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Table of Contents

Table of Contents	3
1. INTRODUCTION	4
2. LEGISLATIVE FRAMEWORK REVIEW	4
2.1. International Acts	4
2.2. Constitution of the Republic of Macedonia	7
2.3. National Legislative Framework	7
2.3.1 Law on Primary Education	8
2.3.2 Law on Adult Education	13
2.3.3 Law on Prevention and Protection from Discrimination	14
2.3.4 Law on Students' Standard	14
2.3.5 Law on Primary and Secondary Education Textbooks	15
2.3.6 Law on Personal Identification Records	15
3. POLICY REVIEW	16
4. COMPLIANCE WITH THE EU STANDARDS	17
5. PROS AND CONS OF THE NATIONAL LEGISLATION	18
6. GENERAL CONCLUSIONS AND RECOMMENDATIONS	21



1. INTRODUCTION

The paper represents a review of the most important pieces of national legislation in the Republic of Macedonia, regulating the issues of importance for inclusion of Roma children in mainstream education. At legislative level, the analysis is focused on the main elements of the existing national legislation on protection of the right of Roma children to formal education as a fundamental human right. Moreover, it strives to identify shortcomings/gaps, point out overlaps among existing regulations and examine whether and to which extent the national legislation is aligned with EU objectives, recommendations and directives and the overall EU strategy for Roma inclusion.

At the same time, this document contains a review of the current policies, strategic documents and action plans adopted by national authorities in regards of Roma children's educational inclusion and other related spheres of social life.

Despite for purposes of the project, the findings from this analysis are beneficial and therefore will be shared with the relevant stakeholders in the field of educational inclusion, the Ministry of Education and Science, the Ministry of Labour and Social Policy, the national as well as the local Bureau for Development of Education, municipalities, civil society organizations working with Roma and the wider audience. The analysis shall serve as meaningful resource in the assessment of the effects of the current legislation and policies, as well as in the initiatives for legislative and policy changes on the way to achieving genuine educational inclusion of the Roma children.

2. LEGISLATIVE FRAMEWORK REVIEW

2.1. International Acts

Macedonia's membership in the international governmental organizations such as United Nations and Council of Europe, requires respecting the obligations deriving from the international law. The country has signed all major international conventions and declarations concerning human rights, children's rights and education rights. From the aspect of educational inclusion, the following international documents are especially significant:

- Universal Declaration of Human Rights¹ (Article 26);

Article 26 of the Universal Declaration recognises the right of everyone to free education (at least in the elementary and fundamental stages), while elementary education shall be compulsory. This is to be directed towards "the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms " and "shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United

¹ adopted by the United Nations General Assembly on 10 December 1948



Nations for the maintenance of peace”. Parents are given a prior right to choose the kind of education of their children.

- Convention on the Rights of the Child² (Article 28 and 29);

Article 28 establishes the right to a primary education as compulsory and available free to all. The States – signatories of the Convention are obliged to “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.” They shall also “make higher education accessible to all on the basis of capacity” and “take measures to encourage regular attendance at schools and the reduction of drop-out rates”. For children to benefit from education, schools must be run in an orderly way – without the use of violence. Any form of school discipline should take into account the child's human dignity. The Convention places a high value on education. Young people should be encouraged to reach the highest level of education of which they are capable. Moreover, it encourages the State Parties to promote international cooperation in matters relating to education.

Article 29 of the Convention sets out the goals of education. Children’s education should develop each child’s personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. Education should also help them learn to live peacefully, protect the natural environment and respect other people. Children have a particular responsibility to respect their parents, and education should aim to develop respect for the values and culture of their parents alongside with respect for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

- Convention on the Elimination of All Forms of Racial Discrimination³ (Article 5);

Article 5 of the Convention creates a specific obligation to the State Parties to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law regardless of race, colour, or national or ethnic origin. It further lists specific rights this equality must apply to, among which is the right to education and training.

- International Covenant on Economic, Social and Cultural Rights⁴ (Article 13);

The right to education has also been recognized as a human right in the International Covenant on Economic, Social and Cultural Rights. Namely, *Article 13* recognises a right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all, in particular by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education, ideally by the progressive introduction of free higher education.

The right to education also includes a responsibility to provide basic (fundamental) education for individuals who have not received or completed the whole period of their primary education.

² adopted by the United Nations General Assembly on 20 November 1989

³ adopted by the United Nations General Assembly on 20 November 1963

⁴ adopted by the United Nations General Assembly on 16 December 1966



- European Convention on Human Rights and Basic Freedom⁵ (Article 2 of Protocol no. 1);

Article 2 of Protocol No. 1 guarantees an individual right to education, stating that “no person shall be denied the right to education”. This Article also recognizes the right of parents to have their children educated in conformity with their religious and philosophical convictions.

- Convention against Discrimination in Education of UNESCO⁶.

UNESCO Convention against Discrimination in Education, which aims to combat discrimination and racial segregation in the field of education “was the first international instrument in the field of education having binding force in international law and had inspired the writing of other instruments”⁷.

“This Convention expresses the fundamental principle of non-discrimination and equality of opportunity in education. Article 2 explicitly states that the establishment or maintenance of private education institutions should not exclude any group but instead provide educational facilities in addition to those provided by public authorities.

Article 4 enjoins upon States parties to make: primary education free and compulsory; secondary education in its different forms generally available and accessible to all and higher education equally accessible to all on the basis of individual capacity. It also recognises the right to basic education for youth and adults.

