

# **Segregation of Roma Children in Education – Successes and Challenges**

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## Introduction

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Europe has segregated Roma children in education for more than half a century.

Over the last 20 years, the topic of school segregation of Roma – hitherto largely unrecognized and unaddressed – has gained significant attention. Central and Eastern European countries’ accession to pan-European institutions and the transposition of the Racial Equality Directive into national laws proved invaluable in formally guaranteeing the right of Roma not to be discriminated against in education. Strategic litigation generated court rulings that outlawed long-standing discriminatory practices in education. Mapping of school segregation (though limited) and advocacy by civil society, several national human rights bodies, and pan-European institutions have placed the issue of Roma school segregation squarely on the European agenda.

Yet, actual desegregation of schools across Europe has been hard to come by, although examples of isolated, local desegregation do exist. Domestic human rights bodies have often failed to monitor and sanction the segregation of Roma children in education. The European Union (“EU”) and national governments have likewise contributed to the failure of the wider desegregation goal. Post-accession, EU demands on member states to prevent human rights abuses generally sharply decreased. Although in a few instances – such as the launch of infringement proceedings against the Czech Republic and Slovakia for discrimination of Roma in education – the EU utilized its negotiating and sanctioning power to advance school desegregation, such use of political and legal tools remains rare.

To move school desegregation from the realm of law and policy to real-world practice, an immediate and sustained action is needed. To contribute to the advancement of a comprehensive desegregation agenda, this briefing takes stock of the state of the school segregation of Roma, the initial successes, and the remaining challenges. The briefing does not purport to provide a detailed overview of the issue, but rather **aims to help national and local policy-makers, civil society, intergovernmental institutions, and donors set priorities and benchmarks in this area for the next five years.**

## School Segregation of Roma Children: Key Facts

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The school segregation of Roma children across Europe displays three key features:

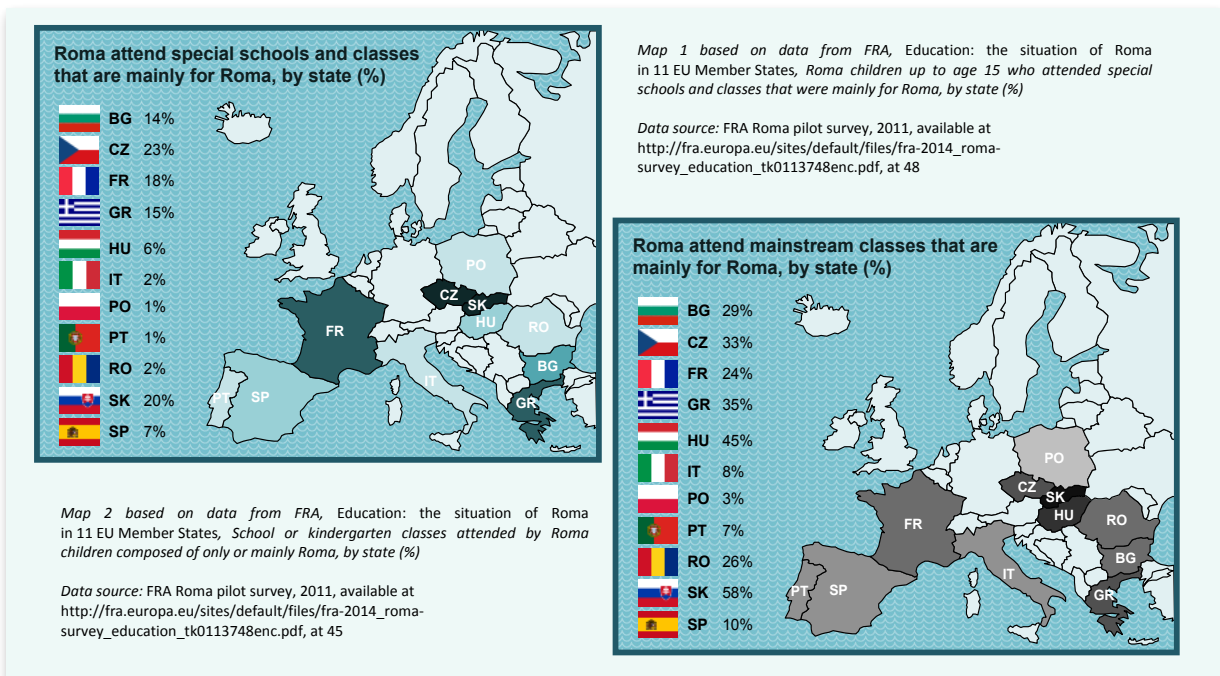
- 1) ***School segregation of Roma is multifaceted.*** Roma children are being separated and left behind across European primary education systems in the following ways:
  - Separate special schools for children with mental disability. In several European countries, the long-standing discriminatory practice of educating children with disabilities (e.g., physical impairment, mental disability, ADHD, dyslexia) apart from other children has also a racial dimension. Roma children ages six to ten have been as much as 27 times more likely to be diagnosed with mental disability than their non-Roma peers and then placed in separate special schools with subpar curricula. The special education renders these children functionally semi-literate, thwarts any possibility of higher education, and limits their earning potential. The decades-old “norm” of separate special schools, the reliance on IQ-based diagnostics, and the vested interests of special educators further the abusive placement of Roma into separate special schools and decelerate the move towards inclusive education for all children.
  - Regular schools. State-sanctioned segregation of Roma children in the mainstream is rampant in many European countries. In countries like Slovakia, regular schools are placing Roma on separate floors of school buildings and/or in separate classes; municipalities have drawn school

