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The Ongoing Segregation of Roma Children in Education in the Czech Republic

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EXECUTIVE SUMMARY

In 2022, the Open Society European Policy Institute and the Open Society Justice Initiative submitted to the European Commission a report they had commissioned on “The Persistence of Segregation of Roma Students in the Czech Republic” (“2022 Report”). The 2022 Report found that, in contrast to official claims, the segregation of Roma children in schools in the Czech Republic cannot be explained by residential segregation; the former “practical schools” have not been desegregated, but remain mostly-Roma schools where children are over-diagnosed with learning disorders and receive an inferior education; mostly-Roma, segregated schools remain the norm in many areas; and the “adjusted outcomes” educational track for students diagnosed with disabilities reinforces Roma segregation and constitutes a return to the practices which were found by the European Court of Human Rights in the *D.H. and Others v. Czech Republic* judgment of 2007 to constitute indirect discrimination on an ethnic basis.

The questions raised in 2022 about the Czech Republic’s compliance with Directive 2000/43/RC remain just as pertinent, just as serious and just as unanswered in 2023.¹ This submission follows on from the 2022 Report (which is referred to in full and appended to this submission for ease) and further demonstrates that the State remains in breach of the Race Equality Directive. In particular, it sets out updated information obtained in 2023 about:

- a) Roma pupils grouped together in special classes with reduced curricula while non-Roma children are in other classes in the same school and follow a regular curriculum;
- b) Roma pupils grouped in segregated schools where all or most pupils are Roma in circumstances where mainstream schools are available at a reasonable distance;
- c) The continuing misdiagnosis of Roma children;
- d) Ongoing discrimination during the school enrolment process;
- e) Unaddressed bullying of Roma children in mainstream schools; and
- f) Other pressures on Roma parents to send their children to segregated schools.

This information, which newly also covers the locations of Bruntál, Česká Lípa and Kutná Hora (as well as Ostrava and Prague) confirms that segregation of Roma primary school children continues unabated, and that the authorities have to date been unable and/or unwilling to end it. Equal access to the quality primary education that is so key to social mobility in the Czech Republic is still being denied to Roma children on a systematic basis on grounds of ethnic origin, endangering their access to secondary and tertiary education and to the labor market as adults. **Legislative reforms are not being enforced at the level of the schools and are therefore having little to no effect on creating equality of access to education for Roma children.**

The research findings confirm that widespread segregation continues both in all-Roma classes within individual schools, and in all-Roma schools. The research further confirms that, with few exceptions, to date the municipal, regional and national authorities have not used, are not using and have published **no plans to end segregation and ensure equal access to education on an ethnic basis and prevent discrimination.**² Indeed, the constancy of this segregation remains as intergenerational in nature as it

¹ Council of the European Union, *Council Directive 2000/43/EC on Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin*, 29 June 2000. (“Council Directive on Equal Treatment of 2000”)

² Since the Czech Government adopted its national Roma Strategy 2021-2030 (available at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-equality-inclusion-and-participation-eu-country/czech-republic_en), negotiations with the managing authorities have taken place regarding Roma civil society organization involvement in monitoring and planning committees. However, this participation lacks the necessary influence over European Social Fund (ESF) investments. Roma civil society has many objections regarding the implementation of the Operational Program JAK (available at: <https://opjak.cz/en/>), which lacks a

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did when the *D.H.* case began in 1997, with the children and grandchildren of many Roma who attended segregated schools also being educated in these segregated arrangements.

To date, notwithstanding Czech law, which does not require that children be diagnosed prior to enrollment in the public schools,³ Czech authorities have taken no action to ensure that diagnostic testing for disability is not part of the enrollment process at the very beginning of children's compulsory education in the public schools. Furthermore, and in spite of more than a decade of promises to do so, authorities have taken no action to address the long-entrenched problem of Roma children and their guardians being bullied by non-Roma (both adults and children) in the mainstream schools and thereby dissuaded from attending them. Finally, Czech authorities have taken no action to address the fact that mainstream schools with few Romani pupils unofficially dissuade impoverished Romani families from attending their schools by unnecessarily verbally communicating requests for voluntary financial donations to the parents; the Roma are disproportionately represented among the poor as a result of having been undereducated for multiple generations, and their inability to voluntarily donate becomes a source of embarrassment for their children and themselves. Schools with higher numbers of Roma attending reportedly do not engage in this practice, yet another reason they may seem more attractive to Roma families.

relevant participative mechanism. As result of the consultations, Roma civil society is aware that the OP JAK is preparing just one call under the ESF relevant to Roma with an allocation of CZK 300 million [EUR 12 million] addressing projects for desegregating education in 200 schools with no possibility of extension. Roma civil society does not consider this ideal; the plans have yet to be finalized and made public.

³ Ministry of Education, Youth and Sports of the Czech Republic, *Decree No. 48/2005 on Basic Education and Certain Requirements for the Fulfillment of Compulsory School Attendance*, June 25, 2005. ("Decree on Compulsory School Attendance of 2005")

The statute governing primary school enrollment and testing of children is Decree No. 48/2005, Coll., "Decree on basic education and certain requirements for the fulfillment of compulsory school attendance". These provisions apply to enrolling children into the first grade of primary school, usually in the spring of the year that the child expects to start school in the fall.

Section 3a, paragraph 1 states that enrollment for compulsory school attendance consists of a formal part and, **if the enrolled child is present and if the child's legal guardian agrees**, also of conversation with the child and possibly other activities with the child as well. The child's legal guardian can be present for all parts of the registration process.

Here we would note that the **presence of the child during his or her enrollment is not a legal requirement for admission to a public school.**

Section 3a paragraph 2 states that it is the child's legal guardian who makes the request that the child be registered for compulsory school attendance.

Section 3a, paragraph 3 states that if a **pedagogue** interviews the child being enrolled, that interview shall not exceed 20 minutes. Such an interview is focused on motivating the child to attend school and producing an indicative assessment of the child's readiness to attend school.

Section 3a, paragraph 4 of the decree states that if the school also prepares other activities to produce an indicative assessment of a child's school readiness in the format of a game or another suitable format, those activities shall not exceed 60 minutes.

Section 3a, paragraph 5 states that a child's readiness to attend school is **tentatively** assessed in relation to the expected outputs of the educational areas of the framework educational program for preschool education. During enrollment, the school does not determine the achieved level of development in all educational areas set forth by the framework educational program for preschool education, but rather selects those abilities and skills for which the level of development can be roughly assessed during enrollment.

Section 3a, paragraph 6 states that during enrollment, the school shall inform the child's guardian "in a demonstrable way" as to how the guardian can aid the child's development prior to the start of compulsory school attendance.

Section 3a, paragraph 7 states that prior to the start of the enrollment process the school shall publish, in a way that allows remote access, information on the organization and process of registration including criteria for accepting pupils, the number of pupils that can be accepted, a description of the formal and other aspects of registration, and any other applicable information.

Section 3a, paragraph 8 states that a school not established by a municipality or union of municipalities, or by a Regional Authority, or by the central level of the state administration may require the child to be present during enrollment and paragraphs 3-5 above shall not apply to such a school.

From the above it follows that a) no child is required by law to be present during enrollment into the first grade of a public school and b) no child should be subjected to diagnostic testing during the enrollment process, as such testing should be performed by a clinical psychologist, educational guidance facility or specialized pediatrician, none of whom are the "pedagogues" referenced by this decree as being allowed to interact with the child during the enrollment process provided that the legal guardian agrees.

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Because the segregation of Roma children remains entrenched and unaddressed, ethnic homogeneity persists in Czech classes and schools, as does the ongoing overrepresentation of Roma children among those recommended to undergo testing for disability. The testing of Roma children still does not reflect an accurate assessment of their cognitive capacity. Rather, even though the Czech practice of the diagnostic testing of Roma children was expressly condemned in the *DH* judgment 16 years ago, it remains a way for educators, under pressure from non-Roma parents, to channel Roma children away from mainstream classes and schools in a manner consistent with the widespread prejudice against Roma because of their ethnicity. While much has been done since *D.H.* to restructure the provision of education to children living with disabilities or disorders and to theoretically make it possible to meet the special educational needs of most children in mainstream schools, equality of access on an ethnic basis has not been and is not being enforced.

These findings echo those of a report commissioned by the Czech Education Ministry and published in May 2023⁴ which concluded that, during the last five years, many Roma pupils have continued to be segregated away from non-Roma pupils in both the mainstream and “practical” primary schools.⁵ Segregation manifests in two ways: in the form of all-Roma classes within individual schools or through entire schools that serve all-Roma populations. The report found that segregating Roma children away from non-Roma children continues to persist in areas where it is supported by local school administrators, municipal authorities and non-Roma parents.⁶

In light of the information in the 2022 Report and in the present submission, the Open Society Justice Initiative is therefore reaffirming its call for the European Commission to continue to the next stage of infringement proceedings against the Czech Republic and to issue a reasoned opinion.

