



**INCLUSIVE SCHOOLS
MAKING A DIFFERENCE
FOR ROMA CHILDREN**

INSCHOOL3

**“Inclusive Schools: Making a Difference for
Roma Children”**

MAPPING STUDY

**SCHOOL SEGREGATION OF ROMA
COMMUNITIES: TRENDS AND PATHWAYS
TOWARDS EDUCATIONAL INCLUSION**

Co-funded
by the European Union



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Co-funded and implemented
by the Council of Europe

This Study was produced with the financial support of the European Union and the Council of Europe. Its contents are the sole responsibility of the author(s). Views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe.

Acknowledgments

The Study and its annexes were completed by four researchers: Lilla Farkas, Jarmila Lajcakova, Xavier Bonal i Sarró and Iulius Rostas with inputs from János Orsós. Xavier Bonal i Sarró ensured overall coordination of this study. The researchers' complementary expertise enabled a multidisciplinary approach of this study covering legal expertise, sociology of education, education policies and Roma inclusion field.

The study underwent several consultations with the relevant stakeholders of the European Union and Council of Europe Joint Project Inclusive Schools: Making a Difference for Roma Children (INSCHOOL) in its implementation countries in Czechia, Portugal, Romania and the Slovak Republic as well as Bulgaria and Hungary, and with the European Commission counterparts.

Table of Contents

Executive Summary	5
Chapter 1: The consequences of educational segregation	8
Chapter 2: Facts and figures	14
Chapter 3: Discrimination and segregation in education	21
Chapter 4: Detecting segregation	35
Chapter 5: Policies to tackle school segregation	47
Chapter 6: Designing a Protocol for Roma School Desegregation: A Blueprint for Inclusive Education	62
ANNEX 1: Selected Literature Review	69
ANNEX 2: Selected Promising Strategies	85
References	99

Executive Summary

School segregation can be defined as the physical separation of children within the educational system racial or ethnic origin, their socioeconomic status or any other attribute that generates inequality. It might take the form of concentration in specific schools or classrooms and may entail limited or differentiated access to facilities and institutions that result in the interaction with children of other racial/ethnic backgrounds, abilities, socio-economic status or other characteristics. This practice of exclusion harms children's learning opportunities and is a clear violation of their right to education and their right not to be discriminated against. Moreover, it breaches the best interest of all children, who are thus prevented from studying in inclusive settings. This fact requires that States, as guarantors of the right to education, undertake the necessary actions to tackle all forms of segregation in the education system.

This report delves into the critical issue of school segregation affecting Roma communities, highlighting it as a grave violation of the right to education. It examines the repercussions of school segregation at both individual and societal levels, shedding light on the unique challenges faced by Roma children due to their ethnic/racial identity and economic status. The report is structured in six chapters, which comprise conceptualizations of school segregation and their consequences for Roma communities, a review of the school segregation of Roma communities in Europe, legal concepts, rules and principles regarding racial or ethnic discrimination and segregation in education, and policy and practice strategies for detecting and tackling discriminatory practices against Roma children and their segregation in education systems. In addition, a final chapter describes a protocol for national and local policymakers to carry out comprehensive strategies to eliminate the school segregation of Roma children in the education systems.

The report starts by elucidating the detrimental effects of school segregation. It unveils how the concentration of disadvantaged children in segregated classrooms deprives them of the beneficial peer effects found in integrated schools. Moreover, it underscores how integrated schools foster a more conducive learning environment, provide better family support, and mitigate disciplinary issues. However, segregated schools perpetuate negative stereotypes, leading to discrimination and social exclusion, ultimately hindering academic progression, and exacerbating societal disparities. The societal ramifications are equally detrimental, as evidenced by disparities in academic outcomes and economic costs incurred. Academic disparities persist between segregated and integrated systems, with the latter demonstrating better performance and reduced inequalities. Economically, school segregation carries a heavy toll, underscoring the cost-effectiveness of desegregation strategies. Moreover, interethnic networks fostered by inclusive education positively impact social cohesion, highlighting the dire consequences of lacking diversity.

Chapter 2 examines the historical and contemporary landscape of Roma school segregation, revealing the persistent challenges impeding access to quality education. Historically, Roma children faced widespread segregation, epitomised by their confinement to special schools in many Eastern European countries. Despite nominal progress in recent decades, data from the EU Fundamental Rights Agency reveals widespread segregation, with Slovakia and Bulgaria exhibiting alarmingly high rates. Such segregation perpetuates critical inequalities, as evidenced by disparities in academic attainment and educational access between Roma and non-Roma youth. The adverse impact of the Covid-19 pandemic

further exacerbates the difficulties of Roma children, with limited access to online education intensifying existing disparities.

Several treaties and other legal norms adopted under the auspices of the Council of Europe, the European Union and the United Nations, prohibit racial or ethnic segregation and discrimination in education. Exclusively from the perspective of Roma children education, Chapter 3 covers key legal concepts, rules and principles, as well as the caselaw of the European Court of Human Rights and selected national courts. It looks at types of discrimination and provides examples of violations. It briefly discusses the types of discrimination in the context of Roma education and summarises the arguments commonly used by schools, municipalities, administrations and states to justify segregation and discrimination. The chapter deals with positive obligations of States and public authorities and summarises the lessons learned from national law, highlighting the difficulties of regulation.

While several countries with sizeable Roma populations prohibit racial segregation in education, national law may not always comply with the international human rights standards. International human rights treaties and the recommendations of Council of Europe human rights bodies require the explicit prohibition of segregation in education, which can be ensured both in national anti-discrimination and education laws. The chapter provides a check list for national legislation prohibiting segregation that can best ensure the effective detection of suspicious practices and the implementation of desegregation measures in line with international treaty obligations and judgments. In case segregation is not specifically prohibited in national law, the existing forms of discrimination should be interpreted in line with the caselaw of the European Court of Human Rights.

Chapter 4 provides tools and highlights debates about detecting segregation by school inspections, national human rights institutions, and equality bodies. The chapter inventories the types of segregation and provides typical scenarios for each one, explores the difficulties of identifying ethnic Roma students and offers tools based on self-identification, third party identification and the use of proxies. It reviews the maths behind segregation, namely the ethnic proportions in educational units or activities, which may indicate the need for action. Next, the chapter examines monitoring mechanisms and showcases commendable practices at the national level as examples of organising and conducting investigations into segregation. Finally, it provides recommendations for drafting an investigation protocol for the continued monitoring of segregation and discrimination in national education systems.

As a rule, discrimination is not based on a person's self-identified racial or ethnic origin. Quite the contrary, discrimination tends to be based on the discriminator's assumptions and beliefs of the other person and this is even more relevant when it comes to visible or easily detectable personal characteristics, such as skin colour, minority language, religion or cultural traditions including traditional clothing. At the local level, all the communities have common knowledge about the Roma without collecting ethnic data. Common knowledge is based on assumptions and is often used in court proceedings to prove discrimination and segregation. It is commonly believed that the collection of data on racial or ethnic origin is absolutely prohibited, even if it would serve a noble and necessary purpose, such as mapping inequalities and designing positive action measures. This is not correct because ethnic data collection is permissible, as long as legal safeguards are respected, especially if data is gleaned from individuals voluntarily and based on informed consent about the purpose of the exercise.

Chapter 5 looks at the array of policy domains that governments can leverage to combat school segregation, recognizing the multifaceted nature of this challenge and the need for tailored strategies to address it effectively. In the realm of planning school supply, meticulous demographic projections and the delineation of socially balanced school districts are crucial. Equitable criteria for school openings and closures, coupled with efforts to reduce student ratios, form part of the arsenal against segregation. The choice of instruments within this domain hinges on the unique characteristics of education inequalities in each context. School choice and admission policies serve as pivotal levers in mitigating segregation. Whether through absolute free choice or controlled systems, regulations must prevent processes like cream skinning and exclusion, ensuring fair access to quality education for all. Likewise, efficiently distributing socially disadvantaged students among schools demands systematic identification procedures and equitable allocation. From setting quotas to implementing bussing policies in highly segregated areas, interventions seek to foster a balanced distribution of resources and opportunities.

Other strategies include information policies, which emerge as potent tools in shaping school choice dynamics, countering mechanisms of segregation like the so called “white flight”. Customized strategies can be adapted to diverse social groups, emphasizing the benefits of educational diversity and dismissing fallacies. In addition, de-tracking policies aim to dismantle ability-based grouping, granting all students access to high-quality education regardless of background. From complete restructuring to incremental changes, diverse approaches strive for inclusivity.

Compensatory policies target both schools and students in disadvantaged situations, addressing economic barriers and enhancing educational opportunities. While they may not alone reverse segregation, they alleviate obstacles and improve conditions for vulnerable students, including Roma children. Finally, community work strategies are indispensable for fostering social capital and trust among stakeholders. Building parental trust and ensuring good school attendance are pivotal for the success of desegregation efforts, necessitating long-term engagement and proactive measures to counter secondary segregation.

In the final Chapter 6, the report introduces a comprehensive protocol for Roma school desegregation, designed to guide policymakers at all levels. This protocol underscores the importance of dismantling barriers, promoting inclusivity, and ensuring equal opportunities for every child, irrespective of background. Key actions include diagnosing school segregation, establishing supportive legal frameworks, allocating adequate budgets, and fostering parental support and communication strategies. Emphasising a systemic approach, the protocol equips policymakers with the tools to develop comprehensive, long-term strategies to tackle school segregation effectively.

Chapter 1: The consequences of educational segregation

School segregation can be defined as the physical separation of children within the educational system on the basis of racial or ethnic origin, their socioeconomic status or any other attribute that generates inequality.¹ It might take the form of concentration in specific schools or classrooms and may entail limited or differentiated access to facilities and institutions that result in the interaction with children of other racial/ethnic, abilities backgrounds or other characteristics. This practice of exclusion harms children's learning opportunities and is a clear violation of their right to education and their right not to be discriminated against. Moreover, it breaches the best interest of all children, who are thus prevented from studying in inclusive settings. This fact requires that States, as guarantors of the right to education, undertake the necessary actions to tackle all forms of segregation in the education system. School segregation may take several forms. In the case of most Roma children, the experience of segregation is based on at least a double form of discrimination, associated with their ethnic/racial identity and poverty status. Experiences of exclusion, discrimination and marginalisation overlap in a way that limit their socialisation with their peers and undermine their very right to education.

The Universal Declaration of Human Rights signed in 1948 states in its art. 26 that education is a fundamental human right for everyone. As the United Nations Economic and Social Council declares "education is both a human right in itself and an indispensable means of realising other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities".² The recognition of education as a human right has been reaffirmed and elaborated upon in subsequent international agreements. The International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, further outlines the right to education, emphasizing its role in promoting human dignity and social justice. The Convention on the Rights of the Child (CRC), adopted in 1989, specifically addresses the educational rights of children, ensuring that they have access to free and compulsory primary education, as well as the opportunity to continue secondary and higher education. The UNESCO Convention against Discrimination in Education, adopted in 1960, explicitly prohibits discrimination in education based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic or social condition, birth, or any other status.

Despite all these international treaties, the right to education of Roma children is severely undermined by forms of educational regulation, provision, funding and governance that, rather than promoting educational inclusion, are sources of discrimination and segregation. However, and as this report will show, there are policy strategies and practices which can be implemented to design a more inclusive education system. In this chapter we first explore the main consequences of educational segregation at individual and social level and the benefits of desegregating education systems from an equity and

¹ See Rostas, I. (2012) *Judicial Policy Making: The Role of the Courts in Promoting School Desegregation*, especially pp 98-9, in Rostas, I. (ed) *Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe*, New York and Budapest: CEU Press.

² United Nations Economic and Social Council, *The right to education (Art.13)*, 08/12/99, E/C.12/1999/10. (General Comments) (hereinafter: ECOSOC Right to Education GC), p. 1.

efficiency perspective. In addition, we focus in particular on the school segregation of Roma communities, as one of the ethnic groups that has historically suffered and still suffers extreme forms of segregation.

1.1 What does school segregation cause to individuals?

School segregation is a critical dimension of education inequalities. Research has identified that education systems with higher levels of school segregation reduce the opportunities of students with lower socioeconomic background³. There is a large literature focusing on how school composition is an important determinant of individuals' behaviour through the existence of peer effects. Peer effects refer to the process through which peers' backgrounds might influence their classmates' individual choices and outcomes. It can be understood as an externality that spills over from peers' family background.⁴ High achieving students can help their lower-performing peers (both through the provision of help and their acting as examples), students with greater difficulties enjoy a better curriculum and the best students deepen their learning thanks to their dedication to the underperforming students.⁵ Other research has also pointed out how contact with classmates of other social and cultural origins make students familiar with new expectations and motivation, which are clearly related to family background.⁶ Likewise, research has also found positive peer effects for children with disabilities, which improve their language skills when having higher interaction with children without disabilities.⁷ These benefits cannot occur in a context of school segregation. School segregation implies the homogenisation of school composition, limiting diversity among classmates and reducing the interaction of pupils to peers with similar backgrounds.

School composition also impacts on the quality of education. Research has shown the existence of a better learning climate, greater support from families and fewer disciplinary problems in more integrated schools.⁸ Students from families with a lower socioeconomic status increase their expectations of academic success when they move from schools with a socially disadvantaged composition to more advantaged schools. Likewise, migrant students increase school expectations and performance when attending a more diverse school.⁹ In general, the performance of disadvantaged students is more sensitive to changes in the characteristics of the school composition, that is, they can have higher gains

³ See Benito, R.; Alegre, M.A. and González, I. (2014) School Segregation and Its Effects on Educational Equality and Efficiency in 16 OECD Comprehensive School Systems. *Comparative Education Review*, 58 (1), 104-134; Oberti, M., & Savina, Y. (2019). Urban and school segregation in Paris: The complexity of contextual effects on school achievement: The case of middle schools in the Paris metropolitan area. *Urban Studies*, 56(15), 3117–3142.

⁴ See Cebolla-Boado, H., & Medina, L. G. (2011). The impact of immigrant concentration in Spanish schools: School, class, and composition effects. *European Sociological Review*, 27, 606–623; Patacchini, E., Rainone, E., & Zenou, Y. (2017). Heterogeneous peer effects in education. *Journal of Economic Behavior & Organization*, 134, 190–227.

⁵ Dronkers, J., Van Der Velden, R., & Dunne, A. (2012). Why are migrant students better off in certain types of educational systems or schools than in others? *European Educational Research Journal*, 11(1), 11–44.

⁶ Bonal, X., & Bellei, C. (eds) (2018). *Understanding school segregation: patterns, causes and consequences of spatial inequalities in education*. London, UK: Bloomsbury Publishing; González Motos, S. (2016). Friendship networks of the foreign students in schools of Barcelona: impact of class grouping on intercultural relationships. *International Journal of Intercultural Relations*, 55, 66–78.

⁷ Justice, L. M., Logan, J. A. R., Lin, T. J., & Kaderavek, J. N. (2014). Peer Effects in Early Childhood Education: Testing the Assumptions of Special-Education Inclusion. *Psychological Science*, 25(9), 1722–1729.

⁸ Thrupp, M., Lauder, H., & Robinson, T. (2002). School composition and peer effects. *International Journal of Educational Research*, 37(5), 483–504.

⁹ Baysu, G., Celeste, L., Brown, R., Verschueren, K. and Phalet, K. (2016), Minority Adolescents in Ethnically Diverse Schools: Perceptions of Equal Treatment Buffer Threat Effects. *Child Dev*, 87: 1352-1366.

than advantaged students in contexts of educational inclusion.¹⁰ Segregated schools often have fewer resources and qualified teachers, which can limit students' access to challenging coursework and extracurricular activities. These opportunities are crucial for college preparation and personal development.

Segregated schools reinforce negative stereotypes and prejudice against marginalized groups, leading to discrimination and social exclusion. Students from disadvantaged backgrounds may internalize these stereotypes, affecting their self-esteem and limiting their aspirations. Students in segregated schools are more likely to drop out of high school and less likely to enrol in college.¹¹ This can have significant negative consequences for their future employment prospects and earning potential. Segregated schools may have higher rates of violence and other risky behaviours. This can be attributed to a combination of factors, including limited access to social support, exposure to negative peer influences, and a feeling of isolation and alienation.¹²

1.2 What does school segregation cause to society?

There are also several outcomes of school segregation that cause a clear disadvantage to society as a whole. Academic results differ between segregated and non-segregated scenarios, with lesser inequalities in more inclusive education systems.¹³ PISA data has demonstrated that those countries that have been able to improve equity by making their schools more heterogeneous are also the ones that have shown higher progress in the level of students' competencies.¹⁴ In a recent meta-analysis reviewing studies between 2000 and 2021, Terrin and Triventi found negative effects of tracking and segregation on inequality of academic performance, with no significant effects in efficiency terms.¹⁵

Research has also identified that interethnic networks in the educational context tend to have positive effects on processes of inclusion of socially disadvantaged students, increasing the social cohesion of communities.¹⁶ Bagci et al., in a very comprehensive analysis, observed how cross-ethnic friendship seemed to increase as the number of available same-ethnic peers decreased.¹⁷ In other words, and as intergroup contact theory states, ethnic diversity has a positive effect on intercultural friendships.

¹⁰ Dupriez, V; Dumay, X. & Vause, A. (2008) How Do School Systems Manage Pupils' Heterogeneity? *Comparative Education Review*, 52 (2), 245-273; Duru-Bellat, M., Mons, N. and Suchaut, B. (2004), *Caractéristiques des systèmes éducatifs et compétences des jeunes de 15 ans. L'éclairage des comparaisons entre pays*. Les Cahiers de l'IREDU (Bourgogne, IREDU, CNRS-Université de Bourgogne)

¹¹ Liebowitz, D. D. (2018). Ending to What End? The Impact of the Termination of Court-Desegregation Orders on Residential Segregation and School Dropout Rates. *Educational Evaluation and Policy Analysis*, 40(1), 103-128.

¹² Sampson, R. J., & Sharkey, P. D. (2008). Still stuck in place: Why segregation persists and what can be done about it. *Public Policy and Social Justice*, 10(2), 1-16.

¹³ Benito, R.; Alegre, M.A. and González, I. (2014) School Segregation and Its Effects on Educational Equality and Efficiency in 16 OECD Comprehensive School Systems. *Comparative Education Review*, 58 (1), 104-134.

¹⁴ OECD (2015) How has student performance evolved over time?. *PISA in Focus*, 47.

[https://www.oecd.org/pisa/pisaproducts/pisainfocus/pisa-in-focus-n47-\(eng\)-final.pdf](https://www.oecd.org/pisa/pisaproducts/pisainfocus/pisa-in-focus-n47-(eng)-final.pdf); Schleicher, A. Seeing education through the prism of PISA. *Eur J Educ*. 2017; 52: 124–130. <https://doi.org/10.1111/ejed.12209>.

¹⁵ Terrin, E., & Triventi, M. (2022). The Effect of School Tracking on Student Achievement and Inequality: A Meta-Analysis. *Review of Educational Research*. <https://doi.org/10.3102/00346543221100850>.

¹⁶ Stark, T. H., Mäs, M., & Flache, A. (2015). Liking and disliking minority-group classmates: Explaining the mixed findings for the influence of ethnic classroom composition on interethnic attitudes. *Social Science Research*, 50, 164–176; González Motos, S. (2016). Friendship networks of the foreign students in schools of Barcelona: impact of class grouping on intercultural relationships. *International Journal of Intercultural Relations*, 55, 66–78.

¹⁷ Bagci, S. C., Kumashiro, M., Smith, P. K., Blumberg, H., & Rutland, A. (2014). Cross-ethnic friendships, are they really rare? Evidence from multiethnic secondary schools in London. *International Journal of Intercultural Relations*, 41, 125-137.

However, these positive outcomes do not occur by simply reducing inter school segregation. Several studies have underlined that formally heterogeneous schools do not always foster intercultural relations, since ethnicity or race often becomes the basis on which relations are built inside school.¹⁸ The way education systems and schools are organised can become a decisive factor of greater or lesser social cohesion among ethnic groups. While the size of the school can be a factor influencing more or less intercultural contact (the smaller the school the greater the intercultural contact¹⁹), there is a general agreement on the negative effects of ability grouping and hierarchy of academic tracks on intercultural contact, especially when there is a strong correlation between itineraries and ethnic groups.²⁰

There is also evidence that reducing school segregation is cost-effective.²¹ The lost income associated with all sorts of inequalities, including educational inequalities, is considered to be significant. School segregation may produce income losses through several mechanisms. First, since school segregation lowers the academic performance of the whole education system and there is a relationship between performance and economic returns, a segregated school system can produce highly significant earning losses. Second, school segregation produces economic losses through higher rates of early school leaving (ESL). Foregone earnings linked to ESL occur at individual and social level and can reach important proportions of the national GDP.²² Third, reducing school segregation can lead to a positive economic balance in public spending accounting for public savings in areas such as health, security or welfare and the gain derived from labour inclusion²³. By comparing long-term costs and benefits (by measuring economic payoffs of higher graduation in inclusive scenarios) some authors have estimated that the total gain—which includes both the public gain as well as increased private earning—is estimated at more than three times the cost.²⁴

In a study carried out in the US, Johnson estimated that each additional year of exposure to desegregated schools improved black men's annual earnings by 5 percent, increased their wages by 2.9 percent, and led to an annual work effort that was 39 hours higher. Overall, five years spent in desegregated schools yielded an estimated 25 percent increase. The results also showed that school desegregation had a significant positive impact on health outcomes of black adults. The author finds that the positive effects of school desegregation are likely due to improvements in school quality that accompanied desegregation.²⁵

¹⁸ Moody, J. (2001). Race, School Integration, and Friendship Segregation in America. *American Journal of Sociology*, 107(3), 679–716.

¹⁹ Cheng, S., & Xie, Y. (2012). *Size matters: the structural effect on social relations*. Michigan: University of Michigan.

²⁰ Moody, J. (2001). Race, School Integration, and Friendship Segregation in America. *American Journal of Sociology*, 107(3), 679–716; González Motos, S. (2016). Friendship networks of the foreign students in schools of Barcelona: impact of class grouping on intercultural relationships. *International Journal of Intercultural Relations*, 55, 66–78.

²¹ Basile, M. (2012) The Cost-Effectiveness of Socioeconomic School Integration, in Richard D. Kahlenberg (ed.) *The Future of School Integration as an education reform strategy*. Century Foundation Press, pp. 127-151.

²² DGEAC. Thematic Working Group on Early School Leaving. Overview and examples of costs of early school leaving in Europe. <https://friends-project.eu/media/Thematic-Working-Group-on-Early-School-Leaving-1.pdf>

²³ Billings, S., D. Deming, and J. Rockoff (2014), 'School Segregation, Educational Attainment, and Crime. Evidence from the End of Busing in Charlotte-Mecklenburg', *Quarterly Journal of Economics*, 129 (1): 433-475; Johnson, R. (2011), 'Long-Run Impacts of School Desegregation & School Quality on Adult Attainments', NBER Chapter.

²⁴ Basile, M. (2012) The Cost-Effectiveness of Socioeconomic School Integration, in Richard D. Kahlenberg (ed.) *The Future of School Integration as an education reform strategy*. Century Foundation Press, pp. 127-151.

²⁵ Johnson, R. (2011), 'Long-Run Impacts of School Desegregation & School Quality on Adult Attainments', NBER Chapter.

1.3 A way forward to desegregated schools for Roma and Travelers

All the above-mentioned effects seem to be especially acute for Roma communities and Travelers. They translate into an intergenerational inequality, placing Roma at the bottom of the social ladder and impeding the upward social mobility of Roma. The segregation of Roma children in schools is a persistent and complex issue that has far-reaching consequences for their educational attainment and overall well-being. This segregation manifests in various forms. First, Roma children are often disproportionately placed in special schools or classes for students with mild disabilities, even when they do not meet the criteria for such placement. This practice, often based on stereotypes and prejudices, results in lower academic expectations and limited opportunities for Roma students.²⁶ Second, in some countries or regions Roma children are concentrated in schools with only or predominantly Roma student populations. These schools often lack adequate resources, qualified teachers, and a supportive learning environment, further hindering the educational progress of Roma students. Third, within mainstream schools, Roma children are often streamed or tracked into predominantly or Roma only classes, limiting their access to higher-level education and vocational opportunities. This practice reinforces lower expectations and perpetuates educational disadvantages.²⁷

The stigma associated with segregation affects their expectations. Labelled as inferior and incapable, Roma children internalise these negative perceptions, eroding their self-esteem and hindering their personal development. They become trapped in a vicious cycle of prejudice and underachievement, their potential silent by the consequences of segregation.²⁸

Discrimination against Roma school children is an acute economic, political and social issue, which negatively affects not just social peace and ethnic relations but also the competitiveness of national economies that are in dire need of skilled and mobile labour. In countries with high density of Roma populations “71% or more of Roma households live in deep poverty” which are on par with the poorest areas of the world”.²⁹ The World Bank forecasts that Roma inclusion is a macroeconomic necessity, because majority populations are aging, and the Roma youth makes up to 20% of new labour market entrants in some Eastern European countries. The social exclusion of Roma children is often embedded in structural discrimination and linked to the lack of birth registration and identity documents, to low participation in early childhood education and care as well as higher education, and to elevated school drop-out rates. Structural discrimination against Roma communities is pervasive despite efforts made at dismantling it.

Addressing this deeply entrenched issue requires a multifaceted approach that tackles the root causes and implements effective strategies to promote inclusive education. Ending the disproportionate placement of Roma children in special schools, dismantling the Roma only/predominantly Roma schools, and fostering inclusive classrooms are crucial steps towards eliminating school segregation. Investing in

²⁶ European Commission (2014). *Report on discrimination of Roma children in education*. European Commission, Directorate-General for Justice.

²⁷ <https://www.worldbank.org/en/results/2014/04/10/promoting-roma-inclusion-in-eastern-europe>

²⁸ Council of Europe (2017) Fighting school segregation through inclusive education. <https://rm.coe.int/fighting-school-segregation-in-europe-through-inclusive-education-a-posit/168073fb65>

²⁹ World Bank, Roma Brief, 5 June 2013, Background, available at <http://www.worldbank.org/en/region/eca/brief/roma>

early childhood education for Roma children can set them on a more equitable path to learning, providing them with the foundations they need to succeed in mainstream schools.³⁰

The journey towards overcoming educational segregation is far from over. Addressing school segregation requires a comprehensive approach that tackles the root causes and implements effective strategies to promote inclusive education. It requires undertaking the necessary measures to prohibit the placement of Roma children in special schools, or in Roma only or predominantly Roma schools and classes, to end up streaming and tracking, to empower Roma parents and communities to participate in education and to construct real inclusive schools. After decades of discrimination, there have been important initiatives carried out by some national governments, international organizations and civil society organizations. The European Court of Human Rights has made binding resolutions regarding educational segregation practices and other forms of violation of the right to education of Roma children in countries like the Czech Republic, Croatia, Slovakia, Greece, Albania or North Macedonia.³¹ There are therefore crucial precedents on discrimination alerts, denunciations and policies to be addressed to end discrimination. However, we lack a systematization of which policies and practices can be more meaningful to eliminate all forms of segregation and discrimination of Roma children.

³⁰ World Bank (2022) World Bank Support to Early Childhood Development. An Independent Evaluation. <https://documents1.worldbank.org/curated/en/880181468187780720/pdf/World-Bank-support-to-early-childhood-development-an-independent-evaluation.pdf>.

³¹ European Court of Human Rights (2022). Factsheet Roma and Travelers.

Chapter 2: Facts and figures

2.1. Segregation of Roma children

Segregation of Roma children in educational systems before the 1990s was a rather common practice. In the 1980s, almost every third Roma child in Hungary or in Czechoslovakia ended up being educated in a special school.³² Since 1969, Bulgaria had tackled high illiteracy rates among Roma children by placing them into elementary and vocational schools with manual work programmes built next to the settlements that eventually lead to the creation of more than a hundred of segregated schools.³³ At the end of the communist regime in the Central and Eastern European region, the share of Roma in education and training has formally increased. However, the educational gap between Roma and the general populations has remained wide³⁴ and segregation prevalent.

Roma rights activists placed the problem of unequal access to education of Roma children high on their agenda supporting their advocacy efforts with new data.³⁵ The European Roma Rights Centre (ERRC) in their study from 1999 in the Czech Republic revealed that approximately 75% of Roma children of primary school age were enrolled into remedial special schools.³⁶ Even those who managed to avoid this fate attended what are referred to as "ghetto schools," characterised by lower education standards. Based on a survey from Slovakia in 2002/2003, more than half of the students enrolled in schools for the mentally disabled (or special schools) were Roma.³⁷ Around this time, the ERRC and the Bulgarian Helsinki Committee documented that almost 80% to 90% of the total student body of schools for pupils with a mild mental disability in Bulgaria were Roma.³⁸ The Bulgarian government estimated that, in 2003, 70% of Roma children were studying in segregated environments.³⁹ The Hungarian government acknowledged the existence of approximately 700 schools that segregated Roma children into separate classes in 2003.⁴⁰ The Romanian Ministry of Education assessed that between 37.9% and 45.4% of elementary schools were segregated.⁴¹ A significant share of Roma children were streamed into special schooling system, where they make up the majority of the student body or alternatively, were educated in regular, but segregated ghetto schools.

³² Zoltan Barany, *The East European Gypsies, Regime Change, Marginality and Ethnopolitics* (Cambridge> Cambridge University Press, 2002) at 132-135

³³ Elena Marushiakova and Vesselin Popov (1994) cited Zoltan Barany, *The East European Gypsies, Regime Change, Marginality and Ethnopolitics* (Cambridge> Cambridge University Press, 2002) at 136.

³⁴ Zoltan Barany, *The East European Gypsies, Regime Change, Marginality and Ethnopolitics* (Cambridge> Cambridge University Press, 2002) at 132-135

³⁵ See Danko, A.; Rostas, I. (2012) [Setting the Roma Policy Agenda: The Role of International Organizations in Combating School Segregation](#), in Rostas, I. (ed) *Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe*, New York and Budapest: CEU Press.

³⁶ European Roma Rights Centre (ERRC) (1999) *Roma and Schools for the Mentally Handicapped in the Czech Republic*. Budapest: ERRC.

³⁷ European Roma Rights Centre (ERRC) (2004) *Stigmata: segregated schooling of Roma in Central and Eastern Europe*. Budapest: ERRC.

³⁸ Savelina Danova, *Patterns of Segregation of Roma in Education in Central and Eastern Europe*, in Ed Rekosh and Maxine Sleeper, *Separated and Unequal: Combating Discrimination against Roma in Education. A Source Book*, Columbia University, 2004).

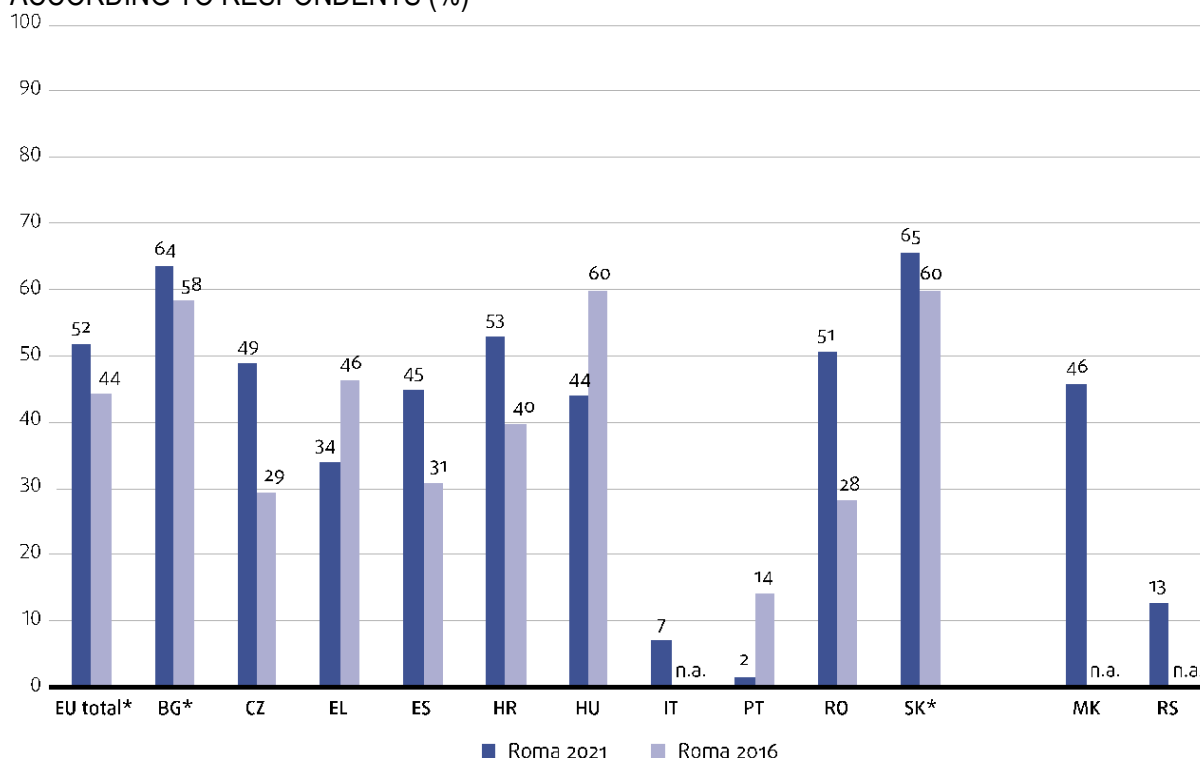
³⁹ Open Society Institute (OSI) and the European Union (EU) Monitoring and Advocacy Program (2007) *Equal Access to Quality Education for Roma: monitoring reports Bulgaria, Hungary, Romania and Serbia*, vol. 1. Budapest: OSI, p. 43.

⁴⁰ Open Society Institute (OSI) and the European Union (EU) Monitoring and Advocacy Program (2007) *Equal Access to Quality Education for Roma: monitoring reports Bulgaria, Hungary, Romania and Serbia*, vol. 1. Budapest: OSI, p. 361.

⁴¹ Open Society Institute (OSI) and the European Union (EU) Monitoring and Advocacy Program (2007) *Equal Access to Quality Education for Roma: monitoring reports Bulgaria, Hungary, Romania and Serbia*, vol. 1. Budapest: OSI, p. 361.

Data produced on a regular basis by the European Union Fundamental Rights Agency (FRA) compare the situation among EU member states and candidate countries with the highest share of Romani communities and capture trends. The most recent survey of 2021 indicates that majority of Roma children aged 6-15 years attended segregated education. Moreover, over the last five years, this share has increased by 8%.⁴²

CHILDREN AGED 6–15 WHO ATTEND SCHOOLS WHERE ALL OR MOST PUPILS ARE ROMA, ACCORDING TO RESPONDENTS (%) a, b, c



Notes:

- a Out of all children aged 6–15 (Bulgaria: 6–14) in Roma households who are in education (Roma Survey 2021: n = 4,384; Bulgaria: n = 372; Slovakia: n = 1,388), weighted results.
- b Respondents answered the following question for all children aged 6–15 in education: “Now please think about the school [NAME] attends. How many of the schoolmates would you say are Roma: all of them, most of them, some or none of them?”
- c n.a. – Not available.

Please note that EU Total is the average of EU surveyed countries, not all EU member states.

