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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Plan (30/09/2024)

Communication from North Macedonia concerning the case of Elmazova and Others v. North Macedonia (Application No. 11811/20)

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Référence du point : Plan d'action (30/09/2024)

Communication de la Macédoine du Nord concernant l'affaire Elmazova et autres c. Macédoine du Nord (requête n° 11811/20) (*anglais uniquement*)

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DGI

30 SEP. 2024

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

Skopje, 30 September 2024

## UPDATED ACTION PLAN

**Elmazova and others**

**v.**

**North Macedonia**

Applications nos. 11811/20 and 13550/20

Judgment of 13 December 2022, final on 13 March 2023

### I CASE DESCRIPTION

1. This case concerns discrimination of Roma pupils due to their segregation between 2017-2019 in two State-run primary schools in Bitola and Shtip which were attended predominantly by Roma children (G.S. in Bitola, Application no. 11811/20) and with Roma-only classes (G.D. in Shtip, Application no. 13550/20) (violation of Article 14 in conjunction with Article 2 of Protocol No. 1).
2. The Court noted that it was primarily for the respondent State to take positive effective measures to correct the applicants' factual inequality and avoid the perpetuation of the discrimination that resulted from their over-representation at school. No explanation was provided as to why no measure has been taken to correct the imbalance in the ethnic composition of the two schools in question, or to redistrict the school district map, or why no other appropriate desegregating measure has been taken, notwithstanding the repeated recommendations by the Ombudsman in this regard (§74, *Elmazova and others*).
3. In § 89 of the judgment, the Court considered that under Article 46, measures to be taken in the context of the present case must ensure the end of the segregation of Roma pupils in the impugned State-run primary schools, as recommended by the European Commission against Racism and Intolerance, the Commission for Prevention and Protection against Discrimination ("Commission") and the Ombudsman (§§ 10, 16, 34, 36 and 37, *Elmazova and others*).

### II INDIVIDUAL MEASURES

4. In response to the Court's findings, measures have been envisaged to bring the violation to an end. They are set out below.
5. The authorities would like to recall that the violation of the rights of the pupils in G.D. (Shtip) arose from the fact that the applicants were placed in Roma-only classes (Application no. 13550/20) and that the Court found that the applicants A.M. (no. 24) and R.M. (no. 28) who were allocated in mixed classes do not have victim status, in

light of the complaints (§51, Elmazova and others). To the best knowledge of the Government, the applicants A.M. (no. 23), Dj.M. (no. 25) and M.M. (no. 26) who continued their education in the primary school G.D. (Shtip) in the academic year 2022/23 were placed in mixed classes.<sup>1</sup> Furthermore, the applicants Z.B. (no. 3), T.D. (no. 7), S.D. (no. 9), S.D. (no. 11), I.Dj. (no. 13), E.D. (no. 16), G.I. (no. 19), Gj.J. (no. 22), R.O. (no. 30), F.Sh. (no. 33), A.S. (no. 35), B.V. (no. 36), F.V. (no. 39) and L.V. (no. 40) attended sixth grade in the same class composed of 24 pupils – 21 Roma and 3 Turks<sup>2</sup>. The applicants A.D. (no. 5), E.D. (no. 17) and Ch. H. (no. 18) who also continued their education in the primary school G.D. (Shtip) in the academic year 2022/23 attended fifth grade<sup>3</sup>. In the academic year 2022/23 they were in the same Roma-only class.

6. To the best knowledge of the Government Agent, in the academic year 2023/24 the applicants Z.B. (no. 3), T.D. (no. 7), S.D. (no. 11), I.Dj. (no. 13), G.I. (no. 19), Gj.J. (no. 22), R.O. (no. 30), F.Sh. (no. 33), A.S. (no. 35), F.V. (no. 39) and L.V. (no. 40) attended seventh grade, in the same class composed of 21 pupils – 19 Roma and two Turks. The Government Agent also notes that due to irregular attendance in classes, the applicant Gj.J. (no. 22) was referred to a departmental exam in the June and August exam periods, while the other applicants will continue their education in eighth grade. Furthermore, the applicants A.D. (no. 5), D.S. (no. 9), E.D. (no. 16), Ch.H. (no. 18) and B.V. (no. 36) attended the sixth grade in the academic year 2023/24. It is noted that the applicant E.D. (no. 16) was placed in a mixed class (14 Roma, nine Macedonians and three Turks), while the other applicants attended the same Roma-only class. However, it is noted that the applicant E.D. (no. 16) was referred to a departmental exam in the June and August exam periods, while the other applicants will continue their education in seventh grade. The applicant M.M. (no. 26) in the academic year 2023/24 attended the fifth grade, in a class of 16 pupils – 12 Roma and 4 Macedonians and will continue his education in sixth grade. According to the information provided by the school, the applicants E.D. (no. 17), A.M. (no. 23), and J.M. (no. 25) were irregular students from the academic year 2020/21, and since the academic year 2020/21, they have not appeared at school. Departmental exams were organized, but they did not attend, even though they were notified.

<sup>1</sup> The applicant M.M. (no. 26) attended fourth grade in a class that was composed of 4 Macedonian pupils and 14 Roma; the applicant A.M. (no.23) attended third grade in a class that was composed of 13 Macedonian pupils and 12 Roma and the applicant Dj.M. (no.25) attended second grade in a class that was composed of 4 Macedonian pupils and 11 Roma.

