept of social work in relation to education. There is also a discussion on social workers at the level of "municipalities with extended powers", who would be independent of the office for the social and legal protection of children and would provide social work to schools. Forum members believe that, considering the good practice of schools where this position has proved effective, systemically embedding and funding it would be advisable at least in those schools serving a high proportion of socially disadvantaged pupils.

B. EXPERT FORUM'S CONCLUSIONS AND RECOMMENDATIONS

1. **Enable the long-term employment of specialist educational staff** (teaching assistant, special pedagogue, school psychologist, social worker, or social pedagogue) **by providing a stable source of funding that will guarantee the stability of their position and by making sure that they have enough working hours** to improve the quality of service they provide. The possibility of allocating a teaching assistant as a support measure on grounds meriting special consideration should be maintained.
2. **Provide guidance to specialist educational staff.**
3. **For teaching assistants, set their standard of work, the level of education required, which should not be conditional on a university degree, and introduce methodological and supervisory support to unify their practices.**

4. **Increase the number of specialist staff relative to the needs of particular schools and to specific regional characteristics.**
5. Support the employment of a social pedagogue or school social worker in certain schools in line with the pupil mix or otherwise explore the possibility of tying the provision of support by the school to social work.

V. PRESCHOOL EDUCATION

The Education Act introduces compulsory preschool education from the age of five and guarantees placement in a kindergarten from the age of three. The long-term rate of children in compulsory preschool education hovers around 97%. This figure includes both children attending school full-time and homeschooled children, as homeschooling is one route to compliance with compulsory education. In the 2020/2021 academic year, 2,400 out of a total of 109,686 five-year-olds (i.e. 2.19%) in preschool education were homeschooled. No statistics on the number of Roma children out of the total number who are homeschooled are available. Qualified estimates for the 2020/2021 academic year suggest that 6,954 Roma children are being educated in kindergartens, of whom 2,757 are under 5 years old and 4,197 are over 5 years old. Roma children account for 3.8% of all children in compulsory preschool education. In the lower years of kindergartens, the proportion of Roma children is very low, at around 1.4%. The proportion of Roma pupils enrolled in preparatory classes is as high as 20%.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

CSI data indicates that the majority of children who do not attend compulsory preschool education (i.e. approximately 3%)²⁰ are children from socially excluded communities. However, there are no precise figures on the number of Roma children who do not attend this compulsory education.

In practice, the system of compulsory preschool attendance is undermined by the **possibility of replacing attendance with homeschooling**. According to Forum members, experience also shows that the frequent absenteeism of precisely the children for whom compulsory preschool education was introduced is not being addressed. School principals may go against a school counselling facility's recommendation and allow a child to be homeschooled because the counselling facility's position is only advisory. Homeschooling learning outcomes are inadequately monitored. Furthermore, no statistics are available on the number of Roma children out of the total number who are homeschooled.

Some children miss out on compulsory preschool attendance because their parents may not be properly informed of this obligation or are **not notified in time to enrol their child by a date** that would secure them a place in kindergarten. The child is then homeschooled due to a lack of capacity. It is debatable whether continuing enrolment in kindergarten is needed. Having to live in a kindergarten's catchment area as a criterion for admission is another persistent problem that has specific implications for families living in hostels. Since these families often have to use the address of the municipal authority as their place of registered permanent residence and this is used to determine which catchment area they are in, their catchment kindergarten may actually be very far away from

²⁰ Tematická zpráva České školní inspekce – Dopady povinného předškolního vzdělávání [The CSI's Thematic Report – Impacts of Compulsory Preschool Education] from May 2018, p. 18. Available at: <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-Dopady-povinneho-predskolniho-vzd>.

them. It is important to ensure that social guidance is provided in order to integrate children into preschool education.

Social workers are crucial in informing parents about the obligation to enrol and letting them know about kindergartens where there are still free places. Early preschool care is vital. It is necessary to work with families before compulsory preschool education begins.

However much one year of compulsory preschool may be viewed as positive progress, it is still not considered sufficient on its own to make up for any handicap resulting from an unstimulating or different background. Benefits will only materialise after two or more years of good-quality preschool education.²¹ Nevertheless, the proportion of Roma children in the earlier years of kindergarten is very low and enrolment should be encouraged more intensively. Early care and preschool education are crucial.

Preschool attendance must be assured not only by providing enough capacity but also by motivating children and their parents. Examples include **waiving the requirement to pay school fees and lunches even for lower-year groups, and the introduction of public transport services and fare waiving by the municipality in order to improve accessibility**. Beyond financial constraints, however, it is also necessary to work with parents who may be distrustful of institutions such as kindergartens.

Kindergartens, especially in socially excluded communities, often lack the expertise to work with Roma pupils. As for the content of preschool education, **no emphasis is placed on systematic language learning for children**. Linguistic proficiency also has a bearing on any diagnostics. The educational background of teachers working in preschool education is another important factor. Their work should be directed primarily at helping children to be ready for primary school.