HIGHLIGHTED FINDINGS

1. In all of the surveyed cities of Bruntál, Česká Lípa, Kutná Hora, Ostrava and Prague, most Roma children attend segregated schools even though there are non-segregated, mainstream schools located at a reasonable distance.
2. Of the 34 schools, 10 are segregated with 50% or more Roma pupils and five of the 10 had 90% or more Roma pupils.
3. In all of the segregated schools, the number of Roma children enrolled has reportedly not changed during the last decade, and the legislative changes of 2016 only altered the fact that most are no longer officially called “Practical Schools” (although some in this sample have retained that designation). Today they are called “Primary Schools” even though they serve many children who have been diagnosed with different disorders and are educated separately.
4. The town of Kutná Hora offers the most extreme example of segregation: The vast majority of Roma children attend just two segregated schools, and all of the diagnosed Roma children attend the “Practical” part of a Practical and Primary School despite the theoretical possibility

⁴ The research analyzes the causes behind the higher proportion of Roma pupils being individually educated according to a reduced curriculum in mainstream classes or in entire schools established under Section 16 (9) of the Education Act on “special needs education” and was jointly published by Prokop Analysis and Quantitative Research (PAQ) and the STEM Institute of Empirical Research in May 2023. The analysis covered information gathered from 1 December 2021 to 30 November 2022. *Výzkumná zpráva: Analýza příčin vyššího podílu romských žáků vzdělávajících se dle RVP ZV UV ve třídách zřízených podle § 16 odst. 9, školského zákona a návrh souboru opatření pro oblast vzdělávání a další relevantní oblasti* See Czech Education Ministry, *Analysis of the causes of the higher proportion of Roma pupils studying in schools and classes established according to § 16, paragraph 9, of the Education Act*, May 2023. (“Report of Czech Education Ministry of 2023”).

⁵ Report of Czech Education Ministry of 2023, p. 9.

⁶ Report of Czech Education Ministry of 2023, p. 12. In translation: “*Segregation through special schools persists where it suits a critical amount of local stakeholders (which is also confirmed by other studies) – the management of both mainstream and special schools and the parents.*” (*Segregace skrze speciální školy pokračuje tam, kde vyhovuje kritickému množství lokálních aktérů [což potvrzují i další studie] – vedení běžných a speciálních škol i rodičů*).

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- that they should be able to receive assistance with their special needs in any of the primary schools in town. The situation in practice is therefore identical to the conditions that prevailed prior to the legislative changes of 2016 intended to promote inclusion in the schools.
5. Five of the 10 segregated schools admitted that they call staffers of a Pedagogical-Psychological Counselling Center (“PPP”)⁷ or Special Education Center (“SPC”)⁸ to visit the school to examine children for disability or disorder without their guardians’ consent or presence. These schools admitted that they do not even bother recommending Roma guardians take their children to a PPP or SPC for examination because they assume they will not do so; instead, they call the staffers of such facilities to come examine children for disability or disorders in the school. In one case, in Ostrava, a school uses a private PPP, otherwise all the other schools cooperate with whatever publicly managed facility is closest to them.
 6. In the surveys of the Roma guardians of children attending grades 1-9, more than 70% of the Roma respondents’ children, on average, were diagnosed with some kind of disability or disorder. The highest prevalence of diagnosis was in Prague, where 90.4 % of the Roma guardians’ children had been diagnosed with some form of a learning disorder. We do not have data on how many children in general were so diagnosed in each city or school surveyed.

METHODOLOGY

This report sets out qualitative research and analysis produced by the Awen Amenca non-governmental organization in August and September of 2023 with the support of the Open Society Justice Initiative.

The Awen Amenca organization undertook surveys in Bruntál, Česká Lípa, Kutná Hora, Ostrava and Prague, all locations where their researchers are familiar with the schools and have established ties with local Roma communities, on the issue of the ethnic segregation of Roma children in education. Their interviews of Roma guardians identified schoolchildren attending 34 different primary schools and asked about their experiences of diagnosis, enrollment and segregation.

Another survey was undertaken of the staff at 20 of the 34 schools from these locations to ascertain their perspective on the distribution of Roma pupils in their schools. In most of the segregated schools the principals (who are not Roma) would not even speak with the Awen Amenca interviewers (all of whom are Roma), so Awen Amenca contacted non-pedagogical staff or teaching assistants for information about how Roma pupils are handled. The findings are described below.

Interviews were also conducted with PPP/SPC staff and with staff of the Czech School Inspectorate (“ČŠI”) at the national level. The aim was to learn whether complaints about ethnic segregation are submitted to the ČŠI, what those complaints entail and what measures are adopted to address them, and whether the ČŠI is also assessing how children are being diagnosed in relation to such complaints of ethnic segregation. The interviews were conducted during the course of the regular interaction between

⁷ A Pedagogical-Psychological Counselling Center (PPP) is a counselling facility that provides free professional psychological and special education services to children, young people, their parents and teachers at all levels of school, from kindergarten to secondary school. Children can be referred by their legal guardians or by a school where they are enrolled. The counselling centers deal with children’s difficulties encountered during formal education and their upbringing. They assess the child’s maturity with regard to possible deferment of the start of compulsory school attendance, academic failures of different kinds (failure to cope with the demands of the school, investigating whether the child has an attention or learning disorder), the child’s difficulties in terms of upbringing (behavioural disorders, deviations in personal and social development), and determine pupils’ aptitude in relation to the selection of a secondary school. They cooperate with schools and teachers, providing them with educational programs for use with children with disorders, methodological materials and professional assistance.

⁸ A Special Education Center (SPC) is a counselling center that provides free of charge professional psychological and special educational services to children and young people with disabilities and health disadvantages. Individual SPCs vary in their focus according to the type of disability, and are usually attached to “special schools”. There are centers for hearing, visual, physical and mental disabilities; for children with speech impairments; for autism spectrum disorders; or for combined disabilities. Professionals in these centers try to help parents with early childcare, providing early diagnosis, therapy or remedial treatment. They help with the education of such pupils, working closely with teachers in “special schools” or in the mainstream schools where a child can be included if conditions are right. They are also able to refer parents to other specialist services.

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Awen Amencia researchers and ČŠI personnel who are members of various working groups on these issues. The respondents said the inspectorate does not assess the concentration of Roma pupils (their segregation) per se, but that on the basis of complaints received, it investigates whether Roma pupils are being discriminated in their access to education or being treated differently for no justifiable reason. In many cases, they claim that it is impossible to assess whether discrimination was happening or not, but they were not interested in discussing the issue further, referring the researchers to the regional workplaces which handle each complaint. As the examples in the body of this report show, after the inspectorate issues its reports on the complaints it has decided to investigate, **school establishments are not required to draw conclusions from them or to take action on the inspectorate reports.**

The submission also includes the findings of desk research by Awen Amencia and Gwendolyn Albert.

The research was analyzed and compiled into report form by Gwendolyn Albert.

SEGREGATED CLASSES

The 2022 Report notes, for example, that even though separate special schools and classes for children with mild mental disability (“MMD”) have been abolished, special schools and classes are permitted for children with physical, visual, or hearing impairments or serious intellectual development disorders, serious behavior disorders, multiple disabilities, or autism. The official position is that such pupils are to be assigned to separate classes only where integration within a mainstream class is not feasible. However, more than three-quarters of Roma students diagnosed with a disability and almost one in ten Roma students overall receive instruction in segregated classes.

As the educator and whistleblower Robert Čapek reported in 2023 about a school in another location, Sokolov, by ignoring violations of the Antidiscrimination Act, the Czech School Inspectorate’s work is actually promoting discrimination and racism against Roma pupils.⁹ A complaint was filed with the Inspectorate about a primary school in Sokolov opening selective classes offering instruction in foreign languages into which Roma children are not enrolled, as well as that children are being educated separately from each other on the basis of ability or skills. In 2022, after investigating, the Inspectorate reported the school was no longer engaging in such practices, but that finding was disputed by Čapek, who reported in August 2023 that Class 6A at the school is attended mostly by Roma pupils who are not being provided education of the same quality as their peers in Class 6B and Class 6C. He quoted the principal as characterizing the class as follows: “The 11 pupils there have been the lowest achievers since first grade.” **While the Inspectorate report claims the school “supports” pupils with allegedly lower-than-average potential, they are in fact being labeled as failures and segregated away from their peers, according to Čapek.**

In 2023, another complaint was filed against the school stating that the pupils in Class 6A were discriminated against by the principal’s predetermined assessment of their ability when she verbally instructed educators not to fail anybody in 6A, but to give them all the exact same low grade and not any higher grades. The complaint informed the Inspectorate that for this separate class of Roma pupils in the school, the principal ordered they all be given the same bad grades but not allowed to fail, because then they would have to repeat a grade and attend school for one more year. The authors of the complaint also claimed that the principal had deleted 40 % of the grades earned by pupils in 6A for one subject from the electronic system recording pupil results because their teacher had given them top grades in that subject. The complaint alleged that the principal manipulated the grade distribution such that only

⁹ Robert Čapek, “The Czech School Inspectorate supports discrimination against Roma pupils in schools (Česká školní inspekce podporuje diskriminaci romských žáků ve školách)”, 19 August 2023, available at: <https://medium.seznam.cz/clanek/liny-ucitel-ceska-skolni-inspekce-podporuje-diskriminaci-romskych-zaku-ve-skolach-17843> (“Robert Čapek article of August 2023.”)

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students attending the elite classes offering foreign languages, where no Roma children attend, are allowed to earn top grades.