<sup>2</sup> According to the information provided by the school the ethnic composition of the classes in sixth grade in the academic year 2022/23 were as follows: VI-1 – 24 pupils - 21 Roma and 3 Turks, VI-2 – 27 pupils – 9 Macedonian, 17 Roma and 1 Turk and VI-3 – 27 pupils – 16 Macedonian, 8 Roma, 1 Turk and 2 Vlachs. The applicants attended the VI-1 class.

<sup>3</sup> According to the information provided by the school the ethnic composition of the classes in fifth grade in the academic year 2022/23 were as follows: V-1 – 20 pupils - 9 Macedonian and 11 Roma, V-2 – 17 pupils – 5 Macedonian and 9 Roma and V-3 – 11 pupils – all Roma. The applicants attended the V-3 class.

7. In §71 the Court found, that from the facts of the case and the arguments of the parties, G.S. (Bitola) was a school predominantly attended by Roma children (Application no. 11811/20). To the best knowledge of the Government, in the academic year 2022/23 the following applicants continued their education in the primary school G.S. (Bitola): the applicant S.M. (no. 35) attended third grade, the applicants Sh.D. (no. 8), B.K. (no. 20), Dz.L. (no. 21), A.R. (no. 42) and E.R. (no. 43) attended fourth grade, the applicants A.K. (no. 13), Dj.K. (no. 14), K.V. (no. 18), M.M. (no. 27), S.M. (no. 29) and N.M. (no. 33) attended fifth grade, the applicants U.A. (no. 3), F.E. (no. 9) and S.M. (no. 28) attended sixth grade, the applicants D.A. (no. 5) F.G. (no. 12), D.M. (no. 25) and S.R. (no. 41) attended seventh grade and the applicants T.M. (no. 31) and M.R. (no. 38) attended eighth grade. To the best knowledge of the Government the applicants R.E. (no. 10), A.M. (no. 22), S.M. (no. 30) and O.R. (no. 36) finished their nine-year primary education in the academic year 2022/23.
8. According to the information provided by the school, in the academic year 2023/24 the applicant S.M. (no. 35) was again in third grade because he was an irregular student and did not attend school. This has also been the case with the applicant Sh. D. (no. 8) who was again in fourth grade for the same reasons as S.M. (no. 35). In the academic year 2023/24 the applicants B.K. (no. 20), Dz. L. (no. 21), M.M. (no. 27), A.R. (no. 42) and E.R. (no. 43) attended fifth grade. All the fifth-grade applicants were enrolled in all-Roma classes, except the applicant M.M. (no. 27) who was enrolled in a mixed class.<sup>4</sup> Furthermore, in accordance with the information provided by the school the applicant M.M. (no. 27) was again in fifth grade because he was an irregular student and did not attend school, while the applicant B.K. (no. 20) has failed the class and will attend fifth grade again in the academic year 2024/25. The applicants U.A. (no. 3), A.K. (no. 13), Dj K. (no. 14), K.V. (no. 18), S.M. (no. 28), S.M. (no. 29) and N.M. (no. 33) attended the sixth grade. According to the information provided by the school the applicants U.A. (no. 3), Dj K. (no. 14) K.V. (no. 18) and N.M. (no. 33) are irregular students and did not attend school, while the applicant S.M. (no. 28) has failed the class and will attend sixth grade again in the academic year 2024/25. The applicant F.E. (no. 9), F.G. (no. 12) and D.M. (no. 25) were in the seventh grade in the academic year 2023/24, however the applicants F.G. (no. 12) and D.M. (no. 25) were irregular and did not attend school. The applicants D.A. (no. 5) and S.R. (no. 41) attended the eighth grade. To the best knowledge of the Government the applicants T.M. (no. 31) and M.R. (no. 38) finished their nine-year primary education in the academic year 2023/24, while as previously stated the applicants R.E. (no. 10), A.M. (no. 22), S.M. (no. 30) and O.R. (no. 36) finished their nine-year primary education in the academic year 2022/23 (see paragraph 7 above).
9. The authorities would like to highlight that, having in mind the Court's consideration under Article 46 of the Convention (see §3 above) in respect of the measures to be taken in the context of the present case, the Government highlights that the implementation of the individual measures are linked with the adoption and

<sup>4</sup> The class was composed of 21 pupils - 11 Roma, nine Macedonians and one Albanian.

implementation of the general measures. The authorities have taken and planned action for adoption of general measures (see details in sub-chapter VII below).

#### **A. Redress for the applicants**

10. The applicants claimed EUR 4,500 each in respect of non-pecuniary damage for the suffering endured as a result of the alleged violation (§80, *Elmazova and others*). The Court awarded each of the applicants' household (parents and their minor children) 1,200 EUR for non-pecuniary damage (§83, *Elmazova and others*).
11. The authorities therefore consider that the applicants have been redressed for the damage sustained.

