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## Problem of discrimination and violation of the rights of Roma children at Russian schools

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**The NGO Anti-discrimination Centre MEMORIAL** was registered on May 14<sup>th</sup> 2007 and came into being continuing a series of human rights and anti-discrimination projects previously co-ordinated by the Charitable Historical Educational Human Rights NGO “Memorial of St. Petersburg”

**The Mission of ADC “Memorial”** is the defense of the rights of people who are subject to discrimination (human rights responses, legal assistance, research, publication).

**During last 7 years**, monitoring of Roma rights violations has been carried out resulting both in human rights reports and recommendations and in providing direct legal and physiological assistance to the victims of racism.

## **Problem of discrimination and violation of the rights of Roma children at Russian schools**

The field of education in Russia is regulated by the Constitution, the Law on education and other federal laws that should comply with the Law on education, the regional laws that should comply with all sources stated above and the decisions of the federal body in the sphere of education (now – the Ministry of Education and Science and its subsidiary bodies). It is also stated in the preamble to the Law on education that, apart from the national laws, the said field is governed by the "norms of international law". Under article 15 (4) of the Constitution, the principles and norms of international law have priority over the national law of the Russian Federation and if the treaty of the Russian Federation says otherwise as compared with the domestic laws thereof, the treaty shall have the priority.

Russia is party to the following conventions that include provisions on the right to education:

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention against Discrimination in Education
- International Convention on Elimination of All Forms of Discrimination
- Convention on the Rights of the Child
- European Convention on Protection of Human Rights and Fundamental Freedoms

In the issue on discrimination of the Roma children in the field of education, the following problems are to be mentioned:

- absence of access to elementary and in secondary education for the Roma children,
- low quality of the education as a result of in particular segregation into separate "Gypsy" classes and arbitrary transfer of Roma children to classes of correctional education

### Problem of access to elementary and in particular to secondary education for the Roma children

Russian Constitution in article 43 guarantees to everyone the right to education. Russian Law on education in article 5 explicitly prohibits discrimination and guarantees general elementary and secondary education available to all Russian citizens. Under article 62 of the Constitution, foreign citizens and stateless persons are vested with the same rights and obligations as the Russian citizens unless the federal law or a treaty of the Russian Federation states otherwise. Since neither Russian law nor Russian international obligations impose restrictions on the foreigners' rights to school education, those Roma who do not have Russian citizenship have the same right to access to schools as Russian citizens.

The organs established to supervise the States' compliance with the conventions opined on Russia that it has a positive obligation to integrate Roma into its society, including by safeguarding the Romani children access and material opportunity to study in schools together with the children of ethnical majority. Thus, the Committee on Elimination of Racial Discrimination stated in General Recommendation XXVII (Discrimination against Roma) that states should support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities and consider adopting measures in favour of Roma children, in cooperation with their parents, in the field of education.

Unfortunately, a considerable part of the Roma children currently does not enter schools at all or quickly drops out without having received sufficient education. This situation was admitted, in particular, by the Advisory Committee established to supervise the implementation of the Framework Convention for the Protection of National Minorities: it noted in the Second Report on Russia that children of some ethnic groups including the Roma do not attend schools in Russia.

Lack of documents, especially registration, is one of the main causes of non-attendance to schools for Roma children. The Law on education does contain an anti-discriminatory component and does not demand any documents from Roma children for being taken to school (this point was specially commented in the Letter of Federal Service on Supervision in Education N 01-678/07-01

dated 24 July 2006 where it stated that schools could not refuse to take children on the ground of absence of residence registration). At the same time in practice access to education often appears complicated or even impossible for children from the Roma families. Directors of schools are obliged to submit to the authorities in the field of education a full set of documents on each child and this often leads to elimination of children from the educational process due to the fact that their parents cannot collect all necessary documents. The Roma children suffer in this situation more than others since their families in many cases do not possess the necessary documents. It is often possible to hear ridiculous statements of the school directors such as: «we would like to take all children to school, but we can not because of “vseobuch” (in this case it means the obligatory set of rules for registration of pupils)». School directors appeared to be in a state of difficult dependence: on one hand, they have to follow instructions of education authorities and provide them with a lot of data of the children, on the other hand, refusing children to take them to school they violate the Law of Education. Local education authorities know very well about the situation, but the “best” way to solve it appears to be the drop out of schooling for the children who “make troubles” for schools.

Another cause of drop-out of Roma children from education is poverty and impossibility to buy manuals and other school supplies, as well as to pay for school bus and food. It is difficult for Roma parents to prove low incomes and having many children because they often do not have the documents needed, and, consequently, to get state support.