It took five months for the Inspectorate to investigate the 2023 complaint. The same inspector who performed the 2022 investigation was assigned and once again did not report that there is a Roma segregated class at the school. The 2023 inspection report states: “In Class 6A there are 11 pupils, three of whom have special educational needs, and there is a teaching assistant.” The pupils’ ethnicity is not mentioned. As for the principal erasing the pupils’ good grades, the Inspectorate reports that this has since been “corrected” in the system. As to the claim that the principal also arbitrarily lowered the quarterly grades for some Roma pupils by two levels, the report says: “The principal, in a written decision, incorrectly used regulation Section 52 para. 5 of the Act on Education”. The report also notes that this was “not done in favor of the pupils’ education”. **The Inspectorate made no recommendations on how to change this discriminatory practice, the principal was not required to correct anything else, and the school establisher was not required to do anything to prevent recurrence of this behavior or to remove or sanction the principal for her “incorrect use” of the regulations governing the schools.**

A complaint about the 2023 inspection was then sent to the head School Inspector in an open letter, arguing that the inspectors are ignoring violations of the Antidiscrimination Act and allowing them to pass without comment, but that official never responded and the complaint reportedly had no effect, according to Čapek. He has since turned to the Public Defender of Rights over this issue; that body will have no power to effect any changes and will be restricted to assessing and then making recommendations which it will be impossible to enforce.

There have been some Czech School Inspectorate (ČŠI) reports from the central level generally critiquing discrimination against Roma and their segregation, but when it comes to auditing individual schools, the inspectors become “blind” to evidence of discrimination and segregation, according to former Public Defender of Rights Anna Šabatová (commenting during her previous time in office). The following excerpt is taken from the 2023 whistleblower article on the Sokolov case:

So, even though the principal lied to the inspectors more than once during their investigation, something did eventually come to light. There is an all-Roma class and the entire matter of their grades being deleted and downgraded and the order given by the principal to give all the Romani pupils the same bad grades did in fact happen. The inspectors knew this. They acknowledged the complaint as justified. They even admitted that it “was not undertaken to benefit the pupils’ education”. What proposals for changing this discriminatory and racist practice were made by the Czech School Inspectorate? None! What was the principal required to correct? Nothing! What is the school establisher required to do? Nothing!¹⁰

Awen Amencia researchers have previously worked as invited observers during ČŠI investigations in the schools and can confirm the example above is not an isolated incident: while the ČŠI leadership at the central level criticizes discrimination against Roma and their segregation on an ethnic basis, the regional management and personnel of the ČŠI **either do not see or do not want to see this phenomenon and even help to cover up discrimination in some cases**, as described above.

As set out in further detail in the section on misdiagnosis (below), Awen Amencia found that in Bruntál, Roma children were most often diagnosed in a PPP-and-SPC. There is just one combined facility locally and the guardians said they brought their children to it, usually at the suggestion of their teachers. A total of 33.3 % of these respondents’ children were diagnosed with some form of disorder. Of the diagnosed Roma children, 63.6 % are individually educated according to “adjusted outcomes” curricula in mainstream classes together with undiagnosed children, but 24.4 % attend special classes organized

¹⁰ Robert Čapek article of August 2023.

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under Section 16 paragraph 9 in a mainstream school, and 12 % are educated in completely separate classes, ostensibly following the regular curriculum, where all pupils are Roma.

What is alarming is that **many of the Bruntál respondents saw no difference between whether their child is enrolled in a regular or a “special” class; they said teachers have told them their children are being taught according to the same curriculum in either instance, which is not supposed to be the case.**

Roma guardians being unaware of their children’s educational arrangements is a phenomenon that was also highlighted by the findings of the very first quantitative, representative, statistically significant survey of the Roma population which was undertaken from 2021-2023 by the Research Institute for Labor and Social Affairs (RILSA) in the Czech Republic¹¹ in order to pilot a methodology for data collection about Roma. When the RILSA Roma respondents were asked about children age six to 15 in their households and whether they attend a school where all or most of their schoolmates are also Roma, the answers broke down as follows: 53.9 % said their children have just a few other Roma schoolmates, **24.1 % said they did not know, 15.2 % said most of their schoolmates were Roma**, and 6.5 % said their children are the only Roma in the school.¹² When the RILSA Roma respondents were asked about children age six to 15 in their households who attended a primary school that is not a mainstream primary school, 8 % said that was the case for one or more such children (there was no comparable data available for the general population yet at the time of publication).¹³ The results of the first pilot survey also revealed that **the level of education attained by Roma greatly lags behind the general population.**

Currently in the Czech Republic such “special classes” in mainstream primary schools are 22 % Roma and the “special schools” are 15 % Roma.¹⁴ This is out of all proportion to the percentage of pupils identified as requiring education in such circumstances from the general population, which has been approximately 3 % for generations.¹⁵

SEGREGATED SCHOOLS

The 2022 Report notes that majority-Roma schools remain the norm in many school districts in the Czech Republic. It highlights, for instance, the example of a primary school, Šalounova, where 100% of the pupils are Roma, whereas just 200 meters away there is another primary school, Halasova, where only 3% of the students are Roma. Both schools are run by the same management team.

In all of the cities surveyed in 2023 (Bruntál, Česká Lípa, Kutná Hora, Ostrava and Prague), there are mainstream schools which can be attended by Roma children residing in their catchment areas and which are attended by some in extremely low numbers, but **most Roma children attend segregated schools**, even if they have to commute outside of their catchment area to do so. **Ten of the 34 schools were definitely segregated, with 50 % or more Roma children, two of which were 90 % Roma and three of which were 100 % Roma.**

Staff interviewed at the segregated schools complained that they have involuntarily become what they call “disposal sites” for Roma children who are rejected by other schools. While these schools

¹¹ Laura Fónadová, Tomáš Katrňák, Miroslava Rákoczyová, Ivana Šimíková, *Výsledky výběrového šetření romské populace – vyhodnocení indikátorů*, RILSA Výzkumné centrum v Brně 2022 (“Laura Fónadová et al”), p. 13, available at: <https://esd.rilsa.cz/en/sample-surveys/> Gwendolyn Albert is a member of the Expert Platform for this project.

¹² Laura Fónadová et al, p. 19.

¹³ Laura Fónadová et al, p. 22.

¹⁴ Jana Ustohalová, 10 July 2023, “*Segregovaných škol pro Romy přibylo. Všem to vyhovuje, ale stát na tom trati, upozorňují experti*” [The number of Romani segregated schools is higher. Experts warn it suits everybody but the state is losing ground”, available at https://denikn.cz/1182694/segregovanych-skol-pro-romy-pribylo-vsem-to-vyhovuje-ale-stat-na-tom-trati-upozornuji-experti/?cst=977e5a04c1458d07306353ef7732c54c4e15bb3cc9e09022c06d4e340745e4cc&fbclid=IwAR3uaa0z9rqj-Wxyfv7vbH3osThxEV9de02j4yIlvzh_ImSrchujwcSNpXg (“Jana Ustohalová Article”)

¹⁵ Jana Ustohalová Article.

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are situated near localities where Roma reside, their nearest neighbors are mostly non-Roma, and the overall proportion of Roma residents within a 1.5 km radius does not exceed 10 %. Even so, there are all-Romani schools in these municipal departments or municipalities. One respondent explained that in one of these cities, many Roma children commute to a particular school from outside the catchment area, sometimes across town, while the non-Roma children living in these neighborhoods also commute across town to attend schools with fewer or no Roma pupils.

Remarkably, despite the fact that civil society has exerted a great deal of pressure to desegregate the schools over the last 15 years, when asked what has changed during the last decade with regard to the ethnic makeup of the pupils attending, all of the respondents for the segregated schools answered that **nothing has changed**.

According to the interviews with Roma guardians of children attending these segregated schools, distance to the school was not a deciding factor in their decision as to where to enroll their children. It was only the case in one city that the school with the most segregation was also located closest to most Roma residents' homes.

Ten of the 34 schools were definitely segregated, with 50 % or more Roma children; two were 90 % Roma and three were 100 % Roma. As set out in more detail below, the summary findings for the survey of staff in the segregated schools are as follows:

1. **Five of these schools have Roma residents in their catchment areas, but there are more non-Roma than Roma living within a 1.5 km radius of each of these schools. In four of the schools in Ostrava, their catchment area has less than 10 % Roma residents.**
2. **One such school in Kutná Hora and two such schools in Prague said few Roma live in their catchment area and that their Roma pupils commute from other catchment areas. All of these schools complained that they have involuntarily become what they called “disposal sites for Roma children” who are rejected by other schools.**
3. **In all of these schools, the number of Roma children enrolled has not changed during the last decade, and the changes of 2016 only altered the fact that most are no longer officially called “Practical Schools”. Today they are called “Primary Schools” even though they serve many children who have been diagnosed with different disorders.**

The Awen Amenca organization surveyed 62 Roma guardians of children attending grades 1-9 who said they had a total of 84 children attending primary schools (ZŠ) in the town of Bruntál. For one of these schools the researchers found exact data on the number of Roma children attending, while for the rest of the schools the percentage of Roma children attending them is estimated by the parents (an average of their testimonies for each school). The schools listed below are all a maximum of 20 minutes' walking from the Roma respondents' residences, so **distance is not a factor in their enrollment decisions**. School 2 is considered definitely segregated and School 3 is considered at risk of becoming segregated in the future, as the 30 % threshold is where “white flight” tends to begin.