Article 5 lays down the aims of education and provides for the liberty of parents to choose the kind of education they want to give to their children, particularly regarding moral and religious instruction. It also recognises minorities’ right to carry on their own education activities.

This Convention also refers to teacher training and qualification as well as to quality education.”⁸

With the ratification of the international treaties by the National Assembly of the Republic of Macedonia, “they become part of the internal legal order and cannot be changed by law”⁹. Thus, their provisions are binding.

However, it should be noted that the Universal Declaration is not a treaty, so it does not directly create legal obligations for country. It represents an expression of the fundamental values which are shared by all members of the international community and has had a profound influence on the development of the national legislative framework.

⁵ adopted by Council of Europe on 4 October 1950

⁶ adopted by General Conference of UNESCO on 14 December 1960

⁷ <http://www.right-to-education.org/page/unesco-instruments>

⁸ Ibid

⁹ Article 118 of the Constitution of the Republic of Macedonia



2.2. Constitution of the Republic of Macedonia

The Constitution of the Republic of Macedonia entails several general provisions in regards to education, determining the foundation on which the other laws and regulations related to this field are built on.

The Constitution stipulates the right to education as universal and accessible to everyone under equal conditions. At the same time it prescribes the compulsory character of primary education which is free of charge.¹⁰ The members of the communities also have the right to instruction in their own language, in elementary and secondary education, in the manner determined by law¹¹. The parents have the right and the duty to provide for the nurturing and education of their children, while the Republic is responsible for providing particular protection for parentless children and children without parental care.¹²

The Constitution guarantees the members of communities the right to freely express, foster and develop their identity and community attributes, and to use their community symbols, as well as protection of their ethnic, cultural, linguistic and religious identity. The Roma community is listed alongside with Albanians, Turks and Vlachs in the Preamble of the Constitution that guarantees the minorities' full equality as citizens and permanent co-existence with the Macedonian people.

2.3. National Legislative Framework

The Constitutional right to education on the basis of equality of opportunity imposes an obligation on the State to establish adequate legislative framework to ensure access for every Roma child. The national legislative framework of the Republic of Macedonia that regulates issues of importance for the inclusion of Roma children in mainstream in education is basically compiled by the following acts:

- **Law on Primary Education** ("Official Gazette of the Republic of Macedonia" no. 103/2008, 33/2010, 116/2010, 156/2010, 18/2011, 42/2011, 51/2011, 6/2012, 100/2012, 24/2013, 41/2014, 116/2014, 135/2014, 10/2015, 98/2015, 145/2015, 30/2016 and 127/2016)
- **Law on Adult Education** ("Official Gazette of the Republic of Macedonia" no. 7/2008, 17/2011, 51/2011, 74/2012, 41/2014, 144/2014, 146/2015 and 30/2016)
- **Law on Prevention and Protection from Discrimination** ("Official Gazette of the Republic of Macedonia" no. 50/2010, 44/2014, 150/2015 and 31/2016)
- **Law on Students' Standard** ("Official Gazette of the Republic of Macedonia" no. 52/2005, 117/2008, 17/2011, 135/2011, 15/2013, 41/2014, 146/2015 and 30/2016)
- **Law on Primary and Secondary Education Textbooks** ("Official Gazette of the Republic of Macedonia" no. 98/2008, 99/2009, 83/2010, 36/2011, 135/2011, 46/2012, 24/2013, 120/2013, 29/2014, 146/2015, 217/2015 and 30/2016)
- **Law on Personal Identification Records** ("Official Gazette of the Republic of Macedonia" no. 8/1995, 38/2002, 66/2007, 98/2008, 67/2009, 13/2013, 43/2014, 148/2015 and 27/2016)

¹⁰ Article 44 of the Constitution of the Republic of Macedonia

¹¹ Article 48 paragraph 4 of the Constitution of the Republic of Macedonia

¹² Article 40 of the Constitution of the Republic of Macedonia



2.3.1 Law on Primary Education

General provisions

The Law on Primary Education stipulates the primary education as a right of every child, prohibiting “discrimination on the basis of sex, race and colour, national, social, political, religious, economic and social backgrounds”¹³. Compulsory primary education lasts nine years and is organized in three education and upbringing periods as follows: first to third grade, fourth to sixth grade and seventh to ninth grade.¹⁴ The parent, that is, the guardian of the student is obliged to enable the child to fulfil the obligation for compulsory primary education.¹⁵

The Ministry of Education and Science is competent for matters in the field of: education and upbringing of all forms and at all levels; adult education; organization, financing, developing and advancing upbringing, education and science; education and upbringing of children with special needs and education and upbringing of children whose parents are expatriates with temporary work and residence abroad; recognition of vocational professions and education profiles; care for pupils and students’ standards; technology development; information and technology culture; information system; international scientific and technology cooperation; supervision of matters falling under its competences and other matters as stipulated by law

Enrolment age

In accordance to the provision of the Law, children shall be enrolled in the first grade of primary school in the calendar year in which, by the end of the year, the child turns six.¹⁶ As an exception, the child may be enrolled in the first grade if it turns six by January 31 next year at the latest upon prior request by the parent and received positive opinion by the school pedagogue or psychologist.¹⁷ The enrolment of the child, upon a request of the parent, may be postponed for one year by a healthcare institution if it is established that the child is not ready to go to school.¹⁸ Enrolment in first grade is conducted in May for the following school year.¹⁹ In order to enrol in primary school, students need a birth certificate and immunization certificate issued by the competent healthcare institution, documentation that many Roma lack.