### **III INFORMATION ON THE ENROLMENT IN G.D. AND G.S. IN THE ACADEMIC YEARS IN 2022/23**

12. In the academic year 2022/23 in G.D. (Shtip) out of 590 pupils enrolled in the main school building<sup>5</sup>, 362 (61.36%) were Roma, 206 (34.92%) were Macedonians, 16 (2.71%) Turkish and six (1.01%) Vlach. In first grade in the academic year 2022/23 a total of 70 pupils were enrolled: 47 Roma, 20 Macedonians, two Turkish and one Vlach. In first grade, three classes were formed in the main building: two are mixed and one is Roma-only<sup>6</sup>. To the best knowledge of the Government, 32 requests<sup>7</sup> for transfer of pupils who otherwise belong to the catchment area of G.D. (Shtip) to other schools have been granted in academic year 2022/23. The ethnic composition of the pupils enrolled in the main building in the academic year 2022/23 for the other grades was as follows: second grade – total of 68 pupils: 55 Roma, 11 Macedonians, one Turkish and one Vlach; third grade - total of 83 pupils: 56 Roma, 24 Macedonians and three Turkish; fourth grade – total of 64: 39 Roma, 24 Macedonians and one Turkish; fifth grade – total of 49: 31 Roma, 15 Macedonians, two Turkish and one Vlach; sixth grade – total of 80: 51 Roma, 27 Macedonians and two Turkish; seventh grade – total of 63: 36 Roma, 22 Macedonians, three Turkish and two Vlach; eighth grade – total of 70: 29 Roma, 38 Macedonians, two Turkish and one Vlach and ninth grade – total of 48: 18 Roma, 28 Macedonians and two Turkish.
13. According to the information of the Ministry of Interior 153 pupils who belong to the catchment area of G.D. (Shtip)<sup>8</sup> were expected to be enrolled in first grade in the academic year 2023/24. In the set deadline<sup>9</sup>, 47 pupils have been enrolled in G.D. (Shtip), of which 39 were enrolled in the main building and eight in the two district

<sup>5</sup> The school is composed of a main building and two district schools in the villages Tri Cheshmi and Shashavarlija. However, Roma pupils follow classes only in the main building.

<sup>6</sup> I-1 – 19 pupils – all Roma, I-2 – 23 pupils – 5 Macedonians, 17 Roma and 1 Vlach, I-3 – 23 pupils – 12 Macedonians and 11 Roma.

<sup>7</sup> 25 requests were granted to Macedonian and 7 to Roma pupils.

<sup>8</sup> This is in accordance with the new decision on catchment areas adopted by the Municipality of Shtip in 2023 (see § 26 below).

<sup>9</sup> According to the provisions of the Law on Primary Education the enrollment of first grade pupils is in May, for the next academic year. However, according to the experience late enrollments are expected after the beginning of the academic year. The academic year starts on 1 September.

schools. Out of the 47 pupils, 12 were Roma, 34 were Macedonian and one Turkish. All Roma pupils were enrolled in the main building.

14. In the academic year 2022/23 in G.S. (Bitola) out of 659 pupils enrolled in the school, 590 (89.53%) were Roma, 67 were Macedonians and two Turkish. In first grade in the academic year 2022/23 a total of 69 pupils were enrolled: 62 Roma, six Macedonians and one Turkish. In first grade, four classes were formed out of which three were mixed and one is Roma-only<sup>10</sup>. To the best knowledge of the Government total number of 37 requests<sup>11</sup> for transfer of pupils (who otherwise belong to the catchment area of G.S. (Bitola)) to other schools have been granted in the academic year 2022/23. The ethnic composition of the pupils enrolled in the academic year 2022/23 for the other grades was as follows: second grade – total of 90 pupils: 88 Roma and two Macedonians; third grade - total of 87 pupils: 74 Roma and 13 Macedonians; fourth grade – total of 93: 84 Roma and 9 Macedonians; fifth grade – total of 80: 75 Roma and 5 Macedonians; sixth grade – total of 81: 70 Roma and 11 Macedonians; seventh grade – total of 68: 64 Roma, three Macedonians and one Turkish; eighth grade – total of 46: 40 Roma and 6 Macedonians and ninth grade – total of 45: 33 Roma and 12 Macedonians.

15. According to the information of the Ministry of Interior, 117 pupils who belong to the catchment area of G.S. (Bitola) were expected to be enrolled in first grade in the academic year 2023/24. In the set deadline<sup>12</sup> in G.S. (Bitola) 30 pupils were enrolled, six Macedonians and 24 Roma.

#### IV INFORMATION ON THE ENROLMENT IN G.D. AND G.S. IN THE ACADEMIC YEARS IN 2023/24

16. In the academic year 2023/24 in G.D. (Shtip) out of 573 pupils enrolled in the main school building<sup>13</sup>, 341 (60%) were Roma, 201 (35%) were Macedonians, 23 (4%) Turkish and eight (1.40%) Vlach. In first grade in the academic year 2023/24 a total of 54 pupils were enrolled: 25 Roma and 29 Macedonians. In first grade, three classes were formed in the main building: two were mixed and one is Roma-only<sup>14</sup>. To the best knowledge of the Government, 34 requests<sup>15</sup> for transfer of pupils who otherwise belong to the catchment area of G.D. (Shtip) to other schools have been granted in academic year 2023/24. The ethnic composition of the pupils enrolled in the main building in the academic year 2023/24 for the other grades was as follows:

<sup>10</sup> I-1 – 16 pupils – 12 Roma, 3 Macedonians and 1 Turkish, I-2 – 19 pupils – 18 Roma and 1 Macedonian, I-3 – 20 pupils – 18 Roma and 2 Macedonian and I-4 – 14 pupils – all Roma.

<sup>11</sup> 30 requests were granted to Macedonian pupils and 7 for Roma.

<sup>12</sup> According to the provisions of the Law on Primary Education the enrollment of first grade pupils is in May, for the next academic year. However, according to the experience late enrollments are expected after the begging of the academic year. The academic year starts on 1 September.