Primary school in Bruntál	Estimated percentage of Roma attending
ZŠ 1	5 %
ZŠ 2	70 %
ZŠ 3	30 %

The Awen Amenca organization also surveyed 23 Roma guardians of children attending grades 1-9 from 18-23 August 2023 who said they had a total of 52 children attending primary schools (ZŠ) in the town of Česká Lípa. The schools attended are listed below along with the percentage of Roma children attending them as estimated by the parents (an average of their testimonies for each school). Schools 1-6 below are commuted to on public transit with a journey of 20 minutes maximum from the respondents' residences, which was said to be considered a reasonable commute, but it is also the case that School 7,

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which has also retained the title of a “practical”¹⁶ school, is definitely the very closest school, just a three-minute walk from most of their homes. Due to the estimated percentage of Roma attending, School 6 is considered at risk of becoming segregated and School 7 is definitely segregated.

Primary school in Česká Lípa	Estimated percentage of Roma attending
ZŠ 1	Fewer than 5 %
ZŠ 2	5 %
ZŠ 3	5 %
ZŠ 4	10 %
ZŠ 5	10 %
ZŠ 6	35 %
<i>Základní škola, Praktická škola a Mateřská škola</i> [“Primary School, Practical School and Nursery School”] 7	More than 50 %

According to the Roma guardians interviewed here, graduates of Schools 6 and 7 do not continue on to secondary education – on the contrary, many never even complete their compulsory education at the primary level.

Awen Amenca also surveyed 19 Roma households from 4-7 September 2023 who said they had a total of 57 children attending primary schools in Kutná Hora. The schools attended are listed below along with the percentage of Roma children attending them as estimated by the guardians (an average of their testimonies for each school). These schools can be reached by public transit from the respondents’ residences with a journey of 20 minutes maximum, so **commute times to do not play a role in enrollment decisions**. Both are segregated.

Primary school in Kutná Hora	Estimated percentage of Roma attending
<i>Základní škola a Praktická škola</i> [“Primary School and Practical School”] 1	90 %
ZŠ 2	50 %

The other five mainstream primary schools in Kutná Hora are attended by almost no Roma children. There are reportedly two Roma children at most attending two such schools, while others have no Roma children at all. All of these primary schools are roughly the same distance away from the respondents’ residences, as are the schools they now attend, so the **commuting distance does not play a role in selecting a school for their children. 100% of the diagnosed Romani children are educated in the “Practical School” part of the Primary School and Practical School 1. 100% of the undiagnosed Romani children are educated at ZŠ 2. Both are segregated.**

¹⁶ A “practical” school is one intended for pupils with mental, physical, or sensory disability, with serious speech defects, with serious developmental learning disorders, with serious behavioral developmental disorders, with multiple disabilities or disorders, or with autism.

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The respondents said graduates of these segregated schools attended by Roma do not continue on to secondary education. Many never complete their compulsory primary education. Absences are a big problem for most pupils, but are tolerated by the principals.

Awen Amenca also surveyed a total of 142 Roma households with a total of 175 children attending primary schools in the municipal departments of Ostrava-Poruba, Ostrava-Přívov, Ostrava-Vítkovice and Slezská Ostrava from August to September 2023. The schools attended are listed below along with the percentage of Roma attending them as estimated by the guardians (an average of their testimonies per school). The schools can be commuted to on public transit by a journey of 15 minutes from the respondents' residences within each municipal department, so **distance is not a factor in enrollment decisions**. Six of the 11 schools are segregated and one is at risk of becoming so.

Primary schools in Ostrava-Přívov	Estimated percentage of Roma attending
ZŠ 1 – Ostrava-Přívov	8 %
ZŠ 2 – Ostrava-Přívov	100%
ZŠ 3 – Ostrava-Přívov	100 %
ZŠ 4 – Ostrava-Přívov	100 %
ZŠ 5 – Ostrava-Přívov	25 %
Primary schools in Ostrava-Vítkovice	
ZŠ 6 – Ostrava-Vítkovice	20 %
ZŠ 7 – Ostrava-Vítkovice	10 %
Primary school in Slezská Ostrava	
ZŠ 8 – Slezská Ostrava	10 %
ZŠ 9 – Slezská Ostrava	85 %
Primary schools in Ostrava-Poruba	
ZŠ 10 – Ostrava-Poruba	30 %
ZŠ P11 – Ostrava-Poruba	15 %

Awen Amenca also surveyed 34 Roma households from 24-31 August who said they had a total of 100 children attending primary schools in Municipal Departments 3, 8, 9, 10 and 14 of Prague. The schools attended are listed below along with the percentage of Roma attending them as estimated by the guardians (an average of their testimonies for each school). All of the schools in each municipal department can be reached from the respondents' residences within a maximum of 15 minutes on public transit, so **distance does not impact enrollment decisions**. The borderline-segregated and definitely segregated schools are highlighted.

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Name of school in Prague	Estimated percentage of Roma attending
ZŠ 1 - Praha 10	3 %
ZŠ 2 - Praha 14	5 %
ZŠ 3 - Praha 9	5 %
ZŠ 4 - Praha 14	10 %
ZŠ 5 - Praha 14	10 %
ZŠ 6 - Praha 3	10 %
ZŠ 7 - Praha 9	15 %
ZŠ 8 - Praha 14	20 %
ZŠ 9 - Praha 8	20 %
ZŠ 10 – Praha 14	20-30 %
ZŠ 11 - Praha 8	30-40 %
ZŠ 12 - Praha 9	More than 50 %
ZŠ 13 - Praha 3	90 %

The following table shows how many of the Roma respondents' children attend school in which municipal department:

Municipal Department of Prague	Number of Roma
Prague 3 (two schools, one of which is segregated)	20
Prague 8 (two schools, one of which is segregated)	15
Prague 9 (three schools, one of which is segregated)	25
Prague 10 (one school, not segregated)	5
Prague 14 (five schools, one of which is segregated)	35

MISDIAGNOSIS OF ROMA CHILDREN

The 2022 Report noted, for example, that Roma children are nearly ten times more likely to be diagnosed with a disability in comparison to the general population and that the government's comments in its June 2022 report to the Council of Europe on the implementation of *D.H. and Others* noted that the inadequacy of diagnostic tools had resulted in "a misdiagnosis of mild mental disability and the subsequent improper education of some Roma children under [adjusted outcomes] or their placement outside mainstream education."

Following the 2023 research, Awen Amenca contends that the fact that Roma children continue to be **diagnosed with learning disabilities even before they have spent any time in the initial stages of compulsory formal education necessarily involves their misdiagnosis**. According to their surveys, the schools are not usually turning to testing for learning disabilities on the basis of observing Roma

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pupils after their initial period of adjustment to school has been completed, but **are *a priori* assuming such children to be disabled or disordered** and arranging for the earliest possible production of diagnoses in order **to justify separating them from non-Roma children, either into separate classes or into special schools.**

Five of the segregated schools admitted that they call staffers of a PPP¹⁷ or an SPC¹⁸ to visit the school to examine children for disability or disorder without their guardians' consent or presence. These schools admitted that they do not even bother recommending Roma guardians take their children to a PPP or SPC for examination because they assume they will not do so; instead, they call the staffers of such facilities to come examine children for disability or disorders in the school. In one case, in Ostrava, a school uses a private PPP, otherwise all the other schools "cooperate" with whatever publicly-managed facility is closest to them.

In the Awen Amenca surveys of the Roma guardians of children attending grades 1-9 described above, **more than 70% of the Roma respondents' children, on average, were diagnosed with some kind of disability or disorder.** It is also clear that the production of diagnoses is happening to a degree that must involve some misdiagnosis, to say nothing of diagnosing children before they ever attend first grade or allowing them to be enrolled into "practical" schools without a diagnosis.

Bruntal

In the Bruntál survey, ZŠ 2 is a former "Practical School", today a Primary School with special education classes. Respondents whose children attend that school reported they all have been diagnosed with either Attention Deficit Hyperactivity Disorder (ADHD) or mild mental disability (MMD), while those whose children attended the other schools in this city reported that just some of their children had been diagnosed with ADHD, dysgraphia (DISG) or dyslexia (DISL). The number of children attending lower primary grades with a diagnosis was 19 (22 % of the total) and the number of children attending upper primary grades with a diagnosis was 9 (10 % of the total). None of the children were diagnosed with more than one of these disorders. The distribution is below:

Bruntál lower primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
ADHD	1	3.6 %
MMD	15	53.6 %
DISG	1	3.6 %
DISL	2	7.1 %
Bruntál	Number diagnosed	Percentage of diagnoses

¹⁷ A Pedagogical-Psychological Counselling Center (PPP) is a counselling facility that provides free professional psychological and special education services to children, young people, their parents and teachers at all levels of school, from kindergarten to secondary school. Children can be referred by their legal guardians or by a school where they are enrolled. The counselling centers deal with children's difficulties encountered during formal education and their upbringing. They assess the child's maturity with regard to possible deferment of the start of compulsory school attendance, academic failures of different kinds (failure to cope with the demands of the school, investigating whether the child has an attention or learning disorder), the child's difficulties in terms of upbringing (behavioural disorders, deviations in personal and social development), and determine pupils' aptitude in relation to the selection of a secondary school. They cooperate with schools and teachers, providing them with educational programs for use with children with disorders, methodological materials and professional assistance.

¹⁸ A Special Education Center (SPC) is a counselling center that provides free of charge professional psychological and special educational services to children and young people with disabilities and health disadvantages. Individual SPCs vary in their focus according to the type of disability, and are usually attached to "special schools". There are centers for hearing, visual, physical and mental disabilities; for children with speech impairments; for autism spectrum disorders; or for combined disabilities. Professionals in these centers try to help parents with early childcare, providing early diagnosis, therapy or remedial treatment. They help with the education of such pupils, working closely with teachers in "special schools" or in the mainstream schools where a child can be included if conditions are right. They are also able to refer parents to other specialist services.