Reproduced from: FRA (2022) Roma in 10 European countries – Main results: Roma survey 2021, Luxembourg, Publication Office, p. 40, available online at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf p.40

⁴² Data included EU countries with a significant share of Roma populations and 2 EU candidate countries that is Bulgaria, Czech Republic, Greece, Spain, Portugal, Romania, Hungary, Slovakia, Italy and Northern Macedonia and Serbia. Data in Italy, Northern Macedonia and Serbia were gathered only in 2021. FRA, Roma in 10 European Countries: Main results, Roma Survey 2021, Luxembourg, Publication Office, p. 39-40, available online at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf

Data indicate positive trends in Hungary, Portugal, and Greece, where the share of Roma children experiencing segregation has decreased while there has been rather significant increase of children enrolled in schools where most children are Roma in Romania (from 28% to 51%) and in the Czech Republic (from 29% to 49%). The highest share of Roma children experiencing segregation remains in Slovakia (65%) and in Bulgaria (64%). In these two countries, the situation has between 2016 and 2021 further deteriorated by 5 and 6 percentage points respectively. Data on segregation do not show statistically significant gender differences in most countries, apart from Northern Macedonia where Roma girls experience a higher degree of segregation (by 10%) and in Serbia where the prevalence is higher for boys (by 5%).⁴³

National data gathered through special EU SILC 2020 in Slovakia indicate that the problem with placement of Roma children into special education has remained. In 2020, 17 % of Roma children aged 6-15 years attended special education while in 2016 it was 18%. 2020 data confirms the two-fold segregation, with a high number of Roma children in special school tracks most of them enrolled in ethnically homogenous schools.⁴⁴ A pilot study on school segregation of Roma students prepared by the Fundación Secretariado Gitano in 2020/2021, based on 131 questionnaires gathered from schools across Spain, further reveal that around 50% of sampled Roma students attend educational facilities in which more than 30% of students are of Roma origin. However, the majority of children who are educated in segregated schools were in facilities facing, what authors called, severe segregation when the student body has more than 50% Roma, as around 43% of the sampled students attended such school.⁴⁵ A recent Romanian study that aimed to develop a monitoring tool to measure segregation based on a sample of 10 counties and 159 schools, shed light on the most prevalent forms of segregation in Romania. The study found that the most frequent form of segregation was at class level (66.4% of surveyed schools) followed by segregation through distribution of children into separate buildings (27.5%).⁴⁶

2.2. Educational outcomes

As argued in the first chapter, segregation in education not only discriminates Roma children but also reduces their chances to acquire quality education and, consequently, better employment. Children enrolled into special elementary schools have limited opportunities to continue at higher education. Research, however, shows that generally segregated education of children from the same social background leads to inferior quality of education and poorer educational outcomes while being part of the regular educational track. This is caused by a number of factors including poor school attendance and lower quality teaching staff, but also through a peer effect preventing children with learning disadvantages

⁴³ FRA, Roma in 10 European Countries: Main results, Roma Survey 2021, available online at:

https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf pp39-41

⁴⁴ Filip Markovič, Ľudmila Plachá, Príjmy a životné podmienky v marginalizovaných rómskych komunitách: vybrané ukazovatele zo zisťovania EU SILC -MRK 2020 (Úrad splnomocnenca vlády pre rómske komunity,) dostupné online https://www.romovia.vlada.gov.sk/site/assets/files/1561/analyticka_sprava_eu_silc_mrk_2020_elektronicka_final.pdf?csrt=5000696901208656564P.34

⁴⁵ Fundación Secretariado Gitano, Exploratory pilot study on school segregation: executive summary (Madrid:Fundación Secretariado Gitano, 2022) p.15, online at https://www.gitanos.org/upload/84/76/FSG_Study_on_school_segregation_-_web_ENG-3.pdf

⁴⁶ Claudiu Ivan and Claudia Cerasela Bănică, *Report on School Segregation in Romania* (Association Advocacy and Human Rights Centre, 2022) p.63

to benefiting from interactions with more advantaged peers.⁴⁷ According to a study of the Slovak Ministry of Finance from 2020, Roma children who are mostly enrolled in segregated schools and classes are 4 times more likely to repeat a school grade than non-Roma children. This significantly increases the risk of early school leaving.⁴⁸ Qualitative studies show that segregated classes increase educational disparities, social distances, and greatly reduce chances of Roma children to continue to secondary schools.⁴⁹ According to a study from Spain of 2021, Roma children attending segregated educational centres in primary and secondary education do not continue to post-compulsory education that is set at the age of 16 years. By contrast, there is a greater likelihood that Roma pupils continue to pursue higher education when the concentration of Roma is below 30%. Roma pupils in segregated schools are also more likely to experience educational failures, repetitions and a higher risk of drop out.⁵⁰ A study from Bulgaria, based on data gathered in 2019-2020, showed that the share of early leavers among the Roma is 16 times higher than ethnic Bulgarian and amounts to 68%.⁵¹

The educational gap between Roma and non-Roma remains large and we see no tangible progress across EU and candidate countries with significant Romani populations. According to FRA Roma survey of 2021, the share of Roma youth aged 20 to 24 who attained at least upper secondary was three times lower than the general population. The highest share of Roma with at least upper secondary education was in Serbia (46%), Hungary (41%), and North Macedonia (41%) while the lowest in Portugal (10%), Greece (16%) and Czech Republic (22%). There are, however, some positive trends in Greece, where the share of Roma who gained at least upper secondary education has doubled from 8% to 16%. In Croatia, the share of Roma with at least upper secondary education has increased from 25 to 39% and in Hungary from 32 to 41%. Rather worrying are significant negative trends in the educational attainments specifically in the countries with highest prevalence (SK) or the highest increase of segregation (CZ) in education between 2016 and 2021. In the Czech Republic we see a drop in this indicator from 38% to 22% or in Slovakia from 38 to 28%.⁵²

⁴⁷13 <https://rm.coe.int/fighting-school-segregation-in-europe-through-inclusive-education-a-posi/168073fb65>

⁴⁸ At 64 <https://www.employment.gov.sk/files/slovensky/ministerstvo/analyticke-centrum/analyticke-komentare/reviziavydavkovnaohrozeneskupinyzsverziafinal3.pdf>

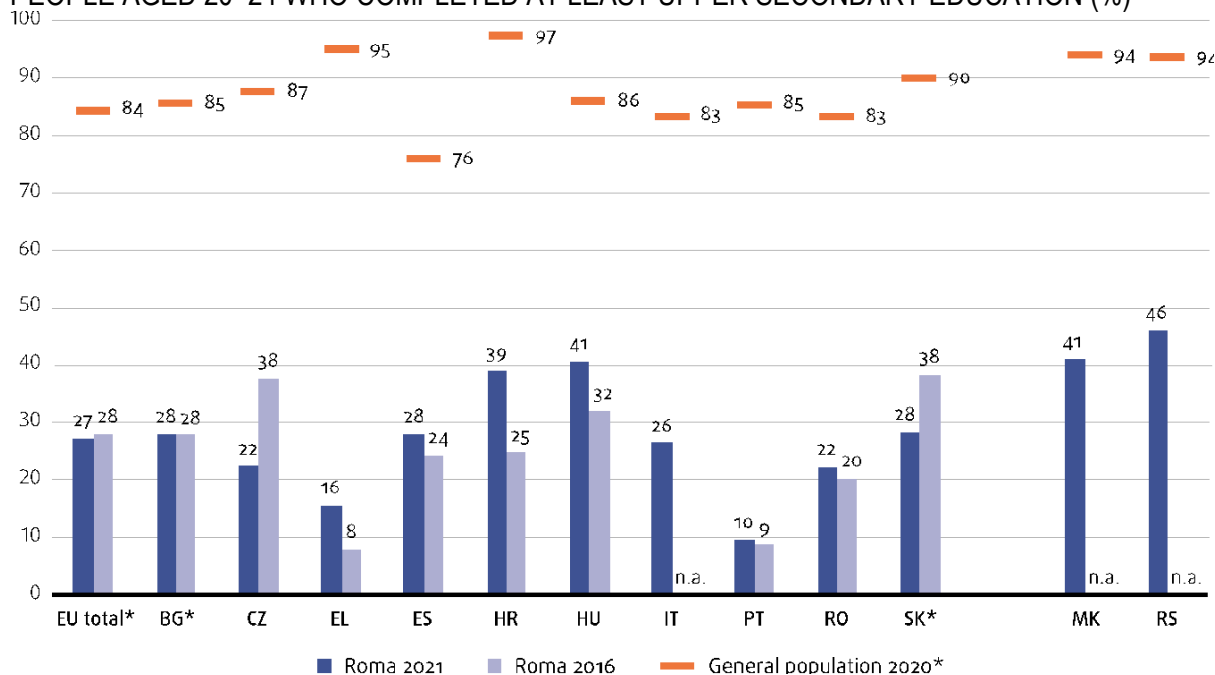
⁴⁹ Janna Huttová, Oľga Gyarfášová and Martina Sekulová, Segregácia alebo inklúzia Rómov vo vzdelávaní: Vof ba pre školy? (Bratislava : Nadácia otvorenej spoločnosti, 2012) p. 110.

⁵⁰ Fundación Secretariado Gitano, Exploratory pilot study on school segregation: executive summary (Madrid:Fundación Secretariado Gitano, 2022) p.17-20, online at https://www.gitanos.org/upload/84/76/FSG_Study_on_school_segregation_-_web_ENG-3.pdf

⁵¹ Centre for the Study of Democracy, Key social inclusion, and fundamental rights indicators in Bulgaria: Summary of main results, P. 16

⁵² FRA, Roma in 10 European Countries: Main results, Roma Survey 2021, available online at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf pp38

PEOPLE AGED 20–24 WHO COMPLETED AT LEAST UPPER SECONDARY EDUCATION (%)^{a,b,c,d}



Notes:

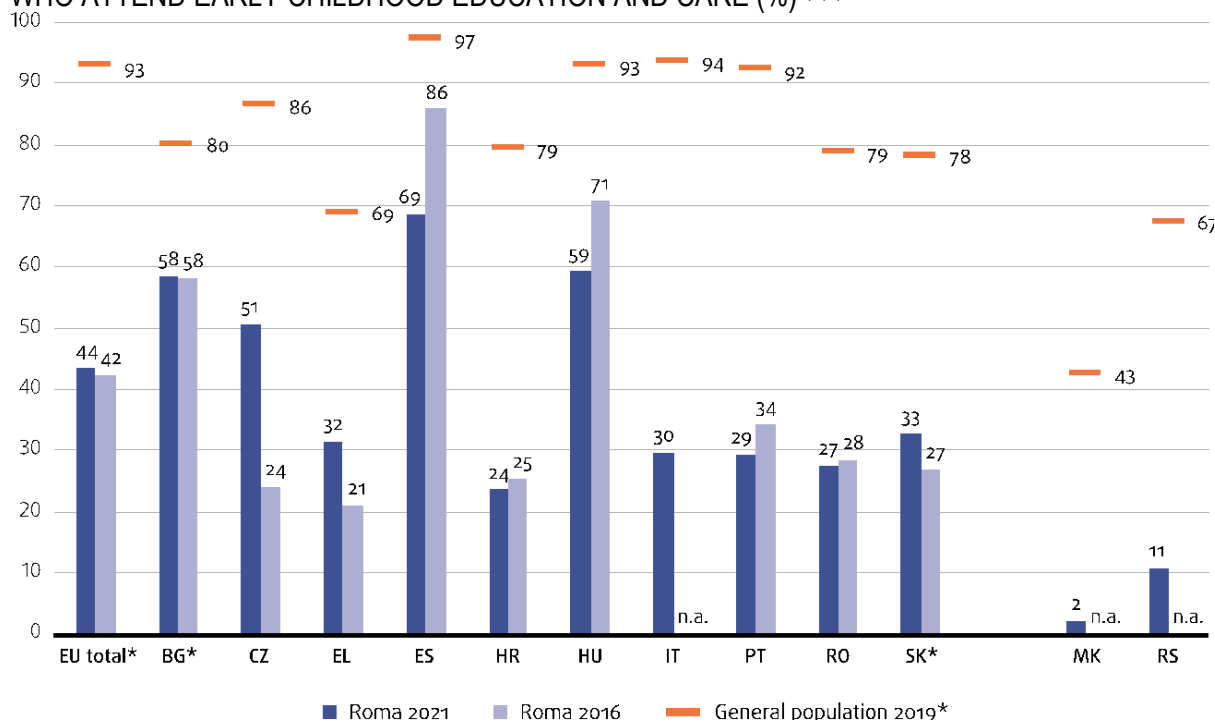
- a Out of all people aged 20–24 in Roma households (Roma Survey 2021: n = 2,488; Bulgaria: n = 191; Slovakia: n = 408), weighted results.
- b International Standard Classification of Education 2011 classification used.
- c General population indicator [edat_lfse_03].
- d n.a. – Not available.

Reproduced from: FRA (2022) *Roma in 10 European countries – Main results: Roma survey 2021, Luxembourg, Publication Office*, p. 38, available online at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf

2.3. Pre-school enrolment

Among the critical preconditions to improve chances of Roma children to succeed in education and access mainstream education is their pre-school enrolment. On average, in 10 EU member states, the share of Roma children aged 3 up to the age starting compulsory primary education enrolled in preschool education, given the existing statistical standard error, has not changed. The share of Roma children enrolment in pre-school education still significantly lags behind the general population (93%). Nevertheless, there are countries with more significant positive trends. Preschool enrolment of Roma children over five years has significantly improved from 24% to 51% in the Czech Republic. We can see positive trends in Greece (from 21% to 31%) and some minor improvements also in Slovakia (from 27% to 33%). However, data captures also some negative trends, such as significant drops of Roma children preschool enrolment in Hungary (from 71% to 59%) or Spain (from 86% to 69%). The gap between Roma and non-Roma population remains, with some variations, high. There is no gender difference, apart from Greece where the enrolment of Roma girls (one in four) is lower than Roma boys (one in three).

CHILDREN AGED FROM 3 UP TO THE AGE OF STARTING COMPULSORY PRIMARY EDUCATION WHO ATTEND EARLY CHILDHOOD EDUCATION AND CARE (%)^{a,b,c,d}



Notes:

- Out of all children aged between 3 and the country-specific starting age of compulsory primary education (Roma Survey 2021: n = 1,771; Bulgaria: n = n.a.; Slovakia: n = 413), weighted results.
- Age groups for participation in early childhood education varied across countries: 3–5 in Czechia, Greece, Spain, Hungary, Portugal, Romania, Slovakia and North Macedonia; 3–6 in Bulgaria, Croatia and Serbia. These age groups are defined in European Commission/ Education, Audiovisual and Culture Executive Agency/Eurydice (2020), The structure of the European education systems 2020/21, Luxembourg, Publications Office. Age is calculated on an annual basis; hence the figures do not consider an earlier or delayed start in the primary education of an individual child.
- General population indicator [educ_uoe_enra21].
- n.a. – Not available.

Reproduced from: FRA (2022) *Roma in 10 European countries – Main results: Roma survey 2021*, Luxembourg, Publication Office, p. 37, available online at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf

2.4. Covid 19 Pandemic

While looking at the prospects for the upcoming years, we should certainly consider the disproportionately negative impact of COVID pandemic on Roma children from disadvantaged communities that did not have access to distance online education for months. The available data confirm that lack of technical facilities prevented a significant number of Roma children from accessing education, which has not been sufficiently addressed by states. Comparative data gathered through 2021 FRA Survey in 8 EU Member states, North Macedonia and Serbia indicate that, while most Roma experienced school closure, only 52% reported not having problems with accessing distance learning. Among those that had problems accessing education, 28% reported problems because of no or limited access to the internet, 24% due to lack of access to computers or an alternative device and 12% due to lack support to understand the subject.⁵³ In the Czech Republic approximately 10% of all students did not participate in distance learning,

⁵³ Coronavirus pandemic in the EU -impact on Roma and travellers, 1march -30 june 2020,available online at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-roma_en.pdf#13-14

while one third did not communicate online with their teachers, mainly in the most disadvantaged regions. In Slovakia, 32,000 Roma children did not have access to the internet to participate in distance learning. In Spain, a national survey pursued by an NGO indicated that more than 40% of Roma students did not have access to the internet.⁵⁴ While we are still waiting for a more detailed analysis of the impact of the pandemic on Roma children educational outcomes, it is likely that failing to secure access to education will likely play out in the increased rates of early school leaving, grade repetition and, possibly, school segregation.

To conclude, FRA data show that the segregation is highly prevalent, a reality for every second Roma child in the surveyed EU member states. Segregation through special education or within regular school track leads to poor quality of education that can translate into higher grade repetitions, risk of early leavers, and limited prospects to acquire higher education. Educational gap between Roma and non-Roma remains significant, and there is a limited progress on its closure. Slow increase of pre-school enrolment and the disproportionate burden of school closure during the pandemic do not provide a positive outlook for the upcoming period. Despite the overall negative trend, however, the data indicate that there are cases of states that managed to reduce segregation during a rather short time span and improve positive educational outcomes.

⁵⁴ Coronavirus pandemic in the EU -impact on Roma and travellers, 1march-30 june 2020,available online at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-roma_en.pdf13-14

Chapter 3: Discrimination and segregation in education

Several treaties and other legal norms adopted under the auspices of the Council of Europe, the European Union and the United Nations, prohibit racial or ethnic segregation and discrimination in education. States that ratify a treaty are expected to comply with it, which means that they undertake to make changes in their laws, policies and practices to fulfil their treaty obligations. Compliance with international human rights treaties is monitored by international organisations. Some treaties establish international courts or tribunals to hear individual or collective complaints of rights violations, and states must comply with their rulings. Exclusively from the perspective of the education of Roma children, this chapter covers key legal concepts, rules and principles, as well as the caselaw of the European Court of Human Rights (ECtHR or Strasbourg Court) and selected national courts. First, it looks at types of discrimination sanctioned under international, European and EU law and provides examples of violations. Second, it briefly discusses the types of discrimination in the context of Roma education. Subsequently, the chapter summarises the arguments commonly used by schools, municipalities, administrations and states to justify segregation and discrimination, including parental choice. It also looks at positive obligations. Lastly, it summarises the lessons learned from national law, highlighting the difficulties of regulation.

3.1. The forms of discrimination prohibited by international, European and EU law, and Roma education.

Article 1(1) of the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) defines the term “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” As ruled by the European Court of Human Rights: “discrimination on account of a person’s ethnic origin is a form of racial discrimination.”⁵⁵ The complex definition of racial discrimination in the ICERD guides the Strasbourg Court’s rulings in Roma education cases.⁵⁶ The Court of Justice of the European Union has referenced the criteria used by the Strasbourg Court in the context of discussing discrimination on the basis of ethnic origin underlining that the “the concept of ethnicity, which has its origin in the idea of societal groups marked in particular by common nationality, religious faith, language, cultural and traditional origins and backgrounds, applies to the Roma community”⁵⁷ Socio-economic conditions and racial or ethnic origin often intersect in the less favourable treatment of Roma children in the field of education but the ground of ‘socio-economic conditions’ is not protected under the Treaty on the Functioning of the European Union. Even though it is not explicitly listed among the grounds protected from discrimination under the European Convention for the protection of Human Rights and Fundamental Freedoms (ECHR), it may

⁵⁵ *D.H. and Others v. Czech Republic*, Application no. 57325/00, judgment of the Grand Chamber of the European Court of Human Rights of 13 November 2007 (GC), para 175.

⁵⁶ See references to ICERD and race-relevant international human rights law in paras 95-102 of *D.H. and Others v. Czech Republic*, (GC). In para.176 the ECtHR stated that „Discrimination on account of, inter alia, a person's ethnic origin is a form of racial discrimination.”

⁵⁷ *CHEZ Razpredelenie Bulgaria AD v. Komisia zaszhtita ot diskriminatsia (Nikolova)*, Case C-83/14 ECLI:EU:C:2015:480, para 46, Judgment of the Court of Justice of the European Union of 16 July 2015.

still be protected in the Strasbourg Court’s caselaw because the list of protected grounds in Article 14 of the ECHR is open. Moreover, less favourable treatment based on socio-economic conditions may also amount to indirect racial or ethnic discrimination.

International human rights law, European, EU legislation and national laws prohibit different types of discrimination ranging from segregation to harassment.

a. Segregation, UN standards and Roma education

The prohibition of racial (including ethnic) segregation (i.e. separate education) is set out in two conventions of the United Nations. The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention against Discrimination in Education (CADE, 1960) makes physical separation on the basis of racial or ethnic origin unlawful with few exceptions that must meet strict conditions. For example, Article 1 CADE defines discrimination as “any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular: [...], of establishing or maintaining separate educational systems or institutions for persons or groups of persons.” Article 2(b) CADE states that the “establishment or maintenance, for *religious or linguistic reasons*, of separate educational systems or institutions offering an education which is in *keeping with the wishes* of the pupil’s parents or legal guardians, if participation in such systems or attendance at such institutions is *optional* and if the education provided *conforms to such standards* as may be laid down or approved by the competent authorities, in particular for education of the same level” (emphasis added to key elements) shall not be deemed to constitute discrimination. Article 5(1)(c) CADE further stipulates that separate minority (language) education is lawful as long as it ensures the meaningful participation of minority parents, equal quality of education and is optional in nature. CADE equally applies to privately or publicly funded religious schools.

In 2022, the Czech Supreme Court delivered a judgment concerning the issue of segregation which, even though not defined in the national legal order, is prohibited by the UNESCO Convention against Discrimination in Education, which Czechia has ratified.⁵⁸ The Czech Supreme Court condemned segregation as a practice that may not be justified as it inherently goes against human dignity, because the essence of segregation “lies in the very fact of separation of individuals belonging to certain race or ethnic group as such treatment is offensive and stigmatising in itself and brings feelings of exclusion and inferiority [...] Racial segregation in education cannot be justified by stating that segregated pupils receive the same quality of education; even if that were true, it would mean subscribing to the doctrine of “separate but equal”, which has been strongly rejected in the past and must be rejected even today.”

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1965) prohibits segregation in education without exceptions in Article 3: ‘States Parties particularly condemn racial segregation [...] and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.’ This categorical prohibition extends to so-called spontaneous, non-coercive, or forcible segregation resulting from the actions of public authorities or private individuals in the form of white flight, residential segregation, or other processes. The Committee on the Elimination of

⁵⁸ Supreme Court, No. 25 Cdo 473/2021, 5 May 2022

All Forms of Racial Discrimination held that racial segregation is unlawful even if public authorities and schools are not involved in these processes.⁵⁹ However, schooling arrangements for the purposes of providing minority (language) education in line with CADE may be permissible under the conditions set in Article 2 (b) of CADE and in Article 14 of the Framework Convention for the Protection of National Minorities.⁶⁰

To recap, the purpose of minority education is the preservation of minority identity, in which instruction in the minority language is a key factor. Article 5(1) (b) and (c) CADE frames relevant conditions for parental choice in order to safeguard what would now be called the best interest of the child, whose potential conflict with parental choice is discussed in section 3.2.1.1. From this perspective, it would be highly suspicious if the initiative to establish a minority school comes from majority institutions or society. Indeed, in relation to minorities other than the Roma, it would be unthinkable to launch minority education without consulting the communities or to establish minority schools from outside the community. This explains why Roma minority education is often suspected of serving as a pretext for unlawful segregation, especially when it lacks the autonomy and community control that schools servicing traditional and resourceful minorities possess.

b. Council of Europe standards and Roma education

Discrimination in education is prohibited under Article 2 Protocol 11, which guarantees the right to education, in conjunction with Article 14 ECHR. Article 14 contains a general principle of equal treatment, and the Strasbourg Court interprets this provision on the basis of the Aristotelian formula, according to which likes should be treated alike, while unlike should be treated unlike. Discrimination has two sides therefore: it means treating differently, without an objective and reasonable justification, persons in relevantly similar situations and it also means not treating differently groups who suffer factual inequalities. Article 14 ECHR does not differentiate between different forms of discrimination, nor does it explicitly outlaw segregation and harassment. Under Article 14, discrimination can be objectively justified in principle but in practice states parties' justifications in the Roma education cases have all failed, as described below.

Article 1 of Protocol No. 12 ECHR contains a broader and seemingly stronger, general prohibition of discrimination extending the scope of protection to “any right set forth by law”. Currently, less than half of all state parties have ratified Protocol 12, which explains why in the field of education it has been invoked twice only, both times against Albania. It is important to note that despite some differences between Article 14 ECHR and Article 1 Protocol 12, the “meaning” of discrimination is intended to be identical, an aspect confirmed by the European Court of Human Rights in its jurisprudence.⁶¹ The Court distinguishes different types of discrimination. It has described direct discrimination as a “difference in treatment of

⁵⁹ CERD, General recommendation XIX on article 3 of the Convention, Forty-seventh session (1995), para 4..

⁶⁰ Advisory Committee on the Framework Convention for the Protection of National Minorities, Commentary on Education under the FCNM ACDG/25DOC(2006)002, Thematic Commentary no. 3 The language rights of persons belonging to national minorities under the Framework convention, ACDG/44DOC(2012)001 rev.

⁶¹ Council of Europe, Explanatory Report to the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4.XI.2000, paras 18 and 19, available at [CETS 177 - Explanatory Report to the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms \(coe.int\)](https://www.coe.int/t/Convention/12/12_Exp_Report.pdf). See *X and Others v. Albania* App nos. 73548/17, 45521/19, judgment of the European Court of Human Rights of 31 May 2022,

persons in analogous, or relevantly similar situations” and “based on an identifiable characteristic, or ‘status.’”⁶² It has held that racial “discrimination is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authority’s special vigilance and a vigorous reaction.”⁶³ Irrespective of direct or indirect discrimination claims, the Court applied the justification test in all education cases, but importantly, the justifications presented by States in Roma segregation cases have been all ruled out as not being objectively and reasonably justified by a legitimate aim.

The Strasbourg Court did not find a violation of the Convention in relation to every complaint related to Roma school segregation, but it has established violations of Article 14 taken together with Article 2 of Protocol No. 1 or of Article 1 Protocol 12 ECHR in the majority of the Roma education cases. The Court has established unintentional, indirect discrimination or discrimination without a specific classification in these cases.⁶⁴ It elaborated the definition of indirect discrimination in the first and most well-known Roma education case, *D.H. and Others v the Czech Republic*, observing that it amounts to “disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, has a particular discriminatory effect on a particular group.”⁶⁵ It found indirect discrimination on account of a disproportionate number of Roma children placed in special schools for children with mental disabilities, even though the practice at hand was based on an apparently neutral provision – meaning that it was seemingly unrelated to Roma ethnicity. The same issue of misdiagnosis was at hand in *Horváth and Kiss v. Hungary*.⁶⁶ A finding of indirect discrimination followed from the placement of Roma students in Roma-only classes in *Oršuš and Others v. Croatia*, apparently due to their shortcomings in the official language.⁶⁷ The students’ placement in Roma-only schools in *Lavida and Others v. Greece*⁶⁸ and *Szolcsán v. Hungary*⁶⁹, as well as in a Roma-only school building/annex in *Sampanis and Others v. Greece* led to findings of discrimination in education.⁷⁰ In *Sampanis*, the Roma students were not permitted to access school before being assigned to special classrooms in an annex to the main primary school buildings. In all these cases the Strasbourg Court established unintentional, indirect discrimination. In *X and Others v. Albania*,⁷¹ and *Elmazova and Others v. North Macedonia*⁷² segregation had already been established by the Commissioner for the Protection from Discrimination (CPD) in the former and the Commission for Prevention and Protection against Discrimination as well as the Ombudsman in the latter case, but the authorities failed to comply with the orders/recommendations to implement desegregation measures. In these cases, as well as in *Szolcsán v. Hungary* Roma children were segregated in predominantly Roma schools and the Strasbourg Court imposed a positive obligation on the relevant states parties to undertake desegregation measures. In *Avdiu and Others v. Albania* the Strasbourg Court did not find a violation because following the CPD’s decision establishing racial

⁶² *D.H. and Others v. Czech Republic*, (GC), para 175.

⁶³ *Ibid.*

⁶⁴ European Court of Human Rights, Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention, Prohibition of discrimination Updated on 31 August 2022, para 234.

⁶⁵ *D.H. GC*, para 184.

⁶⁶ *Horvath and Kiss v. Hungary* App no. 11146/11, judgment of the European Court of Human Rights of 9 January 2013.

⁶⁷ *Oršuš and Others v Croatia*,] Application no. 15766/03, judgment of the Grand Chamber of the European Court of Human Rights of 16 March 2010.

⁶⁸ *Lavida and Others v Greece* App no. 7973/10, judgment of the European Court of Human Rights of 30 May 2013

⁶⁹ *Szolcsán v Hungary* App no. 24408/16, judgment of the European Court of Human Rights of 30 March 2023

⁷⁰ *Sampanis and Others v. Greece* App no. 32526/05, judgment of the European Court of Human Rights of 5 June 2008.

⁷¹ *X and Others v. Albania* App nos. 73548/17, 45521/19, judgment of the European Court of Human Rights of 31 May 2022

⁷² *Elmazova and Others v. North Macedonia* App nos. 11811/20, 13550/20, judgment of the European Court of Human Rights of 13 December 2022

segregation the authorities not only closed the segregated schools but also provided transport for the children to the new school of adequate quality of education and reimbursed the transportation costs to the families concerned.⁷³

c. European Union law and Roma education

Article 19 of the Treaty on the Functioning of the European Union refers to discrimination based on “racial or ethnic origin.” The EU’s so-called Racial Equality Directive (RED) covers education and prohibits discrimination on the grounds of racial or ethnic origin.⁷⁴ The RED explicitly defines several prohibited forms of discrimination. Although the Directive does not refer explicitly to segregation, the European Commission’s interpretation is that it constitutes a form of discrimination which is prohibited under EU law. The European Commission has recently referred Slovakia to the Court of Justice of the EU on account of the segregation of Roma children and its position on the RED is subject to the CJEU ruling.⁷⁵ National laws in EU member states must comply with the definitions provided for in the RED. In countries seeking accession to the EU, domestic law shall comply at the time of accession. An important feature of EU law is that discrimination or segregation does not have to be intentional to be unlawful.

(i) Direct discrimination

Under Article 2.2(a) RED, direct discrimination occurs “where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin.” The key elements of direct discrimination could be summed up as the following: a) less favourable treatment, in other words a difference in treatment or some kind of disadvantage on one of the grounds; b) comparison (between Roma and ethnic majority student(s) in a similar situation); c) the opportunity to use a comparator from the past or a hypothetical comparator (what would happen if the student was not Roma?); and d) the impermissibility of justifying direct racial discrimination. Hypothetical examples of direct discrimination on the grounds of racial or ethnic origin against a Roma child may include but not be limited to situations such as refusing entry to an integrated school, denying transfer from a segregated school to an integrated one, or denying participation in different school activities including trips, choir or sports activities, or the dining room, especially at the same time as non-Roma students dine there. Direct discrimination may also be observed when the material conditions in which the Roma students are taught are inferior as compared to those surrounding ethnic majority or other minority children. In the authors' view, these inferior material conditions may range from not having a water closet, not allowing Roma students in common recreational space to interact with other students, no access to the school library to inferior conditions of building, class, annex where Roma students are provided schooling in comparison with other students. Finally, direct discrimination may also occur if Roma children are taught a lower quality of curriculum.

(ii) Indirect discrimination

⁷³ Avdiu and Others v Albania App no 49516/178, judgment of the European Court of Human Rights of 23 May 2023, para 13.

⁷⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

⁷⁵ European Commission v Slovak Republic, Case C-799/23, 22 December 2023, available at <https://curia.europa.eu/juris/document/document.jsf?text=&docid=282910&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=72514..>

Indirect discrimination occurs “where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” (RED Article 2.2.(b)). The CJEU ruled that the concept of indirect discrimination means in practice that “a national measure, albeit formulated in neutral terms, works to the disadvantage of far more persons possessing the protected characteristic than persons not possessing it.”⁷⁶ In *CHEZ*, a case raising issues of discrimination with regards to a person associated with persons of Roma origin, the Court outlined that an ‘apparently neutral’ measure means “having regard to factors different from and not equivalent to the protected characteristic”.⁷⁷

(iii) Harassment and bullying

Harassment is a form of discrimination and arises when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. (RED Article 2.3). The fear of harassment is a common concern of Roma parents when it comes to sending their children into integrated schools. For example, in the *Sampanis* case the non-Roma parents went as far as to vandalise school property and overtly demonstrate against the integration of Roma children, which necessitated the intervention of police forces to ensure the safety of Roma pupils.⁷⁸ Similar types of harassment was prevalent in other Roma education cases as well.⁷⁹

(iv) Victimization

Victimisation occurs when an individual suffers adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment. (RED Article 9). For instance, it would be victimization if a teacher who witnessed discrimination against a Roma child raised a complaint within the school or with the school inspection and was later harassed, denied promotion or in any way disadvantaged. In *Oršuš* the applicants’ parents were threatened with the withdrawal of social assistance should they pursue their complaints in the Strasbourg Court.

(v) Instruction to discriminate

An instruction to discriminate against persons on grounds of racial or ethnic origin also amounts to discrimination (RED Article 2.4). It would constitute an instruction to discriminate if a school master ordered colleagues to deny access to Roma children to certain facilities.

To summarise, Roma segregation is an egregious form of racial or ethnic discrimination, and it is explicitly prohibited by the United Nations treaties. It is also unlawful under European norms because, as the

⁷⁶ *Z. v. A Government department and The Board of management of a community school*, C-363/12, [EU:C:2014:159](#), para 53, judgment of the Court of Justice of the EU of 18 March 2014, *Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS)*, C-527/13, [EU:C:2015:215](#), para 28, judgment of the Court of Justice of the EU of 14 April 2015..

⁷⁷ *CHEZ Razpredelenie Bulgaria AD v. Komisia zashchita ot diskriminatsia (Nikolova)*, Case C-83/14 ECLI:EU:C:2015:480, para 109, Judgment of the Court of Justice of the European Union of 16 July 2015.

⁷⁸ *D.H. and Others v Czech Republic*, 13 November 2007, para 205, *Oršuš and Others v Croatia*, 16 March 2010, para 154,155; *Sampani and Others v Greece*, 11 December 2012, para 8, 98 and 100; *Lavida and Others v Greece*, 30 May 2013, para. 69, 72.

⁷⁹ *Sampanis and Others v. Greece* App no. 32526/05, judgment of the European Court of Human Rights of 5 June 2008, para 18-21, 81.

ECtHR has stated, the “coexistence of members of society free from racial segregation is a fundamental value of democratic societies.”⁸⁰ Lawyers have been debating whether segregation amounts to direct or indirect discrimination in case it is not explicitly prohibited in legislation as a specific form of discrimination.

3.2. Unsubstantiated justifications for segregation

Under the Strasbourg Court’s discrimination test, any form of racial or ethnic discrimination – even segregation – can potentially be justified. However, the key conclusion to be drawn from the caselaw is that in none of the Roma education cases has the European Court of Human Rights found the states’ justifications permissible. The ECtHR holds that not only intentional, but spontaneous, unintentional or *de facto* segregation is also in breach of the Convention.⁸¹ It considers racial discrimination – which includes segregation – to be impermissible, because “no difference in treatment which is based exclusively or to a decisive extent on a person’s ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures.”⁸² The ECtHR has considered white flight and resistance by non-Romani parents to integrated education in the cases of *Sampani*, *Oršuš*, *Sampanis*, and *Lavida*, measures intended to remedy deficiencies in the official language in *Oršuš*, and measures necessary to achieve integration in *Oršuš*, *Horváth and Kiss*, *Sampani* and *Lavida*, *X and Others*, *Elmazova and Others*, and *Szolcsán*. The Strasbourg Court’s interpretation provides a baseline for protection, but national courts have on occasion misinterpreted this jurisprudence and allowed segregation to be justified in certain cases.⁸³

3.2.1. Parental choice

As societal coexistence free from racial segregation is a fundamental value of democratic pluralism, racial discrimination cannot be tolerated and requires the eradication of Roma school segregation, in other words inclusive education.⁸⁴ This logic seems to explain why the Strasbourg Court has curtailed the free choice of both majority and minority parents. In this section we investigate what choices parents can and cannot make. We start with minority parents, who have a direct say in their children’s education and continue with majority parents, who can indirectly impact the fate of Roma school children.

3.2.1.1. Minority parental choices

In the first Roma education case, *D.H. and Others v the Czech Republic*, the Strasbourg Court ruled that the right to the education of minority children free of racial or ethnic discrimination should take precedence over the choice of minority parents, particularly where their consent to segregated education is not properly informed, where they lack a real choice and their consent would amount to renouncing their children’s fundamental rights.⁸⁵ The Strasbourg Court ruled that it was unacceptable for parents to choose racially segregated education for their children: “In view of the fundamental importance of the prohibition of racial discrimination [...] no waiver of the right not to be subjected to racial discrimination can be

⁸⁰ *Vona v. Hungary*, application no. 35943/10m judgment of 9 July 2013m para. 57m available at [VONA v. HUNGARY \(coe.int\)](https://www.echr.coe.int/).

