

**ROMA EDUCATION IN THE 21ST CENTURY:
A LOOK AT CONTEMPORARY LEGAL
FRAMEWORK AND BARRIERS TO ACCESS IN
ITALY AND HUNGARY**

By
Ashley Moore

Submitted to
Central European University
Department of Legal Studies

In partial fulfillment of the requirements for the degree of Master of Arts

Supervisor: Bernard Rorke

Budapest, Hungary

2014

Executive Summary

The aim of this thesis is to explore Roma education in a comparative manner on two levels. Firstly by examining the existing legal framework and contrasting the Right to Education for Roma students on a legal level with the day-to-day realities and experiences of Roma students in educational systems and secondly by focusing on two EU Member States, two states that share international obligations and frameworks, to compare and contrast the experience of Roma students in Italy and Hungary. My guiding question are: Is the existing legal framework sufficient in its coverage and protection of the Right to Education? From a statistical standpoint, how are Roma students experiencing education? How can discrepancies between a guaranteed fundamental human right and the reality of Roma education be explained?

The European Union has a wealth of information, attention, and funding for issues related to the Roma, who are Europe's most stigmatized and excluded population. In theory, Roma students should be experiencing education in the same way as their peers, and yet they are not. Where there is an abundance of activity and resolution on the international level, there is an equivalent lack thereof at the local level with various shades in between. It is my goal to offer insight into the myriad of factors that impact the education of Roma students and act as barriers to Roma access of their right to education.

Acknowledgements

I would first like to express my gratitude to my thesis advisor Bernard Rorke for his insight and guidance throughout the entire process. His expertise and experience in the subject matter were indispensable, as were the comments, questions, and remarks that shaped my thesis. Furthermore, I would like to give thanks to each of my professors who through their teaching and experience expanded my human rights knowledge in all areas, challenged my thinking, and contributed to many aspects of this work. I would also like to thank my classmates, each of whom freely offered support, friendship, and shared in this experience. Finally, I would like to thank my partner Ognjen Kojanic for his continuous support and encouragement through the long months of research and writing.

Table of Contents

Executive Summary.....	1
Acknowledgements.....	2
Table of Contents.....	3
Introduction.....	1
Chapter 1: Legal Framework.....	5
Hungary.....	18
Italy.....	22
Chapter 2: Statistical Data.....	30
Chapter 3: Cases.....	42
Hungary.....	49
Italy.....	50
Chapter 4: Barriers to Access.....	53
Hungary.....	59
Physical segregation.....	59
Streaming of Romani children into special education.....	59
Italy.....	61
Forced Evictions.....	61
Conclusion.....	65
Bibliography.....	70

Introduction

Around the world, education forms the cornerstone of society. Whether formal or informal, vocational or general, acquiring a quality education is necessary for an individual to fully and successfully integrate into society and to be able to partake in civil life. Education allows for upward social and economic mobility, providing individuals and families with the opportunity to acquire necessary knowledge and skills to be able to enter the workforce and make a living. This in turn impacts every other facet of life, from health and happiness to population size and crime rate. A lack of education, particularly when such a lack extends beyond the individual to a large or specific group of people, significantly and negatively impacts the lives of those affected not only on a personal level but it also feeds the destructive cycle of social exclusion and poverty.

In the West, education generally takes the form of mandatory formal schooling, whether in public, private, or home schools, for a minimum number of years, after which students may continue on with general formal education, vocational training, informal training, or may choose not to continue their education. Under the European Convention on Human Rights, education must be guaranteed to every child¹ “without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”². What this means is that *every child in Europe* has the right to *at least* a minimum level of education. Moreover, every child in Europe has the

¹ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, Article 2 of Protocol 1, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>

right to a quality and effective education. According to the 4A scheme, education must be accessible, acceptable, adaptable, and available in order to be considered quality and effective³.

In addition to international law, each state has its own system in place for guiding educational legislation and policy. While these individual systems may be more comprehensive and inclusive, they must meet at least the minimum standards set out in the treaties to which each state is a state party. This thesis focuses on the Italian and Hungarian educational systems, and the current situation of the Roma who live within these two states. Both states have signed and ratified the European Convention on Human Rights (hereinafter ECHR), the International Covenant on Economic, Social, and Cultural Rights (hereinafter ICESCR), the Convention on the Rights of the Child (hereinafter CRC).

Despite legal framework being implemented at both the international and national level, along with a myriad of interpretations, court cases, recommendations, mandates, and initiatives, Roma continue to represent Europe's most marginalized and discriminated against groups in the sphere of education. Violations to this right may occur in a multitude of ways and are many times the result of discrimination or exclusionary practices. In some cases the discrimination is overt and government sanctioned while in others the cause is more difficult to pinpoint, although the effects can be equally devastating. It is the responsibility of the EU Member States to ensure access to quality education to all students without discrimination. Instead there is a consistent failure on the part of Member States to ensure and protect the right to education for all. While

2 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, Article 14, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>

3 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, Article 13(2), 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

this is a pervasive problem found across Europe, my thesis will focus particularly on Italy and Hungary as examples of how and why the right to education is not realized for Roma students.

Each country reflects different barriers to access for Roma students and both are reflective of the situation for Roma students throughout Europe. While each state fails in its duty in different ways, there are also many overlapping and common issues. In both states, Roma suffer from open racism and hostility, racist political discourse, and violent attacks. While forced evictions occur in both states, Italian Roma suffer particularly in this regard. In Italy, forced evictions are common, sudden, and leave Roma families in dire situations. In order to force evictions in Italy, tactics employed include cutting off access to water and destroying camps and settlements. These evictions can be instigated by either state authorities or by members of the local non-Roma community. This puts a huge strain on Roma families and severely disrupts the educational process for Roma students. In Hungary, the segregation of Roma students into special schools represents the largest threat, often preventing Roma students from attaining a high level of education or employment. Roma in both countries are often live physically segregated in camps and also suffer from social segregation and exclusion from schools, housing, and employment.

The first chapter of my thesis will focus on framework currently in place that serves as the basis, both from a legal perspective and from a social and policy perspective, for the right to education. I will look at international treaties, declarations, initiatives, and other relevant material. This chapter will not provide an exhaustive list but will serve as an overview to illustrate the obligations of EU Member States regarding the right to education. I will also look at state-specific material for both Italy and Hungary, including constitutions and national policies.

Chapter two will discuss the current status of the Roma in education in both Italy and Hungary using statistics and data. I will look at educational attainment and attendance of Roma students versus non-Roma students. In the third chapter, I will look at cases and judgments of the European Court of Human Rights concerning Roma in education. Finally, I will discuss the barriers to access faced by Roma students and families in Europe, particularly focusing on forced evictions in Italy and the streaming of Roma children into special schools in Hungary.

The barriers to accessing education faced by the Roma are multifaceted; political, economic, social, and historic in nature. I argue that there are two fundamental failures on the part of states upon which these barriers are built. The first is a failure to recognize the importance of and to ensure a stable housing situation for Roma families. The second is a failure of accountability; the failure of the state to effectively monitor the educational situation of the Roma and to hold accountable bodies, groups, or state agents that continue discriminatory practices resulting in violations of rights of the Roma.

Much of the research presented in this study is the product of a deep interest in the area of Roma rights and education. In several of my courses I conducted research that is directly related to this thesis, which I have used here as well.

Chapter 1: Legal Framework

In this chapter, I will review the obligations and commitments of both Italy and Hungary. This will include relevant legal obligations, non-binding commitments, policies, and other aspects that constitute the overall framework of Italy and Hungary regarding the Roma in education. I will begin with an overview of binding international treaties as well as non-binding international policies and decisions taken by the international community. The chapter will then cover Italian and Hungarian legislation individually, looking at their respective constitutions and educational policies. This will not be a comprehensive review but rather a focused one that highlights specific framework.

Legal framework for human rights is primarily derived from legally binding international treaties to which states may voluntarily become State Parties. If a State Party's national legal framework is not already in compliance with the rights and terms set out in the treaty, said state generally has a timeframe in which to incorporate the missing elements into the legislation, which can include either adding or voiding currently standing legislation.

The European Convention on Human Rights, ratified by Italy in 1955⁴ and Hungary in 1992⁵, includes the right to education as a negative right, prohibiting the denial of education. Although not part of the original body of the Convention, the right to education is outlined in

4 "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-italy.html>.

5 "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-hungary.html>.

Article 2 of Protocol 1⁶ and states:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”⁷

Article 28(1) of the Convention of the Rights of the Child states:

“1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;*
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;*
- (d) Make educational and vocational information and guidance available and accessible to all children;*
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.”⁸*

Article 13 of the International Covenant on Economic, Social, and Cultural Rights provides a detailed outline of what the right to education entails⁹. Provided below for reference is Article 13 in its entirety.

⁶ Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9, available at: <http://www.refworld.org/docid/3ae6b38317.html>

⁷ *ibid.*

⁸ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>

⁹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

- 1) *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
- 2) *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
 - a) *Primary education shall be compulsory and available free to all;*
 - b) *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
 - c) *Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
 - d) *Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
 - e) *The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*
- 3) *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*
- 4) *No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall*

*conform to such minimum standards as may be laid down by the State.*¹⁰

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) in Article 13(2) expounds on the concept of education as used in the Racial Equality Directive (hereinafter RED)¹¹ and provides a more detailed outline of how the 4A scheme must be implemented, or its essential features, which are outlined as follows:

- (a) Availability - Functioning educational institutions and programmes have to be available in sufficient quantity having the necessary material conditions, trained teachers receiving domestically competitive salaries, teaching materials, and in general facilities such as a library, computer facilities and information technology*
- (b) Accessibility - Educational institutions and programmes have to be accessible to everyone, without discrimination. Accessibility has three overlapping dimensions: non-discrimination, physical accessibility and economic accessibility, i.e. education does not only have to be within safe physical reach or via modern technology, it has to be affordable to all.*⁶⁷
- (c) Acceptability - The form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents.*
- (d) Adaptability - Education has to be flexible, in adapting to the needs of changing societies and responding to students' needs within diverse social and cultural settings.*

¹⁰ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

¹¹ The *Racial Equality Directive*, a Council Directive designed to combat discrimination and promote equal treatment in EU Member States. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

As both Italy and Hungary are parties to the ICESCR (Hungary ratifying in 1974¹² and Italy following in 1978)¹³, the features outlined in Art 13(2) are binding on both states. Included in the 4A Scheme is the requirement for curriculum content to be both diverse and flexible, accommodating for a range of cultures¹⁴. According to a decision by the European Court of Human Rights (ECtHR), the requirements of the 4A Scheme are analogous to the requirement that the right to education as outlined in the ECHR be understood as the right to *effective* education¹⁵.

In 2009, the Charter of Fundamental Rights of the European Union (hereinafter the Charter) became legally binding on all countries within the European Union, entering into force with the Treaty of Lisbon¹⁶. Intended to be a clarifying document, the Charter neatly summarizes the aptly named fundamental rights, which includes the right to education. Article 14, Right to education, does *not* include free and compulsory education as comprising the right to education, but simply the possibility of it. What Article 14 does guarantee, however, is the right to education for everyone¹⁷.

Recommendation CM/REC (2009) 4 from the Council of Europe calls on Member States

12 "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-hungary.html>.

13 "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-italy.html>.

14 Tomasevski, Katarina. *Manual on Human Rights Based Education*. Bangkok: UNESCO Bangkok, 2004. 27, 36.

15 Case "relating to certain aspects of the laws on the use of languages in education in Belgium" No. 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; 2126/64 ECHR 1968

16 European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01, available at: <http://www.refworld.org/docid/476258d32.html>

to adhere to educational principals, outlined in the appendix, in their policy-making decisions. It emphasizes the importance of an inclusive, culture sensitive curriculum and recommends that both students and teachers be provided with adequate support. Furthermore, the recommendation suggests the use of secure funds and scholarships to further advance Roma education and support inclusive practices¹⁸.

The Dakar Framework was established in 2000 when 164 states met in Dakar, Senegal with the purpose of tackling ongoing issues in education, especially those faced by multiply disadvantaged students and those living in poverty, with the two groups often overlapping.¹⁹ Although 164 states attended, Hungary was not among them. Representatives of Italy, however, did participate. The framework recognizes the necessity of education for “effective participation in the societies and economies of the 21st century”²⁰ and highlights the importance of including in national policies strategies aimed at ethnic minorities, remote or isolated communities, urban slums, and other populations at risk of exclusion. During the three-day conference, states also discussed the importance of policies that target related issues, such as transportation and food. One emblematic statement runs “For the millions of children living in poverty who suffer multiple disadvantages, there must be an **unequivocal commitment** that education be free of tuition *and* other fees, and that everything possible be done to reduce or eliminate costs such as

17 European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02, Art 14 available at: <http://www.refworld.org/docid/3ae6b3b70.html>

18 "Recommendation CM/Rec(2009)4 of the Committee of Ministers to Member States on the Education of Roma and Travellers in Europe." Council of Europe. January 1, 2009. <https://wcd.coe.int/ViewDoc.jsp?id=1462637>.

19 "The Dakar Framework for Action." UNESCO. January 1, 2000.

20 Ibid. para 6

those for learning materials, uniforms, school meals, and transport”²¹ (emphasis added).

The Council of Europe has also adopted decisions regarding the education of Roma students. Although recommendations and resolutions of the Council of Europe regarding Roma date back to 1969²², the topic became more popular in the late nineties and into the 21st century as focus and visibility of Roma issues increased. Recommendation R (2000) 4 on the Education of Roma children “provides Council of Europe Member States with coherent, sustainable guiding principles and responses which could be developed to improve the educational situation of the Roma”²³.

A 2008 Council Decision by the Organization for Security and Co-operation in Europe (OSCE) reiterated the importance of both early childhood education and continuous enrollment for Roma and Sinti students, calling upon the Office of Democratic Institutions and Human Rights (ODIHR) and participating states to continue and increase efforts in regards to ensuring access of Roma and Sinti students to education²⁴.