<sup>13</sup> The school is composed of a main building and two district schools in the villages Tri Cheshmi and Shashavarlija. However, Roma pupils follow classes only in the main building.

<sup>14</sup> I-1 – 23 pupils – 19 Macedonian and 4 Roma, I-2 – 17 pupils – 10 Macedonians and 7 Roma, I-3 – 14 pupils – all Roma.

<sup>15</sup> 24 requests were granted to Macedonian and 10 to Roma pupils.



second grade – total of 64 pupils: 46 Roma, 17 Macedonians and one Vlach; third grade - total of 70 pupils: 56 Roma, 12 Macedonians and two Turkish; fourth grade – total of 73 pupils: 47 Roma, 23 Macedonians and three Turkish; fifth grade – total of 59 pupils: 34 Roma, 24 Macedonians, and one Turkish; sixth grade – total of 66 pupils: 45 Roma, 13 Macedonians, six Turkish and two Vlach; seventh grade – total of 70 pupils: 36 Roma, 25 Macedonians, seven Turkish and two Vlach; eighth grade – total of 56 pupils: 31 Roma, 21 Macedonians, two Turkish and two Vlach and ninth grade – total of 61 pupils: 21 Roma, 37 Macedonians two Turkish and one Vlach.

17. According to the information of the Ministry of Interior 132 pupils who belong to the catchment area of G.D. (Shtip) were expected to be enrolled in first grade in the academic year 2024/25. In the set deadline<sup>16</sup>, 42 pupils have been enrolled in G.D. (Shtip), of which 23 are Roma, 18 are Macedonian and one Turkish. Out of the 42 enrolled pupils, 32 are from the catchment area of G.D. (Shtip)<sup>17</sup>, seven are from other catchment areas<sup>18</sup> and three pupils were not on the Ministry of Interior's list<sup>19</sup>.
18. In the academic year 2023/24 in G.S. (Bitola) out of 609 pupils enrolled in the school, 550 (89.98%) were Roma, 56 were Macedonians, two Albanians and one Turkish. In first grade in the academic year 2023/24 a total of 59 pupils were enrolled: 57 Roma and two Macedonians. In first grade, four classes were formed out of which three are Roma-only and one is mixed<sup>20</sup>. To the best knowledge of the Government total number of 19 requests<sup>21</sup> for transfer of pupils (who otherwise belong to the catchment area of G.S. (Bitola)) to other schools have been granted in the academic year 2023/24. The ethnic composition of the pupils enrolled in the academic year 2023/24 for the other grades was as follows: second grade – total of 73 pupils: 67 Roma, five Macedonians and one Turkish; third grade - total of 78 pupils: 76 Roma, one Macedonian and one Albanian; fourth grade – total of 83 pupils: 70 Roma and 13 Macedonians; fifth grade – total of 84 pupils: 74 Roma, nine Macedonians and one Albanian; sixth grade – total of 83 pupils: 78 Roma and five Macedonians; seventh grade – total of 64 pupils: 53 Roma and 11 Macedonians; eighth grade – total of 54 pupils: 49 Roma and five Macedonians and ninth grade – total of 31 pupils: 26 Roma and five Macedonians.
19. According to the information of the Ministry of Interior, 138 pupils<sup>22</sup> who belong to the catchment area of G.S. (Bitola) were expected to be enrolled in first grade in the

<sup>16</sup> According to the provisions of the Law on Primary Education the enrollment of first grade pupils is in May, for the next academic year. However, according to the experience late enrollments are expected after the begging of the academic year. The academic year starts on 1 September.

<sup>17</sup> 18 Macedonian, 13 Roma and one Turkish.

<sup>18</sup> Two Macedonian and five Roma.

<sup>19</sup> Two Macedonian and one Roma.

<sup>20</sup> I-1 – 14 pupils – all Roma, I-2 – 15 pupils – 15 Roma and two Macedonian, I-3 – 15 pupils – all Roma and I-4 – 15 pupils – all Roma.

<sup>21</sup> 15 requests were granted to Macedonian pupils and four for Roma.

<sup>22</sup> 100 Roma and 38 Macedonians

academic year 2024/25. In the set deadline<sup>23</sup> in G.S. (Bitola) 34 pupils have been enrolled, four Macedonians and 30 Roma.

## V INFORMATION OF THE OMBUDSMAN ON SEGREGATION OF ROMA PUPILS IN G.D. IN SH TIP AND G.S. IN BITOLA IN THE ACADEMIC YEAR 2022/23

20. In November 2022 the Ombudsman published an Information on Segregation of Roma Pupils in G.D. (Shtip) and G.S. (Bitola) in the Academic Year 2022/23. The Ombudsman noted that since it has found segregation in previous reports and in light of the fresh complaint by ERRC (the applicant's representative in the proceedings before the Court) it decided to establish the situation in the academic year 2022/23 at the two schools in question. The Ombudsman established the situation as presented in §§ 12 and 14 above. In light of the findings, the Ombudsman gave the following recommendations:

- The Ministry of Education and Science to consider legislative changes which would include clear and concrete criteria for enrolling a child in first grade in another school, in order to ensure stricter implementation of the catchment area decisions.
- Introduction of an obligation for the schools to collect data on the ethnical background of the pupils in order to ensure even distribution of the pupils in the classes, which should prevent formation of Roma only classes.
- Introduction of a proper mechanisms to encourage the schools not to issue (unfounded) consents for enrolling a child in another school and
- Awareness raising measures to be undertaken targeting families of the Roma community in order to respect the deadline for enrolling a child in the first grade, with the active involvement of educational mediators.

