

Background material for ECNAIS seminar in Prague, 23-25/11/2017
prepared by selected ECNAIS member states (Czech Republic, Bulgaria, Finland, the Netherlands, Portugal,
Greece)

Theme: Inclusion in education

Portugal

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.

Portugal is a country whose territory comprises a continental part and two autonomous regions: the archipelagos of the Azores and Madeira.

With 10 374 822 inhabitants, the Portuguese population is made up of:
16.4% aged between 0 and 14 years,
66.2% between 15 and 64 years, and
17.4% with more than 65 years.

The population has been aging. The average life expectancy is 78.04 years.

The State invests in education 6.2% of GDP (2016 Eurostat)

Education is the responsibility of the central government with regard to curricula, teaching and non-teaching staff, and financing.

In pre-school and in lower basic education (children 6 to 9), municipalities are responsible for facilities and non-teaching staff.

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

Municipalities are also responsible for social school aid (financial support) for underprivileged students (lunch and books).

Private entities, social solidarity sector institutions or religious organizations run all types of schools, including special

education schools.

The number of non-public schools has remained the same in the last years, but the number of students has grown.

The majority of nursery schools is form the solidarity sector.

Type of school	Proportion of pupils in private schools in the total number of pupils in that type of school
nursery schools (3-6)	47,1%
basic schools (6-15)	13,2%
secondary schools (15-18)	21,3%

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?

Law 3/2008, of January 7, defines that a student with special educational needs is one that “shows significant limitations in terms of activity and participation in one or more life domains resulting from permanent functional and structural changes resulting in continued difficulties in communication, learning, mobility, autonomy, interpersonal relationships and social participation#.

Portuguese legislation does not define gifted students, nor do gifted students have any special rights.

Currently, the government has proposed an amendment to Law 3/2008. This proposal is in public discussion. It brings important changes to the way special education is seen. The new concept is that every student has “individual educational needs”. And that schools must cater to every student`s needs. **It is up to the school to assess each students needs and make sure they are met.** The most important resource to be mobilized is differentiated teaching and curriculum management. Resources are organized in three different “stages (defined under).

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.

The basic principles governing the provision of education are contained in the Constitution.

Under article 36 (5), parents have the right and the duty to educate their children. Article 67 establishes that the State cooperates with the parents in the education of the children.

Article 43 establishes freedom in education and the right to create private schools.

Under article 73 (1), everyone has the right to education and under article 74, the State recognizes and guarantees all citizens the right to education and to equal opportunities in schooling.

Article 71 establishes the rights of handicapped people: equal rights + obligation of the State to create conditions for those rights to be exercised + obligation to support associations of handicapped people.

Guiding principles of special education:

- ✓ special education continues, at all times, the principles of Justice and social solidarity, non-discrimination and combating social exclusion, equal opportunities in the access and educational success, the participation of parents and the confidentiality of information.
- ✓ in accordance with the provisions of the preceding paragraph, **no school, public or private can reject the registration of any child or young person on the basis of disability or special educational needs that manifest (though in private schools, parents may have to pay the cost of additional service needed).**
- ✓ **children and young people with special educational needs of a permanent nature enjoy priority in registration**, having the right, under this Ordinance, to attend the kindergarten or school under the same terms of the remaining children.
- ✓ children and young people with special educational needs of a permanent nature are entitled to the recognition of their uniqueness and the provision of appropriate educational responses.
- ✓ all the information resulting from the technical and educational intervention is subject to the constitutional and legal limits, in particular those relating to privacy of family life and to automatic processing, transmission, connection, use and data protection personal, being guaranteed confidentiality.
- ✓ duty of secrecy by the members of the educational community who have access to the information referred to in the preceding paragraph.

In public schools, in the admission process, children with special educational needs are at the top priority.

The State does not support financially special education in regular private school. But the state finances education in special education private schools.

Support Measures for students with special needs:

Law 3/2008

1 - Individual educational program (PEI). A document that establishes and bases the educational responses and respective forms of evaluation. The PEI describes the special educational needs of the child or youth based on classroom observation and assessment and the complementary information provided by the participants in the process.