The Law prescribes “a fine in the amount of Euro 60 to 80 in Denar counter-value that shall be imposed for a misdemeanour on the parent, that is, guardian if the student is not enrolled within the defined deadline.”²⁰

Primary schools have established a practice of sending invitations to the parents of children at a school age from their region. The database is usually provided to the schools by other by other competent authorities, such are healthcare institutions. However, Roma children without birth certificates and children who have not been immunized are not recorded in the available databases. Thus, the schools are unable to approach them and establish communication with their parents/guardians.

¹³ Article 2

¹⁴ Article 4

¹⁵ Article 5

¹⁶ Article 47, paragraph 1

¹⁷ Article 47, paragraph 2

¹⁸ Article 47, paragraph 3

¹⁹ Article 46, paragraph 1

²⁰ Article 172, paragraph 4



Certain number of Romani parents omit to enrol their children in first grade timely, at the legally prescribed age due to various reasons. Schools usually allow admission in cases when the child is 1 year older than the prescribed, however, the problem occurs when the age gap is bigger. Having in consideration that there are serious difficulties in the process of integration older children within a class of younger classmates in most of the cases this leads to dropout.

The Law on Primary Education doesn't explicitly regulate delayed enrolment in first grade, leading to inconsistent and unsynchronized practices in the different schools. The most affected are the children at the age of 10-14, who can't be neither integrated in the mainstream primary education, nor enrolled in adult education for which a minimum age of 15 is required.

Duration of the obligation for compulsory primary education

The obligation for regular primary education of the student who has turned 16 terminates at the end of the school year.²¹ As an exception to this, upon a request of the parent or the student, and upon a given opinion from the school pedagogue or psychologist, the student who has turned 16 may continue the education until he/she is 17 years old.²²

Students above this age, may retain the status of a student only if they continue education as *adult students*, in accordance with the Law on Adult Education.

However, there is lack of legal and operational policies and measures to support completion of primary education of children with exceeded age, ultimately resulting with their exclusion from education.

Language support for children members of the communities who speak a language other than the Macedonian language

Many Roma in Macedonia speak Romani as their native language, while lacking knowledge of the Macedonian language as a language of teaching, which leads to unequal start and unprepared entry of the Roma children in primary education.

In order to address the language barrier, the Law prescribes that "classes in the mother tongue shall be organized for the members of the communities who speak a language other than the Macedonian language, under the international agreements ratified in accordance with the Constitution of the Republic of Macedonia."²³

The Bureau for Development of Education is responsible for preparation of the curriculum and syllabus for the classes, which shall later be determined by the minister responsible for education.²⁴

Reintegration of children who have been absent from school due to a temporary stay abroad

Certain number of Roma students leave the country together with their families for the purposes of acquiring asylum in some of the European countries. When unsuccessful asylum seeking procedures occur the families return back to the country, after spending up to few months abroad. As asylum seeking is a widespread practice within the Roma community, it represents one of the most common reasons for temporary absence from school of Roma children. In this context the legal provisions for

²¹ Article 58, paragraph 1

²² Article 58, paragraph 2

²³ Article 7, paragraph 1

²⁴ Article 7, paragraph 4



reintegration of children who have been absent from school due to a temporary stay abroad, as well as the provisions for validation and equivalence of certificates obtained abroad are especially important.

With the aim of reintegration, the Law obliges primary schools to provide assistance for learning the Macedonian language to children of citizens of the Republic of Macedonia who have temporarily stayed abroad and have returned to the Republic of Macedonia and have started, or continued their primary education.²⁵ In order the students to be successfully included in the educational process, the primary school where the student is enrolled shall organize individual and group catch-up classes for learning the mother tongue and for catching up on the knowledge in certain subjects.²⁶ The education for the students shall last one year at the most, and shall be delivered in accordance with the syllabus prepared by the Bureau, and determined by the minister.²⁷

The student who does not attend at least one third of the total number of classes in particular subjects and cannot be evaluated, shall take a makeup exam in the subjects planned in the curriculum.²⁸ This is also applicable in case the student is absent due to illness or due to any other justified and unjustified reasons.

In practice, these measures have proved to be insufficient for reintegration of the children into the education system. Therefore, additional measures and policies have to be incorporated within the legislative.

Validation and equivalence of certificates obtained abroad

“The student who has completed primary education or has completed a particular grade of the primary education abroad is entitled to require recognition of the certificate, that is, validation or recognition of equivalence.”²⁹ The Ministry of Education and Science is competent for the procedures of validation and equivalence of such certificates and is obliged to decide upon the request for validation, that is, recognition within a period of 60 days as of the day of submission of the request.³⁰ The Law on Primary Education prescribes a list³¹ of documentation that shall be attached to the request, including: certificates in original or a diploma and a notary verified copy; translation of the certificate or the diploma in the Macedonian language made by an authorized court translator (in three copies); excerpt from the register of births; proof of citizenship of the Republic of Macedonia; proof for the previously completed education, and original of the pay slip for the paid fees for validation of certificates and diplomas acquired abroad.

