



January 13, 2003

Member  
United Nations Committee on the Rights of the Child  
Office of the High Commissioner for Human Rights (OHCHR)  
Palais des Nations  
8-14, Avenue de la Paix  
CH-1211 Geneva 10  
Switzerland

Dear Committee Member,

The *European Roma Rights Center (ERRC)* respectfully submits herewith materials pertaining to the human rights situation of Romani children in the Czech Republic for consideration by the United Nations Committee on the Rights of the Child at its 32nd Session, January 13-31, 2003. The *ERRC* believes that the current session of the Committee provides an important opportunity for the Committee to:

- Clarify its positions on the issue of racial segregation, recognised in other areas of the U.N. treaty system as an extreme harm requiring immediate remedy *inter alia* through comprehensive, sustained and well-funded policy action by governments;
- Bring a clear set of recommendations to the government of the Czech Republic on the necessity and urgency of adopting and implementing comprehensive school desegregation policies, as well as related anti-discrimination policies.

The *ERRC* is an international public interest law organisation which monitors the situation of Roma in Europe and provides legal defence in cases of human rights abuse. Since its establishment in 1996, the *ERRC* has undertaken first-hand field research in more than a dozen countries, including the Czech Republic, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. *ERRC* publications about the Czech Republic and other countries, as well as additional information about the organisation, are available on the Internet at <http://www.errc.org>.

The *ERRC* calls the attention of Committee members to the segregation of Romani children in so-called “special schools” – schools for the mildly mentally disabled – in the Czech Republic, in violation of Articles 28 and 29 of the United Nations Convention on the Rights of the Child (hereinafter “the Convention”). Enclosed herewith is *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, a comprehensive report published by the *ERRC* on the issue in June 1999. The report documents systemic violations of the right to education for Romani children.

Romani children are disproportionately overrepresented in “special schools” for the mildly mentally disabled throughout the Czech Republic. This situation amounts to the *de facto* segregation of Romani children from the mainstream of the Czech educational system, as well as from the wider society as a whole, in flagrant breach of the explicit ban on racial segregation contained in Article 3 of the International Convention for the Elimination of All Forms of Racial Discrimination.<sup>1</sup>

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<sup>1</sup> The International Convention for the Elimination of All Forms of Racial Discrimination entered into force in Czechoslovakia on January 4, 1969. The Czech Republic succeeded to the Convention on January 1, 1993.

*ERRC* field research undertaken in the period 1997-1999 found that Romani children were very frequently placed in special schools for the mildly mentally disabled. A disproportionate number of Romani children were recommended for psychological evaluations with a view to placement in remedial special schools. Summary evaluations of primary-school-aged Romani children, often conducted without the presence of a parent and according to discretionary and often culturally-biased criteria decided upon by individual psychologists, frequently led to arbitrary and abusive placement of Romani children in special educational institutions.

The *ERRC* also found that the views of Romani children and their families were not respected by Czech school authorities deciding upon the placement of Romani children into special educational facilities, in violation of Article 12 of the Convention. Despite explicit legal provisions that recognize the primacy of the parents' consent in deciding the fate of the child, many school authorities failed to request the parents' consent when deciding to place Romani children in remedial schools and/or abused the right of parents to make an informed decision about the education of their children. Many Romani parents reported to the *ERRC* that they felt pressured or manipulated into consenting to send their children to special schools; many of those who willingly signed consent forms reported that they were not told of the consequences of their decision for their children's education and employment opportunities. No Romani families with whom the *ERRC* spoke had been told in detail about the consequences of remedial schooling for their children. Despite the theoretical possibility of initiating administrative appeal procedures for transferring children from remedial to mainstream schools, Romani parents are in practice denied the right to take their children out of the special education system.

The result was that year after year a large proportion of school-age Romani children were effectively denied their right to equal access to education. For instance, in Ostrava, the Czech Republic's third city and the focus of intense *ERRC* research, the *ERRC* found that in the 1999-2000 school year:

- Over half the city's Romani child population of school-age were being educated in schools for the mildly mentally disabled;
- Over half of the population of Ostrava's schools for the mildly mentally disabled was Romani;
- Any randomly selected Romani child was approximately 27 times more likely to be enrolled in a school for the mildly mentally disabled than a non-Romani child.

Special schools offer pupils substandard education in the form of reduced curricula. For the principal subjects of study, such as Czech language or mathematics, the curricula of remedial schools are organised such that by the end of the third grade, students are at least two years behind their peers educated in mainstream Czech schools. Moreover, some provisions made by Czech schooling authorities for remedial educational facilities are rife with racist stereotypes about Roma and their role in the wider society. For instance, the January 1998 "Alternative Education Programme of Special Schools for Pupils of Romani Ethnicity" proposes that third-grade education focus on the importance of labour and on "hygiene during work"— subjects which promote the ghettoization of Roma in low-skill occupations and perpetuate the widespread belief that Roma have low hygienic standards. Children who have completed their primary education in special schooling institutions as a rule do not go on to mainstream secondary schools; rather, if they continue their education at all, this is in a parallel track in the special schools system, either in training centres or in so-called "practical schools", neither of which allow for progression to higher education. Consequently, special schools manufacture underachievers who are unable to compete with their peers educated in mainstream schools, and who are further crippled in their development by low self-esteem and internalised racist stereotypes.

