

Background material for ECNAIS seminar in Prague, 23-25/11/2017

prepared by selected ECNAIS member states (Czech Republic, Bulgaria, Finland, Netherlands, Portugal, Greece)

Theme: Inclusion in education

Czech Republic

1. Background of the educational system – *main facts which affect specific form and structure of the education system, local accessibility of education, structure of the founders of schools etc.*

The Czech Republic is a small country (population 10.5 million) located in the heart of Europe with a **highly decentralized administration (14 regions and over 6,000 municipalities)**. The population is linguistically homogenous, the official language is Czech. National minorities are not numerous. Religious faith is traditionally very low. Only some 20% of the population is religious. The unemployment rate was 5.0 % in 2017.

In 2014 the share of expenditure on education to GDP was 4.1 %. In comparison with other European countries, the share of expenditure on education to GDP is very low.

All municipalities have the same range of self-governmental competences and duties (including the area of education) regardless to their population.

Each municipality is obliged to create conditions for pre-school education and compulsory school attendance for all its inhabitants.

Municipalities run:

- nursery schools (3-6)
- primary schools (6-15)

Regions run:

- upper secondary schools (15-19)
- multi-year secondary general schools (12-19)
- higher professional schools (19-22)
- „special“ schools
-

Private entities or religious organizations run:

- all types of schools according to their decision and the enlisting into the Register of Schools and School Facilities

All schools are **independent legal entities** with the same rights and duties in educational tasks regardless number of their pupils.

We are facing to **the increasing number of non-public (private and denominational) nursery and primary schools in recent years** (due to demography, demands on alternative educational approaches or small collectives of pupils suitable for children with special educational needs).

Type of school	The proportion of pupils in private schools in the total number of pupils in that type of school
nursery schools	3,1%
primary schools	1,15%
upper secondary schools	12,9%
higher professional schools	20,7%

In line with the above, education is **very locally available** in the Czech Republic (especially in the area of pre-school and primary education).

On the other hand this really high decentralisation leads to the existence of a **considerable number of small schools** (both public and non-public).

This brings both advantages (an individual approach, “a family” atmosphere etc.) and disadvantages (problems in ensuring the functioning of school counselling centres -school psychologist, special pedagogue; investment changes leading to barrier-free spaces etc.). **This also means one of the reasons for maintaining a system of special schools** (see par. 4).

Types of schools	Number of schools	Number of pupils	Average number of pupils/school
nursery schools	5209	367 361	70

basic schools	4115	880 251	213
upper secondary schools	1304	427 107	327

It is necessary to point out that everything that will be mentioned below applies only to the area of so-called “regional education”, that means the area of nursery schools, primary schools, upper-secondary schools, higher professional schools and basic artistic schools and school facilities. It doesn’t cover the tertiary education at universities.

2. Definition of the legal term “pupil with special educational needs” – do you have a legal definition? Which one? Does it include also gifted and extremely gifted pupils?

The Education Act now defines the legal term “a child, pupil or student with special educational needs” very broadly as **“a person that requires the provision of support measures to cover their educational possibilities or to assert or use their rights on an equal basis with the others”**.

The educational support is ensured to all pupils who need it, regardless of the nature of their disabilities (health, intellectual, social, language, nationality or family etc. reasons), their cause or duration.

The Education Act also defines a target group of gifted and/or exceptionally gifted pupils and conditions of their education. The gifted and exceptionally gifted pupils should also have the opportunity to use some of these “support measures”.

That means that current concept of education of pupils with special educational needs covers both “minus” pupils, “minus+plus” (double exceptional pupils) and partially also “only plus” pupils.

As a **subset** of the legal term “a child, pupil or student with special educational needs” is also defined the category of **“pupils with mental, physical, visual, hearing disabilities, developmental disorders of learning or behaviour, speech defects, autism, multiple disabilities”** (in the past called “pupils with health disability”). **This category nowadays “only” defines a target group of pupils who can be educated in special schools and classes under the set legal conditions** (see par. 4).

The law establishes the right of every pupil with special educational needs to ensure the **free provision of so called “support measures” corresponding to concrete education needs of this pupil by the school**, regardless to its type or founder.

This means that the financial burden associated with the provision of support measures (both personal, organizational and material) cannot be transferred to the pupil or his / her family.

