

Tēzes runai Eiropas Komisijas darba grupai par bērniem ar invaliditāti

23.09.2019.

Rīgā

International obligations:

1. UN Convention on the Rights of the Child - Article 23:

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

2. UN Convention on the Rights of Persons with Disabilities – Article 7

Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.


1. Latvia is a party of both main international agreements concerning children with disabilities' rights - UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities.
2. In my speech I will highlight some of problems which were identified by the Ombudsman's Office of the Republic of Latvia in relation to children with disabilities' rights in Latvia in the context of their key social rights.
3. As per litigation cases, there are no extensive national case law concerning rights of children with disabilities, mainly they are related to inclusive education.

Statistics:

SOCIAL PROTECTION

6.5. BĒRNU INVALĪDU SKAITS NUMBER OF DISABLED CHILDREN (gada beigās/ at the end of the year)

Gads Year	Pavisam Total	Bērnu invalīdu skaits, par kuriem piešķirta piemaksa pie ģimenes valsts pabalsta <i>Number of disabled children who have been granted supplement to state family benefit</i>	Bērnu invalīdu skaits sociālās aprūpes iestādēs <i>Number of disabled children in social care institutions</i>
2010	7 859	7 389	470
2017	8 068	7 756	312
2018	8 093	7 837	256

 Valsts sociālās apdrošināšanas aģentūras un Labklājības ministrijas dati.
Data of State Social Insurance Agency and The Ministry of Welfare.

Early Childhood Education

1. In terms of education in Latvia term “children with special needs” instead of “disabled children” is used.
2. The Law on General Education states (chapter 5, section 20 (1)) that the preparation of children from five years of age for the acquisition of basic education is mandatory but Section 21 of the law states that local governments shall ensure equal access to pre-primary educational institutions in their administrative territory to children from eighteen months of age.
3. Pre-primary education programs are mandatory for five- and six year-old children who have not attended pre-primary educational institutions before. The objective of the preprimary education curriculum is to ensure the multifaceted development of a child's personality, to promote health and readiness to enter the primary stage of basic education.
4. Pre-primary education can be delivered at various preprimary education institutions (kindergartens) or at special pre-primary classes in general education institutions. Children with special needs could attend special pre-primary institutions, classes for children with special needs within mainstream schools or mainstream pre-primary educational institutions depending on their

parents' choice. The Law on Education (Section 57) states that parents have the right to choose the educational institution in which their child will acquire education.

5. For every child with special educational needs who is included in mainstream educational settings, an Individual Education Plan should be developed. Children with special educational needs could attend mainstream or special preprimary educational institutions. As mentioned above, it depends on the choice of the parents.

Education

1. In Latvia on the paper legislation and policy are consistent with the principles of the UN Convention on the Rights of the Child and the UN Convention on the Rights on Persons with Disabilities.
2. The concept of inclusive education is described in the Education Development Guidelines as a process in which corresponding diverse needs of all learners are ensured, increasing the participation opportunities of every learner in the learning process, culture and various communities and reducing possible exclusion from education and the educational process.
3. Although both the normative and the policy planning documents provide for the concept of inclusive education, the Ombudsman unfortunately receives applications from the parents of the children on circumstances restricting the rights of the children with special needs to receive education.
4. The municipalities are not interested in licensing special education programs in general education institutions, therefore, it is difficult for the parents to choose the educational institution matching the child's needs. If there is no such institution near the place of residence, the children are most often taken to a boarding school, where they stay for the whole week or even until holidays, since the municipalities are not able or do not want to provide transport for students to be able to get to the educational institution and back home. If the child is provided with transport to go to the school from home, he/she must spend much time travelling, which adversely affects the ability to concentrate on studies.
5. General education institutions do not do everything possible to create possibilities and conditions for the child with special needs to receive education matching his/her health, development level and abilities, thus preparing him/her for life and integration into society.
6. Having faced difficulties in disciplining the children, educational institutions, including special boarding schools, try to divert the children to home education. This possibility is popularized on their websites: "All study programs can be mastered in home education, provided that there is a respective conclusion of the Pedagogical Medical Commission." However, maximum number of class periods in home education is up to 8 hours a week. As a consequence, the child fails to develop social skills and does not receive education matching his/her abilities.
7. Concerning the service of the assistant in an educational institution for the children with special needs, the State Audit Office has concluded in its audit

