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Communication from an NGO (Forum for Human Rights) (20/10/2020) concerning the case of D.H. AND OTHERS v. Czech Republic (Application No. 57325/00).

Information made available under Rule 9.2 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 : 1390^e réunion (décembre 2020) (DH)

Communication d'une ONG (Forum for Human Rights) (20/10/2020) concernant l'affaire D.H. ET AUTRES c. République tchèque (Requête n° 57325/00) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

FORUM

Human Rights

DGI
20 OCT. 2020
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

RULE 9 SUBMISSION TO
THE COMMITTEE OF MINISTERS

D.H. AND OTHERS V. THE CZECH REPUBLIC
(APPLICATION NO. 57325/00)

Submitted by:

Forum for Human Rights (FORUM)

20 October 2020

I. OVERVIEW

1. This submission has been written by Forum for Human Rights (FORUM) under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements. The purpose of the submission is to provide the Committee of Ministers with a reaction to the Communication from authorities (07/10/2020) in the case of *D. H. and others v. the Czech Republic* (Application no. 57325/00). The structure of the submission thus copies that of the Communication, except for the final part focused on recent developments in the Czech educational system.
2. FORUM is an international human rights organisation active in the Central European region. It provides support to domestic and international human rights organisations in advocacy and litigation. FORUM has been supporting a number of cases pending before domestic judicial authorities and before the European Court of Human Rights. FORUM has authored and co-authored many reports and has provided information to the UN and Council of Europe bodies on the situation in the Central European region, especially in Slovakia and Czechia. For more information, please visit www.forumhr.eu.

II. EXECUTIVE SUMMARY

3. The present submission is divided into five parts. The first part briefly comments on the statistical data provided by the authorities and the way the authorities interpret these data. It emphasizes the need to look not only at the percentage proportions as the authorities do but also at the absolute numbers of Roma children receiving education of lower quality and to take into account the whole context of the current situation of Roma children in the Czech educational system.
4. The second part focuses on the situation of Roma children in pre-school education whereas it highlights the problem of underrepresentation of Roma children in this type of education except for the last compulsory year, and the failure of the Czech authorities to appropriately tackle this situation.
5. The third part gives a broader view on the diagnostic approach to the support of children with special educational needs resulting inevitably in the failure to tackle the educational environment in its complexity which is, however, an indispensable pre-condition of effective implementation of inclusion in education for all children that are in vulnerable situations for whatever reason.
6. The fourth part presents a brief reflection on the authorities' analysis of the causes of the reform's current impact on Roma children pointing out that the Czech authorities have never committed themselves to

undertake a complex reform of the whole educational system, based on the principles and obligations deriving from the right to inclusive education and that this objective is still not part any of the government's strategic documents.

7. The last part provides a brief presentation of current developments in the form of the current proposal for an amendment to the ministerial decree no. 27/2016 Coll. that would significantly limit certain forms of supportive measures for certain categories for children with special educational needs. These developments show clearly not only the limits of the individual approach to special educational needs but also the failure to provide children with effective legal safeguards. This failure to comply with the rule of law principle has the most negative impact on children in vulnerable situations, including Roma children.

III. SPECIFIC COMMENTS REGARDING GENERAL MEASURES

(a) Comments on Data

8. The Czech authorities in their communication of 7/10/2020 provide the Committee of Ministers with estimates of numbers of Roma children in different forms of elementary education, i.e.:
 - children educated in primary schools (hereinafter "FEP EP");
 - children educated under the framework educational programme for primary education – the annex governing the education of pupils with mild mental disabilities (which ceased to apply at the end of the school year 2019/2020; hereinafter "FEP PE MMD");
 - children educated under the framework educational programme for primary education with lower demands for learning outcomes because of mild mental disabilities, including data on those who are educated in special classes set up under the School Act (hereinafter "FEP PE UV"); and
 - children educated under the framework educational programme for special primary school education (hereinafter "FEP PE SPS").
9. The main concern is that the Czech authorities fail to appropriately explain these data and provide further information on the whole context of education of Roma children.
10. The inappropriate interpretation of data appears especially in two places. First, on page no. 5 the authorities state that "the qualified estimates (Table 2) show that between 2016 and 2019, the proportion of Roma pupils receiving education under FED PE was continuously rising and in 2019 accounted for 86,3% of the total number of Roma pupils". Technically speaking, this conclusion is correct. However, it fails to take into account that the rise of the proportion of Roma children educated

under FED PE was caused by the decline of the total number of Roma children in primary education (according to the qualitative estimates). In other words, the absolute value to which the proportion is measured. The table no. 1 shows a decline of number of Roma children between 2018 and 2019 and this decline is the main cause why the proportion of Roma children educated under FED PE could rise between 2018 and 2019. Regarding the absolute numbers of Roma children educated under FED PE there was, on the contrary, a decline.¹ Thus, the conclusion about the rise of the proportion of Roma children educated under FED PE seems to be inaccurate.