	<p>Therefore, the law also provides the claim of that school to receive financial support from the state budget in the amount of the so-called “standardized financial cost” (see par. 5).</p>
<p>3. Basic principles and rules on which the education of pupils with special educational needs is built in your country – right to education, rights in education, structure and conditions of “support measures” provided to pupils with special educational needs, aspect of “best interests” of the pupil etc.</p>	<p>The basic principles governing the provision of education are contained in the Charter of Fundamental Rights and Freedoms, which is a part of the Constitution. The Charter says that the care of children and their education is the right of parents. Children have the right to be brought up and cared for by their parents. (Article 32, paragraph 4)</p> <p>Article 33 says: <i>“Everybody is entitled to education. The period of compulsory schooling is set down in law. Citizens have the right to free education at basic school and upper secondary school, and, depending on individual ability and the means available to society, also at higher education institution. Non-public schools may be established only under conditions laid down by law. These schools may provide education for payment.”</i></p> <p>The Education Act defines further basic principles of education: Education shall be based on the principles of</p> <ul style="list-style-type: none"> ✓ equal access of all citizens of the Czech Republic or nationals of any other European Union Member State to education without any discrimination based on any ground such as race, colour, sex, language, belief or religion, nationality, ethnic or social origin, property, kith or kin, or the health condition or any other status of a citizen; ✓ considering the educational needs of an individual, ✓ mutual respect, deference, toleration of opinions, and dignity of all parties in education <p>According to current case law of Constitutional Court of the Czech Republic these rights includes:</p> <ul style="list-style-type: none"> ✓ right to choose a school or an educational program (or generally the way of education) according to interests, opinions or convictions (religious or philosophical) of everybody (inc. parents) – including right to choose a non-public school instead of a public school, ✓ right to be admitted to a school or an educational program and right to follow this school or educational program on equal conditions and without discrimination, ✓ on the contrary right to education cannot be understood as a general right of everybody to be educated at a school on his demand and as a duty of state to assure everybody education on his demand . <p>Each school is responsible for creating appropriate conditions for pupils with special educational needs in compliance with the recommendation of the school counselling facility and in cooperation with them.</p> <p>No school (including non-public) can „not admit“ (or exclude) a pupil only because of its special educational needs and inadequate conditions created for his education!!!</p> <p>All mainstream schools (regardless to their founder) must set fair, transparent and non-discriminatory criteria for admitting</p>

pupils to education at that school.

Especially nursery and primary schools cannot negatively take into account in the admission process that the child has special educational needs (the situation is somewhat different in upper secondary education, where the admission procedure already takes into account the learning prerequisites for education or health capacity for concrete profession).

Of course it doesn't mean that all mainstream schools (especially nursery and primary) are really prepared to quality education of all pupils with special educational needs (especially with severe mental or health handicap or some forms of autism) (see in par.4). In practice this is the subject of discussions between the school, parent and school counselling facility **to find the best possible educational path for the child.**

As mentioned above inclusive education is a standard and absolutely prevailing educational path for pupils with special educational needs nowadays, implemented through a system of "support measures".

The system of "support measures" includes necessary modifications in education with respect to the health condition, cultural environment or other life conditions of the pupil.

The support measures cover a wide range of pedagogical, organizational, material and content modifications to education.

They include

- ✓ strengthening of the education staff (one more teacher, teacher's assistant, interpreter of the sign language, transcribers for the deaf),
- ✓ consulting assistance and support for school and school counselling facility,
- ✓ modifications to assessment, forms and methods of education, adjustment of entrance and final examinations,
- ✓ teaching subjects of special pedagogical care, additional special educational or pedagogical intervention, use of Braille, alternative communication forms, sign language, compensation aids and IC assistance techniques,
- ✓ extension of education time, education according to a plan of pedagogical support, education following an individual learning plan, fewer pupils in the class,
- ✓ provision of education in structurally and technically adjusted spaces,
- ✓ use of special textbooks, teaching aids and compensatory aids.

The support measures are divided into **five grades according to financial and organizational demands and may be combined based on the concrete pupil's needs.**

It is crucial that the school can provide the support measures to a concrete pupil only based on the **recommendation of the school consulting facility** – pedagogical and psychological counselling centre or special education centre based on its professional judgment of the pupil's concrete education needs.

The second legal condition is the **informed consent of the pupil's legal guardian/pupil itself if adult.**

These two legal conditions are intended to ensure that the procedure in the given case is really in the best interest of the pupil, **both in terms of professional and parental.**

If the professional and parental views are different and the risk to the pupil's best interest is at stake – see par. 6.

