

The Rights of Children with Disabilities: Access to A Quality Inclusive Education For Them

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Abstract

The Convention "On the Rights of Persons with Disabilities" provides for the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, as well as the right to continuous improvement of living conditions. The States Parties have the obligation to take appropriate steps to protect and improve the realization of this right without discrimination, due to disability, to ensure the access of persons with disabilities and their families, who live in conditions of poverty, in the assistance provided by the State to cover expenses related to disability, etc¹. In particular, States Parties to the Convention must guarantee the health services that persons with disabilities need because of their disability, including early identification and intervention as appropriate, as well as tailored services to minimize and prevent the worsening of disabilities, including children². Creating a safe and healthy environment for children is also one of the main objectives of sustainable development of the UN (Agenda 2030 of SDG-es). This paper deals with the right of children with disabilities to benefit from health, social, educational services, as well as any other services, according to the needs determined by the responsible disability assessment structures.

Keywords: children with disabilities, children's rights, Convention for Persons with Disabilities, integrated child protection system

Introduction

The Convention "On the Rights of Persons with Disabilities"³ provides for the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, as well as the right to continuous improvement of living conditions. The States Parties have the obligation

¹ Article 28 of UN Convention “On Children’s Rights”

² Article 25 of CRC Convention

³ Albania ratified the UNCRPD in 2012 and became a state party^[1] to the Convention in 2013

to take appropriate steps to protect and improve the realization of this right without discrimination, due to disability, to ensure the access of persons with disabilities and their families, who live in conditions of poverty, in the assistance provided by the State to cover expenses related to disability, etc.¹. In particular, States Parties to the Convention must guarantee the health services that persons with disabilities need because of their disability, including early identification and intervention as appropriate, as well as tailored services to minimize and prevent the worsening of disabilities, including children².

Creating a safe and healthy environment for children is also one of the main objectives of sustainable development of the UN (Agenda 2030 of SDG).

Likewise, our legislation clearly defines that the best interest of the child means the right of the child to have a healthy physical, mental, moral, spiritual and social development, as well as to enjoy a family and social life suitable for the child³. In the implementation of this principle, the child's needs for physical and psychological development, education and health, safety and stability, as well as growth/belonging in a family, the ability of parents or persons who care for the child's well-being are evaluated and must be taken into account to respond to the child's needs.

This paper deals with the right of children with disabilities to benefit from health, social, educational services, especially the right to a quality inclusive education as well as any other services, according to the needs determined by the responsible disability assessment structures⁴.

Legal framework and the children with disabilities

The right to education, which is one of the basic human rights, is sanctioned in the Constitution of the Republic of Albania, as well as in separate laws. But, despite the legal provisions and the achievements so far, the right to education has not been provided to meet the needs and abilities of every pupil or student with disabilities.

Our Constitution⁵ sanctions the equal right of all citizens to be educated and, in article 59, the right to specialized education and social integration of persons with disabilities. The process of inclusiveness of children with disabilities in regular schools is challenged on its way by a series of barriers.

¹ The article 28 of UN Convention “On Children’s Rights”

² The article 25 of CRC Convention

³ The Article 6 of the law no.18/2017 “On Children Rights and protection”

⁴ The Article 32 of law no.18/2017 “On Children Rights and protection” makes specific provision for children’s right to receive services, determined by the responsible structures for the assessment of disability.

⁵ CRA, article 57

Also, the law on pre-university education of 2012 provides that "*...the education of children with disabilities in special schools is temporary and their integration in general education should be a priority. Likewise, this law has provided that every child with disabilities must have assistant teachers and rehabilitative services, according to their needs...*"¹.

Likewise, one of the strategic objectives of the 2016 National Disability Rights Action Plan is access to quality and inclusive education for children with disabilities. The Albanian National Action Plan for Persons with Disabilities 2016–2020 (NAPPD) references significant deficits in the provisions of education, social care, and health-care services, and participation and engagement in public life, for children and for the adult population with disabilities. The action plan proposes a set of eight strategic goals, one of which explicitly references children².

The children with disabilities has the right to benefit from health, social, educational services, as well as any other services, according to the needs determined by the responsible disability assessment structures³.

The responsible authorities take the necessary measures, so that these services are offered as close to the child as possible and for free, whenever possible and, taking into account the economic situation of the parent or guardian⁴. The parent or guardian has the obligation to follow the mandatory procedures according to this law, in order to provide the child with access to all services, from which he benefits according to the legislation in force. For this purpose, the parent or guardian is assisted by child protection structures, as needed.