11. Second, inappropriate interpretation appears on page no. 7 and concerns children who are educated under the framework educational programme with adjusted outcomes – FED PE UV. The authorities state that the presented figures “show that the proportion of Roma pupils educated in mainstream classes is increasing, albeit very slowly”. The inaccuracy is practically the same as in the above-mentioned case. Regarding the absolute numbers, we may see that even though there was a decline by 1 000 Roma children in primary education between 2018 and 2019 (table no. 1), the number of children educated under the adjusted framework educational programme – FED PE UV increased both in the total number (by 83 children), as well as in the number of children who are educated in special classes set up according to the School Act (by 54 children).²
12. We argue that the presented absolute numbers should be considered as more relevant than the percentage proportions. They enable us to better capture the central point of the judgment, i.e. segregation of Roma children. This issue is broader than the mere existence of FED PE MMD and the use of diagnostic tools used at the time of the judgment as the Czech authorities try to present it (especially pages no. 5 and 10). These are only technicalities that might have been replaced by other ways and tools on how to further segregate Roma children and, need to be added, other children in vulnerable situations (children with disabilities, children living in poverty, children with challenging behaviour, etc.).
13. We have already pointed out in our previous submission of 31 July 2020 that the framework educational programme with adjusted outcomes – FED PE UV may become one of such tools. The Czech authorities repeatedly argue that this framework educational programme differs significantly from the criticised FED PE MMD and ensures that the child is provided with quality education. The difference should consist of the fact that, while the MMD set out the same lowered level in all educational areas for all children diagnosed with mild mental disability without differentiating between their individual needs, the new FED PE UV “allows pupils to use the adjusted outcomes only in those areas where this is

¹ 29 659 Roma children in 2018 and 29 153 children in 2019.

² Act no. 561/2004 Coll., the School Act, section 16 (9).

necessary for the particular pupil, based on recommendations from the school counselling facilities” (p. 3). Nevertheless, we should not forget that the term “adjusted” refers to “lower demands for learning outcomes because of mild mental disabilities” as the Czech authorities mention themselves in the introduction of their communication (p. 3). The increase in absolute numbers of Roma children educated under this educational programme both in mainstream classes, as well as in special class, between 2018 and 2019 (as shown by the table no. 5) and the fact that Roma children represent one-quarter of the total number of children educated under this educational programme (in concrete 24,2 % - see p. 8) while in general, they represented only 3,5 % of children of school age in 2019, document well that the segregating tendency of the Czech educational system against Roma (and, needed to be added, against other children in vulnerable situations – children with disabilities, children living in poverty or social exclusion, children with challenging behaviour) does not disappear. The authorities’ presentation of these developments, accompanying the information on the increase by 83 Roma children educated under FED PE UV (of whom 54 were children educated in special classes) and on the fact that this number represented 4 % of the total increase by the adverb “only” (p. 8) can change nothing about the seriousness of the situation.

14. Furthermore, the Czech authorities fail to provide more information on the whole context of the situation of Roma children in education. One of the major problems remains the segregation in the form of the existence of primary schools where children are educated under FED PE, but which are in fact attended exclusively by Roma. We described the situation in our previous submissions – of August 2019 and of July 2020. These schools became also the matter of interest of the Office of the Public Defender of Rights (hereinafter “the Office”) holding the mandate of the equality body. The Office carried out qualitative research the results of which they published in the final report in 2018 (the research was mentioned directly by the Office in their submission to the Committee of Ministers of 7/6/2019.³

15. The problem is that these schools provide Roma children with education of lower quality. The Czech Public Defender of Rights explicitly mentions in the 2018 final report that in her view, “the schools with the majority of Roma pupils do not provide their pupils with the same educational opportunities as schools with mixed collectives.”⁴ The report further highlights that “high concentration of pupils from ethnic minorities and/or socially disadvantaged environment in certain schools brings also an

³ Available at:

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168094d830, p. 4.

