



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Czech Republic
<b>Title:</b>	Amendment to the School Law
<b>Date:</b>	27 April 2015
<b>Expert:</b>	David Zahumenský
<b>Context</b>	
<b>Issue at stake:</b>	Amendment to the School Law Promotes the Right to Equal Access to Education for Roma Children
<b>Ground of discrimination:</b>	Race/ethnic origin, disability
<b>Source:</b>	Legislation
<b>Field:</b>	Education
<b>Applicable law:</b>	School Law, no. 561/2014

### Content

**Law:** On the 19<sup>th</sup> of March 2015 the Senate adopted an amendment to the School Law in the wording which had been previously adopted by the Chamber of Deputies. It was signed by the President of the Czech Republic on the 1<sup>st</sup> of April 2015 and it should be published soon. This amendment will enter into force on the first day of the calendar month following the date of its publication, except for some parts entering into force on 1<sup>st</sup> September 2015 and some on 1<sup>st</sup> September 2016.

Part of the new legislation is relevant to Directive 2000/43/EC because its aim is to promote equal access to mainstream education for Roma children. This issue had been previously underlined by decisions and reports by various Council of Europe and UN bodies, including the European Court of Human Rights in its judgement *D.H. and others against the Czech Republic* and, more recently, in the infringement procedure initiated by the European Commission. The legislation is also relevant for Directive 2000/78/EC because it promotes mainstream education for children with disabilities.

The main changes that are introduced in this amendment have a certain potential to improve the situation of Roma children in the Czech Republic who are currently according to researches of the Czech Ombudsman and other institutions excessively attending “special” schools designed for children with mental disabilities. These changes includes:

- **A new definition of pupils with special education needs** (section 16 para. 1). A pupil with special education needs is a pupil who needs to be provided with support measures to fulfil their educational opportunities or for the enjoyment or exercise of their rights on an equal basis with others. Support measures means necessary adjustments in education and educational services as appropriate to the health status, cultural background or other welfare of the child, pupil or student. The law changes the approach to pupils with special educational needs. Their integration into mainstream education will be based on supportive measures that these pupils need.

- **A new definition of supportive measures** (section 16 para 1) and **their list** (section 16, para 2). There are also some principles concerning the provision of supportive measures to support the least restrictive approach included in section 16. Their classification into 5 levels should be done by the implementing legislation. Section 16 para 1 includes the provision that “*Children, pupils and students with special education needs are entitled to free provision of supportive measures by schools*”.
- Section 16 para. 9 provides that **only pupils with mental, physical, visual or hearing impairments, severe learning disabilities, severe development disorders, multiple disabilities or autism can be placed into special schools or classes**. Written request by the legal representatives of the child, recommendation by the school counselling facility and conformity with the interest of the child are necessary conditions for the placement. New special schools or classes can be founded only with the consent of the Ministry or the regional office.
- **Review procedure** – the representatives of the child can within 30 days of the receipt of the report by the school counselling facility ask for its revision by a legal entity authorized by the Ministry in carrying out revisions. The review procedure may include a new examination of the pupil’s educational needs, which may be done only with the consent of the pupil (or their statutory representative).
- **Opening of preparatory classes at primary schools for all pupils** - Education in preparatory classes has been available only for socially disadvantaged children and these classes have been mostly established with the practical (“special”) schools. The amendment brings a possibility of education in preparatory classes to all pupils.

**Key points of analysis:** The most important change in practice is that extra funding to educate disadvantaged pupils will no longer be related to the diagnosis; it will be related to the pupil’s needs. Previously it was possible to get extra funding for a pupil with disability only when the pupil had a diagnosis. In practice it was possible to obtain it mainly for practical and special schools. Children who needed support but did not have a diagnosis were refused the funding. A school that accepted them was actually punished: it had more work, but received no extra money. The new support is not connected to the diagnosis; it is divided into five levels and is available for each school that educates the disadvantaged child.

**Internet link source:**

<http://www.psp.cz/sqw/text/tiskt.sqw?o=7&ct=288&ct1=0&v=PZ&pn=5&pt=1>