Definition of the concept “disabilities” based on the national legislation

Defining disability has proven to be complex, dynamic, multidimensional, and contested. The bio psychosocial model applied by the International Classification of Functioning Disability and Health (ICF) suggests that "*...disability is the umbrella term for impairments, activity limitations and participation restrictions, referring to the*

¹ Law no.69/2012 “On pre-university education in Republic of Albania”, amended.

² Decision no.483, dated on 29 June 2016, of the Council of Ministers "On the Approval of the National Action Plan for People with Disabilities, 2016-2020".

³ Based on the provision of the article 32 of the law no.18/2017, the child with disabilities shall have the right to a standard of living adequate to the child’s physical, mental, spiritual, moral and social development. Every child shall have access to early childhood development programs, including access to nurseries, kindergartens and other development programs, and the right to food during participation in these programs according to standards foreseen in sub-legal acts. Local government authorities, the ministry responsible for education along with the responsible subordinate institutions shall take the necessary measures to support parents or the legal guardian to exercise these rights in case they need material assistance or support programs.

⁴ The article 20 of the law no.18/2017

negative aspects of the interaction between an individual (with a health condition) and that individual's contextual factors (environmental and personal factors)....”¹.

The bio psychosocial model of disability is currently accepted as the preferred conceptual model of disablement because it simultaneously recognizes three components of disability: the biologic component (the physical and mental aspects of an individual's health condition), the psychological component (personal and psychological factors that are having an impact on the individual's functioning), and the social component (contextual and environmental factors that may also have an impact on functioning) in each particular case².

UNCRPD notes that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

The definition of disability in the Law on Inclusion of and Accessibility for Persons with Disabilities is aligned with the definition given by the Convention, but not all legislation is similarly aligned³.

The current situation in Albania of children with limited abilities - the guarantee and exercise of rights. The access to the right of quality inclusive education

In Albania, guaranteeing the right to education of children with disabilities⁴ is still a big challenge, although there are serious efforts towards including these children in regular schools.

Likewise, a number of problems are observed, related to respecting and guaranteeing the rights of children with disabilities, such is the non-payment of social contributions

¹ World Health Organization, International Classification of Functioning, Disability and Health (ICF) -Geneva 2001

² The special Report of the UNICEF, “We all matter - Situation Analysis of Children with Disabilities in Albania “

³ The law no.69/2012 “On pre-university education in Republic of Albania”, for example, defines in explicitly way that “...*a student with disability is a person having long-term physical, mental, sensory, attitude-related deficiency, or a combination thereof, which, in concert, may prevent them from fully and equally participating in education and social life...*”.

⁴ Concerning the Report drafted by UNICEF “We all matter - Situation Analysis of Children with Disabilities in Albania “, in our country the number of children with disabilities is 2.5% - 4%. According to this Report, administrative data suggest that there has been an increase in the number of children with disabilities accessing services, from 3% in 2015, to 8% in 2017.

for the status of personal assistant approved by the Decision of the Medical Appointment Commission of Disability (DMACD), as a result of the child's disability.

Regarding the protection and guarantee of the rights of children with disabilities, including the access to the right quality inclusive education, a number of problems have been identified, related to the implementation of the legislation for the protection of children's rights, for the real budgeting necessary, starting from the perspective of children's rights, the establishment of new services in pursuit of the dynamics of the needs of children with disabilities, as well as the drafting of comprehensive social policies at the local level, based on an accurate database on the number of children with disabilities¹.

From the inspections carried out by National Human Rights Institution² in educational institutions for children with disabilities and the Child Protection Unit³ (case management structures at the municipalities), the following have been found:

- 1) The lack of capacities (human resources) and,
- 2) The limited financial opportunities that make the local government unable to respond to the requests for the establishment of new services in pursuit of the dynamics of children's needs⁴. Based on article 49 of the law no.18/2017, "...The municipality child protection unit is established and shall function as a special unit within the structure responsible for social services at municipality level and is tasked, specifically, with the prevention, identification, assessment, protection and follow up of cases of children at risk and/or in need of protection...".

The evaluations made for the implementation of inclusive education in Albania evidence positive steps in the direction of increasing the number of children with disabilities included in ordinary schools, but also changes in teaching practices,

¹ Regarding the *database* in the Special Report of the UNICEF, 57.6%, 5.839 children (6-17 yrs. with disabilities) receiving disability allowances and education, were also recorded by the State Social Services as being in education.

² The People's Advocate Institution based on the article 34/7 of the law no.8454, dated 4.2.1999 "On the People's Advocate Institution", amended has the right to oversee and to monitor the work of the responsible state mechanisms, part of the integrated protection system for guaranteeing the children's rights.