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upper primary Roma diagnosis		
ADHD	0	0
MMD	6	21.4 %
DISG	2	7.1 %
DISL	1	3.6 %

The children were most often diagnosed in a PPP-and-SPC in Bruntál. There is just one combined facility locally and the Roma guardians said they usually brought their children for diagnosis at the suggestion of their teachers. A total of 33.3 % of these respondents' children were diagnosed with some form of disorder. Eight parents reported that they themselves had attended ZŠ 2 when it was still called a "Practical School."

Česká Lípa

In Česká Lípa, the survey reveals that **75 % of the children of the Roma guardians were diagnosed with some form of learning disorder or mental disability**. Of 52 children total, 39 were diagnosed by psychologists at a PPP with either dysgraphia (DISG), or dyslexia (DISL), or mild mental disability (MMD). 30 of these pupils (76.9%) attend lower primary grades and nine of them (23 %) attend upper primary grades. None of the children were diagnosed with more than one of these disorders. The distribution of their diagnoses is shown in the table below:

Česká Lípa lower primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
MMD	18	46 %
DISG	7	17.9 %
DISL	5	13%
Česká Lípa upper primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
MMD	4	10.3 %
DISG	3	7.7 %
DISL	2	5.1 %

In this sample, 100 % of the Roma children who have been diagnosed attend Practical School 7, which is segregated, and no diagnosed Roma children are enrolled in mainstream primary schools 1-5 despite their being available within a reasonable distance. Eight undiagnosed Roma children attend ZŠ 6 (which is also segregated). Just five undiagnosed Roma children are educated in Schools 1-5, all mainstream primary schools.

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Kutná Hora

Of the 57 Romani children included within the Kutná Hora survey, 42 were diagnosed by psychologists of a particular SPC with either behavioral disorders or MMD. Of those diagnosed, 37 are in the lower primary grades (88.1%) and five are in the upper primary grades (11.9%).

Kutná Hora lower primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
Behavioral disorder	2	4.8%
MMD	35	83.3%
Kutná Hora upper primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
Behavioral disorder	3	7.1 %
MMD	2	4.8 %

The respondents' children were most often diagnosed by the staff of an SPC in Kolín, a town 12 km away. In the vast majority of cases (90%) the school initiated the examination. **The survey reveals that 73.4% of these Roma respondents' children were diagnosed with some form of behavioral or learning disorder.**

Kutná Hora is the location with the starkest segregation of all the cities surveyed. It is also interesting to note the absence of the full range of differentiated diagnoses here (specifying dyslexia, dysgraphia, etc.), suggesting that the diagnostic practice has not fully incorporated recent advances and remains underdeveloped.

Ostrava

Of the 142 children included within the survey of Ostrava, 115 have been diagnosed with either Dysgraphia, Dyslexia, both Dysgraphia and Dyslexia, or MMD. 82 are in lower primary school (71.3 %) and 33 in upper primary school (28.6 %).

Ostrava (all four municipal departments surveyed) lower primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
DISG	19	20.1 %
DISL	21	21.5 %
DISG + DISL	15	26.5 %
MMD	19	7.2 %
Ostrava (all four municipal departments surveyed) upper primary Roma diagnosis	Number diagnosed	Percentage of diagnoses

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DISG	12	10.4 %
DISL	9	7.8 %
DISG+DISL	5	4.3 %
MMD	7	6.0 %

For the schools in Ostrava-Přívov, Ostrava-Vitkovice and Slezská Ostrava, the children are diagnosed either by the publicly-managed PPP-and-SPC 1 or by the privately-managed SPC 2 in Havířov, which is 17 km away. Schools in Ostrava-Poruba have children diagnosed in the publicly-managed PPP 3. The most-used facility is PPP-and-SPC 1, where 90 % of respondents brought their children for examination at the instigation of the school; in 16 cases, a staffer from this facility even came to the school to test the children there. At ZŠ 9, the private SPC 2 in Havířov (17 km away) is used, and its staff visit the school to test children there at the staff's request. **Three respondents said they did not know their child attending that school had been diagnosed until the teacher asked them to consent to their children being instructed according to “adjusted outcomes” and to sign off on the diagnoses.**

The survey reveals that 80.9 % of these respondents' children were diagnosed with some form of learning disorder, 95.6 % of whom are individually educated according to reduced curricula in mainstream classes, 5.3 % of whom are educated in separate “special” classes at mainstream schools, and 3.7 % of whom were re-assigned to schools that used to be “special schools” before the 2016 changes. Four Roma guardians said their children are educated in a separate class, while another four whose children attend that same class in that same school did not know if it was separate or not.

Prague

In Prague, of 100 children, 83 were examined by psychologists from a PPP and diagnosed with Dysgraphia, Dyslexia, or MMD; some had more than one diagnosis. Of those diagnosed, 75 are in lower primary grades (90.4 %) and eight are in upper primary grades (9.6 %).

Prague lower primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
MMD	6	7.2%
DISG	25	30.1%
DISL	22	26.5%
DISG + DISL	22	26.5 %
Prague upper primary Roma diagnosis	Number diagnosed	Percentage of diagnoses
LMP	1	1.2 %
DISG	4	5 %
DISL	3	3.6 %
DISL + DISG	0	0

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The children were most often diagnosed in PPP 1 for Prague 3, PPP 2 for Prague 9 (which has two branches) and PPP 3 for Prague 8. In the vast majority of cases (95%), the examinations were instigated by the schools.

The survey revealed that **90.4 % of the Roma guardians' children were diagnosed with some form of a learning disorder**. 91.8 % of the diagnosed Roma children are individually educated according to “adjusted outcomes” curricula in mainstream classrooms. 3.5 % are educated in separate “special classes” in otherwise mainstream schools. 4.7 % were recommended for re-enrollment into schools that used to be “special schools” before the 2016 changes. 70 % of these respondents' children have been assigned a teaching assistant as their support measure.

Testing facilities

In August and September 2023, the Awen Amenca organization also interviewed the staffs of five PPP/SPC facilities in Kutná Hora, Ostrava and Prague with a view to how they can improve Romani children's access to support measures in mainstream, non-segregated primary schools.

Most guidance facilities in the Czech Republic use both of these acronyms to refer to their services. Theoretically, a PPP should diagnose children and the SPC should then recommend their support measures, including individual instruction plans, on the basis of the diagnosis and collaborate with their guardians and the schools. In practice, PPPs and SPCs are usually one and the same facility at one address providing all of these services.

When asked whether Roma children are tested differently than non-Roma, four of these facilities said there was no reason for that to be the case, as most Roma children and their guardians speak Czech. One PPP said that they test Roma children using tests for children who are not native Czech speakers.

When asked whether the approaches they use are the same as the ones used 10 years ago, all five facilities said they are not and that today they have more instruments at their disposal. When asked how today's approaches to diagnosis are different, all facilities said they have new instruments and procedures to use compared to 10 years ago and that they have undergone several special trainings. When asked whether they have and still use the outdated WISC III instrument, all five answered that they do “sometimes” still use it.¹⁹

When asked if they use instruments which they understand to be “culture fair”, two PPP facilities answered that “all” instruments are already “culture fair”. Three answered that they still lack tools which would take sociocultural disadvantage into account during diagnosis.

When asked if they have re-diagnosed all of the previously-diagnosed children after the amendment to the Education Act in 2016, all facilities responded that the re-diagnosis happened between 2016 and 2018. It is possible that for some children, the same tool used for their initial diagnosis was also used for their re-diagnosis (the outdated WISC III), because at that time it was the only available instrument. The respondents said that tests used prior to 2016 made it difficult to differentiate between a child's innate intellectual capacity and the effects of sociocultural disadvantage on their behavior.

When asked what should be improved about the diagnostic process, all facilities said they need all of their staff members to be properly trained so that they would be able to differentiate innate intellectual ability from the effects of social disadvantage. They need instruments that are better adapted to the Czech context and instruments that would better limit the influence of the human factor of those administering and assessing the tests, such as biases and personal perspectives, on their results. They also need more trust in these processes from those being tested.

When asked if the kinds of diagnoses have changed over time for Roma children in particular, all respondents said the diagnosis of MMD has declined and diagnoses of behavioral disorders (ADD, ADHD, etc.) and learning disabilities (Dysgraphia, Dyslexia, etc.) have increased. They attribute this to

¹⁹ The Wechsler Intelligence Scale for Children (WISC) is an individually administered intelligence test for children between the ages of six and 16. The Fifth Edition (WISC-V; Wechsler, 2014) is the most recent version.

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better differentiation and separation of such diagnoses, as at one time the symptoms of all of these conditions were perceived as a single group of learning disorders and erroneously labeled as MMD.

