

Greece's Segregation of Roma Children Violates European Convention

On 5 June 2008 the European Court of Human Rights issued its decision in the case of *Sampanis v. Greece*, which involved the State's failure to provide the children with schooling during the 2004-2005 school year, and the subsequent placement of Roma children in segregated facilities. The Court found that the State had violated Article 14 (prohibition of discrimination) of the European Convention on Human Rights, in conjunction with Article 2 (right to education) of Protocol 1. The Court further found that the occurrence of certain "incidents of a racist character" had an impact on the authorities' decision to place the Roma children in segregated schooling.

The decision followed the Court's judgment in *D.H. and Others v. The Czech Republic*, and strongly confirmed the Court's pronouncement in that decision that "the Czech Republic is not alone in having encountered difficulties in providing schooling for Roma children: other European States have had similar difficulties".

Factual Background

In August 2004, the Minister for Education of Greece issued a press release stressing the importance of integrating Roma children into the education system. Soon thereafter, on 10 September 2004, the State Secretary for the education of persons of Greek origin and intercultural education, accompanied by two Greek Helsinki Monitor representatives, visited the Roma camps in Psari, for the purpose of encouraging Roma parents to enroll their school-age children.

In the wake of these events, on 21 September 2004 the applicants, 11 Greek nationals of Roma origin living at the Psari authorized residential site near Aspropyrgos, Greece, went to the primary school in Aspropyrgos with other Roma parents in order to enroll their children. The headmasters of two schools refused to enroll their children, arguing that they had not received any instructions to do so from the competent ministry, and told the applicants they could continue enrolment when the necessary instructions had been received. However, the parents were never invited to enroll their children. The Greek Government subsequently argued that the applicants had merely sought to obtain information about enrolling their children, and that the headmaster of one of the primary schools had informed them of the necessary documents.

On 23 September 2004, the Director of Education for the Attica administrative district convened a meeting to solve the problem of overcrowding in the Aspropyrgos primary schools, so as to accommodate further enrolment of Roma children. The authorities decided that pupils at the age of initial school admission could attend existing primary schools, and that separate classes would be created for older children, to prepare them for integration into regular classes. In November and December 2004, a delegation of primary school teachers from Aspropyrgos visited the Psari Roma camp to inform and persuade parents to enroll their children. However, the mission proved unsuccessful as the parents concerned had not enrolled their children for the current school year.

On 9 June 2005, 23 children of Roma origin, including the applicants' children, enrolled for the school year 2005-2006. When they arrived at school for the first day of term in September 2005, non-Roma parents protested against the admission of Roma children in the school and blocked the Roma children's entrance, demanding that they be transferred to another building. The demonstrations continued every day through into October. The police intervened to prevent the commission of illegal acts against Roma pupils.

The applicants claimed that on 25 October 2005 they were pressured into signing a statement drafted by primary school teachers, which stated that they wanted their children to be transferred to a building separate from the school. On the basis of this document, from 31 October 2005, the applicants' children were segregated into separate classes in an annex to the main Aspropyrgos primary school building, and the blockade of the school was lifted. The annex, located five kilometers from the primary school, consisted of prefabricated classrooms on land belonging to the municipality of Aspropyrgos. Following a fire in April 2007, the Roma children were transferred to a new primary school set up in Aspropyrgos in September 2007. However, that school was not yet operational in October 2007.

Decision of the European Court of Human Rights

The European Court of Human Rights found that the State's actions in placing the children in segregated schooling facilities amounted discriminatory treatment in the provision of the right to education, in violation of Article 14 (prohibition of discrimination) of the European Convention on Human Rights in conjunction with Article 2 (right to education) of Protocol 1. The Court also found a violation of these Convention provisions regarding the denial of access to primary school in 2004-2005, holding the State responsible for that denial in light of domestic legislation and the vulnerable position of Roma in Greece. The Court reiterated that vulnerable groups may require special measures to ensure the full enjoyment of their rights.

The Court observed that the authorities failed to conduct proper testing in taking the decision to segregate the Roma children into separate classes. The creation of the separate classes had not been planned until 2005, when the local authorities had had to address the question of schooling for Roma children living in the Psari camp. The Court emphasized the need to establish an adequate system of assessment for children facing educational challenges, which ensures that the placement of ethnic minority children in special preparatory classes is not based on discriminatory criteria. With regard to the racist incidents that occurred in front of the primary school in September and October 2005, the Court noted that, although they could not be imputed to the Greek authorities, it could nevertheless be presumed that the incidents influenced the decision to place pupils of Roma origin in segregated classes.

With regard to the failure to enroll the Roma students in 2004-2005, the competent authorities should have recognized the particularity of the case and facilitated the enrolment of the Roma children. The Roma community's vulnerability made it necessary to pay particular attention to their needs; moreover, the prohibition of discrimination under Article 14 required in certain circumstances a difference of treatment in order to correct inequality. Greek law had explicitly recognized the special vulnerability of the Roma community by facilitating the school enrolment procedure for their children.

Lastly, the Court found that the applicant parents, as members of an underprivileged and often uneducated community, had been unable to assess all the aspects of the situation and the consequences of their consent to the transfer of their children to a separate building. Reiterating its findings in the *D.H and Others* judgment regarding the fundamental importance of the prohibition of racial discrimination, the Court considered that the possibility that someone could waive their right not to be the victim of such discrimination was unacceptable and incompatible with an important public interest.