In 2002, the *ERRC* again engaged in extensive field research on the issue of school segregation in the Czech Republic. The preliminary results of the *ERRC* research show that little has changed in practice in terms of the right to education for Romani children in the Czech Republic. Indeed, *ERRC* field research over the past year found that Romani children still represent a very high percentage of pupils in remedial schools for the mildly mentally disabled or in special remedial classes for the mildly mentally disabled in mainstream schools. According to official estimates, in the academic year 2001-2002, out of 28,151 students of remedial schools, 25,336 students were of Romani origin.<sup>2</sup> Experts interviewed by the *ERRC* in 2002 estimated that roughly seventy percent of all Romani children in the Czech Republic are in

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<sup>2</sup> Ústav pro informace ve vzdělávání, *Statistická ročenka školství, 2001/2002 (Statistical Yearbook of Schooling, 2001/2002)*. The information is taken from the table on p. C-43, C3.3.

remedial special schools. Many teachers working in the special schools system interviewed by the *ERRC* stated that the vast majority of their Romani students do not actually have any disability.

The *ERRC* has also found that Romani children in both mainstream and special schools in the Czech Republic are subject to abuse and discrimination from teachers, school administrators, and non-Romani peers. The *ERRC* documented cases of Romani students harassed and insulted solely because of their ethnicity. Even more disturbing are the numerous reports received by the *ERRC* about school teachers punitively grading Romani children in order to coerce their parents into providing consent for transfer to special schools. When Romani parents report racially motivated actions of teachers and non-Romani students in mainstream Czech institutions, school authorities rarely investigate adequately and even more rarely punish the perpetrators of abuse.

Romani children in mainstream schools are often ignored, and their attendance is often considered a mere formality. The isolation of Romani children in mainstream schools is also exacerbated by the fact that teachers are often entirely unfamiliar with their linguistic and cultural background, and sometimes actively discriminate against Romani students. As a consequence, Romani children are frequently not motivated to attend school and slide into truancy at high rates, as compared to non-Romani students in mainstream schools.

On the basis of its research, on April 18, 2000, the *ERRC*, together with local counsel, filed a lawsuit on behalf of twelve Romani children in Ostrava and their parents requesting, *inter alia*, a judicial finding that the Czech government adopt and implement a comprehensive school desegregation policy. The case is currently pending before the European Court of Human Rights.

The *ERRC* is aware of measures taken by the Government to comply with its international and domestic obligations with respect to the right to equal access to education for Romani children, as described in the report submitted by the Government to the Committee, as well in various other public sources. Although amendments to Czech domestic law in 2000 removed a formal legal ban on the ability graduates of remedial special schools to continue on to substantive secondary education, in practice, the *ERRC* knows of no instances in which graduates of schools for the mildly mentally disabled have been able to enrol in Czech secondary schools. The measure was not sufficient alone to overcome the barriers set up by an entrenched, segregated school system, and efforts to present it as such have been disingenuous.

Policy efforts with even weak desegregating components have to date largely failed. In 2001, the Czech Ministry of Education released a White Book on Education, officially titled “The National Programme of Development of Education in the Czech Republic”.<sup>3</sup> Among many suggested educational reforms, the White Book proposed improving the conditions for the education of national and ethnical minorities and foreigners. However, shortly after its release, the White Book was rejected by Czech parliament. In 2001, the Czech Ministry of Education also adopted a “Strategy to Improve the Education of Romani Children” (hereinafter “the Strategy”). While the Strategy envisages a number of measures dealing with the improvement of the access to education for Romani children, it does not acknowledge the existence of segregation, much less propose a plan to desegregate the Czech educational system and to integrate all Romani school-age children into mainstream schools. One apparently positive development is the support of the Ministry of Education for Romani classroom assistants; unfortunately, the final decision on hiring such assistants lies with the directorate of individual schools, and the preliminary results of *ERRC* research indicate that the majority of mainstream schools in the Czech Republic have not hired Romani classroom assistants. Moreover, according to *ERRC* research conducted in 2002, more than half of the classroom assistants are working in remedial special schools, which is counterproductive if the ultimate goal of the policy is to integrate Romani children into the mainstream school system. In short:

- Despite being aware of the existence and extent of a racial segregation in the education system since at least 1999, the Czech government has to date been entirely ineffective in adopting policies to end racially segregated education, and indeed has done little to nothing to elaborate plans to desegregate schooling, let alone implement them;
- Today, four school years after initial *ERRC* publications documenting the extent of racial segregation in the Czech school system, education in the Czech Republic remains effectively and thoroughly racially segregated.