In 2009, the OSCE issued another Council Decision, noting limited progress and expressing concern over the continued violence, prejudice, and other challenges faced by the Roma and Sinti. In this issuance, the Decision focused on issues preventing integration, such as negative media coverage and a culture of accepted racism towards Roma and Sinti as well as

21 Ibid. para 32

22 "Recommendation 563 (1963) on the situation of Gypsies and other travellers in Europe." Council of Europe Parliamentary Assembly. Adopted 30 September 1969.

23 Council of Europe: Committee of Ministers, *Recommendation No. R (2000) 4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe*, 3 February 2000, R (2000) 4 , available at: <http://www.refworld.org/docid/469e04c02.html>

24 "DECISION No. 6/08 ENHANCING OSCE EFFORTS TO IMPLEMENT THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA." OSCE. December 5, 2008.

providing specific ideas on how to improve Roma and Sinti enrollment in education, such as teacher training and enrollment awareness projects²⁵.

Interpretation of Article 2, Protocol 1 of the ECHR as held by the ECtHR

*“No person shall be denied the right to education”*²⁶

Most courts interpret this to understand the right to education as the right to an *effective* education, as described by Article 13(2) of the ICESCR, which calls for the 4A Scheme to be applied in all forms and at all levels of education within the Member States party to the treaty²⁷. In practical terms, the accessibility requirement means that it is not enough for institutions of learning to simply exist; the state has a positive obligation to ensure that students are able to access them.

EU Framework for National Roma Integration Strategies up to 2020

This is a topic that I have previously summarized in a paper. Since it is directly relevant and necessary to cover in this thesis, I will replicate there my previous summarization²⁸. In 2011, the European Commission issued a communication detailing a ten-year Roma Integration Strategy to focus on four main areas of concern: health, housing, employment and education²⁹.

25 "DECISION No. 8/09 ENHANCING OSCE EFFORTS TO ENSURE ROMA AND SINTI SUSTAINABLE INTEGRATION." December 2, 2009. <http://www.osce.org/cio/40707?download=true>.

26 Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9, available at: <http://www.refworld.org/docid/3ae6b38317.html>

27 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

28 Moore, Ashley. *Ending Segregation of Romani Children in European Schools*.

29 "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Framework for National Roma Integration Strategies

Referring to the EU Charter of Fundamental Rights, the European Commission underlines the importance of ensuring that Roma are not discriminated against and enjoy the same access to all their human rights as non-Roma³⁰.

The European Commission reminds states that regardless of the Framework, they are under a previous obligation to provide “non-discriminatory access to education, employment, vocational training, healthcare, social protection and housing through Directive 2000/43/EC”³¹ and suggests “rigorous monitoring”³² as a method of evaluation of the success of Roma integration strategies³³.

In this communication, the European Commission also points out the lack of progress made thus far, despite many initiatives and significant funds being allocated specifically to address Roma integration initiatives. The European Commission also notes a discrepancy between nominal progress made at the EU level and the situation of the Romani people in day-to-day life, which has not seen such progress. To this end, the communication relays the need for a targeted approach, which will set specific and attainable goals³⁴.

The European Commission emphasizes the importance of attendance in early education programs and notes the significantly lower level of participation amongst Romani children as compared to non-Romani children. To address this situation, the European Commission calls for

up to 2020." EUR-Lex. <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52011DC0173>

30 *ibid.*

31 *Ibid*, p. 3

32 *ibid.*

33 *ibid.*

34 *ibid.*

states to “widen access to quality early childhood education and care”³⁵, and points to pilot programs that illustrate the positive impact of early childhood education on future educational attainment ³⁶. It also calls for programs and initiatives aimed at improving teacher awareness and reworking the curriculum in order to adapt it to the needs of a multi-ethnic classroom, including Roma. Another area of focus for states, according to the communication, should be early-leavers of school. As Roma students are disproportionately represented in the number of early-leavers, programs should be developed to target Romani students and to encourage them to attend secondary and tertiary levels of education³⁷.

The communication further discusses methods of effective integration, including the collection of detailed data, identification of specific areas of need, providing more opportunities for stakeholder and civil society involvement, allocating adequate funds, and creating a strong monitoring body. Finally, the European Commission underlines the necessity of strong cooperation between all states, on all levels, and with stakeholders, civil society, and the Roma community³⁸.

In addition to the Framework of Roma Integration Strategies through 2020, there are a number of international treaties forbidding racial or ethnic discrimination and outlining the positive obligations of states to ensure equal access by all to education. Under the International Convention on the Elimination of all forms of Discrimination, for example, states are required to “guarantee equality before the law in the enjoyment of the right to education” and to take steps to

35 Ibid, p. 6

36 ibid.

37 ibid.

38 ibid.

ensure the cessation of segregation. ICERD also highlights the importance of **effect** over intent and states that both **direct** and **indirect** discrimination is covered (emphasis added)³⁹.

In addition to international legal obligations, each state has its own set of legislation and policy governing education. Although states must comply with and amend, where necessary, their legislation to reflect legally binding international documents, they are not restricted to exclusively drawing from them. In order to work on a broad level and gain enough support necessary to sustain itself, any international human rights law must naturally take a broader, less strict approach. A state's individual legislation may be much more comprehensive, detailed, and encompassing than what is strictly required by international law⁴⁰. A good example of this is Paragraph 25 of the Race Equality Directive, described below, which states "This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State."⁴¹. Some states go above and beyond the minimum mandate of this international legal framework while other states, actively or passively, subvert both the spirit and the letter of the law. In many cases, this is through either the implementation of harmful policies or through the negligence of positive ones.

Both Italy and Hungary have built up complex systems of educational policies for their respective states, influenced by both their individual histories and the European community at

39 *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*. Budapest: European Roma Rights Center, 2004.

40 "Right to Education." Human Rights Education Associates. http://www.hrea.org/index.php?base_id=144.

41 Council Directive 2000/43/EC **implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, para 25. 29 June 2000.**

large. The latter has been particularly important in shaping the current legislation and policies for each state. In the following pages, the results, in the form of policies and laws, will be examined.

Race Equality Directive

At the turn of the century, the Council of the European Union adopted the Racial Equality Directive (2000/43/EC, and hereinafter RED), designed to tackle issues of discrimination based on racial or ethnic origin. The RED is legally binding on all state parties, and requires state parties to incorporate the RED into national legislation⁴². This directive entered into force in 2000 and stipulated that all member parties bring their national legislation into line with the RED by 2003⁴³. Since most, if not all, of the injustices suffered by the Roma have at least a root cause in racial or ethnic discrimination, this directive provides promising framework for dealing with issues of discrimination by defining and elaborating upon previous anti-discrimination framework in a comprehensive manner.

Firstly, the RED recognizes and reaffirms the universal nature of the prohibition of discrimination, citing documents such as the UNDP, CEDAW, ICERD, ICCPR, ICESCR, and the ECHR, each of which contains provisions promoting equality and prohibiting discrimination⁴⁴. In terms of substance, the RED defines both direct and indirect discrimination and prohibits both types, making it unnecessary for the claimant to prove intent⁴⁵. Article 3.1(g) lists Education as a broadly protected sphere, neither listing nor limiting specific levels or sectors (i.e. public or

⁴² Ibid.

⁴³ Ibid, Article 17(1)

⁴⁴ Ibid, Para 3

⁴⁵ Ibid, Article 2

private).

Article 13 requires all member states to designate at least one body to the “promotion of equal treatment of all persons”⁴⁶ that has the competency to independently provide assistance to those whose rights have been violated, conduct surveys, and publish reports or recommendations on subjects concerning discrimination. Articles 14, 15, and 16 cover compliance, sanctions, and implementation respectively. According to the RED, all provisions, policies, and other legal acts that are contrary to the RED must either be abolished, changed, or rendered null and void by July 19th, 2003 and new legislation, if and where necessary, must be put into effect by that same time. Furthermore, states must maintain or adopt measures designed to sanction individuals or entities found in violation of the RED, which much be effective and deterrent⁴⁷.

Although not a binding framework in and of itself, the 4A scheme provides more comprehensive guidelines for states to follow when implementing and maintaining laws and policies designed to ensure the right to education. Although not included in the ECHR, elements of the 4A scheme can be found in other legally binding documents, such as the ICESCR, which calls for education to be made “generally available” and “equally accessible” to everyone⁴⁸.

Developed by Katarina Tomasevski, the first special rapporteur on the Right to Education⁴⁹, the 4A scheme is comprised of four qualities to which states providing education

46 Open Society Institute (OSI), *The Race Equality Directive: A Shadow Report*, July 2013, available at: <http://www.refworld.org/docid/5242b3434.html>

47 *ibid*.

48 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

49 "Education and the 4 As." Welcome to the Homepage of the Right to Education Project. <http://r2e.gn.apc.org/node/226>.

must adhere in order to fulfill the obligation of protecting the right to education. These qualities are Availability, Accessibility, and Adaptability, each of which requires that several conditions must be met in order to be considered fulfilled. Availability refers to the number of and demand for schools, dictating that the two must be in accordance. States must allocate sufficient funds to guarantee that there are enough schools and teachers to accommodate every student, and the diversity of students⁵⁰. Technically fulfilling this obligation, however, is not enough. Students must also be able to access these institutions. Accessibility includes more practical aspects, such as how students arrive at school, whether they can afford to attend, and various legal and administrative barriers. The accessibility requirement translates to a state's obligation to remove barriers and institute practices that ensure a student's ability to attend school, taking into consideration financial, practical, and legal difficulties⁵¹. The requirement of acceptability covers both environmental and curricular characteristics of a school. In addition to requiring schools to meet health and safety minimums and be adequately furnished, the curriculum and teaching must be acceptable and adequate.

Hungary

In Hungary, as in Italy, the primary legal document is its constitution, the Constitution of the Republic of Hungary⁵² (hereinafter Constitution of Hungary) and the state operates similarly

50 Tomasevski, Katarina. "Manual on Rights-based Education: Global Human Rights Requirements Made Simple." UNESCO. January 1, 2004.

51 Ibid.

to German legal traditions with the key principles outlined in the Constitution and implemented within statutes. Further elaboration is provided by Ministerial Decrees.

Article XV of the Constitution of Hungary is divided into five sections and comprises the anti-discrimination clause, which stimulates that everyone shall be equal before the law and that “Hungary shall guarantee the fundamental rights to everyone without discrimination... on the grounds of race... national or social origin... or any other status”⁵³. This same article also calls for the promotion of equality and inclusion, placing the responsibility of such achievement on the state⁵⁴.

The Constitution of Hungary guarantees the right to education to all its citizens in Article XI, free of charge and ensured by the state. Primary education is compulsory, while secondary education must be made generally accessible and tertiary education accessible to those students who are able and merit entry⁵⁵.

Although the Constitution of Hungary guarantees free education for its citizens, the same does not apply to all residents of Hungary under the Public Education Act. Rather, free education is dependent on the status of the family. Section 92 of the Public Education Act specifies the conditions for receiving free educational services and does not include irregular migrants⁵⁶. This

52 *Constitution of the Republic of Hungary* 25 April 2011. For the purposes of this thesis, I shall use the most recent version of the Constitution of Hungary, which was adopted in April 2011 and entered into force in January 2012. For any substantive constitutional changes regarding either education or discrimination, I shall make note and reference the previous version(s) where applicable.

53 *Constitution of the Republic of Hungary*, Art XV 25 April 2011.

54 Ibid.

55 *Constitution of the Republic of Hungary*, Art XI 25 April 2011.

56 Act CXC of 2011 on National Public Education

represents a conflict between educational policy in Hungary and Hungary's international obligations.

Beyond the Constitution of Hungary, educational law and policy is derived from the Public Education Act, the most recent version of which is Act CXC of 2011 on National Public Education.

Section 46 gives students the right to receive an education that is appropriately matched to their abilities and to address the Commissioner of Educational Rights, and, in the case of a breach of rights, to bring a case to the public, in accordance with the law⁵⁷. This means that, according to the law, every student has the right to attend classes at a level appropriate for the mental capacity of said student. In other words, it is a violation of the Public Education Act for any individual or body to compel a student to study at a level that is either too high or too low for the student. In theory, this section of the Public Education Act would prevent Roma students from being inappropriately placed into special schools, where most would receive an education far below their actual mental capabilities.

Section 28 dictates the procedures, rights, and obligations related to the education of students with special needs. Within this section, the right of the government to compel parents to come with their children before a panel of experts is enshrined. According to this section, the government, in the best interests of the student, is able to organize an examination to test the mental faculties of said student⁵⁸.

⁵⁷ Ibid, section 46

⁵⁸ Ibid, section 28

Section 72 5(g) gives parents the right to appeal to the Commissioner of Educational Rights⁵⁹ while Section 77 of the Public Education Act specifies that the Minister of Education appoints, and has the ability to dismiss, the Commissioner for Educational Rights⁶⁰. Therefore, although the parents have the right to appeal, it is not to an independent body to which they may appeal. Instead, parents have the right to appeal to an individual chosen by the Minister of Education, the same person who oversees and manages the office of the Commissioner of Educational Rights.

In countries such as Hungary, where there is free and compulsory education for all, an important indicator of future academic achievement is often a child's pre-school education and experiences⁶¹. Large discrepancies are noted between Roma and non-Roma students in terms of pre-school education. However, the discrepancies are larger in some surrounding countries, such as Slovakia, where only 28% of Roma children are in some type of preschool program, compared to 58% of non-Roma children⁶². In Hungary, 49% of Roma aged three years say they have "attend[ed] some form of preschool"⁶³, whereas the percentage of non-Roma who report the same is 81%, a 32% difference⁶⁴. That discrepancy only lessens slightly for Roma students aged

59 Ibid, section 72

60 Ibid, section 77

61 Boocock, Sarane Spence. "Early Childhood Programs in Other Nations: Goals and Outcomes." *The Future of Children* 5, no. 3 (1995): 100-03. http://futureofchildren.org/futureofchildren/publications/docs/05_03_04.pdf.