⁸¹ *D.H. and Others v. Czech Republic*, (DH GC), para. 194

⁸² *D.H. and Others v. Czech Republic*, (DH GC), para 176.

⁸³ See, for instance Hungary, Budapest Appeals Court 2, *CFCF v. Ministry of National Resources*, Pf.21.145/2018/6/I, 14 February 2018.

⁸⁴ *Elmazova and Others v. North Macedonia* App nos. 11811/20, 13550/20, judgment of the European Court of Human Rights of 13 December 2022, para 89.

⁸⁵ *D.H. and Others v. Czech Republic*, (DH GC), para 203.

accepted, as it would be counter to an important public interest.”⁸⁶ In this respect the *D.H.* judgement focused on parents who are more vulnerable, and who may be deprived of meaningful choices, because it is impossible for them to truly choose between integrated education compounded by harassment or segregated education without the harassment and humiliation of Roma children.

The choice of education in properly established and maintained minority schools providing minority linguistic or religious education remains the only exception to unlawful racial segregation. The Strasbourg Court has not yet dealt with cases in which parental choice of minority linguistic or religious education would have been under scrutiny. It is important to note that the Roma are not an ethno-religious minority, so that in their case the choice of religious education cannot justify ethnic self-segregation.

3.2.1.2. Majority parental choices

The free choice of majority parents is not absolute. In *Sampani*, the non-Roma parents chose not to register their children in the school with compulsory admission, but the European Court of Human Rights did not find legitimate Greece’s justification, namely that it lacked the power to stop these parents from choosing other schools.⁸⁷ The Court took the same approach in *Elmazova and Others v. North Macedonia*, in which case the school’s efforts “including the redistribution of pupils in the classes, did not materialise mainly because of the opposition shown by the parents of non-Roma children”.⁸⁸

Protocol 1 Article 2 ECHR makes explicit mention of one choice only, when it states: “In the exercise of any functions which it assumes in relation to education and to teaching, *the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions*” (emphasis added). The ECtHR limits parental choices not just to prevent racial discrimination but also when it comes to the parents’ choice of education based on religious or philosophical convictions, because the interests of parents and children concerning social integration may diverge. The ECtHR requires States to strike a balance between the two and to attach particular importance “to the best interests of the child which, depending on their nature and seriousness, may override those of the parent”.⁸⁹ The Strasbourg Court has not yet ruled on cases of segregation, in which the majority ethnic children attend denominational (philosophical) schools and it remains to be seen whether the Court will require states to limit the parental choice of religious or philosophical education to counter racial or ethnic segregation, as it has done in every other scenario brought before it..

The ECtHR cannot rule entirely in favour of either minority or majority parents because the purpose of equal treatment in education is to reconcile choices with the best interests of children in pluralist democracies. It is important to note that both majority and minority interests are themselves multifaceted and however much parents may wish to represent the best interests of their children, they may not be able to do so, either because there are other children with competing and equally legitimate interests, or because the interests of an individual child must be reconciled with those of their family.

⁸⁶ *D.H. and Others v. Czech Republic*, (DH GC), para 204.

⁸⁷ *Sampani and others*, para 103-104.

⁸⁸ *Elmazov and Others*, para 77.

⁸⁹ *Wunderlich v Germany*, Application no. 18925/15, Judgment of 10 January 2019, para 46 and 51.

3.2.2. Strasbourg jurisprudence on parental choices

The Strasbourg Court has dealt with applications concerning segregation at different levels of educational units and tangentially dealt with indirect and direct discriminatory practices. Most of the judgments show that Roma schoolchildren have been subjected to harassment and this may have a knock-on effect on their treatment by their peers and teachers. The ECtHR has not yet examined cases where segregation would have resulted from the Roma community's decision to establish a minority school educating children in the minority language. However, several cases before the Strasbourg Court indicated evidence of threats, undue psychological pressure and harassment which resulted in delaying, or not implementing, desegregation measures. This highlights the power imbalance between Roma parents and majority institutions/society. Public education without racial discrimination requires that Roma parents should not be allowed to waive their children's right to equal treatment, while at the same time requiring States to take measures to remedy the discriminatory effects of the choice of non-Roma parents to enrol their children in a school other than a compulsory school attended by a higher number of Roma children. These complementary restrictions on parental choice underpin the ECtHR's approach to the Roma education cases. The integrationist logic combining the "fundamental principles of universality and non-discrimination in the exercise of the right to education" is the basis of the ECHR jurisprudence that serves to preserve pluralist democracies in respect of other education-related issues, including parental choice based on philosophical convictions.⁹⁰

Promising practices concerning parental choices may be found in domestic jurisdictions where national courts and equality bodies play a prominent role in fighting racial segregation in education. Such is a decision of an equality body stating that in case of class-level segregation "it is the duty of the educational personnel to assign the children in classes in a proportional manner, without taking into consideration criteria (*such as the choice of the parents*) which might infringe the right of the pupils" (emphasis added).⁹¹ Similarly, a court decision ruling that parental right is not absolute and should therefore be subjected to a proportionality test when conflicting with the child's best interest. Moreover, establishing injunctive remedies such as redefining school catchment area, devising and monitoring desegregation plans including monitoring pupils proportions based on perceived ethnic affiliation.⁹²

3.2.3. Positive obligations

The Strasbourg jurisprudence requires States to counter segregation, and the longer segregation persists, the more extensive the process of desegregation must be. The vulnerability of the Roma requires special protection in law and (administrative) decision-making, which has led the ECtHR to require States to take general measures to fulfil their positive obligations under the European Convention, because "... as a result of their turbulent history and constant uprooting, the Roma have become a specific type of disadvantaged and vulnerable minority. They therefore require special protection. Their vulnerable position 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 cases."⁹³

⁹⁰ Çam v. Turkey, (application no. 51500/08, judgment of 23 February 2016, para. 64.

⁹¹ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) Decision 559, file 52-2012, 12 December 2012.

⁹² Hungary, Budapest Regional Court, *CFCF v. Ministry of Human Resources*, decision no. 40.P.23.675/2015/84, 18 April 2018.

⁹³ Horváth and Kiss, para.102.

As the number of Roma education cases grows, so too does the Court's determination to demand a robust approach from States to fulfil their positive obligations and comply with the provisions of the European Convention. In the case of *X and Others v. Albania* the Strasbourg Court found a violation of the Convention against Roma and Egyptian children, who complained about the "government's failure to implement swift and comprehensive desegregation measures" in a segregated school, in defiance of an order issued by the Albanian equality body, the Commission for Protection against Discrimination. In *Elmazova and Others v. North Macedonia*, in which the equality body (the Commission for Prevention and Protection against Discrimination) and the national human rights institution (the Ombudsman) had recommended desegregation measures at the level of schools and catchment areas, the Strasbourg Court indicated that the State had to take desegregation measures to fulfil its positive obligations, and that its compliance with the judgment was subject to supervision by the Committee of Ministers.⁹⁴

As recently as March 2023, the ECtHR reaffirmed its position on the positive obligation to combat racial discrimination in education, ordering that a respondent state must not only end segregation in a particular school but also "more generally, develop a policy against segregation in education and take steps to eliminate it"⁹⁵, because it follows from the Roma education cases that "*without taking adequate measures with a view to correcting the inequalities to which they were subjected, it could hardly be considered compatible with the State's obligation not to discriminate individuals on the basis of their race or ethnic origin.*"⁹⁶

Although the Strasbourg Court does not formally require states to adopt positive action measures, in effect its requirements concerning positive obligations are similar to those described as positive action under international human rights law. This is in line with the Convention's definition of discrimination, according to which states are not prohibited from "treating groups differently in order to correct 'factual inequalities' between them; indeed, in certain circumstances a failure to attempt to correct inequality through different treatment may in itself give rise to a breach" of Article 14.⁹⁷

Under EU law there is a difference between actions to combat discrimination and positive action to prevent or compensate for disadvantage. Effective, proportionate and dissuasive sanctions must be provided against racial or ethnic discrimination under national law to comply with Article 15 of the Race Equality Directive. Although the Directive does not go into such details, sanctions may take the form of injunctions ordered by courts or other bodies that in practice have the same effect as the Strasbourg Court's positive obligations doctrine. Article 5 of the Race Equality Directive allows – but does not make it mandatory for – Member States to "maintain or adopt specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin." CADE provides the framework for the permissibility and conditions of minority language education. However, under the conditions of Article 2.2. of ICERD, even if provided in form of positive action measures, extra language instruction or measures taken to remedy socio-economic disadvantage should not lead to permanent segregation. Furthermore, as the Strasbourg

⁹⁴ *Elmezova and Others*, paras. 74 and 88-89.

⁹⁵ *Szolcsán*, para 69.

⁹⁶ *Szolcsán*, para 57.

⁹⁷ *Horváth and Kiss*, para 101.

Court stated in *X and Others v. Albania*, the timely implementation of desegregation plans aimed at remedying residential segregation is necessary.⁹⁸

3.3. Education law and the prohibition of segregation

In contrast to the UN ICERD and CADE which explicitly prohibit racial segregation, the European Convention of Human Rights, the EU Charter and the Race Equality Directive do not contain such an explicit prohibition of this form of discrimination. However, they all provide protection from racial or ethnic discrimination, thus they inherently cover situations of segregation even if not qualifying it as segregation, rather as direct or indirect discrimination. Legal norms do not exclude segregation from the scope of protection.

In its General Policy Recommendation no. 7, ECRI recommended governments of Council of Europe member States to ensure that key components in legislation against racism and racial discrimination provide those acts such as, *inter alia*, “segregation” are “considered as form of discrimination”. The Explanatory Memorandum notes that among the acts which the Recommendation mentions specifically as forms of discrimination, “Segregation is the act by which a (natural or legal) person separates other persons on the basis of one of the enumerated grounds [e.g. race, colour, language, religion, nationality or national or ethnic origin] without an objective and reasonable justification, in conformity with the proposed definition of discrimination”.

Subsequently, ECRI recommended member states to include racial segregation among the forms of discrimination prohibited by national legislation, in the context of school segregation of Roma children, for example, in Cyprus, Czech Republic, Denmark, Estonia, Latvia, Lithuania, North Macedonia, Poland, Portugal, Romania, Spain and Ukraine⁹⁹ or in the context of segregation of other minorities, in relation to Andorra, Austria, Belgium, Georgia, Ireland, Luxembourg, Malta, the Netherlands, Norway, San Marino and Sweden¹⁰⁰.

ECRI further developed its approach with regard to racial discrimination in relation to the education of both minority groups and Roma pupils. On the one hand, ECRI recommended that governments develop policies to avoid the over-representation of minority pupils in certain schools and in separate classes.¹⁰¹ More importantly, in its General Policy Recommendation no. 13, ECRI stressed that combating antigypsyism in education requires, *inter alia*, “legal and political [measures], to put an end to the

⁹⁸ *X and Others*, paras 86-87.

⁹⁹ ECRI, Fifth Report on Cyprus, 07.06.2016, para. 13 and 15; ECRI, Fifth Report on Czech Republic, 13.10.2015, para. 13 and 18; ECRI, Fifth Report on Denmark, 16.05.2017, para. 9 and 12; ECRI, Fifth Report on Estonia, 13.10.2015, para. 14, 15; ECRI, Fifth Report on Lithuania, 07.06.2016, para. 11; ECRI, Fifth Report on “the Former Yugoslav Republic of Macedonia”, 07.06.2016, para. 7 and 10; ECRI, Fifth Report on Poland, 09.06.2015, para. 16, 21; ECRI, Fifth Report on Portugal, 02.10.2018, para. 11; ECRI, Fifth Report on Romania, 05.06.2019, para. 8, 16; ECRI, Fifth Report on Spain, 27.02.2018; para. 15, ECRI, Fifth Report on Ukraine, 19.09.2017, para. 11, 15.

¹⁰⁰ ECRI, Fourth Report on Andorra, 22.05.2012, para. 40; ECRI, Fifth Report on Austria, 13.10.2015, para. 18; ECRI, Fifth Report on Belgium, 25.02.2014, para. 8, 9; ECRI, Fourth Report on Georgia, 01.03.2016, para. 8, 18; ECRI, Fifth Report on Ireland, 04.06.2019, para. 10, 17; ECRI, Fifth Report on Luxembourg, 28.02.2017, para. 10, 17; ECRI, Fifth Report on Malta, 15.05.2018, para. 12, 15; ECRI, Fifth Report on the Netherlands, para. 9, 16, ECRI; Fifth Report on Norway, para. 10, 13; ECRI, Fifth Report on San Marino, 27.02.2018, para. 15, 20; ECRI, Fifth Report on Sweden, 27.02.2017, para. 10, 13.

¹⁰¹ ECRI, General Policy Recommendation no. 10 on combating racism and racial discrimination in an through school education, adopted on 15 December 2006, para 3, b and d.

segregation at school which Roma children are subjected to, and integrate them into schools attended by pupils from the majority population.”¹⁰²

Complementing ECRI’s recommendations, the Committee of Ministers noted that “Member states should ensure that legal measures are in place to prohibit segregation on racial or ethnic grounds in education.”¹⁰³ The Commissioner for Human Rights of the Council of Europe stated in a specialised position paper that “the prohibition of discrimination is not sufficiently established in legislation and that there is a need for amending existing laws and spelling out important concepts more clearly.”¹⁰⁴

For example, while several countries with sizeable Roma populations prohibit racial segregation in education,¹⁰⁵ approaches differ and may seem divergent with the international human rights standards. One such example relates to the coercive or systemic nature of segregation, when national law requires Roma parents to prove coercion in school segregation cases.¹⁰⁶ The meaning of ‘coercion’ is blurred and it places a high burden on vulnerable Roma parents to prove that physical threats or a combination of psychological pressure and the lack of real choice constitute coercion. A positive example of national law that complies with ICERD and CADE is Hungary. Here, coercion is not a constitutive element of segregation, which is defined as a type of unequal treatment in relation with an act or omission that separates individuals or a group of persons from other individuals or another group of persons in a comparable situation, based on racial or ethnic origin, or other grounds covered by the anti-discrimination law¹⁰⁷. Similarly, the anti-discrimination law in Bosnia and Herzegovina defines segregation as an act of separation of persons on the basis of the grounds prohibited by the law, including race, ethnicity and social status.¹⁰⁸ In Albania and North Macedonia, recent amendments to anti-discrimination laws introduced the concept of segregation as a form of discrimination defined broadly, occurring as physical separation of a person or a group of persons in relation with a protected characteristic, without an objective and reasonable justification, in line with the ECRI recommendations¹⁰⁹.

¹⁰² ECRI, General Policy Recommendation no. 13 on combating antigypsyism and discrimination against Roma, adopted on 24 June 2011, and amended on 1 December 2020, para 4, d.

¹⁰³ Recommendation [CM/Rec\(2009\)4](#) of the Committee of Ministers to member states on the education of Roma and Travellers in Europe, 17.06.2009, para.5.

¹⁰⁴ Commissioner for Human Rights, Fighting school segregation in Europe through inclusive education: a position paper, 2017, [Result details \(coe.int\)](#).

¹⁰⁵ ECRI, Second Report on Bosnia and Herzegovina, 08.02.2011, para. 29, ECRI, Fifth Report on Bulgaria, 16.09.2014, para. 19. ECRI, Forth Report on Croatia, 25.09.2012, para. 31. ECRI, Fourth Report on Hungary, 24.02.2009, para. 76, ECRI, Fourth Report on Slovakia, 26.05.2009, para. 42, ECRI, Fourth Report on the United Kingdom, 02.03.2010, para. 55, Advisory Committee on FCNM, Fifth Opinion on North Macedonia, 21 September 2022, para 38, Fifth Opinion on Romania, 5 September 2023, para 74, 76; Fifth Opinion on Albania, 19 October 2023, para 52.

¹⁰⁶ In Bulgaria, Section 1(6) of the Protection Against Discrimination Act (PADA) defines segregation as issuing an act, performing an action or omission to act, which leads to compulsory separation, differentiation or dissociation of persons based on their race, ethnicity or skin colour. This definition does not seem to prohibit spontaneous segregation and does not seem to cover instances in which parents give in to pressure to waive their children’s right not to be racially segregated. In Croatia, Article 5 of the Anti-discrimination Act defines segregation as ‘a forced and systematic separation of persons on grounds including racial or ethnic origin.’ Systemic is also a requirement that goes beyond the UN and Strasbourg standards.

¹⁰⁷ Advisory Committee on FCNM Third Opinion on Hungary, 18 March 2010.

¹⁰⁸ Law on Prohibition of Discrimination BiH Official Gazette No. 59/09, published on 28 July 2009 Entered into force on 5 August 2009, Article 4 in conjunction with Article 2, available at <https://arsbih.gov.ba/wp-content/uploads/2014/02/002-Anti-Discrimination-Law-.pdf>.

¹⁰⁹ Advisory Committee on FCNM Fifth Opinion on Albania, 19 October 2023, Advisory Committee on FCNM Fifth Opinion on North Macedonia, 21 September 2022.

Following the repeated recommendations of Council of Europe human rights bodies, some states have recently adopted legislation regarding segregation in education but the new provisions continue to raise concerns about compliance with ICERD and CADE explicitly and other supranational norms implicitly. For instance, Slovak education law defines segregation in education as an “action or omission of action that is contrary to the principle of equal treatment according to special regulation (anti-discrimination law) and as a result of which there is or could be spatial, organisational, physical or social exclusion or separation of a group of children, pupils, listeners or participants of upbringing and education without a reason arising from this law”.¹¹⁰ Substantial changes have also been adopted in Romania’s new law on preuniversity education, which regulates inclusive education, the prohibition of segregation and school desegregation.¹¹¹ School segregation on the grounds of ethnic origin and socio-economic status, residence, or belonging to a disadvantaged category is prohibited. In Romania, segregation is defined in correlation with a “type of discrimination committed” by physically separating pupils on any of these grounds in educational groups/classrooms/ buildings/structures/rows, so that the percentage of pupils belonging to the respective group in the total number of the pupils in the educational /group/classroom /building/structure/row is disproportionate to the percentage of the children belonging to that ethnic group in the total population of the age group corresponding to an educational cycle in that specific administrative-territorial unit.¹¹²

The existing legislative approaches on segregation offer important lessons in light of the recommendations of Council of Europe human rights bodies.

- a) The prohibition of discrimination/segregation in education should be straightforward and should not set coercion or systemic discrimination/segregation as conditions for a finding of segregation. Quite the contrary, legislation should clarify that de facto or spontaneous segregation is also unlawful because the focus is not on the process that leads to segregation but a situation in which physical separation occurs.
- b) Exceptions. The prohibition of discrimination/segregation should state that it extends to all units and activities of education, in which students may be separated. A commentary may be attached to this provision with an exhaustive list of educational units and activities.
- c) The numerical differences are difficult to regulate, mainly because of the variety of educational units and activities where comparisons must be made. What is to be compared should not be listed in the legislation. Rather, it should be part of legislative commentary. The concept of disproportionality is flexible enough to capture different degrees of segregation. It is analogous to over-representation in the ECtHR caselaw.
- d) Legislation must explicitly state that only two exceptions are permissible, namely minority-initiated and equal quality ethnic minority education whose language component justifies a greater degree of segregation (the CADE exception), and positive action measures that are provisional in nature and remedy the effects of past discrimination (the ICERD exception). Extra language education in the

¹¹⁰ Law no 182 from 9 May 2023 amending Law no 245/2008 Coll. On education and training, point 5, para 2 supplemented by letter ah), available at https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2023/182/vyhlasene_znenie.html#predpis_clanok-2.

¹¹¹ Law no 198 from 4 July 2023 on preuniversity education published in the Official Journal no. 613 from 5 July 2023, Art. 67, Art.79-81 and Art. 116, available at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/271896>.

¹¹² Law no 198 from 4 July 2023 on preuniversity education, Art.79 (1), (2), (3), (4), (5).

official language and extra tuition to promote access to higher education fall under this category of exceptions.

In summary, international human rights treaties, EU law and the European Convention of Human Rights require the explicit protection against racial or ethnic discrimination in education. In light of Council of Europe recommendations, the prohibition of segregation can be ensured in national legislation, e.g. national anti-discrimination and/or education laws. In such case segregation is prohibited in national law under a non-discrimination clause, the existing forms of discrimination should be interpreted in line with the caselaw of the European Court of Human Rights, which has not found the physical separation of Roma children justifiable.

Chapter 4: Detecting segregation

This Chapter provides tools and highlights debates about detecting segregation by school inspections, national human rights institutions (NHRI or ombuds offices) and equality bodies established under EU law to promote racial or ethnic inclusion and equality. It focuses on ethnic data collection for the purposes of legal proceedings rather than for statistical and survey purposes. First, building on Chapter 3 and the legal definitions of discrimination, including segregation, this chapter inventories the types of segregation and provides typical scenarios for each one. Second, it explores the difficulties of identifying ethnic Roma students and offers tools based on self-identification, third party identification and the use of proxies that can overcome the difficulties. Third, it discusses the maths behind segregation, namely the ethnic proportions in educational units or activities, which may indicate the need for action. Fourth, it lists commendable practices of monitoring segregation at the national level and identifies the elements of an investigation protocol, which is indispensable for the continued monitoring of segregation and discrimination in national education systems.

4.1. Types of segregation

There are different types of educational segregation that may require different policy strategies to address them. This section provides a typology of segregation with reference to the judgments of the European Court of Human Rights discussed in Chapter 3. The typology distinguishes forms of segregation on the basis of the educational unit and/or activity.¹¹³

Class level segregation: In *Oršuš*, the Strasbourg Court dealt with segregation between classes in the same school building, whereby even though some Roma children were placed in mixed classes, others – especially those participating in extra language tuition – were placed in almost exclusively Roma classes. *Elmazova and Others v North Macedonia* partly concerned class level segregation. Examples from Slovakia include segregated classes that follow curriculum for children with mental disabilities, so called specialised classes (catch up classes) or zero preparatory classes that are all ethnically homogeneous (see in more detail c. History and Facts and Figures)

Segregation between school buildings: Segregation occurred between different buildings within the same school in *Sampanis et al c. Greece* in which Roma children were shunned into a makeshift building some distance away from the original school building.

Segregation between schools, including special schools for children with mental disabilities: The Strasbourg Court has dealt with two cases that relate to the segregation of Roma children in special schools (*D.H. and Others v. the Czech Republic* and *Horváth and Kiss v. Hungary*). Segregation occurred between Roma only and integrated schools in *Sampani et al c. Greece* and *Lavida et al c. Greece*. Similarly, in the recent *X and Others v. Albania*, *Elmazova and Others v. North Macedonia* and *Szolcsán v. Hungary* judgments the ECtHR addressed segregation between mainstream schools, because the ones complained of educated (almost) exclusively or in a disproportionately higher percentage Roma children.

¹¹³ This typology is partly based on a European survey: [Education: the situation of Roma in 11 EU Member States | European Union Agency for Fundamental Rights \(europa.eu\)](https://www.eur-observatory.eu/en/education-the-situation-of-roma-in-11-eu-member-states/)

Segregation between larger educational units or geographic districts: segregation may also occur between catchment areas, educational districts or in neighbouring administrative units, especially as a result of white flight, whereby impoverished Roma students are simply left behind in a formerly integrated school and their non-Roma counterparts commute into schools situated in neighbouring educational or administrative units (districts or towns).

Symbolic exclusion or separation: according to the Slovak school inspection, symbolic exclusion or separation of Roma school children based on real or assumed ethnicity also amounts to segregation. Symbolic exclusion can result from exclusion from certain school or extracurricular activities, school clubs or trips, separate toilets, lockers or lunch hours.

4.2. Identifying ethnic Roma students

This section inventories the methods used and/or proposed for the identification of ethnic Roma children in education and explains that without ethnic data, segregation cannot successfully be established in legal proceedings. The first method discussed here is self-identification, the second is third party identification and the third is identification based on so-called “objective criteria” that often correspond to characteristics related to race or ethnicity – in other words proxies - as discussed in Chapter 3. It is important to bear in mind that as a rule, discrimination is not based on a person’s self-identified racial or ethnic origin. Quite the contrary, discrimination tends to be based on the discriminator’s assumptions and beliefs of the other person and this is even more relevant when it comes to visible or easily detectable personal characteristics, such as skin colour, minority language, religion or cultural traditions including traditional clothing. Indeed, in none of the Strasbourg Court cases or national judgments mentioned in this report has self-identified Roma ethnicity been the basis of discrimination/segregation.

Moreover, if it is common knowledge which neighbourhood the Roma inhabit – especially if there are one or more segregated settlements – then there are automatic associations between neighbourhood residence and the person’s minority racial or ethnic origin. In other words, at the local level we all have common knowledge about the Roma without collecting ethnic data. Common knowledge is based on assumptions and is often used in court proceedings to prove discrimination and segregation, because procedural laws either specifically recognise it as a type of evidence or do not explicitly exclude it from the evidence that may be put forward.

4.2.1. The human rights approach: self-identification

The ethnic data collection method compliant with human rights standards is self-identification, meaning that during data collection the subjects identify their own ethnicity by either choosing from the options provided or filling in an open-ended question. The first approach yields the best results if the categories are determined with the involvement of the minorities themselves. The second approach may result in methodological difficulties as it requires the school inspection or other public bodies to establish ethnic categories based on the responses to the questionnaire. It is commonly believed that the collection of data on racial or ethnic origin is absolutely prohibited, even if it would serve a noble and necessary purpose, such as mapping inequalities and designing positive action measures (ethnic data). This is not correct because ethnic data collection is permissible, as long as legal safeguards are respected, especially if data is gleaned from individuals voluntarily and based on informed consent about the purpose

of the exercise. Ethnic data collection respecting the safeguards set out in the General Data Protection Regulation (GDPR) – including the data subject’s informed consent and the voluntary provision of the data - fits the human rights approach as explained in the European handbook on equality data revised version 2016.¹¹⁴ The GDPR applies directly in EU member states but given the dense economic and other ties, it influences domestic legislation in neighbouring countries too.

The Council of Europe Committee of Ministers’ Recommendation concerning the protection of personal data collected and processed for statistical purposes recognises that statistical analysis makes an ‘impersonal use of personal data’, meaning that it prevents harm to individuals as long as procedures for ensuring the anonymity of data are properly followed, and safeguards such as confidentiality are respected during the process of collecting and producing data.¹¹⁵ This recommendation concerns Convention ETS 108 for the protection of individuals with regard to automatic processing of personal data and its general philosophy is that “processing and dissemination of data require no special supervision once those data have been made anonymous and cannot be linked to individuals.”¹¹⁶

In the context of education of minors who lack full legal capacity, another important safeguard relates to whether they themselves can voluntarily provide information about their ethnicity or whether only their parents or guardians can or should be asked to do so. While minors can be asked about the language they speak and even their ethnicity, attaching legal consequences to their responses without their parents or guardians’ consent or approval is unlawful because it does not respect legal safeguards that protect minors in every European country on the account that minors do not possess full legal capacity.

Self-identification as a member of a minority group is a human right, enshrined in the Framework Convention on the Rights of National Minorities.¹¹⁷ This logic would dictate that ethnic origin be first and foremost defined based on self-identification in all circumstances, including discrimination/segregation, or in the least self-identification should not be prevented or avoided. It is equally true, however, that discrimination or segregation is more likely to be based on assumptions about an individual’s membership in a minority group or information gleaned from contact with that person, a fact that is not fully captured by self-identification. As discussed in Chapter 3, assumptions about the Roma students’ ethnic origin were the basis of segregation in all the so-called Roma education cases.

Discrimination is generally based not on real, rather on assumed, ascribed or even misconstrued racial or ethnic origin, therefore ethnic data based on self-identification cannot neatly prove discrimination. Data about a self-identified minority individual’s discrimination experiences can be more useful. Still, self-identification alone can provide information for inferences to be drawn about the motive of a discriminatory

¹¹⁴ Timo Makkonen, European handbook on equality data: revised version 2016, European Commission, December 2016, available at [european_handbook_on_equality.pdf \(europa.eu\)](#)

¹¹⁵ Recommendation no. R (97) 18 of the Committee of Ministers to Member States concerning the protection of personal data collected and processed for statistical purposes [Recommendation no. R \(97\) 18](#).

¹¹⁶ Patrick Simon, “Ethnic” statistics and data protection in the Council of Europe countries: Study Report, Council of Europe, October 2007, p. 12, [\(PDF\) Ethnic Statistics and Data Protection in the Council of Europe Countries \(researchgate.net\)](#).

¹¹⁷ Article 3.1. FCNM states that “Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.”, available at [CETS 157 - Framework Convention for the Protection of National Minorities \(coe.int\)](#)

action or omission. It is important to note that by requiring that ethnic data be based on self-identification, authorities and courts can recognize and protect the autonomy of Roma children and their parents by ensuring their right to self-identification as a minority person. It is a different matter altogether whether opting to collect ethnic data based only or primarily on self-identification is in the best interest of Roma children, who are subjected to discrimination. It seems reasonable to not leave out self-identification from the ethnic data collection for the purposes of legal proceedings in the education context, while it seems equally reasonable to factor in discrimination experiences, which closely correlate with assumptions held by non-Roma and are data provided by minority persons themselves.

(i) The abuse of self-identification

Self-identification can be abused by those who do not belong to a minority but claim to do so for ulterior purposes. Such abusive practices can undermine ethnic data collection and raise doubts about the efficacy of methods that rely solely on self-identification. In Hungary, incidents of ethnic majority citizens self-identifying as Roma to gain access to ethnicity-based positive action measures, to influence minority elections, and the rising level of hate speech based on assumptions about the Roma prompted a joint recommendation of the data protection and minority rights ombudsmen on ethnic data collection in 2009.¹¹⁸ The joint recommendation underlines (i) the distinctions between the justifications and methodologies of ethnic data collection in combating discrimination, implementing positive action measures and policing hate crimes; (ii) the primacy of equal treatment over the right to privacy in these areas; and (iii) the heightened relevance of third-party identification in these areas.

(ii) Should ethnic data be collected on all ethnicities in all circumstances?

Ethnic data collection in the case of the Roma is necessary to combat discrimination and segregation in the law and legal proceedings, which are unlawful, yet widespread and systemic practices. In case similar practices exist in the case of other minorities, ethnic data collection in education may be necessary for those minorities as well. However, when compliance with a judgement requires the collection of data on Roma ethnicity to track trends that have been found discriminatory, such as the misdiagnosis of Roma children as mildly mentally disabled in *Horváth and Kiss v. Hungary*, then collecting data about other ethnicities may be counterproductive. Clearly, the relevant issue is whether a child undergoing psychological assessment is Roma or non-Roma, so that asking a question about all the recognised minorities unduly complicates and prolongs the procedure, and ultimately defeats the purpose of tracking discrimination against Roma school children. Indeed, as the Committee of Ministers emphasised in their review of the execution of this judgement, the relevant comparison is between Roma and non-Roma children only.¹¹⁹

4.2.2. Third party identification

Third party identification is the opposite of self-identification. It used to be the most common method of data collection concerning the Roma and even today, third parties such as policemen or teachers collect ethnic data about the Roma without informed consent or the data subjects' voluntary provision of the data. This practice directly violates the GDPR and the relevant Council of Europe treaty. In some

¹¹⁸ *Report on the conclusions of a study on the processing of ethnically disaggregated data*, Parliamentary Commissioner for the Rights of National and Ethnic Minorities and the Parliamentary Commissioner for Data Protection and Freedom of Information, 9 November 2009. (<http://kisebbszegiombudsman.hu/data/files/158627216.pdf>).

¹¹⁹ [1436th meeting \(DH\), June 2022 - H46-9 Horváth and Kiss v. Hungary \(Application No. 11146/11\) \(coe.int\)](#), point 4.

instances, especially when the third parties are Roma representatives or activists and the purpose is beneficial to the minority rather than stigmatising, data collection does not raise human rights concerns. To establish discrimination in legal proceedings, it is enough to show that the children in question are assumed or are commonly known to be of minority origin. Knowledge about assumptions of ethnicity can be gleaned from the individuals affected by asking them about discrimination experiences, as well as from those who are not so directly affected, yet tangentially involved in a Roma child's education, namely teachers, community leaders, researchers or local officials.

Box 1: Third party identification-based data and public knowledge are permissible as evidence in a legal case - Romania

In 2016 the NGO Center for Advocacy and Human Rights (CADO) filed a complaint with the Romanian equality body against a school and the Iasi county inspectorate. The National Council for Combating Discrimination (NCCD) found discrimination of Roma children who were disproportionately placed in one building of the school (building C) for primary education (0-4 classes). Following a legal challenge, the Court of Appeal Iasi quashed the NCCD decision and dismissed ethnic data collected in the case. The school collected third party identification-based data about the Roma students during the registration process with the support of the Roma educational mediator. The school also provided ethnic data upon receipt of requests for public information but to the NCCD it said it did not possess ethnic data. The Iasi county school inspectorate argued that evidence about the students' ethnicity was lacking and self-identification based data was not available. According to CADO's data based on third party identification, in building C, 50 % of the children are Roma. The Court of Appeal concluded that self-identification is the only scientific and relevant method of data collection and desegregation cannot be achieved as long as there is no official data on the ethnicity of the students. The NCCD and CADO appealed to the High Court of Justice and Cassation, which in a judgment of 20 February 2020 quashed the Court of Appeal Iasi's ruling and upheld the NCCD decision. In so doing, it rejected the argument that only self-identification based ethnic data can be used as evidence of segregation in education.¹²⁰

Except for the national census, surveys and administrative data collection processes seldom rely on ethnic self-identification and even if they do, the validity of the ethnic data thus collected may be questionable. Even though self-identification is now a requirement as well as a legal safeguard, it has not fully dismantled aversion to ethnic data collection among the Roma who have historically experienced abuse in relation to data collection by the authorities across Europe. In practice, scores of Roma are unwilling to self-identify in official surveys, whereas ethnic majority individuals may abusively identify as Roma as mentioned above. It is because of these anomalies, as well as because of the key role of assumptions in cases of discrimination that third party identification complementing self-identification may yield more comprehensive and reliable ethnic data. These considerations inspired the Hungarian ombudsmen in 2009 to set up so-called objective criteria for third-party identification, which are also applicable in the context of education. Their joint recommendation also calls attention to the necessity to involve local Roma representatives in third-party identification, and to anonymise the data – an issue settled in the GDPR since 2015. The Hungarian ombudsmen's list of so-called objective criteria is long and illuminative as explained below. Pursuing the same approach, the Slovak school inspection adopted a shorter list of criteria that are closely linked to the discrimination experiences of the Roma, particularly residential segregation.

¹²⁰ [High Court quashes prior judgment \(equalitylaw.eu\)](http://www.scj.ro/1094/Detalii-dosar?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=4500000000024874). Further details are available in Romanian at <http://www.scj.ro/1094/Detalii-dosar?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=4500000000024874>.

Box 2: Slovak school inspection data collection of collectively ascribed ethnic identity

In 2015, the Slovak administration collected data based on ethnic self-identification in public census and the criteria of socio-economic disadvantage, both of which underestimated the size of the Roma population, because many Roma identify first and foremost as Slovak, and also because socio-economic disadvantage as a proxy of Roma ethnicity was unreliable. To remedy this shortcoming, the school inspection established additional criteria based on self-identification on the one hand and third-party identification on the other, as follows:

- The child's parents identified themselves as Roma in the census and entered this data in school documents,
- The child lives in a Roma settlement identified as such in the so-called Atlas of Roma communities
- The child lives in a Roma community
- The child lives in a Roma family integrated in the majority population.

The school inspection's approach largely followed the methodology of the Atlas of Roma Communities, a socio-geographic mapping of Roma settlements tested in 2004, 2013 and most recently in 2019. The Roma Atlas collects ethnic data based on collectively ascribed ethnic identity in other terms an estimation by third parties.¹²¹ The Atlas gathers data about the existence and size of Roma concentrations in geographic districts through requests to local municipalities, social workers and is controlled by external researchers. The Atlas's most recent methodology divides concentrations or marginalized Roma communities with at least 30 people into three categories: 1. within mainstream society (within municipalities); 2. on the outskirts of municipalities; 3. in segregated settings.¹²²

Currently, the school inspection does not subsume the children's ethnicity from marginalized Roma communities into a socially disadvantaged category but treats them separately. Also, the inspection uses three categories of concentrations as defined in the Atlas. The Atlas does not contain information about the ethnic proportions of the schools and educational facilities teaching children from Roma settlements. The inspectors ask school principals about their assessment of the proportion of children from marginalized Romani communities listed in the Atlas.