districts to racially segregate Roma; and the government financially supports the establishment of subpar Roma-only schools. Unequal in and of itself, this racial segregation also results in lower quality education and hinders Roma students' ability to pursue higher education.

- No schools. In a number of European countries, such as Greece, Romania, and Bulgaria, a sizeable portion of Roma children are not receiving any education. The repercussions are significant, with their future earning potential greatly impaired.

**2) School segregation of Roma is pervasive.** School segregation of Roma children spans the borders of European countries. The picture is bleak whatever the form of segregation:

- **Every fifth** Roma in the Czech Republic and Slovakia has attended a school or a classroom that is *both special and* composed of **solely or mainly Roma**; a similar pattern has appeared elsewhere, including in France, Greece, and Bulgaria (see also Map 1 below)
- **Every second** Roma in Hungary and Slovakia has been attending a **regular school** or classroom composed of solely or **mainly Roma**; the picture in Greece, the Czech Republic, Bulgaria, France and Romania is not much different (see also Map 2 below)
- Nearly **every second** Roma in Greece and **every fifth** Roma in Romania was **not in primary school at all** in 2010/2011



**3) School segregation of Roma is entrenched and has severe repercussions.** Roma school segregation has been ongoing for decades (e.g., since the 1960s in the Czech Republic) and has often been accepted as the “norm” by the majority. The repercussions are dire:

- *Pervasive illiteracy or semi-literacy* (e.g., half of Roma adults or near-adults in Greece, 35 % in Portugal, and 25 % in France report being illiterate)
- *Extremely low rates of completion of secondary schooling* (77 % - 99 % of surveyed Roma across 11 European countries do not have an upper secondary school diploma)

- *Widespread unemployment, compounded by employment discrimination* (less than one-third of Roma across 11 European countries have paid employment)

## Desegregating Schools: What Has Been Done Thus Far?

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In the last 20 years, key developments took place, especially in the following areas:

### 1. Legislation & Norms Prohibiting School Segregation

The accession to the Council of Europe (“COE”) and the EU of several Central and Eastern European countries provided a unique opportunity to strengthen formal protections against discrimination in the domestic laws of these countries, via two key mechanisms:

- **European Convention on Human Rights.** To date, 45 members of the Council of Europe have ratified the Convention for the Protection of Human Rights and Fundamental Freedoms (the “European Convention on Human Rights” or the “Convention”) and Protocol 1 to the Convention. The Convention, as interpreted, squarely prohibits discrimination of Roma in education.
- **EU Racial Equality Directive, as transposed into national laws.** The Directive prohibits racial and ethnic discrimination in education across the EU.

Furthermore, progressive national political leadership and/or robust civil society advocacy – as in Hungary and Romania in the past – has resulted in the passage of national legislation exceeding the protections afforded by these international legal instruments.

In the past 15 years, several European bodies also adopted recommendations urging member states to combat the school segregation of Roma, thus helping to create norms in this area. To note a few:

- 2009 The COE **Committee of Ministers** urged member states to “ensure that legal measures are in place to prohibit segregation on racial or ethnic grounds in education, with effective, proportionate and dissuasive sanctions, and that the law is effectively implemented. Where *de facto* segregation . . . exists, authorities should **implement desegregation measures.**”
- 2011 The **European Commission against Racism and Intolerance** urged countries to “put an end to the segregation at school which Roma children are subjected to” and to “**abolish the too-frequent placement of Roma children in special schools.**”
- 2011 **The European Parliament** called on the European Commission to include “**abolishing school and classroom segregation**” as a priority area of the EU Roma Strategy.

