

# RIGHTS OF CHILDREN WITH DISABILITIES IN SLOVENE LAW IN THE LIGHT OF CONTEMPORARY INTERNATIONAL LAW ON CHILDREN'S RIGHTS

JASNA MURGEL

District Court in Maribor, Maribor, Slovenia  
jasnamurgel7@gmail.com

The children with disabilities are among the most marginalized people in every society, and they face various barriers that limit their ability to function, participate and enjoy their rights on an equal basis with other children. These barriers include physical, communicational, attitudinal, and environmental obstacles that are rooted in stigma and discrimination. The Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities are the most important international treaties protecting the human rights of all children, including those with disabilities. European legal instruments, such as the European Social Charter (revised), the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union protect certain rights of persons with disabilities, including children with disabilities or at least may be interpreted in a way that they protect some of their rights. Specific rights of children with disabilities are regulated by national legislation. Slovenia has implemented some of the principles of the principal international instruments regarding children with disabilities. However, in many fields, a significant improvement would be necessary to achieve genuine implementation of international legal obligations binding Slovenia in this field.

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## 1 Introduction

Fifteen percent of the world's population – at least one billion people – have some form of disability. Nearly 240 million of them are children. According to the United Nations Children Fund (hereinafter: UNICEF),<sup>1</sup> children with disabilities are among the most marginalized people in every society, and they face various barriers that limit their ability to function, participate and enjoy their rights on an equal basis with other children. These barriers include physical, communication, attitudinal, and environmental obstacles that are rooted in stigma and discrimination.

**Table 1: Students with special needs in basic schools**

| Year    | Students in basic schools | Students with special needs included in regular or adapted programmes of basic schools | Share of children with special needs included in regular or adapted programmes of basic schools | Students in adapted programmes |
|---------|---------------------------|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|--------------------------------|
| 2006/07 | 164.477                   | N/A                                                                                    | N/A                                                                                             | 1.624                          |
| 2007/08 | 163.208                   | N/A                                                                                    | N/A                                                                                             | 1.560                          |
| 2008/09 | 161.887                   | N/A                                                                                    | N/A                                                                                             | 1.571                          |
| 2009/10 | 160.252                   | N/A                                                                                    | N/A                                                                                             | 1.553                          |
| 2010/11 | 159.508                   | N/A                                                                                    | N/A                                                                                             | 1.538                          |
| 2011/12 | 159.701                   | N/A                                                                                    | N/A                                                                                             | 1.656                          |
| 2012/13 | 161.051                   | N/A                                                                                    | N/A                                                                                             | 1.724                          |
| 2013/14 | 163.229                   | N/A                                                                                    | N/A                                                                                             | 1.807                          |
| 2014/15 | 167.249                   | N/A                                                                                    | N/A                                                                                             | 1.852                          |
| 2015/16 | 170.067                   | N/A                                                                                    | N/A                                                                                             | 1.946                          |
| 2016/17 | 174.917                   | 12.247                                                                                 | 6.92                                                                                            | 1.981                          |
| 2017/18 | 179.128                   | 13.996                                                                                 | 7.72                                                                                            | 2.173                          |
| 2018/19 | 183.986                   | 9.948                                                                                  | 5.34                                                                                            | 2.342                          |
| 2019/20 | 187.645                   | 13.302                                                                                 | 7.00                                                                                            | 2.511                          |
| 2020/21 | 190.606                   | 15.502                                                                                 | 8.03                                                                                            | 2.552                          |
| 2021/22 | 192.787                   | 14.336                                                                                 | 7.34                                                                                            | 2.627                          |
| 2022/23 | 194.267                   | 18.409                                                                                 | 9.34                                                                                            | 2.795                          |
| 2023/24 | 193.379                   | 19.418                                                                                 | 9.8                                                                                             | 2.992                          |

Source: Republic of Slovenia, Statistical Office

In Slovenia, the record is kept on children with special needs who are included in basic schools in regular programmes, with adjusted programmes and in basic schools with adapted programmes.<sup>2</sup>

<sup>1</sup> UNICEF, 2024.

<sup>2</sup> European Commission, Eurydice, 2024.

According to the Ministry of Education the number of students with special needs in basic schools per school year was the following:<sup>3</sup>

**Table 2: Number of children with special needs in schools**

| School year | Number of children |
|-------------|--------------------|
| 2015/2016   | 10.091             |
| 2016/2017   | 10.072             |
| 2017/2018   | 11.077             |
| 2018/2019   | 12.054             |
| 2019/2020   | 14.160             |
| 2020/2021   | 14.224             |
| 2021/2022   | 14.829             |
| 2022/2023   | 15.303             |
| 2023/2024   | 15.712             |

Source: Republic of Slovenia, Ministry of Education: <https://www.gov.si/teme/osnovnosolsko-izobrazevanje-z-otroke-s-posebnimi-potrebam/>

The above table does not include children with special needs attending special schools in institutions, also social institutions. The number of those students was approximately 2000 per year.<sup>4</sup> According to the presented data, it is possible to assess that 20% of children in Slovenia are children with special needs. The great majority of them is included in regular schools.

## **2 International Legal Standards on the Protection of Children with Disabilities**

The Convention on the Rights of the Child<sup>5</sup> (hereinafter: CRC) and the Convention on the Rights of Persons with Disabilities<sup>6</sup> (hereinafter: CRPD) are two international treaties that recognize and protect the human rights of all children, including those with disabilities. The CRC states that every child has the right to life, survival, development, education, health, protection, participation, and non-discrimination, regardless of their disability status.

<sup>3</sup> Ministry of Education, Children with special needs, 2024.

<sup>4</sup> Ministry of Education of the Republic of Slovenia, 2024.

<sup>5</sup> Convention on the Rights of the Child, 1989.

<sup>6</sup> Convention on the Rights of Persons with Disabilities, 2006.

## 2.1 Convention on the Rights of the Child

The CRC is a comprehensive international treaty that outlines the rights of all children. Article 2 of the CRC emphasizes the principle of non-discrimination, stating that all children, irrespective of their disability, are entitled to the rights enshrined in the CRC. Additionally, Article 23 of the CRC addresses the rights of children with disabilities specifically, calling for effective access to rehabilitation, health services, and social security.