The compulsory preschool year can also take the form of attendance of a preparatory class, which is not only for children whose compulsory education was deferred. Nowadays, preparatory classes can be found both in mainstream schools and in schools set up under section 16(9) of the Education Act. The specific correlation between attendance of a preparatory class at a school set up under section 16(9) of the Education Act and subsequent placement in a class set up under the same provision in order for compulsory education to be completed is unknown. **However, attending preparatory classes at segregated schools has been observed to have an adverse impact.**

Past **experience of the work done by Roma assistants has been positive**, including in terms of their role in preschool education. The transition from a Roma assistant to a teaching assistant is not viewed in an entirely positive light. The importance of assistants does not necessarily reflect the level of education they have attained.

When children make the transition from nursery to primary school, it is crucial to identify what needs they have and what support would be appropriate in time so that the primary school can prepare and start providing that support from the very first day. Primary school enrolment could serve this purpose. However, this would require a change in the form of enrolment. At this time, there is no statutory requirement for pupils to be physically present when they enrol at a primary school. Any need for support could also be assessed while they are still at kindergarten. However, this would be conditional on pre-school attendance and on the mentoring and supervision of preschool staff to identify such a need for support. The path from kindergarten to primary school should be smoothed for children. In this respect, it is worth considering the learning content, demands, requirements, how children in the early years of primary school are assessed, and what opportunities exist to provide support from the very beginning of their education.

²¹ Cf. Daniel Prokop (2020). *Slepé skvrny* [Blind Spots]. Brno: Host, p. 85. See also the Perry Preschool Project, which examines the impact that quality preschool education has on an individual's future education and prospects in life, including intergenerational transference. Available at: <https://highscope.org/perry-preschool-project/>.

Early social support for the family and the education of children from a very young age is important. Support should include systematic work with parents, including explanations of the context and implications of the various educational pathways and opportunities, the promotion of education as a lifelong value, the development of parental skills, and the early identification of children from unstimulating backgrounds. Timely support and care can be provided by ensuring that Roma children attend kindergarten and by working with parents from a child's earliest years. Outreach work, parental support and the stimulation of children at home or in other settings, even before they start kindergarten, may be needed to unlock the full potential of preschool education. So far, there has been a shortage of specialist staff, whether teachers or social workers, in kindergartens, but their presence is proving vital. Social support is provided both by the State and by the non-profit sector, which runs practical advisory clinics, low-threshold clubs, etc. However, the existing coverage of social support appears to be insufficient.

B. EXPERT FORUM'S CONCLUSIONS AND RECOMMENDATIONS

- 1. Ensure that all children, including those from socially disadvantaged backgrounds, are able to attend the compulsory preschool year in kindergarten, and to this end:**
 - a. make sure that there is sufficient capacity within an accessible distance from a child's actual place of residence;
 - b. increase parental motivation by covering the cost of school fees, lunches, and travel expenses;
 - c. use social counselling to make parents aware of the obligation to enrol, and inform them of kindergartens where capacity is still available.
- 2. Prevent abuse of the concept of homeschooling, which undermines the system of compulsory preschool attendance.**
- 3. Intensify the preschool attendance of Roma children in lower years,** since one year of preschool attendance is not considered enough to make up for any handicaps.
- 4. Ensure that children's special educational needs are mapped early on, prior to the start of their compulsory education, e.g. while they are still in kindergarten or during the enrolment procedure so that they can be supported from the very start of their school career. Facilitate children's smooth transition from preschool to primary education.**
- 5. Improve early social support for families and the education of their children from an early age via social work and family outreach.** It is crucial for the social, health and education sectors to work together and for funding to be secured for services that provide early care for families.
6. Preschool content should be geared towards the development of language skills, because language proficiency has a bearing on any diagnosis that may be performed; the aim should be to work with children in need with learning disorders in small groups that allow for a different approach.
7. Avoid the establishment of preparatory classes at segregated schools with a view to curbing the detrimental effect of their existence at segregated schools.

VI. SEGREGATED SCHOOLS

In the light of the Ombudsman's 2018 *Recommendation on the Coeducation of Roma and Non-Roma Children*, we define a segregated school or classroom as a place where Roma pupils are taught separately from non-Roma pupils in numbers that far exceed their proportionate representation in

the population as a whole or in a given area, with limited opportunities for contact with one another and with different educational opportunities. Qualified estimates by the MEYS for the 2019/2020 academic year indicate that there are 69 primary schools in the Czech Republic where more than half of the pupils are believed to be of Roma origin; in another 64 schools, Roma make up more than one third and less than half of all pupils. At the same time, 21% of all pupils of Roma ethnicity living in the Czech Republic were educated in primary schools where more than half of the pupils were Roma.

A. DESCRIPTION OF THE SITUATION AND PROBLEMATIC ASPECTS IDENTIFIED

The issue of segregated schools has been described in numerous analyses and studies dealing with segregation in the education system (variously defining what segregation in education means, outlining its causes, and proposing measures to prevent or dismantle segregation). These include documents drawn up by the Agency for Social Inclusion,²² the Office of the Ombudsman,²³ the CSI,²⁴ and academics.²⁵ However, their findings are not being used enough in municipal or government policy-making and are not put into practice. Eradication of the discrimination and segregation of Roma in education is also specifically targeted by the *2021-2030 Strategy for Roma Equality, Inclusion, and Participation (Roma Integration Strategy)*.