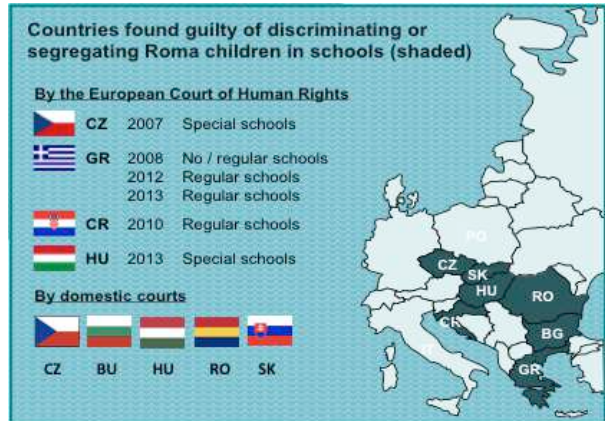
**Key development:** In 2014 and 2015, the European Commission launched infringement proceedings against the Czech Republic and Slovakia for breaching the EU Racial Equality Directive because of the ongoing discrimination of Roma children in education. The Commission may eventually go as far as to bring proceedings against these countries before the Court of Justice of the European Union.

KEY BENEFITS
<ul style="list-style-type: none"> <li>- Instituted uniform formal protection against discrimination across Europe</li> <li>- Helped place and keep school segregation of Roma on European agenda</li> </ul>

KEY GAPS
<p><b>PENALTIES:</b> Legislation generally does not impose financial penalties and/or other strong remedies in the event of a violation</p> <p><b>DATA:</b> Legislation does not mandate data collection, and thus makes monitoring and enforcement challenging</p> <p><b>ILLEGAL PROVISIONS:</b> Some national legislation contains unlawful provisions that further Roma school segregation</p>

## 2. Judicial Enforcement of Anti-Segregation

Not until the late 1990s was school segregation of Roma challenged in the courts. Yet courts – in particular the European Court of Human Rights (the “ECtHR”) and certain national courts – have become a key guarantor of the right to be free from discrimination in education. In a span of just a few years, the European Court of Human Rights outlawed racial discrimination of Roma in special education (Czech Republic and Hungary) and in mainstream education (Croatia and Greece). The latest ECtHR jurisprudence suggests that countries should *end school segregation of Roma*. Countries with a history of *past* discrimination have a positive obligation to avoid its perpetuation and countries aware of *present* segregation cannot decide against effective anti-segregation measures.



Domestic courts and equality bodies, especially in Hungary and Romania, have likewise found segregation of Roma in mainstream schools unlawful.

KEY BENEFITS
- Outlawed practices long considered acceptable
- Affirmed a need to desegregate schools
- Helped establish a responsibility not to segregate the Roma

KEY GAPS
<b>PENALTIES:</b> Courts generally do not impose financial penalties and/or other strong remedies in the event of a violation, making automatic compliance with court rulings (i.e., desegregation) challenging
<b>LITIGATION STILL SCARCE:</b> Strategic litigation remains a potentially useful yet underfunded and underutilized resource
<b>DOMESTIC COURTS’ RELUCTANCE:</b> Some courts have departed from the ECtHR jurisprudence and have been loath to find discrimination even on relatively clear facts

## 3. Mapping and Monitoring of School Segregation

In the last decade in particular, some ethnically disaggregated statistics on the extent of segregation of Roma in schools became available – collected by the EU Agency for Fundamental Rights, some national governments (in the wake of judicial rulings finding discrimination), the Ombudspersons, or NGOs. Whenever available, these data have been invaluable to school desegregation efforts.

However, national governments remain extremely reluctant to collect ethnically disaggregated data in education, generally invoking the existence of data privacy protection laws. Comprehensive, cross-country mapping of the extent, the causes, and the progress of school segregation and desegregation across Europe thus does not exist – even though data privacy protection laws do not prevent the collection of aggregated, anonymous ethnic data. Even within academia, with the exception of Hungary, research into the extent and causes of school segregation of Roma remains scarce. The absence of statistics *substantially* inhibits effective monitoring of the implementation of desegregation.

