

The decision no. 209, dated 30.12.2016 of the Commissioner for Protection from Discrimination, stating that race discrimination is distributed in all local education units

(summary)

I. Second Chance program in Elbasan-a segregated and non-effective program, which adversely affected Roma and Egyptian students attending this program.

CLCI, with the YEM and the ERRC submitted a complaint on April 4, 2016 to the Ombudsman regarding the situation of Roma and Egyptian children attending a second chance program in two schools in Elbasan during the 2015/16 academic year. These were “Qemal Haxhihasani II” and “Ptoleme Xhuvani”, both elementary schools. The complaint focused particularly on one Egyptian student, F.M. who was segregated through the use of this second chance program.

The number of students attending the second chance program in Elbasan in recent years is as follows¹:

2014-2015 18 students (13 of which were Egyptian)

2015-2016 34 students (17 of which were Roma and 14 were Egyptian)

The official aim of this program is to provide for students who have learning difficulties and help improve their academic performance, after which they are to be returned to mainstream classes. In recent years, not one student was returned to mainstream schooling from this program.

This was in practice a segregated and non-effective program, which adversely affected Roma and Egyptian students attending this program in Elbasan.

II. Ombudsman’s Recommendation: Document number 201600738/2, April 20, 2016.

The Ombudsman institution has recommended the following to the Ministry of Education and Sport, and the Regional Education Department of Elbasan:

- The authorities should undertake measures to address the rights violations of Roma and Egyptian children studying in the second chance program, and work to prohibit further discrimination by remedying the current situation in the two elementary schools of DAR Elbasan.
- Authorities should undertake comprehensive approaches which increase the possibility of students returning to mainstream education from these second chance classes. This approach should be monitored and advocated by teachers, the directors of the schools and the Regional Education Department of Elbasan.

III. Response to Recommendation:

¹ Referred in an information received from the Regional Education Department of Elbasan on November 20,2015.

In an official letter from the Regional Education Department of Elbasan (no.843/2.Prot), dated on May 12, 2016, the Ombudsman was informed that the child F.M. was returned to regular classes. It was also written in this letter that the Regional Education Department of Elbasan will undertake the necessary measures set out by the Ombudsman based on the legal framework to end discrimination through the second chance program.

IV. Joint Complaint to the Commissioner for Protection from Discrimination

Center for Legal Civic Initiatives, the ERRC and Youth Egyptian Movement submitted an individual complaint to the Commissioner for Protection from Discrimination, regarding the situation of the Egyptian student F.M. who was part of the second chance program in Elbasan. The complaint was submitted to Commissioner on January 2016, with no.133.Prot.

Based on the reaction of the Commissioner, the child F.M. was returned immediately from the second chance program to mainstream education.

With the decision no.75, dated 29.04.2016, the Commissioner for Protection from Discrimination has decided to suspend the procedures of investigation regarding the case of the student F.M., because through the mediation of the Commissioner for Protection from Discrimination with the elementary school "Ptoleme Xhuvani", Elbasan it was achieved the aim of the investigation procedures, on the returning of F.M. in the previous class (returning from the second chance programme to the normal classes) and attending the school full time as all other students.

The Commissioner's decision (no.75 dated 29.04.2016) stipulated that based on the facts of arguments submitted in the second part of the complaint, this highlighted problems affecting a group of persons. Furthermore, based on article 32, point 1/c of the law no.10221, dated 4.2.2010, "On protection from discrimination", which cites the "Commissioner has the competence to undertake administrative investigation after receiving believable information of the violation of the law", this case will be attended ex officio from the office of Commissioner for Protection from Discrimination.

Pursuant to article 3, paragraph 3, Article 7, Paragraph 1, Articles 17-19, Article 32, paragraph 1, letter c), paragraphs 2, 3 and 4 of this Article and Article 33, paragraphs 10, 11 and 13 of the Law no. 10221, dated 04.02.2010 "On protection from discrimination", the Commissioner for Protection from Discrimination, with the Decision No. 209 / 30.12.2016, has decided:

1. Discrimination due to race was found in the field of education, by the Ministry of Education and Sports and the Regional Education Directorate Elbasan, which created a situation of segregation of Roma pupils in the elementary schools "Qemal Haxhihasani 2" and "Ptoleme Xhuvani" Elbasan.
2. The Ministry of Education and Sports and the Regional Education Directorate Elbasan must take appropriate measures, prohibiting the segregation of Roma pupils in elementary schools "Qemal Haxhihasani 2" and "Ptolemy Xhuvani 'Elbasan.

3. Within thirty (30) days of receiving this decision, the Ministry of Education and Sports and the Regional Education Directorate Elbasan, must inform the Commissioner regarding the measures taken to implement it.
4. Referring to the article 33, section 11 of the Law no. 10221, dated 04. 02. 2011, "On protection from discrimination" non-implementation of the decision, results in a fine under the provisions of paragraph 13 of this Article.
5. An appeal against this decision can be made before the Administrative Court of First Instance in Tirana, within the legal deadline.

V. Response to findings of the Commissioner for Protection from Discrimination

This case and especially the decision of the Commissioner for Protection from Discrimination has raised a big discussion on the race discrimination found in the field of education.

With the official letter no.13/1, dated 08.02.2017, the Ministry of Education and Sport has informed the Commissioner for Protection from Discrimination that:

Under the frame of the recommendations and the decision of the Commissioner for Protection from Discrimination on prohibiting segregation of Roma students, the Regional Education Department of Elbasan is undertaking the following preliminary measures:

1. It will inform in time every parent regarding the need of his/her children to attend temporarily the second chance program;
2. It will return to the normal classes 5 students of the second chance program who have achieved to improve their achievements in the frequentation of the school and learning;
3. It will engage in the normal classes the students of the second chance program in the school "H.Mullisi", after second three months, monitoring the regular attending of the school and the satisfied advancement of them.
4. It will strengthen the cooperation with student's parents who attend the second chance program, through the support of the school psychologist and social worker.
5. It will cooperate with the school department to identify and engaging in the classes of the second chances of every child (not only Roma and Egyptian children) who have problems with attending the school studies and abandoning the school.
6. It will organize the training of teachers through the cooperation with the unit of the psycho social service on the ways of the treatment of students of the second chance program.
7. It will monitor regularly the frequentation and educative-learning process in both classes of the second chance program.

With the official letter no.13/1, dated 8.02.2017, the Minister of Education and Sport has informed the Commissioner for Protection from Discrimination that the decision no.209, dated 30.12.2016 is distributed in all local education units, from which it is asked to undertake measures to avoid all problems and well-functioning of the second chance program.