that this is only a means for receiving the state budget co-financing for paying wages to the support staff in schools, since the assistant's responsibilities are identical to the tasks that should be provided by the schools educating the persons with disability. Besides, the funds intended for this purpose year after year are not being acquired and are channeled to other cost items, for example, to repairs.

8. According to the normative regulation education assistant's service is only provided to the children having disability and requiring a special care. In the Ombudsman's opinion, it would be necessary to provide the education assistant's service to everyone who really need it and not only for children defined with a necessity of a special care.

Independent lifestyle and integration into society

1. Deinstitutionalization process in Latvia has been commenced, however, transition to the society-based services takes place very slowly. The DI project target groups are the children with functional disorders and the children living in out of family care system, as well as the adult persons with mental disorders. Project does not directly concern the persons with other disabilities.
2. In Latvia most parents want to care for a child with functional disorders at home, rather than sending him/her to an institution. The state must provide these families with the necessary support, so that they are able to care for the child, as well as to provide all support necessary for his/her development, thus reducing placing children in an institution.
3. It is necessary to increase the administrative capacity of the municipalities by favouring involvement of the specialists matching the needs of population and creation of services at the level of planning regions and local governments.
4. Missing unified approach and understanding of promoting and introducing the inclusive education in municipalities.
5. Children with functional disorders do not receive enough supervision and free time spending services after school. Day centres are often only intended for the adult persons or there are no day centres at all. Day care centres are an important service for families raising the child with functional disorders.
6. No activities are implemented within the framework of the DI that would achieve long-term changes. Funds are being spent on repeatedly studying the situation, evaluating the needs, long administration, which significantly reduces the funding necessary for creation of the services.

Healthcare

1. The Ombudsman received applications from parents of children with severe functional and mental impairments concerning rehabilitation course required from a child, yet parents were unable to request sick-leave certificate and allowance because the child was 15 years old. Therefore, children with disability have no wholesome access to the receipt of rehabilitation service.

2. The Ombudsman studied the issue and concluded that availability of health care was limited in case of children older than 14 years who have to stay at medicinal institutions for lengthy periods and are not able to take care of, and this situation contradicts with the equality of rights principle. In the Ombudsman's opinion, the current regulation in fact restricts the rights of children to development and qualitative health care.
3. The Ombudsman applied to the Ministry of Welfare for drafting amendments to regulatory acts to provide that parents who have to care after an inpatient child with severe health conditions are entitled to request a certificate of sick-leave and sick-leave allowance until the child reaches the age of 18 years.
4. The Ministry of Welfare replied to the Ombudsman that indeed support should be provided in case of children over 14 years if the presence of their parents is required for medicinal rehabilitation in the event of disability or sudden disease, and therefore the Ministry is periodically reviewing the legal regulations; on the other hand, such support should be commensurate to financial abilities of the State and proportional to other population groups.

Decent housing

1. Article 10 of the *Law on Protection of the Rights of the Child* defines the rights of children to the wholesome living conditions, namely, a child has a right to such living conditions and favorable social environment that ensures full his or her physical and intellectual development. Likewise, each child shall receive appropriate food, cloth and accommodation. In addition, the Article 10, Paragraph 2 of the said Law prescribes that a child with mental impairments has a right to all he or she requires to satisfy his or her special needs.
2. However, in practice there are no homogenic approach in terms on how at national and municipal level support for adjustment of housing for children with disabilities is provided. There are situations that some municipalities this kind of support is enshrined in binding regulations and provided to all in need, however, in some municipalities those in need are required to apply in order to get this support and support is provided on the case-by-case basis. And this is not acceptable both according to national and international obligations.