SPECIAL NEEDS EDUCATION
COUNTRY DATA 2010

Additional Information
Relating to the Country SNE Data
Introduction

The SNE country data is collected by Agency member countries every two years. In order to put the statistical data into a broader context, in 2010 additional information relating to different aspects of countries’ legislation for SNE was collected alongside the more statistical data.¹

This document presents this descriptive, contextual information.

Information was received from 30 Agency member countries: Austria, Belgium (Flemish speaking community), Belgium (French speaking community), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales).

The information collection centred upon 5 issues, presented as questions and sub-questions:

1. Is the legislation relating to SNE/inclusion in your country:
   (i) A part of general mainstream educational legislation?
   (ii) Totally separate from general mainstream educational legislation?
   (iii) A mix of general mainstream educational and separate legislation?

2. Does the legislation relating to SEN in your country specify categories of SEN?
   2.a If yes, please list these categories.

3. Does your legislation include an entitlement for parents to choose a placement for their child?
   3.a If yes, please describe this.

4. Does your legislation outline a process where a pupil is assessed and then given an official decision / document / statement of SEN that describes their needs and the provision that should be provided to meet these needs?
   4.a If yes, for the 2010 data collection exercise, have you provided data relating to:
      (i) Pupils with a decision / document / statement of SEN?
      (ii) All pupils identified as having some form of SEN (those with and without a decision)?

5. Does your legislation specifically refer to any international standards / agreements (e.g. UN conventions, ICF etc.) on disability, SEN or inclusion?
   5.a If yes, please list these international standards / agreements.

The information for each of these questions is presented in full in the following pages.

¹ Please see: Special Needs Education Country Data 2010 available from www.european-agency.org
Legislation relating to SNE/inclusion in countries is a part of general mainstream educational legislation in 13 countries: Austria, Belgium (Flemish speaking community), Denmark, Finland, Germany, Hungary, Iceland, Latvia, Malta, Norway, Spain, Sweden and UK (England).

Legislation relating to SNE/inclusion is totally separate from general mainstream educational legislation in 2 countries: Cyprus and Netherlands.

Legislation relating to SNE / inclusion is a mix of general mainstream educational and separate legislation in 15 countries: Belgium (French speaking community), Czech Republic, Estonia, France, Greece, Ireland, Lithuania, Luxembourg, Poland, Portugal, Slovenia, Switzerland, United Kingdom (Northern Ireland), UK (Scotland), UK (Wales).

13 countries do not specify categories of SEN in their legislation: Austria, Cyprus, Denmark, Finland, Greece, Iceland, Ireland\(^2\), Luxembourg, Norway, Portugal, UK (England), UK (Northern Ireland), UK (Wales).

Categories of SEN are specified in the legislation of 18 countries: Belgium (Flemish speaking community), Belgium (French speaking community), Czech Republic, Estonia, France, Germany, Hungary, Iceland, Latvia, Lithuania, Malta, Netherlands, Poland, Slovenia, Spain, Sweden, Switzerland, UK (Scotland).

These categories are:

**Belgium (Flemish speaking community):**

1. Minor mental handicap: Type 1 education is offered to children with mild mental disabilities so that they are able to acquire basic school knowledge and skills and receive vocational training that will enable them to be integrated into regular social and professional environments. This type of education is only available at primary and secondary level (i.e. not at pre-primary schools).

2. Moderate or serious mental handicap: Type 2 education is offered to children with moderate to severe mental disabilities. Through social education and special vocational training, children with moderate mental disabilities are prepared for integration in a protected socio-professional environment. Their level of self-reliance is improved through special educational activities. This type of education is available at pre-primary, primary and secondary level.

3. Serious emotional and/or behavioural problems: Type 3 education is offered to children with personality disorders. They suffer from severe structural and/or functional disorders in the affective dynamic and relational aspect of their personality, which make special educational and psychotherapeutic measures necessary. This type of education is available at pre-primary, primary and secondary level.

