

(iv) School directors are responsible for providing detailed statistical information in a form readily comprehensible to the public, as to the ethnic profile of the schools they administer, as well as any other information relevant to the issue of racial segregation in schooling. Where racial segregation exists in the sense of Article X.(ii)(b) of this law, school directors are responsible for the design and implementation of programs aimed at the transfer of children from a segregated setting to integrated schooling arrangements, as well as the design and implementation of

(iii) School directors and other school administrators have a positive obligation to act to counter racial discrimination and segregation in the schools they administer.

(b) where members of an ethnic or national group are represented in any school class by a disparity of greater than 2.5 over their factual representation in the general population, taking into account in particular the size of the local minority population and the proportion of minority children of school age in the local school district and county.

(a) where (a) racially discriminatory decision(s) have been taken with respect to individual pupils as to admission, non-admission and/or placement; or,

(ii) Racial segregation shall be deemed to exist:

"X. (i) Racial segregation in education -- including de facto racial segregation -- is illegal.

The European Roma Rights Center (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. The ERRC has monitored the situation of Roma in the Czech Republic since its establishment in 1996, and has devoted a particularly high level of its research and litigation energies to the problem of racial segregation in Czech schools. It is in that connection that we address you today. We understand that Czech lawmakers are currently in the process of amending Czech legislation in the field of education. We believe that the legislative process provides a unique opportunity to address the problem of racial segregation in Czech schools and we would kindly request the inclusion of the following text in law or laws relevant to standard and special schooling:

Honourable Minister Buzkova,

Dr. Petra Buzkova  
Minister of Education, Youth and Sport of the Czech Republic  
Office of Government of the Czech Republic  
Nabrezi Edvarda Benese 4  
Praha 1, 118 01  
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March 26, 2003

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programs aimed at the support of pupils, teachers and school administrators during the desegregation process.

(v) Failure to act to counter racial segregation shall engage the liability of the school director and other school authorities, and result in sanctions to be determined by the Ministry of Education and/or by a court of law, including but not limited to a loss of school subsidies and/or disciplinary measures against the relevant school authorities."

#### Justification

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)<sup>1</sup> provides, at Article 1(1) that racial discrimination shall mean "any distinction, 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."

Article 5(e)(v) of the ICERD requires that States Parties to the Convention "undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] The right to education and training".

Article 3 of the ICERD explicitly bans racial segregation, as a particularly extreme form of racial discrimination: "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."<sup>2</sup>

<sup>1</sup> Under Article 10 of the Constitution of the Czech Republic, ratified the ICERD on February 22, 1993. the legal order of the Czech Republic. The Czech Republic ratified the ICERD on February 22, 1993.

<sup>2</sup> In its General Comment 19 on "Racial segregation and apartheid (Article 3)", the United Nations Committee on the Elimination of Racial Discrimination has further elaborated the following with respect to Article 3:

"1. The Committee on the Elimination of Racial Discrimination calls the attention of States parties to the wording of article 3, by which States parties undertake to prevent, prohibit and eradicate all practices of racial segregation and apartheid in territories under their jurisdiction. The reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries.

2. The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State.

3. The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.

4. The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports."

(See Office of the High Commissioner for Human Rights, "Racial segregation and apartheid (Art. 3): 18/08/95 CERD General recom. 19. (General Comments)", on the Internet at:

[http://193.194.138.190/tbs/doc.nsf/\(symbol\)/CERD+General+recom.+19.En?OpenDocument](http://193.194.138.190/tbs/doc.nsf/(symbol)/CERD+General+recom.+19.En?OpenDocument))

States obligations, elaborated under Article 2 of the ICERD, include the obligation to "prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization". (Article 2(d), emphasis added)

The Czech Ministry of Education has importantly laid the groundwork for early desegregation efforts by issuing Methodological Order No. 28498/99-24 "On Securing the Transfer of Successful Remedial Special School Pupils to Regular Basic Schools". In light of the particularly pronounced problem of racial segregation of Romani children in remedial schools for the mentally handicapped in the Czech Republic the Methodological Order is an important initial measure. This measure does not on its own however provide a framework adequate to ensure that the problem of racial segregation in schooling *per se* is addressed adequately, and indeed there are no indications that its impact has to date been to bring about desegregation in practice.

For your interest and use, I enclose herewith, in Czech and English, a copy of the ERRC's 1999 Country Report on the situation of Roma in the Czech education system, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*. Please do not hesitate to contact us in connection with the issues raised above, or in any connection.

Sincerely,

Dimitrina Petrova  
Executive Director