Broadly speaking, **three main levels of government action aimed at redressing Roma pupils' segregation and unequal access to education can be identified:** (a) a clear declaration of the goals of government policy and the consistent pursuit of that policy at the level of the State and at the level of regions and municipalities; (b) adequate support for all those involved – schools, school counselling facilities, and families; and (c) the monitoring of compliance with the set goals.

The **MEYS plays a key role in desegregation** and, generally, in inclusive education for Roma children. However, what is missing here is the inclusion of desegregation in education as a central priority of the MEYS and ensuing consistency in the approach to this issue. The MEYS's management of changes aimed at desegregation appears to fall short; it is imperative to work with data, examples of good practice, and reports published by the CSI. Other ministries, however, are also affected by this issue. **Cooperation between key ministries** (education, health, and social affairs) looks lacklustre. Furthermore, the **MEYS does not provide guidance to regions and municipalities on the prevention of segregation in education** – communication with municipal councillors is poor and there is a lack of target-setting and sharing of examples of good practice for desegregation. The relevant actors are not given mentoring aimed at the training, support, and supervision of teachers, schools, and counselling facilities.

²² Karel Čada, Daniel Hůle (2019). *Analýza segregace v základních školách z pohledu sociálního vyloučení* [Analysis of Segregation in Primary Schools from the Point of View of Social Exclusion]. Agency for Social Inclusion. Prague: Social Inclusion Department (Agency). Available at: <https://www.socialni-zaclenovani.cz/dokument/analiza-segregace-v-zakladnich-skolach-z-pohledu-socialniho-vyloucení-2019/>.

²³ Office of the Ombudsman (2018). *Doporučení veřejné ochránkyně práv ke společnému vzdělávání romských a neromských dětí* [Ombudsman's Recommendation on the Coeducation of Roma and Non-Roma Children]. Available at: https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporučení_desegregace.pdf.

²⁴ Thematic report of the Czech School Inspectorate from 2020 – *Hodnocení úspěšných strategií základních škol vzdělávajících znevýhodněné žáky* [Assessment of Successful Strategies of Primary Schools Where Disadvantaged Pupils Are Educated]. Available at: <https://www.csicr.cz/cz/Aktuality/Tematicka-zprava-Hodnoceni-uspesnych-strategii-ZS>.

²⁵ See, for example, Zbyněk Němec (2020). *“Zvedněte ruce, kdo půjde do míst, kde necítí uznání”: O segregaci romských žáků ve vzdělávání* [“Those Going Where They Do Not Feel Recognised, Raise Your Hand”: On Segregation of Roma Pupils in Education]. Prague: Charles University, Faculty of Education.

A notable contributor to the emergence of segregated schools has been the establishment of school districts by municipalities through binding by-laws, as highlighted in the European Commission against Racism and Intolerance's December 2020 report on the Czech Republic.²⁶ That report also points out that the scale of inclusion in schools depends largely on the municipalities. It would appear that school authorities are consciously setting up catchment areas along segregated lines. Authoritative intervention may be needed to remedy this. Nowhere is it explicitly spelt out that segregationist catchment areas are not allowed. Data on the zoning of catchment areas is now available to the MEYS in the form of catchment maps.

- The **Ministry of the Interior** (“the MI”) **can control** the borders of school districts by way of oversight and has the power to annul a generally binding by-law on grounds of unlawfulness. This oversight, however, hardly appears to be effectual. The reality is that the MI intervenes only when it is obvious that a school district's geographical scope is troublesome, such as when a district only covers children from hostels. Districts that may appear to be set up neutrally on the surface, but in effect are segregationist, can prove problematic for the MI's oversight. The Office of the Ombudsman gives examples such as the assignment of all children whose registered permanent address is that of the municipal authority to one and the same segregated school, or the definition of a town's entire area as a catchment area, resulting in a segregated school taking pupils who are not wanted anywhere else.
- **Two chief concerns** are apparent in terms of how effective the oversight of the lawfulness of catchment by-laws is. First, in borderline cases, the MI is in a difficult position because **segregation and its prohibition are not explicitly defined anywhere in the law**, so it has to resort to the Antidiscrimination Act. It is felt that it would be appropriate to include a definition of segregation and its prohibition directly in the Education Act. **Secondly, the MI is handicapped by its unfamiliarity with the local situation.** A **forthcoming middle link in the chain** could improve this situation in that, at the very least, this go-between would be able to inform the MI about the local situation and draw attention to potentially problematic catchment areas, or may even itself have the power to abolish segregationist catchment areas.
- The MEYS has advised that, since the middle link will initially be piloted in two districts and will only have project-based funding, there is no way to delegate powers to it until 2028/2029. In the MEYS's view, thoughts that the middle link might be used to broker local knowledge and communication with school authorities are reasonable. Once the segregation map has been completed and the relevant methodology has been devised, the **MEYS plans to engage with the MI on how to make that MI's oversight of the adoption of catchment by-laws more effective** within the scope of their current powers by drawing on the newly available catchment maps and, in the future, the middle link's local knowledge.
- Although the **CSI monitors** segregation at school level, not municipal level, a real-life example was given where it did not identify the existence of a segregated class within a particular primary school as a concern. Children were placed in the class on the basis of the results of their school-readiness tests so that they could be provided with support there. In the opinion of the Office of the Ombudsman, however, this stated goal rang hollow as the children did not end up benefiting from a greater level of support.
- The opinion was also voiced that the **introduction of a reversal of the burden of proof** would be helpful for oversight purposes, i.e. in cases of *prima facie* segregated schools or classes, it would be incumbent on the municipal authority and the school to prove that they are not in fact segregated. Schools not adhering to the government's stated objective should be sanctioned.