“The student that has submitted a request for validation, that is, recognition of equivalence of the certificate obtained abroad may conditionally attend the following grade if the procedure is not completed until expiry of the deadline for students’ school enrolment.”³² “The student whose certificate based on the completed validation, that is, recognition of equivalence entitles him/her to enrol in a lower grade than the grade he/she is enrolled in conditionally shall be transferred to the corresponding grade and the conditional enrolment shall be annulled thereupon.”³³

²⁵ Article 7, paragraph 2

²⁶ Article 7, paragraph 3

²⁷ Article 7, paragraph 5

²⁸ Article 73, paragraph 1

²⁹ Article 150, paragraph 1

³⁰ Article 157, paragraph 1

³¹ Article 155, paragraph 1

³² Article 156, paragraph 1

³³ Article 156, paragraph 2



Numerous Roma children who have been attending school abroad during the asylum seeking procedures don't possess a relevant certificate, and upon their return in the country they usually continue studying in the same grade they were enrolled in prior to leaving abroad. Having in consideration the expenses for the procedures of validation and equivalence, as well as the long list of documents that shall be submitted in addition to the request, many Roma parents whose children have obtained a certificate refrain from conducting such procedures, again resulting with enrolment of the child in the same grade as prior to leaving.

The complexity of these procedures presents a serious hindrance for the progress from one grade to another of Roma children who have attended school abroad. In this regard, corresponding legislative changes shall be considered that will lead to simplified and free of charge procedures in specified cases.

Support system for children with low achievements

As numerous studies and research papers have shown, Roma children are often among the students with low achievements. In this context, analysis of the support system for children with low achievements is exceptionally relevant.

The support system basically entails two platforms: catch-up classes and parental counselling.

In accordance to the Law, "catch-up classes shall be organized for students with continuous low performance, and particularly if:

- they have at least two low grades,
- they have low performance in a certain subject,
- they are absent from the classes in a particular subject, and
- the student or his/her parent, that is, guardian requires."³⁴

"The teacher who teaches the subject shall oblige the students who have at least two low grades to attend catch-up classes. The classes are organized at the discretion of the teacher."³⁵ "The student recommended for catch-up classes shall attend the catch-up classes at the most in two subjects during one month, having four classes per subject at the most."³⁶ "If the student does not attend the catch-up classes, he/she shall be recorded an inexcusable absence."³⁷ "The teacher shall mandatorily inform the parent, that is, the guardian about the recommendation for the student to attend catch-up classes."³⁸

The Ministry may provide catch-up classes for the students in the subjects that are part of the syllabus of the school year in which the student is enrolled and the grades of the student in which in the previous school year have been lower than excellent. These catch-up classes shall be delivered by a tutor/volunteer, in accordance with the Primary Education Students Tutorial Program established by the minister.³⁹

The Law⁴⁰ prescribes obligatory parental counselling in the following cases:

- the student has negative grades in three or more subjects during the school year,

³⁴ Article 27, paragraph 1

³⁵ Article 27, paragraph 2

³⁶ Article 27, paragraph 3

³⁷ Article 27, paragraph 4

³⁸ Article 27, paragraph 5

³⁹ Article 28-b

⁴⁰ Article 64-a



- the student has more than ten unexcused absences or 100 excused absences,
- the student lacks discipline,
- the student insults the teacher,
- the student participates in fights or other forms of violence,
- the student demonstrates asocial or anti-social behaviour,
- the student behaves immorally or unethically, and
- the performance of the student lowers significantly in a short period of time.

The class, that is, the homeroom teacher is responsible for inviting at least one parent/ guardian for counselling by phone, by sending a mail or by a hand delivered invitation, at least eight days before holding the counselling. The class, that is, the homeroom teacher shall also inform the school psychologist, that is, pedagogue responsible for preparation of a weekly and monthly plan for counselling, in accordance with the reasons for counselling.

Repetition of grades

Regarding the possibility for repetition of a same grade, the Law establishes different rules for students from the first to fifth grade, and for the students above fifth grade. Namely, “the student from the first to fifth grade cannot repeat grades”⁴¹ and the teachers are obliged to organize catch-up classes for the students with low achievements. Roma children often fall into this category, usually without receiving appropriate additional classes they are transferred to the next grade even though they meet minimal requirements. Consequently, Roma children face serious difficulties integrating into the higher grades, especially from fifth into sixth grade when the majority of the drop-outs occur.

As an exception to the general rule, “the student who has not been able to cover the educational contents by the end of the school year because of a longer absence from school due to illness, moving and other justifiable reasons, on proposal of the parent or on proposal of the class teacher and the counsellors of the school, and in agreement with the parent, may stay in the same grade which is decided about by the teacher’s council of the school.”⁴²

On the other hand, “students in the sixth, seventh, eighth and ninth grade who have more than two negative grades at the end of the school year shall be retained in the same grade.”⁴³ Students in these grades who have negative grades in up to two subjects at the end of the school year shall take a remedial exam and attend the organized catch-up classes.⁴⁴ “If the student doesn’t pass the remedial exam in one or two subjects shall be retained in the same grade. Consent of the parent/guardian is not required in these cases.”⁴⁵

⁴¹ Article 69, paragraph 1

⁴² Article 69, paragraph 2

⁴³ Article 70, paragraph 6

⁴⁴ Article 70, paragraph 1 and 2

⁴⁵ Article 70, paragraph 5



Neighbourhood based school system and its effect

The Law incorporates a neighbourhood based system of enrolment, prescribing an obligation for “the primary school to accept the students from its region”⁴⁶ and a “right to the parent to enrol the child in the primary school in the region where the child lives or has permanent residency.”⁴⁷ At the same time, the Law provides an opportunity for “enrolment of the child in another primary school in the same or another region if he/she obtains consent from the school at which the child is to be enrolled.”⁴⁸ The “primary school is allowed to enrol students from other regions or from other municipality only if there are available admission places.”⁴⁹

The neighbourhood-based school system has led to establishment of schools in or near Roma settlements that are almost exclusively attended by Roma children. The system itself causes segregation and prevents children from interacting with their peers from other ethnic groups. Other schools became de facto Roma schools because families from the majority population send their children to alternative schools, as the Law provides this opportunity.