62 *Policy Advice on the Integration of Roma in the Slovak Republic: Employment and Social Protection, Financial Inclusion, Education, Housing, Health, Monitoring and Evaluation, EU Financing*. World Bank, 2011. 4, 25.

63 "TOWARD AN EQUAL START: CLOSING THE EARLY LEARNING GAP FOR ROMA CHILDREN IN EASTERN EUROPE." p. 21. The World Bank. June 4, 2012.

64 Ibid.

four, with the percentages being 77% and 100%, respectively⁶⁵. Until recently, there has been a general lack of understanding of the role early childhood education plays in determining later life. Still today pre-school education is not considered compulsory in many EU countries, including Hungary, although participation across the EU had risen significantly in recent years⁶⁶. Since the beginning of the 21st century, Hungary has implemented several new policies aimed at reducing the cost of education and increasing the availability and accessibility of education. In 2003, a new policy was introduced to aid low-income parents in providing meals for school children. According to the policy, parents who are already receiving allowances may be eligible for free meals and parents of multiply disadvantaged children⁶⁷, such as the Roma, may receive subsidies. Until recently, however, places in a kindergarten were not guaranteed. Furthermore, education was compulsory only from the age of five, one year before the start of compulsory schooling. Several years ago, in 2011, Hungary introduced new regulations, which included the requirement preschool is compulsory from the age of three and that every child must be able to secure a place in a kindergarten⁶⁸.

Also in place is a Hungarian equality body called the Equal Treatment Authority (hereinafter ETA), which prohibits discrimination in all public sectors. This body is an

65 Ibid.

66 "Education Statistics." - Statistics Explained.
http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Education_statistics#Pre-primary_education.

67 In Hungary's education system, "multiply disadvantaged" means that neither parent (or guardian) has attended school past year 8 by the time the child reaches 3 years of age. It also includes students who are in foster care long-term.

68 "TOWARD AN EQUAL START: CLOSING THE EARLY LEARNING GAP FOR ROMA CHILDREN IN EASTERN EUROPE." p. 21. The World Bank. June 4, 2012.

administrative authority with ability to administer sanctions on both individuals as well as entities which have violated the prohibition of discrimination⁶⁹.

International legal framework on racism, discrimination, and education in the EU is strong, broad, and comprehensive. The multitude of treaties, declarations, recommendations, and directives provides several layers of protection for Roma students in ensuring their right to education. Detailed and specific, this international framework is supposed to be reflected in the national legislation of Member States, which may then offer an even higher level of protection. National policies in both Italy and Hungary provide for many theoretical possibilities to enhance and protect education for Roma students. These include training sessions for educators, subsidies for parents, offering multicultural education, and providing Roma students with extra support. This is in addition to the regular educational policies of each state that are aimed at the general population. From a legal perspective, the right to education for Roma students is both ensured and well safeguarded. In the following chapter, I will discuss the actual situation of Roma students in Hungary and Italy from a statistical standpoint.

Italy

The Constitution of the Italian Republic (hereinafter Italian Constitution) is the primary legal document from which arises legislation and policy. The two most relevant articles containing references to education in the Italian constitution are Articles 3 and 34. They are as follows.

⁶⁹ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities

Art. 3

*All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country.*⁷⁰

Art. 34

*Schools are open to everyone. Primary education, given for at least eight years, is compulsory and free of tuition. Capable and deserving pupils, including those lacking financial resources, have the right to attain the highest levels of education.*⁷¹

Aside from the constitution, the legal framework in Italy is primarily based on statutes, although case law has begun to play a larger role in recent years⁷². Title II of Part 1 of the Constitution of Italy (Ethical and Social Rights and Duties) approaches education from two angles; both as the right of the child and the duty of the parents. While it outlines that parents have both the right and the duty to educate their children, it also provides that, should the parents be incapacitated, Italian law nonetheless ensures that the right of the child to an education will be fulfilled. In terms of compulsory education, the Italian constitution dictates that eight years of

⁷⁰ Constitution of The Italian Republic, Art 3. 22 December 1947

⁷¹ Constitution of The Italian Republic, Art 34. 22 December 1947

⁷² Favilli, Chiara. "REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011: ITALY." Migpol Group.

primary education is compulsory and free⁷³ and also specifies that a lack of financial resources cannot hinder a student from achieving the “highest levels of education”⁷⁴, should they be deemed “capable and deserving pupils”⁷⁵ through the administration of exams.

The way in which Italy approaches the concept of anti-discrimination merits mention here. Rather than directly prohibit discrimination, legislation in Italy takes a more circuitous route by promoting and guaranteeing equality. In fact, with one exception⁷⁶, the Legislator in Italy has never adopted a specific law forbidding discrimination⁷⁷.

A 2012 research report published by the Roma Education Fund, entitled “*Roma Inclusion in Italy: National education and employment strategies and actions*” compiled, among other things, a comprehensive list of the most relevant Ministerial Circulars (hereinafter CM) related to education, several of which I will briefly summarize below. The CMs refer to legislation, clarify laws, and define new policies. It is important to note that the following CMs are not necessarily directly related or, or directed at, the Roma. In fact, only one of the following CMs deals exclusively and directly with Roma students. The other CMs mentioned related to issues related to educational issues that may affect Roma, such as the registration of foreign or irregular students and intercultural curriculum⁷⁸.

⁷³ *Constitution of the Italian Republic*, Art 30. 22 December 1947

⁷⁴ *Ibid.* Art 34

⁷⁵ *Ibid.*

⁷⁶ 1970 Workers’ Act, Art. 15

⁷⁷ Favilli, Chiara. "REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011: ITALY." Migpol Group.

⁷⁸ Rossi, Monica, and Roberto De Angelis. "Roma Inclusion in Italy: National Education and Employment Strategies and Actions." Academia.edu. 2012.

CM 16/7/1986 No. 207 is one of the very few pieces of legislation or policy directed entirely and exclusively to the education of the Roma. Firstly, the act underlines the right of Roma students to avail themselves of the Italian school system. In addition to reiterating the right to education for all who reside inside of Italian territory, this CM also noted that Roma students are disadvantaged, and not to be considered disabled. This note references the tendency of Italian schools to utilize special teachers, known as DOA teachers, as integration aids for Roma students, a misuse of such teachers. Another important part of this CM is the awareness that living conditions and transferring between schools regularly has an adverse effect on student achievement and attainment⁷⁹.

CM 8/9/1989 No. 301 mandated the “inclusion of foreign students in compulsory education: promotion and coordination of initiatives to favour the right to education.”⁸⁰ This CM came at a time of increased migration and a broader conception of refugees. Included in this CM were practical suggestions of how to effectively and efficiently include foreign students in the compulsory education system⁸¹. This meant that Roma children whose parents were refugees or migrants could be integrated into compulsory schooling without reserve. Finally, it references a presidential decree⁸² that, amongst other things, states that students should be enrolled in the grade level corresponding to the one directly subsequent to the final grade level achieved in the student’s previous country⁸³.

79 Ibid, p. 15

80 Ibid, p. 12

81 Ibid.

82 D.P.R 10/9/1982 No. 722

CM 18/4/1990 No. 3316, in conjunction with CM 8/9/1989 No. 301, encourages the development of teacher training programs that provide educators with the necessary tools to foster inclusion in schools⁸⁴.

CM 26/7/1990 No. 205 aims to tackle issues that foreign students face, and highlights the importance of intercultural education while establishing a working group on the level of the Provveditorati, which are the local education authorities. This group is supposed to work in conjunction with other authorities such as NGOs, civil society groups, and other public groups and organizations to develop initiatives and collect relevant information on current and previous projects⁸⁵.

CM 1993 No. 138, a CNPI ruling, along with CM 9/2/1996, focuses on the importance of intercultural education for fighting racism, xenophobia, and intolerance. In 1994, CM 2/3/1994 No. 73 took the idea of intercultural education and dialogue further, discussing the importance of kindergarten and primary education of foreign students and provides for Ministerial support of projects. It also recommends that initiatives aimed at [migrant/foreign] students be coordinated with other initiatives aimed at [migrant/foreign] workers and families⁸⁶.

CM 12/1/1994 No. 17 is of especial importance regarding the right to education of the Roma. This decree includes “Procedures for the enrolment in schools of *every order and grade*

83 Rossi, Monica, and Roberto De Angelis. "Roma Inclusion in Italy: National Education and Employment Strategies and Actions." p. 12 Academia.edu. 2012.

84 Ibid, p. 13

85 Ibid.

86 Ibid, p. 13-14

of minors without permit of staying”⁸⁷ (emphasis added) and allows for the enrolment of all minor students within the Italian territory, without regard to the status of either the student or the student’s parents. This CM applies broadly to everyone and is meant to target the children of undocumented migrants but it also represents a leap forwards for the Roma, many of whom are undocumented despite having lived in Italy for generations. Until this point, undocumented Roma, even those whose families had been living in the country for many years or many generations, would have found it difficult or in some cases impossible to enroll in an Italian school and obtain an education⁸⁸.

L. 482/99, which provides for education instruction in the native language of recognized minorities, recognizes neither Roma nor Sinti as either linguistic or cultural minorities, despite a presence within the State of more than five hundred years⁸⁹.

In addition to its international obligations, constitutional laws, and other legislative decrees, the Italian government in early 2012 adopted a strategy developed by the Italian Office against racial and ethnic discrimination (UNAR)⁹⁰. According to a Civil Society Monitoring report compiled by the Decade for Roma Inclusion, this strategy, entitled “National Strategy for the Inclusion of Roma, Sinti, and Caminanti” (hereinafter NSIR) focuses on addressing Roma issues as a “rights-based approach” and “adopting... more effective use of European funds”⁹¹

87 Ibid, p. 14

88 Ibid.

89 L.482/1999 ‘Norme in materia di tutela delle minoranze linguistiche storiche’, Art 2

90 "ECRI Report on Italy (fourth Monitoring Cycle)." European Commission Against Racism and Intolerance. February 21, 2012.

91 Bormioli, Simonetta, Angela Tullio Cataldo, and Massimo Colombo. "Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in Italy in 2012 and 2013." Associazione 21 Luglio.

and, while it does not include a defined “procedural intervention” for integrating and supporting Roma students in Italian Schools⁹², it targets other areas such as discrimination and participation in decision-making; areas that can have a large impact on education. Furthermore, the NSIR is designed to target four primary areas: healthcare, housing, employment, and education⁹³.

In an effort to bring the actual situation of the Roma in line with the objectives set forth in the NSIR, the National Table of Education developed two projects to enhance school attendance and lower rates of absenteeism and dropout, and to foster integration by bringing together members of school and educational institutes and civil society organizations. Furthermore, the Ministry of Education, since 2012, has asked all schools to incorporate information regarding the Porajmos⁹⁴, which means “the devouring” and refers to the mass executions and deportation of the Roma during the Holocaust, into curriculums focusing on genocide⁹⁵.

2014.

92 "NATIONAL STRATEGY FOR THE INCLUSION OF ROMA, SINTI AND CAMINANTI COMMUNITIES - EUROPEAN COMMISSION COMMUNICATION No.173/2011." European Commission. February 28, 2012. The four interventions defined are “to support and implement the current level of institutional and civil society capacity-building for the social inclusion of RSC communities; to promote and develop an integrated system of permanent networks and territorial centers to combat discrimination; to plan and implement an ad hoc strategy in the field of information and communication; to develop, test and make a RSC participatory model permanent in national and local decision-making contexts; to ensure the establishment and effective functioning of specific monitoring methods to assess the measures contained in the present Strategy”

93 Bormioli, Simonetta, Angela Tullio Cataldo, and Massimo Colombo. "Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in Italy in 2012 and 2013." Associazione 21 Luglio. 2014.

94 Bormioli, Simonetta, Angela Tullio Cataldo, and Massimo Colombo. "Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in Italy in 2012 and 2013." p. 12. Associazione 21 Luglio. 2014.

95 Scott, Erin. "Romani Porajmos." Center for the Study of Genocide and Human Rights, Rutgers University. <http://www.ncas.rutgers.edu/center-study-genocide-conflict-resolution-and-human-rights/romani-porajmos>.

Aside from these initiatives, the NSIR has not identified any other policies enacted specifically geared towards Roma students. As with the education-related legislation, and with Italian legislation in general, there is a lack of specifically targeted laws and policies. Rather than specifically target Roma, policies talk about foreign students, undocumented or irregular students, anti-discrimination, and intercultural education⁹⁶. Although legislation focusing on these groups is positive, failing to specifically include Roma means that part of this marginalized population is left without protection. This is particularly problematic when regarding Roma who are Italian citizens because while non-Italian Roma may have policies aimed at them through other identities (foreign, refugee, irregular), Italian Roma do not benefit through such programs as they cannot claim these identities.

96 Bormioli, Simonetta, Angela Tullio Cataldo, and Massimo Colombo. "Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in Italy in 2012 and 2013." Associazione 21 Luglio. 2014.

Chapter 2: Statistical Data

Since the beginning of the 21st century, there has been a significant increase of interest in the Roma population and a focus on inclusion-oriented policies. As such, there has also been an increase in the amount of research and effort into the situation of the Roma, particularly in Central and Eastern Europe. Despite a significant amount of funds, numerous studies, and countless national and international initiatives, however, research on Roma, especially statistics concerning Roma in education, are still far from providing a comprehensive and accurate view of the contemporary situation of the Roma in Europe.

Before examining statistics concerning the contemporary experience of the Roma in education, it is important to acknowledge several important deficiencies in the research. In order to create effective policies geared towards social integration, it is imperative that organizations and government bodies have access to up-to-date, accurate demographic information. Without this, it is impossible to implement efficacious policies and programs. In the case of the Roma, such information is simply unavailable. Due to various reasons, the collection of information on the Roma and statistics on Roma in education presents a significant challenge to those working to obtain such data. The primary reason for this lack of accurate information stems from the various difficulties encountered in the field during data collection work.