4.2.3. Identification based on so called "objective criteria".

The so-called "objective criteria" are proxies for race or ethnicity and because of the characteristics, causes and effects of racial inequalities, they may be a better or worse fit for identification of ethnicity. Importantly, even though apparently objective, they tend to differ across countries. There is a difference between third party identification, recording discrimination experiences and the use of "objective" criteria. The first approach may involve a person who has the trust of the data collecting authorities, and preferably also legitimacy among the data subjects who provide information about their ethnicity. The second approach asks victims about incidents of discrimination directly. Conversely, objective criteria yield data without asking either the data subjects (Roma parents) or a third party with knowledge and expertise (Roma community members/representatives).

For instance, a so-called objective criterion used to detect minorities in Western Europe is the place of birth (of parents), because people of a migration background are disproportionately racialised in that geographic space. In Eastern Europe, where the majority of Roma live, the most common proxy is (extreme) poverty because a disproportionately high percentage of Roma live in such conditions. Like the place of birth, (extreme) poverty is not considered sensitive data, in other words its collection does not require the consent of data subjects, nor the involvement of a person with knowledge about them.

¹²¹ Alexander Mušinka et. Atl, *Atlas rómskych komunit 2013* (UNDP:Bratislava, 2013) s.6-7, https://www.minv.sk/?atlas_2013.

¹²² Ábel Ravasz, Ľuboš Kováš and Fili Markovič, *Atlas rómskych komunit 2019*, (Bratislava: VEDA, 2020) p.21, https://www.institutmatejabela.sk/_files/ugd/1a16af_0d81d887_ecb3421bb8b19728c82c980f.pdf.

Place of residence is also considered as a so-called objective criterion for detecting ethnicity due to residential segregation. Researchers also use onomastic procedures that utilise first and/or family names typical or widespread within an ethnic group as so-called objective criteria that indicate ethnic origin.

Box 3: Collecting data based on a combination of so-called “objective criteria” revealing Roma ethnicity in Hungary

There seem to be differences among objective criteria in the degree to which they fit or reveal one’s ethnic identity. These differences are tangible in the Hungarian ombudsmen’s joint recommendation, which distinguishes primary and secondary objective criteria. The primary ones include skin colour; traditional clothing or other external signs; minority-specific first and/or family name; parents’ name and origin; place of residence (in commonly known Roma settlements); being commonly known as a member of the Roma minority; communication, language use or pronunciation. In case two of these criteria are perceived to exist, in disputes about discrimination or hate crime an individual can be assumed to be a Roma according to the joint recommendation. The secondary objective criteria include socio-economic conditions; family model; employment status; religious signs or conduct; being a recipient of social assistance; and craft. Secondary criteria can be used as complementary indicators of perceived Roma ethnicity. The distinction between primary and secondary criteria and the placement of socio-economic conditions in the latter indicate the same shortcomings that characterise the Slovak approach, which treats the place of residence (in a commonly known Roma settlement) as a better fit, a primary objective criterion in the Hungarian list. The two countries seem to have reached the same outcome following different paths.¹²³

Identification based on so-called “objective criteria” only may not be reliable or legitimate because they may under- or overcount Roma students in the context of segregation and discrimination, and also because they deny the agency of Roma minority individuals. The key problem with using objective criteria for ethnic data collection is its unreliability, which results from the fact that proxy categories cover a host of other vulnerable groups, not just the Roma, and also that ‘secondary objective criteria’ especially may not be a good fit for ethnicity. To illustrate this point, let us take the example of desegregation policy based on social deprivation.

Box 4: The shortcomings of desegregation based on social deprivation - the Slovak example

Segregation, as well as desegregation measures can be - and have been - based not only on racial or ethnic origin but also on social deprivation, in which case data can be collected about (extreme) poverty and policy makers can reasonably expect to reach school children living in destitution and among them a disproportionately high percentage of Roma. Still, poverty-based policy may not end racial segregation because discrimination may occur during the implementation phase, showing that ethnicity and socio-economic conditions are not identical. A practical example from Slovakia also shows the limitations of using only objective criteria. Here, the socio-economic proxy was inaccurate because it underestimated the actual number of Roma school children.¹²⁴ The criteria of socio-economic disadvantage may differ from country to country. In Slovakia, Article 1.o) of the School Act 248/2008 defines a socially disadvantaged child as living in an environment which, due to social, family, economic and cultural conditions, does not sufficiently stimulate his or her mental, volitional and emotional qualities, does not support his or her socialisation and does not provide the child or pupil with sufficient and appropriate stimuli for the development of his or her personality. In order to qualify as socially disadvantaged, children must meet some of the following criteria:

- Live in a family that receives a material need benefit (i.e. a social benefit).
- At least one of the parents or one of the legal guardians is registered as a disadvantaged job seeker.

¹²³ Report on the conclusions of a study on the processing of ethnically disaggregated data, Parliamentary Commissioner for the Rights of National and Ethnic Minorities and the Parliamentary Commissioner for Data Protection and Freedom of Information, 9 November 2009. (<http://kisebbsegombudsman.hu/data/files/158627216.pdf>)

¹²⁴ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia, p.54-55, http://cvek.sk/wp-content/uploads/2018/04/RCM_2017_Slovakia_EC_approved.pdf

- The highest completed education of parents is elementary, or at least one of the parents has not completed elementary education.
- Family lives in non-standard housing and hygienic conditions (without access to electricity, a child does not have a place to study, without own bed).

The combined approach to objective criteria in the Slovak questionnaire is akin to that in the Hungarian ombudsmen's joint recommendation. This example shows that 'primary objective criteria' may be a better, yet not a perfect fit for detecting ethnicity. Minority mother tongue is not a perfect fit for ethnicity due to linguistic assimilation. As a legacy of empires and previous state formations, some Roma may not speak Romanes, rather they speak Turkish, Hungarian, Serbian, etc, in which case asking about proficiency in the Roma languages is not the best way to collect ethnic data.

In summary, the data most needed in the context of Roma school segregation and discrimination is based on 'collectively ascribed ethnic identity', which uses self-identification as well as third-party identification that in turn relies on 'primary objective criteria' in combination with 'secondary objective criteria'. More details on methodological issues can be found in the Fundamental Rights Agency's Compendium of practices for equality data collection¹²⁵ and on best practices in ethnic data collection in a special report published by the European Commission on Data collection in the field of ethnicity.¹²⁶ **When in doubt, it is recommended that those collecting ethnic data about discrimination and segregation in legal proceedings seek advice from equality bodies and national human rights institutions, not just data protection agencies, and most importantly, that they involve Roma representatives, parental organisations, etc. at the national and local level. In any case, the data should not be collected by interested parties, such as school principals.**

4.3. The proportion of ethnic Roma students

Chapter 2 has shown that ethnic proportions are key to the success of desegregation initiative and this section answers the following questions: is ethnic homogeneity (exclusivity) a condition of segregation? does the 'severity' of segregation matter? What level of ethnic disproportionality amounts to segregation? In summary, the UN treaties discussed in Chapter 3 do not define the disproportionality, level or unit at which segregation occurs, leaving the question open to a broad interpretation. The treaties do not set forth a degree of segregation that must be reached for it to be unlawful, meaning that education units need not be ethnically homogenous for segregation to be established in legal proceedings. In other words, segregation does not have to be absolute to be unlawful. Where the overwhelming majority or simply the majority of students belong to a minority racial or ethnic origin, segregation certainly occurs. It can also be established if the proportion of Roma students is below 50%, as long as their number is disproportionately higher than that of non-Roma in identical educational units, such as classes and schools.

Following 1989 in Eastern Europe, social science researchers were the first to fully map the trends of segregation at school and class level, and to provide regional as well as national level data about the proportion of segregated children within the Roma school age population. For instance, a study commissioned by the Hungarian Ministry of Education after launching an integration programme in 2003 found that the segregation of Roma students increased in primary education since 1990, namely that it

¹²⁵ Available at [Compendium of practices for equality data collection | European Union Agency for Fundamental Rights \(europa.eu\)](https://european-union.europa.eu/fundamental-rights/compendium-practices-equality-data-collection)

¹²⁶ Available at [data collection in the field of ethnicity.pdf \(europa.eu\)](https://european-union.europa.eu/fundamental-rights/data-collection-ethnicity).

stood at 7.1% in 1992 – the last academic year when teachers had the duty to provide ethnic data – and rose to 18.1% by 2000.¹²⁷ The researchers identified 126 predominantly Roma primary schools, meaning schools with over 50% of Roma students. These segregated schools taught 40% of all Roma students in Hungary in 2002. The researchers also uncovered class-level segregation, in relation to which they applied the same threshold: 50%. Surveys may distinguish between different degrees of segregation in the range of 50-100% for ‘ghetto schools’, clustering around its severity (above 90%, between 75 and 90%, as well as between 60 and 75% and between 30-50% for schools at risk of ghettoization.¹²⁸ Both social scientists and lawyers measure and compare the proportion of Roma and non-Roma students at class or school level but researchers also look at regional and national trends that may be more difficult to address in legal proceedings because the comparison is made over time or across educational units maintained by diverse actors.

National law, policy documents or guidance can define the maximum level of disproportion to foster desegregation measures and the monitoring of segregation in education. In Hungary, for instance, desegregation policy used to set the maximum level of disproportion at 15% between neighbouring schools in each school district.¹²⁹ Regulating the maximum level of disproportion renders it easier to monitor and remedy segregation.

In the Roma education cases, the Strasbourg Court has compared ethnic proportions between schools, school buildings and classes, and established discrimination once the comparison revealed disproportionality between Roma and non-Roma students. The caselaw both in the ECtHR and national courts suggests that it is imperative to look at the proportion of Roma children in each comparable class, school building, school, school district and other educational units, rather than to study the proportion of segregated Roma children within the overall population of Roma children in a school. The monitoring of ethnic segregation will yield faulty results if it compares segregated and integrated Roma children instead of comparing the proportions of Roma and ethnic majority children at the level of classes or school buildings. The proportion of Roma children who study in segregated classes as compared to their overall proportion within a school can show the percentage of segregated Roma children within the minority group but cannot show whether Roma children are segregated from non-Roma children. For the purposes of litigation, data is generally collected according to the common-sense definition of segregation, namely physical separation across identical educational units. Data is separately analysed and presented for

¹²⁷ Gábor Havas and Ilona Liskó, Szegregáció a roma tanulók általános iskolai oktatásában, Kutatási zárótanulmány 2004. szeptember, Felősktatási Kutatóintézet, kézirat (Segregation in the Education of Roma Students in Primary Schools, Final Research Report September 2004, Research Institute of Higher Education, unpublished). This research was preceded by a similarly third party identification based study: Havas Gábor, Kemény István, Liskó Ilona: Cigány gyerekek az általános iskolában, Oktatókutató Intézet Új Mandátum Könyvkiadó Bp. 2002, p. 81.

¹²⁸ Ercse, Kriszta, and Péter Radó. "A magyar közoktatásban zajló privatizáció és annak hatásai." *Iskolakultúra* 29.7 (2019): 8-49.

¹²⁹ Following the launch of the national educational integration program, Article 66 of the Public Education Act of 1993 was amended to curtail the practice of the free choice of schools by making it mandatory for schools to take children whose residence is within the school district. If there is more than one school in the settlement, school districts are to be drawn in a way that the percentage of children with compound disadvantages is maximum 15% higher than the ratio of children with compound disadvantages in the settlement. The Public Education Act 1993 was in effect until 2011.

each educational unit, meaning that class level proportions are compared to class level proportions, etc.¹³⁰

In summary, segregation may occur at different levels in one school (between rows and benches or at class and school building level, for instance), and ethnic proportions should be established for these educational units separately. More importantly, comparisons should not be made within the Roma population, rather between the Roma and non-Roma school age children. It is important to bear in mind that the educational units of comparison must be identical, so that when the proportion of Roma children in a school is below 50% but there is one or two classes per grade that are over 90% ethnic majority, while another that is over 90% ethnic minority, at the class level segregation exists, even if at the school level it does not. Similarly, if a school maintains two buildings of approximately the same size but the overwhelming majority of Roma students are taught in building B, while the overwhelming majority of non-Roma students in building A, segregation occurs at the level of school buildings, even if overall in the school the proportion of Roma students is below 50%. Finally, it must be emphasised that neither UN standards that explicitly prohibit segregation, nor European standards that implicitly prohibit segregation set as a condition the existence of ethnic homogeneity in comparable education units.

4.4. Designing an investigation protocol

European countries provide basic education as a public service, which is funded by each state and whose standards are set and controlled by states. Given that education in Europe is not only a right but attending school is also an obligation, states that do not end segregation effectively force Roma children to endure lawlessness while complying with this duty. Consequently, as part of the duty of good governance, states should regularly monitor segregation and discrimination across the education system and for this purpose establish data collection mechanisms, analyse the data, report on equality indicators and take action to stem segregation.

Adopting investigation protocols is a crucial step for school inspections, equality bodies and national human rights institutions. The Romanian National Council Combating Discrimination and the Hungarian Parliamentary Commissioner for Fundamental Rights' deputy in charge of the rights of national minorities have conducted several investigations on their own initiative, therefore they have also developed investigation protocols, whose content can be gleaned from their reports. The Czech and Slovak Public Defenders of Rights have also reported on segregation and published important materials. These are commendable practices, but they also indicate a huge shortcoming in the regular inspection of the public education system in these countries. Complaints of segregation and discrimination are raised with these equality and human rights monitoring bodies as long as the education system had not dealt with them and had not uncovered structural problems.

Two positive examples of systemic monitoring within the education system are Czechia and Slovakia. Slovakia has been one of the countries with the highest rates of segregation of Romani children in

¹³⁰ See, for instance, Lilla Farkas and Desideriu Gergely, Racial discrimination in education and EU equality law, European Commission, February 2020

education, and due to changes in personnel as well as pressure from the EU, the school Inspection has developed methodological guidelines to identify segregation, plan and design desegregation measures in partnership with EDU Roma, a minority NGO. These guidelines have since become part of the regular and comprehensive inspections of schools.

Box 5: Slovak school inspection guidelines on detecting segregation.¹³¹

The Slovak school inspection guidelines include a list of items to be investigated by branch offices based on interviews, visits of premises, in class observation and school documents.¹³²

General information: includes overall number of pupils and number of Roma pupils, number of Roma pupils attending after school club, number of school assistants, specialized teacher and support staff, social pedagogues, general characteristics of the school (i.e. whether the school is in proximity to Roma settlement, whether it is a school experiencing white flight).

Placement of Roma children into classes:

A. Placement into zero grade classes (adding further information on diagnostics, success rates, whether their success rate was measured, whether they were re-diagnosed, whether they continue into regular or special classes in year one, whether education followed their diagnostic recommendations)

B. Placement into special classes (were pupils diagnosed, when were pupils placed into special classes, why, what are the expected advantages for a child?)

- placement into a regular class with special education need
- placement into a regular class with regular school curriculum (number of pupils)
- placement into a class with only Roma pupils, number of pupils

Conditions for inclusive education: the existence of measures to support pupils from socially disadvantaged environment, such as day long education, the use of available extra classes, use of financial support for this group of pupils, fees paid for after school activities, measures to improve attendance, early school leaving, school attendance abroad, education and training of teachers

Other items: participation of parents in school activities

Final reports are referred to the equality body, the Slovak national centre for human rights. The school inspection also provides recommendations and measures for the school to remedy the identified problems, which is followed by further controls. Furthermore, the school inspection prepares thematic school inspection reviews and reports that help to portray problematic institutional practices that segregate Romani children, such as 2-year secondary study programmes in branch offices of secondary schools that are frequently built and located near Romani settlements or within prisons, designed for secondary school drop-outs and offering special vocational training not comparable to regular education.¹³³ The report revealed that these schools are systematically attended by children who qualify for regular secondary school. These generously subsidised schools offer poor quality of teaching staff

¹³¹ Štátna školská inšpekcia (2015) *Usmernenie k písaniu súhrnnej správy z úlohy so zvýšenou pozornosťou Vytvárania podmienok inkluzívneho vzdelávania pre žiakov so ZSP -2/2015, príloha 10 Metodický list k úlohe so zvýšenou pozornosťou: Vytváranie predpokladov na zbezpečenie inkluzívneho vzdelávania pre žiakov zo sociálne znevýhodneného prostredia.* (on file with the authors)

¹³² Štátna školská inšpekcia, *Organizácia a podmienky výchovy a vzdelávania v odboroch, ktorých absolúcia získava žiak nižšie stredné odborné vzdelanie: správa z tematickej inšpekcie 2021/2022* (https://www.ssi.sk/wp-content/uploads/2022/12/F_odbory_SOS_web.pdf).

¹³³ *Civil Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia* (EC, 2019) available online p.74-75, at: <http://cvek.sk/wp-content/uploads/2019/11/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>.

and at times substandard infrastructure combined with low attendance rates (16,7%-34,6%).¹³⁴ Importantly, none of the reports are public, but can be requested by state authorities to plan desegregation.

In summary, it is indispensable to monitor the education system regularly to prevent and remedy segregation. There are various ways in which ethnic data can lawfully and ethically be collected, ranging from the self-identification of the data subjects with the involvement of their parents and guardians, through third party identification by community leaders or (elected) Roma representatives, to the use of a carefully selected combination of “objective criteria” or reference to common knowledge in a locality. It is important to collect data that shows national and regional level trends, but segregation can best be established by observing disproportionalities across identical educational units. The overrepresentation or predominance of Roma students at class, school (building) and school district level must be established if the proportion of the minority individuals exceeds 50%, and it may be established much below this threshold, as low as a difference between ethnic proportions of 15% across two comparable units. Adopting an investigation protocol that school inspections, educational authorities and monitoring bodies can uniformly follow is the best way to ensure that the ethnic data produced is reliable and comparable.

¹³⁴ Štátna školská inšpekcia , *Organizácia a podmienky výchovy a vzdelávania v odboroch, ktorých absolovovaní získajú žiakov nižšie stredné odborné vzdelanie: správa z tematickej inšpekcie 2021/2022* (https://www.ssi.sk/wp-content/uploads/2022/12/F_odbory_SOS_web.pdf).

Chapter 5: Policies to tackle school segregation

Desegregation policies have not been implemented as a systematic policy in Europe. Tackling school segregation is referred to as a goal in some Council of Europe¹³⁵ or European Commission guidelines.¹³⁶ The CoE, within its inter-governmental committees, has also produced recommendations on desegregation and inclusion policies and practices in the field of education, including Roma and Traveller children.¹³⁷ However, to date, member states have been mostly reluctant to design and implement school desegregation policies, as these might be controversial policies altering the interests of different stakeholders. There is a range of strategies in the hands of policymakers to make schools more inclusive and less segregated. Their effectiveness depends largely on the specific characteristics and causes of school segregation in each social and educational context. The level and traits of residential segregation, the diversity of educational supply, the school admissions system and socio-spatial inequalities of schools' location are factors influencing the opportunity and effectiveness of different instruments. However, there is a clear lack of structural policies designed to tackle school segregation. Resistance from middle-class families or from certain educational stakeholders prevent policymakers to incur in potential political costs associated to altering school admission or choice regulations. In addition, there is a notable level of uncertainty regarding the net effects of some policies that may involve significant risks in specific interventions¹³⁸.

In most education systems, school segregation is greater than residential segregation.¹³⁹ So, by reducing school segregation to the existing level of residential segregation most education systems may achieve positive outcomes. However, best policies may be the ones that coordinate urban (particularly housing) and education actions. In addition, educational desegregation requires coordination among different scales of governance. Contradictions between national regulation and regional or local practices may prevent the development of more inclusive policies. The alignment between institutional regulations in school admission or school choice policies and local practices is an essential aspect for educational integration.¹⁴⁰ Inclusive local policies need the legal framework, the legitimacy and the institutional support of national regulations to ensure their success. Beyond this fact, policies to tackle school segregation may carry some degree of uncertainty, as responses from the demand side (families) cannot

¹³⁵ Council of Europe (2017) Fighting school segregation in Europe through inclusive education: a position paper. Strasbourg: Council of Europe.

¹³⁶ European Commission (2015) Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation.

https://ec.europa.eu/regional_policy/en/information/publications/guidelines/2015/guidance-for-member-states-on-the-use-of-european-structural-and-investment-funds-in-tackling-educational-and-spatial-segregation

¹³⁷ See <https://www.coe.int/en/web/committee-antidiscrimination-diversity-inclusion/about-us/#%7B%2522113880154%2522:%5B0%5D%7D>

¹³⁸ Bonal, X., & Bellei, C. (eds) (2018). Understanding school segregation: patterns, causes and consequences of spatial inequalities in education. London, UK: Bloomsbury Publishing.

¹³⁹ See Boterman, W., Musterd, S., Pacchi, C., & Ranci, C. (2019). School segregation in contemporary cities: Socio-spatial dynamics, institutional context and urban outcomes. *Urban Studies*, 56(15), 3055–3073. <https://doi.org/10.1177/0042098019868377>

¹⁴⁰ Boterman, W & Ramos Lobato, I. (2022) Local segregation patterns and multilevel education policies . in Y Kazepov , E Barberis , R Cucca & E Mocca (eds) , Handbook of Urban Social Policies : International Perspectives on Multilevel Governance and Local Welfare . Research Handbooks in Urban Studies series , Edward Elgar , Cheltenham , pp. 219-233. See also Bonal, X. (2012). Education policy and school segregation of migrant students in Catalonia: The politics of non-decision-making. *Journal of Education Policy*, 27(3), 401–421.

always be predicted and can potentially alter the theory of change embedded in specific policy designs. For instance, by reforming school catchment areas governments may attempt to balance the social composition of schooling, but responses from demand may not always produce the desired effects (because of white flight processes, for example). This uncertainty invites policymakers to carefully design desegregation policies and always include evaluation strategies to assess the real effects of new interventions.

In this chapter we explore seven main policy domains in which governments may develop strategies to reduce school segregation. These policy domains and strategies are different in their nature, and their appropriateness varies depending on the specific characteristics of school segregation. That is, policies must be adapted taking into account the specific causes and patterns of school segregation in particular contexts.

5.1. Planning school supply

The overall number of school places and their distribution in a city or district is a crucial aspect if school segregation is to be reduced. Public authorities have several instruments to effectively and equitably plan the school supply. Among the most salient ones are:

- *Including efficient demographic prospective.* Planning school places carefully and taking into account demographic trends is an essential aspect to avoid oversupply, which usually generates higher school segregation.
- *Defining socially balanced school districts or catchment areas.* Ensuring that catchment areas are socially diverse and do not reproduce residential segregation is a key aspect to favour educational inclusion.
- *Ensuring a school supply of the same quality at each school district,* which is essential to avoid school marginalization and lack of attractiveness of the most disadvantaged schools.
- *Opening or closing schools.* Public authorities may take strategic decision about a potential elimination of schools or classrooms if they are reproducers of school segregation. Likewise, it is also crucial to decide where to locate new schools, to ensure that they do not reproduce residential segregation.
- *Reducing the number of students per classroom to favour equal distribution of disadvantaged students among schools.* This policy may limit the high level of concentration of socially disadvantaged students in specific schools and facilitate the learning experience of at-risk students.

Decisions about which instrument or combination of instruments should be used depend again on the particularities of education inequalities in each context. A crucial aspect is to avoid oversupply in the system. In contexts with controlled or free choice, surplus of school places in relation to schooling needs facilitates *white flight* strategies and reduces the opportunities for ensuring a more balanced social composition of schools. This is particularly relevant in contexts of demographic drop. Public authorities must correct the school supply by either closing some schools -or classroom groups within a school- (usually a controversial decision) or by reducing school ratios to adjust the capacity of the system to the enrolment needs. Decisions about where to place a new school can prove strategic in terms of balancing the distribution of disadvantaged students. The distribution of social groups across an area, their degree of concentration and the patterns of demand can determine, in one way or another, decisions about where to open a new school or where to expand classroom groups.

School Reform in Hódmezővásárhely, Hungary

In 2006, the medium-sized Hungarian city of Hódmezővásárhely responded to demographic decline and the segregation of Roma children with a comprehensive school reform that involved a complete redesign of the entire city network and catchment areas. The city closed 10 of 11 primary schools and opened five new ones. The municipality also reformed the curriculum, provided additional resources to improve teaching capacity, and added physical education classes. The process also included an evaluation of all teachers and their performance, which resulted in the dismissal of about 100 teachers. Prior to the reform, the city mapped and created a registry of children with multiple social disadvantages. Based on the registry, catchment areas were redrawn to ensure that their representation in each school was below 20%. Instead of the more conventional approach of closing a segregated school, this politically challenging reform changed the schooling situation for all children. The city did, however, leave a margin for affluent families to attend a school that had been turned over to the Roman Catholic Church and was outside the city's attendance boundaries. Please see in more detail Appendix 2 Promising practices.

Another key aspect regarding the distribution of school places is related to how to plan places for late arrival students (immigrant or refugee students), for migrant students with special learning difficulties regarding language acquisition of the host country or for Roma and Travellers children whose families have high levels of mobility. If a balanced distribution is not planned by education authorities, these students may have to attend those schools with vacancies, which are usually the least desirable schools that already enrol the highest proportion of disadvantaged students. This reproduces a vicious circle whereby at-risk students are concentrated in schools already characterised as having a student population with greater disadvantage.

Strategies of ratio reduction can be appropriate to avoid high levels of concentration of Roma children or immigrant students in schools with vacancies and to ensure a balanced distribution of students with learning difficulties among schools in a given area or school district. Limiting the number of students per classroom in the most disadvantaged schools facilitates teaching and learning experiences in these schools and prevents the increase of students with learning difficulties in the same classrooms.

Reduction of ratios in Catalonia, Spain

In a context of severe demographic drop, the Catalan government decided in 2021 to reduce the maximum number of students per classroom. The official number of 25 students in primary education has dropped to 22 or even 20 (depending on the needs of the area and the social composition of schools). This policy avoids a surplus of educational places, which is particularly damaging for school segregation. While this practice was already in place in many municipalities, its generalization helps to eschew school closures and also prevents higher level of concentration of disadvantaged students in specific schools. By reducing the number of places available in all schools, the measure also ensures a better distribution of late arrival students, thus avoiding their concentration in schools with low demand.

While this policy is now being generalized, it builds on the previous experiences of some municipalities that implemented ratio reductions before, a policy that has appeared to be significantly effective to prevent higher concentrations of migrant students in particular schools.¹⁴¹

¹⁴¹ Bonal, Education policy and school segregation of migrant students in Catalonia: the politics of non-decision-making, 2012. Available at:

https://scholar.google.fr/scholar_url?url=https://www.academia.edu/download/37622170/TEDP_A_645168_revised.pdf&hl=en&sa=X&ei=IQf9ZqjTC_DUy9YPIKiHQQM&scisig=AFWwaeZu53KFaINxE3kwelJ2R7no&oi=scholar

5.2. School choice/school admission policies

Beyond planning school supply, modes of regulation of school choice and school admission policies are key aspects to improve equality of educational opportunities. Education systems differ depending on whether there is absolute free choice, whether choice is absent or whether some degree of choice is allowed but it is controlled through some system of sorting students' preferences. Most education systems include some form of regulation of school choice and include school admission norms to prevent processes of cream skimming (the practice of selecting students with higher socioeconomic status) and exclusion.

Generally, in quasi-market education systems, the regulation of excess demand in certain schools is governed by criteria established by the public authorities. The prevailing criteria are proximity and sibling enrolment in the same school. In addition, some systems include criteria regarding family income, single parenthood, students' special education needs, or other characteristics. Access to secondary education is also regulated by similar criteria, but several education systems include students' previous performance as a condition for accessing specific schools. In systems of early tracking, performance usually determines the specific track that the student can follow (Netherlands, Belgium, Germany). However, other comprehensive systems also require specific academic criteria to access certain types of schools (France, Greece) or specific classrooms (Finland).¹⁴²

The ways in which 'proximity' is defined and regulated can be a decisive factor of school segregation. In some education systems (Italy, Finland, Norway), students are guaranteed access to the closest school to their place of residence. Local school is therefore the assigned school by default, but in some systems students can choose another school if places are available. In these education systems, an adequate planning of neighbourhood schools' capacity can be a decisive factor to prevent school segregation. A proper planning of school places may reduce the number of available options for non-residents. So, even if school choice is formally possible, it is very unlikely for non-resident families to enrol their children in the same school than residents (as it is the case of Norway, for instance). In contexts with relatively low levels of residential segregation, therefore, an adequate school planning may prevent white flight processes. However, in more segregated neighbourhoods, other instruments are necessary if school segregation is to be reduced.

Other education systems (Spain, France, Switzerland) regulate priority of access to proximity schools by designing catchment areas or school zones. These zones may include a variable number of schools (public and/or private subsidized in some cases) for which residents have priority of access. School zoning or catchment areas have considerable potential to achieve balanced school enrolment. For this to happen, it is crucial to avoid gerrymandering processes initiated by some interest groups with the objective to ensure access to the best schools.

New school zones in Zurich, Switzerland

¹⁴² See European Commission/EACEA/Eurydice, 2020. Equity in school education in Europe: Structures, policies and student performance. Eurydice report. Luxembourg: Publications Office of the European Union, for a complete updated review on school choice and school admission policies in Europe.

Researchers from the Centre for Democracy Studies Aarau at the University of Zurich developed an algorithm that reduces school segregation. They modelled each block of the city of Zurich according to the proportion of households where German was not spoken at home and where both parents did not attend school beyond compulsory education. They called this measure the “concentration index” (K-index).

They reconstituted the catchment area of 77 of the city's primary schools, block by block. As was to be expected, they found an almost perfect correlation between the concentration index of a school's surroundings and that of a school's catchment area. In other words, school segregation reflected existing residential segregation.

The algorithm they developed runs like a board game. At each turn, a school swaps up to four blocks with neighbouring schools, provided the exchange brings the concentration index of that school closer to the city average without harming a more segregated school. When no school can proceed to such an exchange anymore, the game stops.

After playing 1094 turns, the algorithm proposed new catchment areas for Zürich's primary schools. At first sight, the map changes little. Indeed, for schools that are in remote areas, swapping blocks while following the rules is impossible. But for others, in denser neighbourhoods, the changes are remarkable.

In one of the most segregated schools, the algorithm could bring the K-index from over 70% to 44% (still 16 percentage points over the city average). Overall, the algorithm could bring the number of pupils attending schools where the K-index was 15 percentage points above or below the city-wide average from 2,600 to 2,100 (from a total of about 7,000 pupils).

Source: <https://algorithmwatch.org/en/zurich-schools-algorithm/>

Beyond school admission criteria, the allocation mechanism of students' preferences can also impact the final student enrolment. In some countries, like Sweden, the “first-come-first-served’ principle discriminates newly arrived students because native parents, unlike newly immigrated parents, can place their children in a school's queue many years in advance to guarantee placement in the best schools.”¹⁴³

Merging adjacent catchment areas in Paris, France

In an attempt to reduce social segregation among the capital's middle schools (collèges), Paris city and educational authorities have been experimenting with a new method for assigning students to public schools since the start of the 2017 school year: multi-school catchment areas. This system consists of defining catchment areas common to several middle schools that are geographically close but have contrasting social profiles. The objective is to broaden the catchment areas of the middle schools to rebalance their social recruitment. The results of the first three years of experimentation (2017 to 2019) are encouraging. Two of the three catchment areas have achieved their social diversity objective with a clear decrease in students enrolling in private schools. In the third catchment area, after initially disappointing results, the disparities in social composition between the two middle schools began to narrow in the third year of the experiment and enrolment at private schools declined.

Source: https://www.ipp.eu/wp-content/uploads/2021/11/Note_IPP_62_eng.pdf

5.3. Distribution of socially disadvantaged students

A third set of policies to tackle school segregation requires an efficient system of identification of students with learning needs and a related procedure to ensure their distribution among schools. This policy

¹⁴³ Cerna, L., Andersson, H., Bannon, M., & Borgonovi, F. (2019). Strength through diversity's Spotlight Report for Sweden. OECD Education Working Papers, (194). Paris: OECD.

requires education authorities to have access to adequate information on students' learning needs before their entrance into the system. Authorities may consider different aspects to identify students that are eligible as students with specific learning difficulties or socially disadvantaged students. Some education systems reduce this identification to students with different kinds of disabilities, either physical or psychological. Often, this reductionism has undermined the rights of Roma children, who are classified as students with special needs and allocated to special schools.¹⁴⁴ Others include students with socioeconomic needs, students with language acquisition difficulties (including those associated with students' migrant origin) and students with other learning problems. Beyond the debate on what should be understood as learning difficulties, what is relevant is also which procedures education authorities define to ensure an efficient system of detection. Access to adequate information on the social and personal characteristics of students is key to detect learning needs properly. Secondary data on students' income, residential characteristics, parental education attainment, cultural origin and personal characteristics is fundamental for an efficient detection.

Once students with learning difficulties or other personal characteristics are identified, a procedure to ensure their distribution among different schools is needed. Systems that fix quotas among schools usually set the number of reserved seats for students identified as socially disadvantaged by applying the same percentage of their representation in the territory. A municipality with a 20% of socially disadvantaged students may decide to establish the same 'quota' of places reserved at each school. If detection of educational and social needs is done efficiently, this system may potentially favour a balanced distribution of at-risk students.

Nevertheless, in systems with free or controlled choice, students (or families) can decide whether they make use or not of these 'reserved places'. That is, even if public authorities reserve a number of places for socially and educationally disadvantaged students, these places may not be filled if students with these characteristics do not apply to these places. Therefore, it is highly important to plan an appropriate accompaniment of these students to ensure their enrolment in all schools, to eliminate sources of exclusion (such as economic costs) and to avoid any potential selection bias from schools. Actually, some countries have opted for systems of 'soft bounds' to change school composition. Instead of establishing strict floors or ceilings for disadvantaged students, they grant additional resources or a bonus to those schools that improve their social mixing. These policies have been implemented in Sweden and the Netherlands¹⁴⁵.

In contexts of very high residential segregation, *busing* policies can also be implemented to ensure a balanced distribution of socially disadvantaged students. This practice, very common in the US in the 1960s and 1970s decades, has been rarely developed in European countries, where levels of social and ethnic residential segregation are lower than in the US. However, France and Denmark have developed busing policies at a local scale.¹⁴⁶ While busing can help to ensure a better distribution of socially

¹⁴⁴ See European Commission (2015) Report on discrimination of Roma children in education.

<https://www.aecgjt.org/downloads/documentos/568/report-on-discrimination-of-roma-children-in-education.pdf>

¹⁴⁵ Cerna, L., Andersson, H., Bannon, M., & Borgonovi, F. (2019). Strength through diversity's Spotlight Report for Sweden. OECD Education Working Papers, (194). Paris: OECD.

¹⁴⁶ See Brunello, G. and Di Paola, M. (2017) School Segregation of Immigrants and its Effects on Educational Outcomes in Europe. EENEE Analytical Report No. 30.

https://eenee.eu/wp-content/uploads/2021/05/EENEE_AR30.pdf

disadvantaged students, it runs the risk of losing community involvement and increasing isolation, which require active accompaniment policies to reduce the potential alienation of disadvantaged children. In addition, if not adequately planned, busing policies may generate white flight processes.

Double quotas in Flanders, Belgium

In 2011, the Flemish Parliament voted a new system of student assignment that started to be applied from academic year 2013-14. The new decree established a system of double quotas for school vacancies: one for 'equal opportunities students (GOK students, in Flemish) and one for non-GOK students. GOK children have a mother with less than secondary education or receive a school allowance. Non-GOK children do not. GOK children have priority for the seats in the GOK quotas, and non-GOK children have priority for the seats in the non-GOK quotas. The ratio between these reserves is determined by the socio-economic composition of the neighbourhood or community in which the school is located. A good proxy of a ratio of socially disadvantaged students is the level of children's relative poverty. Adjustments can apply in case the current socio-economic composition of a school is very different from that of its neighbourhood. When one of these two reserves is not filled up, the remaining places are allocated to students from the other group. Priority within these groups remains the same as before the policy change (i.e. first come first served in most schools and distance to school in some cities where a centralized allocation system was already in place). This change in enrolment policy was made mandatory in the most densely populated areas. The double quota system aims to ensure that, when demand is larger than capacity, the socio-economic composition of schools is as close as possible to the socio-economic composition of the neighbourhood. This policy has faced social resistance in a country where school choice has a long tradition.