2 - Adequacy of the teaching and learning process, integrated educational measures that aim to promote the learning and participation of students with permanent special educational needs.

3 - Educational measures:

- a) Personalized pedagogical support;
- b) Individual curricular adaptations;
- c) Adequations in the enrolment process;
- d) Adequations in the evaluation process;
- e) Individual specific curriculum;
- f) Support technologies.

Schools should include in their educational projects the adequacy of the teaching and learning process, organizational and functional, necessary to respond adequately to the permanent special educational needs of children and young people, in order to ensure their greater participation in the activities of each group or group and the school community in general.

In order to guarantee the organizational and operational adaptations necessary for students, the State has:

- a) Reference schools for the bilingual education of deaf students; - regular schools with special conditions for these students
- b) Reference schools for the education of blind and low vision students - regular schools with special conditions for these students.

To support the appropriateness of the teaching and learning process, schools can develop specific differentiated responses for students with autism spectrum disorders and with multideficiency, in particular through the creation of:

- a) Structured teaching units for the education of students with autism spectrum disorders;
- b) Specialized support units for the education of students with multideficiency and congenital deafblindness.
- c) Resource Centres for Inclusion - have technical support for students in regular schools

Special education is organized according to diversified models of integration in inclusive and inclusive school environments, ensuring the use of the least restrictive environments, provided that such integration does not result in any kind of segregation or exclusion of the child or young person with special needs education.

In cases where the application of the measures foreseen above proves to be insufficient according to the type and degree of the student's disability, the student may go to a special education school.

The allocation of resources to the schools to support students with special education needs is done by the central education administration. These decisions are made by the staff of the ministry based upon requests by the schools, analysis of the students` files and available budget. Often, fiscal strains have the implication that students do not receive due support.

Proposal of amendment to Law 3/2008

All students are special and have specific and individual needs. The law does not define special education needs and define measures for different special needs. The proposal defines a menu of measures that schools may use to support students' learning and it is up to the school to mobilize the resources found fit for each student. With the acknowledgement and consent of parents.

Special education teachers are not focused on teaching students but on supporting other teachers helping them to teach to all kids adopting differentiated pedagogies and methods.

1 - **Universal measures** - the responses that the school mobilizes for all students, in each class, and aim to promote school participation and success.

- a) Pedagogical differentiation;
- b) Curricular accommodations;
- c) Curriculum enrichment;
- d) The promotion of pro-social behaviour in an educational context inside and outside the class;
- e) The intervention with academic or behavioural focus in small groups.

2 - **Selective measures** - aimed at students who demonstrate learning support needs which were not met as a result of the application of universal measures.

- a) The differentiated curricular pathways;
- b) The non-significant curricular adaptations;
- c) Psychopedagogical support;
- d) The anticipation and reinforcement of learning;
- (e) adaptations to the evaluation process;
- f) Tutorial support.

3 - **Additional measures** - intended for students who have communication, interaction, cognition or resource-demanding support for learning and inclusion.

- a) The frequency of the school year by subject;

- b) The significant curricular adaptations;
- c) The adaptations to the evaluation process;
- d) The individual transition plan;
- e) The development of structured teaching methodologies and strategies;
- f) The development of competences of personal and social autonomy;
- g) The allocation of support products.

Students in public schools with PEI (individual educational project – special needs) and CEI (individual specific curriculum – severe special needs):

	2013	2014	2015	Total pupils 2015/2016
PEI nursery	2 958	2 991	2 308	259 850
PEI Basic	47 061	47 790	55 275	1 013 397
CEI basic	10 783	10 977	10 191	
PEI Secondary	5 982	6 101	9 080	391 538
CEI Secondary	1 548	1 575	2 474	

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

The purpose of special education institutions is to educate children and young people with special educational needs who require specialized and differentiated interventions that translate into meaningful adjustments to their education process or to teaching and learning that cannot be realized with the correct integration into another educational or educational establishment or for which this integration proves to be insufficient.