\(^2\) Ireland: Discrete categories of special educational needs are not listed in the legislation. However categories of disability are specified in policy documents emanating from the Department of Education and Skills. These categories are used by the National Council for Special Education in the allocation of resources to schools on behalf of children with special educational needs. The disability categories are divided into two groups for resource allocation purposes: high incidence and low incidence. The disability categories are set out under the headings High Incidence Disabilities and Low Incidence Disabilities.

High Incidence Disabilities: Borderline Mild General Learning Disability; Mild General Learning Disability; Specific Learning Disability.

Low Incidence Disabilities: Physical Disability; Hearing Impairment; Visual Impairment Emotional Disturbance; Severe Emotional Disturbance; Moderate General Learning Disability; Autism/Autistic Spectrum Disorders; Specific Speech and Language Disorder; Assessed syndrome in conjunction with one of the above low incidence disabilities; Multiple Disabilities.
4. Pupils with a physical handicap: This category covers pupils with a physical handicap. Type 4 education is offered to children with physical disabilities, others than those mentioned in types 5, 6 and 7, who are not able to receive education in a standard school because they regularly need medical or paramedical treatments and/or special teaching materials. This type of education is available at pre-primary, primary and secondary level.

5. Children suffering from protracted illness: Type 5 education is offered to children who suffer from a protracted illness and receive medical treatment in a hospital or in a medical pedagogical institute organised or accredited by the State. This type of education is available at pre-primary, primary and secondary level.

6. Visual handicap: Type 6 education is offered to blind or visually impaired children who regularly need medical or paramedical treatment and/or special teaching materials. This type of education is available at pre-primary, primary and secondary level.

7. Auditory handicap: Type 7 education is offered to deaf or hearing impaired children who regularly need medical or paramedical treatment and/or special teaching materials. This type of education is available at pre-primary, primary and secondary level.

8. Serious learning disabilities: Type 8 education is offered to children with severe learning disabilities. Although their mental, visual and hearing abilities are normal, these children suffer from disorders in language development and their skills of speech, reading, writing and/or arithmetic. This type of education is available only at primary school level.

**Belgium (French speaking community):**

The Decree of 3 March 2004 organising special needs education gives the following definition in the article 2:

'The specialised education is reserved for children and adolescents who, on the basis of a multidisciplinary exam made by defined institutions on the basis of article 12, must benefit of an adapted education in relation with their special needs and pedagogical possibilities'.

These children and adolescents are called ‘children and adolescents with special needs’.

The specialised education is organised in 8 types. Each of them is an adapted education to the general and particular needs of the children from specialised education, belonging to the same type, needs defined in function of the principal disability common to this group. For the people with multiple disabilities, the type of specialised education is defined according to the educational needs which must be satisfied by priority according to the age and the possibilities of the person.

Type 1 of specialised education is adapted to the special needs of children and adolescents with light mental disabilities;

Type 2 of specialised education is adapted to the special needs of children and adolescents with moderate or deep mental disabilities;

Type 3 of specialised education is adapted to the special needs of children and adolescents with severe behaviour and personality problems;

Type 4 of specialised education is adapted to the special needs of children and adolescents with physical problems;

Type 5 of specialised education is adapted to the special needs of children and adolescents with illness or convalescent (classroom in clinic);

Type 6 of specialised education is adapted to the special needs of children and adolescents with visual impairment;
Type 7 of specialised education is adapted to the special needs of children and adolescents with auditory impairment;

Type 8 of specialised education is adapted to the special needs of children and adolescents with instrumental impairment.

**Czech Republic:**

A child/pupil/student with SEN is, according to the law, a child/pupil/student who is, or is likely to be unable to benefit from school education made generally for children/pupils/students of the same age in other than special schools without the provisions of additional support.

The group of pupils with special needs consists of pupils with physical, mental, sensory, speech and language impairment, with specific learning and/or behavioural difficulties, autism and children with severe multiple needs. These pupils have the right to be mainstreamed and/or educated at special schools/classes.

**Estonia:**

Special educational needs are:
- General or special talent;
- Learning disabilities (specific and general);
- Sensory disability (deafness and hearing impairment, blindness and visual impairment);
- Physical disabilities;
- Emotional and behavioural problems;
- Speech impairment;
- Intellectual disability and multiple disabilities;
- Addiction disorder.