The only exemption are the support measures **of the 1st grade** (the smallest adjustments of conditions of education, consisting basically in standardized individualization of education of the concrete pupil) - these are provided by schools without a recommendation of the school counselling facility, and the informed consent of the pupil's /adult pupil's legal guardian is not required.

A detailed overview of the "support measures" dividing them into five grades, including their description, conditions of admission and "standardized financial demands" is **part of a binding Decree of the Ministry of Education, Youth and Sports.**

The functionality of the system of individually set support measures for each pupil with special educational needs depends on the effective cooperation between schools and school counselling facilities.

School counselling facilities are obliged not only to diagnose special educational needs of pupils and the resulting necessary adjustments in education, but also to find out the real situation in the concrete school (number of pupils in the class where the pupil is educated, whether other pupils with special educational needs are being educated in that class, and with what kind, what conditions – material or personal - the school has already created for the education of pupils with special educational needs etc.). Only in this way can individualized support measures be set truly "tailored" and effective at the same time.

4. Special schools – their existence, target groups, conditions for admission, founders; if special schools do not exist - a description of the education system for pupils with the most severe forms of handicaps

Special education in the Czech Republic has a long tradition and very high quality.

From a substantive and legal point of view, the education system of the Czech Republic continues to be based on the principle that **for some children is education in a special school or in a special class by the mainstream school the best, or the only possible, educational path.**

This is mainly about the significant decentralization of the educational system of the Czech Republic described above (par. 1), the considerable local accessibility of education (especially in nursery schools and primary schools), and the resulting significant number of "small" schools. From a system perspective, it is impossible (and ineffective) to require every school to be prepared (materially and pedagogically) to provide quality education to pupils with all kinds and degrees of handicaps.

The Education Act provides for setting up independent special schools or classes only **for children with mental, visual, hearing, physical disabilities, serious developmental learning impairment (e.g. dyslexia, dyscalculia) or serious conduct disorder (ADD, ADHD), serious speech defects, multiple impairment or autism.**

That means that only very minor part of pupils with special educational needs can be (not is –see bellow graph) educated at special schools and special classes.

Also in special education support measures (see par. 3) are used, although partly in another form taking into account the specificity of the special education itself (significantly lower number of pupils in the classroom, higher number of pedagogical staff, material conditions, adapted educational programmes etc.).

Special education covers all types of schools (from nursery to higher professional). Most of special schools is founded by regions (14 higher self-governmental units), but significant number of special schools is founded by private and denominational founders as well.

Also special education is very locally available for all kinds of handicaps (with the help of transport services and boarding houses). That means that pupils with all kinds and degrees of handicaps are educated at some school (mainstream or special) during their compulsory education and secondary education (vocational training). **No one is excluded from the institutional education system as such!** However, the problem is a lack of continuity between social services and employment services after the end of education of pupils with severe types of handicaps.

The only exceptions are pupils with a “deep mental handicap”, who have set up an individual way of fulfilling compulsory education in a home or an institutional environment.

Pupils with special educational needs learn preferentially in mainstream schools using support measures.

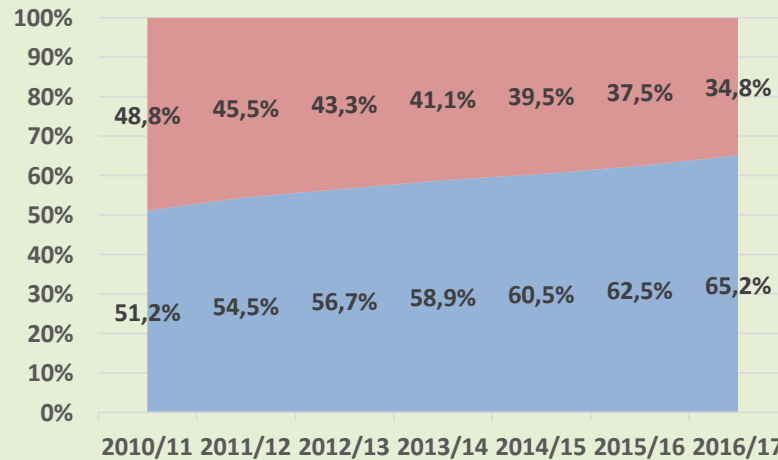
Conforming to the Education Act, the separate education of a concrete pupil can take place only if the school counselling facility has found that support measures given in the inclusive conditions are not or would not be sufficient to meeting education needs of this pupil (principle of subsidiarity).