The CRC expressly guarantees children with disabilities the right to freedom from disability-based discrimination; it has specific provisions on the rights of children with disabilities. The CRC expressly recognizes the right to freedom from disability-based discrimination by listing disability among the prohibited grounds of discrimination (Article 2, para. 1).<sup>7</sup> The CRC recognizes the right of a child with disabilities to special care and the obligation of the State within its resources to ensure assistance to the child and those responsible for their care (Article 23, para. 2). Such assistance should if possible be provided free of charge, taking into consideration the financial resources of the parents or others caring for the child (Article 23, para. 3).<sup>8</sup>

According to the CRC, children with disabilities have the right to survival and development. They have the right to life and to grow up in an environment that supports their physical, mental, social, and emotional development. Children also have the right to express their opinions, to be heard and to participate in decisions that affect them, according to their age and maturity (the right to participation). They also have the right to access quality and inclusive education that meets their needs and respects their dignity, potential and abilities. The CRC requires states to take measures to ensure the full enjoyment of these rights by children with disabilities, such as providing them with appropriate health care, rehabilitation, social services, accessibility, and support. The CRC also urges states to cooperate with each other and with civil society to promote the rights of children with disabilities.

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<sup>7</sup> Chilemba, 2019, pp. 359-387.

<sup>8</sup> Sandberg, 2019, pp. 193-194.

The Committee on the Rights of the Child (hereinafter: CRC Committee), established under Article 43 of the CRPD to monitor the Convention's implementation, has further elaborated the rights of children with disabilities in General Comment No. 9.<sup>9</sup> The CRC Committee has stated that the leading principle relating to the rights of children with disabilities is found in the para. 1 of Article 23 since it guarantees the right to inclusion and active participation in society. The Committee has highlighted that states must take measures aimed at realizing the goal of including children with disabilities in society. In its various concluding observations, the Committee has bemoaned the exclusion of children with disabilities from society, especially through the placement of children with disabilities in institutions.<sup>10</sup> The CRC Committee has further emphasized the need for states parties to the CRC to provide care and assistance to children with disabilities and their families. In the Committee's opinion, the assistance should be provided in the form of, among others, social protection and poverty reduction programs;<sup>11</sup> adequate support payments and services for all children with disabilities, including those with severe or profound disabilities;<sup>12</sup> and "services for children and parents and/or through financial support and assistance to parents who are unable to work and generate income because they provide constant care and assistance to a child with a disability".<sup>13</sup>

## **2.2 Convention on the Rights of Persons with Disabilities**

Compared to the CRC, which is focused on the rights of all children, including those with disabilities, the CRPD specifically focuses on the rights of persons with disabilities. However, the CRPD provides more detailed guidance on how to ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities, including children. The CRPD also addresses some specific issues that are relevant for children with disabilities, such as accessibility, reasonable accommodation, and support services. It recognizes the importance of other rights for children with disabilities, such as the right to education, health, family life,

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<sup>9</sup> Committee on the Rights of the Child, General Comment No. 9 (2006), The rights of children with disabilities, 2007.

<sup>10</sup> Committee on the Rights of the Child, CRC/C/ROU/CO/5 Romania 2017j, 2017.

<sup>11</sup> Committee on the Rights of the Child, CRC/C/CAF/CO/2 Central African Republic 2017, 2017.

<sup>12</sup> Committee on the Rights of the Child, CRC/C/EST/CO/2–4 Estonia 2017f, 2017.

<sup>13</sup> Chilemba, 2019, pp. 359–387.

participation, and protection from violence and abuse and aims to promote the dignity, autonomy, and inclusion of children with disabilities in all aspects of society.

While the CRPD does not specifically focus on children, it recognizes the unique vulnerabilities and needs of children with disabilities and includes provisions that are relevant to their rights and well-being. It prohibits discrimination based on disability and emphasizes the equal rights of all individuals, including children with disabilities, to enjoy all human rights and fundamental freedoms (Article 5) and emphasizes the best interests of the child as a primary consideration in all actions concerning children with disabilities (Article 7).

Article 7 of the CRPD focuses on the rights of children with disabilities. According to this article, states parties are obliged to 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. States parties are bound to 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. States parties are also obliged to ensure that the best interests of the child are a primary consideration in all actions concerning children with disabilities and that children with disabilities have the right to preserve their identity, including nationality, name and family relations as recognized by law without unlawful interference.

Article 7 of the CRPD focuses on children with disabilities and requires states parties to take all necessary measures to ensure their best interests, their right to express their views, and their full inclusion in society. One of the key distinctions of Article 7 of the CRPD from Article 23 of the CRC is that the latter is subject to resource limitations. Article 7 of the CRPD sets out a new paradigm for child disability rights, in the sense that resource constraints and progressive realization are absent. States must commit 'all necessary resources' to realize the rights in Article 7. In fact, the resource limitation and progressive realization in Article 23 of the CRC must be deemed as having been eliminated because of the adoption of Article 7 of the CRPD since Article 7 of the CRPD constitutes a subsequent agreement or practice in accordance with Article 3, para. 3(a) and (b) of the 1969 Vienna Convention on the

Law of Treaties.<sup>14</sup> Early treatment is a crucial policy measure and possesses at least two distinct dimensions. The first concerns early identification of disabilities in children, which should be combined with appropriate registration at birth (in accordance with Article 18, para. 2) of the CRPD), which also eliminates the likelihood of abandonment. Early identification further ensures that in societies where disability is a stigma, parents will be provided with appropriate information and support that will allow them to care for their disabled child.<sup>15</sup>

To ensure that children with disabilities benefit equally from all Convention rights, as required by Article 7, para. 1, States parties to the CRPD are required to prohibit explicitly all forms of disability-based discrimination against children in their laws and policies. States parties to the CRPD should guarantee children with disabilities equal and effective legal protection against discrimination on all grounds. For that aim, domestic authorities should set up monitoring mechanisms and provide effective redress for children with disabilities in cases of discrimination. In addition, States parties to the CRPD must take all necessary measures to ensure that their mainstreaming initiatives for non-discrimination and equal treatment cover children with disabilities specifically. Children with disabilities are also entitled to the provision of reasonable accommodations in accordance with Article 2 and Article 5, para. 3 of the CRPD are an integral component of the protection against discrimination.<sup>16</sup> Article 23 of the CRC was criticized because it demanded that disabled children 'achieve the fullest possible social integration and individual development'. Article 7, para. 1 of the CRPD puts the issue of equality in its proper perspective. Whereas other equality-based phraseology in the various provisions of the CRPD refer to 'an equal basis with others', the comparison with 'children' rather than 'others' in Article 7, para. 1 suggests a functional test, whereby the rights enjoyed by non-disabled children should also be enjoyed by their disabled counterparts. It is up to each state party to achieve this. To achieve this functional objective, the state party may have to use extra financial resources or invest in its infrastructure. Whatever action the State in question adopts, its effect must be that a disabled child enjoys access to a particular right in a manner enjoyed by a child without disabilities.<sup>17</sup>

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<sup>14</sup> Bantekas, 2018, p. 198.

