

# Inclusion Europe

The European Association of Societies of Persons with Intellectual Disability and their Families  
L'Association Européenne des Organisations des Personnes Handicapées Mentales et leurs Familles

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## Submission to the Draft General Comment No. 4 on Article 24: The Right to inclusive education

Inclusion Europe is the democratic voice and representation of people with intellectual disabilities and their families in Europe. We welcome very much the development of the General Comment on Article 24 to clarify concepts and support its implementation. Many of our members in 37 European countries have commented on the draft General Comment on the basis of their own national situations. This submission of Inclusion Europe will complement and strengthen their submissions by emphasizing

- a. the support of the intellectual disability movement for the right to inclusive education for all children and adults;
- b. the need for specific attention to people with severe intellectual disabilities and complex needs;
- c. the importance of involving self-advocates, family members, and their organisations in the implementation of Article 24.

<b>Inclusive education for all children and adults is necessary for the quality of all education systems</b>
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Inclusion Europe and our members applaud the clear commitment of the CRPD Committee to the right to inclusive education at all levels. Although the focus of the General Comment needs to be on people with disabilities, we would like to remind decision-makers that inclusive education requires a reform of the education system for all learners, not only for those with a disability. It is thus essential that the General Comment is clearly embedded in the debate on quality mainstream education for all, be they disabled or non-disabled, citizens or non-citizens.

Addition to paragraph 15

*Article 24, paragraph 1 (a) reiterates the aims of education in line with Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child, in asserting that education must be directed to the full development of human potential and sense of dignity and self worth, strengthening of respect for human rights, fundamental freedoms and human diversity. Notably, these aims are neither disability-specific nor disability-related. The Committee thus recommends combining the full implementation of Article 24 with a general revision of the education systems for all learners.*

Addition to paragraph 40, bullet point 4

*States parties must take action to adopt and implement a **national educational strategy** which includes provision for secondary, higher and fundamental education. Article 24 necessitates that in fulfilling this obligation, appropriate action is taken to develop such a strategy on the basis of inclusion and equality of opportunity. States Parties must ensure that this strategy does not only focus on learners with a disability, but is inclusive of all learners.*

Addition to paragraph 41

*When reporting on measures taken to comply with article 24, States parties are urged to recognize the indivisibility and interdependence of all human rights on account of its key role in the full and effective realization of other rights and the irreversible harm, which is caused to a child who is excluded from the educational system.*

Inclusion Europe and our Members especially welcome that the draft General Comment identifies inclusion in education as a “process that transforms culture, policy and practice in all educational environments”. We welcome and support the clarification of the concepts of segregation, integration and inclusion as a basis for future work with States Parties.

In terms of its implementation, we strongly welcome the recognition that placing students with disabilities within mainstream classes without appropriate support does not constitute inclusion. We also applaud that it prohibits exclusion based on impairment or its degree.

Unanimously, we support the statement in paragraph 61 that responsibility for all learners must rest with the education ministry. However, we believe it to be important to clarify that learners with a disability should have the same status as pupils and students as others.

Change to paragraph 61

*Responsibility for the education of persons with disabilities, maintaining the same status as other learners, must rest with the education ministry. This also includes the responsibility for the coordination of external support at school or for common school activities beyond classroom hours, some of which may be financed by other Ministries or agencies.*

Change to paragraph 73.b

***Adapting and empowering special schools into resource centres to provide support to all learners in a number of mainstream education environments, without having any special classes at the resource centre. States parties should encourage the development of staff at resource centres to have a high level of expertise and provide a range of support services including training for teachers, school governing bodies and administrators, families and students with disabilities, support the transition of special to inclusive education, as well as identifying persons with disabilities, assessing ~~them~~ their learning needs, arranging and supporting their entry into inclusive learning environments, sourcing assistive materials and devices and training teachers to make their own. Specific attention and training is necessary to ensure existing staff and their practices transform from a special education approach to an inclusive one.***

### **Attention to people with severe intellectual disabilities and complex needs**

Statistics show that segregation of students with disabilities increased in Europe since 2008 from 2,0 % to 2,25 % in 2012.<sup>1</sup> There is evidence suggesting that mostly students with intellectual disabilities and complex needs are being segregated. In many countries, such as Belgium<sup>2</sup>, Germany<sup>3</sup>, Greece<sup>4</sup>, Hungary<sup>5</sup>, Lithuania<sup>6</sup>, the Netherlands<sup>7</sup>, Romania<sup>8</sup>, or the United Kingdom<sup>9</sup>,