**France:**

There is no established term in France which refers to the population of children who benefit from specific measures defined on the basis of special educational needs: the terms used (disabled children, non-adapted children, which covers different types of situations) are all very specific, linked to certain connotations, and marked by a historical situation.

According to the law n° 2005-102 of 11 February 2005 for equal rights and opportunities, participation and citizenship of disabled persons: ‘according to the definition of the present law, a disability is constituted by any limit on activity or restriction on the participation in social life endured by a person in his or her environment due to a substantial, durable, or permanent alteration of one or several physical, sensory, mental, cognitive, or psychological functions, to a multiple disability or to a disabling health problem.’

**Germany:**

The focus is upon ‘Emphasis of individual SNE support’ (Förderschwerpunkte) on the level of:
- Learning;
- Emotion and social development;
- Mental development;
- Physical development;
- Hearing and vision;
- Autism;
- Chronic sickness.

**Hungary:**
The main categories are:

1. Children/pupils with special educational needs (disabled);
2. Children/pupils suffering from behavioural and learning difficulties.

From a teaching point of view, special educational needs (disability) mean any non-normal development caused by a serious disturbance of the intellect, vision, hearing, movement, speech organs or emotional life. It is a state in which the child’s individual characteristics divert from normal to such an extent where any development is only possible through special equipment, methods, and aids of (corrective) pedagogy.

Instead of the term ‘disabled child/pupil’ the Act on Public Education uses ‘children/pupils with special educational needs’ wherever that does not blur meaning, and provides a list of those who belong to that category: children who, on the basis of the committee of experts on rehabilitation, qualify as suffering from a physical, sensory, intellectual, or speech disability, autism, or several of the above, or as being permanently and seriously hindered in the education and learning process due to disturbances of psychic development (e.g. dyslexia, dysgraphia, dyscalculia, abnormal hyperkinesias or abnormal activity disturbance).

The operation of committees of experts (see: 10.6.4.) is regulated by Ministerial decree 14/1994 on the compulsory training and pedagogical services, Ministerial decree 23/1997 on the guidelines of kindergarten education of disabled pupils and decree 2/2005 of the Minister of Education and Culture on guidelines of school education of disabled pupils.

Guidelines on the national categories of special educational needs provide the following criteria of classification:

1. Physical deficiency (loco-motor hindrance): significant and permanent limitation in the ability of free movement due to an innate or acquired damage or functional disturbance of the loco-motor system leading to changes in movement-based learning and socialisation. The extent to which the pupil requires special education is determined by the time, form, and rate of the damage.

2. Visual impairment (blind, functionally blind, having poor vision): a state developed as a result of injury to the eye, the optic nerve, or the cortical vision centre that changes the activity of learning, the ability to adapt, and the entire personality. From a pedagogical point of view those pupils are visually impaired whose visual capacity is between 0 and 0.33 with both eyes and with spectacles, where 1 is perfect vision. In addition to the above:

3. Those whose visual performance is totally missing (0 vision) are blind.
4. Those who have some negligible power of vision, who are sensitive to light, read with their fingertips on the surface, or only perceive large objects (light sensitivity: -0.1) are functionally blind.
5. Those with poor vision have a visual capacity of 0.1–0.33.
6. Auditory impairment (deaf, hard of hearing): speech, language, and as a result, the personality develops differently under the effect of missing or deficient hearing. More specifically:

7. Deaf: serious loss of hearing (loss in the ordinary speech pitch-range remains below 90 dB).


9. Mentally disabled: in accordance with the seriousness of mental disability and pupils’ needs for development, the Act on Public Education defines the following groups: light mental disability (learning difficulty), medium serious mental disability (mentally hindered), subject to compulsory training, (serious and very serious) during their age of compulsory schooling.