<sup>15</sup> Ibid., p. 208.

<sup>16</sup> Broderick, 2018, pp. 201-202.

<sup>17</sup> Bantekas, 2018, p. 208.

The CRPD recognizes the right of persons with disabilities, including children, to education. It emphasizes the need for an inclusive education system that accommodates the diverse needs of learners, promoting the full participation of children with disabilities in mainstream education (Article 24). Furthermore, it recognizes the evolving capacities of children with disabilities and emphasizes the right of children to express their views on matters affecting them. It highlights the importance of considering the child's age and maturity in decision-making processes (Article 7). The CRPD recognizes the rights of persons with disabilities to family life and calls for appropriate support for families with children with disabilities. This includes ensuring that families have the necessary resources and assistance to care for their children with disabilities (Article 23) and addresses the right to health for persons with disabilities, including children. It emphasizes the need for accessible health services and information, ensuring that children with disabilities have equal access to healthcare (Article 25). The CRPD also underscores the right of persons with disabilities, including children, to be protected from exploitation, violence, and abuse, including measures to prevent and respond to all forms of abuse, neglect, and exploitation (Article 16).

In the context of ensuring the implementation of the CRPD, it is important to bear in mind other relevant provisions. An obligation of State parties to raise awareness of the principles enshrined in the CRPD (Article 8) is of high significance. States parties are obliged to adopt immediate, effective, and appropriate measures, which include raising awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities, combating stereotypes, prejudices and harmful practices relating to persons with disabilities, and promoting awareness of the capabilities and contributions of persons with disabilities. Measures to this end include initiating and maintaining effective public awareness campaigns designed to nurture receptiveness to the rights of persons with disabilities, fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities, etc.<sup>18</sup> The required action is 'to raise awareness'. The CRPD indicates that the primary target is society as a whole ('throughout society') and emphasizes that this includes the family level. In General Comment No. 2, which concerns accessibility, the Committee acknowledges that awareness-raising is

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<sup>18</sup> Ibid.



one of the preconditions for the effective implementation of the CRPD. Therefore, parties should strive systematically and continuously to raise awareness about accessibility among all relevant stakeholders. The Committee also recognizes that the lack of accessibility is often the result of insufficient awareness and technical know-how and that to introduce policies that allow better accessibility for persons with disabilities, it is necessary to change attitudes towards persons with disabilities to fight against stigma and discrimination, through ongoing education efforts, awareness-raising, cultural campaigns, and communication.<sup>19</sup> Article 8 calls for awareness-raising at all levels of society and in all areas of life to bring about real change in the lives of people with disabilities. Tackling widespread ignorance, as well as debunking "stereotypes and prejudices" associated with disability, is a necessary step towards the full recognition of people with disabilities as subjects with rights who are entitled to full participation in society. Awareness-raising should promote positive perceptions of disability instead of focusing on a "preventive" or "deficit model."<sup>20</sup>

Collecting relevant information on children with disability is an important aspect of Article 31, according to which states parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the CRPD. The importance of the obligations according to Article 31 to effect change lies in how well the obligation over time will push various actors to collect the kind of robust, consistent, and comparable data to ensure that violations of rights are properly addressed.<sup>21</sup>

Keeping accurate statistical data in the context of Article 7 of the CRPD has several practical dimensions. It may be a tool for assessing whether a state has reduced the number of disabled children in long-term institutions and, in turn, has succeeded in placing high numbers in foster care or reintegrated them with their families. Furthermore, disaggregated data allows policymakers to fully appreciate the situation of and discrimination faced by children with disabilities to formulate targeted programmes with a view to tackling the exclusion they face.<sup>22</sup>

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<sup>19</sup> Bariffi, 2018, p. 229.

<sup>20</sup> Baranger, 2017, p. 214.

<sup>21</sup> Pedersen, 2017, p. 557.

<sup>22</sup> Bantekas, 2018, p. 207.

## 2.3 European Legal Framework

### 2.3.1 The European Union law

Equality and non-discrimination are founding values of the EU. As stated in Article 2 of the Treaty on European Union,<sup>23</sup> the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Those principles are also reflected in Article 10 of the Treaty on the Functioning of the European Union (hereinafter: TFEU).<sup>24</sup> Furthermore, Article 19 of the TFEU sets out the competence of EU authorities (the Council of the EU and the European Parliament) to take anti-discrimination measures.<sup>25</sup>

According to Article 21 of the Charter of Fundamental Rights of European Union<sup>26</sup> (hereinafter: CFREU) discrimination based on disability is prohibited. The CFREU expressly stipulates the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community (Article 26). However, the CFREU does not extend the field of application of the EU law beyond the competences of the Union or create any new competence or task for the Union, nor does it modify powers and tasks as defined in the EU Treaties. In cases where it does not apply, the protection of fundamental rights is guaranteed in the constitutions or constitutional traditions of EU countries and in the international conventions that have ratified them.<sup>27</sup>

The CRPD has been bound by the EU since 2011, and it concluded that the CRPD is a regional integration organisation within the meaning of Article 44 of the CRPD. The CRPD is part of EU law and has the so-called "sub-constitutive" status. It is subordinate in force to the TEU and TFEU, as well as to the CFREU, but is above secondary EU law, such as a directive, according to the hierarchy of rules. However, the EU has not yet acceded to the Optional Protocol to the CRPD.<sup>28</sup>

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<sup>23</sup> Consolidated version of the Treaty on European Union, 2012, p. 13–390.

<sup>24</sup> Broderick & Ferri, 2019, p. 390.

<sup>25</sup> Vernia, 2020, p. 10.

<sup>26</sup> Charter of Fundamental Rights of the European Union, 2012.