²⁶ The *ECRI Report on the Czech Republic* from 2020 is available at: <https://rm.coe.int/ecri-6th-report-on-the-czech-republic/1680a0a086>.

The **approach taken by schools themselves, including their principals**, plays an important role in segregation. There is a **reluctance among mainstream schools to teach children with special educational needs**, especially those who are socially disadvantaged, mainly **because they lack support mechanisms**. Many schools are thus unwilling to educate such children because they may not have the necessary resources, skills, and experience to do so. In practice, there is a discernible tendency for these schools to send these children elsewhere, somewhere they will be “better off”, i.e. where they will be among other Roma pupils in schools that already have experience of these pupils.

- One reason for this might be the **emphasis** that is placed in the education system on **performance** and on endowing children with encyclopaedic knowledge. In this context, disadvantaged children are viewed as potentially impeding such performance. Yet the fundamental objective should be to arm children with skills and both develop the strengths and improve the weaknesses of their personality. The early years of primary education should be geared towards acquiring the ability to learn new things and concentrate on activities chosen either by the child or an adult. The MEYS’s role is to set educational goals.
- It is important to **support teachers and educate them about Roma culture and factors that may be specific to the teaching of Roma children**. It has been found in practice that teachers often do not know how to work with children who are weighed down by stressful pressures (such as frequently moving from one place to another, or exposure to drugs, alcohol, or violence). Teachers need support not only in terms of their training, but also in dealing with everyday situations and coping with anxieties and frustrations. There is also very little in the way of a comprehensive mentoring programme for primary schools teaching these pupils, including a way to link these schools to social services and other support bodies.
- Another reason is **white flight**, a phenomenon where parents from the majority population whose children are in a school with a large number of Roma are inclined to transfer their children to another school.

Segregated schools and the teaching provided under the FEP PE UV are interrelated phenomena, but as yet there has been no research that has closely analysed the situation.

One of the reasons why segregated schools exist is the **mindset of Roma parents and pupils themselves**. In this respect, there is an evident tendency for Roma parents to place their children in schools attended by their relatives or other Roma children, where they will feel like they are “among their own”. While desegregation may result in children not attending the same school as their relatives, they should be encouraged to develop a better perspective in life and to have the chance to attend schools suited to their abilities. Many children are eager to be more independent from their families and want to pursue loftier goals, so it is up to the school to provide the support they need. Nevertheless, the choice ultimately made by the family must be respected. It has been noted in practice that parents have been willing to send their children to a mainstream primary school as long as there was a Roma teaching assistant there. Parallel to this, research by Člověk v tísní shows that Roma families would gladly send their children to mainstream schools where Roma are represented, provided they are not in the majority there.²⁷

Hasty diagnosis is viewed as a problem because there is not enough time to distinguish mild mental disability from social disadvantage. **If pupils are provided with support, this should precede their diagnosis** (see above on the need to map children’s special educational needs early on, beginning in kindergarten so that they can receive assistance right from the start of their education). Educational

²⁷ Analysis by Člověk v tísní entitled “Analýza rodina a škola” [Family and School Analysis], p. 41. Available at: https://www.inkluzivniskola.cz/sites/default/files/uploaded/analiza_rodina_a_skola.pdf. Cf. a study by Slovo 21 entitled “Výzkum o postavení romských žen v České republice” [Study on the Position of Roma Women in the Czech Republic], p. 25. Available at: <http://www.slovo21.cz/images/dokumenty/VZKUM%20O%20POSTAVEN%20ROMSKCH%20EN%20V%20R%20publikace.pdf>.

psychology services are often faced with the dilemma of whether to send children to a school where they are not wanted or, alternatively, to a school that is not a good fit but is interested in them and knows how to educate them.

B. EXPERT FORUM'S CONCLUSIONS AND RECOMMENDATIONS

1. **Establish desegregation as one of the MEYS's top priorities and pursue it consistently in practice.**
2. **Build effective inter-ministerial cooperation aimed at desegregation and at decoupling children's academic success from their family's socio-economic status**, especially by bringing school services together with social and health services.
3. **Introduce guidance for regions and municipalities aimed at avoiding segregation in the school system.** This requires the fostering of communication with municipal councillors, the setting of a clearly pursued target, and the sharing of examples of good practice with them.
4. **Work actively to prevent the emergence of segregationist school districts:**
 - a) via the MI's effective oversight of the lawfulness of generally binding by-laws adopted by school authorities;
 - b) via the CSI's effective supervision of schools and potential segregation within them;
 - c) by exploring the feasibility of introducing a reversal of the burden of proof in cases of *prima facie* segregated schools or classes – so that it rests with municipalities as the school authority – in order to bolster the effectiveness of supervision and oversight.
5. Combat racism and anti-Gypsyism in society.