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<sup>3</sup> More information in English can be found at: <http://www.msmt.cz/cp1250/web/12/WhiteBook.doc>

International bodies have repeatedly condemned the segregation of Romani children in the Czech education system. For instance, the United Nations Human Rights Committee, in its 2001 *Concluding Observations* on the Czech Republic, noted its concern about “the disproportionate number of Roma children who are assigned to special schools for mentally disabled children, which would seem to indicate the use of stereotypes in the placement decisions, in contravention of article 26 of the Covenant [on Civil and Political Rights], and which make it difficult, if not impossible, to secure admission to secondary schools.” The Committee further noted that “the State party should take immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that placement in schools is carried out on an individual basis and is not influenced by the child’s ethnic group. Where needed, the State party should also provide special training to Roma and other minority children to secure, through positive measures, their right to education.”<sup>4</sup> Similarly, the United Nations Committee for the Elimination of Racial Discrimination, found in its *Concluding Observations* on the Czech Republic that “a disproportionately large number of Roma children are placed in special schools, leading to *de facto* racial segregation.”<sup>5</sup> Most recently, the United Nations Committee on Economic, Social and Cultural Rights noted that it was “deeply concerned about the over-representation of Roma children in so-called ‘special schools’ which are primarily designed for mentally retarded children, resulting in discrimination, substandard education and the stigma of mental disability.”<sup>6</sup> In its *Second Report on the Czech Republic*, the European Commission against Racism and Intolerance stated that “the disadvantage faced by members of the Roma/Gypsy community in the field of education in the Czech Republic is of particularly serious concern to ECRI, given the decisive consequences that it entails in terms of equal participation of this category of people in society” and called for the enactment of comprehensive policies combating discrimination in education and for the adoption and implementation of anti-discrimination legislation covering all key areas of public life.<sup>7</sup>

The *ERRC* regards the current review of compliance by the Czech Republic with its obligations under the Convention on the Rights of the Child as an important opportunity for the Committee to clarify its positions with regard to the education of Romani children in the Czech Republic. The *ERRC* also notes that the occasion of review of the Czech Republic – a country with a particularly severely segregated education system – provides the opportunity to the Committee to put on its near-term agenda the adoption of general recommendations on school desegregation.

Based on its extensive field research and the documentation cited above, the *ERRC* recommends that the Government of the Czech Republic undertake the following:

1. Adopt and implement a comprehensive school desegregation program so that all Romani children may fully realise their right to equal access to education. Without delay, end the practice of segregating Romani children into schools or classes for the mentally disabled. Integrate all Romani children into mainstream classes and, where necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling.
2. Adopt comprehensive anti-discrimination legislation in conformity with the requirements of European Council Directive 2000/43/EC, “implementing the principle of equality between persons, irrespective of racial or ethnic origin” and other international standards in the field. Without delay, ratify Protocol No. 12 to the European Convention on Human Rights, such that the current ban on discrimination provided by the European Convention is extended to all rights secured by law.

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<sup>4</sup> United Nations Human Rights Committee, *Concluding Observations: Czech Republic*, CCPR/CO/72/CZE from August 27, 2001, section 9.

<sup>5</sup> United Nations Committee for the Elimination of Racial Discrimination, *Concluding Observations: Czech Republic*, CERD/C/304/Add.47 from March 30, 1998, section 13.

<sup>6</sup> United Nations Committee on Economic, Social and Cultural Rights, *Concluding Observations: Czech Republic*, E/C.12/1/Add.76 from June 5, 2002, section 23.

<sup>7</sup> European Commission Against Racism and Intolerance, *Second Report on the Czech Republic*, CRI 2000/4 of 21 March, 2000, sections 32 and 39.

3. Where instances of abuse in the school system are reported – abuse including exclusionary practices, physical and verbal assault, humiliating treatment, and failure by teachers and school administrators to protect Romani children from peer abuse – without delay, punish school authorities responsible, and implement measures aimed at preventing further abuse.
4. Provide anti-discrimination training for all persons working in all aspects of the Czech educational system and the relevant personnel working in the field of applied pedagogical psychology.
5. Implement a comprehensive educational reform aimed at providing adequate, child-centred, and inclusive education for all school-age children in the Czech Republic.
6. Develop comprehensive and effective pre-school programmes for Romani children to learn the primary language of schooling and to attain a level of education ensuring an equal start in the first class of primary school.
7. Develop curricula for Romani and non-Romani students on the important contributions of Roma to Czech society, history and culture, and integrate such teaching materials into the standard curriculum.
8. Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma.
9. Develop and support continuing education programmes for teachers to improve their skills to teaching in a multi-cultural context.
10. Provide free legal aid to members of weak groups, including Roma and the indigent.
11. At the highest levels, speak out against racism and anti-Romani sentiment, as well as against abuses and human rights violations against Romani children and adults; at all levels, acknowledge and speak out against racism, patterns and practices of discrimination, and segregation.
12. Proactively recruit qualified Roma for professional positions in the education system and the relevant sectors of the health care system.

In addition, the *ERRC* respectfully requests that the Committee place on its near-term agenda the development of jurisprudence in the area of racial segregation, elaborating its views generally on the issue of racial segregation, in particular in the field of education. The *ERRC* believes that the time is right for the Committee to take a leading role in desegregation issues. The *ERRC* would welcome co-operation with the Committee in the undertaking of this project.

Please do not hesitate to contact us on the matters presented above, or in any connection.

Sincerely yours,

Claude Cahn  
Programmes Director