<sup>27</sup> Vernia, 2020, p. 11.

<sup>28</sup> Broderick & Ferri, 2019, p. 311.

### **2.3.2 Council of Europe**

Legal standards of the Council of Europe (CoE) apply equally to all persons, including persons with disabilities. The most important instrument for the protection of human rights within the framework of the CoE is the European Convention on Human Rights (hereinafter: ECHR).<sup>29</sup> Other legally binding standards of relevance to the rights of persons with disabilities are contained in the European Social Charter, the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter: Istanbul Convention), the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter: Lanzarote Convention) and the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>30</sup>

ECHR and CPRD have different scopes *ratione materiae* and geographically. The CRPD is intended to protect the rights of persons with disabilities in all areas. In contrast, the ECHR is intended solely to protect civil and political rights, except for Protocol No. 1 on the right to property and the right to education.<sup>31</sup> The ECHR applies to states within the CoE, while the CRPD is not limited to European countries. The ECHR was the first international treaty aimed at protecting a wide range of civil and political rights, both in the form of a binding treaty for states parties and by establishing a system for monitoring the exercise of rights at the national level.<sup>32</sup> Although the ECHR does not explicitly relate to the rights of persons with disabilities and disability only in Article 5, para. 1(e), it is generally applicable for human rights of all persons, including persons with disabilities.

#### **2.3.2.1 Caselaw of the ECtHR**

The European Court of Human Rights (hereinafter: ECtHR) has developed a comprehensive jurisprudence on the rights of persons with disabilities, and many of them relate to children with disabilities. In the case *Glor v. Switzerland*<sup>33</sup>, the ECtHR interpreted Article 14 of the ECHR for the first time, so the disability is also

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<sup>29</sup> Act ratifying the Convention for the Protection of Human Rights and Fundamental Freedoms, 1994.

<sup>30</sup> Council of Europe, Rights of Persons with Disabilities, 2024.

<sup>31</sup> Broderick & Ferri, 2019, p. 427.

<sup>32</sup> Gomien, 2009, p. 16.

<sup>33</sup> *Glor v. Switzerland*, app. no. 13444/04, Judgement of 30 April 2009.

considered to be an "other personal circumstance" based on which discrimination may occur.<sup>34</sup>

In recent years, the ECtHR has dealt with a significant number of cases relating to children with disabilities and contributed to the development of international legal standards for the protection of their rights. The case of *Guberina v. Croatia*<sup>35</sup> concerned the complaint by the father of a severely handicapped child about the tax authorities' failure to take account of the needs of his child when determining his eligibility for tax exemption on the purchase of property adapted to his child's needs.

The ECtHR has decided on the rights of persons with disabilities in relation to the right to family and private life. It has been pointed out in several cases that Article 8 of the ECHR interprets by obliging States to take special measures in the case of "vulnerable" persons.<sup>36</sup>

The right to education (Article 2 of Protocol No. 1 to the ECHR) of children with disabilities was considered in the case *Dupin v. France*.<sup>37</sup> The case *G.L. v. Italy*<sup>38</sup> concerned the inability of the applicant. This young girl has nonverbal autism and received specialised learning support during her first two years of primary education, even though the support was provided for by law.<sup>39</sup> In the case *T.H. v. Bulgaria*<sup>40</sup>, the applicant, aged 8, who had behavioural difficulties, was diagnosed with a hyperkinetic disorder and a "specific developmental disorder of scholastic skills". The case concerned his allegation that he had been discriminated against in his first

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<sup>34</sup> Broderick & Ferri, 2019, p. 441.

<sup>35</sup> *Guberina v. Croatia*, app. no. 23682/13, Judgement of 22 March 2016.

<sup>36</sup> Broderick & Ferri, 2019, p. 435.

<sup>37</sup> *Dupin v. France*, app. no. 2282/17, 18 December 2018. The Court held that there had been a violation of the right to education of the applicant's child was inadmissible as manifestly ill-founded, finding that the refusal to admit the child to a mainstream school did not constitute a failure by the State to fulfil its obligations under Article 2 of Protocol No. 1 or a systematic negation of his right to education on account of his disability and that the national authorities had regarded the child's condition as an obstacle to his education in a mainstream setting. After weighing in the balance, the level of his disability and the benefit he could derive from access to inclusive education, they had opted for an education that was tailored to his needs, in a specialised setting.

<sup>38</sup> *G.L. v. Italy*, app. no. 59751/15, Judgement of 10 September 2020.

<sup>39</sup> The Court held that there had been a violation of art. 14 of the ECHR in conjunction with art. 2 of Protocol No. 1 to the ECHR, finding that the applicant had not been able to continue attending primary school in equivalent conditions to those available to other children and that this difference was due to her disability. The ECtHR considered that the Italian authorities had not sought to determine the young girl's real needs and provide tailored support to allow her to continue her primary education in conditions that would, as far as possible, be equivalent to those in which other children attended the same school. In particular, the authorities had never considered the possibility that a lack of resources could be compensated for by a reduction in the overall educational provision, so that it would be distributed equally between non-disabled and disabled pupils.

<sup>40</sup> *T.H. v. Bulgaria*, app. no. 46519/20, Judgement 11 April 2023.

two years of primary school by his teachers and head teacher on account of his disability.<sup>41</sup>

The case *Dorđević v. Croatia*<sup>42</sup> concerned the complaint by a mother and her mentally and physically disabled son that they had been harassed, both physically and verbally, for over four years by children living in their neighbourhood and that the authorities had failed to protect them. The case concerned the State's positive obligations in a situation outside the sphere of criminal law where the competent State authorities were aware of serious harassment directed at a person with physical and mental disabilities. The ECtHR found a violation of Article 3 (prohibition of inhuman or degrading treatment) of the ECHR in respect of the child, finding that the Croatian authorities had not done anything to end the harassment, despite their knowledge that he had been systematically targeted, and that future abuse had been quite likely.

In one of the latest cases concerning children with disabilities, *N. M. and Others v. France*,<sup>43</sup> the ECtHR dealt with the dismissal, by the administrative courts, of the arguments submitted by parents in their claim for compensation for the special costs arising from their child's disability. This disability had not been detected at the time of the prenatal diagnosis. The ECtHR held that there had been a violation of Article 1 (protection of property) of Protocol No. 1 to the ECtHR with respect to the applicant's parents.