For example, despite repeated requests made by NGOs and various governmental and intergovernmental bodies⁹⁷, Hungarian schools continually refuse to provide ethnic data on

⁹⁷ András , Kádár. European Network of Legal Experts in the Non - discrimination Field, "European network of legal experts in the REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011 HUNGARY." January 1, 2012.

student demographics⁹⁸, citing Data Protection rules which however do not preclude the collection of disaggregated data for the purposes of affirmative action or social policy aimed at reducing or eliminating discriminatory practices⁹⁹. The last official data regarding the number of Roma in the Hungarian school system was completed throughout the 1992-1993 school year, while Italy ceased to collect disaggregated data only at the onset of the 2010/2011 school year. However, this is not to say that the Italian Ministry of Education collects and makes public this information on a regular basis; such studies have been completed only sporadically in Italy. Since then, NGOs and other bodies have acted as the primary source of information regarding the Roma population both within and outside of the classroom. This fact renders data collection in Italy even more challenging as the increased focus on Central and Eastern European countries and relative lack of interest in more western countries results in a large disparity in terms of available information. Hungary, for example, has more NGOs working on Roma issues despite being smaller in both size and population.

Issues furthermore arise due to methods of ethnic data collection. As there is not a standard body in either Hungary or Italy whose mandate it is to collect such information, there is no national uniform, methodological standard of data collection in either country. NGOs typically rely on two primary methods of data collection; self-identification and third-party identification. Each method presents its own challenges and risks of inaccuracy. In the first case, self-identification, there is a significant risk of under representation due to an unwillingness to divulge personal ethnic information. Many Roma, particularly those who have assimilated into the local population and are perhaps not outrightly perceived as being “Roma”, are hesitant to

98 *ibid.*

99 *ibid.*

label themselves as Roma from fear of stigma and discrimination. They may also refuse to self-identify out of a sense of distrust of both the surveyors and the authorities, whose motives for such collection they may question. In the second scenario of third-party identification, NGOs must rely on members of the community, teachers, or school officials to point out and estimate the number of Roma students. In Hungary, it is common for school officials to claim that the school does not collect data on students' ethnicities and that therefore it is impossible to give a correct estimation. This occurs even in schools that clearly have a majority Roma population.

In terms of comparison, it is oftentimes difficult to obtain data that specifically separates Roma and non-Roma within the same study. Official statistics generally only reflect the general population, in which the Roma are included, while NGOs that focus on Roma issues oftentimes collect data reflecting information solely on the Roma. For example, a study may be completed on the percentage of Roma who complete certain levels of education, as is the case with the UNDP report while another study may focus on educational attainment in [a] specific country(ies), as is the case with the OECD reports. In such cases, it may be found that twenty percent¹⁰⁰ of Roma in a given country complete secondary education and eighty percent¹⁰¹ of the population of that country completes the same level of education. Here, due to the Roma being included in the general population of the second study, it is difficult to determine the actual rate of non-Roma who complete secondary education for comparison purposes as the percentage of the Roma who complete this level automatically skews the data. Although there are studies that specifically examine the difference between Roma and non-Roma, these are limited in both

100 This percentage was invented for use as an example only and does not reflect any real data from an actual study.

101 Here again the percentage has been invented for use solely to exemplify a particular point.

scope and quantity.

In order to evaluate and provide a comprehensive overview of the actual situation of Roma in education, there must be several categories of measurement. As utilized by the UNDP, here those categories will be: attendance, attainment, and self-perceived literacy¹⁰². Attainment statistics will be divided into multiple categories, following international educational standards¹⁰³. These categories will be early education (divided in some cases by age or number of years attended)¹⁰⁴, primary education¹⁰⁵¹⁰⁶, lower secondary education¹⁰⁷¹⁰⁸, upper secondary

102 UNDP Europe and the CIS Bratislava Regional Centre, "Roma Education in Comparative Perspective: Findings from the UNDP, World Bank, EC Regional Roma Survey." 2012.
<http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

103 The Eurydice Network, European Commission, "The structure of the European education systems 2013/14 : schematic diagrams." November 25, 2013.
http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/education_structures_EN.pdf

104 Early education is all education prior to primary education. Although some countries have implemented compulsory early education policies, this is not a uniform practice and early education remains largely optional. However, there is a wide consensus among experts on the importance of early education for future academic, social, and economic success.

105 UNESCO Institute for Statistics, "ISCED 2011: International Standard Classification of Education." December 2012. <http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf>.

106 According to the ISCED (2011), primary education consists of 4-7 years which students begin between the ages of five and seven. In all countries, primary education is compulsory.

107 UNESCO Institute for Statistics, "ISCED 2011: International Standard Classification of Education." December 2012. <http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf>.

108 According to the ISCED (2011), lower secondary education represents the 4-5 years that follow primary education. In most countries, the end of lower secondary education marks the end of compulsory schooling.

education¹⁰⁹¹¹⁰, and tertiary education¹¹¹.

According to the 2011 UNDP report, as of 2011 the percentage of Roma aged fourteen to twenty reported to have completed at least a primary education in Hungary is approximately ninety-nine percent¹¹². This is in keeping with the percentage of the general population, which is also at ninety-nine percent¹¹³. A comparison of data provided by the UNDP in 2004 shows an incremental increase of one percent over time¹¹⁴.

In 2011, the 2011 UNDP report showed that the percentage of the Roma population having completed at least lower secondary education (lower secondary education being compulsory) stood at eighty-seven percent¹¹⁵. This represents a four percent increase from 2004

109 UNESCO Institute for Statistics, "ISCED 2011: International Standard Classification of Education." December 2012. <http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf>.

110 According to the ISCED (2011), upper secondary education normally reflects the beginning of non-compulsory information. Students generally begin upper secondary education between the ages of fifteen and sixteen and the programs, depending on the country and particular school, may have a duration of anywhere between two and five years.

111 Although tertiary education can be divided into several types (i.e. vocational/non-vocational), for the purposes of this thesis, all types of tertiary education will be regarded simply as tertiary education without distinction.

112 UNDP Europe and the CIS Bratislava Regional Centre, "Roma Education in Comparative Perspective: Findings from the UNDP, World Bank, EC Regional Roma Survey." 2012. <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

113 OECD, "Education at a Glance 2011: OECD Indicators." 2011. <http://www.oecd.org/education/skills-beyond-school/48631582.pdf>.

114 UNDP Europe and the CIS Bratislava Regional Centre, "Roma Education in Comparative Perspective: Findings from the UNDP, World Bank, EC Regional Roma Survey." 2012. <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

115 *ibid*.

at which time eighty-three percent¹¹⁶ of Roma (aged 17-23) reported having completed lower secondary schooling. According to the 2011 OECD report, only one percent of the overall population has not completed lower secondary education¹¹⁷.

As the end of lower secondary education generally corresponds with the end of compulsory education, a decrease in attainment can be expected across the board. However, within the Roma population the rate of attainments drops significantly more than that of the general population. According to the 2011 UNDP report, the number of Roma (aged 20-26) who report having completed at least an upper secondary level of education drops to only twenty-two percent¹¹⁸, a sixty-five percent decrease from the level of lower secondary education. When contrasting the data of the Roma population with that of the general population, the discrepancy becomes even more pronounced. According to an OECD report, approximately eighty-six percent of the general population completes an upper secondary education¹¹⁹. Given that the Roma are included in the general population, the percentage of non-Roma who complete an upper secondary education is even higher¹²⁰.

Italy in particular has been negligent in even attempting to collect information regarding the Roma in any capacity. However, the Italian Ministry of Education has gathered and published some data since 2000. In 2000, the estimated number of Roma minors residing in Italy was

116 *ibid.*

117 OECD, "Education at a Glance 2011: OECD Indicators." 2011. <http://www.oecd.org/education/skills-beyond-school/48631582.pdf>.

118 *ibid.*

119 OECD, "Education at a Glance 2013: OECD Indicators." June 20, 2013. [http://www.oecd.org/edu/eag2013\(eng\)--FINAL 20 June 2013.pdf](http://www.oecd.org/edu/eag2013(eng)--FINAL%20June%202013.pdf).

120 Specific data on this is unavailable.

66.000, with 30.000 of those minors being between the ages of six and fourteen¹²¹, which corresponded at the time to the ages during which schooling was compulsory in Italy¹²². Of the 30.000 compulsory school aged Roma, the Ministry of Education found the number of Roma enrolled at state schools in either primary or lower secondary education to be 6.868¹²³, corresponding to less than twenty-three percent¹²⁴ of the appropriately aged Roma population.

Since the Ministry of Education published the first statistics in 2000, the Ministry has published statistics related to Roma in education several more times. Here data will be used from 2009, for the 2007/2008 academic year. As the age at which a student is legally permitted to cease his or her education had increased from fourteen to sixteen¹²⁵, the new statistics were in reference to the population of Roma under sixteen years of age, rather than being divided into three separate age categories as before. Furthermore, the estimated number of Roma under the age of sixteen is represented as a range between 59.000 and 68.000¹²⁶, rather than as a single number estimate (66.000) as was given in the previous report. This second set of statistics shows

121 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

122 The age corresponding to the end of compulsory education has since been increased to sixteen years of age.

123 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

124 This percentage is based on my own calculations.

125 AngloInfo: The Global Expat Network, "Education and Schooling in Italy." <http://italy.angloinfo.com/family/schooling-education/>.

126 Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.

an overall numeric increase in participation of the Roma in education, and particularly in the lower secondary level of education, as well as a percentage increase¹²⁷.

In 2000, the number of Roma children attending early education programs was 1.713, representing approximately nineteen percent of all Roma in education¹²⁸¹²⁹ and approximately eight percent of the estimated population of Roma children between the ages of zero and five years old¹³⁰. Although this number increased marginally to 2.061 in the 2007/2008 academic year, representing approximately seventeen percent¹³¹ of all Roma children in education,¹³² the lack of data separated by age group renders impossible an accurate estimate of the percentage of Roma children attending early education programs within the zero to five age group.

Although there was a numeric increase of Roma students attending primary school from 5.100 to 6.801 between 2000 and 2008¹³³, there was no significant change in the percentage of Roma in primary school compared to the total number of Roma enrolled in state schools, which

127 *ibid*.

128 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

129 For the school year 1999/2000

130 This percentage is based on my own calculations using provided figures and population estimates.

131 Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.

132 For the school year 2007/2008

133 Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.

was fifty-six¹³⁴ and fifty-five percent¹³⁵ respectively. This group continues to constitute the largest percentage of Roma students.

The biggest increase, both in terms of raw figures and percentages, was seen at the lower secondary level of education. In 2000, 1.768 Roma students were enrolled at state schools at the level of lower secondary education, making up twenty percent of the total number of Roma students¹³⁶, nearly six percent of Roma at the compulsory school age¹³⁷ (six to fourteen) and four percent¹³⁸ of Roma aged six to eighteen. Statistics from 2007/2008 put the number of Roma enrolled in lower secondary education at state schools at 3.299, nearly double the number from the previous report¹³⁹. Out of the total number of Roma students, the percentage, in terms of distribution, of students enrolled at this level of education increased from twenty percent to twenty-seven percent¹⁴⁰.

134 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

135 Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.

136 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

137 This percentage is based on my own calculations using provided figures and population estimates.

138 This percentage is based on my own calculations using provided figures and population estimates.

139 Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.

140 *ibid*.

With an estimated eighteen to twenty-one percent of Roma minors enrolled at state schools in some level of education (from early education through upper secondary education) during the 2007/2008 school year¹⁴¹, it is clear that a vast majority of school-aged Roma children do not attend education, despite numerous international and national mandates on the issue. However, after the end of compulsory education, these numbers decrease rapidly and drastically. In 2000, only 401 of the 8.982 Roma students were enrolled in upper secondary education, representing just four percent of all Roma students¹⁴². By 2008, this number dropped to 181, despite an overall increase in the number of Roma students¹⁴³. This figure represents one percent of all Roma students and just 0,2%- 0,3%¹⁴⁴ of Roma children under sixteen years of age.

Results from a study completed in 2008 by the Italian Red Cross in the city of Rome, though limited in scope, mirror the statistics from the Ministry of Education¹⁴⁵. According to the Italian Red Cross, just thirty-two percent of Roma report having completed some level of education¹⁴⁶. Of those who had completed some level of education, eight percent reported having completed only primary education while twenty-three percent reported having completed a lower

141 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>

142 *ibid.*

143 *ibid.*

144 This percentage is based on my own calculations using provided figures and population estimates.

145 COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>

146 As this study included adults as well as children, the data may be skewed as some of the Roma children may be in the process of completing their education and plan to continue to achieve a higher level.

secondary education, and one percent reported upper secondary as their highest level of academic achievement¹⁴⁷. Additionally, the most recent statistics from the 2009/2010 academic year do not show any significant differences in participation of the Roma in education¹⁴⁸.

One particularly alarming statistic from the UNDP report suggests that in *no country* does the percentage of the Roma population having completed tertiary education exceed one percent¹⁴⁹. For several reasons, the results of this study may be misleading. Firstly, the statistic is based on research comprised of household surveys. Given that a majority of Roma live in periphery areas and impoverished settlements, Roma who have completed tertiary education are more likely to leave their communities and seek work in more populous and prosperous locations¹⁵⁰. Furthermore, well-educated Roma may be more disinclined to announce their Romani origins when surveyed, wishing rather to assimilate into the local population and avoid stigma¹⁵¹. According to data from the Roma Education Fund (REF), the number of scholarships more than doubled from 2005 to 2011, from 677 to 1490¹⁵²¹⁵³.

147 *ibid.*

148 Roma Education Fund, "Roma Inclusion in Italy: National education and employment strategies and actions." 2012. http://www.romaeducationfund.hu/sites/default/files/publications/report_ref_english.pdf.

