

**Recommendation CM/Rec(2013)2
of the Committee of Ministers to member States
on ensuring full inclusion of children and young persons with disabilities into society**

*(Adopted by the Committee of Ministers on 16 October 2013
at the 1181st meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Under the terms of Article 15.b of the Statute of the Council of Europe;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the European Social Charter (revised, ETS No. 163);

Having regard to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities;

Taking into account Recommendation Rec(2006)5¹ of the Committee of Ministers to member States, referred to as the Council of Europe Disability Action Plan 2006-2015, the New Strategy and Council of Europe Action Plan for Social Cohesion, as adopted by the Committee of Ministers in 2010, and the Council of Europe Strategy for the Rights of the Child (2012-2015),² as adopted in 2012;

Whereas:

1. to participate and be included in society and to live a quality life is an aspiration for all children and young people in Europe, both boys and girls, including those with disabilities – however, developing social and professional skills, getting jobs, building up strong social and family ties and attaining a sense of oneself as an equal citizen can be more difficult for young persons with disabilities; these difficulties have their source in the barriers which young persons with disabilities may encounter from a very early age, and which hinder their full participation in society and the fulfilment of their personal potential;
2. discrimination against persons with disabilities, a lack of accessibility and appropriate support, prospects – including learning opportunities – and reasonable accommodation for children and young persons with disabilities often limits their chances to develop their capacities and to contribute to society; strategic approaches co-ordinated among the different sectors involved, which result in empowering children and young persons with disabilities to become autonomous and active participants in society, are urgently needed;
3. with regard to persons subject to multiple discrimination, appropriate measures are required to ensure their full and equal enjoyment of human rights and fundamental freedoms;

Promoting full belonging to society

4. protecting and fulfilling human rights of all persons with disabilities is a fundamental duty of every Council of Europe member State; breach of the rights of persons with disabilities, including children and young persons, leaves many of them disadvantaged and hampers their active participation in the community in all its aspects: political, public, economic, social, cultural and leisure; ensuring accessibility in line with the principles of Universal Design³ and provision of reasonable accommodation reinforce the right to independent living;

¹ Recommendation Rec(2006)5 of the Committee of Ministers to member States on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015.

² CM(2011)171 final.

³ Recommendation CM/Rec(2009)8 of the Committee of Ministers to member States on achieving full participation through Universal Design.

5. many European countries have already committed themselves to deinstitutionalisation,⁴ however, the necessary alternative community-based support services, such as accessible housing and support services, have not always been put into place;

6. some children and young persons with disabilities have low self-esteem, insufficient education and restricted employment opportunities that can lead them to live below the poverty level as adults; a key response to these problems consists in enhancing the social roles of children with disabilities at a very early age, thanks to positive action programmes, incentives and other measures such as human rights education, which is vital; in parallel, it is essential to undertake awareness-raising campaigns on the rights and needs of children and young persons with disabilities to encourage their inclusion in society and prevent discrimination, segregation and institutionalisation;

Participation, choice and decision making

7. children and young persons with disabilities – both boys and girls – call for the chance to make decisions in relation to their own lives, in accordance with their evolving capacities, and not just in disability-specific matters, but on every aspect of political, public, economic, social and cultural life; children and young persons with disabilities run a higher risk of having their rights violated; it is therefore important that parents, guardians, educators, trusted influencers, persons with disabilities, carers and service providers empower children and young persons with disabilities and support them to make choices about their lives; empowerment includes learning about rights and duties in an accessible and age-appropriate language and format, as well as discussing openly communities' cultural and ethical norms and expectations;

8. however, accessible and age-appropriate information for children and young persons with disabilities is rare; children and young persons with disabilities, their families and other support networks, need independent, timely, relevant and accessible information at key times, for example at the point of diagnosis and at other major transition periods, such as the shift from education to employment, to enable them to make informed choices;

