THE RIGHT TO EDUCATION OF VULNERABLE SOCIAL GROUPS IN THE EUROPEAN UNION[∗]

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The first appearance of the concept of vulnerable social groups in a European legal context can be traced back to the case-law of the European Court of Human Rights. The expression was originally usedin relation to the Romani minority, however, in later decisions, the forum drew attention to the vulnerability of several different groups – among others, the mentally disabled, people living with HIV and asylum seekers. At the same time, the recognition of vulnerability requires special measures taken to protect the interests of those affected. In the Chapman v United Kingdom decision, marking the first appearance of the term, the Strasbourg court argued that "the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases."[2]

The concept of vulnerable social groups – alongside numerous other instruments developed via the ECHR's practice for the protection of human rights– has been adopted by both the legislation of the European Union and the case-law of its Court of Justice. The European Commission gives the following definition of the term: *"A number of groups within our societies face higher risk of poverty and social exclusion compared to the general population. These vulnerable and marginalised groups include but are not limited to: people with disabilities, migrants and ethnic minorities (including Roma), homeless people, ex-prisoners, drug addicts, people with alcohol problems, isolated older people and children."[3]* The Commission notes that the difficulties these groups experience translate into homelessness, unemployment, low education, and subsequently, their further exclusion from society. In view of this, the Commission considers the enhanced integration of these groups into society a priority and has developed the following threefold approach to meet this objective:

- increasing access to mainstream services and opportunities,
- enforcing legislation to overcome discrimination and, where necessary,
- developing targeted approaches to respond to the specific needs of each group.[4]

One policy area where the necessity of the integration of socially vulnerable groups clearly arises is the field of education. According to Article 6 of the Treaty on the Functioning of the European Union, the competence of the EU in this field is limited to

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[2] Chapman v. The United Kingdom (Application no. 27238/95) ECHR
[3] European Commission (2010) Inclusion of vulnerable groups, http://ec.europa.eu/employment_social/2010againstpoverty/extranet/vulnerable_groups_en.pdf[accessed July 2, 2017]
[4] *Ibid.*

carrying out actions to support, coordinate or supplement the actions of the Member States. This, in turn, largely determines the nature of EU legislation and policy documents in this area, as the Union may not supersede the competences of the Member States, therefore its legally binding acts may not entail harmonisation of Member States' laws or regulations.

The EU's approach

Currently, the strategic framework titled "Education and training 2020",[5] developed by the European Commission, forms the basis of EU education policy. The current framework can be considered a continuation of the "Education and training 2010" work programme,[6] building on the results and following the methodology of its predecessor.

"Education and training 2010" was the European Union's first programme in the area of education policy, reflecting on the broader objectives of the ten-year action and development plan drawn up by the 2000 Lisbon European Council (known as the Lisbon Strategy), which had aimed to transform Europe into *"the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion"* by 2010.[7] This comprehensive economic, social and environmental strategy laid down three major objectives concerning the field of education: improving the quality of education and training systems, making access to learning easier and opening education and training to the world.

Taking into account these general objectives and in consultation with the configuration of the Council of the European Union composed of the ministers responsible for education, the Commission set forth to establish the "Education and training 2010" programme, laying down specific objectives for the 2000-2010 period in order to coordinate the education policies of the member states, and setting up thematic working groups tasked with the examination of education systems and the formulation of best practices for the achievement of the objectives set. The work programme utilizes the so-called Open Method of Coordination,[8] in which the policy goals and the approaches developed by the working groups (including statistics, indicators, guidelines and best practices based on the data collected from member states) are presented to the member states as recommendations, and the realisation of the objectives is constantly monitored (*benchmarking*). This "soft law" approach eschews the harmonisation of member states' regulations, focusing instead on the

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[5]Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training (ET 2020) OJ C 119, 28.5.2009, p. 2–10

[6]Lisbon   European   Council   23   and   24   March   2000,   Presidency   conclusions, http://www.europarl.europa.eu/summits/lis1_en.htm[accessed July 2, 2017]

[7]*Ibid.*

[8] The openmethod of coordination and European integration: The Example of European Education Policy, http://www.polsoz.fu-berlin.de/polwiss/forschung/international/europa/arbeitspapiere/2008-8_Humburg_OpenMethodofCoordination.pdf[accessed July 2, 2017]

coordination of their distinct practices and thusly, does not require the issuing of legally binding acts or the use of sanctions.

Several of the specific objectives of the work programme directly addressed the situation of socially vulnerable groups in the area of education and training, with the programme also identifying the key issues necessary to tackle in order to achieve the objectives set. One such objective was titled "*Supporting active citizenship, equal opportunities and social cohesion"*;its key issuesincluding the integration of the equal opportunities dimension into the objectives and functioning of education and training as well as ensuring fair access to the acquisition of skills– even for the least privileged. Of equal importance was the objective titled *"Increasing mobility and exchanges"*, addressing key issues such as the provision of the widest possible access to mobility for individuals and education and training organisations, including those serving a less privileged public, and reducing the remaining obstacles to mobility. Also worth mentioning is the objective of *"Developing the skills needed for a knowledge society"* which included making the attainment of basic skills available to everyone, including those who are less advantaged or have special needs, school drop-outs and adult learners among its key issues.