149 UNDP Europe and the CIS Bratislava Regional Centre, "Roma Education in Comparative Perspective: Findings from the UNDP, World Bank, EC Regional Roma Survey." 2012. <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

150 *ibid.*

151 *ibid.*

152 *ibid.*

153 While this increase is certainly indicative of progress, it is also important to note that the REF operates in a limited number of countries in Europe and that (although scholarships provided by REF does not indicate the total number of Roma who attend and complete tertiary educational institutions) fifteen hundred students represents .002 of the estimated Roma population in Italy and Hungary alone, and even less of the percentage of Roma students in

Although Italy has a relatively low level of tertiary education attainment as compared to other OECD countries¹⁵⁴, the attainment rate of the general population anyway far exceeds that of the Roma in Italy, with fifteen percent of the population having completed tertiary education¹⁵⁵. This number jumps to approximately twenty percent when considering the education level of those aged twenty-five to thirty-four¹⁵⁶. In Hungary, the gap is still wider, with the rate of tertiary education attainment being approximately twenty-one and twenty-eight for the general population and those aged twenty-five to thirty-four respectively¹⁵⁷.

However, these statistics alone do not provide a full and accurate depiction of Roma participation and success in the Hungarian school system. Furthermore, these statistics are far from being indicative of a working system that provides Roma children the opportunity to access their right to education. As previously discussed, enshrined within the right to education is the right to an *effective* education¹⁵⁸, which has been interpreted to mean an adherence to the 4A scheme¹⁵⁹.

Despite a complex and intricate system of international treaties, mandates, directives, and all the countries in which REF operates combined. Ibid.

154 OECD, "Education Levels Rising in OECD Countries but Low Attainment Still Hampers Some." September 14, 2004. <http://www.oecd.org/education/educationlevelsrisinginoecdcountriesbutlowattainmentstillhamperssome.htm>.

155 *ibid.*

156 *ibid.*

157 *ibid.*

158 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, Article 2 of Protocol 1, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>

159 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, Article 13(2), 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

recommendations, as well as national framework and policies aimed at improving the situation of the Roma, both Hungary and Italy continue to deny Roma children the opportunity to access their right to education. Both countries have failed to effectively implement policies, even where such policies nominally exist, on a number of issues that would ensure that Roma children's rights are not being violated. Discrimination in educational settings, segregation, both purposeful and de facto, and a failure to take proactive measures can be found throughout both Italy and Hungary. Although both states share these traits in terms of institutional failures, each state engages in particular practices that fundamentally result in a violation of the right of Roma children to education.

Chapter 3: Cases

From the information presented in the previous two chapters, it is clear that there is a significant divide between the *de lege* situation of the Roma and the *de facto*. Before looking into the specific barriers that result in such a discrepancy, I would like to look at ECtHR cases as well as national cases. While ECtHR judgments are only binding to the Member States involved in the case¹⁶⁰, they can set precedent for future cases and can influence non-involved Member States. In the past decade, using public interest, or strategic, litigation has become a popular method of tackling Roma Rights issues, raising awareness, and acting as a catalyst for legal reform through setting new legal standards and building case law.

One question to consider when discussing strategic litigation is: to what extent does litigation have a positive and real impact on both the daily and long term experiences of the Roma? Although some Roma students may find justice in a court, many instances of rights violations do not make it to that level. Does this mean that those students whose cases do not see the inside of a courtroom do not benefit from the litigation of Roma Rights cases regarding educational rights? Maybe. Part of the goal of strategic litigation is to set legal precedence and build case law, which will aid in future cases. Another aspect is to raise awareness and create policy change, or legal reform where there is not an established legal, or where there are points on which to build an argument for reform or clarification. There are several clear cases where this goal has been successfully reached. Outlined below are two key ECtHR cases regarding anti-

160 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>

discrimination and segregation of Roma students through the practice of streaming Roma students into special education schools and two cases where Roma students had been physically segregated into different buildings or classrooms. When it comes to public interest cases, the issue of segregation of Roma students has been a strong focal point. More than any other factor related to Roma in education, physical segregation has been the claim of the violation of the right to education and anti-discrimination. As I have previously summarized both *D.H and Others vs. The Czech Republic* and *Horvath and Kiss vs. Hungary*, in another paper, I will use those summarizations here¹⁶¹.

*D.H. and Others vs. The Czech Republic*¹⁶²

In 2000, a group of 18 Romani students brought a complaint to the European Court of Human Rights, arguing that their assignment to special schools had resulted in having received a lower standard of education and represented discrimination¹⁶³. They claimed a violation of Article 14 of the European Convention on Human Rights in conjunction with Article 2 or Protocol 1. To this end, reports detailing systematic placement of Romani students in special schools disregarding their actual intellectual capacities¹⁶⁴.

After appealing to the Grand Chamber, the applicants received a favorable judgment; the Court ruling that there had in fact been a violation of Article 14, a landmark judgment. Firstly,

161 Moore, Ashley. *Ending Segregation of Romani Children in European Schools*.

162 CASE OF D.H. AND OTHERS v. THE CZECH REPUBLIC No. 57325/00 Judgment on 13/11/2007

163 European Roma Rights Center. "D.H. and Others v the Czech Republic." ERRC.org.
<http://www.errc.org/article/dh-and-others-v-the-czech-republic/3559>

164 *ibid*.

this decision represents the first time that the European Court of Human Rights has recognized systematic discrimination in public institutions. Secondly, the Court made an important clarification in stating that segregating students based on race does constitute discrimination¹⁶⁵.

Additionally, the Court referenced and clarified in its judgment several principles, particularly emphasizing the importance of effect. The Court also added that a violation of Article 14 might occur even where there is no direct intent to violate. Where the effect of discrimination occurs, regardless of intent and equally regardless of neutrality in legislation, a violation of Article 14 necessarily occurs. Lastly, the Court emphasized that the Roma hold a particular place in European society in terms of being vulnerable and disadvantaged, and therefore should be the subject of special protections. Although this case regarded solely students from the Czech Republic, the Court emphasized the fact that discrimination against Romani children in educational settings is widespread throughout Europe. The Court also noted the potential importance of statistics in such cases¹⁶⁶.

*Sampanis and Others vs. Greece*¹⁶⁷

In 2005, an *actio popularis* case was brought before the ECtHR by eleven parents of Roma students, all of whom were Greek nationals. According to the allegations of the claimants, the headteachers of two schools originally did not permit the parents to enroll their students in primary school. When they were permitted to enroll their children, protests by the parents of non-Roma students led to the physical segregation of Roma pupils into separate buildings. This,

165 *ibid.*

166 *ibid.*

167 *Sampanis and Others v. Greece* No. 32526/05 Chamber judgment on 05/06/2008

according to the applicants, was after having been pressured to sign a statement intimating that the applicant's wished for their children to be transferred. The students were subsequently educated in segregated buildings. The applicants claimed a violation of Article 14 (the anti-discrimination provision) in conjunction with Article 2, Protocol 1 (the right to education), as well as Article 13, the right to an effective remedy¹⁶⁸.

The Court found a violation of all three rights. In its judgment, the Court mentioned the racist nature of the protests outside the school at the beginning of the '05-'06 school year, stating that, while the State could not be held accountable for the actions of the protestors, "it could nevertheless be presumed that those incidents influenced the decision to place the pupils of Roma origin in an annex to the primary school"¹⁶⁹. At this point, the burden of proof shifted to the government to prove its actions were unrelated to race or ethnicity. In addition to rejecting the government's claims that their actions were consistent with their stated objectives, the Court also rejected the waiver signed by the parents as unacceptable¹⁷⁰.

*Horvath and Kiss vs. Hungary*¹⁷¹

In a recent case, decided in January of 2013, the European Court of Human Rights found in favor of two Roma Students claiming a violation of their right to education (Article 14), as well as a violation of the anti-discrimination provision (Article 2, Protocol 1) of the European

168 Ibid

169 Ibid.

170 *ibid*.

171 CASE OF HORVÁTH AND KISS v. HUNGARY No. 11146/11 Judgment on 29/01/2013

Convention on Human Rights¹⁷². The Court ruled that Hungary, on the basis of streaming Romani children into segregated schools for the mentally disabled, had violated the European Convention on Human Rights¹⁷³.

The arguments of the applicants, Mr. Horvath and Mr. Kiss, centered on their wrongful placement in special schools in Hungary, despite having no mental or intellectual disabilities. According to the applicants, the exams used when deciding their placement were both outdated and biased. Due to this bias, Romani students are unfairly more likely to end up in special segregated schools. This, they argued, amounted to both discrimination and a barring of access to their right to education. Both students, due to this segregation, were unable to pursue their respective career goals. As to whether this amounted to discrimination, the Court agreed that it did¹⁷⁴.

In its judgment, the Court noted that the issue of streaming Romani children into schools for the mentally or intellectually challenged reflected a long and widespread history of such discrimination in Hungary. It also highlighted the difficulty with which Romani students integrated into society after receiving an education at a special school¹⁷⁵.

172 European Roma Rights Center. "European Court of Human Rights Says State Parties Must Take Positive Measures Against Wrongful Placement of Romani Children in Special Schools." ERRRC.org. <http://www.errc.org/article/european-court-of-human-rights-says-state-parties-must-take-positive-measures-against-wrongful-placement-of-romani-children-in-special-schools/4089>

173 *ibid.*

174 *ibid.*

175 *ibid.*

The Court in this case was clear that states have a positive obligation to prevent such discrimination in educational settings and called on Hungary to implement changes¹⁷⁶.

*Orsus and Others v. Croatia*¹⁷⁷

This case, as with each of the aforementioned cases, deals with segregation of Roma students. Unlike the previous cases¹⁷⁸ however, the issue in Orsus is the segregation of Roma students within an integrated school building rather than the segregation of Roma students into a separate school or building. Fifteen students¹⁷⁹ claimed that they had attended Roma-only classes and had been made to leave school at age fifteen. They also submitted that the curriculum in the Roma-only classes was substantially lower than that of the mixed or non-Roma classes. The applicants also submitted evidence demonstrating only 16% of Roma students who had reached fifteen years of age had completed a primary school education, contrasted with the “general school population in Medimurje County”¹⁸⁰, which stood at 91% for the same school year. In at least five cases it was shown that the applicants did not understand or had a poor understanding of the Croatian language.

Although the first instance Court, the Court of Appeals, and the Constitutional Court dismissed the applicants’ claim, the Grand Chamber of the ECtHR found that there had been a

176 *ibid.*

177 CASE OF ORŠUŠ AND OTHERS v. CROATIA No. 15766/03 Judgment on 16/03/2010

178 “Previous” here refers to the order in which I listed the cases in this thesis, not the chronological order in which the cases were brought and/or concluded

179 During the proceedings, the first applicant withdrew his application, leaving fourteen

180 *Orsus and Others v. Croatia*, Application no. 15766/03, Para. 18 Council of Europe: European Court of Human Rights, 16 March 2010, available at: <http://www.refworld.org/docid/4ba208fc2.html>

difference in treatment regarding the applicants that could not be adequately justified by the Government¹⁸¹. The Court also found a lack of safeguards and failed to find that the measures taken were proportionate to the aim sought.

The first case mentioned, *D.H and Others v. The Czech Republic*, was of particular importance in establishing effect over intent in cases related to Article 14 of the ECHR. That is, the judgment specified that it was not necessary to have the intent to discriminate in order for discrimination to take place. This also shift the burden from the claimant to the government, meaning that instead of the claimant having to prove that there was a case of discrimination, the onus is on the government to prove that there was either no difference in treatment or that such a difference in treatment can be reasonably justified.

Kiss vs. Hungary tackled an important practical issue; the assessment tests administered to students before an expert panel decides to place the student in question into a special school or allows them to continue in a mainstream school. Administered in Hungarian, the test does not account for students whose first language is not Hungarian, nor does it accommodate underprivileged or disadvantaged students who may not have access to an environment conducive to acquiring the cognitive skills tested¹⁸². For example, a very poor student, especially a Roma student who may also have to face exclusions and unstable living conditions, may not be at the same intellectual level of a similarly aged peer. All this points to, however, is a lack of

181 *ibid*, para 158-162

182 White, Julia. "Pitfalls and Bias: Entry Testing and the Overrepresentation of Romani Children in Special Education." . http://www.romaeducationfund.hu/sites/default/files/publications/pitfalls-and-bias-screen_singlepages.pdf

resources, and not an inherent mental disability. The fact that Hungarian students who go through the special school system are restricted in their secondary school education choices and severely restricted in their future career choices (this will be discussed in the next chapter) makes the administration of fair and unbiased testing even more crucial as it is a decision that will affect the rest of a student's life, especially his or her opportunities down the road. In addition to making a clear statement that the Hungarian tests for special schooling are discriminatory towards Roma, the judgment also opens the door for further cases to be brought regarding Roma students and inherently biased policies or programs that are discriminatory. Furthermore, the Court noted that states must actively prevent discrimination from occurring.

While each of these cases contributed to case law and legal standards, perhaps *Kiss* and *D.H and Others* more so, it is difficult to say whether or not the judgments actually improved everyday conditions for Roma students. The students received monetary compensation but could not be awarded their lost education back. Conditions for Roma students across Europe continue to be substandard at best. Without an adequate enforcement mechanism, violating states can continue discriminatory practices with few, if any, consequences. In the section below, I will briefly address strategic litigation in national courts.

Hungary

In 2005, Chance For Children Foundation (hereinafter CFCF) brought a class action (*actio popularis*) claim against the city district of Miskolc, which CFCF alleged violated the

rights of Roma students by keeping them physically separated from other students. Miskolc had, prior to these allegations, implemented administrative changes to merge several schools with the stated intention of integrating students; effectively integrating segregated Roma schools on paper. However, although merged administratively and financially, the school buildings remained separate and the Roma students in the district were not given the right to switch schools or attend the schools where a majority of the students were non-Roma¹⁸³. The first instance court rejected the claims but the Debrecen Court of Appeals found in favor of the claimants¹⁸⁴. While the finding itself was considered a breakthrough being the first finding of a city or town guilty of racial discrimination and segregation¹⁸⁵, the effects beyond the novelty of the ruling are less clear. The Court ordered that the decision be published in Hungarian newspapers but did not order the city to end the segregation¹⁸⁶. Ultimately, the city ordered the school to close only in 2010, three years after the CFCF brought a second claim; this one of failing to take action following the 2006 decision¹⁸⁷.