9. children and young persons with disabilities, their families, carers, and other support networks are not always recognised and respected as partners with professionals in decision-making processes; procedures for admission to services, for devising individual support plans or for advocacy services and complaints procedures are not routinely accessible to children and young persons with disabilities; innovative, targeted and individualised approaches are required to ensure that children and young persons with disabilities, including those with communication difficulties, mental health problems, learning difficulties or complex health or dependency needs, are listened to, heard and responded to;

Support to empower children and young persons with disabilities

10. the main aim of services to be provided to children and young persons with disabilities – both boys and girls – is to enable them to fully enjoy their human rights and to be active citizens⁵ on an equal basis with others; services have a crucial role in promoting the autonomy, inclusion and well-being of children and young persons with disabilities; they will enable children and young persons with disabilities to fulfil their potential and make their contribution to an inclusive society;

11. the failure of relevant stakeholders, notably private community-based agencies, service providers and local or other public authorities, to work in a cross-sectoral, co-ordinated and long-term partnership contributes to the obstacles faced by children and young persons with disabilities in the exercise of their rights; demedicalised language is not used to the extent recommended by the World Health Organisation;⁶ excessive importance is currently attached to diagnosis and eligibility criteria as a means to determine access to services, with the result that some children and young persons with disabilities are excluded from the services they require, thus inappropriately reinforcing the medical model of disability; the location and delivery of disability-specific services may not always take account of how best to fit in with various aspects of the person's life, such as going to school, having friends or enjoying sporting, cultural, social and leisure activities;

⁴ Recommendation CM/Rec(2010)2 of the Committee of Ministers to member States on deinstitutionalisation and community living of children with disabilities.

⁵ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (as adopted on 17 November 2010), Guidelines on child-friendly health care (as adopted on 21 September 2011), and Recommendation CM/Rec(2011)12 on children's rights and social services friendly to children and families.

⁶ International Classification of Functioning, Disability and Health (ICF).

12. in order to fulfil their various tasks, service providers themselves need support in moving from an approach based on care to one based on human rights, which gives adequate support for the exercise of the individual rights of every child or young person with disabilities on an equal basis with others; in the field of disability, such a shift will only be possible if adequate measures are put in place and sufficient long-term financial and in-kind support to key players in the provision of human rights-based services is allowed to facilitate the mainstreaming process and to guarantee the availability, affordability, accessibility, quality, sustainability and innovation of the services supporting persons with disabilities across Europe;

Inclusive education facilitating full citizenship

13. all children and young persons with disabilities have the same aspirations and goals as those without a disability in terms of education, work, vocational training, lifelong learning and independent living; this recommendation contains in its appendix an illustration of such a desire: a letter by a boy with disabilities addressed to decision makers across Europe about his educational wishes; it is crucial that schools and educational environments, parents, carers and service providers recognise the importance of fulfilling the aspirations of children and young persons with disabilities; children with disabilities need equal access to appropriate and quality early-years educational provision in an inclusive environment;

14. the idea of inclusive education has been raised in several international instruments, such as the Salamanca Statement on Principles, Policy and Practice in Special Needs Education (1994), the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993), the United Nations Convention on the Rights of Persons with Disabilities (CRPD, 2006) and the European Disability Strategy 2010-2020; it is strongly affirmed in the revised European Social Charter (1996) as well as in the Council of Europe Disability Action Plan 2006-2015; nevertheless, the full implementation of the principle of inclusive education has not yet been achieved in most countries; inclusive education is distinct from integration into mainstream schools: in the integration model, the learner is expected to adapt to the educational system, whereas in the inclusion model the educational system is expected to adapt to the needs of all learners in order to respect human diversity; with a view to achieving the inclusive model of education, a real change in mentalities and educational culture is needed;⁷

15. children and young persons with disabilities are faced with extensive barriers in their aspiration to educational achievement and personal fulfilment; the transition to independent adult life is more likely to be successful if it is planned in advance and with the participation of the person concerned in order to ensure the continuity of his/her personal development,

Recommends that governments of member States, in the light of the above-mentioned considerations, and with due regard for their own national, regional or local structures and respective responsibilities, should ensure full inclusion of children and young persons with disabilities in society.