For a pupil to be admitted to a special school or special class it is necessary (from legal point of view)

- ✓ a recommendation by a school counselling facility,
- ✓ a written application by the legal guardian of the pupil/adult pupil,
- ✓ his/her informed consent with this type of education, and
- ✓ conformity with the best interest of the pupil.

Pupils with special education needs learn according to framework educational programmes designed for mainstream education with the help of support measures. Pupils with serious mental disabilities are taught according to an adjusted education programme that reflects education needs of these pupils.

Special schools actively participate in the development and verification of new teaching method and practices, collaborate on the preparation of pedagogical documents and teaching materials, provide consulting support to mainstream schools and take part in programmes for further education of the education staff (resource centres).



- The proportion of pupils in special education to the total number of pupils whose handicap entitles them to admission to special education
- The proportion of pupils whose handicap entitles them to admission to special education included into mainstream schools to the total number of these pupils

Current legislation does not allow special schools and special classes to admit also pupils without any of the handicaps mentioned above. This means that so-called “reversed inclusion” (inclusion of healthy pupils among the handicapped) is not possible at present.

5. Financing of the system of education of pupils with special educational needs - how the system takes financially into consideration a pupil with special educational needs and his demands, both in a mainstream school and in

The system of financing education from the state budget is now simply said based on so called **performance funding**.

Performance funding is carried out through a system of **per capita amounts** on 1 child, pupil or student in a school of certain size, in certain field of education and form of education.

This per capita amount is therefore a **flat rate** that the state provides for the education of one "performance unit".

Public schools (municipal and regional) obtain funds from the state budget according to their real number of children, pupils and student (performance units) and are determined to cover so called “direct educational costs”, which are composed of:

a special school

salaries, wages, reimbursements and related costs (i.e. deductions for social insurance and health insurance and other costs which follow from labour law relations, etc.), costs for teaching aids and textbooks if these are provided free of charge, other costs connected with education, i.e. in-service training of educational staff, and activities connected with the school development and quality of education.

Running costs and investment expenditures of public schools (regional and municipal) are covered by their founders from their (also public) budgets (there are also owners of buildings of schools and other property used in education).

Non-public schools are also granted subsidies from the state budget to finance their non-investment expenditures related to education, also on the basis of real number of their children, pupils and student (performance units). Flat rates for non-public schools are created of two parts – direct educational costs (similar to public schools) and running costs (for the **partial** reimbursement of operating expenses which, in the case of public schools, are paid by their founder from public budgets). That means that flat rates for non-public schools are higher than flat rates for covering direct educational costs for public schools, because public schools receive also funds from the public budgets (regional and municipal) to cover running and investment expenditures in a different way.

Although non-public schools in the Czech Republic are 30% cheaper for public budgets than public schools (see Boeskens, L. (2016), "Regulating Publicly Funded Private Schools: A Literature Review on Equity and Effectiveness", OECD Education Working Papers, No. 147, OECD Publishing, Paris. DOI: <http://dx.doi.org/10.1787/5j1n6jcg80r4-en>)

It is necessary to add that **non-public (private) schools do not automatically receive 100% of flat rate.** Subsidies are divided into basic subsidy and increased subsidy (it is granted only if some legal conditions in the area of quality of education are fulfilled).

In case of education of **pupils with special educational needs**, so-called “normative supplements” according to the type and severity of handicaps for financial coverage of increased expenditure of education of these pupils were applied.

That means that each school received a flat rate sum on a pupil with a specific type and degree of special educational needs, regardless of the concrete support measures provided to the pupil in accordance with the recommendation of the school counselling facility.

This system has meant that, in some cases, these “normative supplements” have been totally inadequate, while in others have been ineffective.

The current modified system connects each “support measure” of a certain type and grade (2nd to 5th grade) with **financial support from the state budget in the amount of the so-called “standardized financial cost”**. This “standardized financial cost” is set by binding Decree of the Ministry of Education, Youth and Sports and is set by concrete amount (special text books, teaching aids and compensatory aids) or **by formula** depending on the level of the average salary in concrete type of job (personal support measures – teacher’s assistants, pedagogical intervention, school psychologist etc.).

