



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

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**Protecting the right of Roma and Traveller children  
to equal access to quality education;  
fighting school segregation through inclusive education**

*Strasbourg, 10 October 2019*

**Linos-Alexandre Sicilianos,  
President of the European Court of Human Rights**

**Opening remarks**

**Dear Ambassador,**

**Dear panel members and guests,**

I am very pleased to take the floor this morning to address you on the important theme of the right to education under the Court's jurisprudence.

I would like to begin by thanking the organisers for inviting me to participate in this 8th dialogue meeting in my capacity as President of the European Court of Human Rights.

The principles which have been elucidated through the case-law of the European Court of Human Rights over many years provide a crucial framework for moving forward; however government partners and civil society are essential partners to ensure that suggested measures are translated into action. This is all the more true in relation to the segregated education of Roma children. The Court has recognised in its case-law that the schooling of Roma children in satisfactory conditions raises great difficulties in a number of European states.

I have a particular and personal interest in the theme of racial discrimination having been a member of the United Nations Committee on the Elimination of Racial Discrimination (CERD) from 2002 to 2009 during which time I was also the Vice-Chairman (2004-5). As Rapporteur I examined State reports and addressed concerns and recommendations to the States parties in the form of “concluding observations”.

Of course, the United Nations works on the global level, but we also have our own regional mechanism, namely the European Commission against Racism and Intolerance (ECRI). The ECRI country monitoring reports, as well as their General Comments are regularly relied upon in the Court’s judgments on Roma education. In addition, the Court also cites the reports and issue papers of the Commissioner for Human Rights, the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities, as well as Committee of Ministers’ resolutions.

Just last week I was in Paris with a fellow Judge for a high-level conference organised under the French Chairmanship of the Committee of Ministers to celebrate 25 years of ECRI's important work in promoting equality and combating racism and intolerance. Two specific themes discussed at that conference were inclusion in society and looking to the future. I believe that these two themes are at the very heart of this dialogue meeting today. Children represent the future of our society and quality education enables them to be included in society.

I would like to make **four** points in my short intervention this morning.

**Firstly**, the Court's case-law has highlighted the particular vulnerability of Roma as a group in society. In its landmark judgment of *D.H. and Others v. Czech Republic* (2007), the Court found that:

*“as a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority .. As the Court has noted in previous cases, they therefore require special protection...this protection also extends to the sphere of education”.*

The vulnerable position of Roma/Gypsies means that special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular case.

**Secondly**, I would like to highlight the Court's methodological approach in cases of indirect discrimination. As we know, applicants find it difficult to prove discriminatory treatment. Accordingly, the Court has recognised the importance of official statistics. The Court considered that when it comes to assessing the impact of a measure or practice on an individual or group, statistics which appear on critical examination to be reliable and significant will be sufficient to constitute the *prima facie* evidence the applicant is required to produce. This does not, however, mean that indirect discrimination cannot be proved without statistical evidence.

Where statistical evidence submitted by the applicants can be regarded as sufficiently reliable and significant they give rise to a strong presumption of indirect discrimination. The burden of proof then shifts to the Government, which must show that the difference in the impact of the legislation was the result of objective factors unrelated to ethnic origin.

**Thirdly**, the Court is not afraid of pointing out to States where they have not done enough. Here I can cite two cases against my own country, Greece. In *Sampanis and Others v. Greece* (2008) the Court found that the practice of first denying Roma children enrolment in school and their subsequent placement in special classes located in an annex to the main building of a primary school, coupled with a number of racist incidents in the school instigated by the parents of non-Roma children, amounted to discrimination based on the applicants' Roma origin.

Four years later, in *Sampani and Others (2012)* the Court noted the lack of significant change since its 2008 judgment. Finding a violation of Article 14 in conjunction with the right to education, the Court further recommended under Article 46 that those applicants who were still of school age be enrolled at another State school and those who had reached the age of majority be enrolled at “second chance schools” or adult education institutes.

**Fourthly**, and finally, the Court has recognized that the national authorities face numerous difficulties in their efforts to integrate Roma children in schools. This may be as a result of cultural difference or as a result of a certain hostility manifested by the parents of non-Roma children. Sometimes, it is not easy to choose the best way to solve the learning difficulties of children who sometimes do not have sufficient knowledge of the language in which the education is provided. This is why dialogue with civil society is crucial in finding the best solutions.

Let me conclude on the theme of implementation, which I have just evoked. The lack of implementation concerning the human rights of Roma children is a matter of concern. *D.H. and Others v. Czech Republic*, a case from 2007, is still under enhanced supervision by the Committee of Ministers. Judgments by the European Court of Human Rights are not the end, but the beginning in a process of finding the right solution to the right to inclusive education. I wish you a very productive and fruitful meeting. Thank you for your attention.