### **2.3.3 European Committee of Social Rights**

In the framework of the CoE another important international treaty is significant, namely the revised European Social Charter (hereinafter: ESC revised). The implementation of the ESC is monitored, among other, by the European Committee of Social Rights (hereinafter: ESCR). These can only be submitted by certain NGOs. A collective complaint may seek to address issues that may constitute an

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<sup>41</sup> The ECtHR held that there had been no violation of Article 14 (prohibition of discrimination) of the ECHR taken in conjunction with art. 2 (right to education) of Protocol No. 1 to the ECHR in respect of the applicant noting that it could not be said, on the available evidence, that the actions of the head teacher or the applicant's teacher had been unjustified, unreasonable or disproportionate nor that the head teacher and the teacher had turned a blind eye to the applicant's disability and his resulting special needs; it appeared that they had made a series of reasonable adjustments for him.

<sup>42</sup> *Dorđević v. Croatia*, app. no. 41526/10, Judgement of 24 July 2012.

<sup>43</sup> *N.M. and Others v. France*, app. no., 66328/14, 3 February 2022.

infringement of the ESC or the revised ESC.<sup>44</sup> In the case *International Association Autism-Europe* (hereinafter: IAAE) *v. France*,<sup>45</sup> the ECSR concerned inadequate regulation of the situation of persons with autism and found that the proportion of children with autism, whether in full-time or special schools, is significantly lower than that of other children without disabilities. It is noted that the ESC requires countries not only to adopt regulations to ensure equal enjoyment of the right to education but also to take practical steps to ensure that these regulations are effectively implemented. In case *Disability Advocacy Center (MDAC) v. Bulgaria*<sup>46</sup>, the ESCR concluded that the second paragraph of Article 7 had been violated independently or in conjunction with Article E of the revised ESC, as regular schools and educational programmes of these schools were not accessible in practice. Therefore, children placed in institutions for mental disorders have been denied the right to education based on their disability.

After the CRPD entered into force, the ESCR dealt with collective complaints concerning the right to education persons with disabilities, in the case *International Federation for Human Rights* (hereinafter: FIDH) *v. Belgium* in 2011,<sup>47</sup> and found Belgium's failure to create sufficient daily and night care facilities to prevent many of the most dependent persons with disabilities from being excluded from services corresponding to their specific needs. Violation of the ESC provisions was found in collective complaint cases, *European Action of the Disabled v. France*<sup>48</sup>, regarding the right to education of children and adolescents with autism and the right to vocational training for young adults with autism, and the *MDAC v. Belgium*<sup>49</sup> regarding the right of children with disability to have access to mainstream schools.

<sup>44</sup> Council of Europe, European Social Charter, Collective complaints procedure, 2024.

<sup>45</sup> ECSR, *International Association Autism-Europe (IAAE) v. France*, Complaint No. 13/2002, retrieved from: [https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset\\_publisher/5GEFkjmH2bYG/content/no-13-2002-international-association-autism-europe-iaae-v-france?inheritRedirect=false](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkjmH2bYG/content/no-13-2002-international-association-autism-europe-iaae-v-france?inheritRedirect=false) (accessed: 1 February 2024).

<sup>46</sup> ECSR, *Mental Disability Advocacy Center (MDAC) v. Bulgaria*, Complaint No. 4/2007, [https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset\\_publisher/5GEFkjmH2bYG/content/no-41-2007-mental-disability-advocacy-center-mdac-v-bulgaria?inheritRedirect=false](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkjmH2bYG/content/no-41-2007-mental-disability-advocacy-center-mdac-v-bulgaria?inheritRedirect=false) (accessed: 1 February 2024).

<sup>47</sup> ECSR, *International Federation for Human Rights (FIDH) v. Belgium*, Complaint No. 75/2011, retrieved from: [https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset\\_publisher/5GEFkjmH2bYG/content/no-75-2011-international-federation-of-human-rights-fidh-v-belgium?inheritRedirect=false](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkjmH2bYG/content/no-75-2011-international-federation-of-human-rights-fidh-v-belgium?inheritRedirect=false) (accessed: 4 February 2024).

<sup>48</sup> ECSR, *European Action of the Disabled ("AEH") v. France*, Complaint No. 81/2012, <https://hudoc.esc.coe.int/eng/#> (accessed: 12 February 2024).

<sup>49</sup> ECSR, *Mental disability Advocacy Center (MDAC) v. Belgium*, Complaint No. 109/2014, retrieved from: <https://www.coe.int/en/web/european-social-charter/-/no-109-2014-mental-disability-advocacy-center-mdac-v-belgium> (accessed: 1 February 2024).

### **3 The Rights of Children with Special Needs in Slovenian Law**

The rights of children with disability in Slovenia are an essential topic that concerns the human rights and well-being of millions of children in the country. Slovenia has ratified the CRC<sup>50</sup> and the CRPD<sup>51</sup> and is bound by the provisions of those conventions relating to children with special needs.

It should be mentioned that in the Slovenian legal system, there is no unified term for children with special needs. In Slovenian legislation concerning (among other) children who are in any way hindered in normal development, different terms are used. The Constitution of the Republic of Slovenia relates to the "children with physical or mental disorders" (Article 52, para. 2). Regulations in the field of healthcare use the same term. In contrast, in the field of social security, a slightly different term is used, namely "a child in need of special care and protection. After the adoption of the Placement of Children with Special Needs Act in 2003 the most widely accepted term has become "children with special needs".<sup>52</sup>

#### **3.1 Healthcare**

Persons with disabilities have the right to health services without discrimination on the basis of disability. In this respect, particular attention must be paid to children and adolescents (Article 11 of the Equalisation of Opportunities for Persons with Disabilities Act).<sup>53</sup>

According to the Health Care and Health Insurance Act (hereinafter: HCHIA)<sup>54</sup> persons who are insured in based on this act (compulsory insurance) are entitled to payment for medical services. For some persons, compulsory health insurance covers all services (Article 23 of the HCHIA). These include the following:

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<sup>50</sup> Official Gazette of the SFRY, International Treaties, No. 15/90, Act on notification, Official Gazette of the Republic of Slovenia, International Treaties, No. 9/92.