³ Law No.18/2017 "On the Children rights and protection"

⁴ Based on the definition gave in the article 3 of the law no.18/2017 "On the Children Rights and protection", "Integrated protection system" is the entire set of legal acts, political acts and necessary services, in all fields, particularly those of social welfare, education, health, security and justice, in order to prevent and respond to risks posed during their enforcement. The responsible institutions take concrete measures aiming at cooperation, division of responsibilities and coordination among all the governmental agencies, local government bodies, public and non-public service providers, community groups, including the case referral system, as components of the child protection system.

through changes in curricula, staff training pedagogical and preparation of didactic materials. For example, concerning the Report of UNICEF for children with disabilities in Albania¹, education sector data on children with disabilities have different descriptors from those of State Social Services. Thus, it is not possible to compare prevalence data and access to service data.

Our legislation guarantees the right to comprehensive education, but what is noticeable is the lack of implementation of these laws in practice, as well as the lack of real budgeting, dedicated to supporting these children with assistant teachers. Concerning the *database* of the Ministry of Education and Sport, only 4,378 children with disabilities enrolled in education in the 2017–2018 school year (43.2% of children receiving disability allowances of age 6–17 years)².

The main deficiencies found in guaranteeing inclusive education for children with disabilities are:

- The lack of assistant teachers and due to this fact non-inclusion of children with disabilities in compulsory education.
- The lack of material base, lack of physical access and facilities in schools, as well as discrimination and prejudice against them.
- The lack of continuous training for teachers of ordinary schools, who work with children with disabilities.

Challenges and recommendations

Concerning the challenges that responsible state administration institutions at central and local level facing during their administrative activity for taking measures immediately are related to the process of drafting by-laws in implementation of the law on the pre-university education system, to guarantee the right quality inclusive education for children with disabilities.

Also, concerning the recommendations the state authorities should:

- Taking measures to implement in practice by all regional educational directorates, of the establishment of the multidisciplinary structure, for the assessment of children's disabilities and the design of the Individualized Educational Plan of the specific objectives of the child's level of development.
- Taking measures to enable the addition of assistant teachers due to the diagnoses and the need for supplementary services that these children present.
- Taking measures to make assistant teachers available in some schools of the country, in order to carry out the activities provided for in the Individualized Educational Plan by the multidisciplinary structure, with the completion of lessons, specifically with the development of full lessons.

¹ The Report drafted by UNICEF “We all matter - Situation Analysis of Children with Disabilities in Albania “

² The same Report as above

- Taking measures strengthening the monitoring and evaluation system for assistant teachers.
- Taking measures for the evaluation of children who go to special schools by commissions composed of doctors, psychologists, teachers and specialists for children with disabilities, set up near all local educational units, in implementation of the article 64/3, of the law no.69/2012 "On the pre-university education system in the Republic of Albania", as amended and their registration in public schools of the city.
- Taking measures, by the Ministry of Education and Sport and the Ministry of Health and Social Protection, for the drafting of by-laws in implementation of article 64/paragraphs 1 and 6, of law no.69/2012 "On the pre-university education system in the Republic of Albania", amended.
- Taking measures to determine the disability assessment criteria by the multidisciplinary commission of local educational units, in accordance with the ICF assessment standards "International Classification of Disabilities", drawn up by the World Health Organization (WHO) to guarantee the inclusion and integration of children with disabilities in the public schools of the local units where they live.
- Taking measures to implement the principles of education for children with disabilities, based on article 63 of law no.69/2012 "On the pre-university education system in the Republic of Albania", as well as continuing the work for the training of continuous staff, to ensure quality education, as well as for exchange of experiences for teachers of ordinary schools, who work with children with disabilities.
- Taking measures for continuous training in schools to ensure quality education as well as for exchange of experiences for teachers of ordinary schools who work with children with disabilities.

Bibliography

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- [2] Law No.18/2017 "On the Children Rights and protection"
- [3] Law No.8454, dated 4.2.1999 "On the People's Advocate Institution", amended
- [4] Law No.121/2016 "On the social care service in the Republic of Albania"
- [5] Law No.139/2015 "On local self-governance"
- [6] Law no.69/2012 "On pre-university education in Republic of Albania", amended
- [7] Decision no.8, dated on 7.1.2005, of the Council of Ministers, "On the adoption of the National Strategy for People with Disabilities", amended.
- [8] Decision no.483, dated on 29 June 2016, of the Council of Ministers "On the Approval of the National Action Plan for People with Disabilities, 2016-2020".
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- [11] Decision no.439, dated on 17.5.2017, of the Council of Ministers, "On the adoption of the National Health Strategy, 2016-2020"
- [12] UNICEF "We all matter - Situation Analysis of Children with Disabilities in Albania" 2019, special report