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NEWS REPORT

Country:	Slovakia
Title:	Parliament Adopting a Schools Act Amendment with Provisions Likely to Perpetuate Segregation of Roma Children
Date:	4 August 2015
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<u>Context</u>	
Issue at stake:	On 30 June 2015, the Slovak Parliament adopted an amendment to the Schools Act that contains various provisions allegedly aimed at de-segregation of Roma children in education. However, the content of the provisions adopted and the collisions with other provisions that still exist in the Slovak legal order generate confusions and show no real potential for de-segregation of Roma children.
Ground of discrimination:	Ethnic origin; disability
Source:	Legislation
Field:	Education
Applicable law:	Act No. 245/2008 Coll. on Education (Schools Act) and on Changing and Supplementing Certain Laws (<i>zákon č. 245/2009 Z. z. o výchove a vzdelávaní (školský zákon) a o zmene a doplnení niektorých zákonov</i>), amendment of 30 June 2015 (the amendment has not been published in the Collection of Laws yet, and hence the number of the amendment is not known)

Content

Law development: On 30 June 2015, the Slovak Parliament adopted an amendment to the Schools Act containing measures that were presented by the government as aiming to eliminate segregation of Roma children in education.¹ However, the adopted provisions raise serious doubts as to whether they are capable of fulfilling this aim and generate serious concerns about having a strong potential to perpetuate the *status quo*.

The newly enacted provision of Section 29(11) of the Schools Act stipulates that primary schools may, after obtaining an approval of the school founder, establish a 'specialized class' for the education of those pupils who are 'not likely to successfully manage the content of education in the corresponding year, in order to compensate them for the lacking content of education'. Pursuant to this provision, the decision to place a pupil into the specialised class is taken by the school director upon a proposal from the class teacher and after consulting an educational counsellor, after informed consent from a legal representative of the pupil has been obtained. The placement into a specialised

¹ See for example <http://romovia.sme.sk/c/7862664/rezort-skolstva-navrhuje-legislativnu-zmenu-skolskeho-zakona.html?ref=avizocl> (last accessed 15 July 2015).

class can only last for the inevitably needed time but it cannot exceed one school year. The provision does not stipulate against what criteria the assessment of the 'unlikelihood' to 'successfully manage the content of education' is to be made (for example, whether this assessment will be based on purely 'subjective' circumstances of a particular pupil concerned – if such an assessment is possible at all –, or on 'objective' features of the external conditions at schools, such as unavailability of schooling in Roma language). It neither stipulates any details about the educational counsellor to be consulted – e. g. whether she or he may be coming from the same school in which the specialised class will be established –, nor whether the placement of a pupil into the specialised class can be repetitive.

The provision of Section 29(11) of the Schools Act is to some extent a repetition of an existing provision (which seems not to have been changed by the Ministry of Education jointly in the course of the adoption of the Act amendment, and it is unclear whether the Ministry is working on the changes or not) of Section 13 of the Ministry of Education Ordinance No 320/2008 Coll. on Primary School, but to some extent conflicts with the Ordinance provision. This section defines specialised classes as classes for pupils with 'special educational needs'², who are understood to be pupils with a 'health disadvantage'³, as well as pupils from 'socially disadvantaged environments'⁴. The Ordinance defines 'pupils from socially disadvantaged environments' as pupils who '(1) are not likely, after completing the 0th year of school, to successfully manage the educational content in the first year of school, (2) are not managing the educational content of the first year of school or, depending on the child, based on a psychological examination, are assessed as unlikely to successfully manage the educational content in the first year of school, (3) have been educated in primary schools for pupils with health disadvantages but disability has not been proved in their case'.⁵ The ordinance, compared to the newly enacted Schools Act amendment, requires consulting an educational counselling and prevention **facility** (as compared to individual counsellors required by the Schools Act amendment), and although the ordinance enables the placement to a specialised class only for the period of 'inevitable need', it does not set any other maximum period limitation.⁶ This ordinance provision has for a long time been one of the tools enabling the placement of Roma children into segregated classes, with the gateway for this placement being biased diagnostics (labelling Roma children as 'mentally disabled') which is still in place. It has also been one of the legislative tools for having a parallel system of 'normal' and 'special' education.

The Schools Act amendment also introduces a new provision to the Schools Act, titled 'Education of Children from Socially Disadvantaged Environments and Pupils from Socially Disadvantaged Environments' (Section 107). The new provision stipulates that 'a child or a pupil whose educational needs stem **exclusively** from their development in a socially disadvantaged environment cannot be placed into special schools or special classes',⁷ and the education of such children shall be pursued through 'individual conditions', meaning the adjustments of the organisation of education on one hand, the environment in which education is taking place on the other, as well as the use of special methods and forms of education.⁸ Children from socially disadvantaged backgrounds are to be placed into classes 'together with other children or pupils'. This rule, however, does not apply to cases of placing pupils into a 0th degree (with informed consent of the legal representative), and to placing pupils into 'specialised class' pursuant to the newly-enacted Section 29(11).⁹

² Section 12(1) on the Ordinance on Primary School.

³ See Section 12(2) of the Ordinance.

⁴ See Section 12(5) of the Ordinance.

⁵ *Ibid.*

⁶ See Section 13(4) of the Act.

⁷ Section 107(2) of the Schools Act.

⁸ Section 107(1) of the Schools Act.

⁹ Section 107(3) of the Schools Act.

The amendment also adds a provision enabling the Ministry of Education to provide a subsidy for improving the quality of the conditions for education of pupils coming from a socially disadvantaged environment who are not educated in a special school or in the form of school integration (Section 107(4)). The amendment also added a few provisions on the tasks of the school inspection into the Act on State Administration in the School System and on School Self-Governance.¹⁰ For example, it explicitly states that non-performing education in accordance with principles and aims of education (some of which are e. g. the principle of non-discrimination and non-segregation, the principle of equal access to education and of choice in education) or other serious breaches of generally binding legislation in the field of education shall be considered as serious shortcomings by the inspection.¹¹

The amendment comes into effect on 1 September 2015, apart from Section 107 which comes into effect on 1 January 2016.

Key points of analysis:

- Amendment aimed at removing segregation of Roma children in education but with no real potential to tackle it
- Conflicting provisions in the legislation causing confusions; conflicting ordinance of the Ministry of Education still in place
- The amendment not a result of thorough analysis and preparation and of discussions with stakeholders
- No real challenge to the existing dual educational system of mainstream and special education and to other forms of segregation (e. g. de facto segregation of Roma children in Roma-only 'regular' classes)

Internet link source:

<http://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=6&ID=1498>, Last accessed on the 24/07/2015

¹⁰ Act No 596/2003 Coll. on State Administration in the School System and on School Self-Governance and on Changing and Supplementing Certain Laws, as amended (zákon č. 596/2003 Z. z. o štátnej správe v školstve a školskej samospráve a o zmene a doplnení niektorých zákonov v znení neskorších predpisov.

¹¹ See Section 13(15) of the Act on State Administration in the School System and on School Self-Governance.