183 Farkas, Lilla. "Appeal Leads to Victory for the Roma in Miskolc." CHALLENGE. July 17, 2006. <http://www.libertysecurity.org/article1042.html>.

184 Goldston, James, and Mima Adjami. *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe*. 36, 37.

185 "Case Law - Hungary / Debreceni Ítéletábla - IH 2006.115." FRA. <http://www.raxen.fra.europa.eu/InfoPortal/caselawFrontEndAccess.do?id=64>.

186 Goldston, James, and Mima Adjami. *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe*. 37.

187 Farkas, Lilla. "LIMITED ENFORCEMENT POSSIBILITIES UNDER EUROPEAN ANTI-DISCRIMINATION LEGISLATION – A CASE STUDY OF PROCEDURAL NOVELTIES: ACTIO POPULARIS ACTION IN HUNGARY." *Erasmus Law Review* 3, no. 3 (2010): 191.

Since the Miskolc case, CFCF's first class action case, CFCF has successfully litigated against several other Hungarian municipalities with somewhat more positive results¹⁸⁸. With several strategic litigation groups focused on Hungary and Central Europe in general, strategic litigation may prove to be an effective tool for change.

Italy

Unfortunately in Italy there has not been as of yet a case in the national court system regarding Roma students¹⁸⁹ and the right to education. However, given Italy's notoriously lengthy court proceedings and backed-up docket, strategic litigation would be an excruciatingly long process and perhaps less efficient than other methods at introducing real on-the-ground change of discriminatory practices in education.

As strategic litigation for Roma rights, particularly the right to education, has only fairly recently gained momentum, it is difficult to judge the effectiveness of the method. However, some challenges to the method are clear. In a draft essay for the ABA World Justice Forum entitled *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe*, James Goldston and Mima Adjami identify several key issues faced by organizations and lawyers attempting to engage in public interest litigation on behalf of Roma. Firstly, there is a lack of awareness among Roma

188 Ibid.

189 This comes from no one particular source but rather a failure to find any case related to Roma and education in Italian national courts

regarding their rights and courses of action available to them in cases of rights violations. Secondly, there is a strong sentiment of distrust in public institutions, which can prevent Roma from seeking redress in court. Other limiting factors include the investment of the proceedings, in terms of both the time and money necessary, and a lack of human resources and human capital¹⁹⁰.

In spite of the growing popularity of public interest litigation, few groups are dedicated to litigating on behalf of the Roma. Two well known groups include the ERRC which litigates across Europe on various Roma issues, the Chance for Children Foundation which focuses on educational discrimination in Hungary. While there are others, the list is limited. Furthermore, as Goldston and Adjami note, pro bono work is not a tradition in most European countries, which means that Roma and Roma Rights organizations must rely on donations¹⁹¹. In addition, organizations can run into administrative difficulties as some municipalities have ordinances that restrict who may offer legal aid or representation¹⁹². Even when the court finds a violation in favor of the claimants, the result is not always satisfactory. For example, monetary compensation cannot reverse months or years of segregated or unequal schooling and the lifelong consequences that result from discrimination. Additionally, in some cases the discriminatory practices continue after the finding of a violation (see Miskolc case later in the chapter) or in the case of new legal standards set in the ECtHR, it can take a significant amount of time for states to implement the changes. A lack of adequate remedies and enforcement mechanisms following court judgments is

190 Goldston, James, and Mima Adjami. *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe*.

191 Ibid.

192 "Controversie in Materia Di Diritti Umani per La Tutela Dei Rom: Una Guida per Avvocati." UNAR. July 1, 2014. .

one of the barriers faced by Roma students in accessing their right to education. In the next chapter, I will discuss other barriers to access faced by Roma students in Italy and Hungary, many of which are similar to barriers faced by Roma students throughout Europe.

Chapter 4: Barriers to Access

The European Commission, particularly since the turn of the century, has called on states to cease the harmful practices of segregation. In spite of a comprehensive and detailed international framework protecting human rights and marking the Roma as a group to be particularly taken care of, in addition to national framework and policies, Roma children across Europe continue to face challenges in accessing their right to education. There is a lack of effective implementation of policies by Member States, as well as failure to implement international obligations. Discrimination in educational settings, segregation, both purposeful and de facto, and a failure to take proactive measures can be found throughout Europe. Educational segregation has a serious negative impact on levels of educational achievement and attainment and the effects last long after schooling ends. Attending remedial schools can furthermore in many countries preclude participation in certain vocational schools or upper secondary levels of education, which in turn negatively impacts future economic gains. One study by the World Bank looked both at the cost of exclusion in education to the individual and to the state. The study, using a conservative estimate, indicated annual losses from €289 million¹⁹³ in Serbia to over a billion in Romania¹⁹⁴¹⁹⁵. For Roma individuals, the study found that higher educated individuals earned between 52% and 144% more, although the study did not

193 Combined economic and fiscal

194 Combined economic and fiscal

195 "Economic Costs of Roma Exclusion." World Bank.
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTROMA>

specify whether this is an annual percentage or a lifetime percentage¹⁹⁶.

Although the situation for Roma is improving in some places, it is becoming worse in others¹⁹⁷. Policies aimed at integration, whether from physically segregated classes or buildings, or in integrating students back into mainstream schools from special schools, are not always being effectively implemented and states are failing to take preventative measure to protect Romani children from segregation in schools. Additionally, there is a lack of effective projects with focused and economically secure initiatives aimed at basic support such as transportation, school supplies, awareness-raising, and parental involvement.

Another factor to consider is the educational achievement of the Roma students' parents, as well as their socio-economic status. A report by Gabor Kertesi and Gabor Kezdi, entitled *Roma children in the transformational recession: Widening ethnic schooling gap and Roma poverty in post-communist Hungary*¹⁹⁸ details a comprehensive study completed in Hungary in the nineties which compares educational attainment of Roma students versus non-Roma as well as the educational attainment of the students' parents. According to this study, the children of parents with low educational attainment are more likely to have low educational attainment themselves. The study calculates that Roma families in which the parents are less educated are 13% more likely to have no children who attain more than a primary education. The study also shows that higher than 80% of all Roma families living in Hungary have parents whose

196 Ibid.

197 *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*. Budapest: European Roma Rights Center, 2004.

198 Kertesi, Gabor. "Roma Children in the Transformational Recession - Widening Ethnic Schooling Gap and Roma Poverty in Post-communist Hungary." EconPapers. June 17, 2008.

educational attainment is lower than a secondary degree or vocational school¹⁹⁹. In terms of economic status, *Roma children in the transformational recession* found that financial wellbeing has an even greater impact than parental education²⁰⁰. For Roma who live in poverty, which constitutes the majority of Roma families in both Hungary and Italy²⁰¹²⁰², the likelihood that the students will stop attending school after the 8th grade is 44% higher than for those Roma families who are not impoverished²⁰³.

In fact, poverty is probably one of the largest contributors to barriers faced by the Roma. Part of the current legal framework guiding educational policies specifies that in order to fulfill the obligation to respect the right to education, states must provide at least primary education free of charge²⁰⁴. This, however, does not extend to other costs associated with education, which may be not insubstantial. Schools may charge fees for services such as meals, textbooks, and uniforms. For many Roma families living in both Italy and Hungary, these costs are prohibitive given the level of poverty among the Roma. As previously discussed, there are policies in place to aid impoverished or disadvantaged families, through financial incentive programs or family allowances. However, not all Roma families are part of these programs, and

199 Ibid, p. 20

200 Ibid.

201 "Roma Data." UNDP in Europe and Central Asia.
<http://www.eurasia.undp.org/content/rbec/en/home/ourwork/povertyreduction/roma-in-central-and-southeast-europe/roma-data/>.

202 Strati, Filippo. "Promoting Social Inclusion of Roma A Study of National Policies." Cestim. July 1, 2011.

203 Kertesi, Gabor. "Roma Children in the Transformational Recession - Widening Ethnic Schooling Gap and Roma Poverty in Post-communist Hungary." EconPapers. June 17, 2008.

204 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>

those who are likely experience difficulties in affording other related materials such as clothing. Poverty can also affect the age until which Roma students attend school, as they may prefer or be requested to drop out at the earliest possible age to begin working and contributing to family income. As mentioned in *Roma and Travellers in Public Education*, Roma families may not connect the idea of educational achievement to future socio-economic success²⁰⁵. This could be due to the fact that Roma are often excluded from employment regardless of their educational attainment, which would result in a lower level of importance being attached to educational attainment in general, and increase the likelihood of education being seen as a waste of time which could otherwise be spent on vocational training or working. According to *Roma children in the transformational recession*, living in impoverished conditions raises the likelihood of parents not sending their children to school past the compulsory age by 48%, and 44% if the living conditions are judged to be poor by observers²⁰⁶.

Transportation and simple access to schools often pose a problem to Roma students who would otherwise attend schools. Although access is part of the 4A scheme and considered necessary for a state to uphold the right to education, access remains a, sometimes insurmountable, obstacle for Roma students. Often forced to live on the peripheries of cities, transportation to school is oftentimes difficult to obtain, sometimes impossible. Roma students face a lack of busses or other access to public transportation and it is unlikely that Roma own a personal vehicle. Schools that are built on peripheries or in close proximity to Roma camps are often directed specifically towards the Roma population. Due to many factors, including poorer

205 "Roma and Travellers in Public Education An Overview of the Situation in the EU Member States." Europa.eu. May 1, 2006.

206 Kertesi, Gabor. "Roma Children in the Transformational Recession - Widening Ethnic Schooling Gap and Roma Poverty in Post-communist Hungary." EconPapers. June 17, 2008

infrastructure, fewer resources, and less care, the education Romani students receive in these schools is substandard compared to that of their non-Romani classmates in non-segregated or mainly non-Romani schools²⁰⁷. These schools are less well equipped than regular schools, have fewer teachers, and the teachers of these schools often have lower or non-existent teaching qualifications. In most cases, these schools do not fulfill the “acceptable” section of the 4A scheme. These schools are lower in quality and unable to provide students with an appropriate and acceptable level of education. Furthermore, these schools are often segregated²⁰⁸. Whether intentional or not, schools that are located close to Roma camps tend to have a majority or Roma students or be Roma-only. Since intentionality is irrelevant in determining whether or not a violation has occurred, these schools violate Roma students’ right to education.

Even in cases where Roma families overcome the obstacles of poverty and transportation to send their children to school, once there Roma students are faced with a number of other serious issues that negatively impact their educational experience, in some cases making it impossible for the student to continue. Roma students whose parents do not have access to electricity or clean water, which is the situation for nearly all Roma living in camps, which is a serious problem for Roma living in unauthorized camps or settlements, are often unable to come to school clean, or with clean clothing. In some cases, students lack basic necessities such as shoes or jackets in the winter. Roma parents faced with the prospect of sending their children to

207 European Roma Rights Center . "Segregated Schooling of Roma in Central and Eastern Europe . "

[http://www.google.hu/url?](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

[sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

[%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

[%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

208 Rostas, Iulius, and Joanna Kostka. "Structural Dimensions of Roma School Desegregation Policies in Central and Eastern Europe." *European Education Research Journal* 13, no. 3, 268-81.

school in such a condition often feel embarrassed or ashamed and would prefer to keep their children at home for that reason. However, the problem is not only with the parents of Roma students. Both classmates and teachers alike represent a source of harassment for Roma students who show up to class unclean or lacking supplies²⁰⁹. Aside from being bullied, students risk facing discrimination and ill treatment from teachers as well. This may be due to personal bias and discrimination against the Roma or it could be out of fear of losing their non-Roma students. This is because Roma students also face discrimination from the parents of non-Roma students with whom they attend class. In some attempts to integrate Roma students into non-Roma schools, the parents of the non-Roma children have pulled their children out of school and put them into other non-integrated schools²¹⁰. This results in the regular school becoming a de facto segregated school and necessitates the process beginning over again.

The integration of Roma students into mainstream, desegregated schools is not the end of the line. Although many Roma are fluent in the language of the country in which they reside, particularly if they are citizens, permanent residents, or have lived in the country for years or generations as irregular residents, many other Roma do not. Even Roma who have lived in their country of residence their entire lives do not necessarily speak the language, being segregated and under-educated²¹¹. This issue also impacts Roma who are migrants or refugees and who do not speak the local language. When students are entering school and are not proficient in the language of instruction, it is heavily detrimental to their current and future

209 Negrin, Katy. "The Curse of Low Expectations." Open Society Foundations. December 18, 2007

210 "Report of the Conference on the Harmonisation of Teaching Materials in Romani Language, 2003." Council of Europe. January 1, 2003.

211 Tanner, Arno. "The Roma of Eastern Europe: Still Searching for Inclusion." Migrationpolicy.org. May 1, 2005.

academic and employment prospects. In addition to not being able to understand lessons, complete homework, or pass exams, students may also suffer psychologically due to being constantly unable to succeed. In Hungary, it also puts a student at risk for being put into special schools, where their future job prospects are significantly lower, along with the probability of completing secondary education, as was previously discussed.