⁴ Office of the Public Defender of Rights, Recommendation of the Public Defender of Rights on common education of Roma and non-Roma children, no. 86/2017/DIS/VB, p. 4. Available in Czech at: https://ochrance.cz/fileadmin/user_upload/ESO/86-2017-DIS-VB_Doporuceni_desegregace.pdf . [cited 13 October 2020].

increased destabilisation of the local educational network in the form of transfers to other schools, disrespect for catchment school areas, changes of the place of permanent residence, the outflow of pedagogues and labelling of schools according to the attributed quality. As soon as the composition of pupils starts to change for higher representation of minorities, pupils from the majority start to leave and the proportionate representation of disadvantaged children spirally increases until the point of the absolute amount.”⁵ The analysis of the governmental Department (Agency) for Social Inclusion of November 2019 mentions that according to the Ministry of Education, Youth and Sports, there are 12 primary schools attended exclusively by Roma children and 80 primary schools where Roma children represent more than 50 %.⁶

16. The Long-term Plan of Education and Development of the Educational System 2019-2023 is practically silent on the problem of segregated schools for Roma. It explicitly mentions the problem of segregation in education in its narrative part only in the context of supportive measures in education.⁷ It emphasizes the problem of differentiation of primary education rather in the context of the second degree of education when a high number of children leave their primary school either for a perennial grammar school or selection classes⁸ which are not the same as the existence of segregated Roma schools. Furthermore, neither do the measures contain the commitment to explicitly declare segregation illegal, as well as to transform both segregated and other schools into inclusive ones⁹, nor do they contain the commitment to provide appropriate funding to municipalities to promote desegregation.¹⁰

(b) Comments on the involvement of Roma children in pre-school education

17. Regarding pre-school education, the Czech authorities focus especially on the compulsory last year while mentioning that “it can be estimated that an overwhelming majority of Roma children are attending compulsory pre-school education” (p. 9). Nevertheless, the situation in primary education remains practically unchanged. Therefore, as the Czech authorities point out, the Ministry of Education, Youth and Sports

⁵ Ibid, p. 20.

⁶ Department (Agency) for Social Inclusion. Analýza segregace v základních školách z pohledu sociálního vyloučení – 2019 [Analysis of the segregation in primary schools from the point of view of social exclusion - 2019], p. 34. The Analysis is available in Czech at: <https://www.socialni-zaclenovani.cz/dokument/analyza-segregace-v-zakladnich-skolach-z-pohledu-socialniho-vyloucení-2019/> [cited 13 October 2020].

⁷ Long-term Plan of Education and Development of the Educational System in the Czech Republic for 2019-2023, p. 42. The Plan is available in Czech at: <https://www.msmt.cz/file/51673/> [cited 13 October 2020].

⁸ Ibid., p. 69.

⁹ Office of the Public Defender of Rights, Recommendation of the Public Defender of Rights on common education of Roma and non-Roma children, no. 86/2017/DIS/VB, p. 8. Available in Czech at: https://ochrance.cz/fileadmin/user_upload/ESO/86-2017-DIS-VB_Doporuceni_desegregace.pdf . [cited 13 October 2020].

¹⁰ Measure C.2.5 promises only the methodological guidance.

has commissioned a project “which will evaluate the effects of this measure, inter alia, with regard to socially excluded localities” and aims “to identify and describe the specific impacts of and obstacles to the implementation of compulsory pre-school education”.

18. The Czech authorities, however, did not elaborate on the information on the age proportion of Roma children in pre-school education. The authorities first mention that Roma children over five “account for 58,5 % of all Roma children in kindergartens.” (p. 9), but use this information as an argument proving the extent to which Roma children are concerned by compulsory pre-school education. This information has a second side - the fact that younger Roma children in pre-school education remain disproportionately underrepresented. This is well documented by another of the Czech authorities’ arguments, namely that “the overall share of children over five in the total number of children in kindergartens is 34,5%” (p. 9).
19. It is to be noted that the overall underrepresentation of Roma children in pre-school education - mentioned even in the Czech authorities’ communication (p. 9) - is not explicitly described in the Long-term Plan of Education and Development of Educational System 2019-2023. Even though the Plan lists the increase of involvement of children in pre-school education as one of its objective, it focuses particularly only on the last compulsory year. Non-authoritative, supportive measures that may help Roma children to be involved in pre-school education from an early age such as fee waiver or free meals in kindergartens are mentioned in the Plan as part of the measure B.2.3, already cited in our previous submission, but without any concrete criteria (the only criterion to monitor the implementation of this measure is the already existing joint position paper of the Ministry of Education, Youth and Sports and the Ministry of Labour and Social Affairs) and together with obviously repressive measures (for instance conditioning of the entitlement to social benefits by the child’s kindergarten attendance).¹¹
20. Furthermore, it should be noted that the authorities for the social and legal protection of children (‘OSPOD’) to the assistance of which the Czech authorities refer in their communication when mentioning the joint position paper of the Ministry of Education, Youth and Sports and the Ministry of Labour and Social Affairs, are public authorities responsible for public protection of children and, hence, endowed with authoritative powers over families.¹² It is thus hardly understandable how this joint position paper could help Roma children and their families facing structural inequalities to improve access to quality pre-school education. The main objective of the joint position paper has been to clarify the competencies between relevant administrative authorities, including authorities responsible for the social and legal protection of children, and

