

Children with intellectual disabilities and access to education

Biljana Janjic, Disability Rights International

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Seminar: Equality bodies tackling Discrimination against Persons with Intellectual Disabilities

- Since 1993, Disability Rights International (DRI) has been dedicated to promoting the human rights and full participation in society of children & adults with disabilities worldwide
- Based in Washington DC with regional offices in Mexico, Serbia, Ukraine



DISABILITY RIGHTS
INTERNATIONAL

- Documenting abuse and ill-treatment of children and adults with disabilities, publishes reports, and promote international oversight of human rights of persons with disabilities

(DRI documented abuse and ill-treatment of children and adults with disabilities in Mexico, Ukraine, the Republic of Georgia, Guatemala, the United States, Vietnam, Serbia, Argentina, Romania, Turkey, Peru, Kosovo, Hungary, Uruguay)

- International and national advocacy
- Empowering and building capacities of self-advocates and advocates seeking legal and service system reform
- Regional offices also work on issues relevant for the region

General Comment No. 4 (2016)

Article 24: Right to inclusive education

Committee on the Rights of Persons with Disabilities

Right to inclusive education

- States parties must ensure the realization of the right of persons with disabilities to education **through an inclusive education system** at all levels, including pre-schools, primary, secondary and tertiary education, vocational training and lifelong learning, extracurricular and social activities, and for all students, including persons with disabilities, **without discrimination and on equal terms with others.**

Exclusion from the education system

Denied right to education: children with severe intellectual disabilities or complex needs, children with disabilities in residential institutions and day-care centers;

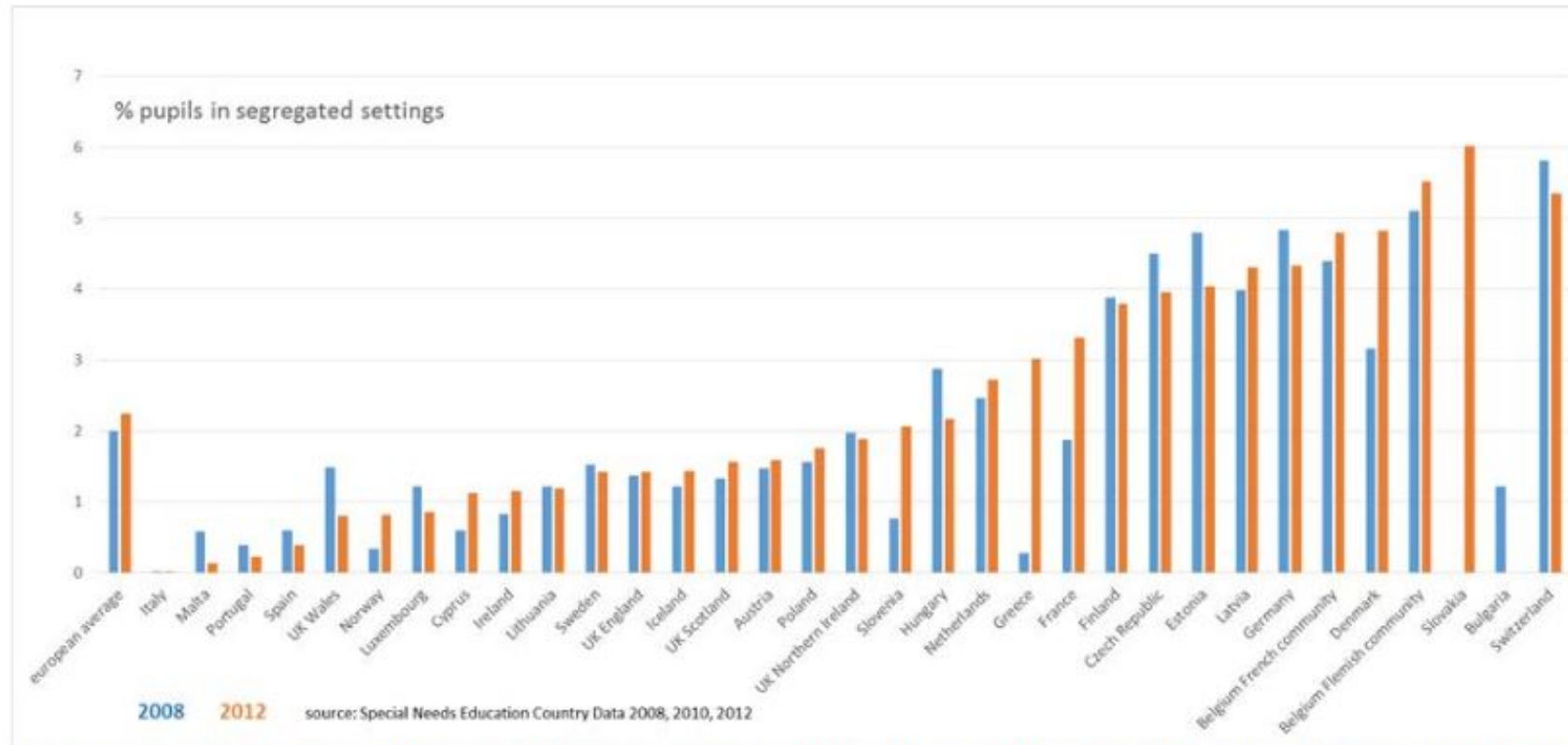
- Netherlands (around 4,000 children), France (between 6,000 and 20,000 children), Bulgaria (3,000 children), Croatia (4,200), *EASNIE, IE*
- estimates that 1.8 million of all children of primary-school age are missing from school in the whole of the South Eastern Europe (SEE), Central Europe (CE), and Commonwealth of Independent States (CIS) region (*UNESCO, UNICEF*)
- Serbia: children with disabilities overrepresented in residential institutions; 60% of them excluded from the education system (2016);