In most countries where segregation exists, there are no active formal monitoring systems in place. For example, in Romania, although the 2007 Desegregation Order charged the Ministry of Education with the monitoring of, and publishing annual reports on, desegregation progress, such reports do not exist

in practice. In addition, regular shadow reporting by NGOs is scarce. Few NGOs target their limited resources towards systematic monitoring of desegregation.

KEY BENEFITS	KEY GAPS
To the extent available, data have helped: <ul style="list-style-type: none"><li>- quantify the magnitude and gravity of school segregation</li><li>- hold countries accountable</li><li>- monitor the progress of school desegregation</li></ul>	The absence of ethnically disaggregated data is a key, if not the single greatest, obstacle to: <ul style="list-style-type: none"><li>- understanding the extent, the features, and the progress of school segregation/desegregation</li><li>- ensuring compliance with anti-discrimination laws</li><li>- setting targeted and tailored anti-segregation policies</li></ul>

## Confronting Key Barriers to Successful School Desegregation<sup>1</sup>

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### 1. Lack of sanctions

#### **Issues:**

No or minimal financial/administrative penalties for discriminating actors (state or local) and a lack of court orders to desegregate

No or minimal reputational costs to local actors such as municipalities or school psychologists who issue a flawed diagnosis of mental disability

#### **Recommendations:**

##### **State actors**

- Amend national legislation to mandate desegregation, and to provide for financial/administrative penalties to be imposed on guilty parties
- Impose financial/administrative penalties on local actors involved in discrimination (e.g., schools or administrators that authorize the formation of segregated classes on ethnic grounds, municipalities that draw school catchment areas with the aim to segregate)
- Take concrete reparatory measures aimed at desegregation with specific deadlines, budgets, benchmarks, and role allocation between schools, central actors, and local actors

##### **EU institutions**

- Condition the disbursement of EU funding for education to candidate countries and member states on a written confirmation from the implementing party that no discriminatory actions or effects will result from the implementation of the project; impose a financial penalty in case of violation
- Continue the infringement proceedings against the Czech Republic and Slovakia
- Initiate infringement proceedings against other member states in similar breach of EU law
- Consider activating Article 7 of the Treaty on European Union sanction mechanism should member states fail to end segregated schooling within a specified timeframe

##### **Intergovernmental organizations**

- Council of Europe: When ECtHR judgments regarding discrimination in education are not fully

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<sup>1</sup> While the recommendations focus on Roma children in particular, many would benefit also children from other marginalized groups and should not be read to exclude other marginalized children.

implemented within five years, the Committee of Ministers should make use of Article 46 (4) of the ECtHR to return the case to the Court

### ***Non-state actors***

- Donors: Fund strategic litigation aimed at state actors and local actors, as well as initiatives focusing on community mobilization and partnership at local levels to enforce desegregation
- NGOs: With donors' help, file additional complaints (if necessary, repeated complaints) against state and local actors, support more victims, and increase presence of the victims and NGOs at the community level in order to raise the cost of segregation for state and local actors
- Academia/NGOs: Analyze and disseminate domestic judgments on discrimination in education and information about their implementation both in English and in a country's official language

## **2. Lack of mapping & monitoring**

### **Issues:**

No annual, uniform, publicly available data on education, disaggregated by gender, ethnicity, grade, curriculum, region, etc., across Europe

No annual, comprehensive monitoring by the governments (or other entities) of the state of school segregation and progress of desegregation

### **Recommendations:**

#### ***State actors***

- Amend national legislation to mandate annual collection of data about pupils enrolled in primary, secondary and tertiary education, disaggregated by ethnicity and other key characteristics; publicize the results and make the underlying aggregated data publicly available
- Condition school funding on desegregation progress, based on year-to-year comparisons of data

#### ***Courts***

- Mandate data collection and reporting for municipalities and/or schools found guilty of discrimination/segregation until the violation is eliminated

#### ***EU institutions***

- Develop an annual, EU-wide, publicly available database on pupils enrolled in primary, secondary and tertiary education, disaggregated by ethnicity and other key characteristics
- Task the Fundamental Rights Agency with developing clear indicators to monitor the segregation, discrimination, and bullying in schools of minority and other marginalized children
- In evaluation reports and annual reports on the implementation of EU law, include the respective member states' school desegregation progress as a priority area