Sources: Cantillon, E. (2011). School choice regulation in practice: Lessons from Antwerp, Brussels and Ghent. <https://rethinkingbelgium.eu/wp-content/uploads/2019/08/Cantillon.pdf>; Wouters, T. (2016), 'Segregation and School Enrolment Policy', KU Leuven. <https://cemapre.iseg.ulisboa.pt/educonf/4e3/files/Papers/Wouters.pdf>

5.4. Information policies

Information plays a key role in school choice processes. Information asymmetries are a key aspect of unequal knowledge about schooling and have a visible impact on school choice patterns.¹⁴⁷ Not all the families have the same information about school characteristics or schooling procedures. While middle- and upper-class families manage 'cold' information (school performance data, webpages, etc.) about the education system and are very strategic when making educational choices, lower socioeconomic groups usually make less informed decisions and frequently rely on 'hot knowledge' (opinions of relatives, neighbours or friends) as a main source for decision making.¹⁴⁸ Thus, social differences exist not only on accessing to different sources of information but on which information different families select as relevant for decision making. Knowing the different rationalities of educational demand is a key aspect to understand patterns of reproduction of socio-spatial inequalities in education.

There are usually two main mechanisms of choice that impinge on processes of differentiation and segmentation in education markets. On the one hand, some families have incentives to choose on the basis of social composition of the school. Searching for a school with a student body of upper and upper-

¹⁴⁷ Kloosterman, A. and Troyan, P. (2020) School choice with asymmetric information: Priority design and the curse of acceptance. *Theoretical Economics*, 15 (2020), 1095–1133

¹⁴⁸ Ball, S. J., & Vincent, C. (1998). 'I Heard It on the Grapevine': 'hot' knowledge and school choice. *British Journal of Sociology of Education*, 19(3), 377–400.

middle class becomes a mechanism of segmentation and hierarchization in education markets. Often, this mechanism becomes a source of white flight process exerted by middle class families residing in lower socioeconomic or deprived areas. On the other hand, school segregation can also be reproduced by means of cultural emulation. That is, many families choose 'by default' the local schools where their neighbours go. Frequently, some social groups feel safer by choosing schools with people 'like them.'¹⁴⁹ This mechanism of cultural emulation becomes also a source of segmentation and segregation.

Information policies may play a role in counterbalancing these trends. Municipalities can publish and distribute school guides that give good value to all the public schools of the education system, beyond the particular characteristics of each school. In many education systems schools tend to compete for attracting students of high socioeconomic status. Giving prominence to the quality of the whole education system rather than stressing the particularities of each school may motivate changes in the behaviour of school demand. Likewise, it is important to inform all families about the scholarships and grants they can apply for and, more generally, about the educational rights of their children and young people, regardless of where they go to school. The information provided must be accurate and clear and ensure that all families are aware of the admission procedures and make informed decisions. It is also necessary to explain how school admission procedures work and which regulation apply in cases of overdemand. To ensure the most effective information, translation of information sources in different languages (and particularly in the language of ethnic minorities) is a key strategy.

Beyond these basic practices, information strategies can be oriented to neutralise the two above-mentioned mechanisms: white flight and cultural emulation. This invites the development of specific information strategies for different social groups. Information for some social groups can emphasize the benefits of educational diversity and bring evidence about the absence of negative effects of intercultural composition of schooling on educational performance. There are some interesting initiatives at the community level, where native families take the initiative to convince other parents to enrol their children in segregated schools in order to create a better balance and promote diversity.¹⁵⁰ For other groups, it may be important to design information strategies to prevent processes of cultural emulation and to stimulate more informed choice, stressing for instance the benefits of enrolling in socially mixed schools.

A field experiment in Charlotte-Mecklenburg Public School district — United States of America
In 2007 researchers from Yale University conducted a field experiment in the Charlotte-Mecklenburg Public School district (CMS) to examine the degree to which information costs impact parental choices and their revealed preferences for academic achievement. They provided simplified information sheets on school average test scores, or test scores coupled with estimated odds of admission to students in randomly selected schools along with their CMS school choice forms. They found that receiving simplified information leads to a significant increase in the average test score of the school chosen. Receiving information on odds of admission further increased the effect of simplified test score information on preferences for test scores among low-income families but reduced the effect among higher-income families.
Source: Hastings et al. (2007)

¹⁴⁹ Raveaud, M. and A. Van Zanten (2007), "Choosing the local school: middle class parents" values and social and ethnic mix in London and Paris", *Journal of Education Policy*, 22 (1), 107-124.

¹⁵⁰ Cerna, L., Andersson, H., Bannon, M., & Borgonovi, F. (2019). *Strength through diversity's Spotlight Report for Sweden*. OECD Education Working Papers, (194). Paris: OECD.

5.5. De-tracking policies

Academic tracking raises a number of problems regarding equity. Forms of homogeneous ability grouping (breaking students in classrooms based on their cognitive capacity) frequently sort students and harms particularly students assigned to the lower tracks, who show inferior achievement and increased gaps compared with their peers with similar academic level allocated to higher tracks. Likewise, ability grouping reduce the opportunities of peer interaction and access to social networks associated to educational diversity.¹⁵¹ Access to better tracks is far from being meritocratic but based on different opportunities linked to socio-economic background and particularly on differences of embedded cultural and symbolic forms of capital that generate a position of privilege for accessing to specific schools or to special classes.

Empirical evidence does not show that tracking increases average performance, while some studies underline that heterogeneous classrooms can also achieve high average performance levels, by means of positive peer effects. In heterogeneous groups, classroom composition clearly impacts the performance of low-ability students.¹⁵² Research has also shown that while permeability between tracks is normally allowed, it is uncommon as a practice, so students tend to remain in higher or lower tracks along their schooling. Despite this evidence, course-by-course tracking, that is, sorting students each course based on their performance and capacity, is still a common practice in many European education systems (even in those where ability grouping is formally forbidden or discouraged by the authorities), such as Spain.

De-tracking entails an attempt to group students heterogeneously, to ensure that all students, independently of their ethnic or class background or their academic ability, have access to high quality education. However, there is considerable variation in how de-tracking is carried out. From complete restructuring efforts, such as the complete elimination of ability grouping in all subject areas to changes that, without altering the school's track structure, provide more access to high-track classes for students assigned initially in lower tracks. De-tracking reforms have been mostly implemented in the US, especially in the 1990s and the 2000s. Studies have shown that de-tracking has not harmed achievement of high performing students and at the same time has raised performance of previously low-achieving minority and poor students¹⁵³.

De-tracking and integration in classrooms in the United States of America

The Century Foundation, in the US, has produced a toolkit designed to avoid tracking and to enhance integration in all classrooms. The toolkit focuses on three strategies for promoting integrated classrooms within a school: schoolwide enrichment, open/embedded honours, and diversifying Advanced Placement (AP) or International Baccalaureate (IB) enrolment. Schoolwide enrichment can be used in all grades, while open honours and diversifying AP/IB apply mainly to high schools. Each of these strategies requires tailoring a general approach to the specific school setting; as such, there is not a step-by-step recipe for

¹⁵¹ Schofield, J.W. (2010) "International Evidence on Ability Grouping with Curriculum Differentiation and the Achievement Gap in Secondary Schools," *Teachers College Record* 112, (5): 1492–1528. Schleicher, A. (2017). Seeing education through the prism of PISA. *European Journal of Education*, 52(2), 124–130.

¹⁵² European Commission/EACEA/Eurydice, 2020. Equity in school education in Europe: Structures, policies and student performance. Eurydice report. Luxembourg: Publications Office of the European Union.

¹⁵³ Cuban, L. (2018) Whatever happened to Detracking?

<https://larrycuban.wordpress.com/2018/09/30/whatever-happened-to-detracking/>

implementation of any of these approaches. The Schoolwide Enrichment Model (SEM) is an approach to teaching and learning that draws from the pedagogy of gifted education to enhance opportunities to all students in a school. SEM identifies “gifted behaviours,” including above-average academic abilities, creativity, and task commitment, rather than attaching a binary (“gifted”/“not gifted”) label. SEM uses flexible student groupings that change throughout the course of a year and bring together students with different achievement and interest levels. It creates opportunities for all students to be engaged in some type of enrichment, in which students with shared interests engage in investigative learning and explore real-life problems.

At the high school level, one method of meeting the needs of students at different academic levels within integrated classrooms is to offer an “open honours” or “embedded honours” option. In this model, all students take a class together, but students who choose to may take the class for honours credit by completing extra assignments. The advantages of an open honours model include heterogeneous classrooms in which students can interact and learn with (and from) a wide range of peers, as well as the option for students to switch in and out of honours without rearranging their schedule.

Another approach to ensuring that desegregated high schools are integrated at the classroom level is to focus on diversifying enrolment in high-level courses, with the goal of having all student subgroups enrolling in these classes at the same rate. Over 90 percent of all U.S. high schools offer at least one Advanced Placement (AP) course, but within these schools, access to AP differs dramatically based on race and class. Participation rates in the International Baccalaureate (IB) programmes show similar gaps. There are examples of interventions to close these gaps.

In some school districts decisions of de-tracking math and English courses were made. Having a separate honours track seemed to perpetuate the racial gaps in identification for honours courses into AP enrolment. This process took several years and required tackling a few grades at a time. At the same time, administrators worked with teachers and the college counselling team to build excitement about AP courses as college-level work, and to encourage students of all backgrounds—particularly those subgroups of students that were currently underrepresented in AP coursework—to consider enrolling in at least one AP course.

Source: <https://tcf.org/content/report/integrating-classrooms-reducing-academic-tracking-strategies-school-leaders-educators/>

5.6. Compensatory policies

While all the aforementioned policies aim to correct the unbalanced distribution of at-risk students from a preventive perspective, there are other policies that can help to counterbalance the negative effects of school segregation from a compensatory approach. These policies target schools or students in a disadvantaged situation and provide them with different kinds of resources and strategies to overcome their disadvantage. Interventions on schools (supply-side) include strategies to make disadvantaged schools more appealing and attractive to all public. This includes, for instance, the renovation of the school infrastructure and equipment. In addition, policies can also be addressed to make schools more attractive to families that usually avoid this type of schools and, as a consequence, reduce school segregation. Local governments may invest in disadvantaged schools by supporting specific pedagogic programmes or by facilitating learning activities in public facilities (museums, libraries). Some schools may also become magnet schools. Initially started in the US in the 1970s, these schools are public schools with specialized courses or curricula. Usually in cooperation with external organizations (research centres, foundations, museums, companies), disadvantaged schools are transformed pedagogically and specialize in a specific scientific or artistic area in order to become more attractive to non-traditional

demand. Recent evidence from US shows that in most cases magnet schools contribute to increasing school diversity and improving the performance of low-income students¹⁵⁴.

Allocating the best teachers to 'high-need' schools — United States of America

The National Board for Professional Teaching Standards (NBPTS) is a nonprofit organization created in 1987 in the United States. It develops and maintains advanced standards for educators and offers a national and voluntary assessment, named National Board Certification. There are more than 125.000 NBC teachers today. Different states generate incentives to NBC teachers, which are significantly greater when allocated to low-performing and high-need schools.

Some evaluations in states like Chicago, California, Maryland, Arizona and Nevada show the significant effectiveness of this policy. Estimates of the increase in learning are significant. The positive impact of having a Board-certified teacher (NBCT) is even greater for minority and low-income students, with improvements in average performance and graduation rates. Retention of these teachers in disadvantaged schools is also higher than non-NBC teachers.

Sources: NCLS (2011) Turning Schools Around with National Board Certification.

<https://www.ncsl.org/research/education/turning-schools-around-with-national-board-certifi.aspx#2>

Clark County Education Association (2019) Attracting and Retaining NBCTs to Title I Schools.

<https://new.ccea-nv.org/wp-content/uploads/2019/02/Attracting-and-Retaining.pdf>

Compensatory policies may also target students themselves as direct beneficiaries of specific programmes. Governments may assist vulnerable students by providing free meals, school material grants, transport or economic support to carry out afterschool activities. While these policies by themselves will hardly reverse school segregation, they do help to reduce the economic barriers to accessing certain schools by the most vulnerable families and improve the conditions of educability of disadvantaged students.

In the case of Roma children, measures addressing their social and economic barriers in accessing education are critical. This concern obvious barriers, such as costs of transportation to schools, costs of textbooks, lunches, after school clubs or trips. All are financial barriers that can sustain segregation and may even create new perverse incentives for segregation. For example, funding of lunches or afterschool clubs based on need, may in fact create an opportunity for schools to justify segregation within cantinas when children with subsidized lunches are treated differently.¹⁵⁵ Similarly, Roma children from socially disadvantaged families can be excluded from school clubs due to costs that are critical for their academic advancement and the development of relationships among children. Planning of desegregation should anticipate also subsidies for public transportation of pupils to school, how this is reimbursed and whether it does not create a cash flow problem for low-income families. The Vidin project, for example, entailed redistribution measures consisting of free supplementary textbooks, notebooks and writing instruments for approximately 80% of the children enrolled in the desegregation project. The project also supported

¹⁵⁴ Riel, V., Parcel, T. L., Mickelson, R. A., & Smith, S. S. (2018). Do magnet and charter schools exacerbate or ameliorate inequality? *Sociology Compass*, 12(9), 1–15.

¹⁵⁵ Alica Petrasová and Ivan Pavlov, *Príbeh školy v Šarišských Michalánoch: kritická reflexia a výzvy* (Bratislava: EduRoma, 2017) p.33-34, available online at: <https://eduroma.sk/docs/pribeh-skoly-v-sarisskych-michalanoch.pdf>

additional classes for children who were unable to master new lessons. During the first year, children who had difficulties were taken to a training camp having additional lessons in key subjects.¹⁵⁶

Ideally, however, universal financial support for lunches¹⁵⁷, textbooks, school clubs and transportation for all children can significantly help to erase social inequalities in the school environment, while avoiding stigmatisation risks. Furthermore, there are other large-scale tools that countries use to address social disadvantages experienced by Roma children and their families that may be directly conducive to desegregation and should be included in planning such activity. For example, field and community workers can cooperate with schools on attendance, developing communication with parents and helping with administration to acquire social subsidies for education, including transportation discounts and similar. Essentially, any supportive profession that is active in a certain community, including health mediators or any other mediators, is worth to engage to achieve the joint goal.

5.7. Community work strategies

Policies to tackle school segregation must not only be technically well-designed, but also including a governance strategy to build social capital and generate trust among all stakeholders. To be effective, policy strategies must take into account all the potential sources of resistance to change. In the case of school segregation, both minority and non-minority groups may express their concerns about desegregation plans and even actively oppose them. This section focuses on two policy strategies that based on community work that may help to gain the legitimacy of desegregation policies.

5.7.1. Building trust with parents

Beyond information policies regarding school choice, building parental trust is a key element of effective desegregation policies. Parents play a pivotal role in activities that promote mixed, intercultural, and inclusive education of their children.¹⁵⁸ Both Roma and non-Roma parents share concerns for the well-being of their children at school and they could also object to desegregation plans. Some Romani parents may feel worried about how their children will strive and will feel in a new educational environment.¹⁵⁹ In turn, some non-Roma parents can worry that their children's academic performance will deteriorate, or they will be otherwise affected when Roma peers will join the classes and schools attended previously exclusively non-Roma children.¹⁶⁰ Non-Romani parents can contribute to secondary segregation by withdrawing their children from mixed schools. Failure to communicate and address concerns on both

¹⁵⁶ See e.g. in Donka Panatoyova and Evgeni Evgeniev, "Successful Romani School Desegregation: The Vidin Case.", 07.November 2002, ERRC, available online at: <http://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁵⁷ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia, January 2019, Roma Civil Monitor, p. 67, available online at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>

¹⁵⁸ Making desegregation work! A desegregation Toolkit Developed by the Roma Education Fund 2015, available online at: https://www.romaeducationfund.org/wp-content/uploads/2019/05/desegregation_toolkit_2015_web.pdf

¹⁵⁹ Ombudsman, Doporučení veřejné ochránkyně práv ke společnému vzdělávání romských a neromských dětí 86/2017/DIS, VB, available online at: https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporučení_desegregace.pdf, p. 61

¹⁶⁰ When Slovak town of Zilina announced closing down of Roma school for economic reasons, non-Romani parents began to object and signed petition against distribution of Romani children into remaining schools in the city. Please see e.g. Rodičia protestujú proti prerozdeleniu detí zo zrušenej školy, začali spisovať petíciu. Žilina, 23 April 2017, available online at: <https://www.zilina.sk/clanky/6291/rodicia-protestuju-proti-prerozdeleniu-deti-zo-zrusenej-skoly-zacali-spisovat-peticiu>

sides, regardless of whether these are justified or not, may lead to mobilization in opposition to the desegregation plans and halt the entire process.

Gaining the acquiesce of both Roma and non-Roma families is therefore a crucial task to ensure that desegregation policies are successful. Activities that help to build trust among stakeholders are critical for the viability of desegregation action at its inception.¹⁶¹ However, such activities must be undertaken as a long-term action to prevent 'white flight' leading to secondary segregation. For example, secondary segregation happened in dozens of schools across Bulgaria into which Roma children were integrated and neither local nor central authorities took any preventive measures.¹⁶²

The Vidin Case, Bulgaria

In the well-known case of the Bulgarian city of Vidin, the critical role played by activists leading the project of bussing children between school districts played a crucial role for getting support from Bulgarian opinion makers and intellectuals, but also Romani parents (including those that were sceptical about the idea of desegregation).¹⁶³ They organised regular meetings with parents involved in the desegregation programme to keep them informed about academic performance of their children who were bussed to mixed schools outside their residential area. As well, parents benefited from training sessions and lectures to increase their own capacities and skills that they utilised in school council boards in non-Roma schools and participate in the school management. Parental involvement and continuous dialogue were, according to the observers, critical to overcome their fears and hesitations. Observers furthermore argued that this process helped to overcome myths that Roma parents would not allow their children to attend integrated school because of the fear of harassment, lack of educational aspirations or children's inability to meet higher academic standards. Project leaders equally focused on non-Roma parents trying to also stimulate social relations with Roma parents through joint after school extracurricular activities involving their children.¹⁶⁴

Kopřivnica, the Czech Republic

A rather interesting program is the regular informal parents' meetings implemented in an elementary integrated school in the Czech town of Kopřivnica. These informal meetings focused on learning contemporary topics that pupils presented and discussed together with their parents, accompanied by movie screening and coffee drinking. Only after these events, actual parents' meetings took place only with the concerned pupil and parents. The school tried to create opportunities for parents to get to know each other, create trust between schools and parents and thus potentially avoid misunderstanding and conflicts.¹⁶⁵

¹⁶¹ Andrew Richard Ryder, Iulius Rostas and Marius Taba, "Nothing about us without us': The Role of Inclusive Community Development in School Desegregation for Roma Communities", *Race, Ethnicity and Education*, 17:4, p.533-534.

¹⁶² Civil Society Monitoring Report on Implementation of the National Integration Strategy in Bulgaria, Focusing on Structural and Horizontal Preconditions for Successful Implementation of the Strategy, Roma Civil Monitor, March 2018, p.47, available online at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-bulgaria-2017-eprint-fin-2.pdf>

¹⁶³ Andrew Richard Ryder, Iulius Rostas and Marius Taba, "Nothing about us without us': The Role of Inclusive Community Development in School Desegregation for Roma Communities", *Race, Ethnicity and Education*, 17:4, p.527 ff.

¹⁶⁴ See e.g. in Donka Panatoyova and Evgeni Evgeniev, "Successful Romani School Desegregation: The Vidin Case.", 07.November 2002, ERRC, available online at: <http://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁶⁵ Ombudsman, Doporučení veřejné ochránkyně práv ke společnému vzdělávání romských a neromských dětí 86/2017/DIS, VB, available online at: https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporuzeni_desegregace.pdf, p. 63.

5.7.2. Interventions to improve school attendance

Ensuring good school attendance is critical to any effort to desegregate and improve the educational outcomes of Romani children. Indeed, available studies from Slovakia, where the situation is particularly dire, indicate that there are multiple causes of poor attendance and high rates of absenteeism among disadvantaged Roma children. Roma children do not feel welcome in schools. Vulnerable families, especially single mother households, are unable to accumulate sufficient cash to pay in advance for the travel expenses of their three children, which are reimbursed monthly. In some cases, children from segregated communities must walk long distances to school along roads without proper sidewalks, which is particularly difficult in snowy or rainy conditions. Absenteeism has a gendered dimension, as Romani girls from poor households struggle to afford hygiene products during their periods. They have reported being forced to use old sheets or cotton diapers, making them uncomfortable in school and causing them to skip school during the first days of their periods.¹⁶⁶ The dominant state's approach, as reported in Slovakia but also in Hungary, focuses on punishing parents for unexcused absences with fines or even imprisonment, which not only fails to address the causes of their children's poor school attendance, but further weakens families.¹⁶⁷ Therefore, desegregation policies also focus on the study of barriers and measures to address them to support families' capacities to ensure good school attendance, including the provision of accessible information, assistance with transportation costs, or the provision of free menstrual supplies. It is advisable to implement an early warning system to detect attendance problems early. Generally, studies evaluating numerous projects in all key areas indicate that a precondition for successful intervention is the establishment of trust between a particular local authority and the Roma community. It is important to build partnerships and consortiums with local or regional authorities or NGOs or even employers who have a long-term presence in a certain area to maximise synergies and prevent potential backlashes.¹⁶⁸

Ensuring Good School Attendance of Roma Children in the United Kingdom

UK educational expert Mark Penfold identified several practices to establish effective communication with Roma parents among UK schools that enrol migrant Roma children from Eastern European countries.¹⁶⁹ While the context is different to the situation in Eastern Europe, UK schools were facing critical educational issues including a high level of absenteeism. According to educational advisors, schools should ideally hire a Roma mediator or simply an employee of Roma heritage who spoke the language of the migrating

¹⁶⁶ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia, January 2019, Roma Civil Monitor, p. 73-75, available online at:

<https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>,

¹⁶⁷ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia, January 2019, Roma Civil Monitor, p. 73-75, available online at:

<https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>, Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in

Hungary: Focusing on structural and horizontal preconditions for Successful Implementation of the Strategy, March 2012, Roma Civil Monitor, p. 48, available online at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-hungary-2017-eprint-fin.pdf>

¹⁶⁸ JM Fresno, J Lajcakova, J Szira, S Mačáková, M Karoly and M Rossi, A Meta -Evaluation of Interventions for Roma Inclusion (Luxembourg: Publication Office of the European Union), 2019, p.37, available online at:

<https://publications.jrc.ec.europa.eu/repository/handle/JRC117901>

¹⁶⁹ Mark Penfold, Improving Education Outcomes for Pupils from the New Roma Communities, British Council, 2014 revised in July 2016

families, was familiar with their social situations and could be a trust building facilitator between schools and parents. Roma mentors initiate communication with parents, help to identify the causes of children's school absences and give support to any other educational challenge. Mentors also contacted or even visited families in cases of unexcused or not anticipated absences, calling them to inform about the school term or to present and explain grade records to the parents. In addition, to address concerns relevant for education, some schools allowed Roma mediators to deal with issues outside the school, such as getting medical appointments, which had an effect of increasing trust towards the school. To help families to overcome problems with travel costs of buses, one of the schools bought tickets in bulk and sold it to families in advance to ensure reduced fare and ensure that children have bus tickets even in periods when family runs out of their budget. One of the schools rented minibuses which dramatically improved attendance. In cases when parents could not read in any languages and thus unable to read letters about attendance, even when translated, one of the schools recorded notes in Roma, Czech and Slovak for parents retrievable through QR codes that could be played using their cell phones.¹⁷⁰ In Manchester, schools hired Romani women as mentors to motivate Roma girls as role models to continue to higher education and organised residential trips focusing on their school careers.¹⁷¹

Interestingly, while studying the situation of his pupils who were migrants from Slovakia, Penfold inspired local schools in Slovakia attended by Roma children from segregated settlement to cooperate with social field workers and community centre to improve school attendance. Every morning, each class teacher submitted a list of absent pupils that have not been excused by parents and forward it to the community centre. Social workers then visited families, asked about pupils' attendance and facilitated communication with the school.¹⁷² In an educational system, in which schools do not have sufficient personal capacities to check on attendance individually or have a position of school mediators, social field workers or other types of helping professionals can be utilized.

¹⁷⁰ Mark Penfold, *Improving Education Outcomes for Pupils from the New Roma Communities*, British Council, 2014 revised in July 2016, p. 18 and ff, available online at https://www.bell-foundation.org.uk/app/uploads/2020/09/Roma-research-revised-July-2016-5.pdf?_gl=1*19n4oj9*_up*MQ..*_ga*MTU0MTE1NTMwNi4xNjg1Nzk2ODY0*_ga_QBGWH5CZBF*MTY4NTc5Njg2NC4xLjAuMTY4NTc5Njg2NC4wLjAuMA..

¹⁷¹ Ofsted, *Overcoming Barriers: Ensuring that Roma Children are Fully Engaged and Achieving Education*, December 2014, p.11, available online at: https://dera.ioe.ac.uk/id/eprint/21740/1/Overcoming_barriers_-_ensuring_that_Roma_children_are_fully_engaged_and_achieving_in_education.pdf .

¹⁷² Field research of the author in June, 2019.

Chapter 6: Designing a Protocol for Roma School Desegregation: A Blueprint for Inclusive Education

School desegregation remains a poignant challenge across numerous nations, notably concerning the Roma communities. This protocol aims to serve as a comprehensive guide for policymakers at various levels – national, regional, and local – offering a structured pathway toward achieving school desegregation. The design and execution of a protocol for Roma school desegregation necessitate a multi-faceted approach. This blueprint aims to guide policymakers at all levels, fostering a collective effort to dismantle barriers, promote inclusivity, and realise the vision of an education system where every child is afforded equal opportunities, irrespective of their background.

Principles

Political commitment stands as the linchpin in the battle against Roma school segregation. Without unwavering dedication from politicians and decision-makers, the implementation of desegregation measures will be postponed, some measures which were meant to support desegregation would be sporadically implemented, but the essence of the desegregation policy - mixing of student cohorts - will not take place.

A paramount step involves articulating a clear definition of Roma school segregation. This definition should delineate the disparity in the proportion of Roma school-age children compared to their non-Roma counterparts within a municipality. It is imperative that this definition finds its place within both antidiscrimination and education laws. The inclusion of the definition of segregation in the education law is meant to guide school principals, teachers, and other educational professionals, but also to broaden the scope of sanctions for non-compliance beyond the sanctions provided by the antidiscrimination law. In addition, banning school segregation in education law as well provides opportunities to victims to pursue different legal avenues to challenge the situation and to receive just compensations for their suffering.

In certain exceptional cases, the imbalance of proportions among students' ethnicity reflects the isolation of Roma in separate and extremely excluded municipalities. Such cases might bring additional challenges in implementing a school desegregation policy. Identifying and addressing these instances are crucial challenges in executing a desegregation policy effectively.

Under the international human rights law, including the European Convention on Human Rights, as well as under the European Union law and national antidiscrimination law, Roma school segregation is discrimination. Desegregation is needed to remedy this phenomenon and acknowledge the differences in society. The responsibility for desegregation is with the politicians and policymakers at all levels. According to the European Court of Human Rights jurisprudence, the postponement of desegregation cannot be legally justified.

Recognizing that Roma segregation is underpinned by racist stereotypes and prejudices is pivotal. Often segregation is justified based on neutral reasons such as classroom homogeneity, free choice of school by parents, or residential segregation.

Desegregation necessitates a transformative shift in schools and the education system, emphasising inclusive education principles. This transformation requires a departure from the status quo toward fostering environments that embrace diversity and equality. Besides full access to quality education and to positive interactions with non-Roma children, Roma children should also have opportunities to develop a positive group identity and enjoy their minority rights. This approach is complementing the need for schools to promote inclusive teaching practices and take inclusive management measures.

While there might be positive experiences with desegregating schools in different locations, moving from projects to policies is a complex transformative phenomenon. Establishing robust data collection and monitoring systems is indispensable. These systems enable the measurement of progress and adjustment of strategies to enhance policy efficacy. The ultimate goal remains the integration of student cohorts and the transformation of schools into bastions of inclusive education.

School admission policies serve as a gateway to inclusion within educational institutions. These policies should align with the overarching goal of fostering an inclusive environment.

A critical aspect of the protocol for Roma school desegregation involves a comprehensive redefinition of these policies. Such reforms should prioritise equitable access for Roma children, dismantling any barriers that perpetuate segregation. Implementing transparent, inclusive, and non-discriminatory admission criteria becomes imperative. Additionally, affirmative measures ensuring proportional representation of Roma students within schools should be considered. These policies should not only focus on the numbers but also emphasise fostering a supportive and welcoming environment that celebrates diversity. By reimagining admission policies, educational institutions can set the stage for genuine inclusion, laying the foundation for a more inclusive and enriching educational experience for all students.

The transformation of schools and educational system based on the principles of inclusive education is contingent upon diverse factors. These include the governance structure specific to each country, the extent of centralization within the education system, unique regulatory frameworks, the historical context of Roma communities in local settings, the strength of civil society, and various other influential elements that shape the desegregation process. Moreover, ideological orientations within policymaking significantly impact the course of desegregation efforts. For instance, the emphasis on academic performance, centred on standardised tests to assess skills and knowledge, contrasts with a focus on social cohesion, highlighting values of socialisation, equality, and human rights. These differing ideologies can lead to varied policies concerning the allocation of teachers, their compensation and career progression, as well as the allocation of funds for schools.

The influence of funding on the success of Roma school desegregation cannot be overstated. Adequate financial allocation is pivotal in implementing effective measures to address segregation. It involves not just the initial investment but a sustained commitment to resource mobilisation, ensuring ongoing support for programmes aimed at integration. Funding should encompass provisions for targeted interventions, teacher training, infrastructure development, and community engagement initiatives. Moreover, transparent allocation mechanisms and accountability frameworks must accompany these financial

provisions to ensure equitable distribution and optimal utilisation of resources. Without a robust financial commitment, the aspirations of desegregation may remain unrealized, underscoring the indispensable role of funding in facilitating systemic change and fostering inclusive educational environments for all students, irrespective of their backgrounds.

While there isn't an exhaustive list of measures, certain key actions are imperative for systemic change. These include fostering an environment conducive to desegregation, prioritising inclusive education, and recalibrating policies concerning teacher allocation, remuneration, and school funding.

Aim of desegregation processes

The project/programme/policy aim should be to promote equitable access to quality education for Roma children and eliminate segregation within the education system. The ultimate goal of such a project/programme/policy must be the mixing of student cohorts. The other actions/measures are meant to support this goal. Without mixing the student cohorts the other interventions do not make sense as they will not lead to equality and inclusion of Roma students.

Drawing lessons from the school desegregation experiences all over Europe, this project/programme/policy will adapt strategies to the unique needs of Roma communities in different countries and local communities.

Concrete steps towards desegregation

A desegregation intervention, being it a project, programme or policy, should contain the following components:

Diagnosis, Assessment and Research

- Conduct a comprehensive assessment of the current educational landscape within Roma communities, including identifying schools with high levels of segregation and discrimination.
- Collect data on enrolment rates, school attendance, dropout rates, academic performance, and the socio-economic background of Roma & non-Roma students.
- Collect data regarding relevant cultural dimensions such as the use of Romani language, the existence of various subgroups and the relationships between them, power relations with the communities justified with cultural arguments, or aspects related to migration.
- Identify causes of poor school attendance and barriers that prevent Roma children to fully participate in school activities (costs of transportation, hidden costs of education for lunches, after school clubs, accessories and others)
- Analyse the positioning of the relevant stakeholders regarding school segregation/ desegregation such as teachers, principals, local authorities, Roma parents and Roma community, non-Roma parents, as a way to anticipate potential resistances to desegregation among these stakeholders.
- Evaluate the relationship between residential segregation and school segregation of Roma students.
- Identify possible changes within the regulatory framework – laws, orders, regulations – which might have a significant impact on desegregation, including economic barriers in accessing education.

- Ensure coordination across sectoral policies in analysing segregation and in designing the desegregation measures.

Teacher Allocation, Training and Cultural Competency:

- Develop and implement training programmes for teachers, principals and school staff on cultural competency, anti-discrimination, including anti-segregation and inclusive teaching practices.
- The training programmes should involve together teachers from all schools, including potentially segregated ones, at local level and should be seen as a process of joint learning and reflection, accompanying the process of desegregation and the promotion of inclusion and integration.
- Create resources and materials that reflect the cultural diversity of Roma students and other student cohorts in general.
- Revise the teacher allocation policy and those regarding remuneration and promotion, based on performance indicators considering the new policy objective – desegregation.
- Establish or reform the existing institutions to ensure that teachers, principals and school staff have access to continuous professional education and development, as well as mentoring.

Monitoring and Reporting:

- Establish a monitoring system to regularly track progress toward desegregation and the reduction of discrimination.
- Adjust strategies and interventions based on feedback and outcomes.
- Ensure transparency and report regularly to the local community, authorities and ministries about the progress and challenges in desegregation.

Community Engagement:

- Establish partnerships with local Roma community leaders, organisations, social field workers and other professionals working in communities, and parents to ensure their active involvement in the project.
- Organise town hall meetings, focus groups, and surveys to gather input and insights from the Roma, both the local Roma and non-Roma community.
- Bring together Roma and non-Roma to foster interaction and facilitate dialogue. Explore engagement of local opinion makers, including religious leaders.
- Communicate with non-Roma parents (through facilitation or mediation) about their concerns, try to address their possible stereotypes.
- Involve headteachers of all local schools in the desegregation policy, including those from neighbouring municipalities.
- Clarify the roles and responsibilities, including legal and budgetary responsibilities, of regional and local authorities in school desegregation policies.

Legal Framework:

- If not yet a signatory, the state should ratify the UNESCO Convention Against Discrimination in Education and guarantee that national anti-discrimination and education law is in compliance with CADE.
- National legislation and policies should promote desegregation, equal access to education, and protection against discrimination.

- The prohibition of discrimination/segregation in education should be straightforward and should not set coercion or systemic discrimination/segregation as conditions for a finding of segregation. Quite the contrary, legislation should clarify that de facto or spontaneous segregation is also unlawful because the focus is not on the process that leads to segregation but a situation in which physical separation occurs.
- In case segregation is prohibited in national law under a non-discrimination clause, the existing forms of discrimination should be interpreted in line with the caselaw of the European Court of Human Rights, which has not found the physical separation of Roma children justifiable.
- The prohibition of discrimination/segregation should state that it extends to all units and activities of education, in which students may be separated. A commentary may be attached to this provision with an exhaustive list of educational units and activities.
- The numerical differences are difficult to regulate, mainly because of the variety of educational units and activities where comparisons must be made. What is to be compared should not be listed in the legislation. Rather, it should be part of legislative commentary. The concept of disproportionality is flexible enough to capture different degrees of segregation. It is analogous to over-representation in the ECtHR caselaw.
- Legislation must explicitly state that only two exceptions are permissible, namely minority-initiated and equal quality ethnic minority education whose language component justifies a greater degree of segregation (the CADE exception), and positive action measures that are provisional in nature and remedy the effects of past discrimination (the ICERD exception). Extra language education in the official language and extra tuition to promote access to higher education fall under this category of exceptions. Legislation should be adopted to regulate the collection of ethnic data by choosing from the following options or permitting a combination of lawful practices: 1. self-identification of the data subjects with the involvement of their parents and guardians, 2. third party identification by community leaders or (elected) Roma representatives, 3. the use of a carefully selected combination of “objective criteria” or reference to common knowledge in a locality.
- The relevant ministries or other public bodies should issue guidance for schools, educational and local authorities that facilitates the implementation of legal provisions concerning non-discrimination, the prohibition of segregation and the collection of ethnic data.