The local partitioning plans enacted by the municipalities have additionally contributed to the segregation process of the children from the Roma population. Led by the principle of financial efficiency, and the need for reduction of the travel costs for the students that affect the local budget, these plans have further strengthened the practice of exclusively “Roma schools” in the regions inhabited by Roma. Moreover, these practices result in deterioration of the quality of education in the “Roma schools”.

The issue of segregation has to be resolved by adequate legal amendments that will enable enhancement of multicultural school environments.

2.3.2 Law on Adult Education

The Law on Adult Education was adopted on January 15th 2008. It regulates the organization, structure, financing and management of the adult education system that entails formal, non-formal and informal learning. Formal education as an institutionalized form of education conducted in state and private institutions includes: primary adult education; secondary adult education, vocational training, vocational education, technical education and post-secondary adult education, as well as retraining and upskilling, and higher adult education.

Moreover, the Law gives a frame for the aim of the adult education that “shall be to provide a possibility for acquisition of appropriate educational level for everyone and for all age groups and to enable them to acquire knowledge, skills and attitudes that are in accordance with the demands of the society and the labour market.”

This Law foresees establishment of a Council for Adult Education that is in charge for strategic creation and planning of measures on the base of the adult education policy. The main goal of the Centre is to harmonize and integrate the interests of all parties dealing in the field of adult education in the country.

In regards to the enrolment criteria, the Law prescribes that “a participant in the adult education programs may be a person who is above the age of 15 and fulfils the other requirements prescribed by the program.”

⁴⁶ Article 46, paragraph 3

⁴⁷ Article 50, paragraph 1

⁴⁸ Article 50, paragraph 2

⁴⁹ Article 46, paragraph 4



2.3.3 Law on Prevention and Protection from Discrimination

Law on Prevention and Protection from Discrimination establishes a framework for protection of “direct or indirect discrimination, calling, encouraging and assisting in discriminatory acts on the basis of sex, race, skin colour, gender, belonging to a marginalized group, ethnicity, language, nationality, social origin, religion and religious beliefs, education, political affiliation, personal or social status, physical or mental disabilities, age, family or marital status, property status, health condition and any other discriminatory ground incorporated in a law or ratified international agreement.”⁵⁰ Alongside with fields such as labour relations, judiciary, public administration etc., this Law is applicable in the area of education as well.

In order to eliminate or to diminish the actual inequalities, the Law does not deem discrimination in the affirmative measures that have benefited individuals or groups who are in disadvantaged position that occurred on any discriminatory basis, as long as actual equality is fully achieved.

Protection from discriminatory actions with this Law is also institutionally improved through the establishment of the Commission for Protection against Discrimination with responsibilities, among others, “to act upon complaints, and give opinion and recommendations for the concrete cases of discrimination”⁵¹. In the Annual report of the Commission for the year 2016, it is noted that 17% of the submitted claims were related to discrimination on the grounds of ethnicity, while 8% in regards to the fields of education, science, sport, judiciary and administration.⁵²

2.3.4 Law on Students’ Standard

The Ministry of education and science grants scholarships for gifted students in different scientific fields, culture, arts and sports. The Ministry announces annual calls for scholarship application, that contain detailed description of the scholarship categories, the duration, the amount of funds awarded, the conditions for applying and other information.

The procedure and criteria for the scholarship granting are regulated within the Law on Students’ Standard. In accordance with the Law, depending on the scholarship category, the students shall fulfil the following conditions:

1. to be a citizen of the Republic of Macedonia;
2. to be a student in secondary education;
3. to have achieved success in his/her studies;
4. financial situation of the closest family members;
5. has won awards/diplomas on national/international competitions;
6. proof that the student is with special educational needs and/or;
7. is a child without parents.

⁵⁰ Article 3

⁵¹ Article 25, paragraph 1

⁵² http://www.kzd.mk/sites/default/files/Godisen_izvestaj_2016_finalen.pdf, p.12



Furthermore, the Law ameliorates the criteria for Roma students, requiring fulfilment of the first 3 conditions only. Besides this affirmative action, the Ministry has incorporated a specialized scholarship category for talented students from the Roma community.

It can be noted that these scholarships are available exclusively for high school students. Primary school students are eligible for a limited spectrum of scholarship opportunities, usually granted by the municipalities. However, this form of support for primary school students is practiced only by few municipalities, that award scholarships either to talented students or to students with poor socio-economic background. There is no data on specialized scholarships for Roma students. The procedure and criteria for the scholarship granting is usually regulated within the bylaws of the municipalities.

2.3.5 Law on Primary and Secondary Education Textbooks

The Law on Primary and Secondary Education Textbooks represents the legal basis for providing free textbooks to the students.

