

## **Contribution towards the development of General Comment on Article 24 of the CRPD**

Inclusion Netherlands welcomes the draft general comment as a strong, clear, explicit interpretation of the right to education as a right to inclusive education for all students and a commitment to the value of diversity. We welcome the comprehensive view the Committee takes in the draft general comment. Inclusive education is not only a right for all students with intellectual disabilities and other disabilities but also a right for students without disabilities who profit from the celebration of diversity.

In the Netherlands the majority of children with intellectual disabilities (>80%) in primary school age can at best receive segregated special education. A considerable group of children with complex needs is entirely excluded from education, also in primary school age.

In secondary and vocational education almost all students with intellectual disabilities are effectively excluded from mainstream education and this is understood as inevitable and unavoidable. We welcome the clear interpretation of the right to inclusive education for all students, as this will send the message that the education system can and should be changed towards inclusion for all.

Inclusive education is rightly set out as a necessary tool to make communities be more accessible, to end long term institutional care systems, to help students gain access to open labour market and to help students with especially psychosocial and intellectual impairments to express their will and make their own choices in life, exercise all their human rights and become contributing citizens to their society.

### **Importance of data collection about inclusive education**

Policies in many countries are formally geared towards inclusive education. Yet these policies usually are not comprehensive, not always aimed at systematic changes, and they lack careful planning, special monitoring mechanisms and the necessary reallocation of resources. Statistics show that segregation of students with disabilities increases in Europe since 2008 from 2 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

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<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)

many countries, such as Belgium<sup>2</sup>, Germany<sup>3</sup>, the Netherlands<sup>4</sup>, Hungary<sup>5</sup>, Greece<sup>6</sup>, United Kingdom<sup>7</sup>, Lithuania<sup>8</sup>, Romania<sup>9</sup>, 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, which regard children with intellectual disabilities and complex needs as “non-educable”, or too difficult or too expensive to include in the general educational system. These policies are usually not formally questioned because there are no reliable and comparable data available on access to education and learning outcomes for children and adult learners with intellectual disabilities.

We welcome a general comment clearly stating that the right to inclusive education is for all children and adult learners. Policies and monitoring mechanisms should aim specifically at groups most at risk of being marginalized.

### **Specific proposals to the Committee**

#### *Introduction*

Under Paragraph 2 Inclusion Netherlands considers it very important to frame the right to inclusive education as the key to achieving the right to education.

In Paragraph 3 we welcome the analysis, which says there is an educational, a social and an economic case to be made. We would like to add to the economic case the following:

The European Commission states “access to quality education has an impact on future academic and labour market outcomes.” The OECD highlights year after year the economic importance of investment in human capital. Our society and our economy is increasingly evolving, becoming more specialized and competitive. We all need education to be able to participate in society in general and on the labour market.

Recent studies in UK and the Netherlands ([www.disability-europe.net](http://www.disability-europe.net)) point to structural problems in our educational system. What we see happening in the Netherlands and in comparable countries is that people with a relatively low IQ have more difficulty in coping in society. Society gets more complicated and more literate. The educational system tends to follow this trend by becoming more selective and more complicated for students. In recent studies in the Netherlands it is noted that a growing number of

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<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> 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>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

[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> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

young people are assessed as having learning difficulties or intellectual disabilities. This is attributed to changes in secondary and vocational schools, who grow in scale, become less structured and demand higher entrance levels of all students. As a result of that, a growing number of young people with a relatively low IQ are excluded from schools while at the same time they need better education in order to cope in society and compete for jobs. The result is a growing number of young people labelled as 'disabled' and made dependent on care and benefits. The segregated schooling and dependency on benefits for a fast growing group is very costly in a direct way.

Societies tend to teach like we used to do 100 years ago. We assess how well our young people read, write and learn math's and we train them to be successful on the labour market. Those students for whom learning seems slow are offered with segregated schooling of lesser quality and with a low ambition level. Inclusion Netherlands strives for inclusive education, not just to get children with disabilities in mainstream school, but because all children learn more and they learn better in inclusive schools.