- a. Children and young persons with disabilities should be able to fully enjoy fundamental rights and freedoms on an equal basis with their peers from birth;
- b. Denial of reasonable accommodation should be considered and treated as discrimination against persons with disabilities;
- c. To make community living a reality, adequate alternative services,⁸ whether at home, in a settlement or in the form of personalised support, should be made available and accessible to all persons who require them;
- d. Adequate funding for community-based social services should be secured to avoid other forms of exclusion brought about by loneliness, poverty of families and worsening economic conditions in some member States;
- e. Equal opportunities to be heard and to engage in community life should be made available for children and young persons with disabilities – both boys and girls;⁹

⁷ Recommendation CM/Rec(2012)13 of the Committee of Ministers to member States on ensuring quality education; Recommendation CM/Rec(2009)9 of the Committee of Ministers to member States on the education and social inclusion of children and young people with autism spectrum disorders.

⁸ Recommendation CM/Rec(2005)5 of the Committee of Ministers to member States on the rights of children living in residential institutions.

⁹ Recommendation CM/Rec(2010)2 of the Committee of Ministers to member States on deinstitutionalisation and community living of children with disabilities.

- f. In all actions concerning children, the best interest of the child should take precedence over other considerations; this principle should also be upheld in relation to children with disabilities;
- g. Services should be developed with an individualised and person-centred perspective; moreover, they should be conceived in partnership with children and young persons with disabilities, parents, community members, private community-based agencies and public authorities;
- h. Services should be organised on the basis of clear and stable legal frameworks and provided by well-trained staff using, when relevant, technological solutions that promote inclusion;
- i. Greater attention should be paid to identifying and removing or preventing possible barriers, to accessing the built environment, transport and amenities, education and training, information and communication, including ICTs, services provided or open to the public both in urban and in rural areas, so that children and young persons with disabilities become or remain engaged, included in and able to access opportunities in education, cultural, sporting and leisure activities, employment and vocational training;
- j. Learners with disabilities should, on an equal footing with others, be enabled and encouraged to meet their full potential academically, emotionally and socially;
- k. Governments should in particular engage with various public and private stakeholders to carry out the following positive actions:
- i. to ensure accessibility, applying the principles of Universal Design of the built environment, transportation, education and training, information, and communication, including ICTs, and services provided or open to the public both in urban and in rural areas, to ensure that persons with disabilities have equal access to all areas of life, noting that assistive technology solutions and reasonable accommodation should nevertheless be provided to address individual requirements, if needed;
 - ii. to create, maintain and promote, in the best interests of all children and young persons with disabilities – both boys and girls – community living conditions, preferably within their own family, that are favourable to their full civic participation and well-being within society; deinstitutionalisation and the transition from institutional to community-based care should be the main goals of policies geared to ensuring the inclusion of children and young persons with disabilities;
 - iii. to prioritise, monitor and uphold the international legal obligations to supply an inclusive education, adapted to the individual needs of students with disabilities while providing the necessary support, and the opportunities to achieve the fullest possible educational and social attainments for children and young persons with disabilities throughout their childhood and adulthood, from pre-school to entry into the labour market and throughout necessary lifelong learning;
 - iv. to ensure that inclusive education and vocational training give young persons with disabilities, by adapting the curricula, the skills required to obtain a job in the open, inclusive labour market, and that reasonable accommodation and necessary support are available in the workplace;
 - v. to develop action plans to reform educational systems to be inclusive; the transition period and professional development of existing personnel of mainstream and special schools, colleges and universities should be properly funded to help the whole system and its actors to implement the principles of inclusive education and to be more effective in this field; these plans should be closely linked to deinstitutionalisation policies;
 - vi. to reform initial and in-service teacher training schemes to enable teachers and trainers, as well as school staff and academic personnel, to promote, deliver and sustain an inclusive educational system in line with Articles 24 and 19 of the UN Convention on the Rights of Persons with Disabilities, namely the right for persons with disabilities to education and to live independently and be included in the community;
 - vii. to listen to children and young persons with disabilities, to empower them and to take account of their views in decisions concerning them, and involve them in decision-making processes according to their evolving capacities in line with Article 7 of the UN Convention on the Rights of Persons with Disabilities, namely ensuring that children with disabilities have the right to express their views freely on all matters affecting them, with 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 exercise that right;