In accordance to its provisions “at the beginning of the school year, every student shall obtain a set of free textbooks.”⁵³ “Teachers are obliged to instruct both, the students and parents that textbooks must not be damaged and that certain textbook passages must not be underlined or otherwise highlighted.”⁵⁴ “At the end of the school year, the students are obliged to return the set of textbooks undamaged, with the exception of school aids (workbooks, exercise books and like).”⁵⁵

These measures have considerable positive effect, especially for Roma families living in poor socio-economic conditions and unable to provide their children the needed resources for studying.

Nevertheless, the implementation of these provisions has been accompanied with different problems, such as untimely distribution of textbooks and insufficient number of textbooks. Thus, the ultimate results are difficult for assessment.

2.3.6 Law on Personal Identification Records

The Law on Personal Identification Records regulates the procedure for registering of births, marriages, and deaths and for issuing excerpts and certificates on the basis of the registers, the competent authorities for conduction of these procedures, the documentation required for registration, as well as other important aspects of these procedures.

This Law is of immense significance in the context of Roma educational inclusion, having in consideration that the birth certificate – subject to this Law is among the required documents for enrolment in school.

In accordance to the provisions of the Law “the birth of a child shall be reported in writing or orally on minutes to the registrar of the registration area where the child was born within a period of 30 days as of the day of birth.”⁵⁶ “The healthcare institution is obliged to report the birth of a child at the healthcare institution.”⁵⁷ While “for a child that is not born in a healthcare institution, the reporting shall be made by the father of the child, that is, the persons in whose home the child was born, the mother as

⁵³ Article 24, paragraph 1

⁵⁴ Article 24, paragraph 2

⁵⁵ Article 25, paragraph 1

⁵⁶ Article 6, paragraph 1

⁵⁷ Article 7, paragraph 1



soon as she becomes fit to do this, or the healthcare worker who has participated in the delivery. If none of the persons listed are present or if they are not able to report the birth of the child, it may be reported by a person who has found out about it.”⁵⁸ An excerpt from the register/birth certificate can be issued upon a request and submission of the required documents including copy of a personal identification document/passport of the parents; excerpt of the register of marriages for the parents and proof of payed administrative fees.

The Law also prescribes a procedure for additional/delayed registration⁵⁹ in case when the birth is reported later than 30 days as of its occurrence. The registration is performed on the basis of a decision of the Directorate for Keeping Records of Births, Deaths and Marriages, upon a request submitted by the entity requesting additional registration. The entity requesting additional registration is required to submit a personal identification document and a certificate of the event which is entered in the records of births, except for the additional entry in the records of births of a child born at home. The Directorate may request submission of additional documents, such as DNA prints if the kinship between the child and the parents cannot be otherwise confirmed.

3. POLICY REVIEW

Regarding the situation of Roma education, but also other spheres of social life (employment, housing, health and culture) the national authorities in the Republic of Macedonia have adopted corresponding policies, strategic documents and action plans that are expected to initiate improvement of the quality of living and integration of Roma in society.

In June 2014, the Government of the Republic of Macedonia adopted the **Strategy for Roma in Republic of Macedonia 2014-2020**, a document prepared by the Ministry of Labour and Social Policy in collaboration with the National Coordinator of the Decade and Strategy of Roma. This document sets out specific goals, measures and expected results in the field of education including: equal quality of knowledge and education among Roma children and non-Roma, increased levels of formal education among young Roma, as well as among adults who are excluded from the formal education system, building professional and social skills and removing the causes of illiteracy. In the sub-area of primary education, the Strategy spells the following strategic objectives: “to cover at least 98% of Roma children for enrolment in grade 1 in primary school, to improve their performance and to achieve a minimum of 75% transfer from one grade to another by 2020.”⁶⁰

For the purposes successful implementation of the Strategy for Roma in Republic of Macedonia 2014-2020, Actions plans for each of the fields (education, employment, housing, health and culture) in the Strategy have been prepared and adopted, including the **Action Plan for Education 2016-2020**. The action plans further elaborate the objectives and expected results in each of the sub-areas of operation in the field of education: pre-school; primary education; secondary education; university education; adult education and education for children with special needs. It also sets out specific activities, indicators, time frame, budget, targets groups, institutions responsible for the implementation of the activities, as well as other important aspects.

In 2008, at the initiative of the Organization for Economic Cooperation and Development, **Strategy for integrated education (Steps Towards Integrated Education in the Education System of the Republic of Macedonia)** was adopted. Its implementation is expected to enhance the revival of the multicultural

⁵⁸ Article 6, paragraph 2

⁵⁹ Article 23

⁶⁰ P. 51 of the Strategy for Roma in Republic of Macedonia 2014-2020



character of education and overcome the segregation, which has immeasurable harmful consequences for the quality of education as well as social life in general. The policy measures are divided in five thematic strands, each one representing a complex issue in itself: integration through joint activities; integration by increasing the mutual knowledge of each other's languages; issues of curricula and textbook adjustment; teachers' qualifications related to competence of integration in education and dealing with school management in the context of decentralization.

In March 2013 the Government of the Republic of Macedonia enacted the ***National Strategy for Reduction of Poverty and Social Exclusion in the Republic of Macedonia for the period 2010 - 2020***. The National Strategy presents the various aspects and influences of the phenomena reflecting poverty and social exclusion. Based on a broader analytical material, it synthesizes the numerous indicators of the social phenomena, and it analyses, compares and presents them in-depth. The strategic goals for changing the analysed areas are suggested based on the identified the situation and the needs. In addition, the strategy presents a series of measures and activities in multiple areas including education and support of vulnerable groups.