- Under Paragraph. 12 b), 'early identification' could in our view easily be understood as stressing the need for diagnosis of children with impairments, thereby strengthening the medical view. We suggest to delete 'with regard to children with disabilities' and replace early identification with 'early recognition of needs'.
- Under Paragraph 13 we are very pleased again to see reference to the right to education (as the mother right from which the right to inclusive education flows), with reference to UNESCO Convention against Discrimination in Education.
- Paragraph 15 rightly affirms the essential understanding from the CRC that 'the right to education is not only a matter of access but also content'.
- We are convinced that Paragraph 18 is very important. However, we fear that the way it is formulated leaves room for understanding special education as part of the general education system. The Dutch government for example argues that the general education system is inclusive, because everyone has a right to receive 'appropriate' education and this could mean special segregated education. The second sentence starting with 'in this context' seems to leave room for this argument. In our view **the word 'includes' needs to be replaced by 'means'** and it should explicitly be added that special segregated education is not a part of the regular learning environment.
- We welcome the following statement 'an example of non-direct exclusion would be the requirement of children to pass a common test or examination as a condition of entry into schools'. All regular high schools in the Netherlands impose diploma requirements and all regular vocational schools select their students on the perceived ability to meet existing demands by employers on the open labor market. They do so by deciding if a student is likely to fit into the labor market and reject them for a training program if they think the student won't be hired, **even if** the student can satisfy all of the substantive program requirements. Is this an example of 'non-direct' exclusion? We hope these questions will help the Committee to expand the GC with examples of this kind.
- Under Paragraph 21 we suggest to add somewhere in the second sentence, after 'not just buildings': **'education material, teaching methods and devices, teaching in sign language, courses in sign language, use of interpreters, personal assistants for especially students with psychosocial or intellectual impairments'**.

- In Paragraph 25 regarding adaptability, it is very important to encourage States to move away from reliance on standardized assessment and testing, we welcome this encouragement and would like to strengthen it by adding that **‘inclusive education starts with the assumption that all people can develop and learn and is committed to facilitating and effectively supporting that process in all learners’**.
- Under Paragraph 28 regarding: ‘reasonable accommodation’, in the first sentence we suggest adding the words **‘in addition to general accessibility’** after ‘provide’.

The definition of reasonableness requires more guidance. It is unclear at what level the availability of resources is to be analyzed – whether at the level of the school itself, or with respect to a larger pool of resources, including over the longer term, and/or in relationship to care resources.

It would be helpful to include several examples here. A one-to-one teacher could be a reasonable accommodation. It is important to add language indicating that ‘reasonableness’ requires looking at the inclusiveness of the context, and not just at the individual. An analysis of reasonableness requires looking at the nature of the classroom and to analyze how it contributes to or hinders inclusion, for example.

- Under Paragraph 30 monitoring the effectiveness of accommodations is absolutely essential, but also the effectiveness of the proceedings to secure them is important. We see no follow-up of proceedings in this sense. Generally parents are reluctant if not terrified to start them for fear of ruining a school atmosphere or teacher relationship.
- Paragraph 33 is a very important in the sense that accommodation often stops far short of the aim of full inclusion, and nothing more than enables a student to hobble along in the margins. Perhaps it is worth mentioning here that this also means a view at how the classroom, teaching methods and communication strategies can be adapted classroom-wide, in addition to the focus on the individual only.
- To Paragraph 34 c) it is necessary to add the word **‘inclusive’** before ‘environments’.

#### *Implementation at the National Level*

- Paragraph 63 f) should be amended, as: ‘Recognition of the need for reasonable accommodation (...) based on human rights standards **rather** than on the efficient use of resources’.
- In Paragraph 68 it is very important to emphasise effective resource transfer from special to inclusive educational settings.

#### *Closing remarks*

We would like to express our gratitude to the CRPD Committee for the opportunity to provide comments on the draft General Comment on Article 24 of the CRPD. We sincerely hope that our suggestions are useful and the Committee will include them in the final version of the GC.

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