Direct and non-direct exclusion

- Direct exclusion: labelling students as “non-educable”
- Non-direct exclusion: e.g. standardized enrolment test without reasonable accommodations and support; attendance of pre-school as a condition for primary school enrolment;

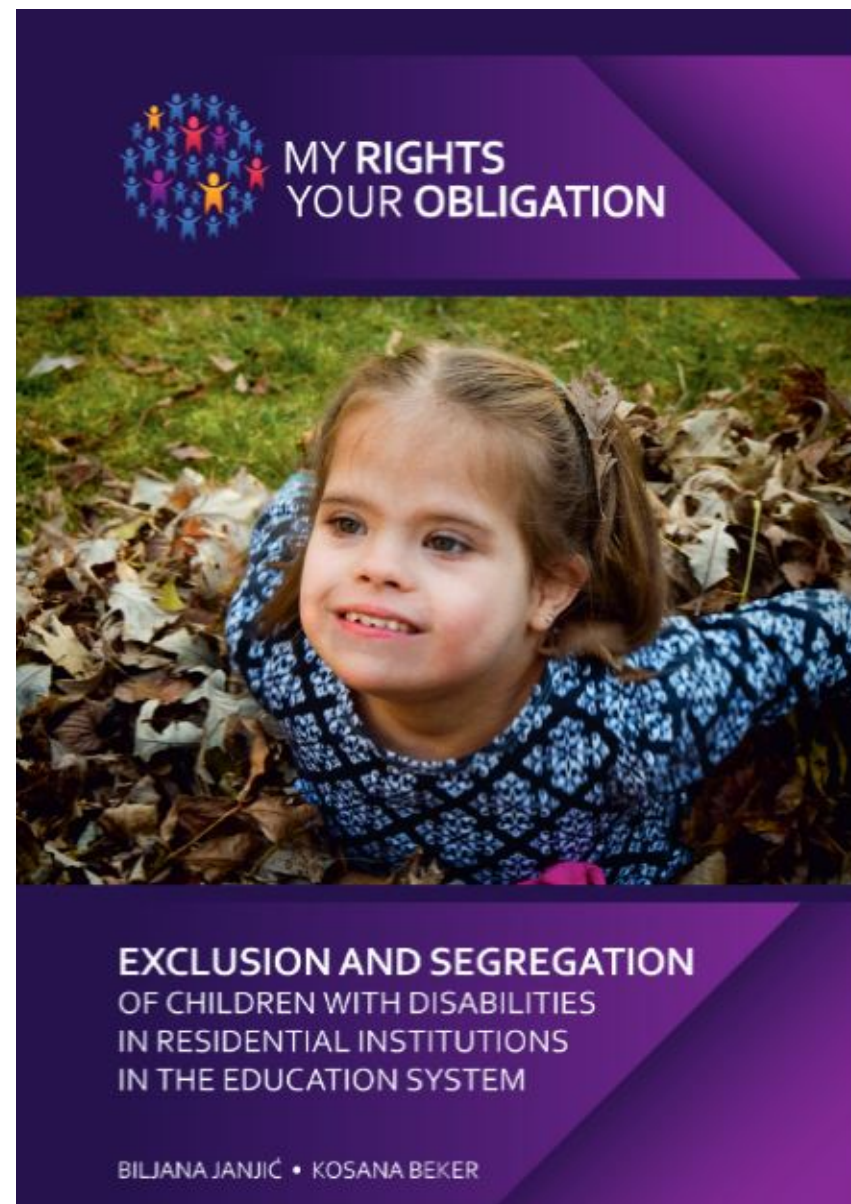
Paragraph 2 (a) prohibits the exclusion of persons with disabilities from the general education system, including any legislative or regulatory provisions that limit their inclusion on the basis of their impairment or its “*degree*”, such as by conditioning their inclusion “*to the extent of the potential of the individual*”, or by alleging a disproportionate and undue burden to evade the obligation to provide reasonable accommodation.