<sup>51</sup> Act Ratifying the Convention on the Rights of persons with Disabilities and Optional Protocol to the Convention on the Rights of Persons with Disabilities, Official Gazette of the Republic of Slovenia – International Treaties, No. 10/08.

<sup>52</sup> Murgel, 2014, pp. 257-259.

<sup>53</sup> Equalisation of Opportunities for Persons with Disabilities Act, 1994.

<sup>54</sup> Health Insurance Act, 2006.

- treatment and rehabilitation of children, pupils and students in full-time education and children and adolescents with physical and mental disabilities and children and adolescents with accidental head injuries and brain damage;
- treatment and rehabilitation of malignant diseases, musculoskeletal and neuromuscular diseases, paraplegia, tetraplegia, cerebral palsy, epilepsy, haemophilia, mental illnesses, advanced forms of diabetes, multiple sclerosis and psoriasis;
- comprehensive treatment with treatment and rehabilitation of blindness and visual impairment in accordance with the current classification of the World Health Organization, total or severe hearing impairment according to the International Classification of Impairments, Disabilities and Impairments of the World Health Organization (1980), cystic fibrosis and autism, and persons after accidental head injury and brain damage,
- treatment and rehabilitation for occupational diseases and injuries at work.

### **3.1.1 Allowances During Temporary Retention From Work**

Insured persons, in case they are specifically insured for this right (e.g., are employed in Slovenia) are entitled to wage compensation during temporary suspension from work in cases where they are unable to work for various health reasons. In the case of absence from work due to the care of a close family member, it is limited in time. The duration of this right is longer in the case of care for a child up to the age of seven or older with a moderate, severe or severe disability (15 working days, exceptionally more, but not more than 30 working days).<sup>55</sup>

### **3.1.2 Right of One Parent to Stay in Hospital for a Sick Child**

Pursuant to Article 40 of the Compulsory Insurance Rules (hereinafter: CIR)<sup>56</sup>, parents have the right to stay with a hospitalised child up to and including the age of five years. The institution covers the costs of accommodation and meals in the amount of the total price determined by the contract between the institution and the provider. If a mother who is breastfeeding a child is hospitalized, she has the right to have the child stay with the child.

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<sup>55</sup> Zore, in: Uršič, 2015, pp. 65–66.

<sup>56</sup> Compulsory Insurance Rules, 1994.



In case parents are taking care of children with severe impairment or damage to the brain or spinal cord who require parental training for later rehabilitation at home, one of the parents has the right to stay in the hospital. The length of the training depends on the programme but can last up to 30 days in each case. In the case of children with chronic diseases or disabilities, one of the parents has the right to stay in the hospital during the training for the subsequent rehabilitation of the child at home, but for a maximum of 14 days in each case. In these cases, the Health Insurance Office of Slovenia (hereinafter: HIOS) covers costs in the amount of 70% of the price of the unit of account for the non-medical part of the care determined by the contract between the institution and the hospital.

### **3.1.3 Right to Medical Devices**

According to Articles 64 to 100 of the CIR, the right to medical devices necessary for treatment, medical rehabilitation and nursing care may be exercised. Medical devices and a more precise definition of health conditions and other conditions under which an insured person is entitled to a particular medical device are determined by a general act of the Assembly of the HIOS with the consent of the minister responsible for health.

### **3.1.4 Group Restorative Rehabilitation**

In accordance with its annual programme, the HIOS provides insured persons with musculoskeletal and neuromuscular diseases, paraplegia, cerebral palsy, the most severe form of generalised psoriasis, multiple sclerosis and paralytics with a certain functional impairment, an opportunity to participate in group and adapted rehabilitation, which an appropriate clinic, institute or other health institution professionally manages. Rehabilitation participants are provided with co-financing of physiotherapy and the costs of stay, which are determined by the contract between the institute and the group rehabilitation organizer. In this programme, the institution determines the number of days of group rehabilitation and the means for its implementation in each year (Article 50 of the CIR).

### **3.1.5 Organised Group Training and Summer Holidays in the Medical Colony**

Children and adolescents with cerebral palsy, other severe and permanent physical impairments or chronic diseases (juvenile rheumatoid arthritis, diabetes, phenylketonuria and celiac disease) have a right to participate in organised group trainings for the management of the disease or condition that is ensured professionally managed by relevant clinics, institutes or other health institutions. In this context, the HIOS co-finances the necessary health services, therapeutic working groups, and accommodation costs. Exceptionally, one of the parents of the child or adolescent may participate in such training, provided that the latter will take care of the implementation of the child's rehabilitation at home after completing the training. In this case, the institution co-finances the costs of living for one of the parents in the same way as for the child or adolescent. The duration of the training is a maximum of 14 days per year (Article 51 of the CIR).

## **3.2 Early Treatment of Preschool Children with Special Needs**

Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs (hereinafter: IET)<sup>57</sup> regulates comprehensive early treatment of children with special needs and children with risk factors in preschool age. It involves the treatment of a child and their family in the child's preschool age with the aim of ensuring and promoting children's development, strengthening the capacity of the family, and promoting the social inclusion of the family and the child (Article 1). It defines early intervention services are provided for in the law (Article 7). The central pillar of the arrangements for early treatment of children under the IET is the early treatment centre (Article 8), consisting of a multidisciplinary group of medical, social, and other professionals. For each child, the doctor appoints a multidisciplinary team of members who are important for assisting the child and family in the fields of health, education, and social care. The child's parents are also part of the team (Article 10). For children and their families, which the doctor deems necessary, the multidisciplinary team prepares an individual family plan, in which appropriate medical, social, and pedagogical assistance will be defined individually for each child and their family. For children for whom the doctor decides not to

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<sup>57</sup> Act Regulating the Integrated Early Treatment of Preschool Children with Special Needs, 2017.

draw up an individual family plan, the necessary treatments and assistance to the family are determined in agreement with the parents (Article 12).<sup>58</sup>

An important role in relation to the family is played by the coordinator of an individual family plan, who is a member of a multidisciplinary team that monitors the implementation of early intervention services for an individual child and cooperates with the social work centre. The coordinator provides the family with information regarding social services and public powers in accordance with the sectoral legislation and other tasks assigned to social work centres by other regulations, and informs the family about other forms of assistance available to them in accordance with the applicable regulations.<sup>59</sup>

The IET aims to integrate medical and social care for a child with special needs and their family with combining the necessary treatment of a child and ensuring support for their family up to a certain extent. This system is provided only for preschool children and their families.