21. The Information was delivered by the Ombudsman office to the Ministry of Education and Science and is [publicly available](#). This Information has also been disseminated by the Office of the Government Agent to all the representatives of the institutions involved in the process of execution of the present judgment (see below sub-chapter D. a.).

## VI INFORMATION OF THE OMBUDSMAN ON THE STATUS OF ENROLLMENT OF ROMA PUPILS IN G.S. - BITOLA AND G.D. - SH TIP IN THE 2023/24 ACADEMIC YEAR.

22. In November 2023 the Ombudsman published an Information on the status of enrollment of Roma pupils in G.S. - Bitola and G.D. - Shtip for the Academic Year 2023/24. In light of the abovementioned Information on Segregation of Roma Pupils in G.D. (Shtip) and G.S. (Bitola) in the Academic Year 2022/23 and the given

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<sup>23</sup> See footnote 15 above.



recommendations the Ombudsman, in accordance with its legal competences, continued to follow the situation in the two schools for the academic year 2023/24. The Ombudsman established the situation as presented in §§ 16 and 18 above. The Ombudsman found that the issue of segregated classes continues to exist and reiterated the recommendations from the Information on Segregation of Roma Pupils in G.D. (Shtip) and G.S. (Bitola) in the Academic Year 2022/23 (see § 20 above). The Information was delivered by the Ombudsman office to the Ministry of Education and Science and is [publicly available](#).

## VII GENERAL MEASURES

23. In response to the Court's findings, necessary measures have been rapidly taken to prevent similar violations. They are set out below.

### **A. Exchange with the Albanian authorities with the assistance of the Council of Europe**

24. At the outset, the Government would like to note that, with a view to ensuring that the measures are aligned with the Court's findings and best practices in this field and as a part of reflections on most appropriate solutions to pursue, even before the judgment became final the Government communicated with the Department for the Execution of Judgments of the European Court of Human Rights, the Department for the Implementation of Human Rights, Justice and Legal Co-operation Standards and the Roma and Travellers Team.

25. As the Court in 2022, prior to the present judgment, adopted the judgment *X and others v Albania*, A.no. 73548/17, finding a violation of the applicants' right due to similar reasons, with the assistance of the Council of Europe, the Office of the Government Agent was invited to take part of the Stakeholder's coordination meeting on the action plan for the execution of the ECtHR decision *X and others v Albania* which took place in Korca, Albania on 23 February 2023. Representatives of the Office of the Government Agent were present at the event and had fruitful exchanges with the authorities of Albania. The Government would like to express its gratitude to the Council of Europe for enabling such exchange and cooperation.

### **B. Activities of the Municipality of Shtip**

26. Following the present judgment, on 3 April 2023 the Municipality of Shtip adopted an action plan for resolving the issue of segregation of Roma pupils. In line with this action plan, on 12 April 2023, the Municipality of Shtip adopted a new decision on catchment areas, widening the catchment area of the school G.D. to include more pupils of Macedonian ethnicity in order to prevent overrepresentation of Roma pupils in the school. Furthermore, in April 2023 the Municipality of Shtip adopted amendments to the Rules for Enrolling Children in First Grade in Municipal Primary Schools on the Territory of the Municipality of Shtip, envisaging the obligation of parents to submit a proof of residence when enrolling their children, as an additional document in order to ensure stricter application of the decision on catchment areas.

Furthermore, the Education Sector within the Municipality prepared a Statement for parents of Roma pupils, agreeing that the child can be enrolled in another neighboring school, in order to ensure ethnical balance in the schools and prevent overrepresentation. The action plan envisages allocation of Roma pupils in the other schools in the town to prevent overrepresentation of Roma pupils in G.D., as well as prevent segregation of Roma and to overcome societal barriers. Public forums with the aim of changing the public perception of G.D. as a “Roma school” and visits to Roma parents from the area of G.D. who have schoolchildren and informing them about the mandatory enrolment and attendance to class for their children throughout the school year are also envisaged in the action plan.

27. The action plan and all the supportive documentation has been forwarded to the representatives in the working group for execution of the judgment and the experts (see below sub-chapter D. a.).

### **C. Support of the Council of Europe**

28. Following fruitful exchange of information and communication of the Office of the Government Agent with the relevant departments of the Council of Europe, cooperation support was provided by the Roma and Travellers team for assessment of national legislation and policy with a view to propose amendments to the Law on Primary Education and policy measures in respect to desegregation activities (see D. - b. and c. below), as measures to be taken in the context of the present case, having in mind the Court’s consideration under Article 46 of the Convention (see § 3 above), and also taking into account the Ombudsman’s recommendations from the Information of November 2022 (see §20 above). In this context, the Council of Europe, provided support for the execution process by engaging two experts for preparing amendments to the Law on Primary Education and relevant policy response measures to support the development of the desegregation plan, respectively.
29. On 31 May 2023 the Government Agent organized an informative meeting with the engaged experts, where, *inter alia*, the Court’s findings and expectations of the process of execution were discussed.

### **D. Government’s decision for execution**

30. On 16 May 2023 the Government adopted a decision for execution of the present judgment obliging multiple institutions to undertake action. This decision also represents a road map of the activities that the authorities envisage to take to address and overcome the Roma segregation and the violation found in the present judgment.