- viii. to promote education in human rights for all following a disability- and gender-sensitive approach in order to accelerate the establishment of *de jure* and *de facto* equality and equity in society for better understanding of human diversity and individual rights;
- ix. to actively promote human rights of children and young persons with disabilities and to protect boys and girls with disabilities against possible violations of their rights by introducing, if necessary, appropriate legal anti-discriminatory safeguards and by informing them in an accessible way of their rights and existing redress procedures, thus securing the full enjoyment of the rights and freedoms enshrined in the relevant international human rights instruments;
- x. to ensure the availability, affordability, accessibility, quality, innovation and sustainability of services of general interest such as community-based social and health care services tailored to the needs of children and young persons with disabilities and their families;
- xi. to support and/or provide training for professional staff working with children and young persons with disabilities in order to enable them to meet, in a cross-sectoral, co-ordinated manner, the specific requirements of boys and girls with disabilities in the fulfilment of their personal potential and aspirations to live independently;
- xii. to create models and share good practices to support transition from education or training to employment for young persons with disabilities and to support employers in providing sustainable employment to young persons with disabilities;
- xiii. to involve non-governmental organisations of persons with disabilities, notably those representing children and young persons with disabilities and their families, as well as non-governmental service providers, in the implementation and monitoring of the measures advocated in this recommendation;
- xiv. to ensure the widest possible dissemination of this recommendation and its appendix to all parties concerned, in particular private actors, for example through exchange of good practices among member States, training sessions and awareness-raising campaigns, accessible website portals with good practice examples, outlines of basic action and strong involvement of civil society;
- xv. to incorporate issues concerning children and young persons with disabilities in the United Nations Post-2015 Sustainable Development Agenda.

Appendix to Recommendation CM/Rec(2013)2

Letter by a young person with disabilities to decision makers in Europe¹⁰

Newcastle, Galway, Ireland
19/11/2012

Dear Ministers across Europe,

My name is Oliver. I am a young person with autism and a moderate level of general learning disability. In June 2013 I expect to graduate from St Joseph's school. My hope is to become a script writer for video games. This has been my dream for a while.

I would like to share with you some of my thoughts about the rights of children with disabilities because I believe our voice is not always heard.

It is very important that children with disabilities have the chance to be educated in the same schools together with other children. This is how we can learn to live together and learn that everyone has something that makes them different and unique. To make this happen, we need friendly and welcoming schools where everybody can easily go around and take part in all activities during classes, on the sport field or on the playground. We are all eager to learn but some of us need ramps, audio books or language interpreters. Without them or other forms of support, we are not able to enjoy what other children our age do.

¹⁰ Letter published *in extenso* with prior agreement of its author.

I believe education is very important because this is how I discovered what I enjoy the most. I like doing projects where I can explore new things by myself in text books, library books and the Internet. The Internet keeps me informed, and I think every child should have the opportunity to use computers and social media. In my class, children are interested in different things and they learn in different ways. For example, I know I am better than many children at creative writing. I also think that we should be able to make suggestions and give ideas about what we want to learn and teachers should listen, understand and be patient with us.

Apart from school, I believe that children with disabilities should be able to do what other kids do, like go out, meet friends, have a laugh, go to the cinema, do sports or other fun activities. We want to be able to do all of these close to our homes, but this is sometimes difficult. No matter who you are, you should be given the possibility and freedom to do what you like and feel you are accepted. I wish that everybody would take their time to really talk and listen to what we want and feel instead of only asking our parents, carers and teachers.

I know that this is the responsibility of the governments and of the people around us to make sure that our rights are protected. Could you please make sure that this will happen?

Yours sincerely,

Oliver Flanagan