



COMMISSIONER FOR HUMAN RIGHTS  
COMMISSAIRE AUX DROITS DE L'HOMME

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**Mr Andrej BABIŠ**

Prime Minister of the Czech Republic

**Mr Robert PLAGA**

Minister of Education, Youth and Sports of the Czech Republic

Strasbourg, 19 December 2018

Dear Prime Minister, dear Minister,

I am writing to you about the proposal of the Ministry of Education to amend Decree 27/2016 Coll. on the education of pupils with special education needs and gifted students. I am concerned that the proposed changes would have a negative impact on the right of all children, including Roma children and children with disabilities, to inclusive education.

The issue of school segregation has been a key focus of my Office with regard to the Czech Republic for over fifteen years. In several country reports and other statements, concerns have been raised about the continued segregation of Roma children and children with disabilities in the Czech Education system. School segregation is one of the worst forms of discrimination and a serious violation of the rights of the children concerned, as their learning opportunities are seriously harmed by isolation and lack of inclusion in mainstream schools.

The Czech Republic has made a number of positive changes to tackle segregation in the last few years, including through the above mentioned Decree. However, more than a decade after it was delivered, the Czech Republic has still not fully implemented the European Court of Human Rights' landmark judgment in the case of *D.H. and Others v. the Czech Republic* with regard to the inclusion in education of Roma children. Furthermore, under the United Nations Convention on the Rights of Persons with Disabilities, the Czech Republic is required to realise the right to education of children with disabilities without discrimination and on the basis of equal opportunity, by ensuring an inclusive education system at all levels. It is of great importance that the Czech Republic remains determinedly on the path towards an inclusive education system for the benefit of all children and of society as a whole.

I note that the proposal to change Decree 27/2016 Coll. entails, among other things, the deletion of a specific paragraph providing that children with special education needs should preferably be taught in mainstream schools and classes. It also seeks to broaden the categories of children that can be educated together in special schools, to reduce the number of pedagogical assistants in mainstream classes, and to make changes to the frequency of re-diagnosis of children with special education needs.

Having reviewed the proposed changes, as well as the comments made by numerous stakeholders, I am very concerned that these could have a serious detrimental effect on the rights of all children, including Roma children and children with disabilities, to be included in mainstream education. I have taken note of the fact that these changes are introduced to make financial savings and reduce administrative burdens on schools. However, such considerations cannot come at the expense of the right of children to inclusive education.

I therefore urge you to consider, in close cooperation with relevant stakeholders, how such goals can be achieved without implementing changes that could seriously jeopardise the right to inclusive education. In this context, it is crucial that guidance provided to schools leaves them in no doubt that inclusion into mainstream education should be prioritised. Also, it means refraining from any measures that would have the practical effect of diverting more, rather than fewer, children to special education. Finally, guarantees should be in place that sufficient support for children with special education needs, including through pedagogical assistance, remains available in mainstream schools.

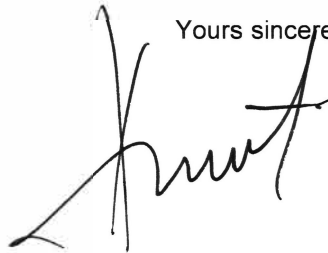
In this respect, I draw your attention to the Position Paper 'Fighting school segregation in Europe through inclusive education' that my Office published in 2017. It shows that building an inclusive education system is an achievable goal that has huge potential for improving social cohesion and the educational opportunities of all children. It sets out a number of principles and recommendations for action, which I believe will also help you in devising an effective and human rights-compliant education system.

I fully realise that member states transitioning to inclusive education may face a number of challenges, not least of which is social resistance to including children from vulnerable or minority groups. However, it is the responsibility of governments to engage the public in dialogue to address apprehensions, to tackle any underlying prejudices, and to stand firm in promoting the value of inclusive education for children and society alike.

I would also like to add that a well-managed transition from separate systems to inclusive education does not have to come at the detriment of staff currently employed in special schools. There have been several examples across Europe where those with expertise in dealing with children with special education needs have successfully relocated to mainstream education, where they have continued to provide crucial support to children. Moreover, while transitioning to inclusive education requires additional resources, maintaining separate streams of education also entails significant long-term costs.

The process of education reform that has been initiated in the last few years has created high expectations amongst those most affected by school segregation. I call on you to continue to implement the reform resolutely, allocate sufficient resources for it, and publicly highlight the benefits of inclusive education for all children and for social cohesion.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', written in a cursive style.

Dunja Mijatović