### **3.3 Education of Children with Special Needs**

Inclusion in educational programmes at all levels and lifelong learning in their living environment is provided to persons with disabilities on an equal basis with other citizens in accordance with Article 11 of the Equalisation of Opportunities for Persons with Disabilities Act (EODA).<sup>60</sup> However, according to the second paragraph of the same article, inclusion in various programmes, such as programmes offering a special and adapted curriculum, and the adaptation of regular programmes to the abilities of a person with a disability, is not discrimination.

In addition to the regulations governing education in general,<sup>61</sup> the education of children with special needs is regulated specially by the Placement of Children with Special Needs Act (hereinafter: PCSNA).<sup>62</sup> This law does not define who children with special needs are; instead, it lists groups of children according to their disability.

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<sup>58</sup> Murgel, 2019, pp. 59–70.

<sup>59</sup> Ibid.

<sup>60</sup> Equalisation of Opportunities for Persons with Disabilities Act, 1994.

<sup>61</sup> Organisation and Financing of Education Act, Pre-Primary Institutions Act, Primary School Act, Vocational and Technical Education Act and Gymnasiums Act.

<sup>62</sup> Placement of Children with Special Needs Act, 2011.

In accordance with Article 2 of the PCSNA, children with special needs are: children with intellectual disabilities, blind and visually impaired children or children with impaired visual function, deaf and hard of hearing children, children with speech and language disorders, physically impaired children, long-term sick children, children with disabilities in specific areas of learning, children with autistic disorders and children with emotional and behavioural disorders, who need an adapted implementation of education programmes with additional professional assistance or adapted education programmes or special education programmes (Article 2). For children with special needs who have been placed in education programmes with adapted implementation and additional professional assistance, depending on the type and degree of deficiency, impediment or disorder, the organisation, manner of testing and assessment of knowledge, promotion and schedule of classes may be adapted and additional professional assistance provided (Article 7). Furthermore, for those children, additional professional assistance may be provided as assistance to overcome deficiencies, impediments or disorders, counselling service or learning assistance (Article 8, para. 2). Such assistance may be provided individually or in a group, inside or outside the classroom, in an educational or social protection institution (Article 9).

Education of children with special needs is carried out in accordance with education programmes with adapted implementation and additional professional assistance, adapted education programmes with equivalent education standards, adapted education programmes with lower education standards, a special education programme for children with moderate, severe and profound intellectual impairment and other special programmes (Article 5 of the PCSNA).

The PCSNA regulates procedures for the placement of learners with special needs into the appropriate educational programmes. Depending on the learners' psychological and physical status, the Act enables their inclusion in education at all levels, from pre-primary to secondary education, based on the assumption that additional help from experts and adaptation of the implementation of programmes will help learners to achieve a comparable standard of knowledge. Learners with severe disorders can still attend special forms of education in schools for learners

with special needs and institutions for the education and training of learners with severe developmental difficulties.<sup>63</sup>

Children with special needs who cannot be provided with education at their place of residence and cannot be provided with transport due to the distance of residence from the place of education may join the institution for the education of children with special needs, a social care institution, pupils' homes for children with special needs or be placed in a foster family (Article 16, para. 1 of the PCSNA).

### **3.4 Parental and Family Benefits**

Parental Protection and Family Benefits Act (hereinafter: PPFB)<sup>64</sup> regulates certain rights of children in need of special care or their parents. In accordance with Article 50 of the PPFB, parents have the right to work part-time in certain cases. One parent caring for and protecting a child up to the age of three has the right to full-time or part-time work. One parent caring for and protecting a moderate or severely impaired child or a child with moderate or severe intellectual disabilities is entitled to full-time or part-time work even after the child's third age, but not longer than the child's age of 18. In this case, the employer guarantees the employee the right to wages under actual work obligation, and the State guarantees him the full obligation to pay social security contributions from the proportional part of the minimum wage. The State pays the contributions of the insured person and the employer for compulsory pension and disability insurance, unemployment insurance, parental care, and health insurance contributions in the event of illness and injuries outside work, for the rights to health services and reimbursement of travel expenses. The State pays contributions at the rates set by law, which establishes the rates of social security contributions.

The special right attached to a child in need of special care is the allowance for caring for such a child. It is a cash allowance intended to cover the increased living costs incurred by the family in the maintenance and care of such a child (Article 79 of the PPFB). One parent or other person is entitled to childcare allowance if the child has permanent or temporary residence and lives in Slovenia (Article 80 of the PPFB).

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<sup>63</sup> European Agency for Special Needs and Inclusive Education, 2024.

<sup>64</sup> Parental Protection and Family Benefits Act, 2014.

The second benefit is a partial payment for loss of earnings. This is a remuneration received by one parent or another person when they leave the labour market or start working part-time rather than full-time to care for a child in need of special care. This right also rests with one parent or other person caring for and protecting two or more children with moderate or severe intellectual disabilities or moderate or severe motor impairment. If a parent works part-time or full-time, they are entitled to a proportionate part of the partial payment for loss of earnings (Article 83). One parent or other person has the right to partial payment for loss of income if the child and one of the parents or another person has permanent or temporary residence in the Republic of Slovenia and lives in the Republic of Slovenia (Article 84). One parent or other person has the right to partial payment for loss of earnings, if the conditions laid down in this Act are met or at the latest until the child's 18 years of age (Article 86 of the PPFB).

#### **4 Open Issues Regarding Legal Status of Children with Special Needs in Slovenia**

By setting the above-described legal framework, becoming a member state of the CRC and the CRPD, and recognizing obligations from EU and CoE instruments, Slovenia has undertaken important steps to create a beneficial social environment for children with special needs. Many of those solutions are in line with international instruments relating to children with special needs. However, being Member State of international treaties relating to the protection of the rights of children with special needs, especially the CRC and the CRPD, and international treaties at the European level is only one step in reaching the goal of actual implementation of those rights in practice. Ensuring the rights of children with disabilities depends on the member states of the relevant international instruments. Most of the mentioned international instruments are legally binding and imply the obligation of states parties to implement them in accordance with the principle of international law *pacta sunt servanda*. While the CRC contains general provisions on the prohibition of discrimination against children with special needs, the CRPD determines detailed modern standards of protection of persons with disability, including children. Therefore, it is vital to ensure full implementation of the CRPD relating to children in domestic legislation and policy.