10. Speech impairment: due to innate or acquired disturbances of the nervous system and influences from the immediate environment, a speech impediment of significant proportions develops resulting in temporary or lasting disturbances in the ability to speak, communicate and learn, and in social relations. The impediment may be apparent through problems of pronunciation of speech sounds, disturbances of perception and understanding of speech, arrhythmic speech, immaturity of graph motor and visual motor coordination, and failure of segmental abilities accompanying general weakness of speech. Different kinds of dysphonia, abnormal modifications of sound production are also classified as speech impairment.

11. Autism, light autism (pervasive developmental disturbance): a qualitative damage of the social, communication and special cognitive skills apparent through a characteristic set of behavioural symptoms. The most typical signs include cognitive deficit in the area of social skills requiring support.

12. Compound impairment: simultaneous presence of several impairments.

13. Serious compound impairment: impairment for lifetime, simultaneous presence of at least two impairments (or serious disturbance) because of the damages of the physical structures such as communication, ability of speaking, motor, and sensual perception. The psychophysical performance of the person concerned is different from the average to the extreme ends, therefore he/she is seriously hindered in his/her activities and in life in society. In the background of the serious or multiple (compound) impairments there is usually a serious and complex damage of the central nervous system that was damaged in an early childhood period. Impairments may appear in different combinations and at different times in a person’s life.

14. Severe and long-lasting disorder of recognition functions or behavioural development.

Iceland:

According to the education acts in Iceland from 2008, pupils who have difficulties studying because of specialised study problems, emotional or social problems and/or disabilities, cf. Article 2 of the Act on Affairs of People with Disabilities from 1992, pupils with dyslexia, pupils suffering from long term illnesses and pupils with health related special needs have the right to special study support, according to the evaluation of their special needs.

Latvia:

1. Visual impairments;
2. Hearing impairments;
3. Physical disabilities;
4. Speech and language impairments;
5. Disabilities of mental development;
6. Severe and multiple disabilities;
7. Learning disabilities;
8. Disorders of mental health;
9. Long-term (chronic) illnesses.

**Lithuania:**

‘Regulations of evaluation and statement of disorders of persons with special educational needs and levels of special educational needs (SEN)’ ordered by the minister of Education and Science, minister of Social Security and Labour and minister of Health Care of the Republic of Lithuania on 12 July 2002 used categories to identify students with special educational needs such as:

1. Intellectual disorders;
2. Specific cognitive (e.g. attention, memory, visual or auditory perception) disorders;
3. Emotional, behaviour and socialisation disorders;
4. Speech and other communication impairments;
5. Hearing impairments;
6. Visual impairments;
7. Movement disorders;
8. Somatic and neurological disorders;
9. Complex impairment;
10. Other disorders (all disorders that are not covered by the former group e.g. developmental disorders caused by psychological and pedagogical neglecting of a child).

**Malta:**

‘A minor shall be deemed to have special educational needs when that minor has special difficulties of a physical, sensory, intellectual or psychological nature.’ (Education Act, p.25)

**Netherlands:**

1. Visually impaired;
2. Hearing impaired;
3. Mentally disabled, physically impaired, chronically ill;
4. (Severe) Behaviour, psychiatric problems.

**Poland:**

- Pupils with slight mental disability;
- Pupils with moderate and severe mental disability;
- Pupils with deep mental disability;
- Deaf pupils and pupils with hearing impairment;
- Blind pupils and pupils with visual impairment;
- Pupils with physical disabilities;
- Chronically ill pupils;
- Psychiatric pupils;
- Autistic pupils and pupils with multiple disabilities;
- Pupils with social and behavioural problems;
- Pupils with speaking and communication problems.

**Slovenia:**
- Children with mental disabilities;
- Blind children and with visual impairment;
- Deaf children and with hearing impairment;
- Children with speech and language problems;
- Physically disabled children;
- Children with long-term illnesses;
- Children with learning difficulties;
- Children with emotional and behaviour problems.

**Spain:**
Disabled people and learners with deep behavioural disorders.

**Sweden:**
- Pupils with cognitive/learning disabilities who are enrolled in the special programme 'särskola';
- Pupils who attend a national special school for pupils with visual impairment and additional disabilities or severe speech and language disorder;
- Pupils who attend a national special school for pupils with deafness or impaired hearing combined with severe learning disabilities or congenital deaf-blindness.