¹¹ See para. 37 of the FORUM’s submission of 31 July 2020.

¹² Ibid., para. 30.

to prevent that Roma children are reported in huge numbers¹³ to these authorities which, regarding their authoritative powers, are representative of public repression rather than support.

21. To conclude, it appears that there are currently no systematic and coordinated supportive efforts to improve overall Roma children's pre-school attendance, accompanied by adequate funding. We can hardly expect that the planned project of the Ministry of Education, Youth, and Sports, which focuses on analysis and research could bring an actual change.

(c) Comments on the diagnostic tools and their evaluation

22. In the third part of their communication, the Czech authorities focus on the problem of diagnostic tools. The authorities argue that the diagnostic tool predominantly used in the period reviewed by the Court in the *D. H. and Others* judgment, "is not among the funded diagnostic tools because it is an obsolete tool". The Czech authorities further mention the allocation of 10 million CZK (approximately EUR 372 717) to the development programme on diagnostic tools in 2020, as well as, their belief in the standardisation of a new diagnostic tool – WISC-V, which is "an intelligence test acknowledged for measuring the intellectual ability and cognitive domains of children at European schools" and should be validated for the Czech Republic in 2022 (pp. 10-11).

23. However, as the data mentioned in the first part of the Czech Authorities' report (and in the first part of this submission) show, these developments in the area of diagnostic tools cannot change the overall segregating nature of the Czech educational system, not only for Roma children but also for other children in vulnerable situations.

24. We argue that the problem is deeper and consists of the fact that the whole reform carried out in 2015 and 2016¹⁴ was grounded in the presumption that the structural problems might be overcome solely by the individual intervention taking the form of the individual model of special educational needs. That is why the legislative reform, despite its indisputable benefit, could have never resulted in *inclusion*, as it is often mistakenly presented.¹⁵

¹³ The joint statement highlights the need to differentiate between the administrative responsibility of the child's parents for failure to comply with the obligation to ensure compulsory pre-school education for their child and the situation of so-called social endangerment of the child in the form of the child's maltreatment, abuse, or serious neglect by his/her parents. The administrative authorities responsible for the public (social and legal) protection are competent to deal only with the latter category of the child's parents' conduct.

¹⁴ Amendment to the School Act no. 82/2015 Coll. and the ministerial decree no. 27/2016 Coll.

¹⁵ Especially the General Comment of the UN Committee on the Rights of Persons with Disabilities no. 4, CRPD/C/GC/4, and the General Comment of the UN Committee on the Rights of the Child no. 1, CRC/GC/2001/1.

25. Thus, it is hardly understandable that the Czech authorities, even though confronted with the failure of the solely individually oriented support without any structural changes of the whole educational environment and the principles upon which it operates, still predominantly concentrate on developing diagnostic tools. Such a tool may enable categorize children according to their intelligence and cognitive capacities rather, yet these tools cannot ensure implementation of an inclusive education paradigm, as described authoritatively especially in the General Comment of the UN Committee on the Rights of Persons with Disabilities (hereinafter "UN CRPD") no. 4 of 2016. It is sort of symptomatic, that the Long-term Plan of Education and Development of the Educational System 2019-2023 does not mention the UN CRPD's General Comment no. 4. Nor does it contain any reference to principles of a human rights system of education listed in the General Comment of the UN Committee on the Rights of the Child no. 1 on the aims of education of 2001.