The "Education and Training 2020" strategic framework, adopted in May 2009 and developed by the Commission in close cooperation with the Council, set four new strategic goals for the 2010-2020 period, based on the objectives of the Lisbon Strategy and the preceding work programme:

- Making lifelong learning and mobility a reality,
- Improving the quality and efficiency of education and training,
- Promoting equity, social cohesion, and active citizenship,
- Enhancing creativity and innovation, including entrepreneurship, at all levels of education and training.

In connection with the objective of promoting equity, social cohesion, and active citizenship, the conclusions of the Council consider several key areas directly concerning the situation of vulnerable social groups. According to the conclusions : *"Education and training policy should enable all citizens, irrespective of their personal, social or economic circumstances, to acquire, update and develop over a lifetime both job-specific skills and the key competences needed for their employability and to foster further learning, active citizenship and intercultural dialogue. Educational disadvantage should be addressed by providing high quality early childhood education and targeted support, and by promoting inclusive education. Education and training systems should aim to ensure that all learners — including those from disadvantaged backgrounds, those with special needs and migrants — complete their education, including, where appropriate, through second-chance education and the provision of more personalised learning. Education should promote intercultural competences, democratic values and respect for fundamental rights and the environment, as well as combat all forms of discrimination, equipping all young people to interact positively with their peers from diverse backgrounds."*[9]

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[9]ET 2020, op. cit.

In order to achieve its objectives, the strategic framework continues the use of the Open Method of Coordination. To enhance effectiveness and flexibility, the ten-year period was subdivided into shorter work cycles, with the current cycle running from February 2016 until June 2018.[10] For the duration of these work cycles, thematic working groups are established in the priority areas of cooperation between the Commission and the member states; these priorities are laid down by the Council before each work cycle. In the current cycle, six priority areas have working groups assigned to them; the *"Promoting citizenship and the common values of freedom, tolerance and non-discrimination through education"* working group is primarily responsible for issues relating to the participation of socially vulnerable groups in education. The name and objectives of the working group were established by the so-called *Paris declaration* adopted by the informal meeting of EU education ministers on 17 March 2015. These objectives include the fostering of the education of disadvantaged children and young people and the promotion of intercultural dialogue through all forms of learning.[11]

The Paris declaration called for an increased cooperation between member states for the accomplishment of its objectives and emphasised the importance of the Education and Training 2020 strategy, the Erasmus+ programme supporting the mobility of students and educators and other EU-level policy and funding instruments in education-related areas such as the Horizon 2020 innovation and research programme. The declaration also highlights the fact that in light of recent events – and particularly, the terror attacks shaking up European societies – EU-level cooperation in the field of education is instrumental in addressing the common challenges Europe is facing and in protecting the fundamental values lying at the heart of the Union: respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, since the protection of these values common to all member states require san education that is able to help youth embrace these values and become active, responsible, open-minded members of society.[12]

It's necessary to elaborate on the importance of the Erasmus+ programme,[13] introduced as the Commission's programme for education, training, youth and sport for the 2014–2020 period. This comprehensive programme combines several preceding EU schemes in the field of education and training, including the Lifelong Learning Programme, several international cooperation programmes and, most important to the topic at hand, the Youth in Action programme promoting active citizenship, solidarity, tolerance and intercultural dialogue among young people. For the continued achievement of these objectives, Erasmus+ introduced its Inclusion and Diversity Strategy, an agenda with the dual focus of including disadvantaged young people in

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[10] Working Group Mandates for 2016-2018, http://ec.europa.eu/education/policy/strategic-framework/expert-groups/2016-2018/et-2020-group-mandates_en.pdf[accessed July 2, 2017]

[11]Declaration on Promoting citizenship and the common values of freedom, tolerance and non-discrimination through education, https://eu2015.lv/images/notikumi/2015-3-10_Declaration_EN.pdf[accessed July 2, 2017]

[12]*Ibid.*

[13]European Commission (2014) Erasmus+ Inclusion and Diversity Strategy – in the field of Youth, http://ec.europa.eu/youth/library/reports/inclusion-diversity-strategy_en.pdf[accessed July 2, 2017]

education and training while also strengthening the knowledge, skills and behaviours needed to fully accept, support and promote their differences in society. This can be considered as a novel, increasingly socially responsible approach towards reducing the obstacles separating disenfranchised youth from participation in education and training, as well as the further benefits stemming from these opportunities, while also transforming mainstream societal attitudes.Another novelty of the strategy is its usage of innovative definitions: for example, the agenda introduces the umbrella concept of "young people with fewer opportunities", a decidedly non-exhaustive term developed to encompass the numerous factors that may manifest in social vulnerability.

Whether this new approach will prove successful in providing vulnerable youth with new opportunities in the field of education and training remains to be seen, however, with recent developments showing an increased focus on supporting refugees and other marginalised groups, the European Union seems more determined than ever to make a change.

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