VII. THE WAY FORWARD

The Forum's conclusions and recommendations will be submitted to the MEYS for written observations and proposals for action that can be taken in order to implement them. Both the conclusions and MEYS's response will be submitted to the Committee of Ministers of the Council of Europe, which is responsible for overseeing the execution of the judgment in *D.H. and Others v. the Czech Republic*.

Prague, 21 January 2022
[Office of the Government Agent]

ANNEX 3 – MEYS RESPONSE TO THE EXPERT FORUM’S CONCLUSIONS

Six Expert Forum meetings were held in 2021. They resulted in the formulation of the Expert Forum’s Conclusions and recommendations on how to proceed, and were submitted to the MEYS for a response. MEYS representatives attended all meetings and were familiar with the Conclusions. We present the MEYS response to the Expert Forum’s key recommendations below.

Nonetheless, we wish to point out in advance that the MEYS is aware of the enduring imbalance in the education of Roma children/pupils caused by the inordinately large proportion of Roma pupils receiving education under the FEP PE UV, i.e. having been diagnosed with mild mental disabilities, and the consequently higher degree to which they are being educated in schools set up under section 16(9) of the Education Act and in schools that are referred to as segregated. However, as noted in the Expert Forum’s Conclusions themselves, there are broader influences on the task of ensuring equal access to education for Roma children, such as the quality of housing, which is linked to the chronic absence of affordable social housing, structural changes in the labour market, and overall economic poverty, often tied to over-indebtedness and enforcement orders, as well as the availability and absorption capacity of the necessary social services. We would add that issues closely related to this are cooperation with the pupils’ families, cooperation with providers of social services, especially social prevention services or specifically socially activating services for families with children, and the involvement of school authorities – municipalities and regions. The MEYS considers cooperation with relevant stakeholders, especially the MLSA, the Association of Regions (on behalf of the authorities running secondary schools, schools set up under section 16(9) of the Education Act, and EPCCs), and the Union of Towns and Municipalities (on behalf of the authorities running kindergartens and primary schools), to be crucial for further progress. In the absence of effective cooperation, we believe that the MEYS is unable to realise the proposed recommendations. We regard the Expert Forum as a platform that can effectively foster interministerial cooperation.

AD. I. FRAMEWORK EDUCATIONAL PROGRAMME WITH LOWER LEARNING OUTCOMES BECAUSE OF MILD MENTAL DISABILITIES

The MEYS is responding to the conclusions and recommendations in this section by conducting the Analysis of the causes underlying the higher proportion of Roma pupils receiving education under the FEP PE UV in classes set up under section 16(9) of the Education Act and proposal of a set of measures for education and other relevant areas. This research, together with the initial results, is described in the present Report. The MEYS expects the results to be used in the targeting of appropriate measures.

AD. II. DIAGNOSTICS

The MEYS recognises the absolutely crucial role played by diagnosis and the way the counselling system is set up. Most of the relevant information on the recommendations below has been provided in section 3 (Diagnostics) of the Report on the Execution of the Judgement. In particular, there are efforts in practice aimed at enabling mild mental disabilities to be distinguished from the effects of social disadvantage and at developing methodology for the elementary identification of pupils’ social disadvantages.

- 1. Effectively put into practice a diagnostic procedure that enables mild mental disabilities to be differentiated from the effects that social disadvantage (or different cultural backgrounds and living conditions) has on diagnostic outcomes and avoids the misdiagnosis of mild mental disabilities. To this end, consider introducing dynamic diagnostics into school counselling facilities’ practices.**

2. **Set clear rules for counselling facilities to diagnose ‘the need for support deriving from different cultural backgrounds and living conditions’. To this end, prepare methodology and a screening test for school counselling facilities that is intended for the elementary identification of pupils’ social disadvantages.**
3. **Make sure that only supported diagnostic tools are used and that they are applied correctly. To this end:**
 - a) **ensure that school counselling facilities are provided with quality guidance in order to standardise practices and improve the quality of services rendered;**
 - b) **set uniform rules governing the provision of counselling services so that counselling facilities follow uniform diagnostic procedures ensuring that the impact of a child’s social disadvantage is distinguished from that of mild mental disabilities;²⁸**
 - c) **increase school counselling facilities’ staffing to ensure that there is enough time to diagnose pupils;**

There are no capacity constraints on school counselling facilities. At the same time, in view of the planned increases and stable institutionalisation of the capacities of counsellors directly at schools (e.g. school psychologists and school special pedagogues), who work closely with the SCFs, the MEYS does not deem it necessary to increase the capacity of those facilities. Furthermore, the MEYS is striving to reduce their administrative burden by making gradual systemic changes (e.g. by standardising the role of teaching assistant).

- d) **set up effective supervision of school counselling facilities’ activities to determine which diagnostic tools are actually used in practice and to filter out unsupported diagnostic tools such as WISC-III;**
- e) **explore the feasibility of expanding the existing range of entities that are entitled to request a review of diagnostic findings and recommendations;**

According to the MEYS, the range of entities entitled to request a review of the conclusions of a diagnosis and recommendation is sufficient. Section 16b(1) of the Education Act provides that a review of a recommendation may be requested by the statutory representative of a child or pupil, a pupil who has reached the age of majority, a school, a school facility, or a public authority.