<sup>1</sup> Based on Special Needs Education Country Data 2008, 2010 and 2012 by the European Agency for Development in Special Needs Education. [https://www.european-agency.org/sites/default/files/special-needs-education-country-data-2008\\_SNE-Data-2008.pdf](https://www.european-agency.org/sites/default/files/special-needs-education-country-data-2008_SNE-Data-2008.pdf) / [https://www.european-agency.org/sites/default/files/special-needs-education-country-data-2010\\_SNE-Country-Data-2010.pdf](https://www.european-agency.org/sites/default/files/special-needs-education-country-data-2010_SNE-Country-Data-2010.pdf) / [https://www.european-agency.org/sites/default/files/sne-country-data-2012\\_SNE-Country-Data2012.pdf](https://www.european-agency.org/sites/default/files/sne-country-data-2012_SNE-Country-Data2012.pdf)

<sup>2</sup> An example is Belgium. Concluding observations on the initial report of Belgium: “The Committee is concerned at reports that many students with disabilities are referred to and obliged to attend special schools because of the lack of reasonable accommodation in the mainstream education system. As inclusive education is not guaranteed, the special education system remains an all too frequent option for children with disabilities. The Committee is also concerned about poor accessibility in schools.”

<sup>3</sup> “In Germany, less than 16% of all disabled children have access to regular school settings”. Page 42. INCLUSIVE EDUCATION FOR YOUNG DISABLED PEOPLE IN EUROPE: TRENDS, ISSUES AND CHALLENGES.

<sup>4</sup> Ibid

<sup>5</sup> Latimier C. and Šiška J. (2011), Children’s rights for all! Implementation of the UN Convention on the Rights of the Child for children with intellectual disabilities, Brussels, Inclusion Europe. Page 19

the majority of students with intellectual disabilities and complex needs are referred to segregated schools. This is considered to be a result of implicit policies regarding children with intellectual disabilities and complex needs as too difficult or too expensive to be included in the general educational system.

Inclusion Europe and our members are especially concerned about the situation of learners with more severe intellectual disabilities and complex support needs. We fully support the recognition of the Committee in paragraph 18 that “to classify certain groups of children as ‘non-educable’, and thereby ineligible for access to education” is an example of direct exclusion and thus prohibited.

However, long-term experience from most European countries shows that learners with (severe) intellectual disabilities or complex needs are most often excluded and marginalized in the general education system. We thus call on the Committee to strongly encourage State Parties to undertake positive action to ensure that this group of learners is not left behind: a bad implementation of the inclusive education process could result in these learners staying at home and their rights to education denied.

Insert paragraph 7 (bis)

While the General Comment is applicable to all persons with disabilities, the Committee recognizes that some groups are more vulnerable to exclusion from education than others. Particular efforts to ensure that people with intellectual disabilities – regardless of support need – are included may be required.

Change to paragraph 12 g

**Monitoring:** *as a continuing process, inclusive education must be monitored on a regular basis to ensure that segregation or integration is not taking place either formally or informally. A specific focus on vulnerable groups of learners, such as people with severe disabilities or complex needs is necessary. Monitoring must also include all school-age children who are not in regular school programs, in so-called “home school programs” or in long-term residential institutions. Monitoring, in accordance with article 33.2 and 33.3, should involve persons with disabilities, including children, as well as parents of children with disabilities where appropriate, in order that systems are transparent and accountable.*

Change to paragraph 28

*[...] The extent to which reasonable accommodation is provided must be considered in light of the State party’s overall obligation to develop an inclusive education system. It is not acceptable, for example, that States parties evade taking any steps to develop an inclusive education system, or reject any individual learner only because of his or her complex needs, using the lack of resources and high cost as justification. If resources are lacking, they should primarily be transferred from any existing special to the inclusive school system.*

Insert paragraph 32 bis

With regard to article 24, paragraph 2, the Committee is concerned that many States Parties are failing to make appropriate provision for children with intellectual disabilities and/or complex support needs. It reiterates that:

- a) Students with intellectual disabilities and/or complex needs must be provided with the necessary support to enable them to successfully participate in primary, secondary, tertiary and vocational education in the same local settings that other

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[http://inclusion-europe.org/images/stories/documents/Project\\_CRC/Results/European\\_Report/EN.pdf](http://inclusion-europe.org/images/stories/documents/Project_CRC/Results/European_Report/EN.pdf)

<sup>6</sup> ibid

<sup>7</sup> 80 Percent of students with an intellectual disabilities in the Netherlands are placed in segregated special schools. Staat van het onderwijs 2010. Report by the Education Inspectorate. “Almost all” students with complex needs in the Netherlands are placed in segregated special schools or daycare centers. Staat van het Onderwijs 2012, page 151. Report by the Education Inspectorate.

[http://www.onderwijsinspectie.nl/binaries/content/assets/Onderwijsverslagen/2012/onderwijsverslag\\_2010\\_2011\\_printversie.pdf](http://www.onderwijsinspectie.nl/binaries/content/assets/Onderwijsverslagen/2012/onderwijsverslag_2010_2011_printversie.pdf)

<sup>8</sup> ibid

<sup>9</sup> ibid

learners of the same age would attend. Measures of positive action may be necessary to achieve that.