Segregation in the education system: isolated from peers and receive an inferior provision of support



Source: data from Special Needs Education Country Data 2008, 2010 and 2012 by the European Agency for Development in Special Needs Education. For some countries data were not available for given years, but only for specific years between 2008 and 2012.

- If they attend schools, children with disabilities living in residential institutions as a rule attend special schools
- Special units within special schools
- Conducted research, reporting, Concluding Observations (CRPD, CRC), EC 2016 Progress Report on Serbia
- Worked with Commissioner for Protection of Equality and the Ministry of Education on formulating action plan and instruction for preventing segregation



- Lack of accessibility, additional support services, insufficient training, lack of funds must never be a reason for exclusion or segregation
- Children with disabilities placed in residential institutions: additional selection criteria - to be independent, not to use mobility aids, use toilet independently, have personal assistant/nurse present in school, have transport to school provided, etc. ONLY IF the school has enough available spaces in the classroom



The right to non-discrimination includes:

- the right not to be segregated and,
- to be provided with reasonable accommodation

It must be understood in the context of the **duty to provide accessible learning environments** and **reasonable accommodation**.

- Specific and continuing obligation “*to move as expeditiously and effectively as possible*” towards the full realization of article 24.

This is not compatible with sustaining two systems of education: mainstream and special/segregated education systems.

Access to inclusive, quality and free primary and secondary education on an equal basis with others in the communities where they live

- **Reasonable accommodation:** the denial of reasonable accommodation constitutes discrimination and the duty to provide reasonable accommodation is immediately applicable and not subject to progressive realization.
- **Availability:** Public and private educational institutions and programmes must be available in sufficient quantity and quality
- **Accessibility:** the entire education system must be accessible, including buildings, information and communication, comprising ambient or frequency modulation assistive systems, curriculum, education materials, teaching methods, assessment and language and support services.
- **Acceptability:** the obligation to design and implement all education-related facilities, goods and services taking full account of and respecting the requirements, cultures, views and languages of persons with disabilities
- **Adaptability:** Universal Design for Learning
- **Training** all teachers in inclusive education based on the human rights model of disability.

States parties should implement the following core rights with immediate effect:

1) Non-discrimination in all aspects of education:

- ensure non-exclusion from education for persons with disabilities,
- eliminating structural disadvantages to achieve effective participation and equality for all persons with disabilities,
- taking urgent steps to remove all legal, administrative and other forms of discrimination impeding the right of access to inclusive education,
- the adoption of affirmative action measures;

2) Reasonable accommodations to ensure non-exclusion from education for persons with disabilities. Failure to provide reasonable accommodation constitutes discrimination on disability grounds.

3) Compulsory, free primary education available to all.

The Committee urges States parties to “ensure access to and completion of quality education for all children and youth to at least 12 years of free, publicly funded, inclusive and equitable quality primary and secondary education, of which at least nine years are compulsory, as well as access to quality education for out-of- school children and youth through a range of modalities” as per the Education 2030 Framework for Action.

Connection with other CRPD articles

- Intersectional discrimination and exclusion pose significant barriers to the realization of the right to education for women and girls with disabilities (Article 6)
- Inclusive education provides an opportunity to develop the expression of the will and preferences of students with disabilities, particularly those with psychosocial or intellectual impairments (Article 12)
- Prohibit all forms of corporal punishment, and cruel, inhuman and degrading treatment in all settings, including schools, and ensure effective sanctions against perpetrators (Article 16)
- Recognition of the right of persons with disabilities to live within the community (Article 19)

Global campaign to end institutionalization of children



Thank you!

Biljana Janjic

Disability Rights International

bjanjic@DRladvocacy.org

www.DRIadvocacy.org

www.mdri-s.org