Hungary

Physical segregation

There are several ways in which this type of segregation can come to be. One way is through physical proximity to Roma camps or settlements that are often located on the peripheries of towns and cities, and that are located far away from mainstream schools.²¹². In cases where Roma students attend integrated, or non-Roma schools, parents of non-Roma children might object to the presence of Roma students and refuse to integrate Roma students, preferring instead to switch their own children into a different school.²¹³. Furthermore, despite the illegality of the action, some schools refuse to admit Roma students, forcing them to attend whatever school will accept them. Oftentimes, the schools that end up accepting these students

212 European Roma Rights Center . "Segregated Schooling of Roma in Central and Eastern Europe ." .
[http://www.google.hu/url?](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLotQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

[sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLotQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms](http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLotQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_tXxd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms)

213 *ibid.*

are those with an already high proportion of Roma students²¹⁴. Even when Roma students enroll in and attend mixed or integrated schools, there is a chance that they will be physically segregated from the non-Roma students, studying in separate classrooms or wings of the school.

Streaming of Romani children into special education

For a vast majority of children, once they enter the special school system there is no way out. Students who have remedial or special education are often prohibited from re-entering the mainstream school system²¹⁵. Their future prospects are changed for the rest of their lives, and they will always lack opportunities granted to students who attended mainstream schools. In most cases, students are unable to pursue their interests or goals due to the admissions restrictions to secondary education or vocational training for students who had attended remedial schools²¹⁶. This restriction isolates Roma students and may discourage them from completing their education. As mentioned above, it also precludes them from enjoying the employment and economic benefits of someone who has completed a mainstream education. For the rest of their lives, they suffer more socially and economically than they otherwise may have had they not been barred from completing their education in a mainstream school.

One of the primary problems regarding this type of segregation is the assessment tests

214 *ibid*.

215 White, Julia. "Pitfalls and Bias: Entry Testing and the Overrepresentation of Romani Children in Special Education." . http://www.romaeducationfund.hu/sites/default/files/publications/pitfalls-and-bias-screen_singlepages.pdf

216 European Roma Rights Center. "European Court of Human Rights Says State Parties Must Take Positive Measures Against Wrongful Placement of Romani Children in Special Schools." ERRC.org. <http://www.errc.org/article/european-court-of-human-rights-says-state-parties-must-take-positive-measures-against-wrongful-placement-of-romani-children-in-special-schools/4089>

that help determine whether or not a student should be placed in a special school²¹⁷. The assessment tests do not account for other types of disadvantage that a Romani child might have experience that could account for a lower score without necessarily reflecting diminished mental capacities²¹⁸. These could include a lack of access to early childhood education, books, toys, or other types of mental stimuli that enable children to perform well on the assessment. This deficiency in resource however is not necessarily indicative of a mental deficiency²¹⁹. In fact, one study from the UK showed that when provided with opportunity and resources, Romani children whose initial scores may have indicated the need for placement in remedial schools have shown to integrate and flourish in UK's mainstream schools²²⁰.

Italy

Forced Evictions

In Italy, access to schools can pose a problem to Roma families even before the beginning of compulsory schooling. In order to enroll in preschool, many preschools (known as asilo nido), require residency or other forms. For many Roma families, this is a requirement that cannot be

217 White, Julia. "Pitfalls and Bias: Entry Testing and the Overrepresentation of Romani Children in Special Education." . http://www.romaeducationfund.hu/sites/default/files/publications/pitfalls-and-bias-screen_singlepages.pdf

218 *ibid.*

219 *ibid.*

220 Fremlova, Lucie. "From Segregation to Inclusion: Roma Pupils in the United Kingdom A Pilot Research Project." .http://www.romaeducationfund.hu/sites/default/files/publications/ref_uk_report_nov2011_screen_singlepages.pdf

fulfilled. This is a particular problem for Roma families who have migrated to Italy in recent years as refugees or otherwise, but can also impact Roma families who have been in the country for generations and who have never become regular permanent residents or citizens, despite fulfilling the qualifications required to do so. As previously mentioned, preschool education is widely (though recently) understood as playing an important role in early childhood development and education. Aside from the social importance of interacting with other children, preschool education helps children develop the cognitive skills and abilities that will prepare them for future academic success²²¹. This is especially important in the case of the Roma, who often live in marginalized conditions and whose poverty and living conditions preclude an abundance of stimuli for children in the form of games, toys, books, and other materials. Studies have shown that children who have access to these things tend to achieve more academically²²². When children are barred from accessing this important part of their education, the consequences can be lower academic success, especially in comparison to their peers, but it can also prevent a young student from having adequate access to stimulating material necessary for cognitive growth. In this way, barring Roma from enrolling in preschools based on an inability to comply with administrative requirements is not only a direct violation of their right to education but it also negatively impacts any education they receive afterwards.

Forced evictions severely disrupt a student's education, causing students to lose months or even years of schooling. During these forced evictions, many families lose everything they have, given little or no time to collect personal belongings before being ousted from their

221 Diamond, Adele, W. Steven Barnett, Jessica Thomas, and Sarah Munro. "Preschool Program Improves Cognitive Control." National Center for Biotechnology Information, National Institute of Health. November 30, 2007.

222 Ibid.

homes. This includes items such as clothes, notebooks, books, and other study materials²²³. Although forced evictions are supposed to result in resettlement for Roma families, most cases result in disbandment and destruction of camps and homes with orders to abandon the premises. In either case, students are faced with a loss of their study materials. Despite calls to end forced evictions, Italian state authorities continue to forcibly evict Roma on a regular basis²²⁴. While not the country with the highest number of forced evictions, forced evictions in Italy are severe. Evictions normally occur without notice and Roma are ordered to leave while their homes are being destroyed. These evictions happen even in the middle of winter, many families left homeless in harsh conditions²²⁵. The government has also resorted to less direct, but no less violent, methods of forced eviction, such as forcing a Roma community to move by shutting off their only water supply during the hottest month of the year²²⁶. When families do resettle, it is often in a different location that renders attending the same school as before impossible. Since many schools have regulations dictating when students may transfer and how much they are allowed to miss, there is potential for Roma students to miss even more school. For example, Roma students may not be allowed to register at a new school until the following year. In other cases, they may not be allowed in the grade that reflects their age group but may instead be considered scholastically at the level of non-Roma students much younger than themselves. This can discourage Roma students further and cause them to simply drop out of school rather than face

223 Renzi, Laura. "Roma People in Europe: A Long History of Discrimination." Roma People in Europe: A Long History of Discrimination. February 20, 2011.

224 Renzi, Laura. "Roma People in Europe: A Long History of Discrimination." Roma People in Europe: A Long History of Discrimination. February 20, 2011.

225 Centre on Housing Rights and Evictions (COHRE) v. Italy Complaint n° 58/2009 06/11/2009

226 "Italy: Torino Municipality Shuts off Water Supply near Roma Camp." - ERRC.org. August 12, 2013.

humiliation, and bullying at school. Roma students may also drop out of school to help their families or because they do not have the necessary supplies to be able to attend class, which can cause or add to bullying, stigma, and discrimination within schools, by both classmates and teachers²²⁷.

In both Italy and Hungary, there is a lack of political will on the part of the state. Without this, it is inconceivable that legislation will be followed or that policies will be effective. Political will is necessary to begin changing the way communities and states view and treat the Roma communities, and significantly impacts how policies are implemented and laws followed. In both Italy and Hungary, racism is alive and well, condoned by the government and in some cases, promoted by it²²⁸. Despite promises made to the international community, neither Italy nor Hungary appear to making strides in the direction of improving conditions for Roma residents. In fact, Hungary has arguably regressed in recent years²²⁹. Italy continues to order forced evictions of the Roma and to condone actions that threaten entire communities. Roma students in Italy face blatant racism, violence, and threats within the general population. Forbidden inside cities, Roma camps must be located far away from schools, hospitals, and other basic services. In addition to forcibly evicting entire communities, sometimes in excess of three hundred individuals, Italian authorities fail to relocate these communities a majority of the time, leaving them homeless. Members of the Italian government have openly and publicly made racist comments that fuel the

227 Negrin, Katy. "The Curse of Low Expectations." Open Society Foundations. December 18, 2007

228 Lawal, Adetola. "Berlusconi's Frighteningly Successful Racism." The Stanford Progressive. January 1, 2009.

229 "Accelerating Patterns of Anti - Roma Violence in Hungary." Harvard.edu. February 4, 2014.
http://fxb.harvard.edu/wp-content/uploads/sites/5/2014/02/FXB-Hungary-Report_Released-February-4-2014.pdf.

ill treatment of Roma and implicitly condone the racism of the general population²³⁰. This attitude of casual and accepted racism in the field of politics as well as within the general population allows institutional racism to continue and allows individuals to subvert the laws and policies in place to protect Roma rights.

230 Lawal, Adetola. "Berlusconi's Frighteningly Successful Racism." The Stanford Progressive. January 1, 2009.

Conclusion

The right to education is not only enshrined in legally binding international treaties, but also it is elaborated, defined, discussed, and resolved many times over. Italy and Hungary have signed and ratified legally binding documents, promising therein to align their national legislation and policies with their international obligations. Both countries have, at least on paper, recognized the importance of directing attention, policymaking, and financial support towards integrative and inclusionary programs for Roma students. With nearly over seventeen billion euros allocated to Roma-oriented programs and initiatives so far²³¹ part of which is dedicated to working on educational issues, as well as the ability of both Italy and Hungary to financially address inequality and integration, it can be said that the barriers are neither legal nor due to a lack of available funds. Rather, the barriers facing Roma students in the 21st century are primarily social, political, and economic in nature, and I argue that the economic situation of the Roma primarily arises from social and political causes.

Throughout my research, I have identified three fundamental causes of the continued exclusion, racism, and stigma attached to the Roma, and therefore causes also of barriers to education; a lack of political will that includes government condoned racist rhetoric, forced evictions and exclusion from secure housing and a lack of accountability or enforcement mechanisms. From these three primary issues spring the conditions that continue the cycle of poverty and exclusion of the Roma and result, either advertently or inadvertently, in violations of

231 *Not just programs aimed at education "European Commission - PRESS RELEASES - Press Release - Roma People Living in the EU: Frequently Asked Questions." European Commission - PRESS RELEASES - Press Release - Roma People Living in the EU: Frequently Asked Questions. August 25, 2010. http://europa.eu/rapid/press-release_MEMO-10-383_en.htm.

the right to education of Roma students. Furthermore, these issues are not exclusive to Italy and Hungary, each of which experiences different manifestations of these issues, but rather they apply broadly throughout Europe.

Without the political will of both the government and the population, a change in mindset, behavior, and attitudes regarding the Roma is implausible, particularly in the short term or near future. The situation is almost a Catch-22; in order for the attitudes of the non-Roma population to significantly shift away from stigmatization and exclusion, there would likely have to be a higher number of positive interactions with Roma populations coupled with an increase of education and awareness regarding the Roma and Roma culture. For this to happen, however, there likely needs to be a shift in the attitudes of the population, which ultimately influences the exclusion and stigmatization of the Roma. International pressure and judgment from other European countries could in theory provide enough motivation for Italy and Hungary to begin adopting more progressive politics and practices, however given the current climate of anti-Roma racism prevalent throughout Europe, this seems unlikely. Currently there is little political will in Europe generally, and almost no pressure to change the way states treat and engage with Roma populations. NGOs, INGOs, international bodies, and inter-governmental bodies do work to put pressure on states and work through programs, campaigns, advocacy, legal aid, and strategic litigation, but without strong enforcement mechanisms in place, states do not have much incentive to respond.

The key here is involving more Roma at the level of policy-making as well as having more Roma parents involved with their children's education and local school system. It will also be key to prevent as much as possible and to prepare for and deal with the backlash that may

come from the parents of non-Roma students. There also needs to be a stronger support system in place for Roma parents, many of whom may not be equipped to offer their children extra scholastic support at home due to have attained a low level of education themselves. Fostering an environment of respect and participation could go a long way in building positive relationships between Roma and non-Roma communities and developing a reciprocal sense of trust.

As long as forced evictions continue to occur, and as long as Roma are excluded from secure and permanent housing, the educational attainment of Roma students will remain low. The use of the nomadic or traveller stereotype as an excuse to continue these practices further exacerbates the problem and implicitly condones the use of factually inaccurate assumed characteristics as a guide for exclusionary educational policies. Forced evictions of Roma families and communities result in property loss, interruption of education, physical relocation and often the need to switch schools, and create a situation that makes continuing education a difficult or impossible feat. Families forced to relocate face administrative challenges when registering for new schools, de facto segregation, and mental and emotional stress that make completing basic educational requirements difficult. This can, at varying ages and levels, inhibit language learning, cultural adaptation or understanding, scholastic progression in areas such as reading and math, and being able to achieve at a similar level as peers.

The lack of accountability finds expression on multiple levels. While policies may be national, local authorities and competent bodies within the community generally put them into practice on a local level. When educational policies, such as placing special needs children into special schools, are misused for discriminatory purposes such as streaming Roma children into segregated educational institutions, it is the responsibility of local authorities to take action.

Whether this action is issuing warnings, introducing sanctions, informing national authorities, or beginning court proceedings, steps must be taken to address the violation. Although there are NGOs and other non-profits or government bodies whose mandate or mission it is to bring attention to and ultimately stop or reverse educational discrimination against the Roma, there are simply not enough groups to deal with the number of violations that occur.

In some cases, instances where Roma students' right to education is violated cannot be easily remedied on a local level, either because the problem itself is not localized or because the local authorities cannot or will not take measures. In these instances, the state authorities should take steps to addressing and correcting the violation, whether through sanctions, orders to cease the problematic program or issue, creating new inclusionary policies, changing legislation, or engaging other methods. In both Italy and Hungary, countries that have agreed to abide by the ECHR, ICERD, CRC, and other treaties, state authorities either fail to take action or address the violation inadequately. In countries where politicians make openly racist statements and authorize life-threatening measures to ensure segregation, this is not surprising.

Even when the international community or NGOs, such as Amnesty International, condemn the acts, or the failures to act, of states, there is no effective enforcement mechanism. States may be brought to the European Court of Human Rights but the judgment, even if in favor of the claimants, although it is legally binding, is too often the end of the matter. If a state chooses to continue practices or policies that violate a Roma students right to education there is, practically speaking, no way to enforce a decision by the European Court of Human Rights. The international community can continue to condemn or pressure the state to implement changes but more often than not, cases will not even reach the European Court of Human Rights or the level

of the international community. Oftentimes, NGOs and INGOs are the only bodies dedicated to implementing real change and breaking down the barriers that face Roma students.