Curriculum Diversification:

- Work with educational institutions to adapt and diversify the curriculum to include Roma history, culture, and contributions of Roma to local, national and European history.
- Include literature written by Roma authors and by non-Roma authors about the Roma, including Roma characters/references.
- As part of the literature, include Roma orature (oral literature) such as short stories, music lyrics, proverbs, etc.
- Include Romani language as optional object of learning open to both Roma and non-Roma pupils. Bilingual education should be introduced wherever Romani language is used as mother tongue on significant scale.
- Encourage the inclusion of Roma role models and figures in educational materials.
- Ensure that all students in the schools are part of these activities.

Inclusive Schools:

- Develop guidelines and good practices for creating inclusive school environments.
- Ensure that schools have the necessary resources, such as teaching assistants or mediators, to support Roma and other students with diverse needs.
- Develop policies on supporting wellbeing (of Roma and non-Roma students and teachers) at school.
- For schools in isolated and extremely excluded Roma communities, design extra-curricular activities aiming at socialising Roma students with non-Roma from other schools/communities.
- Set clear reporting mechanisms for incidents of discrimination and bullying.

Parental Support:

- Offer workshops and resources for Roma parents to support their children's education.
- Mediate Roma and non-Roma parents' meetings in school settings, as the school is the environment where inclusion and equality are taking place.
- Facilitate parent-teacher meetings to foster collaboration and communication.
- Stimulate the inclusion of Roma parents within the school boards and decision-making processes.

Mentorship and Role Models:

- Implement mentorship programmes where successful Roma individuals can inspire and support Roma students, as well as other students in need.
- Highlight success stories of Roma professionals and scholars to motivate students.

Timeline:

- The project/program/policy will be implemented over a five-year period, with annual evaluations and adjustments to ensure effectiveness and sustainability.
- The mixing of student cohorts should have a clear timeline within the desegregation strategy and local action plan.

Budget:

- A detailed budget must be provided for this project/programme/policy. The budget must include funding for research, community engagement, training programmes, legal advocacy, curriculum development, and ongoing progress reporting, monitoring and evaluation, as well as policy review.
- School financing should reflect the desegregation efforts and compensate the schools for their efforts to promote equality and inclusion. Equity should be considered while designing the school budgets, by means of formula funding or similar systems of resource allocation.
- Budget transparency should be ensured at all levels of governance as a way to build trust among citizens in the school desegregation process.

Collaborative Partnerships:

- Engage with local government agencies, non-governmental organisations, educational institutions, and international bodies to build a broad coalition of support and resources for the initiative.
- Social services and health care services should also be engaged as some interventions in local communities might require their active involvement.

Information policy

- Ensure that all schools in the local community provide objective and transparent information about their inclusive educational practices.
- Inform Roma and non-Roma families about the benefits of educational diversity.
- Develop information and accompaniment policies to avoid white flight processes and high levels of concentration of Roma families in specific schools.

Communication and Awareness:

- Develop a communication strategy to raise awareness about the project's goals and progress among both Roma and non-Roma communities, as well as the general public.
- The communication strategy should include clear messages about the benefits of creating a more inclusive and equitable educational system for all children, empowering them to achieve their full potential and contribute positively to society.

ANNEX 1: Selected Literature Review

The aim of this annex is to provide policymakers who aim at combating Roma school segregation with some useful bibliographical tools covering several important issues related to school segregation and desegregation. The following categories were considered as highly relevant: (1) general or conceptual sources which provide an understanding of the challenges raised by school segregation and desegregation; (2) sources focusing on legal analysis of school segregation and desegregation; (3) sources analysing policies and initiatives dealing with segregation/desegregation across Europe; and (4) sources analysing the challenges related to data collection in dealing with segregation and desegregation. The sources are also categorised as books, articles, and reports and what is usually called grey literature. The entries were selected based on their relevance for the topic and attention received by scholars and activists reflected also in the citations it received. Each entry is accompanied by a short description of its content. Only English language sources have been considered.

The bibliography included in the annex is not exhaustive. For example, the number of sources focusing on legal analysis of segregation/desegregation exceed significantly the aim of this annex. Therefore, only the most relevant sources have been included based on the experiences of the authors of the report. This categorization offers a vague but highly relevant idea on what type of sources dominate the analysis of the Roma school segregation and the geographical scope of these sources.

The goal of the literature review is to provide an image of the complexity of the desegregation process and some solutions tested on the ground. However, they do not aim to provide a comprehensive review of the practices of desegregation in the field.

General/conceptual

Books

Edwin Rekosh and Maxine Sleeper (eds.) (2002) *Separate and Unequal: Combatting Discrimination Against Roma in Education, A Source Book*, Budapest, Hungary: Public Interest Law Initiative, Columbia University Budapest Law Centre.

This collection of essays sheds light on the struggle for the integration of schools in Central and Eastern Europe. The book aims to elucidate the complexity of the phenomenon of educational segregation of Roma children from various perspectives. The contributors aim to document segregation and its consequences, the integration efforts at the time and the possible avenues to use advocacy to combat segregation. The essays document the challenges faced in combating discrimination against Roma children in schools. The focus is on the pervasive issue of segregation and its impact on educational opportunities of Roma. The book also explores early efforts to integrate education in countries like Bulgaria and Hungary. It delves into the legal, social, and pedagogical aspects of promoting inclusive schooling. The authors discuss tools and strategies for advocating change, emphasizing that reforms in policy or law alone cannot achieve lasting progress. Social and attitudinal shifts are equally crucial. Last but not least, the curriculum reform is also analysed.

Iulius Rostas (ed.) (2012) *Ten Years After: A History of Roma School Desegregation in Central & Eastern Europe*, Budapest: Central European University Press.

The book focuses on the critical issue of Roma school desegregation in Central and Eastern Europe. It presents results collated from a fact-finding project led by the editor, involving an examination of legal documents and policy statements issued by national authorities and the international community. It provides a cross-country analysis of policies and case-law in Bulgaria, Czech Republic, Hungary, Romania, and Slovakia. The book is structured in three parts: the first one, sets the stage by providing background information on the issue of Roma school desegregation in the specified region, provides an analysis of the role of international organisations in promoting school desegregation and the legal analysis of the case law at European and national level in combating school segregation. The second part features interviews with activists who have been at the forefront of efforts to combat discrimination in each. These interviews are critically reviewed by educational and policy analysts from the relevant countries. The third part of the book critically examines various Roma-specific political campaigns at both national and European levels.

Xavier Bonal and Cristián Bellei, (eds.) (2020) *Understanding school segregation: patterns, causes and consequences of spatial inequalities in education*. London: Bloomsbury Publishing.

The book looks into social disparities that have surged in numerous urban areas across the globalized world, with education being significantly impacted by trends such as urban segregation and migration patterns. As a result, education policies have collectively fostered a growing phenomenon of school segregation between socioeconomically disadvantaged groups and the middle class. Examining school segregation across Argentina, Belgium, Brazil, Chile, England, France, Peru, Spain, Sweden, and the USA, this volume offers insights into the primary features and causes of school segregation, along with its repercussions on education inequalities, academic performance, social cohesion, and intercultural interaction.

The book is structured into three parts: Part 1 delves into the systemic aspects of education disparities that contribute to varying forms of school segregation and evaluates the efficacy of public policies in addressing this issue. Part 2 focuses on the effects of school segregation on student achievement and other educational facets, while Part 3 examines how market dynamics and the privatization of education influence school segregation trends. Each chapter, while exploring diverse facets of school segregation, analyses its scale, trends, and impacts, enabling readers to grasp a comprehensive understanding of the phenomenon and facilitating cross-country comparisons. Furthermore, the volume furnishes valuable insights into the dynamics and attributes of school segregation, essential for the development and implementation of desegregation policies.

Articles

Niall O'Higgins and Christian Brüggemann (2014) 'The Consequences of Cumulative Discrimination: How Special Schooling Influences Employment and Wages of Roma in the Czech Republic', *European Educational Research* 3, 2014, vol. 13, 282–294.

The article investigates the impact of special schooling on exacerbating labour market disparities between Roma and non-Roma in the Czech Republic. The disparity in labour market outcomes between Roma and non-Roma has traditionally been attributed to either the lower level of educational achievement or labour market discrimination, or both. Despite various studies accounting for the low educational levels among Roma, significant inequalities in the labour market persist. The study reaffirms previous findings

indicating substantial differences in labour market outcomes for Roma that cannot be solely attributed to educational attainment. Furthermore, the authors observe that the discriminatory placement of Roma into special remedial schools for the mentally disabled affects both labour market outcomes and educational attainment levels, with the latter being particularly pronounced. While attendance at special schools accounts for a fraction of Roma labour market discrimination as conventionally measured, its primary impact lies in diminishing Roma educational achievement, suggesting an additional discriminatory factor in labour market outcomes for both Roma and non-Roma, often attributed solely to justified differences in educational levels. As a result, the authors suggest that labour market inequality should be viewed not only as a consequence of low educational attainment and labour market discrimination but rather as a complex outcome of cumulative discrimination. Unlike previous articles that adopt a parametric approach assuming a common ground between Roma and non-Roma, the non-parametric matching approach utilized in this study explicitly acknowledges the significant differences in educational attainment between the two groups.

Iulius Rostas (2017) *Antigypsyism, education and the media: ways forward*, *Identities*, 24:6, 760-768, DOI: 10.1080/1070289X.2017.1380267

The article is a self-reflection of the author's work over a decade of challenging school segregation of Roma across Europe. He analyses the way segregation has been framed and how communication around equality in education with the public took place. The education system is an important pillar in producing and reproducing antigypsyism in society. The author regards Roma school segregation as an important mechanism that perpetuates antigypsyism. He explores ways to attract support for equality measures in education. One important strategy recommended by the author is to engage with media in transmitting messages to an audience that was usually not the target of inclusive discourses that promote diversity and equality as societal values.

Xavier Bonal, Adrián Zancajo, Rosario Scandurra (2019) *Residential segregation and school segregation of foreign students in Barcelona*. *Urban Studies*, (doi:10.1177/0042098019863662)

This article investigates the interplay between residential and school segregation in Barcelona. The analysis delves into the educational and non-educational factors driving the segregation of foreign students across different neighbourhoods in the city. Additionally, the article examines how Barcelona's admissions policy, which combines catchment areas with extensive school choice, contributes to context-specific mechanisms of school segregation within the local education landscape. The findings confirm the interconnectedness of residential and educational segregation in Barcelona. Furthermore, the availability of publicly subsidized private schooling in neighbourhoods emerges as a key factor influencing both educational segregation and isolation, particularly in areas with a significant concentration of foreign students. Drawing from these findings, the article discusses the challenges facing local education policymakers in addressing the dynamics of school segregation within urban settings.

Reports

Open Society Foundations, (2002) "*Roma Participation Program Reporter: Special Desegregation Issue*", Budapest: OSI.

The Roma Participation Program Reporter provides an account of the first initiatives to desegregate the schools attended by Roma-by-Roma activists in Bulgaria and Hungary. The paper includes a detailed case study of the "Vidin Model," the attempt to desegregate the Roma ghetto schools in Vidin by a local

Roma NGOs, which serve as a model for other local initiatives in Bulgaria. The paper includes information the role played by Roma Participation Program (RPP) grantees in Hungary in securing firm commitments from the newly elected government to accelerate the process of Roma integration. The paper contains two speeches by the RPP' leadership regarding Roma school segregation: the text of RPP Director Rumyan Russinov's address to the United States Commission on Security and Cooperation in Europe and a speech delivered by Deputy Director Bernard Rorke at the Conference of European Ombudsmen in Vilnius, Lithuania.

Claudiu Ivan and Iulius Rostas (2013) *Early School Leaving: causes and consequences*, Bucharest: Roma Education Fund.

The study significantly enhances the understanding of the early school dropout phenomenon, particularly focusing on the challenges encountered by Roma children in Romania. The data collected in this study could serve as a valuable resource in advocating for future public programs and initiatives aimed at enhancing access to education for Roma children. The study employed an innovative research design by analysing the outcomes of two representative groups: Roma and non-Roma students enrolled in lower secondary education, adopting a comparative "in the mirror" approach. Data were obtained through questionnaires administered to both students and their parents/guardians. Additionally, to ensure a comprehensive comparison, data were gathered from a third group of adolescents (non-representative) who had either dropped out of school or were at high risk of doing so, having accumulated over 20 unexplained absences in the preceding semester (the survey was conducted from April to May 2011). To further explore the possible prevalence of Roma children in schools and identify any instances of school segregation, interviews were conducted with school principals. The selection of students participating in the study was drawn from schools offering secondary education, with a significant proportion of Roma students (at least 5 - 10%) from the Centre, North-East, and South-Muntenia regions. Consequently, the student samples were chosen from similar social backgrounds, enabling the observed differences to be attributed to factors beyond the students' geographical origins. Although not nationally representative, the study identified mechanisms which lead to early school leaving in Romania.

Andrew Richard Ryder, Iulius Rostas, Marius Taba (2014) *'Nothing about us without us': the role of inclusive community development in school desegregation for Roma communities*. *Race Ethnicity and Education* 17 (4), 518-539.

The article asserts that community dialogue and participation play a crucial role in the process of desegregation and examines the significance of empowering approaches referred to as 'inclusive community development' (ICD). Despite the existence of numerous legal statutes and policy directives aimed at fostering integrated education, the segregation of Roma children persists, despite formal reiterations of support for integration in several cases decided by the European Court of Human Rights. The article suggests that ICD is indispensable for translating legal and policy directives into tangible outcomes supporting desegregation. It contends that engaging in dialogue can surmount institutional resistance to inclusion and, moreover, has the potential to effect transformative change by fostering inclusive education, promoting interculturalism, and steering communities toward broader structural reforms. The article draws upon insights gleaned from a comprehensive pan-European project involving the authors.

Nils Muižnieks - Council of Europe Commissioner for Human Rights (2017), *Fighting School Segregation in Europe through Inclusive Education: A Position Paper*, [prepared with Dr Xavier Bonal, Professor of Sociology at the Autonomous University of Barcelona and Special Professor of Education and International Development at the University of Amsterdam], Strasbourg: Council of Europe.

The paper provides an overview of the widespread practice of separating groups of pupils in specific schools or classes, including as a result of the current increase in the arrival of migrants and refugees in Europe. The paper begins by presenting a summary of the status of school segregation in Council of Europe member states and the primary factors contributing to it, drawing on the outcomes of the Commissioner's country-monitoring efforts (Section I). Additionally, it examines the potential hazards associated with segregated education (Section II). Subsequently, the document outlines the fundamental principles that should guide any strategy aimed at eliminating segregation and fostering inclusive education (Section III). It concludes with a set of conclusions and recommendations intended for policymakers and all stakeholders engaged in the formulation of more inclusive education policies (Section IV).

Xavier Bonal (2019) *Educational Policy and the Challenge of School Segregation in Catalonia*. IIEP Foresight Papers: UNESCO International Institute for Educational.

This paper examines the situation in Catalonia (Spain), which has witnessed a substantial increase in foreign student enrolment over the past few years, with the proportion of the student body rising from 2 percent a decade ago to 15 percent today. Concurrently, middle-class families have opted to enrol their children in schools attended predominantly by higher-income families—a trend referred to as 'social differentiation'. The combination of these two trends has gradually led to instances of segregation within certain educational institutions. The clustering of social groups in specific geographical areas and institutions has long been observed, but with the ongoing migration crisis, one of the largest since the Second World War, this phenomenon has reached unprecedented levels. This presents significant challenges to many education systems: the influx of newcomers often results in a higher enrolment of immigrant students in schools already hosting a considerable socially disadvantaged or vulnerable population. This scenario carries important implications for academic performance, educational equity, and social unity.

Legal analysis

Books

Helen O'Nions (2007) *Minority Rights Protection in International Law: The Roma of Europe*, Ashgate: Hampshire.

The book explores the theoretical discourse surrounding the most effective means of safeguarding the fundamental human rights of the Roma, shedding light on broader strategies for protecting minority rights. It offers an insight into the profound levels of exclusion experienced by the Roma with their dispersed and diverse nature within societies that ostensibly uphold the ideals of individual, universal human rights. The book includes a chapter on Roma education and its protection under international human rights law.

Sina Van den Bogaert (2018) *Segregation of Roma Children in Education: Addressing Structural Discrimination through the Framework Convention for the Protection of National Minorities and the Racial Equality Directive 2000/43/EC*. Leiden and Boston: Brill/Nijhoff.

The book examines, from the perspective of public international law, how the Framework Convention for the Protection of National Minorities (Council of Europe) and the Racial Equality Directive 2000/43/EC (European Union) have contributed towards desegregation of Roma children in education in Europe. The book delves into the following key areas: Roma history and identity, the challenges faced by Roma children in education, human rights and minority rights from non-discrimination perspective and the place and value within the broader landscape of international standards of the two legal documents. First, the book introduces the Roma community, exploring their history, migration, nomadism, and self-designation and highlights the specific features of the Roma as a minority group. The importance of education is emphasized as a means of integration and effective participation in society. The book challenges the “separate but equal” doctrine by addressing segregation in education, drawing parallels with integration efforts in the United States. Second, the book critically examines human rights, minority rights, and non-discrimination rights. Disparities in attitudes towards the Roma in Eastern and Western Europe are explored. Different conceptions of Romani identity and strategies for making the minority rights discourse work are discussed. Third, the Framework Convention for the Protection of National Minorities (FCNM) and the Racial Equality Directive are introduced and their roles in addressing segregation in education are evaluated.

Articles

Lilla Farkas (2008) “*The Scene After Battle: What is the Victory in D.H. Worth and Where to Go from Here?*”, *Roma Rights Journal* 2008, 51-65.

The article analyses the European Court of Human Rights decision in the DH vs Czech Republic case and, in connection to the Race Equality Directive (RED), assesses its future impact on strategic litigation against ethnic and racial discrimination in Europe. The author argues that the ruling by the Grand Chamber in D.H. II. and the implementation of the RED have significantly altered the legal landscape in Europe opening new avenues for advocates for Roma rights to defend the right of the Roma in regard to the scope of litigation, the use *actio popularis*, and reasonable accommodation of minority rights.

Jack Greenberg (2010), “*Report on Roma Education Today: From Slavery to Segregation and Beyond*,” *Columbia Law Review*, pp.919–100.

The report documents the current state of Roma school segregation and suggests ways to promote integration in the region. The author, one of the lawyers in the landmark case of *Brown vs Board of Education*, draws a parallel between the Roma in Eastern Europe and African Americans who share similar historical experience, enduring slavery, emancipation in the mid-nineteenth century, and subsequent discrimination.

Lydia Gall and Robert Kushen (2010) ‘*What happened to the promise of D.H.?*’, *Roma Rights* 1/ 2010.

The article assesses the impact of the case of *D.H. and Others v The Czech Republic*. In this case involving 18 Romani applicants from Ostrava in the Czech Republic, the European Court of Human Rights (ECtHR or the Court) issued a landmark decision delineating discrimination against Romani children in educational access. The judgment held the promise of fair treatment, equal educational opportunities,

and substantial improvement in the Roma situation – a pledge unprecedented at the time. However, more than two and a half years later, despite ongoing efforts by local and international NGOs to pressure the Government to fulfil its international obligations, minimal progress has been made to eradicate segregation within the Czech education system, particularly concerning Roma, and to foster the inclusive education of Romani children.

Sina van den Bogaert (2011) *Roma Segregation in Education: Direct or Indirect Discrimination? An Analysis of the Parallels and Differences between Council Directive 2000/43/EC and Recent ECtHR Case Law on Roma Educational Matters*. ZaöRV 71 (2011): 719-753.

The primary aim of the paper is that, given the reciprocal borrowing practices between the CJEU and the ECtHR concerning their non-discrimination frameworks, it is essential for the ECtHR to make a clear distinction between the notions of direct and indirect discrimination. This distinction remains crucial, despite its lack of direct influence on the opportunities for objective justification under Article 14 of the European Convention on Human Rights (ECHR). While the classification of cases as direct or indirect discrimination may not seem crucial doctrinally under Article 14 ECHR, it has implications for the outcome of cases before the CJEU or national courts. Under Article 2 of the Racial Equality Directive, cases of indirect discrimination may be objectively justified, whereas direct discrimination cannot be justified. Correctly identifying cases of direct discrimination enhances victim protection by eliminating the possibility of objective justification for the perpetrator.

Noam Peleg (2018) *"Marginalisation by the Court: The Case of Roma Children and the European Court of Human Rights."* Human Rights Law Review 18.1 (2018): 111-131.

The analysis in this paper scrutinizes the European Court of Human Rights' interpretation of children as bearers of human rights, using the educational access of Roma children as a focal point. It contends that the Court consistently overlooks children as independent agents when their rights are infringed upon. Roma children, belonging to an ethnic or racial minority, face discrimination due to their segregation from other children within European education systems. Moreover, the Court exacerbates this discrimination by prioritizing the rights of their parents while disregarding the children's autonomous status. Consequently, the paper asserts that Roma children encounter marginalization based on both their childhood status and their membership in a socially subordinated group. The paper advocates for an alternative approach centred on children, which could potentially address this issue. This approach repositions children as central figures in the Court's analysis, urging direct engagement with them as rights holders. It also seeks to strike a different balance between children's rights, parental interests, and state responsibilities.

Reports

Lilla Farkas (2007) *'Segregation of Roma Children in Education: Addressing Structural Discrimination through the Race Equality Directive'*, Brussels: European Commission, DG Employment, Social Affairs and Equal Opportunities, July 2007.

The report analyses the disparities in the educational experiences of Roma individuals across the EU, which, while embodying different manifestations, fall under the same legal framework. Thus, while overt forms of segregation in newer Member States may reflect exclusionary policies, issues such as early dropout rates and academic underperformance illustrate systemic, institutional discrimination in older ones – even if they are not perceived as fitting legal classifications. The underlying theme is that while

partial assimilation in such contexts may acknowledge diversity in private spheres, it demands conformity in public domains. This report argues that the Racial Equality Directive (RED) offers a uniquely high level of protection against structural discrimination in education and could serve as an effective tool in combatting it in domestic courts and before the European Court of Justice (ECJ). To ensure the highest level of protection and reconsider the RED's individual justice model, it advocates for a unified European definition of Roma as a dual racial and ethnic minority. The report suggests creating a comprehensive definition for the Roma that encompasses all relevant social attributes.

Policies/initiatives

Books

Gynther Paivi (2006) *From Utopia to Quintessence: Education Law from the Viewpoint of Roma and Skills Deficiency*, Vaajakoski: Gummerus Printing.

This monograph delves into the integrity of the legal framework in education. Stemming from the concept of the disadvantage doctrine, it presents an analytical model for assessing whether domestic education laws align with international human rights and minority rights legislation. The notion of systemic discrimination, which views 'law as a system', sets this research apart from prior studies on discrimination in education. The central thesis posits that a robust legal framework comprises four interconnected elements. Firstly, it recognizes individuals' rights to acquire skills conducive to self-sufficiency in society. Secondly, it ensures that all individuals are equally subject to education laws, unless exempted on valid and justifiable grounds. Thirdly, it acknowledges the need for equitable distribution of public resources, taking into account diversity and educational disadvantage. Fourthly, it advocates for decision-making processes to reflect the societal composition. The examination of international standards in this study affirms that states committed to these standards should address each of these four components. The study contends that neglecting any of these components may lead to overt or covert exclusion of certain segments of the population from adequate protection under education law. The primary motivation behind this monograph stems from the continued educational disadvantage faced by Roma communities across Europe. Hence, the focus is on Roma individuals falling within various legal categories, emphasizing the importance of safeguarding their educational rights beyond childhood and primary education.

Articles

Iulius Rostas and Joanna Kostka (2014) "Structural dimensions of Roma school desegregation policies in Central and Eastern Europe." *European Educational Research Journal* 13.3 (2014): 268-281.

The article discusses the socio-economic exclusion of the Roma community in Central and Eastern Europe, focusing on the widespread practice of segregating Romani children in schools. This segregation significantly hampers their educational development and prospects. Despite legislative changes and political commitments to desegregation, progress has been limited, with national programs facing implementation challenges and grassroots initiatives struggling to influence broader policy strategies. The text argues that the failure of desegregation efforts stems from narrow aims that overlook structural dimensions of segregation and discrimination. It proposes using policy design theory to understand the impact of discourse and policy content on implementation outcomes.

Helen O'nions (2015) "Narratives of social inclusion in the context of Roma school segregation." *Social Inclusion* 3.5 (2015): 103-114.

The articles analyse the EU narratives on social inclusion through the perspective of education, specifically considering the educational segregation of Roma students in various European countries. Viewing education as a key indicator of social inclusion, this article identifies structural inequality and deeply ingrained discriminatory attitudes as the primary barriers to Roma integration. Addressing this issue requires the dissemination of legal and social norms that prioritize equality across mainstream channels. The article argues that the European Commission must take a more decisive and effective approach in enforcing non-discrimination regulations, with a particular focus on legal obligations. Establishing a closer dialogue between the European Court of Human Rights and EU institutions, based on a broader social inclusion framework, could facilitate a platform for European consensus, fostering meaningful changes in Roma inclusion efforts.

Laura Cashman (2017) "New label no progress: institutional racism and the persistent segregation of Romani students in the Czech Republic." *Race Ethnicity and Education* 20.5 (2017): 595-608.

This article delves into the persistent challenges hindering their successful integration into the Czech education system following the 2007 European Court of Human Rights (ECtHR) decision in *DH v. Czech Republic*. In *DH* case ECtHR ruled the state guilty of discriminating against Romani children due to the excessive placement of children in remedial special schools. According to the article, in 2015, a significant number of Romani children were still being wrongly diagnosed with special educational needs (SEN) and provided with inadequate and inappropriate education. Employing critical race theory (CRT) as an analytical framework, the article highlights issues with the current policy direction. It illustrates how institutional racism persists in the Czech Republic, influencing attitudes and practices across all levels. Policymakers exhibit limited acknowledgment of entrenched educational disparities, and Roma individuals are often perceived as outsiders who must conform to Czech norms rather than being recognized as entitled citizens deserving services tailored to their needs.

János Zolnay (2018) *Commuting to segregation. The role of pupil commuting in a Hungarian city: between school segregation and inequality.* *SZOCIOLÓGIAI SZEMLE*, 28 (4). pp. 133-151.

The paper aims to enhance comprehension regarding the significant commuting rates of primary school students in towns and cities across Hungary, particularly focusing on its role in the school selection process. Utilizing data from two studies and comprehensive data collection encompassing all primary school students in Pécs, the patterns, directions, and success rates of students' attempts to secure enrolment in higher-quality schools compared to their district schools were analysed. The study sought to unravel the dynamics of primary school "commuting games." The findings reveal that, contrary to national trends, both low-status and Roma primary school students exhibit remarkably high commuting rates within the city. However, while many commuting students have successfully gained admission to higher-quality schools outside their residential catchment areas, a significant portion of low-status and Roma commuters seem to be attending lower-quality schools compared to those near their homes due to informal discouragement from prestigious schools. These findings challenge existing literature suggesting that the selection mechanisms in public education are primarily driven by the mutual choices of prestigious schools and high-status students. Schools and their local or central governing bodies face challenges in controlling these processes within the framework of a centralized system.

Dorottya Kisfalusi, Béla Janky, Károly Takács (2021) "Grading in Hungarian primary schools: Mechanisms of ethnic discrimination against Roma students." *European Sociological Review* 37.6 (2021): 899-917.

The current research aims to elucidate the mechanisms of ethnic discrimination in teacher assessments within Hungarian primary schools. To achieve this goal, the authors analysed data collected from both Roma minority and non-Roma majority students. Initially, they observed a significant ethnic disparity in non-blind school grades, surpassing the ethnic gap in blind standardized test scores. Subsequently, they formulated and empirically evaluated predictions derived from various discrimination theories to elucidate the ethnic grade gap. The findings suggest that theories based on stereotypes fail to account for why minority students receive lower grades compared to majority students. While the authors do not discount the presence of taste-based discrimination against Roma students by teachers, a substantial portion of ethnic discrimination stems from teachers' indirectly discriminatory grading practices. Specifically, teachers tend to assess the school behaviour of Roma students more negatively than that of non-Roma students, and this evaluation seems to influence grading without valid justification. Consequently, this practice not only disadvantages Roma students but also affects boys and students with lower status.

Luminita Costache, Eugen Crai, Claudiu Ivan (2022) "School Segregation and Educational Equity. Institutionalization of School Segregation Monitoring, a Sine Qua Non Prerequisite for Policies to Promote Educational Equity." *Revista de Cercetare si Interventie Sociala* 76 (2022).

The article introduces a public education policy tool, designed as a universally applicable model for monitoring, analysing, and evaluating the phenomenon of school segregation. Developed by a UNICEF team building upon the pioneering efforts of a Romanian NGO (Advocacy and Human Rights Center), this instrument holds significant importance for promoting educational equity and social welfare. The paper contends that widespread adoption of this tool within education systems is essential for achieving equal educational opportunities. Through systematic administrative utilization, this instrument establishes the groundwork for accurately assessing the level of school segregation, defined in alignment with pertinent criteria and its various manifestations. Furthermore, the availability of such a tool facilitates the implementation of public intervention strategies aimed at systemic school desegregation. The conclusions of the paper discuss specific conditions, precautionary measures, and associated risks related to the implementation and utilization of such a model.

Reports

Open Society Institute EU Monitoring and Advocacy Programme (2007) *Equal Access to Quality Education for Roma: Monitoring Reports for Bulgaria, Hungary, Romania and Serbia*, Budapest: Open Society Institute.

The report employed a comprehensive methodology aimed at ensuring a consistent approach across the monitored countries. Case studies were conducted using a standardized template. The research covered Bulgaria, Hungary, Romania, and Serbia. Each country report included in this volume underwent review during national roundtable meetings with government officials, civil society organisations, parents, and international entities. Each country report consists of seven main sections. Section 1 comprises the executive summary and recommendations. Section 2 examines available data on school enrolment and retention of Roma students, contrasting them with general enrolment trends. Section 3 evaluates governmental policies and programs concerning Roma, along with broader educational policies affecting

Roma education, assessing their implementation status, particularly regarding the "Decade of Roma Inclusion." Section 4 discusses the primary barriers hindering Roma students' full access to education, exploring the impact of segregation in schools catering exclusively to Roma communities, segregated classes within mainstream schools, or specialized schools for individuals with intellectual disabilities. Section 5 assesses the quality of education received by Roma students. In Annex 1, the section outlining administrative structures provides a brief overview of the organisation and functioning of the school systems in each respective country. This section is particularly useful for international readers who may not be acquainted with the specific educational frameworks of the countries under review. Additionally, Annex 2 contains supplementary details extracted from the case studies. Nevertheless, information gleaned from the case studies is also interwoven throughout the main body of the report.

Equality and Roma Education Fund (2011) “From segregation to inclusion: Roma Pupils in the United Kingdom. A Pilot Research Project”, November 2011, UK.

The report represents the first attempt to examine the experiences of Czech and Slovak Roma students attending special or de facto segregated (Roma-only) schools in the Czech Republic and Slovakia, while also drawing comparisons to their experiences in primary or secondary mainstream education in the UK. The report is based on literature review combined with field research undertaken by Equality between June and August 2011 at eight locations in England. In Total 61 Czech or Slovak Roma students, 28 Roma parents, and 25 school or other education staff were interviewed. The research indicates that Roma students that recently moved from Czech Republic and Slovakia to UK perform better in UK schools, report feeling better in the new schools, free from racist bullying and other abuses, and the parents valued more UK education system and believed their children’s chances to succeed later on in life were much better in UK than in Slovakia and the Czech Republic.

Roma Education Fund (2012) ‘Pitfalls and Bias: Entry testing and the overrepresentation of Romani children in special education’, Budapest: April 2012.

This policy paper delves into the various methods through which Romani children from Central and Southeastern Europe encounter segregation from their non-Romani peers and are directed into special education programs. Specifically, the paper focuses on school readiness assessments (school entry testing) conducted in the Czech Republic, Hungary, Serbia, and Slovakia. These assessments often result in the postponement of children's school entry, their placement in preparatory or transition classes within special schools, or their enrolment in special education classrooms or schools. The paper investigates the correlation between such assessments and the disproportionate representation of Romani children in special education. Furthermore, it highlights international best practices in assessment methods aimed at integrating rather than segregating children, with the goal of addressing the diverse educational needs of individual students. The document also outlines potential avenues for change in Central and Southeastern Europe.

FXB Center for Health and Human Rights, Harvard University (2015), *Strategies and Tactics to Combat Segregation of Roma Children in Schools: Case studies from Romania, Croatia, Hungary, Czech Republic, Bulgaria, and Greece.* Boston: Harvard University.

The objective of this report is to assess and consolidate the desegregation methods and approaches utilized by six non-governmental organisations (NGOs) in Central, Eastern, and Southern European nations. It compiles empirical data demonstrating the adverse consequences of segregating Roma

children in schools, while spotlighting effective interventions undertaken by the European Roma Rights Centre (ERRC) in Croatia and Hungary, Romani CRISS in Romania, Life Together in the Czech Republic, Integro in Bulgaria, and Antigone in Greece. These organisations form part of DARE-Net, an initiative launched by Romani CRISS in 2012. Throughout the project's execution, the Chance for Children Foundation (CFCF) joined the network, concentrating primarily on endeavours in Hungary. The report presents six case studies detailing the initiatives. Each study summarises findings derived from comprehensive literature reviews and semi-structured interviews with communities, experts, and stakeholders. These case studies delineate the efforts made to advocate for alterations in policy, legislation, curricula, and/or practices within political and societal contexts that have been resistant to change.

Data

Books

Mihai Surdu (2017) *Those Who Count: Expert Practices of Roma Classification*. Budapest: CEU Press.

The book scrutinizes the scientific and expert practices of Roma classification and counting, and the politics of Roma-related knowledge production. The categorization of individuals, particularly the Roma community, by researchers, experts, and scientists can carry significant repercussions. Dominant themes surrounding the Roma, perpetuated by mass media, often revolve around poverty, limited education, unemployment, and reliance on welfare. These narratives, when repeatedly presented, solidify into a stereotypical depiction of the Roma people. An in-depth analysis of literature concerning the Roma community reveals the far-reaching consequences of reducing individuals to mere objects of study. Moreover, the scientific and expert insights propagated through Roma-related research are markedly influenced by the prevailing political regimes. Consequently, a persistently negative portrayal of the Roma persists, with many individuals internalizing these enduring stereotypes, which in turn constrains their aspirations and negatively impacts their life trajectories. In the author's perspective, rather than scrutinizing the Roma themselves, whose ethnic identity is contextual and fluid, attention should be directed towards the various classifiers, particularly the expert categorizers, and the methods of objectification employed.

Articles

Gábor Kertesi and Gábor Kézdi (2012) "School segregation, school choice, and educational policies in 100 Hungarian towns." Budapest, Corvinus University, BWP – 2012/8.

The study examines the level of segregation between Roma and non-Roma students across the years 1980 to 2011 based on comprehensive data on the ethnic composition of Hungarian primary schools. Segregation measures are computed within school catchment areas, micro-regions, and larger municipalities (towns and cities). Catchment areas, defined based on observed commuting patterns, encompass clusters of villages, towns, and cities that exhibit closed student commuting patterns. Findings indicate a substantial increase in ethnic segregation among Hungarian schools from 1980 to 2011. While segregation levels seem to have decreased between 2006 and 2008, subsequent trends show an increase; however, data variability limits definitive conclusions. Across different regions, school segregation correlates positively with the educational market size and the proportion of Roma students, mirroring patterns observed in U.S. metropolitan areas. These associations have grown stronger over

time in Hungary, with changes in segregation linked to shifts in school numbers and Roma student proportions.

Vera Messing (2017) "Differentiation in the making: Consequences of school segregation of Roma in the Czech Republic, Hungary, and Slovakia." *European Education* 49.1 (2017): 89-103.