**Switzerland:**
Until 2008, SNE was partly paid by the Federal Social Insurance Office, Invalidity Insurance domain. Therefore the legal definition of SEN within the education system was also influenced by the Invalidity Insurance Law. Children and youth with the legal status of 'invalidity' were entitled to benefit from SNE.

The categories were:
- Mental disability;
- Blindness or strong visual impairment;
- Deafness or strong hearing impairment;
- Severe language problems;
- Physical disability;
- Severe behaviour problems.
Due to the ‘Reorganisation of Financial Equalization’ (RFE), a referendum which was adopted in 2004, Switzerland now is in a phase of transition from the medical definition of SNE to a more educational definition of SEN.

The new definition, in force in 2011, will be: Individuals entitled to benefits are children and youth from birth to 20 years of age, living in Switzerland, who have the right to adequate provision of special educational services, provided the following conditions are met:

a. Prior to compulsory education: if it can be established that the development is limited or at risk, or that without specific support attending instruction in regular classrooms would not be possible;

b. During compulsory education: if it can be established that possibilities of development and education are limited in such a manner that instruction in regular classrooms cannot be followed without specific support any more or if other special educational needs are established.

**UK (Scotland):**

In Scotland the legislation Education (Additional Support for Learning) (Scotland) Act 2004 as amended by the Education (Additional Support for Learning) (Scotland) Act 2009 refers to Additional Support Needs rather than SEN. This broad and inclusive term applies to children and young people who, for whatever reason, require additional support short or long term to help them make the most of their education. The legislation does not specify categories of young people. However, the Code of Practice (a statutory code), which explains the legislation, sets out a number of reasons why a child or young person may require additional support. These include young people who:

- Have motor or sensory impairments;
- Are being bullied;
- Are particularly able or talented;
- Have experienced bereavement;
- Are interrupted learners;
- Have a learning disability;
- Are looked after by a local authority;
- Have a learning difficulty, such as dyslexia;
- Are living with parents who are abusing substances;
- Are living with parents who have mental health problems;
- Have English as an additional language;
- Are not attending school regularly;
- Have emotional or social difficulties;
- Are on the child protection register;
- Are young carers.

The guidance is clear that the list is not exhaustive nor that inclusion on the list implies that additional support will be necessary. A revised version of the Code of Practice is due to be published in August 2010.
Legislation does not include an entitlement for parents to choose a placement for their child in 2 countries: Cyprus and Slovenia.

Legislation includes an entitlement for parents to choose a placement for their child in 27 countries: Austria, Belgium (Flemish speaking community), Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Scotland), UK (Wales).

These entitlements are described below:

**Austria:** The School Compulsory Act (paragraph 8) entitles parents to choose a placement for their child either in a special school or in a mainstream class in primary schools, lower secondary schools or higher secondary schools (lower bracket).

**Belgium (Flemish speaking community):** The Decree of 28 June 2002 concerning equal opportunities confirms the freedom of parents to choose the school to enrol their child with SEN. If they choose a special school, the pupil needs a statement of SEN from a pupil guidance centre. If the parents choose a mainstream school, the school has the possibility for pupils with a statement for type 1–7 (see question 2) to make an evaluation of the reasonable accommodations the pupil needs. If these accommodations are disproportionate, the school can decide not to enrol the child. The school is obliged to give a written argumentation that can be discussed at local level (with a relevant stakeholder from the field of education). In case no solution can be found, the parents and the school are invited by the Commission on pupils’ rights organised by the Ministry of Education and Training. This Commission can ultimately suggest a financial sanction to be taken by the Flemish Government against the school (if the argumentation cannot stand the legal test).

**Czech Republic:** A pupil is entitled to attend the school in his/her living area unless his/her parents chose another school (Act on Education).

**Denmark:** It is written in the legislation that the decision-makers should pay as much attention to the parents and the children’s wishes as possible.

**Estonia:** Basic School and Upper Secondary School Act § 18 states that the parents can choose the school for their compulsory school age child if there is a vacant place. According to the Education Act, children with special needs have the right to attend the school of their residence.