#### **a. Establishment of a working group to follow the process of execution of the judgment**

31. With its decision of 16 May 2023, the Government instructed the Government Agent to establish a working group from the relevant institutions to follow the process of execution of the judgment. The working group includes the Advisor for Roma Inclusion within the Cabinet of the Prime Minister, representative from the Ministry of Justice, the Ministry of Education and Science, the Ministry of Labour and Social Policy, the Municipality of Stip, the Municipality of Bitola and representatives from the schools G.D. (Shtip) and G.S. (Bitola).
32. Upon the Government's instruction representatives from the Ombudsman and the Commission were invited to take part in the working group and the representatives of the Council of Europe as observers.
33. On 7 June 2023 the working group had their first meeting. Representatives from all the abovementioned domestic institutions were present, including the two experts engaged by the Council of Europe, Roma and Travellers team and a representative of the Council of Europe Programme Office in Skopje. Representatives from the Ombudsman and the Commission were also present. The importance of the present judgment, the Court's findings and the process of execution were discussed in particular in the light of the importance of the recommendations of the Ombudsman and the Commission (§10 and §16, *Elmazova and others*) including those from the Information of the Ombudsman of November 2022 (see §20 above) and in the context of the expert support provided by the Council of Europe. The representatives of the institutions exchanged relevant information from the field and expressed commitment to fruitful and close cooperation with the experts.

#### **b. Legislative changes**

34. With its decision of 16 May 2023, the Government also instructed the Ministry of Education and Science to start the process of amending the Law on Primary Education in accordance with the considerations of the Court in the present judgment, as well as the recommendations of the Ombudsman and Commission in close cooperation with the expert engaged by the Council of Europe. The working group within the Ministry of Education and Science to this aim was established with a decision of 4 April 2023.
35. Following the meeting of the working group for execution of the present judgment (see §33 above), the expert engaged by the Council of Europe to prepare the amendments of the Law on Primary Education had several meetings with the working group established within the Ministry of Education and Science. The expert also held meetings with the Ombudsman and the Commission.
36. Following consultations within the Ministry of Education and Science, the draft amendments were published in November 2023 on the Electronic national register of regulations of the Republic of North Macedonia and were open to comments for the public. During the designated period, a couple of NGOs gave their comments on the proposed amendments. Additionally, the Legislation Secretariat submitted its

comments on the draft amendments. As neither the Commission, which composition was revised in the meantime, nor the Ombudsman gave any comments on the draft amendments during the public consultation phase, upon the request of the Government Agent, having in consideration the findings of the Court, the Ministry of Education and Science on 8 March 2024 forwarded to these institutions the draft amendments for comments in order to ensure inclusion of all relevant institutions. The Commission provided its comments on 23 April 2024. Subsequently, several consultative meetings were held between representatives of the Council of Europe, the Commission, the Ombudsman and the NGO sector. As a result, a revised draft text of the amendments was prepared, incorporating the various comments received.

37. The authorities deem it necessary to note that parliamentary elections were held on 8 May 2024 and that the new Government was elected on 23 June 2024.
38. Following the communication of the revised draft text to the Government Agent the Minister of Justice with a letter of 6 September 2024 forwarded the new draft text of the amendments to the Ministry of Education and Science. The letter included detailed information of the findings of the Court, the importance of the present judgment, the process of its execution, and the measures previously taken, including the prepared draft Desegregation plan (see below D.c.).
39. On 12 September 2024 the Ministry of Education published fresh [text of draft amendments](#) on the Electronic National Register of Regulations of the Republic of North Macedonia. However, on 18 September 2024 the Ministry of Education published another version of draft amendments of the Law on Primary Education on the Electronic National Register of Regulations of the Republic of North Macedonia. Notably, the text of 18 September 2024, does not introduce any changes relevant for the execution of the present case that differ from the text published on 12 September 2024. The text of the draft amendments will be open for comments for the public 20 days from the day they were published on the Electronic National Register of Regulations of the Republic of North Macedonia.
40. The newly draft amendments (see the previous paragraph), *inter alia*, are based on principles of the law, including the concept of non-discrimination, promoting equality and non-discrimination alongside multiculturalism. They establish provisions for balanced participation and equal distribution of pupils in school enrollment and class formation in order to prevent physical separation. The amendments also expand affirmative measures for all children belonging to marginalized communities according to the law on non-discrimination. The amendments prohibit discrimination and physical separation of pupils based on discriminatory grounds in enrolment and formation of classes in primary schools without legitimate or objective aim, in line with the law on non-discrimination. Furthermore, the draft amendments propose strengthening the procedure for school transfers by expanding the responsibilities of municipalities. The amendments envisage the obligation for the municipalities to determine the catchment areas of the schools in a way that will prevent and overcome physical separation of Roma pupils. The amendments also envisage that a

primary school can enroll pupils from other catchment areas only if the pupil does not have the possibility to learn in his/her mother tongue in the catchment area in which he/she belongs to.

41. The authorities deem it necessary to note that a meeting between the Department for Execution of Judgments of the European Court of Human Rights and the representatives of the Ministry of Education and Science is scheduled to take place during the Department's upcoming mission in North Macedonia in November 2024. This meeting will address the activities and measures related to the draft amendments.
42. The authorities undertake to inform the Committee of Ministers of further development regarding adoption of legislative changes.