- f) **consider the possibility of conducting random re-examination of Roma children’s diagnoses, whether as part of a review or research.**

This possibility is not being considered by the MEYS. The diagnostic work leading to the establishment of a diagnosis (in this case, particularly the diagnosis of mild mental disability) is a relatively complex activity which, among other things, places considerable demands on the pupils tested. Different tools may be used in the diagnostic process, with different recommendations for their use, including recommended intervals between the reuse of the tools. In our opinion, the performance of comprehensive and fully-fledged diagnostic activities leading to a diagnosis solely for research purposes is ethically suspect.

Section 20(2), of Regulation 27/2016 on the education of pupils with special educational needs and talented pupils, as amended, provides that if a pupil is recommended for a school or class intended for pupils with mild mental disabilities, the initial recommendation is valid for a maximum of one year and subsequent recommendations are valid for a maximum of two years. A pupil’s placement in such a school or class is conditional on a written request from the pupil’s statutory

²⁸ Uniform rules on the provision of school counselling services and the monitoring of the development of counselling services in the context of support measures were addressed in Key Activities 3 and 4 of the Quality-Inclusion-Counselling-Development (KIPR) project, the outputs of which can be found at <http://www.nuv.cz/kipr/zaverecne-vystupy-z-ka3-a-ka4>.

representative or from the pupil him/herself if he/she has reached the age of majority. Whenever the diagnostic process leading to a recommendation is periodically repeated, a review of the recommendation may be requested under section 16b of the Education Act. The activities of school counselling facilities may also be subject to inspection by the CSI in this respect.

4. Establish clear values and approaches expected of school counselling facility staff or the psychologists who diagnose children, based on the values of a civilised society that reflect non-discrimination in access to education. These should also be targeted in teaching at universities.

Counselling services are provided with respect for ethical principles and in accordance with section 2a(1)(b) of Regulation 72/2005 on the provision of counselling services at schools and school counselling facilities, as amended. School counselling facility staff and school psychologists are guided by a code of ethics consistent with the European framework.

5. Make sure that support is provided to children in a timely manner and, to this end, seek to identify early on the need to support pupils who are at risk of academic failure

(see the section on preschool education).

6. Consider the possibility of restructuring the provision of support so that children can be helped from the very beginning of their education without any pressure being placed on reaching an early diagnosis.

Early intervention for pupils at risk of school failure can be achieved by combining the provision of first-level support measures (these are recommended and implemented directly by the school, not by a school counselling facility), with a particular emphasis on pedagogical intervention (e.g. in the form of tutoring) and support for the creation of conditions conducive to more individualised support, e.g. through the use of a teaching assistant. The Teaching Assistant Standard, intended to improve the quality of support that comes with the use of teaching assistants, is currently being prepared and discussed internally at the MEYS. Plans to standardise the position of teaching assistant, which would allow schools to draw on funds to set up this position even in the absence of the necessary recommendation from a school counselling facility, should help to increase the availability of support from teaching assistants.

AD. III. TEACHERS

1. Establish clear values and approaches expected of every teacher which are based on the values of a civilised society that reflect non-discrimination in access to education. These should also be targeted in teaching at universities.

A 'graduate skills profile' is being prepared as part of the upcoming reform of teacher training in the Czech Republic. The MEYS will monitor the readiness of graduates of teacher training programmes by conducting questionnaire surveys among students just before they complete their studies. The graduate skills profile is based on the framework of professional qualities required of a teacher, and the basic premise underpinning the quality of teachers' professional activities is their conduct conforming to the ethical principles of the teaching profession. This implies, among other things, that teachers respect human rights and do not discriminate against pupils, their parents, or colleagues. They are able to work affirmatively with differences based on origin, religion, and gender. This questionnaire will be periodically reviewed by the MEYS in conjunction with teacher training faculties to reflect how prepared their graduates are in the individual areas of the skills profile. The questionnaire is thus primarily intended to serve as input in discussions on the quality of future teachers' training. For more information, see <https://www.edu.cz/pregradual/>.

2. Provide teachers, in the course of their work, with training, professional assistance, methodological support, guidance, and counselling in connection with educational needs

specific to pupils from socially disadvantaged backgrounds in order that an individualised approach might be taken to the teaching of these pupils.

Section 24(1) of Act no. 563/2004 requires teaching staff to engage in continuing education in order to update, maintain, and supplement their skills. This training should also focus, among other things, on their professional development in the field of teaching and other skills that are directly related to a teacher's teaching activity. The MEYS encourages teachers to embark on this training and provides them with methodological support mainly through the National Pedagogy Institute, which, in its main tasks, concentrates on topics identified by the MEYS as core themes.

3. Provide training for teachers so that they are able to work effectively with teaching assistants, social workers, and other teachers. Guide teachers to work with natural partners in the region's social, health, education, and non-profit sectors.