**Finland:** If parents choose a school for their child other than what the municipality has appointed, in some cases the municipality is not obligated to give all the support that can be given in the school appointed by the municipality.

**France:** The legislation closely associates the parents in the orientation decision process concerning the child and in all phases of defining his/her personal schooling project (see Law of February 11, 2005).

**Germany:** But not absolute – de facto: yes; de jure: no.

**Greece:** For every pupil with disability and special educational needs, the Scientific and Pedagogical Committee (EΔΕ) of the Centres of Assessment and Support for Special Educational needs (ΚΕΔΔΥ) draw up the Individual Teaching Programme (ΕΠΕ) of the child in order to be implemented by the Teacher of Special Education (ΕΑΕ), in collaboration with the mainstream teacher, the School Advisor (ΕΑΕ) and the Counsellor.

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3 Cyprus: The District Committee for Special Education decides the appropriate placement for the child, yet the law gives parents the right to appeal to the Central Committee, if they disagree with the decision. In this case, the decision may change in favour of the parents.
of the Individual Teaching Programme. Parents participate in the construction of the Teaching programme and are advised to collaborate with the above committee (Chapter A' Article 5 of the Law). Parents also participate in the decision of the child’s placement in school.

**Hungary:** The institution will be selected by the parents from the ones that are properly equipped to provide education to the child / pupil.

The freedom of the parent to choose the institution is limited with a disabled child to kindergartens, and schools staffed/equipped to ensure appropriate education/teaching to the child. Information concerning eligible institutions will be given by the committee following completion of complex tests.

**Iceland:** The parents are entitled to placement near the child’s home. If a child’s parents, head teachers, teachers or other specialists believe that the child is not receiving suitable instruction in the compulsory school, the parents can ask that their child be admitted to special treatment within general compulsory school or to a specialised school. This applies for compulsory education. At the upper secondary school level SEN students have the right to attend a 4 year programme adopted to their needs within most of the mainstream schools.

**Ireland:** Under the Constitution of Ireland, the family is recognised as the primary educator of the child. The Education Act 1998 also recognises the rights of parents. Section 6 of the Act sets out the Objects of Act and provides inter alia:

Every person concerned in the implementation of this Act shall have regard to the following objects in pursuance of which the Oireachtas has enacted this Act:

- a. To give practical effect to the constitutional rights of children, including children who have a disability or who have other special educational needs, as they relate to education;
- b. To promote the right of parents to send their children to a school of the parents’ choice having regard to the rights of patrons and the effective and efficient use of resources.

Therefore there is reference in legislation to parental choice in relation to choosing a school for their child, but this choice must have regard to the rights of school patrons and the efficient use of resources.

Each school’s board of management is obliged by legislation to publish its enrolment policy. In drawing up its enrolment policy each board must act in accordance with equality legislation which includes a prohibition on discrimination on grounds of disability. Enrolment of children in the school must be determined by the board in accordance with its enrolment policy.

In addition, when Section 10 of the EPSEN Act 2004 is in force, the rights of parents to choose a school for their child will be further strengthened. It is stated in Section 10 that when designating a school for a child with special educational needs, as well as having regard for the needs of the child, and the capacity of the school to accommodate the child and to meet his or her needs, the NCSE must also have regard for the wishes of the child’s parents.

**Latvia:** Education Law (1999) Section 57, part 1 states that parents (persons who exercise parental authority) have the right to choose the educational institution where their child acquires education.
**Lithuania:** The Law on Education of the Republic of Lithuania (2003), Article 34: Upon the request of the parents (foster parents, guardians) of a child with special needs, conditions are ensured for the child to study in a fully or partially integrated form at a pre-school and general education school located as close as possible to his/her home. The Pedagogical-psychological Service will recommend a school for the child. Article 47: parents (foster parents, guardians) have the right to participate in the selection of curriculum, the form of education and school or other education provider for the child (if necessary, they can do it on the child’s behalf).