### **c. Desegregation plan**

43. With its decision of 16 May 2023, the Government also instructed the Ministry of Education and Science to start the process of development of a plan for desegregation of the pupils in the schools G.D. (Shtip) and G.S. (Bitola).
44. Following the meeting of the working group for execution of the present judgment (see § 33 above), the expert engaged by the Council of Europe, Roma and Traveller team to draft policy response measures addressing school segregation and to support the development of the action plan had meetings/consultations with representatives from the Municipalities of Bitola and Shtip, representatives from both schools, the expert engaged by the Council of Europe to prepare the legislative changes (see D. b. above), as well as the Ombudsman and the Commission.
45. Following the finalization of the draft Desegregation Plan, on 17 April 2024 the Government Agent distributed the plan for comments and suggestions to the competent institutions as well as those responsible for implementing the measures and activities outlined in the plan. This distribution included the Ministry of Education and Science, the Ministry of Justice, the Ombudsman, the Commission for Prevention and Protection against Discrimination, the State Education Inspectorate, the Ministry of Labor and Social Policy, the municipalities of Bitola and Shtip, and the two schools, G.S. – Bitola and G.D. - Shtip. Within the allotted period, only the Municipality of Bitola submitted its suggestion, which has been forwarded to the other relevant authorities.
46. The draft Desegregation Plan envisages measures primarily focused on overcoming the segregation of Roma students in schools G.S. in Bitola and G.D. in Shtip, however its applicability extends to all municipalities across the country. The Plan includes measures at the local level to ensure student enrolment overcomes and prevents segregation. This encompasses the adoption of Annual Local Action Plans and enactment of local level regulations and procedures to ensure that the enrolment of non-Roma students, class formation and the process of defining the school

catchment areas are conducted in a manner that prevents segregation of students and promotes inclusive education for all pupils. It also envisages measures at a central level, mainly by the Ministry of Education and Science and other relevant institutions of the central government to develop complementary measures. Additionally, it proposes development of mechanisms that will assess the level of vulnerability of Roma children and identify appropriate measures that will respond to their needs for additional support in the education process, in order to meet the defined educational standards. The plan also includes measures to help Roma children and their families in the context of social protection, aiming to ensure social and educational inclusion and proposes awareness raising activities aimed at non-Roma families for developing an inclusive culture in the school and the broader community.

47. The authorities would like to note that the draft Desegregation Plan was developed based on the initial text of the amendments (see sub-chapter D.b. above) and may be subject to revision upon the adoption of the legislative changes and/or consultation with the relevant authorities.
48. The authorities undertake to inform the Committee of Ministers of further development regarding the draft Desegregation plan.

#### **d. Analysis of the actual situation of possible segregation in other schools**

49. With its decision of 16 May 2023, the Government instructed the Ministry of Education and Science to prepare an analysis of the actual situation of possible segregation in other schools in North Macedonia, apart from the two schools noted in the present judgment. The analysis should include the recommendations of the Ombudsman and the Commission.

### **VI OTHER RELEVANT ACTIVITIES**

50. On 16 January 2024 in Skopje, the Education Department organised a round table “Quality Education for All”, in cooperation with the Roma and Travelers Team and with the attendance of the Department for the Execution of Judgments. The event took place in response to the European Court’s judgment. Experts and representatives from central and local institutions, schools, the Council of Europe, the Department for the Execution of Judgments, national human rights institutions, and civil society discussed concrete measures to address segregation in schools and to advance the integration of Roma children in education as well as their timeline. The topics discussed included changes to the Law on Primary Education and different policy measures for overcoming and preventing the issue. The discussion also touched upon recommendations for implementing the European Court’s judgment at local and school levels as well as the comprehensive training and monitoring programme, facilitated by local consultants, targeting 25 pilot schools including the two schools concerned by the judgment. The discussions focused on maintaining inter-institutional synergies throughout the process and ensuring



sustainable solutions to prevent segregation in schools in the future. The event was organised in the framework of the project “Quality Education for All – North Macedonia,” implemented by the Council of Europe and funded by Germany, in cooperation with the Ministry of Education and Science of the Republic of North Macedonia.

**a. Study visit to Croatia with the assistance of Council of Europe**

51. On 4-6 June 2024, a study visit to Croatia was organised for the key stakeholders from relevant institutions of North Macedonia, engaged in the execution of the present judgment. This initiative was organised by the Council of Europe Action “Quality Education for All” – North Macedonia, funded by Germany, in cooperation with the Network of Education Policy Centres. The study visit was organised as a follow up to the Reykjavík Declaration adopted at the 4th Summit of Heads of State and Government of the Council of Europe (16-17 May 2023) affirming the need to scale up co-operation programmes to assist member states in the implementation of the European Court’s judgments, which may involve, as appropriate, states facing the same or similar issues in implementation.
52. The delegation comprised representatives of the Ministry of Education and Science (including the State Secretary), the Ministry of Justice, the General Secretariat of the Government, the Bureau for Development of Education, the municipalities of Bitola and Shtip, the two schools concerned, as well as of the Ombudsman Office and the Commission for Prevention and Protection against Discrimination of North Macedonia. They met with representatives of the Ministry of Science, Education and Youth, the Office for Human Rights and Rights of National Minorities, the Međimurje County, the schools in this county, as well as the Ombudswoman for Children, and civil society.
53. The discussions helped identifying good practices adopted in Croatia for the execution of the European Court’s judgment *Oršuš and Others v. Croatia* concerning discriminatory treatment of Roma children in two primary schools in the Međimurje County, which could serve as a model for the measure to be taken in North Macedonia.
54. The study visit was organised in the framework of the project “Quality Education for All – North Macedonia,” implemented by the Council of Europe and funded by Germany, in cooperation with the Ministry of Education and Science of the Republic of North Macedonia.

