

1 June 2010

ERRC report on Croatia
For the 2010 EU Progress Reports

Naphegy tér 8
Hungary – 1016 Budapest
Office Tel: +36 1 413 2200
Office Fax: +36 1 413 2201
E-mail: office@errc.org
www.errc.org

1. Implementation of human rights judgments

Education

Oršuš and Others v. Croatia

During the period there were some developments regarding the school segregation of Roma in Croatia. On 16 March 2010 the Grand Chamber of the European Court of Human Rights held in the case *Oršuš and Others v. Croatia* that the segregation of Romani children into separate classes based on language is unlawful discrimination, violating the European Convention on Human Rights.

The *Oršuš* case involved 14 children attending mainstream primary schools in three different Croatian villages (Macinec, Podturen and Orehovica in the Medjimurje County) who were placed in segregated Roma-only classes in what are otherwise mainstream primary schools due to alleged language difficulties. In December 2004, the applicants turned to the European Court claiming that their placement in the Roma-only classes stemmed from a blatant practice of discrimination based on their ethnicity by the schools concerned, reinforced by pervasive anti-Romani sentiment of the local non-Romani community. The applicants further claimed that the school curriculum in the Roma-only classes was significantly reduced in scope and volume as compared to the officially prescribed teaching plan, which resulted in lower quality education. As a result of their segregation, the applicants suffered severe educational, psychological and emotional harm, damage to their future educational and employment opportunities, as well as stigmatization.

The Grand Chamber of the European Court of Human Rights Court in its judgment from March 2010 stated that the segregation of the children in this case based on alleged language difficulties was illegal. In addition the Court in its judgment highlighted that:

- Language ability cannot serve as a pretext for segregation: The Court for the first time held that separation due to language is not allowed unless such measures can be objectively justified by a legitimate aim;
- State obligation to take positive measures: The Court stressed the obligation of the State to undertake appropriate positive measures to assist pupils in attaining necessary language skills and to reduce high drop out rates in shortest time possible; and
- Integrated education: If and when appropriate, special language lessons should be a means to fast-track pupils into fully integrated mainstream education.

The representation of Roma in some schools in Croatia is increasing. According to the latest visit of the ERRC to the elementary school in Macinec in March 2010, the total number of students in this school was 486 of which the majority, 305 pupils (63%), are Romani. The same figures from 2001 were 445 pupils of which 194 (44%) were Romani. One of the teachers in the school told the ERRC that non-Romani parents are taking their children out of this school and enrolling them in schools with fewer Romani pupils.¹ The ERRC recalls the obligation of the

¹ ERRC interview with L.B teacher at the elementary school in Macinec, 15 March, 2010.

Croatian government to implement this judgment in order to ensure equal access to quality education free of discrimination for all children.

Ineffective state response to violence against Roma

In several cases the European Court of Human Rights has found Croatia to be in violation of the ECHR for failing to investigate effectively violent crimes committed against Roma. Implementation appears to be problematic.

Beganović v. Croatia

On 26 June 2009, the European Court of Human Rights delivered its judgment in the case of *Beganović v. Croatia* concerning the severe beating of Mr Darko Beganović, a Romani man, by a group of seven men and the failure of Croatian authorities to conduct an effective investigation and prosecute the perpetrators. Mr Beganovic was supported by the ERRC and local partners.

The Court held that the Croatian prosecuting authorities and the courts failed to satisfy the requirement of effectiveness of the criminal-law mechanisms for the purposes of Article 3 of the ECHR prohibiting torture, inhuman and degrading treatment. The ineffectiveness on the part of the prosecuting authorities resulted in the criminal complaint against the perpetrators becoming time barred.

Šečić v. Croatia

In its May 2007 judgment in the case *Šečić v. Croatia* the ECtHR found Croatia to have violated Article 3 (prohibition of inhuman or degrading treatment) of the ECHR due to the lack of an effective investigation in conjunction with Article 14 (prohibition of discrimination). The Court reached this conclusion based on the failure of public authorities to carry out an effective investigation into a racist attack committed by unidentified individuals against the applicant, Mr. Šečić, who is of Roma origin.

In terms of judgment implementation, the Croatian government informed the Council of Europe's Committee of Ministers (CoM) that it had commenced individual measures in connection with the prescription of the possible criminal offences. With respect to general measures of the judgment, the Croatian Ministry of Interior reported to the CoM that it had provided for institutional measures (such as a Special Division for Terrorism and Extreme Violence), training programmes and special education for law enforcement officials. During reconsideration of this case by the CoM in June 2010, the ERRC submitted information on behalf of Mr Šečić refuting the information previously provided by the Croatian Government.

In a letter to the Minister of Interior dated 21 November 2008,² Mr Šečić informed the Minister that he still expected police to investigate the attack of April 1999. In the Ministry response dated 4 December 2008,³ Mr Šečić was informed that the case is still open and was invited to provide police with any new information he might have. However, it is clear from the letter that, apart from inviting the victim to provide new information, the Ministry has taken no new steps to investigate the crime. Moreover, the letter suggested that the Ministry was unaware of the Court's judgment of 31 August 2007, or if it was aware, that it denies the validity of the central holding in the judgment: The letter maintains that there was an effective investigation into the case. In addition, with respect to general measures, the Croatian government has provided no details of the training it reports to the Committee of Ministers.

² On file with the ERRC.

³ On file with the ERRC.