



Failure of the authorities to integrate Roma children into the ordinary education system amounted to discrimination against them

In today's Chamber judgment in the case of [Sampani and Others v. Greece](#) (application no. 59608/09), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 14 (prohibition of discrimination) of the European Convention on Human Rights in conjunction with Article 2 of Protocol No. 1 (right to education).

The case concerned the provision of education for Roma children at the 12th Primary School in Aspropyrgos.

The Court, noting the lack of significant change since the *Sampanis and Others v. Greece* judgment, found that Greece had not taken into account the particular needs of the Roma children of Psari as members of a disadvantaged group and that the operation between 2008 and 2010 of the 12th Primary School in Aspropyrgos, which was attended by Roma pupils only, had amounted to discrimination against the applicants.

Under **Article 46 (binding force and execution of judgments)**, the Court recommended that those of the applicants who were still of school age be enrolled at another State school and that those who had reached the age of majority be enrolled at "second chance schools" or adult education institutes set up by the Ministry of Education under the Lifelong Learning Programme.

Principal facts

The applicants are 140 Greek nationals, all of Roma origin, belonging to 38 families who at the time of the events lived at the Psari residential site near Aspropyrgos. 98 of the applicants were children aged between five and a half and 15 and the other 42 were their parents or guardians. Some of them were also applicants in the case that gave rise to the Court's [Sampanis and Others v. Greece](#) judgment.²

On 10 September 2008 the 12th Primary School was opened in Aspropyrgos. It was set up to replace an annexe to the 10th Primary School which had been mainly attended by Roma children, and was supposed to admit Roma and non-Roma pupils alike. The 12th school was assigned the same catchment area as the 9th and 10th schools. Before the school opened, the parents of non-Roma pupils reaffirmed their opposition to the integration of Roma children into ordinary classes, despite attempted mediation by the Greek Ombudsman, and during the summer of 2008 the premises of the 12th school were damaged and all its equipment stolen. When the school term began, the head

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

² Application no. 32526/05, judgment of 5 June 2008.

teacher informed the Ministry of Education that the state of the school facilities made it impossible to meet its basic needs and posed a threat to pupils' and teachers' safety.

The Ministry of Education asked the mayor of Aspropyrgos and the prefect of West Attica to approve a merger of the 12th and 11th schools but the prefect refused, stating that he wished to avoid social, cultural and educational problems. The Ombudsman wrote to the prefect urging him to reconsider his decision but to no avail. In the letter he stated that the failure to implement Presidential Decree no. 201/1998 – by which all pupils living in a particular school's catchment area had to be transferred to that school, even if this had not been requested by their parents – had had the effect of transforming the 12th school into a "ghetto school", since no non-Roma pupils from the region were enrolled there. In July 2009 the Ombudsman raised the issue with the Ministry of Education. He pointed out that the mayor of Aspropyrgos did not intend to take the necessary action, having openly declared at the start of the autumn term in 2008 that Roma children "dare[d] to demand to share the same classrooms as the other pupils of Aspropyrgos" and having ignored an invitation from the Ministry's regional authorities to "take the necessary steps to make immediate repairs" to the 12th school.

On 30 May and 20 July 2009 the applicants wrote to the Ministry of Education requesting it to allow Roma pupils to attend the 10th school and urging it to draw up a school curriculum geared to their needs. They did not receive a reply.

The head teacher of the school also informed the authorities on several occasions of problems concerning, in particular, the school bus route, the building of a playground, the installation of heating and additional toilets, textbooks that were inappropriate for Roma whose mother tongue was not Greek and the fact that some pupils had dropped out of lessons from April 2009 onwards.

Complaints, procedure and composition of the Court

Relying on Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 1 (right to education), the applicants complained that they or their children had been enrolled at the 12th school, which was attended exclusively by children from their own community and provided a lower standard of education than other schools. They further complained, under Article 13 (right to an effective remedy), that they had been unable to raise their grievances in Greece. Lastly, relying on Article 46 (binding force and execution of judgments), the applicants complained that the authorities had refused to abide by the *Sampanis and Others v. Greece* judgment delivered in 2008.

The application was lodged with the European Court of Human Rights on 7 October 2009.