## VI PUBLICATION AND DISSEMINATION MEASURES

55. The authorities also provided publication of the European Court’s judgment in the case at hand in order to make sure that the domestic judges are aware of and comply with the findings of the European Court. The European Court’s judgment in the present case has been published in Macedonian and posted on the website of

the Bureau for Representation of the Republic of North Macedonia before the European Court of Human Rights ([www.biroescp.gov.mk](http://www.biroescp.gov.mk)), making it available to the public.

56. With a view to facilitating dissemination of the judgment and making it accessible to the legal professionals in North Macedonia, the Office of the Government Agent prepared an analysis of the European Court's judgment highlighting its most important findings. The Government Agent ensured that the above-mentioned analysis and the European Court's judgment were transmitted to all relevant judicial authorities and other competent bodies (including, but not limited to the Constitutional Court, the Supreme Court, the Courts of Appeal in Skopje, Bitola, Gostivar and Štip; the Civil Basic Court Skopje; the Judicial Council, the State Prosecutor; the Prosecutor's Offices in Skopje, Bitola, Štip and Gostivar; the State Attorney Office; the Ombudsman's Office; the Commission for Prevention and Protection against Discrimination; the Ministry of Science and Education; the Ministry of Labour and Social Policy; the Municipality of Štip; the Municipality of Bitola; the schools G.D. (Shtip) and G.S. (Bitola); the Academy for Training of Judges and Public Prosecutors; the Macedonian Judges' Association; the Bar Association, the Association of Public Prosecutors and the Ministry of Justice).
57. The authorities consider that the above measures will ensure that the domestic authorities are aware of the European Court's findings.

## VII CIVIL ACTION ALLEGING GENERAL DISCRIMINATION AGAINST ROMA CHILDREN IN EDUCATION

58. The Court noted that on 28 January and 12 April 2021, the Helsinki Committee for Human Rights in Skopje lodged a civil action for damages against several State and local authorities, including the Municipalities of Bitola and Shtip, seeking that the Skopje Court of First Instance establish that there had been "segregation of Roma children in the process of education", including in the two schools in question (§ 17, *Elmazova and others*).
59. On 21 November 2023 the Basic Civil Court Skopje adopted a judgment accepting the claim and found that the state committed discrimination, i.e. segregation against Roma children in the educational process. Namely, it found that the Government, the Ministry of Education and Science, the Municipality of Bitola and the Municipality of Shtip committed discrimination, that is, segregation by failing to undertake measures to regulate way of determining the catchment areas in a way that will prevent segregation. It found that the Government, the Ministry of Education and Science and the State Education Inspectorate committed discrimination, that is, segregation by failing to undertake measures of control over the catchment areas decisions of the Municipality of Bitola and the Municipality of Shtip, the way those decisions were implemented and the way of enrollment of Roma pupils in schools. Furthermore, the court found that Government, the Ministry of Education and Science, the State Education Inspectorate, the Municipality of Bitola and the Municipality of Shtip

committed discrimination, that is, segregation by failing to undertake measures for equal and appropriate distribution of Roma students with other ethnic communities in classes; did not take measures for the process of desegregation in schools where there are segregated classes with Roma children and did not take measures to sanction acts of discrimination by primary schools. It also found that Government, the Ministry of Education and Science, the Ministry for Labor and Social Policy and the Ministry of Health committed discrimination, that is, segregation in the education process of Roma children by failing to take measures for adoption of legislative acts and bylaws for detailed regulation of the method of categorization of children with special needs, especially Roma children, as well as detailed regulation of the composition of the Commissions and the procedure for revising their decisions and actions for the recategorization of inappropriately categorized Roma children studying in special schools. Finally, the court found that the Government, the Ministry of Education and Science, the Ministry for Labor and Social Policy and the Ministry of Health, the State Education Inspectorate, the Municipality of Bitola and the Municipality of Shtip committed discrimination, that is, segregation by failing to undertake measures for education of all actors in the education system and the parents of the children for easier recognition and fight against acts of discrimination.

60. In its judgment, the court ordered the Government, the Ministry of Education and Science, the Ministry for Labor and Social Policy, the Ministry of Health, the State Education Inspectorate, the Municipality of Bitola and the Municipality of Shtip to undertake all the needed measures for desegregation of the Roma children in the education process and to undertake all the measures needed for recategorization of the Roma children studying in special schools. The court also ordered the abovementioned institutions to publish the sentence from the verdict in the media at their own expense. In its judgment the court expressly relied on the Court's judgment in the present case and the principles and stances of the Court.

61. The State Attorney Office and the municipalities filed appeals against this judgment.

62. The proceedings upon the appeals are currently pending. The authorities undertake to inform the Committee of Ministers about further developments.

## VIII JUST SATISFACTION

63. On 29 May 2023 the authorities ensured that the just satisfaction awarded by the Court has been paid to the applicants. Thus, the payment has been made within the deadline set out by the European Court.

## IX CONCLUSIONS

64. The authorities undertake to inform the Committee of Ministers about the further development of any measure taken within the context of the process of execution of the present judgment.

65. The authorities furthermore deem that the planned general measures will be capable of preventing similar violations.