Changes to diagnostic techniques were not introduced until 2018 and have yet to involve efforts to limit the influence of the test administrators' possible personal biases on the results. Employees of PPPs are calling for better diagnostic instruments to differentiate between the innate intellectual capacity of those whom they test and the impact of sociocultural disadvantage on child behavior, as well as for the corresponding training in their use. The employees of the PPPs do not like to admit that they are using the outdated WISC III, but according to Czech School Inspectorate research, almost all PPP/SPC facilities in the country still do.²⁰ In 2022, the ČŠI published an extensive report on its investigations conducted in PPP/SPCs where the fact that 94.4 % of the PPP/SPCs still used the outdated diagnostic instrument WISC III, the use of which was criticized by the *D.H.* judgment, is mentioned on page 31 without drawing any further conclusions from that fact.²¹ These interviews have confirmed that it remains the case that Czech educational guidance facilities frequently use diagnostic instruments which are out of date in general when assessing the intellectual capacity of children.²²

Awen Amenca reports that one PPP manager at a recent meeting with NGOs working on this issue said she could “recognize children with MMD the moment they enter the facility”.

The National Pedagogical Institute of the Czech Republic (“NPI”) announced in 2023 that the Czech version of the Woodcock Johnson IV test (2014)²³ had been standardized for Roma schoolchildren specifically in a publication released in 2022.²⁴ As part of that standardization, the supplements to the existing methodological guidance tool for diagnosing cognitive capabilities in children were also updated.²⁵ According to the director of the Department of Pupil Support, Counseling and Inclusive Education at the NPI, the Czech Education Ministry is considering revising the entire methodological recommendation, not just the supplements, and a working group is being put together that should include experts from minority groups for this purpose.²⁶ Findings on Roma children’s scholastic skills are currently being gathered in the Czech Republic through the Rapid Reading (BDTG1) test and the DISMAS subtest on Mathematical Concepts.²⁷ They were due to be published by the end of the 2023 calendar year.²⁸ Currently the NPI is also standardizing tests for the linguistic capabilities of children “from specific groups” (e.g., from different sociocultural environments), namely, the Sentence

²⁰ Czech School Inspectorate, *Use of Diagnostic Tools in Educational Counseling Facilities (Výzkum ČŠI, Využívání diagnostických nástrojů v SPZ)* [“”, 2021/2022. (“Czech School Inspectorate report on diagnostic tools 2021/2022”) available at:

https://www.csicr.cz/CSICR/media/Elektronicke-publikace/2022/TZ_Vyuzivani_diagnostickyh_nastroju_SPZ/html5/index.html?pn=33.

²¹ Czech School Inspectorate report on diagnostic tools 2021/2022.

²² Karel Gargulák, “Segregation persists. How the Czech Republic denies Roma children an education (Segregace přetrvává. Jak Česko odírá romským dětem vzdělání)”, 24 May 2023. available at: <https://www.paqresearch.cz/post/segregace-romu-vzdelavani>

²³ The Woodcock–Johnson Tests of Cognitive Abilities were first developed in 1977 and last revised in 2014 to include the WJ IV Tests of Cognitive Abilities (WJ IV COG; Schrank, McGrew, & Mather, 2014) and the WJ IV Tests of Oral Language (WJ IV OL; Schrank, Mather, & McGrew, 2014b), which can be used to evaluate variations between an individual’s achievement and his or her cognitive and linguistic abilities.

²⁴ The National Pedagogical Institute of the Czech Republic, English: “Standardization of the Woodcock-Johnson IV test for the population of Roma children,” available at: <https://poradenstvi.npi.cz/blog/standardizace-testu-woodcock-johnson-iv-propopulaci-romskych-deti>

²⁵ *Methodological information for the diagnosis of the cognitive capabilities of children, pupils and students in educational guidance facilities (Metodické informace k diagnostice rozumových schopností dětí, žáků a studentů ve školských poradenských zařízeních)* Čj.: MSMT-4842/2015, available at: [https://poradenstvi.npi.cz/skolska-poradenska-zarizeni#legislativa-spz](https://poradenstvi.npi.cz/skolska-poradenska-zarizeni#legislativa-spzhttps://poradenstvi.npi.cz/skolska-poradenska-zarizeni#legislativa-spz)

²⁶ Email from Andrea Cibulková, 14 August 2023.

²⁷ The National Pedagogical Institute of the Czech Republic, English: “We develop useful tools,” available at: <https://poradenstvi.npi.cz/vyvoj-diagnostickyh-nastroju>

²⁸ See The National Pedagogical Institute of the Czech Republic, English: “We help the development of staff of advisory services in education and staff providing institutional education in school facilities,” available at: <https://poradenstvi.npi.cz/>

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Repetition test and the Receptive Vocabulary test. Those findings were to be published by the end of the 2023 calendar year at that same website.

As part of their activities on the Working Group for the Implementation of the *D.H. Judgment*, Awen Amenca and other NGOs have raised objections to the idea that children who do not speak Czech at home should be considered as having “special needs” and have also conveyed reports to the authorities that children with mother tongues other than Czech have experienced problems when being examined for disability or disorder, even when interpreters are involved. Parents of such children have complained that even though their child’s responses were correctly translated into Czech by the interpreters, those assessing them did not understand them. The Czech School Inspectorate’s reports also mention the problem of cultural difference, and not just when it comes to diagnosing Roma children. The group also discussed the terminology used by the staffers conducting the tests in the guidance centers, who enjoy using academic terms and other vocabulary unknown to undereducated Roma. The example was given of the use of terms such as “except”, which the children do not comprehend and therefore do not grasp the task they are given; instead of embarrassing themselves by asking for an explanation, they try to guess the correct answer to the task. The experience of one colleague was that when the parents explained to the test-giver that the child hadn’t understood the instructions for the task, the test-giver said it was because the child had a lower intellect. **The ongoing conflation of disabled children with those who are lower class or not ethnic Czech as all having “special needs” perpetuates the ethnocentricity of the education system and the seeming naturalness of segregating such children away from “normal” (i.e., ethnic Czech and middle-class) children in the schools.**

Establishing that some children’s academic difficulties are due to their social disadvantage, not their innate (dis)ability, is reportedly improving, but is not systematically undertaken yet in the schools.²⁹ The numbers of children identified as requiring special educational support have been generally increasing in parts of the country grappling with destabilizing poverty, high rates of indebtedness, affordable housing shortages and excluded localities, all phenomena that can and do result in mental health problems for members of the households affected. According to PAQ Research, there is almost a direct correlation between the percentage of the parents of schoolchildren subjected to collections proceedings and the percentage of pupils diagnosed as having special educational needs, while among the schoolchildren of parents not under collections proceedings, the correlation with special educational needs is more random.

More attention is being paid today to disadvantage based on pupils coming from a non-Czech cultural environment or having a lower than average standard of living. PAQ Research has found that these are children who would previously have been incorrectly diagnosed as congenitally intellectually disabled. Their school performance is influenced by their basic physical needs not being met because of their poverty, resulting in their being unable to concentrate due to hunger, being stigmatized by their peers because of their attire (bullying), or in higher absence rates due to increased rates of illness stemming from their substandard housing.

Special educational needs are diagnosed by the PPPs, but as noted above, these centers frequently use out-of-date diagnostic tests and their outcomes vary country-wide to a degree that researchers call “inexplicable” (Awen Amenca, however, considers the effect of ethnic bias to constitute one possible explanation for these results). Moreover, these centers tend to be overwhelmed, according to the PAQ and STEM study for the Education Ministry on Romani pupil segregation. **In order to make sure sociocultural disadvantage is not being mistaken for intellectual disability, the work of these centers would have to be better audited, supported and combined with social work; there is no indication that this is on the horizon.** As a wider package of measures to mitigate sociocultural bias and disadvantage in the administration of diagnostic tests to members of minority groups, it would also be useful to involve trained members of those groups in their administration. The chair of the Committee

²⁹ Jan Zeman, “The diagnosis of disadvantage is improving, but it still remains non-systemic. The new DataPAQ features show this” (*Diagnostika znevýhodnění se zlepšuje, stále ale zůstává nesystémová. Ukazují to nové funkce DataPAQ*), 12 July 2023, available at: https://www.paqresearch.cz/post/socialni-znevychodneni-podpora?fbclid=IwAR2SSSvdJVh4-osfTGHojiVPb5ocZZWboLuO6Uhy_QcynGG6Fpfznd3T51g

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for the Education of the Roma, part of the Czech Government Council on Roma Minority Affairs, who holds a doctorate in education, said he is unaware of Roma professionals being involved in these diagnostic processes for the purpose of mitigating sociocultural bias to date.³⁰

DISCRIMINATION IN THE ENROLLMENT PROCESS

In Bruntál, more than 60 % of Roma guardians had been recommended by school administrators to have their children diagnosed for learning disorders before enrolling into first grade or immediately after enrolling. This happens despite the fact that children are not required by law to even be present during enrollment, to say nothing of being diagnosed yet, which is not a requirement for their enrollment into first grade.

In Česká Lípa, of the Roma respondents' children who were enrolled into the segregated Practical School 7, half were directly enrolled there *before* receiving a diagnosis of any kind, which is against the law. Five respondents from the 23 Roma families (the parents of nine children total) were recommended to have their children examined in a PPP immediately after starting first grade in the Practical School; children were also examined and diagnosed during the enrollment process, most often at one particular PPP, which is also against the law. In most cases (85%) a school, not the parents themselves, initiated the examination.

In Kutná Hora, the bond between the principal of the segregated Primary School and Practical School 1 and the local Roma community is a very strong one, and the mainstream primary schools' practice is still not to enroll Roma children. In 2022 the establisher of the primary schools redrew the catchment areas so that the Roma neighborhood would not just be part of the catchment areas of the two segregated primary schools, but would also be covered by the catchment areas of the mainstream primary school, but this has yet to affect the distribution of Roma children in the primary schools.