However, it has to be noted that there are insufficient analysis and research of the implementation of the above listed strategic documents, which complicates the assessment of their impact and effectiveness.

4. COMPLIANCE WITH THE EU STANDARDS

The compliance of the national legislative and policies with the standards of the European Unions is assessed and reflected within the Annual Progress Reports of the European Commission for the Republic of Macedonia, as a candidate country. Where the general conclusion that the national legislation and policies are aligned with the EU standards and the overall weaknesses are related to its application in practice, affecting some of the most vulnerable groups including Roma.

Progress Report of the European Commission for the year 2015

In the introduction of the Progress Report of the European Commission for the year 2015, it is noted that "the legal framework for the protection of human rights is broadly in line with European standards. However, implementation is lacking, in particular in the areas of prison reform, *Roma integration*, rights of the child and persons with disabilities."⁶¹ In the chapter 2.4. *Human rights and the protection of minorities* the Commission has stressed out that "the various bodies involved in protecting and promoting human rights lack sufficient staff and financial resources and sometimes coordinate poorly. General weaknesses in the implementation of human rights standards affect the most vulnerable and marginalized groups in society, including *children and juveniles*, disabled persons, *the Roma* and the LGBTI community."

However, the Commission has also noted some progress in the field of Roma inclusion, emphasizing the adoption of the new Roma strategy for 2015-20; the government projects on social housing, education, employment and social assistance and the work of Roma health mediators in six municipalities.

⁶¹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_the_former_yugoslav_republic_of_macedonia.pdf



In regards to the field of educational, the Commission reports that “poverty remains the biggest factor behind the low share of Roma children in education” and that “there continues to be a disproportionate number of Roma children placed in special needs schools”.

Progress Report of the European Commission for the year 2016

In the Progress Report for the year 2016, the general assessment is that the legislative and institutional framework concerning the protection of human rights is in compliance with the European standards. Still, as in the 2015 Report, weaknesses in its implementation that primarily affect the most vulnerable groups, including Roma, are noted.

The Commission has emphasized the need of additional efforts in strengthening the rights of the child, with regards to the Roma children who (alongside with children with disabilities) are often targets of stigma and discrimination. Addressing the problem of low birth registration rates of Roma, resulting with aggravated access to social benefits, the Commission recommends incorporation of mechanism for systematically collecting data on the situation of Roma children. The significant dropout rates and the phenomena of child begging and child marriages are among the stated issues.

In the assessment of the national strategies for Roma inclusion, the Commission records some positive steps at the end of the Roma Decade 2005-2015, but lagged implementation of Roma Seminar conclusions and the 2014-2020 strategy for Roma inclusion.

The Commission evaluates that the country is moderately prepared in the area of education and culture. Some progress has been recorded, in particular on a strategic framework and on general access to education. Besides, the introduction of some support measures, it is noted that children from Roma communities and children with disabilities continue to face barriers to regular and quality education. Therefore, it is recommended that the country should focus on improvement of access to quality education for all, in particular for these two groups of children.

The Report also mentions the alignment of the legislation on education with the Law on General Administrative Procedure, as well as the adoption of the concept for adult non-formal education and informal learning (NFIL) by the Ministry of Education and Science.

5. PROS AND CONS OF THE NATIONAL LEGISLATION

Before embarking on the recommendations for strengthening of the national legislation it is important to establish a comprehensive overview of the pros and cons of the existing legal framework deriving from the conducted analysis.

As presented in the table below, the pros of the current legal provisions are mainly associated with: the establishment of the right to primary education as universal, accessible to everyone under equal conditions without discrimination; the prescription of primary education as compulsory and free of charge; the incorporation of adult educational system and other provisions striving to ensure educational inclusion.

On the other hand, the cons emanate from the ascertained gaps/shortcomings of the regulative that pose a hindrance on the way to achieving educational inclusion of the Roma community. These cons are related to: the lack of legal mechanisms for data collection on Roma children at a school age; insufficient measures for reintegration of children with disrupted educational experience and integration of children with exceed age; absence of robust system for support of students with low educational attainment; flaws in the enrolment system etc.



PROS	CONS
<p>The right to education is established as universal and accessible to everyone under equal conditions. Discrimination is explicitly forbidden within the Constitution, as well as within the relevant laws including the Law on Primary Education and the Law on Prevention and Protection from Discrimination. The latter incorporates institutional mechanisms for protection from discriminatory actions, mainly through the Commission for Protection against Discrimination responsible to act upon complaints, and give opinion and recommendations for the concrete cases of discrimination, including in the area of education.</p>	<p>Deficiencies in the neighbourhood based system of enrolment leading to segregation and formation of schools almost exclusively attended by Roma children.</p>
<p>Stipulation of compulsory character of primary education and a duty of the parents to enable the child to fulfil the obligation for compulsory primary education, as well as prescription of a fine that shall be imposed for a misdemeanour on the parent, if the student is not enrolled within the defined deadline.</p>	<p>Absence of a mechanism for systematically collecting data on Roma children at school age, including Roma children without birth certificates and children who have not been immunized. These two categories of children are not recorded in the available databases of the competent institutions, preventing the schools from approaching them. Moreover, the procedure for additional/delayed registering in the Register of Births is accompanied with administrative costs and submission of relevant documents (personal identification documents of the parents, certificate of marriage of the parents or DNA analysis, etc.) that Roma often lack of.</p>
<p>Primary education is free of charge.</p>	<p>Complex and expensive procedures for validation and equivalence of educational certificates obtained abroad.</p>
<p>Incorporation of legal provisions for providing free textbooks to the students in primary schools.</p>	<p>Insufficient legally prescribed measures and policies for reintegration of children who have been absent from school due to a temporary stay abroad.</p>
<p>Detailed specification of the enrolment age in first grade, deadlines and needed documentation.</p>	<p>The Law doesn't explicitly regulate delayed enrolment in first grade, leading to inconsistent and unsynchronized practices in different</p>