European Court of Human Rights in *D.H. v. Czech Republic* and subsequently in *Sampanis and Others v. Greece* has stated that State should provide specific preferences to such ethnic groups as the Roma in order to convince them to go to school. In this vein, refusal to provide the Roma with textbooks and free transportation, when the latter cannot afford it themselves, amounts to discrimination and violation of article 2 of the Protocol 1 of the European Convention.

#### Low quality of education received by the Roma children

The decrease in quality of education is the result of both the segregated education of the Roma children in separate classes, which does not fully correspond to existing educational standards, and mass transfer of the Roma children to the correctional classes without sufficient grounds.

Despite of the existing legislation, some schools in the Russian Federation create the so-called “Gypsy classes” and sometimes even the “Gypsy schools” are being formed. The paradox is that they hardly ever intend to include an ethno-cultural component in education – neither written Roma language nor teaching in Romanes are incorporated in the educational process. These schools and classes operate under the usual general educational programs (or under programs for children with learning disabilities). The educational plan is not enhanced by additional teaching of such important subjects for the Roma pupils as their native language or Russian language adapted for those whose native language is not Russian.

There is no difference in curriculum of Roma and non-Roma children, and it stresses the senselessness of the separation of the children based on discrimination by their ethnicity. Creation of “Gypsy classes” appears to be just the way to separate “undesirable” students from the others. Often the only reason for this segregation is the refusal of non-Roma parents to put their children to one class with Roma. Unfortunately, often not only school directors but even officials of local education committees meet with wishes of the racists. The officials know about the segregation practice at schools they are responsible for, but they do not oppose it at all.

The outrageous example of the segregation one can see at the school of Nizhniye Oselki (Vsevolozhsk district of Leningrad Province, 50 km far from St.Petersburg). A comfortable school building of more than 20 class rooms with all the school equipment where about 20 teachers deal with less than 100 Russian children differs very much from small “Gypsy school”: there more than 100 Roma children are being taught by 3-4 teachers in 2 small rooms. Many complaints of Roma parents to the local Committee of Education led just to the proposal: “move the Roma who do not want to study separately to the Russian class”. In fact only one Roma child was taken to the “Russian school” for one month. After the month of “integrated study” it became clear that the Roma girl had great troubles in adaptation, and nobody has helped her to overcome them. Her parents were insistently recommended “in the interests of the child” to take her from the Russian class (where only 7 pupils were!) back to the Roma class (where 26 pupils were), and in September, 2009 the girl returned to the “Gypsy school”. Except this case, nobody tried to overcome segregation at that school.

It is difficult for the teachers to teach children with poor Russian language skills and at the same time it is very difficult for the Roma children to study in what is almost a foreign language to

them. As a result the school administrations tend to lower requirements for pupils and to decrease the number of them in the classes. With this same aim they establish correctional classes and/or the classes of type 7 and even type 8, which gives the right to open classes for 9-12 pupils (the classification of above mentioned types: type 7 – delay of mental development; type 8 - mental retardation). Sometimes the decision to create such classes is rendered by the teachers' committee of the school, while sometimes the Roma children, often without having their parents notified, are subjected to the testing before the commission, which decides on the same question. The test results are doubtful: the experts of the committee do not know the Roma language, while the children poorly speak Russian. The Roma treat such a practice negatively, which can be illustrated by a number of court claims against school No. 66 of the city of Tula. The parents suspect the illegibility of conducting such tests with their children, where bad results are frequently caused not only by the children's insufficient knowledge of Russian language, but also by the prejudice of teachers, which sometimes becomes a full disbelief in an ability of the Roma children to master the standard school program.

The general school education is mainly governed by the Framework Rules of General Educational Institution (i.e. school), issued by the Government of the Russian Federation (No.196, 19.03.2001). The said Rules provide for wide discretion of schools in dividing pupils in classes, carrying out exams and attestations and other important issues of education. On the other hand, under the Framework Rules, schools require the parents' consent to transfer a Roma child to the class of correctional education. As however it is stated in D.H., the parental consent does not automatically mean that the transfer of a Roma child to a correctional class is legal. Under D.H., when parents cannot challenge or check the results of the testing of children, the consent should be considered as being forced and does not give to a school the right to transfer a child to a correctional class.

Moreover, since the non-Roma children at many schools are not tested at all and do remain in regular classes, whereas the Roma children are subjected to testing without any exception and are afterwards put to the correctional classes, the segregation between Roma and non-Roma emerges. In reality, creation correctional classes serves most frequently as a screen for official segregation, which is confirmed by the practice of school No. 66 of the city of Tula, which director named in the school's website the correctional classes as the "Gypsy" classes – i.e. she de-facto recognized the ethnic method of allocating the "special" classes.