The article explores the impact of different forms of ethnic segregation in education on the daily lives and future prospects of Roma youth in three Central and Eastern European nations: the Czech Republic, Hungary, and Slovakia. Drawing from a comparative European study on the varied experiences and trajectories of ethnic minority youth in Europe, the article delves into the mechanisms of segregation in Central and Eastern Europe and examines how various forms of separation influence the daily realities and future aspirations of youth, as perceived by 14–15-year-old Roma students and their teachers. The findings reveal that attending segregated Roma schools restricts the educational opportunities for young Roma individuals and deprives them of interethnic social connections. In contrast, participation in segregated classes within ethnically diverse schools adversely impacts the development of youths' identities, self-esteem, and interethnic relationships.

Zoltán Hermann and Dorottya Kisfalusi (2023) "School segregation, student achievement, and educational attainment in Hungary." *International Journal of Comparative Sociology* (2023): 00207152231198434.

Utilizing extensive administrative data from Hungary, the authors investigate the impact of attending a high-poverty school in Grade 8 on academic performance and subsequent educational achievement, employing a matching methodology. The analysis reveals that enrollment in a high-poverty school is inversely linked to reading scores and the attainment of secondary education, although no significant correlation is observed with math scores. While estimates indicate a negative association with enrollment in higher education, the statistical significance thereof varies depending on the model specifications. The analysis uncover suggestive evidence indicating that attendance at a high-poverty school exerts a substantial direct adverse effect on educational attainment, beyond the indirect impact through diminished test scores. This underscores the notion that the detrimental influence of high-poverty schools on students' noncognitive skills and subsequent educational decisions may be as significant as their effect on academic achievement.

Iulius Rostas (2024) *School Desegregation Lessons from Bulgaria, Greece, and Romania.* *European Equality Law Review*/2023, p. 49-64.

Over the past two decades, numerous instances of school segregation involving Roma pupils have been litigated in various European jurisdictions, resulting in the establishment of legal precedents that define educational standards for Roma communities. Despite these legal landmarks, policymakers and education experts still grapple with ambiguities surrounding desegregation strategies, often employing inconsistent terminology and conceptual frameworks in addressing segregation issues.

This article examines the evolution of standards established in segregation cases and their potential impact on desegregation efforts in Bulgaria, Greece, and Romania. Through an analysis of laws, case law, international jurisdiction, policies, and regulations related to school segregation, the article evaluates the effectiveness of legal standards in guiding desegregation initiatives in these countries. Furthermore, the article aims to clarify the terminology associated with segregation by discussing key elements such as spatial segregation, 'self-segregation,' and geographical segregation. By elucidating these terms, the

article seeks to dispel confusion and enhance clarity in discussions surrounding segregation in educational contexts. Moreover, the article explores the diverse forms of Roma segregation prevalent in Bulgaria, Greece, and Romania, shedding light on the multifaceted nature of educational segregation within these communities.

Reports

ERRC (2004) *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia*. Budapest: ERRC.

The report presents the findings of the European Roma Rights Centre (ERRC) field research across five countries, documenting instances of segregated education practices and discriminatory actions by educational authorities. These practices include placement in "special schools" for children with developmental disabilities, attendance at Romani ghetto schools, segregation within all-Romani classes, and denial of enrolment in mainstream schools. Regardless of the form, the quality of education provided to Roma consistently falls below mainstream standards.

The ERRC report concludes with recommendations for governmental policy reform, emphasizing the need for comprehensive legal and educational reforms to address segregated schooling of Roma. Key recommendations include phasing out special schools, integrating students into mainstream education, ensuring racial/ethnic balance in student populations, and eliminating all-Romani schools and classes. The report, based on research conducted between 2002 and 2003, received support from various organisations, including the Human Rights Project Fund of the United Kingdom's Foreign and Commonwealth Office, the Open Society Institute, the Ford Foundation, and the Ruben and Elisabeth Rausing Trust.

Lilla Farkas (2007) '*Segregation of Roma Children in Education: Addressing Structural Discrimination through the Race Equality Directive*', Brussels: European Commission, DG Employment, Social Affairs and Equal Opportunities, July 2007.

The report analyses the disparities in the educational experiences of Roma individuals across the EU, which, while embodying different manifestations, fall under the same legal framework. Thus, while overt forms of segregation in newer Member States may reflect exclusionary policies, issues such as early dropout rates and academic underperformance illustrate systemic, institutional discrimination in older ones – even if they are not perceived as fitting legal classifications. The underlying theme is that while partial assimilation in such contexts may acknowledge diversity in private spheres, it demands conformity in public domains. This report argues that the Racial Equality Directive (RED) offers a uniquely high level of protection against structural discrimination in education and could serve as an effective tool in combatting it in domestic courts and before the European Court of Justice (ECJ). To ensure the highest level of protection and reconsider the RED's individual justice model, it advocates for a unified European definition of Roma as a dual racial and ethnic minority. The report suggests creating a comprehensive definition for the Roma that encompasses all relevant social attributes.

Christian Brüggemann (2012) '*Roma Education in Comparative Perspective. Analysis of the UNDP/World Bank/EC Regional Roma Survey 2011*', Bratislava: United Nations Development Programme.

The working paper provides a detailed examination of the UNDP/World Bank/EC Regional Roma Survey (2011) concerning the educational status of Roma individuals across twelve Central and Southeast European nations. Through a comparative analysis of data from 2004 and 2011, this paper contributes to assessing the progress made during the Decade of Roma Inclusion 2005-2015. Additionally, it presents a variety of educational indicators that could serve as benchmarks for the EU Framework for Roma Integration Strategies. The paper discusses and contextualizes significant data related to educational achievements, literacy rates, participation in preschool programs, school attendance, early dropout rates, multilingualism, and educational segregation. It highlights persistent educational disparities experienced by Roma communities compared to non-Roma populations, with notable variations among countries in this regard.

Isabelle Chopin, Lilla Farkas, Catharina Germaine (2014) *Ethnic origin and disability data collection in Europe: measuring inequality-combating discrimination*, Open Society Foundations.

The report bridges the divide between theory and practical implementation regarding the gathering of disability and ethnic origin data. These two categories of discrimination hold particular significance as they are the only grounds, outside of employment, covered by law in all EU Member States for which data are not readily accessible: ethnic origin under the Racial Equality Directive and disability under the CRPD, ratified by both Member States and the European Union. The report synthesizes desk research conducted in seven Member States during the first half of 2013, along with insights from national stakeholder meetings held between March and August 2014. With a thematic focus on public education (except in France, where public employment is addressed due to the national context), the report evaluates the pertinent legal framework and practices at both national and EU levels. It delineates the binding core principles for equality data collection and proposes a framework for ethnic categorization and questionnaire design. The report also highlights concerns raised by disability communities regarding the disability questions developed post the CRPD adoption and advocates for the utilization of special educational needs (SEN) categories in the education sector to de-medicalize disability. Furthermore, it offers recommendations for action at both national and EU levels to effect meaningful change on the ground. The existing data protection framework governing equality data operates under a model of "prohibition with exceptions." While certain exemptions are specific and address particular situations, others afford a degree of discretion to legislators or data collectors. These provisions typically stem from Article 8.4 of the Data Protection Directive 95/46/EC, which permits the processing of sensitive personal data when safeguarding a "substantial public interest." It is evident that combating discrimination and ensuring substantive equality should fall squarely within the ambit of "substantial public interest."

Lilla Farkas (2014) '*Report on Discrimination of Roma Children in Education*', Brussels: European Commission, DG Justice, April 2014.

This updated report revisits a previous thematic publication by the same author released in 2007 through the Network, titled "Segregation of Roma children in education: Addressing structural discrimination through the Race Equality Directive." Despite the passage of seven years since the previous report's publication, discrimination, particularly segregation, persists for Roma children in several EU Member States. Consequently, addressing this specific challenge remains one of the most urgent political, social, and human rights priorities. This report emerges amidst recent initiation of infringement proceedings by the European Commission against the Czech Republic, alleging failure to adhere to the requirements of the Racial Equality Directive concerning Roma in education. Therefore, the report offers invaluable and

timely insights into the current state of affairs regarding this issue in the concerned Member States, including the Czech Republic.

Lilla Farkas (2017) *Data collection in the field of ethnicity*. Brussels: European Commission.

The report explores various aspects related to collecting data on racial and ethnic origin. The report discusses the complexities of defining racial and ethnic origin. It highlights the challenges in collecting accurate and meaningful data in this context. The report examines the legal framework for collecting data on racial and ethnic origin. It provides examples of Member States that have laws obliging or promoting such data collection. Additionally, the report maps existing sources of equality data related to racial and ethnic origin. It covers both international and European sources as well as national sources (official and non-governmental). Moreover, the report discusses methods of collecting data on racial and ethnic origin. It addresses challenges related to confidentiality, representativeness, comparability, and categorization. The inclusion of minority communities in data collection is also explored. Methods of building confidence in data collection are considered.

ANNEX 2: Selected Promising Strategies

Appendix 2 presents a selection of promising strategies adopted at the local level based on available data. Please note that this area suffers from a paucity of data that comprehensively measure the short- and especially the long-term effects of desegregation efforts. In addition, these examples are certainly not perfect cases, but rather plausible and inspiring learning strategies for policymakers.

We have included cases with a segregated school closure strategy (Szeged (HU), Žilina (SK)) as an example of a plausible approach for a medium-sized city with a low Roma population, where Roma children tend to be concentrated in a ghetto school. The case of Hódmezővásárhely also responds to such a context, but with a much more comprehensive and politically challenging approach. The first Roma-led desegregation case of Vidin based on busing, on the other hand, can be an inspiration for providing inclusive education to Roma children living, for example, in rural areas and segregated communities where Roma outnumber non-Roma. The cases of Paris and Barcelona, which address social segregation, provide innovative strategies for redesigning catchment areas, accompanied by inclusive policies, which can be an inspiration not only for larger cities, but also for larger counties where Roma children end up concentrated in rural ghetto schools.

1. Desegregation case of Szeged, Hungary

Context

This case¹⁷³ addresses the practice of segregating Roma children in a single school in a medium-sized town with a small Roma population. The city decided to close the segregated school and integrate the children into the remaining eleven mainstream schools.

Introduction

Szeged is located in the southern part of Hungary, with a population of about 170 thousand, with a low percentage of Roma, about 2 to 3%. Over the years, the majority of Roma pupils from several concentrations in Szeged and from rural areas, as well as from families who live integrated in the majority society, have been concentrated in the Mora FÉrenc primary school. However, educational segregation was closely related to residential segregation, as most children walked to school from segregated neighbourhoods. More than 70% of the children had multiple disadvantages, which means social vulnerability.

Research of Mora Ferenc Primary School

Prior to the desegregation, an interdisciplinary team of researchers from Szeged University that have also run a local NGO conducted action research on the segregated school. The research revealed very high absenteeism rates, poor educational performance, academic gaps, and high illiteracy rates among pupils. Teachers at the segregated school were burned out but saw maintaining the school as beneficial to the children because of the small class sizes. They were mostly in favour of segregation and blamed the children for their educational failures. However, there was a minority of teachers who felt that integrating with other schools would potentially benefit their pupils. Most Romani parents felt that their children were receiving a satisfactory education and expressed concern that their children would not be able to keep up with students in mainstream schools. They were also concerned about a potentially hostile environment and higher academic expectations. Some expressed concern that their children will

¹⁷³ This case is based on a study prepared by Norbert Szűcs and Valéria Kelemen. Norbert Szűcs and Valéria Kelemen (2013), A Szegedi deszegregációs intézkedés: egy gettóiskola megszüntetése, available online at: https://www.researchgate.net/publication/334368897_A_szegedi_deszegregacios_intezkedes

stand out because of poverty and inadequate clothing. The findings of the research, however, supported the case for closing the school and provided good data for planning the intervention.

Desegregation Action

The initiative to close the schools did not come from the city government but rather from various pressure groups, such as the Network Integration Education Network or the local Roma self-government. The entire process lasted from February to May 2007, while the decision to close the segregated school was approved by the Municipal Assembly on March 10, 2007. The children from the closed school enrolled in their schools for the following school year. The city had already mapped the children's residences in order to plan catchment areas to ensure that their new schools would be as close as possible, and they were relocated at the same time as their siblings. The process involved about 130 Roma children and the aim was to ensure that there were no more than three Roma children per class. Each school thus received between seven and twenty three new pupils from the Roma community, who were sent to eleven schools around Szeged. Several aspects were taken into consideration when deciding on the transfer of children, including the placement of the child's siblings, friends and the accessibility of the school by public transport not necessarily proximity.

Some of the teachers from the closed Roma school were transferred into eleven schools and hired as mentor teachers responsible for facilitating the integration of newly arrived students and addressing their individual concerns. The creation of this position, according to observers, also addressed the fears and resistance of teachers in the receiving schools. Opposition to the process also came from parents of students in the receiving schools and from the local teachers' association, which saw the move as pointless.

According to the observers, the whole process was quite challenging and the municipality had to negotiate with the remaining schools to convince them. Crucial was the support of a local NGO called Motivation Muhely, founded by university teachers who also conducted the action research mentioned above. The NGO organised training for teachers and facilitated communication with Roma parents and children. They prepared an accredited Roma mentoring programme, which was implemented by the pedagogy students of Szeged University. The program focused on improving the child's literacy skills, which proved to be the most important skill for the children to progress in all courses. The programme also helped the children to reduce dropout rates and improve their academic performance. The city has also provided children from the segregated school with seasonal free bus passes and small funds to purchase educational supplies and clothing.

Conclusion

Available data gathered five years later indicated that the process of desegregation was mostly successful as none of the schools became segregated. The program has significantly reduced dropout rates and supported academic performance of the Roma pupils. In retrospect, the participants in the process viewed that the communication aspects of the process could be reinforced. Overall, the case responds to a rather common challenge with innovative elements especially through the action research undertaken prior to desegregation initiatives, which helped to plan the entire process and mentoring that was likely critical in facilitating integration.

2.Support of Inclusion of Romani children in Žilina, Slovakia

Context

This case highlights a series of interventions pursued by the civil society to support inclusion of Roma children from ghetto school into regular schools across the city of Žilina. The initiative arose after the city decided to close ghetto schools, not for human rights but economic reasons with poor planning. The case

presents a likely scenario that larger cities with smaller Romani populations will have economic incentives to close a segregated school. This case is relevant as the programmes that were provided by civil society are relevant policy responses that should be adopted along with school closure by the municipality.

Introduction

Žilina lies in the northern region of Slovakia, which generally has one of the lowest proportions of Roma population in the country. Out of the population of about eighty thousand people less than one percent is Roma. Roma are mostly living in a segregated community on Bratislavská Street in substandard municipal housing.¹⁷⁴ Based on the division of school districts, the majority of Romani children traditionally attended the closest school on Hollého street. The school has, over the years, experienced white flight and the student body has dropped to only 80 students.

Closing Ghetto School

The municipal strategy on education adopted in 2016 for the period of 2017-2019, argued that Holleho school is segregated, children's academic performance was poor, and the school maintenance economically unviable. The strategy indicated that a creation of a centre for afterschool activities would constitute a better use of the building.¹⁷⁵

In April 2017, the municipality announced its plan to close the Holleho school as of September 1, 2017, and to transfer all the students into ten primary schools across the city. There was no prior consultation with stakeholders. Roma parents were concerned about the wellbeing of their children in the new schools and about the overall logistics of the commute, as their old schools were within walking distance. The decision was met with significant opposition from non-Romani parents who initiated a petition calling on the Mayor to keep the school open, arguing, rather falsely, that it provided children with the right to education, in order to allay their concerns that their children would be attending schools with Roma peers. Nevertheless, on September 1, 2017, 60 children were enrolled in nine regular primary schools, while 13 children with mild mental disabilities were enrolled in a nearby special school. The rest of the children left the city. This division occurred after the Bratislavská area was redrawn into several school districts located around the city.¹⁷⁶

Social measures

The municipal decision was not accompanied by any plans to facilitate the integration of Roma children into the new schools, or at least to remove the barriers that Roma children face in accessing services provided to other children. The latter mainly concerned the cost of transportation to the new schools, as Roma children previously walked to school. According to city regulations, transportation was free for all children and students, except for those who had outstanding debts for municipal waste. None of the Romani children from the ghetto qualified because they had accumulated debts over the years, and the cost of the bus, at 11 euros a month, was a major obstacle for socially disadvantaged Roma families. This local ordinance also applied to other socially disadvantaged children in the city. However, these children usually attended schools within walking distance. This unfortunate and unfair situation attracted the sympathy of local activists and the wider public; in September 2017, several activists organised a private donation to fund the first three months of transportation costs for these children. This movement

¹⁷⁴ Information gathered in the database called the Atlas of Romani communities of 2019, published by the Office of the Government Plenipotentiary for Romani Communities, available at: <https://www.romovia.vlada.gov.sk/atlas-romskych-komunit/atlas-romskych-komunit-2019/>

¹⁷⁵ Mestský úrad v Žiline (2016), *Aktualizácia Koncepcie rozvoja školstva v meste Žilina na obdobie rokov 2017 – 2018*, dostupné na:

https://www.zilina.sk/userfiles/2016/mestska_rada/materialy/17MR/Aktualiz%C3%A1cia%20koncepcie%20rozvoja%20%C5%A1kolstva.pdf, p. 5-6. Leisure centers typically provide afterschool activities for children for a fee.

¹⁷⁶ Jana Kadlečíková and Elena G. Kriglerová, *Integrácia rómskych detí do vzdelávania v Žiline – evaluácia projektu ZAintegro* (Bratislava:CVEK, 2019) unpublished evaluation of the program.

helped one of the opposition Councillors in the municipality to advocate for a change in the regulation to remove this discriminatory requirement. The law that allowed municipalities to impose debts on children was later successfully challenged by the Ombudsperson at the Slovak Constitutional Court.¹⁷⁷

Pro inclusion programme ZA integro

These efforts by local councils were most comprehensively addressed by a Bratislava-based NGO called the Center for Research on Ethnicity and Culture (CVEK), which, in partnership with locally engaged experts in education and social work, created an initiative called ZA integro to implement a programme to ease children's transition to school. The programme had several elements: monitoring of school progress, teacher training, individual and group mentoring.

In August 2017, CVEK started a partnership with three schools where most of the children were relocated. The organisation monitored teaching processes in classes where Roma children were placed and started working with both teachers and parents to address issues related to school attendance. CVEK also provided training programs for teachers. In November 2017, CVEK initiated individual mentoring and a study group with volunteers to help children catch up with their studies. In fact, the way in which the city had handled the school closure sparked sympathy among a section of the public, including university students, who were willing to help the Roma children. This was in response to the significant academic gap faced by children from segregated schools.

The group study programme, attended by up to 20 children and led by a group of 4 volunteers, met in the gym of the closed school near the ghetto. They focused on activities to improve reading and maths skills, accompanied by sports activities, mostly soccer during breaks. The programme also included interventions focused on preschool children aged 5-6 who did not attend kindergarten, which took place in the local community centre. The intervention focused on the development of the children's motor and language skills, as well as leisure activities with non-Roma children in one of the maternity centres.

The project also began to coordinate the activities of different actors, including the church and charitable organisations working in the community, who were unaware of each other's activities. The NGO also initiated communication and established a partnership with the municipality, which then took some positive measures. These included enrolling Roma children in after-school clubs and younger children in kindergartens or summer learning camps specifically designed for Roma children.¹⁷⁸

Conclusions

The case shows that closing the segregated school without supportive measures is highly insufficient and can increase the vulnerability and exclusion of Roma children. From the available qualitative evaluation of the impact of the measures introduced by the NGO, it seems that the most effective element of the programme was the individual mentoring provided twice a week after school, accompanied by the creation of a good channel of communication with teachers as well as with parents.

5. Desegregation as a Part of Comprehensive School Reform: The case of Hódmezővásárhely, Hungary

¹⁷⁷ Verejný ochranca práv, Správa o činnosti verejného ochrancu práv za obdobie roka 2018, p.29-30, available online at: https://vop.gov.sk/wp-content/uploads/2021/10/KVOP_Vyroca_sprava_SK_web.pdf

¹⁷⁸ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategies in Slovakia, Focusing on structural and horizontal preconditions for successful implementation of the strategy, Roma Civil Monitor, European Commission: Directorate-General for Justice and Consumers, February 2018, p. 60-61, available online at <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-slovakia-2017-eprint-fin.pdf>, Jana Kadlečiková and Elena G. Kriglerová, Integrácia rómskych detí do vzdelávania v Žiline – evaluácia projektu ZAintegro (Bratislava: CVEK, 2019) unpublished evaluation of the program.

Context

This approach responds to demographic drops across all the municipal schools, poor educational outcomes and economical unsustainability of the operation of the network of schools in a mid-size town of Hódmezővásárhely in Hungary. The adopted approach represents a rather unique strategy that integrated desegregation into a comprehensive school reform.

Introduction

Hódmezővásárhely is a medium-sized city in the southern part of Hungary with a population of about 45,000 and a Roma population of about 10 percent. The reform was implemented in the school year 2007/2008 as a response to a rather common problem faced by cities of this size: population decline, while having too many schools, which meant economic unsustainability and, at the same time, struggling with low educational outcomes. The town has experienced a continuous decrease in the number of pupils enrolled into schools each year. Between 2002 and 2006, the number of children decreased by almost two hundred each year. By 2006, the number of children enrolled in primary schools was 3600, which was much smaller than the available school structure. According to observers, this situation has led to rivalry among schools for students, instability of teachers' positions, and a push for the exclusion of poor children.¹⁷⁹ The reform then consisted of closing all but one of the existing primary schools, and completely redesigning the entire city network and catchment areas. The reform also included school desegregation. The situation of most of the pupils has thus changed. However, the city left a margin for well-off families to attend a school that was handed over to the Roman Catholic Church and that did not fall under the municipal regulation of catchment areas.

Prior measures

According to observers, the first measures of educational reform included the development of a register of children with multiple disadvantages, measured by conditions related to the child's social status. This is tracked through his or her parents' educational attainment, employment status, or housing and social conditions.¹⁸⁰ Thus, this system does not only cover Roma children, but also other socially vulnerable children. In the context of Hódmezővásárhely, these were children living on farms and in the old town. In 2003, the municipality asked schools and kindergartens to inform parents about the importance of registering their children as having multiple disadvantages. This allowed the municipality to map the situation and create a map showing that children attending schools in the outskirts of the city had a high prevalence of children with multiple disadvantages. In 2006, there were about 750 children facing multiple disadvantages.

Reform's Steps

The municipal reform was planned in the document entitled "Concept for Public Education", adopted on November 16, 2006, and the "Plan for Public Education, Task Provision, Institutional Network Operation

¹⁷⁹ Norbert Szűcs (2013), "A hódmezővásárhelyi deszegregációs intézkedés: az oktatási rendszer esélyegyenlőség-fókuszú komplex átszervezése, in A szegedi és hódmezővásárhelyi deszegregációt támogató Hallgatói Mentorprogram, p. 58, the chapter is available online at: https://www.researchgate.net/publication/334365695_A_hodmezovasarhelyi_deszegregacios_intezkedes_az_oktatasi_rendszer_eselyegyenloseg-fokuszu_komplex_atszervezes

¹⁸⁰ Please see more on this at : <https://eurydice.eacea.ec.europa.eu/national-education-systems/hungary/support-measures-learners-early-childhood-and-school-education>

and Development", adopted on December 13, 2006.¹⁸¹ The reform was planned in three phases: mapping, planning, and implementation. Relying on external education experts, the city mapped the residences of children with multiple disadvantages and redrew all catchment areas based on the reduced number of schools, ensuring that each school would serve less than 20% of children with multiple disadvantages. The city closed ten out of eleven elementary schools and opened five new schools. Prior to the reform, some schools could enrol children from the entire city, while others were limited to their catchment areas. The new plan changed this by allowing schools to enrol children from their catchment areas. Parents' views and preferences were considered to some extent in the process of assigning children to new schools. The municipality also reformed the curriculum, provided additional resources to improve teaching capacity and added physical education classes. The process also included an evaluation of all teachers and their performance, which resulted in the dismissal of about 100 teachers. The performance evaluation was based on self-evaluation, evaluation of the institution's management, and feedback from parents. Interestingly, most of the parents participated in the process as 2500 questionnaires were returned. The new principals were appointed for one year only, and their performance was reviewed in subsequent years.

The new system was accompanied by a communication campaign that was launched in the 2007/2008 school year and focused on all key stakeholders, such as teachers, parents, professional organisations, and the public. School principals were clearly key actors in the reorganisation of the education system, with a high level of their engagement in advocacy and communication of the process, including its desegregation element. The plan was commented on through working groups and other institutions, such as parents' organisations, trade unions, teachers, and the self-government of the Roma minority. Communication was particularly focused on parents. According to observers, while the public was divided on aspects of the reforms, it was not hostile to the idea of such an overarching reform. According to observers, local NGOs supported the plan.¹⁸²

The reform was also accompanied by a bus service to transport children from the outskirts of the city. The municipal reform strengthened programmes in kindergartens focusing on the early inclusion of children from disadvantaged families, supported by visiting nurses. The Roma Education Fund financed a mentoring program for Roma students to prevent them from dropping out of school.¹⁸³ The problematic aspect of the process was the handing over of the most prestigious school to the Roman Catholic Church to likely accommodate some public and families who insisted on exclusive education and did not adhere to the catchment area system.

¹⁸¹ Norbert Szűcs (2013), "A hódmezővásárhelyi deszegregációs intézkedés: az oktatási rendszer esélyegyenlőség-fókuszú komplex átszervezése, in A szegedi és hódmezővásárhelyi deszegregációt támogató Hallgatói Mentorprogram, p. 61, the chapter is available online at: https://www.researchgate.net/publication/334365695_A_hodmezovasarhelyi_deszegregacios_intezkedes_az_oktatasi_rend_szer_eselyegyenloseg-fokuszu_komplex_atszervezes

¹⁸² Norbert Szűcs (2013), "A hódmezővásárhelyi deszegregációs intézkedés: az oktatási rendszer esélyegyenlőség-fókuszú komplex átszervezése, in A szegedi és hódmezővásárhelyi deszegregációt támogató Hallgatói Mentorprogram, p. 66, the chapter is available online at: https://www.researchgate.net/publication/334365695_A_hodmezovasarhelyi_deszegregacios_intezkedes_az_oktatasi_rend_szer_eselyegyenloseg-fokuszu_komplex_atszervezes

¹⁸³ See also in Issues concerning Integration and De-segregation Educational Reform in the Municipality of Hódmezővásárhely, (not dated) available online at <https://www.euromanet.eu/upload/82/43/desegr-plan.pdf>

Conclusion:

This case represents a rather unique and overarching approach that alternates the situation of all rather than the integrated minority, which is typically the case. Despite the existence of an exclusive school that does not comply with the catchment area regulation, this case is a rather unique strategy of how to conceive desegregation as part of a larger overarching school reform. The model is well suited to the situation of mid-sized cities that may be struggling with a large network of economically unsustainable schools.

1. Desegregation in Vidin, Bulgaria

Context

The case describes the first Roma-led initiative to address the segregation of Roma children in Central and Eastern Europe, which began in September 2000. Approximately 100 Roma children from the Nov Pat settlement were bused to six mainstream schools in the city of Vidin. The project was driven by a Roma NGO called DROM, which ran the program for the next ten years.¹⁸⁴

Introduction

Vidin is a medium-sized city in northwestern Bulgaria with a population of about 80,000 at the time of project implementation, with local administration estimated Roma population at about 10 percent, but unofficially estimated at about 20 percent.¹⁸⁵ At the local level, the project addressed the problem of high levels of segregation of Roma children in Bulgaria, as almost 70% of Roma children were enrolled in ghetto schools, according to an assessment by the European Roma Rights Center.¹⁸⁶ These schools provided low quality education. In the five years prior to the Vidin pilot project, only 94 Roma children studied in mainstream schools, mostly from families not living in the Roma ghetto.¹⁸⁷ The Nov Pat ghetto, which housed about 97% of the Roma population of the city of Vidin, was located about 3 kilometres from the city centre and had no public transportation other than taxis and school buses to the city centre. The ghetto was ethnically homogeneous but socio-economically diverse.¹⁸⁸

The Desegregation Project

The project targeted children aged 6-18 years from the segregated school who were allocated into mainstream primary and secondary schools to ensure that they form less than 10% of students in each class. Over the years, the program expanded from 100 to about 400 students.¹⁸⁹ The municipality,

¹⁸⁴ Donka Panayotova and Evgeni Evgeniev, Successful Romani School Desegregation: The Vidin Case, 07 November 2002, available online at: <https://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁸⁵ Leslie G. Saliga, A Study of Educational Desegregation Involving the Roma in Europe: the case Study of Vidin, Bulgaria (2009), College of Liberal Arts&Social Sciences Theses and Dissertation, p. 67, available at: <https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1340&context=etd>

¹⁸⁶ Donka Panayotova and Evgeni Evgeniev, Successful Romani school Desegregation: The Vidin Case, 07 November 2002, European Roma Rights Center, available at: <https://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁸⁷ Donka Panayotova, 10 years of Roma desegregation in Education in Central and Eastern Europe, the Vidin Model, Drom, p.2, available online at: http://drom-vidin.org/drom/sites/default/files/buletin_en.pdf

¹⁸⁸ Leslie G. Saliga, A Study of Educational Desegregation Involving the Roma in Europe: the case Study of Vidin, Bulgaria (2009), College of Liberal Arts&Social Sciences Theses and Dissertation, p. 67-68, available at: <https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1340&context=etd>

¹⁸⁹ Donka Panayotova, 10 years of Roma desegregation in Education in Central and Eastern Europe, the Vidin Model, Drom, p.%, available online at: http://drom-vidin.org/drom/sites/default/files/buletin_en.pdf

however, has not closed the segregated school that was about 100 metres from the settlement that continues to cater over the years for up to 500 students.¹⁹⁰

Consultations and Public Campaigns

Prior to the start of the project in September 2000, the project leaders engaged all stakeholders and tried to create a positive environment in the Romani and non-Romani community. This included a campaign targeting Romani parents in the settlement to inform them about the mixed schools, as well as individual meetings. Gaining the participation and support of Romani parents was crucial. According to the project leaders, many Roma parents were uncomfortable with their children's daily exposure to economic disadvantage with their non-Roma peers. However, none questioned that their children would receive a higher quality education. The project leaders also worked with the education authorities and the principals of the host schools, who were supportive of the initiative. According to observers, the local community was initially sceptical, but later changed its mind when it saw the improved academic performance of the participating students. The project also targeted a wider public through a public campaign and discussions, also thanks to the support of well-known public figures and intellectuals in Bulgaria. The project received strong support from the Roma movement and Roma NGOs.¹⁹¹

Integration Support

Students received free bus transportation from the settlement to their schools and back. The project also provided free light meals and free supplementary learning materials, textbooks, and other school supplies. Important aspects of the integration process were catch-up classes and the appointment of Roma supervisors to encourage school attendance, monitor it daily, and communicate with Roma parents. The project also funded training for teachers and extracurricular activities for students, such as sports, music, or essay writing, to facilitate their integration among non-Roma peers. The programme recognized students who excelled academically. Throughout the year, project leaders held regular meetings with parents of children enrolled in the desegregation programme to discuss their children's progress and success in the programme. Romani parents are also included as members of School Boards.¹⁹²

Conclusions

According to a 2004 European Commission report, the success of the project can be attributed to several factors. First, and most critically, Romani children were happy in schools with non-Romani children and improved academically. Second, the initiative was driven by Romani NGOs, which facilitated the necessary level of trust with Romani parents. Finally, the schools have accepted a Roma supervisor on their premises to ensure that children are treated respectfully and equally.¹⁹³ According to additional data, the project was able to reduce the dropout rate to 2%, while the grades of the Roma participants steadily improved, reaching an average of 78%, which is considered good or very good. 12% were considered

¹⁹⁰ Leslie G. Saliga, *A Study of Educational Desegregation Involving the Roma in Europe: the case Study of Vidin, Bulgaria* (2009), College of Liberal Arts&Social Sciences Theses and Dissertation, p. 74-75, available at:

<https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1340&context=etd>

¹⁹¹ Please see in Leslie G. Saliga, *A Study of Educational Desegregation Involving the Roma in Europe: the case Study of Vidin, Bulgaria* (2009), College of Liberal Arts&Social Sciences Theses and Dissertation, , available at:

<https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1340&context=etd>

And Donka Panayotova and Evgeni Evgeniev, *Successful Romani school Desegregation: The Vidin Case*, 07 November 2002, European Roma Rights Center, available at: <https://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁹² And Donka Panayotova and Evgeni Evgeniev, *Successful Romani school Desegregation: The Vidin Case*, 07 November 2002, European Roma Rights Center, available at: <https://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

¹⁹³ European Commission, Directorate-General for Employment, Social Affairs and Inclusion, *The situation of Roma in an enlarged European Union*. Publications Office; 2004, p. 20 Available from: <https://op.europa.eu/en/publication-detail/-/publication/b628783f-622a-4e33-9133-141329672d6e>,

excellent and almost none were considered poor.¹⁹⁴ Other evaluations showed that education in a mixed environment led to significantly better performance by Roma students, although they still lagged behind non-Roma students. Roma students also benefited socially, leading to improved relationships between Romani and non-Romani parents. The Roma children in integrated schools formed educational and career plans that were more like those of their non-Romani peers than those of their Roma peers educated in segregated settings. The Vidin model has contributed to several other desegregation projects in Bulgaria. However, data from 2008 showed some decline in interest in desegregated education among Romani students, and the NGO shifted its core objectives from focusing on the quantity of Romani children enrolled in the desegregation project to the quality of education that participating Romani children receive in the integrated school.¹⁹⁵

2. Multi School Catchment Areas in Paris, France

Context

This case study provides a notable and rather innovative desegregation strategy in a large city of Paris that faces high levels of school segregation based on social status, especially among middle schools.¹⁹⁶

Introduction¹⁹⁷

In Paris' most privileged high schools, less than one percent of students belong to those classified as socially disadvantaged, i.e. working class, unemployed or inactive, although the overall proportion of such students is around 16%. By contrast, at schools at the other end of the scale, socially disadvantaged children make up nearly two-thirds of the student body. According to Ghislaine Morvan Dubois, the president of the Federation of Parents' Council of Students in Paris, "On one street you could have entire classes of Black children standing outside a school, while entire groups of white teens were in schools located a few blocks away".¹⁹⁸ The social divide in Paris is linked to divisions among public schools as well as between private and public schools. Additionally, half of the cases of segregation among public middle schools occur in the same district, or *arrondissement*.

Social segregation has three main causes: residential segregation, enrolment in private schools by more affluent families, and exemptions and classes with specific programmes such as music, dance, or sports that allow students to enrol outside their assigned school districts. Overall, it is estimated that nearly half of the social segregation is due to segregation among public schools, while the other half is caused by the flight to private schools.

Multi school catchment areas

In 2015, the Ministry of Education launched a plan aimed at addressing social segregation in France and, in 2017, the city of Paris has begun experimenting with a new method of assigning students to schools. This method involves creating multi-school catchment areas in order to promote a more diverse social composition among student bodies and prevent students from leaving for private middle schools. In

¹⁹⁴ Donka Panayotova, 10 years of Roma desegregation in Education in Central and Eastern Europe, the Vidin Model, Drom, p.6-7, available online at: http://drom-vidin.org/drom/sites/default/files/buletin_en.pdf

¹⁹⁵Please see overview of available evaluations of the project in Leslie G. Saliga, A Study of Educational Desegregation Involving the Roma in Europe: the case Study of Vidin, Bulgaria (2009), College of Liberal Arts&Social Sciences Theses and Dissertation, p.93 and ff available at: <https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1340&context=etd>

¹⁹⁶ The Institute for Public Policy (2021), Multi School Catchment Areas in Paris? What results after three years?, IPP Policy brief No 62, available online:https://www.ipp.eu/wp-content/uploads/2021/11/Note_IPP_62_eng.pdf

¹⁹⁷ Peter Yeung, "In Paris, More Student Diversity Means Less Private School Flight" 17 May, 2021, Reasons to be cheerful, online at: <https://reasonstobecheerful.world/paris-multi-school-sectors-student-diversity/>

¹⁹⁸ Peter Yeung, "In Paris, More Student Diversity Means Less Private School Flight" 17 May, 2021, Reasons to be cheerful, online at: <https://reasonstobecheerful.world/paris-multi-school-sectors-student-diversity/>

November 2016, the programme was announced and approved by the Council of Paris after a consultation phase in January 2017. An experiment was approved for three school catchment areas in the 18th and 19th arrondissements starting in the 2017 school year. The specific methods of assigning the student body were left to the discretion of monitoring committees set up for all stakeholders in each of the three areas.