#### ***International community***

- COE Committee of Ministers:
  - Require annual collection of ethnically disaggregated data for all countries found liable of racial/ethnic discrimination, including of discrimination of Roma in education, during the pendency of supervision of the execution of relevant ECtHR's judgments
  - Create a monitoring mechanism for segregation/discrimination allowing for *ad hoc* visits to schools where there is a suspicion of segregation/discrimination
- ECRI: In between regular reporting cycles, ask State Parties and civil society for joint



consultations and updates on the implementation of ECRI's recommendations

- United Nations:
  - In between regular reporting cycles for various treaties, ask State Parties and civil society for joint consultations and updates on the implementation of recommendations
  - Encourage and support ECOSOC-accredited NGOs to draft shadow reports and participate at Committees' and State Parties' reporting sessions
- Foreign embassies with presence in countries with sizeable Roma population:
  - Issue a coordinated, joint statement across European embassies urging school desegregation and noting the need for ethnically disaggregated data
  - At least once a year, conduct a high-level visit of selected segregated schools
  - During meetings with the executive, inquire about the state of school desegregation
  - In country human rights reports (if applicable), discuss school segregation in depth and note the dearth of ethnically disaggregated data

#### **Non-state actors**

- Donors:
  - Fund NGOs/academia to collect necessary data, if the state fails to do so
  - Fund the development and implementation of monitoring measures and procedures with the involvement of members of Roma communities and Roma activists
  - Fund national/grassroots NGOs to conduct shadow monitoring of desegregation
  - Fund the participation of national and grassroots NGOs at intergovernmental events focusing on a country's progress in human rights and anti-discrimination
- NGOs:
  - Establish, with Romani leadership, coalitions to monitor the implementation of desegregation judgments; regularly communicate findings to national officials, Ombudspersons, ambassadors of relevant donor states, and international institutions
  - Organize joint regional desegregation advocacy and monitoring activities aiming to make school desegregation a priority for intergovernmental bodies and governments
- Academia: Involve members of Roma communities in the design and implementation of segregation-related research and monitoring activities

### **3. Non-Roma backlash**

#### **Issues:**

Backlash by special education professionals, school psychologists, and/or educators in Roma-only schools (incentivized to preserve the *status quo*)

Backlash by non-Roma parents with children in mainstream schools, e.g., in the form of lobbying municipalities not to desegregate and/or "white flight"

Backlash by school principals of regular schools, e.g., in the form of posing obstacles to school enrollment of Roma children

#### **Recommendations:**

##### **State actors**

- Impose administrative and other penalties on discriminating educators/administrators (e.g., the

ability to suspend a principal who refuses to enroll Roma children on the basis of ethnicity)

- Conduct meetings at local level with educators, Roma parents, and non-Roma parents regarding government integration policy, the benefits thereof, and the penalties for failure to comply
- Recruit and employ Romani educators and administrators
- Train educators and administrators working in multiethnic environments on intercultural education, human rights principles, bilingual education skills, and the culture of equal treatment (see the experience of the Roma Education Support Trust, United Kingdom); introduce professional standards on equality and non-discrimination for assessing their performance
- Ensure that mandatory curricula include anti-bias education, adequately reflect the diversity and plurality of society, and discuss the contributions and history of minorities in the society
- Foster a welcoming learning environment for members of minorities receptive to their concerns

#### ***EU institutions***

- Introduce resolutions, recommendations, motions for resolutions, debates, written declarations requiring member states to implement desegregation and inclusive education for all children; launch mechanisms to prevent discrimination and bullying of children belonging to marginalized groups; assist member states to include anti-bias education and Roma history in the required school curricula; require member states to provide victims of segregation with financial, moral, and symbolic remedies in countries where segregation has a long history and a cruel legacy

#### ***Non-state actors***

- NGOs: Shift desegregation campaigns to target local communities, schools, local organizations and leaders; engage local educators, Roma parents, and non-Roma parents
- Academia: Develop a curriculum about the contributions of Roma people, Roma culture, traditions, and history, including the extermination of Roma people during the Holocaust

## **4. Hurdles that Roma disproportionately face**

### **Issues:**

Cost of transportation to non-segregated schools (e.g., if busing is required and falls disproportionately on the Roma)

Costs for textbooks and school supplies (often offered for free in the segregated schools) – given the high prevalence of Roma poverty, these costs fall disproportionately on the Roma

Pervasive bullying and/or ostracism of Roma perpetrated by teachers and/or non-Roma peers continues to be cited as a key safety consideration of Roma parents