Furthermore, it has to be said that this **“standardized financial cost” has been set considerably higher** than the existing normative

	<p>supplements, especially in the case of personal support measures. On the other hand, this modified system has brought a somewhat increased administration (on the level of schools) related to reporting of provided support measures and their financing.</p> <p>In the case of financing of special schools and special classes, there is provided both per capita flat rate for 1 child, pupil or student (“performance unit”) and a „normative supplement” to the specific type and degree of handicaps. To these schools and classes are admitted pupils with similar educational needs, and these schools and classes must have the certainty of continuous financial provision of conditions for the education of pupils with given educational needs.</p>
<p>6. The legal role of parents in educating their children with special educational needs - How is the parent's right to choose a child's educational path implemented? What are possible solutions in case of conflict of parental and professional opinion in a concrete situation?</p>	<p>As mentioned in par. 3, the basic principles governing the provision of education are contained in the Charter of Fundamental Rights and Freedoms, which is a part of the Constitution. The Charter says that the care of children and their education is the right of parents. Children have the right to be brought up and cared for by their parents. (Article 32, paragraph 4)</p> <p>The school legislation respects that parents have a decisive role to play in raising their children. No fundamental decision on the education of a child can be done without the consent of his / her parent (legal guardian). That means that the informed consent of the parent is necessary to the provision of “support measures” from the 2nd to the 5th grade in education of a pupil with special educational needs by the school. Such consent is also necessary if the child with handicap mentioned in par. 4 is admitted to a special school or special class. That means that the consent of the parent (legal guardian) has (from the legal point of view) the same weight as the professional conclusion of the school counselling facility based on the diagnosis of the pupil's special educational needs and the specific conditions in the given school or locality.</p> <p>Of course, in some cases there are situations where parenting and professional opinion do not match (parents insist on education of their child in a special school, even if the child do not suffer with corresponding handicap or this way of education cannot be considered as being of the best interest child; on the contrary, parents insist on education of their child in a mainstream school, although it may lead to harm to the best interest of the child and other schoolmates (permanent aggression of the child which cannot be solved either by the use of support measures etc.).</p> <p>For monitoring purposes of the pupil's best interest it is possible to use services by the Body for social and legal protection of children, in exceptional cases it is necessary for the Court to decide which solution is in accordance with the best interests of the child.</p>
<p>7. Role of non-public</p>	<p>Non-public schools (schools not founded by the state, the region or the municipality) constitute a very diverse group of schools in</p>

schools in education of pupils with special educational needs

the Czech Republic, varying in terms of

- ✓ type of school (from nursery to higher professional),
- ✓ size (from “family” schools with dozens of pupils to big “corporate” schools with thousands of pupils)
- ✓ focus (from general schools for exceptionally gifted pupils, through secondary vocational schools to special schools for pupils with the most severe forms of handicaps),
- ✓ tuition fees (from schools with no tuition fees to schools with very high tuition fee creating a de facto social barrier).

A group of non-public schools traditionally includes a group of **church-run schools** (catholic, protestant, Jewish) – which representing about 1/8 of all non-public schools – and a **group of other non-public (private) schools** established by groups of parents, private companies, non-profit organizations, etc. The legal and factual status of all these non-public schools is basically the same except in the area of state budget funding where church-run schools are still funded directly by the Ministry of Education for 100% normative per pupil (due to the not completed separation of the state from the churches).

As mentioned in par. 3 **no school (including non-public) can „not admit“(or exclude) a pupil only because of its special educational needs and inadequate conditions created for his education!!!**

All mainstream schools (regardless to their founder) must set fair, transparent and non-discriminatory criteria for admitting pupils to education at that school.

Especially nursery and primary schools cannot negatively take into account in the admission process that the child has special educational needs (the situation is somewhat different in upper secondary education, where the admission procedure already takes into account the learning prerequisites for education or health capacity for concrete profession).

In the context of changed legislation in the field of education of pupils with special educational needs, two basically contradictory concerns or trends should be mentioned:

- ✓ a concern repeatedly expressed by a certain part of the political spectrum that **strengthening the emphasis on inclusive education will cause leaving “healthy” children from well-placed families to non-public schools** (to avoid it being educated with children with different types of special educational needs),
- ✓ on the other hand, a factual increase of situations where **parents of a pupil with special educational needs choose a non-public school for the child** (less class number, more individualized approach, etc.) because the public school is unable to create suitable conditions for education of that child

It is too early to assess whether this change of legislation will cause the increase of number of pupils in non-public schools.