**Luxembourg:** Parents can choose if they want a placement in a mainstream school or in segregated special classes.

**Malta:** Right of choice of parents ‘It is the right of every parent of a minor to give his/her decision with regard to any matter concerning the education which the minor is to receive.’ (Education Act, p. 4)

**Netherlands:** After pupil assessment, parents can choose between a special school or a mainstream school with extra support.

**Norway:** The parents can choose the schools nearest to their home.

**Poland:** According to the legislation, parents who have a statement from the Counselling Centre about special educational needs are allowed to choose a school for their child.

In reality it does not work this way and the mainstream schools don’t want to take disabled children because they cannot meet the child’s needs pointed out in the statement.

**Portugal:** Parents with children with SEN have the right to choose the school for their children independently of the location of their home.

**Spain:** Parents are allowed to participate in their child’s schooling process.

**Sweden:** All pupils/parents have the right to choose a school – either municipal or independent – as long as it can be demonstrated that the school meets the pupil’s educational needs. ‘The municipality shall, when allocating pupils to different schools, comply with guardians’ wishes as far as it is possible without neglecting other pupils’ justifiable claims to be placed in schools close to the home, or considerable organisational or financial difficulties being caused to the municipality’. Law (1993:800)

**Switzerland:** To some part the decision is taken in collaboration with the parents and the extent differs from one canton to the other.

**UK (England):** The parents of children with SEN, but without statements, have the same choice as anyone else. The parents of children with SEN statements can request a maintained (state) mainstream or special school to be named on their child’s statement and if the school is named then it is under a duty to accept the child. Local authorities (LAs) have a conditional duty to name the maintained school the parents want; LAs must name the parents request as long as the school is suitable for the child’s age, ability, aptitude and their SEN, and naming that school is not incompatible with the efficient education of other children and the efficient use of resources. If the LA does not name the school the parents request, then the parents can appeal to the First-tier Tribunal (SEND). Parents can also make representations for independent and non-maintained special schools. LAs can name these schools but are not under the same duty to do so. If they do name one of these schools, they must pay the fees.

**UK (Northern Ireland):** Under the Education (Northern Ireland) Order 1996, when an Education & Library Board issues a proposed statement of special educational needs and the parent specifies a preference as to the grant-aided school, either mainstream or
special, at which they wish the child to be educated, the Board must specify the name of the school in the final statement unless:

(a) The school is unsuitable to the child’s age, ability or aptitude or to his/her special educational needs, or

(b) The attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he/she would be educated or the efficient use of resources.

If a Board names a school in a statement, which is not a parental choice, the parent may appeal this to the Special Educational Needs and Disability Tribunal.

**UK (Scotland):** Parents may submit a placing request for their child to attend a school either in their own area or in a neighbouring local authority area. If the local authority refuses the placing request, it must give parents the reason for that refusal in writing. Schedule 2 of the Education (Additional Support for Learning) (Scotland) Act sets out the grounds on which a local authority could refuse a placing request.

[1 country did not reply to this question: Belgium (French speaking community)].

Legislation outlines a process where a pupil is assessed and then given an official decision / document / statement of SEN that describes their needs and the provision that should be provided to meet these needs in 28 countries: Austria, Belgium (Flemish speaking community), Belgium (French speaking community), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Wales).

There is no such process in 1 country: Iceland.

[1 country did not reply to the question: UK (Scotland)].

For the 2010 data collection exercise, data relates to pupils with a decision / document / statement of SEN in 25 countries:

- Austria
- Belgium (Flemish speaking community)
- Belgium (French speaking community)
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Slovenia
- Spain
- Sweden
- Switzerland
- UK (England)
- UK (Northern Ireland)
- UK (Wales)

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4 **Ireland:** Part 2 of the Disability Act 2005, which was commenced on June 1 2007 in relation to children under the age of five years, provides applicants with an entitlement to an independent assessment of health and education needs and a statement of the services which it is proposed to provide. The EPSEN Act 2004 sets out specific rights in relation to assessment and educational plans for children with special education needs. However, these aspects of the Act are not yet in force.