	schools.
Language support for children members of the communities who speak a language other than the Macedonian language.	Ineffective support system for children with low achievements.
Establishment of an adult education system that entails formal, non-formal and informal learning for persons above the age of 15.	Lack of legal policies and measures to support completion of primary education of children with exceeded age (above 16 years).
Affirmative measures that have benefited individuals or groups who are in disadvantaged position are not deemed as discrimination.	Absence of scholarships for primary school students awarded by the Ministry of Education and Science. Absence of specialized scholarships for students from the Roma community.



6. GENERAL CONCLUSIONS AND RECOMMENDATIONS

The existing national legislation on the protection of the right of Roma children to formal education is comprehensive and broadly aligned with the EU standards. Even though, the general weaknesses are mainly associated with its implementation, and not the legislative itself, amendments in the Law on Primary Education shall be conducted, especially in regards to the fields listed below in a manner corresponding to their priority.

- 1 • Elimination of the legal barriers for birth registration of Roma children and establishment of a mechanism for systematically collecting data on Roma children at school age, including children without birth certificates
- 2 • Enhancement of the support of children with low achievements
- 3 • Regulation of delayed enrolment in first grade
- 4 • Additional policies for reintegration of the children who have been temporary absent from school
- 5 • Improvement of the language support for the Roma students who speak a language other than the Macedonian language
- 6 • Integration of a wider spectrum of legal and operational measures to support completion of primary education of children with exceeded age
- 7 • Incorporation of legal mechanisms for conducting abridged school programs that will enable smoother integration of the children who have interrupted their studies for a certain period of time
- 8 • Simplification of the procedures for validation and equivalence of certificates obtained abroad and incorporation of administrative free exemptions for children from low-income families
- 9 • Reformation of the neighbourhood-based school system that will lead to integrated, not segregated education system
- 10 • Incorporation of scholarships for Roma students involved in primary education



Although there is a universal legal requirement for registration of every birth, many Roma children lack birth certificates. As a result, their access to education is impeded. Major legislative changes shall be performed for the purposes of incorporating of these group of children in the official registers, making this visible and assuring that they are accounted for. Additional efforts shall be placed in identification of the barriers to birth registration and creation of legal and strategic policies for their elimination. Measures might include, for example, ending the legal requirement that parents present their own identity papers, free state provided DNA tests, exempt of the obligation for paying administrative fees, assignment of an employee at the Directorate for Keeping Records of Births, Deaths and Marriages responsible for providing assistance of the illiterate persons requesting registration or issue of certificate.

The evident achievement gap between Roma students and the students from the majority population can be overcome through holistic legislative enhancements. These incentives shall be directed towards: increasing of number of enrolled students in inclusive primary education, innovative reformation of the support system for students with low attainment; intensification of the studying support in mother tongue, especially during the first years of primary education; introduction of new measures for reintegration of the students with disrupted school attendance; as well as incorporation of other beneficial policies that shall contribute to reduction of the disproportionately high rates of exclusion and grade repetition.

The legislative gaps often produce variations of the law application, accompanied by uncertainty in process of its implementation. This is the case with the shortcoming in the Law on Primary Education regarding the delayed enrolment in first grade. The request for delayed enrolment of students older than 6 years old are very common in practice. Therefore, the need for explicit legal regulation of these cases is more than evident.

Desegregation is a significant aspect of the move towards inclusion. The authorities need to recognize the segregation caused by the present enrolment system as a serious problem and threat, and therefore consider introduction of legislation committed to gradual elimination of segregated education and the introduction of an inclusive system.

The competent authorities shall also recognize the potential positive impact of scholarship granting to talented primary school students and to students with poor socio-economic background. Some other forms of financial support such are conditional cash transfers and free school meals shall be as well considered. Poverty-reduction policies are immensely important, having in consideration that the poor socio-economic situation of the Roma children is often addressed as one of the major obstacles for their educational inclusion.

In regards, to the adopted policies, strategic documents and action plans in the field of Roma education, it can be concluded that they elaborate in details the exiting problems and barriers for Roma educational inclusion, setting out specific goals, measures, determining the relevant stakeholders, as well as other important aspects for the accomplishment of the expected results. However, there is lack of in depth analysis and research of their implementation, which complicates the assessment of their impact and effectiveness in practice.

Active engagement is needed for ensuring the effective implementation of the legislation and the strategic documents. Adequate monitoring mechanisms shall be placed for the aim of measuring the attainment of the goals introduces within the policy documents.

Prior to enacting further legislative changes the respective authorities shall evaluate the output of the present legal framework and open a wide public debate on the proposed changes. A robust legal framework is undoubtedly a precondition on the way to achieving genuine educational inclusion of the Roma children.