8. Current issues and

The change of the legislation in the area of education of pupils with special educational needs (introducing a new system of

<p>discussions you are facing in this area in your country</p>	<p>support measures and a new way of funding and reporting them) is effective from 1.9.2016. Although this change did not imply any revolution in access to education of pupils with special educational needs but rather a necessary evolution, it caused extensive professional and general discussion dealing especially with:</p> <ul style="list-style-type: none"> ✓ professional preparedness of teachers for work with pupils with special educational needs, ✓ how to provide the best possible education both to pupils with “minus” special educational needs (including mild mental retardation) and exceptionally gifted pupils in one school and one class? ✓ lack of teacher’s assistants, ✓ lack of pedagogical psychologists and special pedagogues working in school counselling facilities, ✓ funds for capital expenditures associated with building modifications (especially on level of small municipalities) ✓ how to ensure fulfilling the principle that rights of one ends where the rights of the second begin?
<p>9. Topics and themes you suggest to discuss at ECNAIS Seminar in Prague, November 2017</p>	
<p>10. Contact person for further information</p>	<p>Pavla Katzová Association of Private Schools of Bohemia, Moravia and Silesia e-mail: pavla.katzova @soukromeskoly.cz</p>

For completeness we add an excerpt from the Thematic report on “Joint education in school year 2016/2017” published by the Czech School Inspectorate in October 2017 (available in Czech here - <http://www.csicr.cz/getattachment/7734c437-a133-4411-b8b6-ed11776ad4fe/TZ-Spolecne-vzdelavani-16-10-2017.pdf>)

“4 Conclusions

Implementation of joint education in the school year 2016/2017 started thanks to the high commitment and responsibility of the schools that they tried to do according to their abilities and capabilities to solve all the complications that have been put before them, even if schools did not receive adequate support from the outside. On the other hand, it should be noted that schools were often unable to handle the amount of information they received in the framework of methodological support or continuously processed by the Ministry of Education, Youth and Sports or the National Institute for education, to work adequately, in the volume of information have often been lost, often did not understand the formulations correctly or did not properly apply the recommendations.

In summary, the Czech School Inspectorate defines several selected strengths and weaknesses concerning the implementation of joint education in the school year 2016/2017.

4.1 Selected Positive Findings

- *97.9% of children in kindergartens, 96.8% of pupils in elementary schools and 97.7% of pupils in secondary schools were educated in common classes in mainstream education.*
- *Compared to the school year 2015/2016, it was in the field of education support for pupils (equal opportunities), the higher proportion of schools is assessed at an excellent level.*
- *Schools use a comprehensive system of counselling services (both within school and school counselling facilities) and deliberately provide support measures.*
- *The share of hours in which an individual approach to pupils was recorded increased.*
- *As opposed to the school year 2015/2016, mutual cooperation between teachers and teacher’s assistants has improved.*
- *The strategy for equal opportunities was created at 70.3% of the basic and 63.9% of secondary schools.*
- *School events were accessible to all pupils.*
- *Support measures were also implemented in most school clubs.*

4.2 Selected negative findings

- *There has been a significant increase in activities in connection with the introduction of joint training of administrative nature.*
- *The implementation of support measures was accompanied by a significant degree of inefficiency, eg:*
 - *In the case of compensating aids, special textbooks and aids and software and IT equipment are real prices often different from those recommended. If schools will buy these aids and equipment cheaper, they will not return the saved money, or it is used to finance those utilities and equipment for which the real price is higher than the price recommended (whether such practice is acceptable remains to be solved).*
 - *Many schools have purchased on the basis of recommendations of school counselling facilities and information received for each pupil new aids, even if such aids were already available at school.*
- *Only a small proportion of teachers participated in the continuing education for joint learning.*
- *Schools initially struggled (and in many cases still faced) with insufficient personal conditions - especially with the lack of teachers' assistants, possibly with their lack of qualifications, missing some specialists (school special pedagogues, school psychologist).*
- *Individual educational plans and support measures were in some cases filled only formally, some recommendations of school counselling facilities were unclear to schools.*
- *School counselling facilities have often been able to meet service deadlines only at the cost of limiting other counselling activities.”.*