The educational rights of the Roma will be in jeopardy as long as racist and exclusionary practices are allowed to continue unsanctioned and largely unchecked. Social and economic exclusion keep Roma communities in poverty and also negatively impact their access to basic services such as clinics and services. Poverty and physical exclusion and segregation of the Roma often result in lack of or lowered access to sanitary services. Evictions and decreased home stability lead to forced transitory or nomadic lifestyles. These in turn play into and exaggerate the already stigmatized stereotypes and notions regarding the Roma.

Bibliography

- "Accelerating Patterns of Anti - Roma Violence in Hungary." Harvard.edu. February 4, 2014.
http://fxb.harvard.edu/wp-content/uploads/sites/5/2014/02/FXB-Hungary-Report_Released-February-4-2014.pdf.
- "Case Law - Hungary / Debreceni Ítéletábla - IH 2006.115." FRA.
<http://www.raxen.fra.europa.eu/InfoPortal/caselawFrontEndAccess.do?id=64>.
- "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Framework for National Roma Integration Strategies up to 2020." EUR-Lex.
<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52011DC0173>
- "Controversie in Materia Di Diritti Umani per La Tutela Dei Rom: Una Guida per Avvocati." UNAR. July 1, 2014. <http://www.unar.it/unar/portal/wp-content/uploads/2014/11/14-09-29-Guia-Modelo-ABOGADOS-rojo-Italiano-web.pdf>.
- "DECISION No. 6/08 ENHANCING OSCE EFFORTS TO IMPLEMENT THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA." OSCE. December 5, 2008.
- "DECISION No. 8/09 ENHANCING OSCE EFFORTS TO ENSURE ROMA AND SINTI SUSTAINABLE INTEGRATION." December 2, 2009.
<http://www.osce.org/cio/40707?download=true>.
- "Economic Costs of Roma Exclusion." World Bank.
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTRAOMA>
- "ECRI Report on Italy (fourth Monitoring Cycle)." European Commission Against Racism and Intolerance. February 21, 2012.
- "Education and the 4 As." Welcome to the Homepage of the Right to Education Project.
<http://r2e.gn.apc.org/node/226>.
- "Education Statistics." - Statistics Explained.
http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Education_statistics#Pre-primary_education.
- "European Commission - PRESS RELEASES - Press Release - Roma People Living in the EU: Frequently Asked Questions." European Commission - PRESS RELEASES - Press Release - Roma People Living in the EU: Frequently Asked Questions. August 25, 2010. http://europa.eu/rapid/press-release_MEMO-10-383_en.htm.
- "Italy: Torino Municipality Shuts off Water Supply near Roma Camp." - ERRC.org. August 12, 2013.
- "NATIONAL STRATEGY FOR THE INCLUSION OF ROMA, SINTI AND CAMINANTI COMMUNITIES - EUROPEAN COMMISSION COMMUNICATION No.173/2011." European Commission. February 28, 2012.

- "Recommendation 563 (1963) on the situation of Gypsies and other travellers in Europe."
Council of Europe Parliamentary Assembly. Adopted 30 September 1969.
- "Recommendation CM/Rec(2009)4 of the Committee of Ministers to Member States on the Education of Roma and Travellers in Europe." Council of Europe. January 1, 2009. <https://wcd.coe.int/ViewDoc.jsp?id=1462637>.
- "Report of the Conference on the Harmonisation of Teaching Materials in Romani Language, 2003." Council of Europe. January 1, 2003.
- "Right to Education." Human Rights Education Associates. http://www.hrea.org/index.php?base_id=144.
- "Roma and Travellers in Public Education An Overview of the Situation in the EU Member States." Europa.eu. May 1, 2006.
- "Roma Data." UNDP in Europe and Central Asia.
<http://www.eurasia.undp.org/content/rbec/en/home/ourwork/povertyreduction/roma-in-central-and-southeast-europe/roma-data/>.
- "The Dakar Framework for Action." UNESCO. January 1, 2000.
- "TOWARD AN EQUAL START: CLOSING THE EARLY LEARNING GAP FOR ROMA CHILDREN IN EASTERN EUROPE." p. 21. The World Bank. June 4, 2012.
- "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-hungary.html>.
- "University of Minnesota Human Rights Library." University of Minnesota Human Rights Library. <http://www1.umn.edu/humanrts/research/ratification-italy.html>.
- 1970 Workers' Act, Art. 15
- Act CXC of 2011 on National Public Education
- Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities
- András , Kádár. European Network of Legal Experts in the Non - discrimination Field,
"European network of legal experts in the REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011 HUNGARY." January 1, 2012.
- AngloInfo: The Global Expat Network, "Education and Schooling in Italy."
<http://italy.angloinfo.com/family/schooling-education/>.
- Boocock, Sarane Spence. "Early Childhood Programs in Other Nations: Goals and Outcomes."
The Future of Children 5, no. 3 (1995): 100-03.
http://futureofchildren.org/futureofchildren/publications/docs/05_03_04.pdf.
- Bormioli, Simonetta, Angela Tullio Cataldo, and Massimo Colombo. "Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in Italy in 2012 and 2013." Associazione 21 Luglio. 2014.
- Case "relating to certain aspects of the laws on the use of languages in education in Belgium" No. 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; [2126/64](#) ECHR 1968
- CASE OF D.H. AND OTHERS v. THE CZECH REPUBLIC No. 57325/00 Judgment on 13/11/2007
- CASE OF HORVÁTH AND KISS v. HUNGARY No. 11146/11 Judgment on 29/01/2013
- CASE OF ORŠUŠ AND OTHERS v. CROATIA No. 15766/03 Judgment on 16/03/2010
- Centre on Housing Rights and Evictions (COHRE) v. Italy Complaint n° 58/2009 06/11/2009
- Constitution of the Italian Republic*, 22 December 1947

Constitution of the Republic of Hungary 25 April 2011

COSPE - Cooperazione per lo Sviluppo dei Paesi Emergenti , "COSPE NATIONAL FOCAL POINT - ITALY Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005." <http://www.cirdi.org/wp/wp-content/uploads/2011/01/IT-Special-study-on-trends-on-racism-and-xenophobia-italiano.pdf>.

Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, para 25. 29 June 2000.

Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>

Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9, available at: <http://www.refworld.org/docid/3ae6b38317.html>

Council of Europe: Committee of Ministers, *Recommendation No. R (2000) 4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe*, 3 February 2000, R (2000) 4 , available at: <http://www.refworld.org/docid/469e04c02.html>

D.P.R 10/9/1982 No. 722

Diamond, Adele, W. Steven Barnett, Jessica Thomas, and Sarah Munro. "Preschool Program Improves Cognitive Control." National Center for Biotechnology Information, National Institute of Health. November 30, 2007.

European Roma Rights Center . "Segregated Schooling of Roma in Central and Eastern Europe ." . http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGcQFjAJ&url=http%3A%2F%2Fcms.horus.be%2Ffiles%2F99935%2FMediaArchive%2Fpdfevents%2Fsavelina_danova.ppt&ei=UT5NU_m1KoLOtQacgYGICA&usg=AFQjCNERrx3MGBhJ4Zujded_txXd6p6nKw&sig2=SsFB8aC43stZHG_O2HC8VA&bvm=bv.64764171,d.Yms

European Roma Rights Center. "D.H. and Others v the Czech Republic." ERRC.org. <http://www.errc.org/article/dh-and-others-v-the-czech-republic/3559>

European Roma Rights Center. "European Court of Human Rights Says State Parties Must Take Positive Measures Against Wrongful Placement of Romani Children in Special Schools." ERRC.org. <http://www.errc.org/article/european-court-of-human-rights-says-state-parties-must-take-positive-measures-against-wrongful-placement-of-romani-children-in-special-schools/4089>

European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02, Art 14 available at: <http://www.refworld.org/docid/3ae6b3b70.html>

European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01, available at: <http://www.refworld.org/docid/476258d32.html>

- Farkas, Lilla. "Appeal Leads to Victory for the Roma in Miskolc." CHALLENGE. July 17, 2006. <http://www.libertysecurity.org/article1042.html>.
- Farkas, Lilla. "LIMITED ENFORCEMENT POSSIBILITIES UNDER EUROPEAN ANTI-DISCRIMINATION LEGISLATION – A CASE STUDY OF PROCEDURAL NOVELTIES: ACTIO POPULARIS ACTION IN HUNGARY." *Erasmus Law Review* 3, no. 3 (2010): 191.
- Favilli, Chiara. "REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011: ITALY." Migpol Group.
- Fremlova, Lucie. "From Segregation to Inclusion: Roma Pupils in the United Kingdom A Pilot Research Project." http://www.romaeducationfund.hu/sites/default/files/publications/ref_uk_report_nov2011_screen_singlepages.pdf
- Goldston, James, and Mima Adjami. *The Opportunities and Challenges of Using Public Interest Litigation to Secure Access to Justice for Roma Minorities in Central and Eastern Europe*.
- Ivanov, A., Kling, J. & Kagin, J. (2012). Integrated household surveys among Roma populations: one possible approach to sampling used in the UNDP-World Bank-EC Regional Roma Survey 2011. Roma Inclusion Working Papers. Bratislava: United Nations Development Programme.
- Kertesi, Gabor. "Roma Children in the Transformational Recession - Widening Ethnic Schooling Gap and Roma Poverty in Post-communist Hungary." *EconPapers*. June 17, 2008 L.482/1999 'Norme in materia di tutela delle minoranze linguistiche storiche', Art 2
- Lawal, Adetola. "Berlusconi's Frighteningly Successful Racism." *The Stanford Progressive*. January 1, 2009.
- Moore, Ashley. *Ending Segregation of Romani Children in European Schools*.
- Negrin, Katy. "The Curse of Low Expectations." Open Society Foundations. December 18, 2007
- OECD, "Education at a Glance 2011: OECD Indicators." 2011. <http://www.oecd.org/education/skills-beyond-school/48631582.pdf>.
- OECD, "Education at a Glance 2013: OECD Indicators." June 20, 2013. [http://www.oecd.org/edu/eag2013\(eng\)--FINAL 20 June 2013.pdf](http://www.oecd.org/edu/eag2013(eng)--FINAL%20June%202013.pdf).
- OECD, "Education Levels Rising in OECD Countries but Low Attainment Still Hampers Some." September 14, 2004. <http://www.oecd.org/education/educationlevelsrisinginoecdcountriesbutlowattainmentstillhamperssome.htm>.
- Open Society Institute (OSI), *The Race Equality Directive: A Shadow Report*, July 2013, available at: <http://www.refworld.org/docid/5242b3434.html>
- Policy Advice on the Integration of Roma in the Slovak Republic: Employment and Social Protection, Financial Inclusion, Education, Housing, Health, Monitoring and Evaluation, EU Financing*. World Bank, 2011. 4, 25.
- Renzi, Laura. "Roma People in Europe: A Long History of Discrimination." *Roma People in Europe: A Long History of Discrimination*. February 20, 2011.
- Roma Education Fund, "Roma Inclusion in Italy: National education and employment strategies and actions." 2012.

http://www.romaeducationfund.hu/sites/default/files/publications/report_ref_english.pdf.

- Rossi, Monica, and Roberto De Angelis. "Roma Inclusion in Italy: National Education and Employment Strategies and Actions." Academia.edu. 2012.
- Rostas, Iulius, and Joanna Kostka. "Structural Dimensions of Roma School Desegregation Policies in Central and Eastern Europe." *European Education Research Journal* 13, no. 3, 268-81.
- Sampanis and Others v. Greece No. [32526/05](#) Chamber judgment on 05/06/2008
- Scott, Erin. "Romani Porajmos." Center for the Study of Genocide and Human Rights, Rutgers University. <http://www.ncas.rutgers.edu/center-study-genocide-conflict-resolution-and-human-rights/romani-porajmos>.
- Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*. Budapest: European Roma Rights Center, 2004.
- Strati, Filippo. "Promoting Social Inclusion of Roma A Study of National Policies." Cestim. July 1, 2011.
- Strati, Filippo. Studio Ricerche Sociali (SRS), "Italy, Promoting Social Inclusion of Roma: A Study of National Policies." July 2011. http://www.cestim.it/argomenti/03rom-sinti/11_07_it_strati_promoting_the_social_inclusion_of_roma.pdf.
- Tanner, Arno. "The Roma of Eastern Europe: Still Searching for Inclusion." Migrationpolicy.org. May 1, 2005.
- The Eurydice Network, European Commission, "The structure of the European education systems 2013/14 : schematic diagrams." November 25, 2013. http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/education_structures_EN.pdf
- The *Racial Equality Directive*, a Council Directive designed to combat discrimination and promote equal treatment in EU Member States. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
- Tomasevski, Katarina. "Manual on Rights-based Education: Global Human Rights Requirements Made Simple." UNESCO. January 1, 2004.
- Tomasevski, Katarina. *Manual on Human Rights Based Education*. Bangkok: UNESCO Bangkok, 2004. 27, 36.
- UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>
- UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, available at: <http://www.refworld.org/docid/3ae6b36c0.html>
- UNDP Europe and the CIS Bratislava Regional Centre, "Roma Education in Comparative Perspective: Findings from the UNDP, World Bank, EC Regional Roma Survey." 2012. <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/Roma-Education-Comparative-Perspective-UNDP.pdf>.

UNESCO Institute for Statistics, "ISCED 2011: International Standard Classification of Education." December 2012.

<http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf>.

White, Julia. "Pitfalls and Bias: Entry Testing and the Overrepresentation of Romani Children in Special Education." .

http://www.romaeducationfund.hu/sites/default/files/publications/pitfalls-and-bias-screen_singlepages.pdf