Also in Kutná Hora, the segregated Primary School and Practical School 1 has established a "preparatory class" equivalent to the compulsory year of kindergarten which is attended by most local Roma children, who then enroll straight into the first grade at that same school. The vast majority of respondents' children attended that "preparatory class" and then enrolled into the first grade of Practical School without a diagnosis, which is not lawful. They then were recommended by the principal to be diagnosed by the SPC immediately after their enrollment into first grade. Children were also examined for disability during the enrollment process, which is also not lawful.

Awen Amenca has learned from the testimonies of some Roma guardians of children attending segregated schools and from one former teacher in such a school in Ostrava that the local publicly-managed PPP refused to diagnose pupils without their guardians' involvement, which is why the principal of that school currently collaborates with a privately-run PPP where she knows the director and is able to organize the examinations of children there irrespective of their guardians' wishes. It is alarming that while the examination of children for learning disorders is not supposed to happen during their enrollment into school, 28 Roma guardians in **Ostrava** said enrollment of their children into first grade involved such examination. **More than 60 % of respondents were recommended to have their children examined at a PPP either before enrolling in first grade, which is not required by law, or immediately after their enrollment into first grade.** 75 % of these respondents' children have been assigned a teaching assistant as a support measure.

In Prague, more than 50 % of Roma guardians said their children had been recommended for diagnosis at a PPP even before enrolling into first grade, which is not lawful, or were asked to take them for diagnosis immediately after enrollment into first grade.

The following case studies further exemplify how Roma are discriminated against during enrollment:

³⁰ Personal communication, June 2023. Gwendolyn Albert is a member of this Committee and of the Czech Government Council on Roma Minority Affairs.

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Case Study 1: A Romani single mother of two wanted to enroll her oldest son into the first grade in a mainstream school. She was told that before she could enroll him, she should take him to a PPP to see whether he had a learning disorder, despite the fact that diagnoses are not a legal requirement for enrollment. She did so and her son was diagnosed with MMD at the age of five. Instead of arranging an individual educational program and assistance for the child, the mainstream school then persuaded the mother to enroll him into the local “practical” primary school, which is segregated.

Case Study 2: A Romani single mother of two wanted to enroll her youngest son into the first grade of a mainstream school. Before she could do so, the principal of another combined Primary School and Practical School said she should take her son to the SPC to see if he had a disorder of some kind, despite this not being a legal requirement for enrollment. The mother did so and her son was diagnosed with MMD. Instead of enrolling her son into the mainstream school and asking that he be given individual support there, she was recommended by all concerned to enroll her son into the “practical” part of the Primary School and Practical School, which she did.

Case Study 3: A Romani mother wanted to enroll her first-born son into the first grade of a mainstream primary school in April 2022. Without any justification, the school staff told her they were concerned her son would not be comfortable in the majority-society milieu and that he would not be able to handle the material. The mother next consulted with the principal of the local combined Primary School and Practical School, which is segregated; this principal knows all local Roma quite well and has very close relationships with them (aiding them with finding dentists and doctors, with applying for welfare, visiting them in their homes as their friend, etc.). The mother wanted to know how her child could enroll into the Primary School and Practical School. The principal replied that she should have her child examined by an SPC for a diagnosis allowing the child to enroll and informed her that employees of an SPC visit the Primary School and Practical School regularly to diagnose children (again, diagnoses are not required by law for enrollment). The principal justifies arranging these diagnoses by the fact that the Romani families are low-income, which means it is expensive for them to travel the half-hour it takes to reach Kolín, where the SPC is, and it is easier for their employees to visit the school.

BULLYING OF ROMA CHILDREN IN MAINSTREAM SCHOOLS

In all but one city (Bruntál), the interviews with Roma guardians of schoolchildren described the experience of enrolling their children into mainstream schools where they were bullied and then, after the management of the mainstream schools failed to end the bullying, deciding to transfer their children into segregated schools which would ostensibly be more welcoming of them. The interviews with Roma guardians revealed that the experience of being bullied is a major factor both in the decision as to where Roma children should enroll for grades 1-9 and in the decision as to whether a child should continue on to upper secondary education. In the survey in Česká Lípa, respondents’ older children who graduated from two segregated primary schools there and attempted to attend upper secondary education never graduated from those schools because they were bullied there and the non-Roma milieu did not feel natural to them - they were uncomfortable, which affected their ability to master the material.

Another alarming aspect of the Česká Lípa findings is that 48 % of the respondents’ children who were eventually diagnosed said they had encountered some form of bullying when they attempted to attend one of the mainstream primary schools 1-5. The respondents said they did not know what to do when this happened, so they followed the mainstream school’s advice to enroll their children into one of the segregated primary schools (6-7) instead. They said this mostly happened to their children during second or third grade, after the school alleged that disciplinary problems involving their children had arisen. Most of the Roma guardians surveyed in Česká Lípa had themselves attended either the segregated Practical School 7 or the segregated Primary School 6; in the latter, children who are diagnosed receive

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support from teaching assistants, which in theory they should be able to receive at any other school in town, but in practice they do not. The segregated schools are familiar to the Roma parents, they consider them safe, and they do not perceive the education of their offspring there to be a problem – on the contrary, they perceive the segregated schools to be friendly and welcoming to their children, while Schools 1-5 are perceived by them as unfriendly and not welcoming. For most of the Roma parents in the Česká Lípa sample whose children have been diagnosed, it was inconceivable that their children could attend any of the other five mainstream, non-segregated primary schools in town and receive assistance for their supposed special needs there because they have experience with Roma children being bullied there. Some also said they had previously tried to enroll their older children into one of the mainstream primary schools 1-5 and were deterred from doing so, which means it is inconceivable that they would try to enroll their younger children into those schools.

In Kutná Hora, most of the respondents had themselves attended the “Practical School” part of Primary School and Practical School 1. The idea that they would enroll their children into local mainstream primary schools not attended by Roma is unimaginable to them, primarily because they are justifiably concerned their children will be subjected to bias and bullying by non-Roma adults and children there. During this survey, the reported experiences of three different Roma parents whose children do attend local, mainstream, non-segregated primary schools were recounted as the source of this fear. According to the respondents, Roma children have been bullied at those schools. One example recounted was that teachers would make general comments with negative connotations about Roma in the presence of Roma pupils, such as “Roma are parasites on the state’s social welfare benefits”, which made the pupils feel bad. In another example, one Roma pupil was called a “gypsy” and other pejorative names by his peers while teachers, who were present, did nothing to intervene. In another example, a Roma pupil was beaten up by a non-Roma classmate, but the school failed to sanction that behavior. Roma community members share their experiences with each other, and these children’s experiences strengthen the already-existing fears which many Roma already harbor about non-Roma due to their own personal experiences of discrimination on this basis.

In Ostrava, 40 % of Roma guardians reported that their children had encountered some kind of bullying when attending mainstream schools with fewer Roma. Out of 30 cases of bullying, respondents said the schools had addressed the issue in four cases and the children remained enrolled in those schools. The other 26 said the bullying was why they had transferred their children into segregated schools.

In Prague, 48% of Roma guardians said their children have encountered some form of bullying at school. They said that since they did not know what to do when this happened in the mainstream, non-segregated schools, they followed the schools’ advice and enrolled their children into segregated schools where the children would ostensibly not be subjected to bullying. These respondents also said that if disciplinary problems arise involving their children in a mainstream school, then the schools pressure them to enroll them in a segregated one.

Knowledge in the Roma community of what Roma children have experienced when attending mainstream schools with few other Roma children is shared within the community with the best of intentions, belying allegations that Roma guardians do not care about their children’s education. Many community members want to spare Roma children the experience of being bullied on the basis of their ethnicity by non-Roma, both adults and children, in such schools. For example, one Romani father has one son who he says has been very bright from an early age, and for that reason he discussed enrolling his son into a mainstream school, one with few other Roma pupils, with his family and friends. He was warned by his fellow Roma community members, based on their own experiences and those of others, that the mainstream schools in their area do not want Roma and that the few Roma children who have attempted to attend such schools are bullied by non-Roma children and by teachers there and will suffer if they stay in them. He then brought his son to the local “practical” school, attended mostly by Romani pupils, which unlawfully enrolled him even though he had no diagnosis.

In another example, a single Roma mother of four children who is a graduate of a segregated mainstream school has two children enrolled in that same school. Historically, more than 90% of the student body

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there has been Roma (it has been known as a “Roma school” for half a century); today it has four special classes for pupils with MMD or moderately severe disability. Her children were originally enrolled in a mainstream primary school attended by almost no Roma pupils, where they were bullied. That mainstream primary school recommended the Roma mother enroll her children into the segregated school for third grade because they would be better off “among their own”, which she eventually did. The guidance counselor even arranged a visit to a PPP for them during which the children were diagnosed and after which they have been taught a reduced curriculum which is extremely easy for them. The mother knows that her own primary school education at this same institution did not prepare her for secondary school, and she knows that her children also will not be prepared for secondary school, but she could not withstand the pressure from the non-segregated mainstream school and the fact that the bullying of her children went unresolved there.

In another example, Roma parents said their son was afraid to keep attending a mainstream school because his non-Roma schoolmates abused him and made fun of him, which caused him emotional distress. They reported this to the principal, but she did not believe them and told them it was their son who was “causing problems”.