Alternating ascent procedure in Berlioz-Coysevox

The two middle schools that participated in the experiment had contrasting student populations. At Hector Berlioz, 40-60% of the students were socially disadvantaged, while at Antoine Coysevox, only 10-20% were. The monitoring committee used a method called alternating ascent, where in even-numbered years, one school enrolled only sixth and eighth grade classes, while the other enrolled only seventh and ninth grade classes. In odd-numbered years, the configuration was reversed. In September 2017, all students residing in the Berlioz-Coysevox catchment area began their sixth-grade studies at Coysevox and continued into seventh grade at Berlioz. In 2018, students entering sixth grade started at Berlioz and then returned to Coysevox at the beginning of 2019.

A regulated choice in Bergson-Pailleron and Curie-Philippe catchment areas

The social divisions in Bergson-Pailleron and Curie-Philippe catchment areas were less pronounced. However, in the case of the Berlioz-Coysevox area, there has been an increase in social division since 2010. The allocation of students was based on a modified version of Gale and Shapley deferred acceptance algorithm. The students were categorised into four income groups based on their family quotient (QF), which was calculated by dividing their taxable family income by the number of people living in the household and dependents. School places for sixth grade were assigned to each group based on their QF to achieve the desired distribution in the dual catchment area. Students were assigned places based on their families' wishes and priority criteria defined by monitoring committees. Priority was given to students with disabilities, followed by students with siblings in the school, and finally to students who lived closer to that school than to any other school. This last criterion was later dropped in favour of priority for the student with the lowest QF.

Results

The results of the alternating ascent procedure have been promising as they have led to a significant increase in social diversity in the Berlioz-Coysevox area. Contrary to fears, this experiment has not resulted in a mass flight of privileged social groups into private education. In contrast, the dual catchment area has experienced a drop in the flight to the private sector between 2017 and 2019. According to observers, this trend has been supported by a phenomenon known as 'back to public' among parents with higher social income. The social diversity has remained stable due to the persistent use of the alternating ascent procedure. Overall, the social profiles of Berlioz and Coysevox middle schools were considerably similar, but the system fell short of perfectly balancing social profiles. According to observers, a slight social asymmetry resulted from situational factors such as the presence of single-case classes at Berlioz. To mitigate negative perceptions of schools by parents, observers recommend enrolling sixth and seventh graders in historically privileged schools before transferring them to historically disadvantaged schools for 8th and 9th grade.

Regulated choice brought mixed results. The procedure worked satisfactorily in one catchment area (Bergson-Pailleron), with an increase in school enrolment and a decline in private school flight. However, the results were more disappointing in Curie-Philippe, where regulated choice led to a drop in private school flight but did not bring the expected social diversity. This phenomenon has been largely caused by a high proportion of participants, around 30% to 60%, who did not provide proof of family income. Additionally, some of the criteria used to determine student priorities introduced biases. However, after changes were introduced into the regulated procedure in the third year of the experiment, the differences

in social composition at the start of the sixth grade were reduced. Yet, this did not succeed in reducing the overrepresentation of socially disadvantaged students at Philipe school, which did not provide extra music programmes sought after by better-off students.

Despite the encouraging results of the multi-school catchment areas led by the city, plans to expand the system to other arrondissements have not been successful due to strong resistance during local consultation in 2019.

Conclusion

Julien Grenet and Youssef Saidi, who participated in and evaluated this experiment, suggest that the formation of multi-school catchment areas presents a viable strategy for urban settings with sufficiently high population density and social diversity to allow for the expansion of catchment areas and mixing of school populations. This strategy could be a viable option for cities in France facing similar challenges to Paris, such as Bordeaux, Lille, Marseille, or Toulouse. Further studies are recommended to evaluate the impact on student skills and educational trajectories.

6.Shock Plan to tackle school socioeconomic segregation in Barcelona, Spain

Context

This case study presents a comprehensive action to address socio-economic segregation in a large city, supported by numerous plans focused on academic performance of students, their social economic vulnerability, mental health and others.

Introduction

Following international and national criticism of the level of socioeconomic segregation in Spanish schools, Catalonia has become the first region to curb the phenomenon in 2019. The region is one of the areas with the highest proportion of foreign-born students in the country, at around 13%, and faces a worrying pattern of concentration of disadvantaged students in ghetto schools, where they make up more than half of the student body. Patterns of segregation are closely linked to the system of public and subsidised private schools that channel socially disadvantaged, often foreign-born children into certain public schools.¹⁹⁹ A notable and comprehensive example of this effort is the city of Barcelona, with its "Shock Plan Against Segregation and for Equal Opportunities and Educational Success," launched in 2019 by the local education authority; Consorci d'Educació de Barcelona.

The plan needed to address rising socioeconomic segregation patterns, which observers have linked to the expansion of parental choice of schools where parents can enrol their children beyond the specific school district since 2012. This change has modified the operation of the model of 29 catchment areas for preschool and primary schools and 26 for secondary schools, to which all residents have priority access regardless of whether they are private or public.²⁰⁰ The city was also faced with the highest rates of children enrolled in subsidised private primary and secondary schools - 54%, and existence of ghetto schools. The average for the Catalans is at 35% while the national average of the country is at 28%.²⁰¹

¹⁹⁹ Ana Torres Menárguez and Jessina Mouzo, Catalonia fights socioeconomic segregation at school, March 20, 2019, El Pais, online at: https://english.elpais.com/elpais/2019/03/19/inenglish/1552993173_554308.html#

²⁰⁰ Xavier Bonal and Sheila Gonzáles Motos, "The spatially uneven effects of a desegregation education policy, European Educational Research Journal", 2023, p.4 available online at <https://diposit.ub.edu/dspace/bitstream/2445/206258/1/819212.pdf>.

²⁰¹ Ana Torres Menárguez and Jessina Mouzo, Catalonia fights socioeconomic segregation at school, March 20, 2019, El Pais, online at: https://english.elpais.com/elpais/2019/03/19/inenglish/1552993173_554308.html#

Quota system and identification of vulnerable children

The goal of the plan was to reduce the concentration of socially disadvantaged students in certain schools through a quota system that would promote their more proportional distribution in other public and private schools.²⁰² According to observers, it was critical that all schools participate in the plan and that private schools be equally committed to equity, including schools that were facing overcrowding and where reserving seats for vulnerable children meant extra effort.²⁰³

Socially disadvantaged students, who make up about 11% of the 180,000 students attending school, have been identified on the basis of income, origin, household structure and family education level. They have been pre-allocated places proportional to the number of potential beneficiaries in each of the school districts. The proportion of pupils at risk varies according to the area of distribution, ranging from 355 pupils in the area of Les Crots to 4525 in Nou Barris. Similarly, the distribution of vulnerable students between private and public schools was rather uneven, as 72.5% of such children were enrolled in public schools.²⁰⁴ The vulnerability assessment of each child was conducted before and after enrolment, as it is critical to assess newcomers who may arrive during the school year. The vulnerability has been identified by fulfilling one or more criteria: 1. students who receive the extraordinary social emergency fund for children up to 16 years of age, 2. students who have been granted the maximum canteen grant of 6.2 euros or students who have been identified as having special needs and require educational support.²⁰⁵ The implementation of the plan was accompanied by a revision of the vulnerability criteria. This was done to ensure that some children at risk would not be identified.

In addition to assigning quotas, the Education Consortium has also planned actions in the coming years that **will focus on transforming and merging schools** that are at very high risk of ghettoization.²⁰⁶

Accompanying measures and programmes

The plan was accompanied by rather complex series of programmes aiming to address social, economic, and associated academic barriers that disadvantaged children may face. The programmes focused on preventions of early drop outs, transitions to secondary schools and services for the entire family.

Schools at risk and private schools enrolling disadvantaged children received **increased compensation** to cover the additional costs of meeting the needs of vulnerable students. The subsidies for students consisted of a system that was revised to ensure minimal bureaucracy and included: exemption from school fees for both public and private schools, free access to canteen services without having to apply for specific funding, free extracurricular sports activities, or free summer activities. Schools also received

²⁰² Xavier Bonal and Sheila Gonz ales Motos, "The spatially uneven effects of a desegregation education policy, European Educational Research Journal", 2023, available online at <https://diposit.ub.edu/dspace/bitstream/2445/206258/1/819212.pdf>, p.4 -5 and sources cited therein

²⁰³ Consorci d'Educaci  de Barcelona, "Les pol tiques educatives a favor de l equitat i la igualtat d'oportunitats del Consorci d'Educaci  de Barcelona, i la resposta a la crisi COVID 19, Julio 2020, p. 17, available online at: https://www.edubcn.cat/rcs_gene/extra/01_documents_de_referencia/informes/Informe_%20igualtat_opportunitats_COVID_juliol2020.pdf

²⁰⁴ Xavier Bonal and Sheila Gonz ales Motos, "The spatially uneven effects of a desegregation education policy, European Educational Research Journal", 2023, available online at <https://diposit.ub.edu/dspace/bitstream/2445/206258/1/819212.pdf>, p. 5 and sources cited therein

²⁰⁵ Consorci d'Educaci  de Barcelona, "Les pol tiques educatives a favor de l equitat i la igualtat d'oportunitats del Consorci d'Educaci  de Barcelona, i la resposta a la crisi COVID 19, Julio 2020, p. 11-12, available online at: https://www.edubcn.cat/rcs_gene/extra/01_documents_de_referencia/informes/Informe_%20igualtat_opportunitats_COVID_juliol2020.pdf

²⁰⁶ Consorci d'Educaci  de Barcelona, "Les pol tiques educatives a favor de l equitat i la igualtat d'oportunitats del Consorci d'Educaci  de Barcelona, i la resposta a la crisi COVID 19, Julio 2020, p. 15, available online at: https://www.edubcn.cat/rcs_gene/extra/01_documents_de_referencia/informes/Informe_%20igualtat_opportunitats_COVID_juliol2020.pdf

educational support through inclusive schools, teacher training, science, technology, engineering and mathematics projects, and psychosocial support.

In order to reduce **the risks of dropping out** before the end of compulsory education and to ensure their continuation after the age of 16, the local administration revised the post-compulsory offer into a more flexible one, accompanied by a new three-year baccalaureate in the city of Barcelona, along with a support plan specifically designed for the period of transition to the post-compulsory stage of education. The support plan increased the quota of reserved places in higher demand courses, provided funding for tuition fees and learning materials, and consisted of mentoring and guidance for students during the transition period. After the introduction of the program in 2019/2020, the number of students from disadvantaged backgrounds continuing their studies increased by almost 4%.

Additional support focused on **social, mental health and language services** was provided to children and their families in 38 public centres, targeting areas with the highest concentration of children at-risk, through the additional hiring of more than 60 new professionals.

Networks for Change, through a program called **Tools for Change**, supported schools in transforming their environment with a lead expert. The tandem, which created a partnership with leading cultural institutions, helped work on changes to the physical space of schools.

Exit Educational Accompaniment Programme provides educational support to improve the learning skills of children whose families did not have the capacity to do so, and to help families improve their skills.

The English Success Programme is designed through a collaboration of the City of Barcelona with the Language School Barcelona Drassanes and provides small language courses for last year primary, secondary and university students to improve their language proficiency.

Tangram Programme focuses on the relationship between schools and families in the first and second grades to ensure greater family involvement in school life. The programme's activities take place primarily outside of school hours, under the guidance of the dedicated mentor, who engages 8-10 students and their families. During the 2019-2020 programme enrolments, the programme targeted 10 schools and 100 students.

Enginy programme strengthens efforts to prevent early school leaving by raising students' expectations about their academic performance and opportunities beyond compulsory education.

Curricular diversity programme is based on partnership with private companies and provides internship opportunities for secondary school students based on the recommendation of school inspectors.²⁰⁷

Finally, the plan included direct financial investment in the renovation of selected schools.

Conclusions

Data from 29 primary education catchment areas for school years 2019-2021 show promising results in terms of a significant reduction of vulnerable students in the first year, a slight decrease in the second year, and a slight improvement in the third year of implementation. Data from 26 catchment areas for

²⁰⁷ Consorci d'Educació de Barcelona, „Les polítiques educatives a favor de l'equitat i la igualtat d'oportunitats del Consorci d'Educació de Barcelona, i la resposta a la crisi COVID 19, Julio 2020, p. 17-26, , available online at: https://www.edubcn.cat/rcs_gene/extra/01_documents_de_referencia/informes/Informe_%20igualtat_opportunitats_COVID_juliol2020.pdf P26

secondary students indicate that segregation rates are decreasing. However, based on the research, there are limits to the interventions related to the concentration of vulnerable families in certain areas, despite the generally low level of residential segregation in the city of Barcelona. This has created challenges in reconciling the need for proximity, which can lead to absenteeism, and desegregation.²⁰⁸

²⁰⁸ Xavier Bonal and Sheila Gonzáles Motos, “The spatially uneven effects of a desegregation education policy, *European Educational Research Journal*”, 2023, available online at <https://diposit.ub.edu/dspace/bitstream/2445/206258/1/819212.pdf>, p. 6-15, and sources cited therein

References

Ábel Ravasz, Ľuboš Kováš and Fili Markovič, *Atlas rómskych komunit 2019*, (Bratislava: VEDA, 2020), https://www.institutmatejabela.sk/files/ugd/1a16af_0d81d887_ecb3421bb8b19728c82c980f.pdf

Advisory Committee on FCNM Fifth Opinion on Albania, 19 October 2023, Advisory Committee on FCNM Fifth Opinion on North Macedonia, 21 September 2022.

Advisory Committee on FCNM Third Opinion on Hungary, 18 March 2010.

Alexander Mušinka et. Atl, *Atlas rómskych komunit 2013* (UNDP:Bratislava, 2013) https://www.minv.sk/?atlas_2013

Alica Petrasová and Ivan Pavlov, *Príbeh školy v Šarišských Michaľanoch: kritická reflexia a výzvy* (Bratislava: EduRoma, 2017) available at: <https://eduroma.sk/docs/pribeh-skoly-v-sarisskych-michalanoch.pdf>

Andrew Richard Ryder, Iulius Rostas and Marius Taba, “Nothing about us without us’: The Role of Inclusive Community Development in School Desegregation for Roma Communities”, *Race, Ethnicity and Education*, 17:4,

Avdiu and Others v Albania App no 49516/178, judgment of the European Court of Human Rights of 23 May 2023.

Bagci, S. C., Kumashiro, M., Smith, P. K., Blumberg, H., & Rutland, A. (2014). Cross-ethnic friendships, are they really rare? Evidence from multiethnic secondary schools in London. *International Journal of Intercultural Relations*, 41, 125-137.

Ball, S. J., & Vincent, C. (1998). 'I Heard It on the Grapevine': 'hot' knowledge and school choice. *British Journal of Sociology of Education*, 19(3).

Basile, M. (2012) *The Cost-Effectiveness of Socioeconomic School Integration*, in Richard D. Kahlenberg (ed.) *The Future of School Integration as an education reform strategy*. Century Foundation Press.

Baysu, G., Celeste, L., Brown, R., Verschueren, K. and Phalet, K. (2016), *Minority Adolescents in Ethnically Diverse Schools: Perceptions of Equal Treatment Buffer Threat Effects*. *Child Dev*, 87.

Benito, R.; Alegre, M.A. and González, I. (2014) *School Segregation and Its Effects on Educational Equality and Efficiency in 16 OECD Comprehensive School Systems*. *Comparative Education Review*, 58 (1), 104-134; Oberti, M., & Savina, Y. (2019). *Urban and school segregation in Paris: The complexity of contextual effects on school achievement: The case of middle schools in the Paris metropolitan area*. *Urban Studies*, 56(15).

Billings, S., D. Deming, and J. Rockoff (2014), 'School Segregation, Educational Attainment, and Crime. Evidence from the End of Busing in Charlotte-Mecklenburg', *Quarterly Journal of Economics*, 129 (1): 433-475; Johnson, R. (2011), 'Long-Run Impacts of School Desegregation & School Quality on Adult Attainments', NBER Chapter.

Bonal, *Education policy and school segregation of migrant students in Catalonia: the politics of non-decision-making*, 2012.

Bonal, X., & Bellei, C. (eds) (2018). *Understanding school segregation: patterns, causes and consequences of spatial inequalities in education*. London, UK: Bloomsbury Publishing.

Bonal, X., & Bellei, C. (eds) (2018). *Understanding school segregation: patterns, causes and consequences of spatial inequalities in education*. London, UK: Bloomsbury Publishing;

Boterman, W & Ramos Lobato, I. (2022) *Local segregation patterns and multilevel education policies*.

Boterman, W., Musterd, S., Pacchi, C., & Ranci, C. (2019). School segregation in contemporary cities: Socio-spatial dynamics, institutional context and urban outcomes. *Urban Studies*, 56(15), 3055–3073. <https://doi.org/10.1177/0042098019868377>

Brunello, G. and Di Paola, M. (2017) School Segregation of Immigrants and its Effects on Educational Outcomes in Europe. EENEE Analytical Report No. 30.

Çam v. Turkey, (application no. 51500/08, judgment of 23 February 2016.

Cebolla-Boado, H., & Medina, L. G. (2011). The impact of immigrant concentration in Spanish schools: School, class, and composition effects. *European Sociological Review*, 27, 606–623; Patacchini, E., Rainone, E., & Zenou, Y. (2017). Heterogeneous peer effects in education. *Journal of Economic Behavior & Organization*, 134, 190–227.

Centre for the Study of Democracy, Key social inclusion, and fundamental rights indicators in Bulgaria: Summary of main results, P. 16

CERD, General recommendation XIX on article 3 of the Convention, Forty-seventh session (1995), para 4..

Cerna, L., Andersson, H., Bannon, M., & Borgonovi, F. (2019). Strength through diversity's Spotlight Report for Sweden. OECD Education Working Papers, (194). Paris: OECD.

Cheng, S., & Xie, Y. (2012). Size matters: the structural effect on social relations. Michigan: University of Michigan.

CHEZ Razpredelenie Bulgaria AD v. Komisia zaszhtita ot diskriminatsia (Nikolova), Case C-83/14 ECLI:EU:C:2015:480, Judgment of the Court of Justice of the European Union of 16 July 2015.

Civil Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia (EC, 2019) available online p.74-75, at: <http://cvek.sk/wp-content/uploads/2019/11/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>

Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia, January 2019, Roma Civil Monitor, available online at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-3.pdf>

Claudiu Ivan and Claudia Cerasela Bănică, *Report on School Segregation in Romania* (Association Advocacy and Human Rights Centre, 2022)

Commissioner for Human Rights, Fighting school segregation in Europe through inclusive education: a position paper, 2017, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168073fb65.

Coronavirus pandemic in the EU -impact on Roma and travellers, 1 march -30 June 2020, available online at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-roma_en.pdf13-14

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

Council of Europe (2017) Fighting school segregation in Europe through inclusive education: a position paper. Strasbourg: Council of Europe.

Council of Europe (2017) Fighting school segregation through inclusive education. <https://rm.coe.int/fighting-school-segregation-in-europe-through-inclusive-education-a-posit/168073fb65>

Council of Europe European Commission Against Racism and Intolerance: ECRI, Fifth Report on Cyprus, 07.06.2016, ECRI, Fifth Report on Czech Republic, ECRI, Fifth Report on Denmark, ECRI, Fifth Report on Estonia, ECRI, Fifth Report on Lithuania, ECRI, Fifth Report on “the Former Yugoslav Republic of Macedonia ECRI, Fifth

Report on Poland, ECRI, Fifth Report on Portugal, ECRI, Fifth Report on Romania, ECRI, Fifth Report on Spain, ECRI, Fifth Report on Ukraine. Fourth Report on Andorra, ECRI, Fifth Report on Austria, ECRI, Fifth Report on Belgium, ECRI, Fourth Report on Georgia, ECRI, Fifth Report on Ireland, ECRI, Fifth Report on Luxemburg, ECRI, Fifth Report on Malta, ECRI, Fifth Report on the Netherlands, Fifth Report on Norway, ECRI, Fifth Report on San Marino, ECRI, Fifth Report on Sweden, Second Report on Bosnia and Herzegovina, ECRI, Fifth Report on Bulgaria, ECRI, Forth Report on Croatia, ECRI, Fourth Report on Hungary, ECRI, Fourth Report on Slovakia, ECRI, Fourth Report on the United Kingdom, Advisory Committee on FCNM, Fifth Opinion on North Macedonia Fifth Opinion on Romania,]Fifth Opinion on Albania, 19 October 2023, para 52.

Council of Europe, Explanatory Report to the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4.XI.2000, paras 18 and 19, available at [CETS 177 - Explanatory Report to the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms \(coe.int\)](#). See *X and Others v. Albania* App nos. 73548/17, 45521/19, judgment of the European Court of Human Rights of 31 May 2022,

Council of Europe, Framework Convention on National Minorities, available at [CETS 157 - Framework Convention for the Protection of National Minorities \(coe.int\)](#)

Court of Justice of the EU of 18 March 2014, Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS), C-527/13, EU:C:2015:215, judgment of the Court of Justice of the EU of 14 April 2015.

Danka, A.; Rostas, I. (2012) [Setting the Roma Policy Agenda: The Role of International Organizations in Combating School Segregation](#), in Rostas, I. (ed) Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe, New York and Budapest: CEU Press.

DGEAC. Thematic Working Group on Early School Leaving. Overview and examples of costs of early school leaving in Europe. <https://friends-project.eu/media/Thematic-Working-Group-on-Early-School-Leaving-1.pdf>

Donka Panatoyova and Evgeni Evgeniev, "Successful Romani School Desegregation: The Vidin Case:", 07.November 2002, ERRC, available online at: <http://www.errc.org/roma-rights-journal/successful-romani-school-desegregation-the-vidin-case>

Dronkers, J., Van Der Velden, R., & Dunne, A. (2012). Why are migrant students better off in certain types of educational systems or schools than in others? *European Educational Research Journal*, 11(1), 11–44.

Dupriez, V; Dumay, X. & Vause, A. (2008) How Do School Systems Manage Pupils' Heterogeneity? *Comparative Education Review*, 52 (2), 245-273;

Duru-Bellat, M., Mons, N. and Suchaut, B. (2004), Caractéristiques des systèmes éducatifs et compétences des jeunes de 15 ans. L'éclairage des comparaisons entre pays. *Les Cahiers de l'IREDU* (Bourgogne, IREDU, CNRS- Université de Bourgogne)

Edward Elgar , Cheltenham , pp. 219-233. See also Bonal, X. (2012). Education policy and school segregation of migrant students in Catalonia: The politics of non-decision-making. *Journal of Education Policy*, 27(3).

Elena Marushiakova and Vesselin Popov (1994) cited Zoltan Barany, *The East European Gypsies, Regime Change, Marginality and Ethnopolitics* (Cambridge> Cambridge University Press, 2002)

European Commission (2014). *Report on discrimination of Roma children in education*. European Commission, Directorate-General for Justice.

European Commission (2015) *Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation*.

European Commission v Slovak Republic, Case C-799/23, 22 December 2023, available at <https://curia.europa.eu/juris/document/document.jsf?text=&docid=282910&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=72514> AND [Discriminating Roma children at school \(europa.eu\)](#).

European Commission, Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation, available at:

https://ec.europa.eu/regional_policy/en/information/publications/guidelines/2015/guidance-for-member-states-on-the-use-of-european-structural-and-investment-funds-in-tackling-educational-and-spatial-segregation

European Commission/EACEA/Eurydice, 2020. Equity in school education in Europe: Structures, policies and student performance. Eurydice report. Luxembourg: Publications Office of the European Union.

European Court of Human Rights (2022). Factsheet Roma and Travelers. Available: https://www.echr.coe.int/documents/d/echr/fs_roma_eng

European Court of Human Rights, Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention, Prohibition of discrimination Updated on 31 August 2022.

European Expert Network on Economics of Education, School Segregation of Immigrants and its Effects on Educational Outcomes in Europe, available at: https://eenee.eu/wp-content/uploads/2021/05/EENEE_AR30.pdf

European network of legal experts in gender equality and non-discrimination [High Court quashes prior judgment \(equalitylaw.eu\)](#). Further details are available in Romanian at: <http://www.scj.ro/1094/Detaili-dosar?customQuery%5B0%5D.Key=id&customQuery%5%20B0%5D.Value=4500000000024874>

European Roma Rights Centre (ERRC) (1999) Roma and Schools for the Mentally Handicapped in the Czech Republic. Budapest: ERRC.

European Roma Rights Centre (ERRC) (2004) Stigmata: segregated schooling of Roma in Central and Eastern Europe. Budapest: ERRC.

European Union, The European Commission decides to refer SLOVAKIA to the Court of Justice of the European Union for not sufficiently addressing discrimination against Roma children at school available at [Discriminating Roma children at school \(europa.eu\)](#).

Filip Markovič, Ľudmila Plachá, Prijímy a životné podmienky v marginalizovaných rómskych komunitách: vybrané ukazovatele zo zisťovania EU SILC -MRK 2020 (Úrad splnomocnenca vlády pre rómske komunity,) Available online:

https://www.romovia.vlada.gov.sk/site/assets/files/1561/analyticka_sprava_eu_silc_mrk_2020_elektronicka_final.pdf?csrt=5000696901208656564P

Fundación Secretariado Gitano, Exploratory pilot study on school segregation: executive summary (Madrid:Fundación Secretariado Gitano, 2022) online at: https://www.gitanos.org/upload/84/76/FSG_Study_on_school_segregation_-_web_ENG-3.pdf

Fundación Secretariado Gitano, Exploratory pilot study on school segregation: executive summary

Fundamental Rights Agency, Compendium of practices for equality data collection Available at [Compendium of practices for equality data collection | European Union Agency for Fundamental Rights \(europa.eu\)](#)

Fundamental Rights Agency, [Education: the situation of Roma in 11 EU Member States | European Union Agency for Fundamental Rights \(europa.eu\)](#)

Fundamental Rights Agency, Roma in 10 European Countries: Main results, Roma Survey 2021, available online at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf

Gábor Havas and Ilona Liskó, Szegregáció a roma tanulók általános iskolai oktatásában, Kutatási zárótanulmány 2004. szeptember, Felőssoktatási Kutatóintézet, kézirat (Segregation in the Education of Roma Students in Primary Schools, Final Research Report September 2004, Research Institute of Higher Education, unpublished).

González Motos, S. (2016). Friendship networks of the foreign students in schools of Barcelona: impact of class grouping on intercultural relationships. *International Journal of Intercultural Relations*, 55, 66–78.

Horváth and Kiss v. Hungary (Application No. 11146/11). Available at: [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2022\)1436/H46-9E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2022)1436/H46-9E)

Hungary, Budapest Regional Court, CFCF v. Ministry of Human Resources, decision no. 40.P.23.675/2015/84, 18 April 2018.

Janna Huttová, Oľga Gyarfášová and Martina Sekulová, Segregácia alebo inklúzia Rómov vo vzdelávaní: Voľ ba pre školy? (Bratislava: Nadácia otvorenej spoločnosti, 2012).

JM Fresno, J Lajcakova, J Szira, S Mačáková, M Karoly and M Rossi, A Meta -Evaluation of Interventions for Roma Inclusion (Luxembourg: Publication Office of the European Union, 2019, p.37, available online at: <https://publications.jrc.ec.europa.eu/repository/handle/JRC117901>

Johnson, R. (2011), 'Long-Run Impacts of School Desegregation & School Quality on Adult Attainments', NBER Chapter.

Justice, L. M., Logan, J. A. R., Lin, T. J., & Kaderavek, J. N. (2014). Peer Effects in Early Childhood Education: Testing the Assumptions of Special-Education Inclusion. *Psychological Science*, 25(9).

Kazepov, E Barberis , R Cucca & E Mocca (eds) , Handbook of Urban Social Policies : International Perspectives on Multilevel Governance and Local Welfare . Research Handbooks in Urban Studies series

Kloosterman, A. and Troyan, P. (2020) School choice with asymmetric information: Priority design and the curse of acceptance. *Theoretical Economics*, 15 (2020).

Larry Cuban on School Reform and Classroom Practice, available at: <https://larrycuban.wordpress.com/2018/09/30/whatever-happened-to-detracking>

Lavida and Others v Greece App no. 7973/10, judgment of the European Court of Human Rights of 30 May 2013.

Law no 182 from 9 May 2023 amending Law no 245/2008 Coll. On education and training, point 5, para 2 supplemented by letter ah), available at: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2023/182/vyhlasene_znenie.html#predpis.clanok-2.

Law no 198 from 4 July 2023 on preuniversity education published in the Official Journal no. 613 from 5 July 2023, Art. 67, Art.79-81 and Art. 116, available at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/271896>,

Law on Prohibition of Discrimination BiH Official Gazette No. 59/09, published on 28 July 2009 Entered into force on 5 August 2009, Article 4 in conjunction with Article 2, available at <https://arsbih.gov.ba/wp-content/uploads/2014/02/002-Anti-Discrimination-Law-.pdf> .

Liebowitz, D. D. (2018). Ending to What End? The Impact of the Termination of Court-Desegregation Orders on Residential Segregation and School Dropout Rates. *Educational Evaluation and Policy Analysis*, 40(1), 103-128.

Making desegregation work! A desegregation Toolkit Developed by the Roma Education Fund 2015, available at: https://www.romaeducationfund.org/wp%20-content/uploads/2019/05/desegregation_toolkit_2015_web.pdf

Mark Penfold, Improving Education Outcomes for Pupils from the New Roma Communities, British Council, 2014 revised in July 2016, available at: <https://www.bell-foundation.org.uk/app/uploads/2020/09/Roma-research-revised-July-2016-5-1.pdf>

Moody, J. (2001). Race, School Integration, and Friendship Segregation in America. American Journal of

OECD (2015) How has student performance evolved over time?. PISA in Focus, 47. [https://www.oecd.org/pisa/pisaproducts/pisainfocus/pisa-in-focus-n47-\(eng\)-final.pdf](https://www.oecd.org/pisa/pisaproducts/pisainfocus/pisa-in-focus-n47-(eng)-final.pdf);

Ofsted, Overcoming Barriers: Ensuring that Roma Children are Fully Engaged and Achieving Education, December 2014, p.11, available online at: https://dera.ioe.ac.uk/id/eprint/21740/1/Overcoming_barriers_-_ensuring_that_Roma_children_are_fully_engaged_and_achieving_in_education.pdf.

Ombudsman, Doporučení veřejné ochránkyně práv ke společnému vzdělávání romských a neromských dětí 86/2017/DIS, VB, available online at: https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporuceni_desegregace.pdf

Open Society Institute (OSI) and the European Union (EU) Monitoring and Advocacy Program (2007) Equal Access to Quality Education for Roma: monitoring reports Bulgaria, Hungary, Romania and Serbia, vol. 1. Budapest: OSI.

Oršuš and Others v Croatia,] Application no. 15766/03, judgment of the Grand Chamber of the European Court of Human Rights of 16 March 2010.

Patrick Simon, “Ethnic” statistics and data protection in the Council of Europe countries: Study Report, Council of Europe, October 2007, p. 12, ([PDF](#)) [Ethnic Statistics and Data Protection in the Council of Europe Countries \(researchgate.net\)](https://www.researchgate.net/publication/312211111).

Raveaud, M. and A. Van Zanten (2007), “Choosing the local school: middle class parents” values and social and ethnic mix in London and Paris”, Journal of Education Policy, 22 (1), 107-124.

Recommendation [CM/Rec\(2009\)4](#) of the Committee of Ministers to member states on the education of Roma and Travellers in Europe, 17.06.2009, para.5.

Recommendation no. R (97) 18 of the Committee of Ministers to Member States concerning the protection of personal data collected and processed for statistical purposes [Recommendation no. R \(97\)18](#).

Report on the conclusions of a study on the processing of ethnically disaggregated data, Parliamentary Commissioner for the Rights of National and Ethnic Minorities and the Parliamentary Commissioner for Data Protection and Freedom of Information, 9 November 2009. (<http://kisebbsegiombudsman.hu/data/files/158627216.pdf>).

Riel, V., Parcel, T. L., Mickelson, R. A., & Smith, S. S. (2018). Do magnet and charter schools exacerbate or ameliorate inequality? *Sociology Compass*, 12(9), 1–15.

Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) Decision 559, file 52-2012, 12 December 2012.

Rostas, I. (2012) Judicial Policy Making: The Role of the Courts in Promoting School Desegregation, especially pp 98-9, in Rostas, I. (ed) Ten Years After: A History of Roma School Desegregation in Central and Eastern Europe, New York and Budapest: CEU Press.

Sampanis and Others v. Greece App no. 32526/05, judgment of the European Court of Human Rights of 5 June 2008.

Sampson, R. J., & Sharkey, P. D. (2008). Still stuck in place: Why segregation persists and what can be done about it. *Public Policy and Social Justice*, 10(2), 1-16.

Savelina Danova, Patterns of Segregation of Roma in Education in Central and Eastern Europe, in Ed Rekosh and Maxine Sleeper, Separated and Unequal: Combating Discrimination against Roma in Education. A Source Book, Columbia University, 2004).

Schleicher, A. Seeing education through the prism of PISA. Eur J Educ. 2017; 52: 124–130. Available at: <https://doi.org/10.1111/ejed.12209>

Schofield, J.W. (2010) "International Evidence on Ability Grouping with Curriculum Differentiation and the Achievement Gap in Secondary Schools," Teachers College Record 112, (5): 1492–1528
Schleicher, A. (2017). Seeing education through the prism of PISA. European Journal of Education, 52(2), 124–130.

Stark, T. H., Mäs, M., & Flache, A. (2015). Liking and disliking minority-group classmates: Explaining the mixed findings for the influence of ethnic classroom composition on interethnic attitudes. Social Science Research, 50, 164–176; González Motos, S. (2016). Friendship networks of the foreign students in schools of Barcelona: impact of class grouping on intercultural relationships. International Journal of Intercultural Relations, 55, 66–78.

Štátna školská inšpekcia, Organizácia a podmienky výchovy a vzdelávania v odboroch, ktorých absolovovaní získajú nižšie stredné odborné vzdelanie: správa z tematickej inšpekcie 2021/2022 (https://www.ssi.sk/wp-content/uploads/2022/12/F_odbory_SOS_web.pdf).

Terrin, E., & Triventi, M. (2022). The Effect of School Tracking on Student Achievement and Inequality: A Meta-Analysis. Review of Educational Research. <https://doi.org/10.3102/00346543221100850>.

Thrupp, M., Lauder, H., & Robinson, T. (2002). School composition and peer effects. International Journal of Educational Research, 37(5), 483–504.

Timo Makkonen, European handbook on equality data: revised version 2016, European Commission, December 2016, available at [european handbook on equality.pdf \(europa.eu\)](http://european-handbook-on-equality.pdf.europa.eu)

United Nations Economic and Social Council, The right to education (Art.13), 08/12/99, E/C.12/1999/10. (General Comments) (hereinafter: ECOSOC Right to Education GC).

Vona v. Hungary, application no. 35943/10m judgment of 9 July 2013m para. 57m. Available at: [VONA v. HUNGARY \(coe.int\)](http://www.echr.coe.int/VONA_v_HUNGARY).

World Bank (2022) World Bank Support to Early Childhood Development. An Independent Evaluation. <https://documents1.worldbank.org/curated/en/880181468187780720/pdf/World-Bank-support-to-early-childhood-development-an-independent-evaluation.pdf>.

World Bank, Roma Brief, 5 Jun 2013. Background available at: <http://www.worldbank.org/en/region/eca/brief/roma>

Wunderlich v Germany, Application no. 18925/15, Judgment of 10 January 2019, para 46 and 51.

X and Others v. Albania App nos. 73548/17, 45521/19, judgment of the European Court of Human Rights of 31 May 2022

Zoltan Barany, The East European Gypsies, Regime Change, Marginality and Ethnopolitics (Cambridge, Cambridge University Press, 2002).