26. Therefore, in our opinion, the developments in the field of diagnostic tools mentioned by the Czech authorities should not be overestimated. On the other hand, it is necessary to emphasise that neither the Authorities' communication, nor the existing strategic documents anticipate any transformative change in the principal approach to education as required in order to ensure *inclusion* in education.¹⁶

(d) Comments on the analysis of the causes of the reform's current impact on Roma children

27. In the final part, the Czech authorities present a brief introduction of the causes of the reform's current impact on Roma children. They mention the role of "aspects outside the school system" (p. 11). It is an example of misunderstanding of what inclusion in education means. Although the majority of the aspects mentioned explicitly by the Czech authorities have an important impact on the successes of children in education and the Czech government should immediately start taking steps solving them, since they represent a failure to address structural determinants of life¹⁷ and health,¹⁸ they do not liberate the educational system from its obligation to be available, accessible, adaptable and acceptable¹⁹ for all children, including children facing these structural deficiencies. In other words, the point of inclusion in education is that the school facilities try to effectively accommodate *any* child regardless of his/her current individual circumstances and never use these circumstances as a legitimate argument for exclusion. Furthermore, *inclusion* in education means that the child is not forced to bear the burden for quality

¹⁶ CRPD/C/GC/4, para. 9.

¹⁷ CCPR/C/GC/36, para. 26.

¹⁸ E/C.12/2000/4, para. 4.

¹⁹ E/CN.4/1999/49, para. 50.

education, as the Czech authorities' reference to "the Roma community's cultural and lifestyle customs and habits" could implicitly evoke. Inclusive education means that the system not only accommodates Roma children with their "community's cultural and lifestyle customs and habits", but welcomes diversity and uniqueness.

28. The Czech authorities' decision to set up an Expert Forum is without any doubt a good step forward, however, regarding the current knowledge in the area of inclusive education, it seems rather insufficient, mainly as regards its anticipated outcomes. The Expert Forum sets as its objectives to analyse the causes of the failure of the efforts undertaken so far to end the segregation of Roma children in education and to formulate recommendations to redress the situation. However, what needs to be analysed is rather in what aspects and to what extent the Czech educational system fails to comply with the principles of inclusive education as is required by international human rights law.
29. Overall, the commitment to undertake the complex reform of the whole educational system is not currently part of any strategic document of the Czech Republic and the activity of the Expert Forum should not be overestimated.

(e) Current developments

30. In the last part of our submission, we would like to provide the Committee of Ministers with information on the current legislative developments in the Czech Republic. Very soon after the adoption of the legislative amendment to the School Act (so-called "Inclusive Amendment") in 2015 and the accompanying ministerial decree no. 27/2016 Coll. *on the education of pupils with special educational needs* which is the implementation tool of the Inclusive Amendment the Ministry of Education, Youth and Sports, confronted with the unexpected costs of the reform, has started submitting proposals for amendment of the decree shortening the support provided to children with special educational needs. Practically every year there was such a proposal. We informed the Committee of Ministers of one of them in our joint submission with Open Society Fund Prague and Amnesty International of August 2019.
31. The last proposal for an amendment to the ministerial decree no. 27/2016 Coll. is currently in the legislative process. It proposes to limit certain types of supportive measures to only certain categories of children. In concrete, if adopted, the supportive measure in the form of assistant of a pedagogue would be available only to children with intellectual, visual or hearing impairment, seriously development behaviour disorders, combined disability, or autism²⁰, although the School Act guarantees the whole range of supportive measures, including the support by the

²⁰ Decree no. 27/2016 Coll., § 5 (1) if amended.

assistant of a pedagogue, to all children with special educational needs. The leading Czech non-governmental organisation in the field of inclusive education – Czech Expert Association for Inclusive Education (hereinafter “ČOSIV”) accentuates in its statement on the proposal that it would cut off from the necessary support for instance children with a physical disability, chronic illness, serious speech impairment or serious learning impairment, as well as children with challenging behaviour and children from disadvantaged environment and children who are foreigners.²¹ The Amendment further proposes to abolish the opportunity to be supported by the assistant of a pedagogue in art schools (for children to practice music, dramatic and fine arts) and in tertiary vocational schools which they exclude from this kind of support in the Annex to the decree providing the overview of the supportive measures according to individual decrees.²²