### **Recommendations:**

#### ***State actors***

- Allocate adequate resources to make prevention of segregation a financially viable proposition, including through subsidies for school transport, textbooks, and supplies for children from low-income families at non-segregated schools (e.g., under the relevant EU funding mechanism)
- Establish guidelines that define the unacceptable behaviors and speech that constitute bullying, discrimination, segregation, and racially-motivated intimidation in school environments
- At the local level, encourage or mandate racially diverse composition of school boards

#### ***Non-state actors***

- Donors:
  - Subsidize school transport, textbooks, and supplies for children from low-income families at non-segregated schools if the state fails to do so
  - Fund anti-bullying media and community-based campaigns
- NGOs:
  - Conduct anti-bullying campaigns and awareness sessions at local levels; implement anti-bullying programs together with schools and communities
  - Encourage and support Roma participation on school boards

## 5. Related structural issues

### Issues:

Separating children with disabilities into special schools and classrooms

Separating children into distinct education tracks starting with pre-schools (e.g., mandatory school readiness tests often exclude Roma from regular primary education)

Financial support for separate special education (which can incentivize, among others, the enrollment of children who do not have special needs into such schools)

Lack of bilingual school programs and teacher training

Employment discrimination and housing segregation of Roma

### Recommendations:

#### **State actors**

- Adopt inclusive education strategies with clear timelines, budget, defined benchmarks, and responsible institutions
- Analyze whether school financing schemes incentivize segregation, and if so, design, implement, and monitor a financing scheme that encourages inclusive education
- Remove barriers to educational access (such as IQ-based or psychological entry testing)
- Consider a possible shift away from distinct education tracks for children under 18 years of age
- Implement quality bilingual school programs
- Provide additional support, using innovative pedagogical-methodological teaching and learning techniques, to children at risk of falling behind (e.g., through after school programs)
- Promote and systematize active consultation and cooperation between parents and school authorities, including, where appropriate, through the employment of mediators and interpreters where parents do not speak the language of the school administration
- Introduce a provision for universal all-day two-year long pre-school education for all children

#### **EU institutions**

- Condition the disbursement of EU funds for the planning and execution of inclusive education

#### **Non-state actors**

- Donors:
  - Fund desegregation projects taking a more holistic and a medium- or long-term approach in terms of interventions (e.g., addressing quality and equal education, economic empowerment, health outcomes, and employment discrimination) and

- populations targeted (e.g., Roma and non-Roma children and families, school personnel)
- Fund litigation in related areas, e.g., employment discrimination / housing segregation
- NGOs:
  - Pilot initiatives taking a holistic and medium- or long-term approach in terms of interventions and populations targeted; focus on dismantling related structural issues
  - Launch community campaigns to inform parents about their right to choose their children's educational institutions without restraint (where applicable)

### General Recommendations

**Until now, advocacy and litigation in international and supranational forums have been the primary techniques for spurring change in school desegregation efforts. The focus has often been the state actor. The present challenges call for further focus on:**

**Local actors:** Given that school desegregation takes place at the local level, just imposing higher costs on the state actor may not ensure successful desegregation. Litigation and grassroots efforts aimed at municipalities, educators, and Roma and non-Roma communities will be necessary to the future of school desegregation in Europe.

**Preventative and remedial measures:**

- Schools and local authorities should adopt and implement desegregation plans
- State actors, public, and private funders should put in place accountability mechanisms to ensure no funding goes to further segregation

**Educational outcomes:** Merely physically integrating Roma into classes with non-Roma does not guarantee an improvement in educational outcomes. Desegregation implementation and monitoring must not lose sight of the aim of desegregation, which is to **ultimately promote inclusive education and equal access to skills training and to higher education, not just primary education.**

**Further, the lack of long-term funding remains a key constraint to further desegregation. As a result, we would recommend that private donors and/or the European Union:**

- Design and implement, both for candidate countries and member states, specific, long-term funding for desegregation measures including litigation, advocacy, capacity-strengthening of Roma families and NGOs, preventative measures, and direct desegregation interventions in schools and other relevant institutions
- Encourage member states to inform schools about funding opportunities available from the EU Funds for promotion of multicultural education

**Finally, to ensure that equal access by Roma to education remains a key topic on the European agenda, we recommend that the European Parliament:**

- Designate 2016 or 2017 as the European Year for School Desegregation and Against Bullying, aiming to educate the general public about non-discrimination through hearings, conferences, and awareness-raising campaigns. The campaign should also help explain how marginalized groups can utilize the available petition mechanisms to voice their grievances.

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