Another Roma father said he is now afraid to enroll his son into a mainstream school with few other Roma because he believes he will be assaulted and bullied. This possibility was communicated to him by a teacher at the mainstream school when he attempted to enroll his son there, who told him he should enroll his son into “our Roma school” because he would be “better off” there. This is not the kind of communication envisioned by the statute governing the enrollment process.

One of the most egregious examples involves allegations that an educator physically assaulted a child. A Roma mother said her 11-year-old daughter was physically assaulted in a restroom at her school by a male teacher who believed she was smoking there. She said her daughter’s lip was split and her arm was banged up. The accused teacher said the girl’s injuries were because she had fallen of her own accord. The mother reported the incident to the principal, who laughed at her and threatened to call in the social welfare authorities and accuse the mother herself of causing the injuries. The mother next reported the incident to the Czech School Inspectorate, which investigated at the school. Their report found that “it is apparent from the testimonies of pupils and staff that physical attacks on the pupils happened, but the teachers reject the accusations”. The result was that the school’s establisher demoted the principal and replaced her with the vice-principal, but the Roma mother still had to transfer her daughter to a different school because the educator involved was never sanctioned, not even by the new principal, and the atmosphere was not conducive to her child’s well-being.

When the Roma guardians of the children attending segregated mainstream schools were asked why they believed non-Roma guardians of children residing in their schools’ catchment area do not enroll non-Roma children in their schools, they responded that their schools are unofficially labeled “Roma schools”, which means non-Roma parents do not want to enroll their children in them.

OTHER PRESSURES ON ROMA GUARDIANS TO SEND THEIR CHILDREN TO MAJORITY-ROMA SCHOOLS

Awen Amencia researchers have experience in negotiating with the 22 schools in the survey which are attended by low numbers of Roma children and are aware that **most of these schools actively do their best to keep Roma enrollment low**. Currently, Roma are no longer rejected outright during enrollment, in part thanks to civil society campaigns, a lower court judgment, and guidelines from the Office of the Public Defender of Rights about how enrollments should be conducted, but **informally, Roma parents are pressured by those administering these schools to register their children elsewhere. The main way this is achieved is by asking parents to make financial contributions to different aspects of school life which socially weak households, many of which are Roma, cannot afford**. These are not

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official school fees but verbal requests for donations toward defraying the cost of equipment, toilet paper, field trip participation, etc. Donating is not a big issue for middle class non-Roma parents, but it is for someone living on benefits. In these surveys, these extra costs were mentioned by the parents as an additional incentive for them to withdraw their children from non-segregated schools, but the members of school managements interviewed denied requiring donations. Awen Amenca contends that none of the schools actually need this money from parents and that this is done to create a culture in which the Roma children and their parents are constantly reminded of their poverty. The segregated schools do not ask for such donations.

The following case studies further exemplify different ways in which pressure is exerted on Roma guardians to enroll their children in majority-Roma schools:

Case Study 1: Roma parents have a son attending second grade in a mainstream primary school where about 5 % of the school is Roma. He has been given a teaching assistant as a support measure because his teachers say he is “slow”. After he was bullied, his parents asked that he be transferred into a different class and the homeroom teacher did so. Both the teacher in the new class and the guidance counselor are pressuring these Roma parents to take their son to the PPP for examination because they believe he has MMD. The parents are refusing. For almost half a year, the parents have also faced pressure from the principal to enroll their son into a different school altogether (a segregated one), allegedly because he would be “more comfortable” there. The parents are convinced their child is completely cognitively normal and they are quite strong; they are not succumbing to this pressure, but it is quite a demanding fight for them and their son. They are still looking for a high-quality, non-segregated, mainstream primary school in which to enroll him. Unfortunately, most such schools are full, so their son is still attending a school where his parents are under pressure to remove him.

Case Study 2: A Roma father said his child who was attending a non-segregated school was diagnosed with a disorder and required to repeat first grade. When he asked for a teaching assistant to be assigned to his son, he was told he would have to wait six months because the school did not have an assistant – or, he could transfer his son to a segregated school where two assistants were available. He and his partner complained about this failure to meet their son’s needs in writing, but the principal reportedly ignored them.

Case Study 3: Roma parents enrolled their daughter into a mainstream school and were informed by school officials that she wasn’t mastering the curriculum. Instead of offering her support measures, the officials recommended enrolling her into an all-Roma school.

CONCLUSIONS

The new research undertaken in 2023 confirms that segregation on an ethnic basis in Czech education persists for Roma children and is widespread, both in terms of segregated classes and segregated schools, throughout the country. The State has not undertaken the required action to end it and as of this writing has not published any plans to do so. It is therefore clear that desegregating primary and other levels of schooling in the Czech system is not yet a priority of the State.

For example, the State is not ensuring that testing for disability and disorder is used solely for determining cognitive capacity at the appropriate time in Roma children’s school careers, but instead is turning a blind eye to the abuse of such testing as part of enrollments into compulsory education. In this respect, it is tolerating a resurgence of the practices first criticized when the *D.H.* case was brought in 1997. The State has also tolerated the use of outdated diagnostic tools which do not distinguish cognitive ability, a fact that has disproportionately affected the enrollments of Roma children.

The State is also not addressing the serious problem of Roma children being bullied by non-Roma children or staff in mainstream schools, a problem that exists to such an extent that their guardians

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choose to transfer them to segregated schools perceived as more welcoming of Roma. Roma guardians pre-emptively avoid enrolling their children into schools with fewer Roma for this reason as well.

The State is also not addressing the financial hurdles instituted by mainstream schools to create separate classes for the parents of children who can afford to contribute financially to their educations, hurdles that reinforce the segregation of middle-class children away from lower-class ones, among whom the Roma are disproportionately represented.

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APPENDIX 1: SELECT FURTHER DETAILS FROM SURVEYS

It is interesting to note that in the 2023 surveys, the borderline segregated schools and those with low numbers of Roma children described taking very different approaches to diagnosing children, to handling bullying, and to managing the enrollment process than the segregated schools do.

Borderline segregated schools

Interviews were conducted with schools that are on the brink of being considered segregated – four of the 34 are 30 % - 40 % Romani. The findings were as follows:

- 1. In three of these four schools, the principal referred the interviewers to teachers for this information, which indicates a lack of overview on the principals' part.**
- 2. These schools' catchment areas include both non-Roma and Roma residents. Most children enroll in these schools because it is the closest to their homes. One teacher said that several Roma children also commute to one of these schools from outside the catchment area.**
- 3. If the school suspects a child has special educational needs, they address this with their legal guardians and recommend they bring the child to a PPP/SPC for examination, after which they agree on how to proceed with the guardians.**
- 4. All four schools admitted that they do have separate classes for "slower children", but rejected the supposition that only Roma attend such classes.**
- 5. Two schools said the overall number of Roma enrolled has fallen over the last decade, although it began to rise again slightly about five years ago. A third school said that while the absolute number of Roma is about 80 % higher than a decade ago, the proportion of Roma has still decreased (the number of non-Roma children enrolling has been constantly increasing).**
- 6. All of these schools said that since the Education Act was amended in 2016 with regard to educating children with special needs it is easier to provide such children with special equipment or materials and with a teaching assistant than it was prior to those changes.**
- 7. All four schools said that they never call a PPP/SPC to have their staffers visit the school to examine children.**
- 8. All four schools said they view it as positive that the school collaborates with outside organizations, that there is ethnic diversity in the school, and that the faculty are supported by the management.**
- 9. When asked what they would change about the schools, respondents mentioned needing more continuing education for the pedagogical staff, improving the technology available at the school, improving their collaboration with Roma guardians, and expanding the kinds of after-school activities available.**
- 10. All four schools claimed that bullying and discrimination do not happen in their school but said they are prepared to address it if it should happen.**

In the schools where the number of Roma children enrolled reaches 30 % - 40 %, this is due to "white flight" (non-Roma parents enrolling their children elsewhere), a phenomenon that some of these schools have managed to successfully tackle.

Separate classes for low-achieving children are being created in these schools, but without interviewing the guardians of such pupils or the pupils themselves it would be difficult for investigators to recognize that this is the case. The staffers of these schools do their best not to reveal this information or make different excuses for it, according to Awen Amenca.

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Although these schools claim bullying and discrimination is almost non-existent (and that when it does happen, they can handle it), the interviews conducted with the Roma guardians of children attending such schools revealed the opposite, with the exception of the schools in Bruntál; according to them, teachers at these schools usually downplay instances of Roma being targeted for bullying and take no steps to address them. When Awen Amenca raised these allegations with the management of these schools, they all rejected them and asserted that the Roma children were either fabricating the allegations or, on the contrary, that it is the Roma children themselves who are aggressive in the school.

Schools with low numbers of Roma

Finally, 22 of the 34 schools had low numbers of Roma (between 5 % and 29 %). Staff from 10 of these schools were interviewed, and the findings were as follows:

- 1. In nine schools the principal was the respondent and in one case, the vice-principal.**
- 2. Most of the Roma attending these schools reside in the catchment area.**
- 3. If these schools suspect a child has special educational needs, they contact the child's legal guardian, who takes the child to a PPP/SPC. They do not call such facilities and ask them to come to the school to examine children.**
- 4. These schools do not organize separate classes for children whose achievement is below-average and do their best to aid such children individually in regular classes.**
- 5. The number of Roma attending these schools has reportedly neither decreased nor increased since 2016.**
- 6. If there is bullying or discrimination among the pupils, these schools address it with the guardians of the pupils concerned and they believe they have enough instruments for doing so.**