

José Manuel Barroso
President of the European Commission

**AMNESTY
INTERNATIONAL**



European Institutions Office

19 September 2014

Ref: B 1612

Dear President,

CALL TO START AN INFRINGEMENT PROCEDURE FOR BREACH OF THE RACIAL EQUALITY DIRECTIVE

Amnesty International is writing to you, as a member of the College of Commissioners, to urge you to initiate infringement proceedings against the Czech Republic to address the ongoing and systemic discrimination against Romani children in its education system.

For over a decade, international human rights bodies, as well as the European Court for Human Rights, and civil society have provided and assessed concrete evidence of widespread discrimination and segregationⁱ of Romani children in Czech schools. In Amnesty International's view this evidence proves that the Czech Republic is in breach of its obligations under Article 21 (1) of the Charter of Fundamental Rights of the European Union prohibits discrimination based on any ground such as race or ethnic origin; and the Race Equality Directive (2000/43/EC (RED), Art. 2.2.a, 2.2.b, 2.3, 3.1.g, which prohibit discrimination in access to education on the ground of race or ethnicity.

Romani children systematically receive lower quality education in the Czech Republic.ⁱⁱ Concrete examples of discrimination and segregation (as a form of discrimination) of Romani children in Czech schools include (but are not limited to):

- **The disproportionate placing of Romani children in practical (formerly known as 'special') schools for pupils with 'mild mental disability':** According to a 2013 survey by the Czech School Inspectorate in 483 schools with five or more pupils diagnosed with 'mild mental disability', 28.2 per cent of pupils following reduced educational programmes were Roma.ⁱⁱⁱ As Roma make up less than three per cent of the total population this amounts to a very significant overrepresentation in such educational programmes. This was considered to be discriminatory by the national equality body in 2012.^{iv} In 2007, the European Court of Human Rights held – in the case *D.H. & Others v. The Czech Republic*^v – that placement of Romani children in special schools amounted to discrimination. In June 2014, the Committee of Ministers of the Council of Europe found that progress in the implementation of the judgment “is slow and the results on the ground are yet to be observed”.^{vi}
- **The segregation and other unequal treatment of Romani children in mainstream schools:** Amnesty International's most recent research found compelling evidence of continued segregation of Romani children within mainstream schools in classes often offering education of lower quality to that offered in predominantly non-Roma schools/classes. In November 2012, the Council of Europe's Commissioner for Human Rights also criticised the segregation of Romani children in separate mainstream schools. Amnesty International and other civil society organisations have documented Romani children being denied admission to mainstream schools without an objective justification. This also amounts to unequal treatment.

The Czech government has so far failed to take effective measures that would prevent, address and remedy racial and ethnic discrimination in education. Recent research by Amnesty International on the ground in various locations across the country confirms that discrimination against Romani children in Czech schools

continues to be systemic.^{vii}

In April 2013, Amnesty International and other NGOs called on the European Commission to use the infringement procedure to engage with the Czech government and to ensure it effectively tackled the discriminatory practice against Roma.^{viii} We are re-iterating this call on the Commission today.

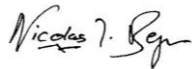
As the guardian of the Treaties, the Commission has the responsibility not only to safeguard the common values of the Union (of which the respect for human rights is one), but also to protect the individual and his/her individual rights

Discrimination in access to education, beyond being a human rights violation, leads to lower quality education, contributes to social exclusion and limits access to the employment market. Generations of Roma are affected. Such discrimination has a severe impact on the individual, and also on society at large.

The infringement procedure, as established by Article 258 of the Treaty on the Functioning of the European Union, provides the Commission with an effective tool to engage with a member state to ensure its compliance with EU law. In light of the lack of an effective response by the Czech authorities, we would urge the Commission to uphold its responsibilities as the guardian of EU law and work with the Czech authorities to put an end to the longstanding discrimination of segregation of Roma in the country's education system.

We would be willing to provide more information on request.

Yours sincerely,



Dr. Nicolas J. Beger

Director

Amnesty International European Institutions Office

ⁱ Under the European Court of Human Rights case law, in the absence of an objective and reasonable justification, *segregation of Roma* or other ethnic or racial group in separate education (whether in separate institutions or within mainstream education) amounts to a form of racial discrimination. See: *Sampanis and others v Greece*, App.No. 32526/05, 2008-IX ECtHR para 96.; *Oršuš and others v Croatia*, judgment of the Grand Chamber of the European Court of Human Rights at para 184, 185.

ⁱⁱ UN Committee on the Economic, Social and Cultural Rights, CESCR, 23 June 2014, E/C.12/CZE/CO/2; UN Committee on the Rights of the Child CRC/C/15/Add.201, Committee on the Elimination of Racial Discrimination Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic. 8 August–2 September 2012, CERD /C/CZE/CO/8-9. Amnesty International and European Roma Rights Centre. Five More Years of Injustice: Segregation in Education of Roma in the Czech Republic. Index: EUR 71/006/2012; Amnesty International, European Roma Rights Centre and Open Society Justice Initiative. Czech Republic: Joint NGO submission – D.H. and Others v. The Czech Republic. Index: EUR 71/009/2012.

ⁱⁱⁱ Additional report on the execution of the judgment of the ECHR in the case of *D.H. and Others v. Czech Republic*. Communication from the Czech Republic to the Committee of Ministers of the Council of Europe. 26 November 2014. P.1.

^{iv} See: Survey of the Public Defender of Rights into the Ethnic Composition of Pupils of Former Special Schools: Final Report", June 2012, pp. 10 and 17 (in Czech).

^v *D.H. and Others v. the Czech Republic*, European Court of Human Rights, Grand Chamber, Judgment of November 13, 2007. Available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{)

^{vi} Exam of the Committee of Ministers, 1201st meeting (3-5 June 2014) - Notes. Available at:

http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=D.H.+and+Others&StateCode=&SectionCode=

^{vii} Amnesty International's findings will be published in April 2014. We would be willing to share our preliminary findings on request.

^{viii} http://www.amnesty.eu/content/assets/doc2013/czech_roma_submission_190413_final.pdf.