Such training is being prepared in collaboration with the NPI in connection with the implementation of component 3.2 (Support for schools) of the National Recovery Plan.

4. Provide support and training to teachers on Roma culture and the specific educational needs of Roma pupils. In addition to teaching *per se*, support is also needed in handling everyday situations and dealing with any fears or frustrations.

Teacher training in this area is provided in partnership with the National Pedagogy Institute.

AD. IV. OTHER EDUCATIONAL STAFF (PSYCHOLOGIST, SPECIAL PEDAGOGUE, TEACHING ASSISTANT, AND SOCIAL PEDAGOGUE OR WORKER)

1. Enable the long-term employment of specialist educational staff (teaching assistant, remedial teacher, school psychologist, social worker, or social pedagogue) by providing a stable source of funding that will guarantee the stability of their position and by making sure that they have enough working hours to improve the quality of service they provide. The possibility of allocating a teaching assistant as a support measure on grounds meriting special consideration should be maintained.

In March 2022, a consultation document on the 'institutionalisation' of psychologists and special pedagogues in schools was submitted to the Czech Government.

We are setting new parameters for the allocation of the positions of school psychologist and school special pedagogue that take into account how big schools are and what proportion of pupils in them have special educational needs.

A model is currently being prepared that focuses on the institutionalisation of support pedagogical positions in the mainstream primary schools of all school authorities. Primary schools where the total number of pupils is 180 or more will be supported directly.

For smaller schools (where there are fewer than 180 pupils), it is very difficult to secure a school psychologist or school special pedagogue who will work, for example, hours that are 0.2 FTE. This also exacerbates the discomfort of staff themselves towards the overall performance of such a profession (which complicates labour relations). For this reason, the MEYS is proposing that, in schools with smaller numbers of pupils, the services of a school psychologist and a school special pedagogue will be provided via educational psychology counselling centres. Hence, the principle of the sharing of support pedagogical positions comes into play when the FTE at a school would be 0.2-0.4. In this respect, it is also necessary to establish the catchment area of an EPCC. In the first stage of the institutionalisation of support positions for primary schools, it will be possible to define catchment areas by mutual agreement between a school and educational psychology counselling centre within each region. Schools and EPCCs will be able to choose providers and recipients within the region in

this regard. For this outreach counselling service, catchment areas within the region will be fixed. It is imperative that the logistics and accessibility of schools in the region be taken into account.

Initially, funding will be provided via the Operational Programme Johannes Amos Comenius. Subsequently, the funding system will be transposed into legislation and covered by the State budget. A similar approach is being prepared for teaching assistants. Here, a system of entitlement to a certain number of teaching assistant hours per school will be defined. However, this system is still at a very early stage of preparation so it is impossible to be specific about the final form the proposal will take.

2. Provide guidance to specialist educational staff.

Act no. 563/2004 on educational staff and amending certain acts requires all educational staff, without exception, to engage in continuing education. The MEYS provides methodological support, mainly through the National Pedagogy Institute (see above).

3. For teaching assistants, set their standard of work, the level of education required, which should not be conditional on a university degree, and introduce methodological and supervisory support to unify their practices.

The prerequisite of a professional qualification, i.e. the necessary education, is set generally for all educational staff, including teaching assistants, by Act no. 563/2004. Teaching assistants must have completed pedagogically oriented education at a secondary, post-secondary vocational, or higher education institution, or have completed studies in pedagogy, or studies for teaching assistants in the system of continuing education for educational staff. These are MEYS-accredited studies. Work is currently in progress to update the standards of pedagogical studies for teaching assistants under which these studies will be accredited. In the preparation of these studies, the MEYS is drawing on the activities that teaching assistants are expected to carry out in schools so that they will be trained sufficiently for this profession. The Teaching Assistant Standard is therefore currently under preparation and is being discussed internally at the MEYS.

4. Increase the number of specialist staff relative to the needs of particular schools and to specific regional characteristics.

See point 1 above. The number of FTEs is based on the size of a school, with due consideration for the number of pupils with special educational needs.

5. Support the employment of a social pedagogue or school social worker in certain schools in line with the pupil mix or otherwise explore the possibility of tying the provision of support by the school to social work.

The MEYS is interested in supporting the work of social pedagogues in schools. Initially, the possibility of financing this position within the framework of simplified projects covered by the European Social Fund, in the form of 'templates', should be maintained in the coming period under the new Operational Programme Johannes Amos Comenius. In tandem with the implementation of the operational programme, the uptake of this position in schools will be actively promoted and used specifically to support disadvantaged schools under the National Recovery Plan. Closer collaboration with educators, schools, the NPI, and the MEYS should yield more tangible insights into how the position should be put to use and raise awareness of its specific content and benefits. At the same time, systematic support would be provided to these schools as they make use of the position of social pedagogue. This should also lead to practical validation of the position and status of the social pedagogue within the school team. Research into specialised activities in schools, which the MEYS has commissioned through the Technology Agency of the Czech Republic, should also help us to clarify the practice in schools, and we would like to use this knowledge to rethink and perhaps revise the system. We anticipate that activities which could and perhaps should be carried out by a social pedagogue or social worker might also be identified and defined.