So far, Slovenia has only partially implemented obligations relating to children with disabilities. In the Concluding observations on the initial report of Slovenia from 2018, the CRPD Committee, among others, expressed concern about the lack of early assistance and the placement of children with disabilities in residential treatment institutions and the absence of mechanisms to ensure the participation of children with disabilities in decision-making processes affecting their lives. In this respect, the CRPD Committee recommended that Slovenia ensure a national strategy, with benchmarks and with human, technical and financial resources, aimed at ensuring the full inclusion of children with disabilities in society, paying attention to the development of inclusive settings in early assistance, education, housing, health and all community services.<sup>65</sup>

Regarding the awareness-raising (Article 8 of the CPRD) the CRPD Committee expressed concern about negative societal attitudes in Slovenia towards persons with disabilities, including the lack of awareness about their capabilities and rights, with particular reference to persons with psychosocial and/or intellectual disabilities and the absence of strategies, including awareness-raising campaigns, for combating stereotypes and prejudices against persons with disabilities and recommended the State to adopt measures to raise public awareness about the rights of persons with disabilities in families, schools and society and to adopt an awareness-raising strategy.<sup>66</sup>

A field of significant importance regarding children with special needs as a part of the wider population of persons with a disability, according to the CRPD Committee is the lack of systematic collection of disaggregated data on persons with disabilities and their social condition, including the barriers that they face in society (Article 31 of the CPRD). The Committee recommended Slovenia to develop systematic data collection and reporting procedures and to collect, analyse and disseminate disaggregated data on its population with disabilities, including data disaggregated by sex, age, ethnicity, type of impairment, socioeconomic status, employment, and place of residence, as well as data on the barriers that persons with disabilities face in society and their level of poverty.<sup>67</sup>

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<sup>65</sup> Committee on the Rights of Persons with Disabilities, CRPD/C/SVN/CO/1, 16 April 2018, p. 4.

<sup>66</sup> *Ibid.*, p. 5.

<sup>67</sup> *Ibid.*, p. 13.

So far, none of the CRPD Committee's recommendations regarding children with disability have been implemented. The absence of collecting systematic data on the population with disabilities in Slovenia, including children with special needs, their analysis and dissemination of disaggregated data is one of the main obstacles for implementing specific policies and measures. In his special report on the rights of persons with disabilities in Slovenia from 2024<sup>68</sup> the Advocate of the Principle of Equality of the Republic of Slovenia has concluded that a systematic review of legislation, policies and programmes has not been prepared, and these remain inconsistent with the provisions of the Convention. The legislation was not harmonised with the human rights-based approach to disability. Furthermore, comprehensive legislation to prevent discrimination, which would also recognise and sanction the denial of reasonable accommodation in all areas of social life as a form of discrimination based on disability, has not been adopted. The focal point for managing, directing, and coordinating all non-discrimination policies at the government level has not been established. No progress has been made in systematically eliminating systemic discrimination against persons with disabilities, especially in legislation and in the field of mental health and institutionalisation. However, the Strategic tasks of the National Strategic Action Document for Persons with Disabilities present the 2022–2030 Action Programme for Persons with Disabilities<sup>69</sup>, which includes deinstitutionalisation. As far as children with disabilities are concerned, the Advocate emphasises that no strategies exist to prevent violence against children in alternative care. Effective coordination between the various actors in this area is not ensured.

Given the fact that a parallel education system exists for a specific share of children with special needs who attend special schools, a conclusion may be drawn that there is no actual inclusion in the field of education. Such a system is enabled by Article 11 of the Equalisation of Opportunities for Persons with Disabilities Act, providing that inclusion of students in various programmes, such as programmes offering a special and adapted curriculum, is not discrimination. It is developed in detail by the Placement of Children with Special Needs Act. Such a system creates segregation of children with special needs to special (basic) schools, which are physically separated or located away from regular schools. This kind of segregation leads to the

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<sup>68</sup> Advocate of the Principle of Equality of the Republic of Slovenia, Special Report on Implementing Rights of All People with Disabilities in Slovenia, 2024, pp. 6-9.

<sup>69</sup> Republica Slovenia, 2021, Action Programme for Persons with Disabilities 2022–2030.



segregation of children included in such schools in their lives as adults. Exclusion of children with special needs from separate schools paves the way for their exclusion from society as they become adults. This is not in compliance with one of the basic contemporary principles of the protection of the rights of persons with disabilities enshrined in Article 3 of the CRPD, the principle of full and effective participation and inclusion of persons with disabilities in society.

Additionally, it should be noted that the CRPD Committee in its Concluding remarks of 2018 (para. 40) recommended Slovene authorities to adopt a strategy and action plan with a clear time frame for the implementation of inclusive education at all levels for all children with disabilities and, further, establish a comprehensive monitoring system to assess the progress of inclusive education. It also recommended that the State strengthen the capacity of inclusive schools to train teachers in inclusive education, curriculum accommodation, and teaching methods, as well as enhance the quality of educational support by adopting an individualised approach to children with disabilities and their capacity-building. According to the Advocate of the Principle of Equality, not all educational institutions are fully accessible to persons with disabilities, and appropriate quantitative and qualitative indicators do not define the monitoring of progress in this regard. The 2022–2030 National Child Guarantee Action Plan of the Republic of Slovenia<sup>70</sup> provides a time frame for the implementation of inclusive education at all levels, but it is not actually that ambitious. The system for monitoring progress is not specifically defined, pursuant on sufficient quantitative and qualitative indicators. It does not contain any performance criteria and lacks the necessary human and technical resources for a successful implementation.<sup>71</sup>

## **5 Conclusion**

Standards of international law on the protection of the rights of children with disabilities are well developed and based on the modern human rights model of the protection of the rights of persons with disabilities. However, the mere course, inclusion of children with disabilities in legally binding instruments, is just the first rung of the ladder to be climbed. The example of Slovenia shows that although some rights of children with disabilities have been regulated by national legislation, there

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<sup>70</sup> National Child Guarantee Action Plan of the Republic of Slovenia 2022–2030.

<sup>71</sup> Ibid. See, for example, tables on p. 36 and 42.

are still many challenges and gaps in the implementation of the rights of children with disabilities that need to be addressed in the future.

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