Here the issue is the direct discrimination of the Roma children – not only because they have been put into the correctional classes not based on the level of personal development but based on their origin, but as well because it has been done against the will of the children themselves, their parents and the community. The direct evidence of the educational discrimination is in this case the fact that in such classes (from the 1<sup>st</sup> to the 4<sup>th</sup>) there were only the Roma who studied there and, vice versa, the Roma have never been taken to ordinary classes of an elementary school. A result of such a peculiar division was that the children were denied in access to secondary education: a special class for the Roma was not created, while the Roma were refused to be taken to the regular "Russian" class. The Roma pupils were simply proposed to cease education, thereby violating their guaranteed right to 11-year school. An example of the Tula school is most fully documented, since the parents of the Roma children submitted a claim to a court. The claim has not even been taken by the Russian court into consideration – they are currently prepared for submission to the European Court of Human Rights.

Unfortunately, this school's experience is far not an exception. In a number of schools the division into the "Gypsy" and "non-Gypsy" classes is not based even on formal testing, but the children are simply being divided by their ethnic differences. Pedagogical results in "Russian" and "Gypsy" classes are always strikingly different – the children from "Gypsy classes" receive education of a lower quality, they are hardly ready for transition to secondary education, they are often completely deprived of an opportunity to study certain subjects (for example, foreign language). There are schools, where the Roma children (unlike other pupils) are simply being placed all in one class without consideration of their age and number of years they have already studied at school. Only one teacher tries to teach all of them at once in one and the same room. In such cases the segregation is of utmost clarity – the Roma children are not allowed to go to other classes, onto different floors of the school or to public spaces.

It should be stated that the violations of the rights of the Roma pupils to quality education in integrated classes in accordance with existing educational standards happen in all RF regions. For example the Roma pupils in Nizhniye Vyazovye settlement (town of Sviyazhsk, Tatarstan) complained that every year they remain in one and the same grade, although they cannot even read, they are

isolated from other pupils and restrained from going to the other floors and toilets and are instead proposed to go outside. The same problem emerged in the Roma community in Novosibirsk Province (Pashino settlement): the parents of the pupils who attend school No. 46 say that "the children are all put into one class, and it does not matter for how long does a child attend school, he or she have anyway to go to the first grade again." The same situation is in Ural region. Tatiana Sergeeva, head of the Department of Education of Verkhisetsky district of Yekaterinburg, answered the question of how is the decision on creation of a gypsy class taken in this way "We do not gather any commission, we just put all of them in a gypsy class."

The problem is getting even more aggravated since its actual existence is denied by the authorities. Instead of admitting the fact of the existence of the schools with large number of Roma children (usually these schools are located near the compact Roma settlements) and to help these schools to provide children with better quality education and to evaluate them, local and the federal authorities simply close their eyes to this problem. For instance, the deputy minister of education of Rostov Province Marina Mazaeva said in a conversation with human rights experts: "The problems of the Roma are not connected to education – they are social ones. There is no problem with access to education: the Roma themselves are not willing to study – they are roaming to the steppe. We have no Roma classes".

Russian law does not require to establish any preferences for national minorities. Although schools should provide education of national language at the request of parents, this obligation is neglected on the basis of absence of specialists in Romani language. Under the European Court's position in D.H. and Sampanis, the absence of special measures of cooperation from the state to the Roma parents to integrate their children into the school system constitutes indirect discrimination and violates the European Convention.

## Recommendations

It is extremely important to take immediate measures in order to correct the current situation. For this purpose it is necessary to collect exact data on the schools where study large groups of the Roma children, to analyze this material from the legal and pedagogical standpoints and to develop a plan to overcome the emerged inequality and discrimination.

Undoubtedly, integrative education remains the best and most correct way to solve the problem. Thus it is necessary to consider the difficulties related to the integration of large groups of children, whose native language is not Russian, and who are not sufficiently prepared to school. Therefore the schools which are being expected to integrate the Roma children into regular classes need to get methodological and financial aid from the Government. There should be a possibility to create pre-school facilities in order to prepare these children for regular school. It is important to minimize the amount of children in classes for children with another native language so that schools are not tempted to simulate methods of "psychological correction" with regard to absolutely healthy children, but rather to limit it to a language support for those in need. It is necessary to take into consideration the poverty level of many families residing in Roma settlements in order to provide children from such families with access to education, provide them with free textbooks and possibility of free transportation to a place of study. It is probably also necessary to work with the parents, to convince them of the importance of high school education for their children, and to help them with the obtaining of needed official registrations and documents.

However, the main recommendation is to control compliance with the principle of all-available compulsory education, all children should enter schools and receive proper education, without distinction on the basis of race or ethnicity - as it is provided for by the Russian Law on education, the Constitution of the Russian Federation, the International Convention of the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Council of Europe Framework Convention for the Protection of National Minorities, the UNESCO Convention against Discrimination in Education.