32. Furthermore, the amendment proposes to limit the scope of beneficiaries of the supportive measure of regular classes with special pedagogue so that it covers only children with visual or hearing impairments, serious speech impairment, or serious development learning impairment²³, and thus leaving behind especially children with intellectual or physical disabilities, autism or challenging behaviour who currently use this supportive measure, as well as ČOSIV, points out.²⁴ Besides, the amendment proposes to cease extra funding for so-called pedagogical interventions taking the form of additional classes for children in need of them making these interventions purely the matter of the school.²⁵ ČOSIV points out in its statement that “teachers will newly have to perform [pedagogical intervention] as part of their standard working time. That will lead to the unwillingness of schools to ensure pedagogical intervention what will negatively impact particularly on pupils from socially disadvantaged environment who are tutored through it. It is possible to presume that the change will have the biggest impact on Roma pupils from socially excluded localities who often use this supportive measure compensating their insufficient support in their family environment.”²⁶

33. We mention these current developments since they document well that not only the Czech educational system fails to take into account the

²¹ The ČOSIV's Statement of 8 September 2020. The Statement is available in Czech at: <https://cosiv.cz/cs/2020/09/08/stanovisko-k-navrhum-na-zmeny-vyhlaskey-o-vzdelavani-zaku-se-specialnimi-vzdelavacimi-potrebami/> [cited 14 October 2020].

²² Annex no. 1 to the Decree no. 27/2016 Coll., point 1.8 if amended.

²³ Ibid., the list of supportive measures of second degree, point 6.

²⁴ The ČOSIV's Statement of 8 September 2020. The Statement is available in Czech at: <https://cosiv.cz/cs/2020/09/08/stanovisko-k-navrhum-na-zmeny-vyhlaskey-o-vzdelavani-zaku-se-specialnimi-vzdelavacimi-potrebami/> [cited 14 October 2020].

²⁵ Decree no. 27/2016 Coll., § 4a (2) if amended.

²⁶ The ČOSIV's Statement of 8 September 2020. The Statement is available in Czech at: <https://cosiv.cz/cs/2020/09/08/stanovisko-k-navrhum-na-zmeny-vyhlaskey-o-vzdelavani-zaku-se-specialnimi-vzdelavacimi-potrebami/> [cited 14 October 2020].

structural dimension of inclusion, but it compromises even the individual model of special educational needs. Furthermore, the Ministry of Education, Youth, and Sports plans to implement all these legislative changes in the form of an amendment of either the ministerial decree or even its annex what in our view significantly compromises the principle of the rule of law.

IV. CONCLUSION AND RECOMMENDATIONS:

Even though the Czech government have undertaken significant legislative reforms, accompanied with important financial allocations for support of children with special educational needs in education, their efforts do not seem to bring a real change for Roma children as well as for other children in vulnerable situations and to enhance their access to quality education on equal basis with others. Rather than the trend for segregation itself, only its tools and forms changed. Roma children are still disproportionately represented in different forms of segregated education, including spatial segregation in primary schools, and are underrepresented in pre-school education. The government focus in their further efforts predominantly on the development of new diagnostic tools which are, unfortunately, ineligible to overcome the individual model of special educational needs and its inherent limits. The government lack clear commitment to implement *inclusion* in education as it is defined in the international human rights law of human rights and address the educational environment in its complexity as well as the principles the education is built on. Indeed, the recent developments in the form of the proposal of an amendment to the ministerial decree no. 27/2016 Coll. restricting the support for certain categories of children with special educational needs document rather opposite objectives.

Regarding the above-mentioned comments and arguments, we ask the Committee of Ministers not to close the examination of the execution of the judgment in the case of *D. H. and Others v. the Czech Republic* and to maintain the case for the agenda in its upcoming meetings.

We further ask the Committee of Ministers to require the Czech authorities to:

- Undertake an independent expert analysis of the domestic legislation of education from the point of view of the right to inclusive education as it is defined in the international human rights law and adopt all the necessary legislative amendments necessary for effective implementation of inclusive education as identified by the analysis.**
- Abandon all the efforts to cease individual support for children with special educational needs and overcome the individual model of support by addressing the structural determinants of the learning environment and educational procedure to ensure that it is child-centered and child-friendly and that the responsibility for the child's**

effective participation in the education is not put only on the child and his/her parents, but on the educational environment as well.

- **Ensure that the system of support in education for children with special educational needs, including Roma children, is not amended through ministerial decrees or other secondary legislation and that children with special educational needs are provided with appropriate legal safeguards accompanying their entitlements to support in education.**
- **Adopt comprehensive measures to promote awareness-raising on inclusive education among teachers and other pedagogical staff as well as among the general public and ensure inclusive education training for teachers and other pedagogical staff in the field of inclusive education.**

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