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CRPD- General Comment on Article 24 (Right to Inclusive Education) Written statement

The “Social Association Germany (SoVD)” is a civil society organisation with more than 560.000 members in Germany. Since 1917 the SoVD is one of the biggest advocacies of disabled people in Germany.

This written statement has the goal to show the problems and necessities in due to the implementation of an inclusive education system (Art. 24 of the Convention on the Rights of Persons with Disabilities – CRPD) in Germany.

We are full of hope and expectation, that the General Comment of the CRPD-Committee will show needs of change. Therefore we name the most important questions, that should be answered and the most important statements, that should be given by the General Comment (GC).

1. Difference between integrative and inclusive education / From the right to education to the right to inclusive education

When the CRPD was translated into German, the official translation contained a mistake: “inclusion” was translated as “Integration” instead of using the correct term “Inclusion”. That ignores, that the inclusive education approach has emerged as a response to discriminatory approaches: exclusion, segregation and integration.

► *Our expectation: The differences between integrative and inclusive education systems and the development from the right to education to the right to inclusive education (including the historical development from standards rules 1993 to CRPD 2006) should be clarified in the General Comment.*



2. Declaration, that inclusive education has to be realized at all educational levels and in all types of schools

As defined in CRPD Art. 24, an inclusive education system must ensure comprehensive access to the general education system, starting from preschool and elementary school and continuing on through high school, university, vocational training and lifelong learning. Germany is a long way from inclusive school education. The integration of children with disabilities amounts to 62 % in preschools and kindergartens, 34 % in primary schools and only 15 % in high schools. This places Germany far behind when compared to other international systems.

The integration quota in secondary schools in Germany differs widely between the school types: It amounts to 39 % in lower secondary education schools [*Hauptschule*], but only to 5 % in high schools [*Gymnasium*].

► ***Our expectation: The General Comment should clarify, that inclusive education has to be realized at all levels and within all types of (secondary) schools.***

3. The obligation to inclusive education obliges authorities on the Federal level and on the levels of counties (Länder)

As in many other countries in Germany the education system lacks committed collective action from authorities on the Federal and Länder levels. The Federation does not sufficiently assume its responsibilities. There is no comprehensive, nationwide scheme for inclusive education in the school system in Germany because of its federal structure.

► ***Our expectation: In the General Comment should be clarified, that both, federal state and the “Länder” are obliged to fulfill Art. 24 CRPD. It is necessary to ensure a cooperative, coordinated and committed joint approach by the Federal level and the Länder-level.***

4. The right to inclusive education as an immediate right

There is an international debate about content of immediate rights and obligations that must be implemented step by step (Art. 4, Para. 2 CRPD). In Germany legal experts consider the right to education (Art. 24 CRPD) as an immediate right. But the Federal Government in Germany and the Länder ignore the international legal debate; they even question these rights.

► ***Our expectation: in the General Comment should be clarified, that Art. 24 CRPD is an immediate right within its dimension of discrimination. This right must urgently and unconditionally be acknowledged – without discrimination.***

5. The individual right on inclusive education in regular schools

All Länder schooling laws in Germany envisage the possibility of inclusive learning groups. Nevertheless, students with disabilities are not legally guaranteed access to mainstream schools. But students can exercise this right only under the condition that specific human resources, organizational and material preconditions are fulfilled.

In some of the Länder, it is even legitimate to send students to special schools against their and their parents' will. In this way, students with disabilities in mainstream schools do not have the right to claim comprehensive reasonable accommodations, compensation for disadvantages and accessible teaching and learning materials.

► ***Our expectation: the General Comment should clearly name the right on inclusive education as an individual right on inclusive education. The right to reasonable accommodations in that case must be explained, too.***

6. Inclusive Education as benchmark of high quality education

The public debate on inclusive education in Germany lacks appreciation and acknowledgement of diversity within education processes. Our education system is highly selective and gives rise to injustice at the expense of socially disadvantaged people, persons with migration backgrounds and persons with disabilities. The critique that Vernor Muñoz, the UN special rapporteur on education, articulated in 2006, is still accurate. In the current debate, "inclusion" is not sufficiently regarded as a benchmark of high quality education.

Our education system still primarily considers heterogeneity among students to be a problem, and seeks to create homogenous learning groups.

► ***Our expectation. the General Comment should express with clarifying words, that inclusive education can guarantee high quality education.***

7. Opposite between the right to inclusive education and highly segregated school systems

The German education system is still a highly segregated school system. After completing elementary school, the students are divided and placed into set educational tracks within segregated school types. Furthermore, there is a broad landscape of special needs schools [*Sonderschulen*] in Germany, that divides students according to nine special needs pedagogical criteria (learning, behavior, speech, auditory, visual, intellectual and physical disability, autism, medical conditions).

► ***Our expectation: There should be given a clarification in the General Comment, that a broad landscape of special needs schools is in opposite to Art. 24 CRPD.***

8. The parental right to choose does not fulfill Art. 24 CRPD

Recently in some Länder, parents were asked to choose between regular and special needs schools. Some Länder even consider the parental right to choose as a de facto

implementation of the CRPD. There is to deplore the fact that politicians misuse the parental right to choose in order to question the fundamental right to an inclusive education in a mainstream school that is close to the student's place of residence.

Since mainstream schools are insufficiently equipped, parents are pushed towards a decision in favor of a special needs school; moreover, politicians refer to the parental right to choose in order to maintain the widespread special needs school system. Maintaining the special needs school system further binds resources that could otherwise be used to create an inclusive education system.

► ***Our expectation: The CRPD-Committee should clarify (by the General Comment), that the parental right to choose does not fulfill Art. 24 CRPD.***

9. Focus on special needs schools

The big majority of students with disabilities in Germany attend special needs schools in Germany. In 2012, 75 % left school without obtaining any diploma. In spite of rising integration numbers, the number of special needs school students has not decreased significantly, due to the fact that more and more students are diagnosed with the need to obtain special needs advancement resources. In 2010, this was the case for 487.000 students, which corresponds to 6,4 % of all students. "Measured against all other EU states, [...] Germany has the highest percentage of students who receive special needs education" (Bundesbildungsbericht 2010).

It is still primarily the responsibility of the parents to enforce the integration of their disabled children, including schooling assistance, communication assistance and interpretation.

► ***Our expectation: The right to inclusive education (Art. 24 CRPD) requires changes in special needs schools. Changing processes have to include special needs schools. That has to be clarified by the General Comment.***

10. Requirements of high qualified inclusive education

The General Comment should define requirement of high qualified inclusive education, such as:

- sufficient human, time and material resources in inclusive schools,
- accessibility of mainstream schools,
- establishment of diversity pedagogics,
- vocational training and further education for all teachers, pedagogues and social workers regarding inclusive schooling,
- supervision of on-site transformations in mainstream schools,
- participation of persons with disabilities and their associations in changing processes,
- awareness-raising in society as a whole in favor of inclusive education.

► ***Our expectation: The General Comment should name these requirements of high qualified inclusive education.***

11. Obligation of continuous and transparent admission procedures

Inclusive education enforces permanent adoption, reasonable accommodations and changing processes. Therefore all states should establish a permanent monitoring process, publish statistical data and inform the public about the progress of these transforming processes.

► ***Our expectation: The General Comment should name and clarify this obligation.***

Berlin, 19th of February 2015

DER BUNDESVORSTAND