AD. V. PRESCHOOL EDUCATION

1. Ensure that all children, including those from socially disadvantaged backgrounds, are able to attend the compulsory preschool year in kindergarten, and to this end

a) make sure that there is sufficient capacity within an accessible distance from a child's actual place of residence;

As at 30 September 2020, there were 357,598 children in kindergartens. As at the same date, 87% of kindergarten capacity was in use, even taking into account the fact that 34,586 children under 3 years of age attend kindergartens. Overall capacity is not the responsibility of the MEYS but of the individual school authorities.

b) increase parental motivation by covering the cost of school fees, dinner money, and travel expenses;

The MEYS is funding a subsidy to encourage the increased participation of children in preschool education in the Karlovy Vary and Ústí nad Labem Regions in 2022. The call for applications for the period from January to December 2022 has been allocated CZK 20,000,000.

c) use social counselling to make parents aware of the obligation to enrol, and inform them of kindergartens where capacity is still available.

The MEYS and the MLSA are currently working together on this.

2. Prevent abuse of the concept of homeschooling, which undermines the system of compulsory preschool attendance.

Compliance with the established homeschooling conditions and outcomes is monitored by the kindergarten concerned or is inspected by the CSI. The MEYS will also consider the recommendation by the research team behind the project '*Verification of the impacts of the introduction of the compulsory final year of preschool education*' to report on the number of children who are homeschooled under the requirement of compulsory preschool education by issuing a statement of enrolment in preschool education at kindergartens. This would improve the monitoring of trends in the use of the concept of homeschooling and help to identify any potential inappropriate use.

3. Intensify the preschool attendance of Roma children in lower grades, since one year of preschool attendance is not considered enough to make up for any handicaps.

The MEYS is funding a subsidy programme entitled 'Support for the Increased Participation of Children in Preschool Education in the Karlovy Vary and Ústí nad Labem Regions in 2022'. This is a scheme that has been expanded to include activities encouraging socially disadvantaged children and children whose families are experiencing chronic or temporary financial hardship to pursue all-round personal development in preschool education through regular involvement in long-running leisure activities.

4. Ensure that children's special educational needs are mapped early on, prior to the start of their compulsory schooling, e.g. while they are still in kindergarten or during the enrolment procedure, so that they can be supported from the very start of their school career. Facilitate children's smooth transition from preschool to primary education.

A fundamental principle of preschool education is its individualisation – as part of pedagogical diagnostics, each child's individual educational progress is assessed and educational goals are set for the next developmental period. In order to ensure that pedagogical diagnostics is used effectively, unified methodology is being prepared for kindergarten teachers under Strategy 2030+.

5. Improve early social support for families and the education of their children from an early age via social work and family outreach.

It is crucial for the social, health and education sectors to work together and for funding to be secured for services that provide early care for families. Negotiations are currently under way between the MEYS and the MLSA.

6. Preschool content should be geared towards the development of language skills, because language proficiency has a bearing on any diagnosis that may be performed; the aim should be to work with children in need with learning disorders in small groups that allow for a different approach.

Under the Framework Educational Programme for Preschool Education, considerable attention is paid to language education and the development of children's communication skills. The MEYS stands ready to support projects aimed at a more individualised approach to the development of children's speaking skills and the application of speech therapy mechanisms. In a broader sense, this also includes support for the development of the content of children's speech (e.g. vocabulary building).

7. Avoid the establishment of preparatory classes at segregated schools with a view to curbing the detrimental effect of their existence at segregated schools.

This issue will be addressed as part of methodological seminars/support for school authorities on the topic of desegregation that are being organised under Measure 2 ('Reducing segregation tendencies in primary education') of the implementation card 'Improving the quality of education in structurally disadvantaged regions'.

The MEYS presents further information relevant to this Part V in section 4 (Preschool education) of the present Report on the Execution of the Judgment.

AD. VI. SEGREGATED SCHOOLS

As of 1 January 2022, the MEYS established a new Equal Access to Education Unit within its Regional Education Management Department. The new unit's agenda includes areas of support for Roma integration, desegregation, support for socially disadvantaged pupils, and a programme to comprehensively support schools attended by a high proportion of pupils from low-SES families.

The MEYS has initiated closer and more effective cooperation with MLSA representatives within the working group on the drop-out rate. It is also working on interlinking support under the OP E+, OP JAC, and NRP to create synergies and effective support for equal access to education.

Methodological seminars on catchment areas and the desegregation process are planned for school authorities under these programmes.

Catchment area map

An updated map of the catchment areas in each municipality, prepared by David Greger as part of the Comprehensive Assessment System project, is currently available at:

<https://experience.arcgis.com/experience/544d182a58ad476b9b86df2b5c5f6ffe/page/Page-1/>

The plan is to periodically update the catchment area map. This would be one of the obligations of the municipalities to make sure that changes are regularly recorded. The current polygon-format map would be used by the MEYS as an initial basis for mayors to verify or modify.

Desegregation mechanisms are discussed at several points in the Report on the Execution of the Judgment (e.g. 2. Analysis of the causes underlying the higher proportion of Roma pupils receiving

education under the FEP PE UV in classes set up under section 16(9) of the Education Act; 5. Other programmes and measures).