- b) Curricula for all students must include the topic of citizenship and the skills of self-advocacy and self-representation as fundamental basis for participation in political and societal processes. In addition, the use of graphic communication systems should be encouraged for all inclusive schools.
- c) States Parties must identify all school-age students, including those in so-called “home-school programs” or in long-term residential institutions, who are not attending regular schools and provide disaggregated statistics of the reasons for their non-attendance. If the reason should be identified as being a disability or the unavailability of necessary support, States Parties must prioritise mainstream educational provision for these children.

Change to paragraph 47

*Article 8 calls for pro-active measures to raise awareness and challenge stereotypes, prejudices and harmful practices relating to persons with disabilities. These are particularly prevalent for people with severe disabilities and/or complex needs. Such barriers impede both access to, and effective learning within the education system. Consistent with Article 8, paragraph 2(b), States parties must ensure that mechanisms are in place to foster, at all levels of the education system, an attitude of respect for the rights of persons with disabilities.*

Change to paragraph 78

*In accordance with article 33, and in order to measure progress on the full realization of the right to education through the establishment of an inclusive education system, States parties must develop monitoring frameworks with structural, process and outcome indicators, and specific benchmarks and targets for each indicator. Persons with disabilities should be involved in both the determination of the indicators as well as the collection of data and statistics. Structural indicators should measure barriers to inclusive education and not be limited merely to collecting data disaggregated by impairment. Process indicators will enable monitoring of the progress of the transformation. Outcome indicators also need to be established, for example, number of school-age children who are not in mainstream schools, percentage of students with disabilities in inclusive learning environments obtaining final certification, and the percentage of students admitted to secondary education.*

### **Importance of involving self-advocates, family members, and their organisations**

Inclusion Europe and our members strongly welcome the emphasis of the Committee on the important role of families of disabled children in the education process. As before, we however suggest to ensure that this happens in an inclusive way and is not only limited to and focused on children with disabilities. In addition, we believe that investments of States Parties are required to enable families of disabled and non-disabled children to fulfill a more active role.

Change to paragraph 12 f)

**Recognition of and investment in partnerships.** *Teacher associations, student associations, student federations and organizations of persons with disabilities and their families, school boards, parent-teacher associations, and other functioning school support groups are all encouraged and supported to increase their understanding and knowledge of disability. Involvement of parents and the community must be viewed as assets with resources and strengths to contribute that warrant investments of States Parties to develop and maintain. It is important to recognize the relationship between the learning environment and the wider community as a route towards creating inclusive societies.*

Change to paragraph 19

*Paragraph 2 (b) requires States parties to ensure that persons with disabilities can access inclusive, quality and free compulsory education on an equal basis with others in the communities in which they live. States parties have to ensure that also learners with intellectual disabilities and complex needs can take part in inclusive education within their communities. These persons and their parents need to be advised and encouraged to attend inclusive schools, and inclusive schools need to be staffed, equipped and organized adequately in order to meet all individual, even complex, needs. The Committee draws on the interpretation by the Committee on Economic, Social and Cultural Rights that in order to fulfil this obligation, the education system must comprise four interrelated and essential features.*

Change to paragraph 80

*States parties should encourage education institutions to work with families of all of their students, including families of students with disabilities, as partners in providing education, and to involve them closely in the development and implementation of learning programmes, including individualized education plans where appropriate. Family members, volunteers and community members should be encouraged to provide active support in the classroom. They can play a significant role in assisting teachers to provide support to individual students. Such involvement requires investments of States Parties in supporting families and providing training for families. It then not only provides an additional resource in the classroom, but also enables whole community to become more responsive and sensitive to strengths and needs to students with disabilities and more confident in their parenting skills. In addition, it builds links with local communities and serves to break down barriers that are often based on lack of knowledge or understanding of disability.*

Change to paragraph 77

*Quality inclusive education requires methods of appraising and monitoring students' progress that takes account of the barriers faced by students with disabilities. The Committee is concerned that traditional systems of assessment, utilising standardized achievement test scores as the sole indicator of success for both students and schools, can serve to disadvantage students with disabilities. The emphasis should be on individual progress towards broad goals, rather than comparative measures. With appropriate teaching methodologies, support and accommodations, all curricula can be adapted to meet the needs of all students, including those with disabilities. Inclusive student assessment systems can be strengthened through a system of individualized supports, which emphasize teaching approaches based on targeted goals, providing alternative routes for learning, offering flexible instruction and ensuring the use of clear feedback to learners. They can also be strengthened by developing and supporting structural involvement of family members or peers in the assessment processes who can provide important insights into the barriers faced by students with disabilities.*