Judgment was given by a Chamber of seven judges, composed as follows:

Isabelle **Berro-Lefèvre** (Monaco), *President*,
Anatoly **Kovler** (Russia),
Khanlar **Hajiyev** (Azerbaijan),
Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),
Julia **Laffranque** (Estonia),
Linos-Alexandre **Sicilianos** (Greece),
Erik **Møse** (Norway),

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court

Article 14 in conjunction with Article 2 of Protocol No. 1

In the *Sampanis and Others v. Greece* judgment the Court had concluded that there was a strong presumption of discrimination against the applicants on account of the placement of Roma children in special classes in an annexe to the 10th school's main building, coupled with a number of racist incidents provoked by the parents of non-Roma children.

It was apparent that there had been no significant changes to the situation that had given rise to the *Sampanis and Others* judgment. During the period to which the present case related (2008-2010), the 12th school had continued to be attended exclusively by Roma pupils, despite the education authorities' intentions. Accordingly, while the school had been set up to integrate the Roma pupils of Psari into the ordinary education system, its operational problems had meant that they continued to suffer a difference in treatment. There was therefore evidence of a practice of discrimination.

The Court then examined whether there had been an objective and reasonable justification for the difference in treatment. It reiterated that where a difference in treatment was based on race, colour or ethnic origin, the notion of objective and reasonable justification must be interpreted as strictly as possible.

The Court noted that a number of European States encountered serious difficulties in providing adequate schooling for Roma children. It observed that the present case entailed a complex balancing exercise between the competing interests and that it was not easy to find suitable teaching methods for children lacking proficiency in the language of instruction. However, the Court held that in exercising its margin of appreciation in the education sphere, Greece had not taken into account the particular needs of Roma children in Psari as members of a disadvantaged group.

The Court observed that although the 9th, 10th and 12th schools shared the same catchment area, only Roma pupils had attended the 12th school. The school had also experienced difficult material conditions, to which its head teacher had drawn the authorities' attention. The Court further observed that the plan to merge the 11th and 12th schools had been rejected by the prefect and the mayor. The latter had stated in a letter to the Ministry of Education that since "Gypsies [had] chosen to live in dumps which they themselves [had] created" and to "engage in illegal activities", they could not expect "to share the same classrooms as the other pupils of Aspropyrgos". Appeals by the Ombudsman, who had described the institution as a "ghetto school", had been in vain and the applicants had not received a reply to their letters to the Ministry of Education. The Court lastly observed that a large number of children among the applicants had dropped out of lessons, a fact that was surely related to the lack of any measures to improve the running of the school.

Accordingly, the Court, while also noting that the Greek Government had not given any convincing explanation of why no non-Roma pupils attended the 12th school, found that the operation of the school between 2008 and 2010 had resulted in further discrimination against the applicants. There had therefore been a violation of Article 2 of Protocol No. 1.

Other Articles

The Court considered that there was no need for a separate examination of the applicants' complaint under Article 13, having already found, when addressing the Government's objection of failure to exhaust domestic remedies, that proceedings before

the Supreme Administrative Court would not have been an effective remedy capable of ensuring that the applicant children received a non-discriminatory education.³

The Court also dismissed the applicants' complaint under Article 46. It noted that the Committee of Ministers, the Council of Europe's executive body with the responsibility of supervising execution of the Court's judgments, had decided on 14 September 2011 to close its examination of the *Sampanis and Others* case, having found that nearly all of the applicants' children had been enrolled at the 12th school in Aspropyrgos and that the State had taken satisfactory general measures concerning the school admission of Roma children and the education they received. Having regard to that conclusion, the Court was not required in the context of the present application to rule on the execution of the *Sampanis and Others* judgment. However, it reiterated that measures taken by a respondent State to remedy a violation found by the Court could still raise new issues not determined by the initial judgment – arising, for example, from a continuing violation of an Article of the Convention – and form the subject of a new application to the Court.

Article 46

The Court reiterated that, while it was for the respondent State to choose, subject to supervision by the Committee of Ministers, the means to be used to meet its obligation under Article 46, it could itself indicate the type of measures that might usefully be taken to put an end to the situation it had identified.

The Court, addressing the new issues raised by the present case, recommended that those of the applicants who were still of school age be enrolled at another State school and that those who had reached the age of majority be enrolled at "second chance schools" or adult education institutes set up by the Ministry of Education under the Lifelong Learning Programme.

Just satisfaction (Article 41)

The court held that Greece was to pay 1,000 euros (EUR) to each of the applicant families in respect of non-pecuniary damage and EUR 2,000 to the applicants jointly in respect of costs and expenses.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

³ § 61 of the judgment.