5 **Iceland:** Pupils have the right according to the education act to have their special needs met regarding studies in compulsory school, without discrimination and regardless of their physical or mental attainment. Within the mainstream school at all school levels the legal framework does not outline how the assessment shall be performed, except when pupils are applying for programme in a special school or special classes within the mainstream school at the compulsory level and upper secondary level.

6 **Malta:** ‘For the purposes of the preceding sub-articles hereof, the Minister may give such directives and make such regulations as may in his opinion be required to provide students with individual educational needs, including the multi-disciplinary assessment of their condition, the process of statementing, formulation and application of an individual educational programme, special arrangements on the assessment, tests and examinations of concerned students, the programmes in specialised centres of resources or special schools, the application of therapies or the giving of medicines as prescribed by competent professional persons according to any law in force to students while at a school or centre, means for the reconsideration of and appeals from decisions on an application for the statementing of a student, and on any other matter connected with the implementation of the policy on inclusive education.’ (Education Act p. 32)
Netherlands, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, UK (England), UK (Northern Ireland), UK (Wales).

2 countries have provided data for the 2010 exercise relating to all pupils identified as having some form of SEN (those with and without a decision): Denmark and Norway.

[2 countries did not reply to this question: Greece and UK (Scotland)]7.

There is no reference to international standards / agreements on disability, SEN or inclusion in legislation in 19 countries: Austria, Belgium (Flemish speaking community), Belgium (French speaking community), Czech Republic, Cyprus, Denmark, Estonia, Finland, Germany, Greece, Iceland, Ireland, Latvia, Luxembourg, Malta, Norway, Poland, UK (England), UK (Northern Ireland).

Legislation specifically refers to international standards / agreements on disability, SEN or inclusion in 11 countries: France, Hungary, Lithuania, Netherlands, Portugal, Slovenia, Spain, Sweden, Switzerland, UK (Scotland), UK (Wales).

These international standards / agreements are:

**France:** UN Convention on the Rights of Persons with Disabilities (Art 24); Diagnostic and Statistical Manual of Mental Disorders – Revision 4 (DSM IV); International Classification of Diseases (ICD); International Classification of Functioning, Disability and Health (ICF); Convention on the Rights of the Child; Convention against Discrimination in Education; The Salamanca Statement and Framework for Action in Special Needs Education; Recommendation 1248 (1994) on education for gifted children.


**Lithuania:** The Lithuanian Ministry of Education and Science develops special needs education policies and practices in accordance with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, The Salamanca Statement. Regulations of evaluation and statement of disorders of persons with special educational needs refer classification of mental and behavioural disorders (ICD-10), International Classification of Functioning, Disability and Health (ICF).

**Netherlands:** Diagnostic and Statistical Manual of Mental Disorders – Revision 4.

**Portugal:** The Salamanca Statement (1994) – UN; ICF-CY – WHO; UN Conventions.

**Slovenia:** Some elements of international statements.

**Spain:** UN Conventions.

**Sweden:** Sweden has signed and ratified most international conventions and recommendations and these agreements have impact on how the School Law and National Curriculum is written: Universal Declaration of Human Rights (1948); Convention against Discrimination in Education (1960); Convention on the Rights of the Child (1989); The Salamanca Statement and Framework for Action in Special Needs Education (1994);

7 UK (Scotland): We do not use the term SEN. Local authorities have a duty to make appropriate arrangements to identify children who have additional support needs. Some children with additional support needs will receive a co-ordinated support plan. However, a co-ordinated support plan is not a doorway to services. Children without a co-ordinated support plan should still receive services if they need them. A co-ordinated support plan is a statutory plan prepared by the education authority when a child or young person requires significant additional support from the education authority and at least one other agency outside education.

Switzerland: The new inter-cantonal agreement of 2007, in force in 2011, refers to ICF.

UK (Scotland): The Code of Practice on the Education (Additional Support for Learning) (Scotland) Act, which is a statutory code, includes information on other policies and legislation, noting that the Act should be read alongside other legislation and policy supporting children and young people in Scotland. This includes the UN Convention on the Rights of the Child.

UK (Wales): Not directly in legislation, but within supporting guidance, e.g. SEN Code of Practice for Wales.