Special education institutions shall have as objectives, for each child or young person, the fulfilment of compulsory schooling and integration into working life, with a view to promoting the greatest possible development, according to the limitations or

incapacities of each one knowledge, skills and abilities.

Students in special education schools:

	2013	2014	2015
Private schools	669	640	607
Solidarity schools (CERCI)	618	577	571
Resource Centre for Education (CRI)	15 094	16 889	18 081
Regular schools			1 664 785

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 a special school

The Ministry of Education pays all teacher costs and non teaching staff costs. Except for non teaching staff at the primary level that are payed for by the municipalities.

Public schools are granted some (limited) funds from the state budget according to the number of students enrolled. This amount is for other costs connected with education, i.e. in-service training of staff and activities connected with the school development and quality of education.

Non-public schools in general are not granted any money from the State.

Private and solidarity special education schools are financed by the State on a per student basis. This amount is equivalent to the cost of a regular student in a regular school and, therefore, insufficient.

6. The legal role of parents in educating their children with special educational needs - How is the parent's

Participation of parents and guardians

- ✓ Parents or guardians have the right and the duty to participate actively, exercising parental authority in accordance

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?

with the law, in everything that relates to the special education to be provided to their child, accessing for the information contained in the educational process.

- ✓ When parents or guardians are proven not to exercise their right to participate, it is the responsibility of the school to initiate appropriate educational responses based on the special educational needs diagnosed.
- ✓ When parents or guardians do not agree with the educational measures proposed by the school, they may have to justify in written the refusal of services.

When special education needs are associated with low income, parents do not have the human capital necessary to “fight” the school. When parents have human capital, solutions have to be found in consensus between the parents and the school.

Parents are not free to choose special education institutions. The ministry of education must agree with the choice in order to finance the option.

7. Role of non-public schools in education of pupils with special educational needs

Special education institutions may be public, private or cooperative, including private social solidarity institutions, in particular special education associations and special education cooperatives, and special education private education institutions.

The State recognizes the relevant role in the education of children and young people with special educational needs of the institutions referred to in the previous number.

In this moment only 8 schools was special schools with financial public.

In the context of changed legislation in the field of education of pupils with special educational needs, four 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

	<ul style="list-style-type: none"> ✓ a lot of parents of pupils with special needs want them to be in a public school BUT also want this school to have proper conditions for inclusion ✓ some say the adoption of more inclusive legislation where all students have individual needs and there is no “marking” of special needs students may leave these students unprotected <p>There are no public special education schools. All public schools are inclusive THOUGH not all public schools have the resources to educate children with special needs.</p>
<p>8. Current issues and discussions you are facing in this area in your country</p>	<p>At this time there is a public discussion on legislation with special education. The law regulating special education is 2008 and is anchored in the integration of students in regular schools, and the students are classified using the CIF as a rule. The current government has put into the public discussion a new proposal for legislation that gives schools autonomy to classify students and adapt programs and curricula to the needs of students.</p> <p>Issues that are often posed:</p> <ul style="list-style-type: none"> ✓ professional preparedness of teachers for work with pupils with special educational needs, ✓ updating the training of special education teachers, ✓ lack of specialized technicians in state schools, ✓ sub-funding of special education schools (all private), ✓ lack of follow-up by families, ✓ lack of pedagogical psychologists and special pedagogues working in school counselling facilities, ✓ lack of path distinction for children with permanent and temporary needs.
<p>9. Contact person for further information</p>	<p>Rodrigo Queiroz e Melo AEEP - Association of Private Schools of Portugal e-mail: rqmelo@aep.pt</p>

Comments of preparatory team and answers on supplementary questions

1. Prediction of financial support on education of a pupil with special educational needs:

The background material shows that **public schools are (formally and maybe also factually) completely inclusive**, that means, that they must (even with top priority) be prepared to educate pupils with all kinds and degrees of special educational needs. Even special schools are not allowed in public educational sector. On the other hand, it is clear from the background material, that public schools do not receive any lump-sum funding for that purpose, money goes beyond each individual pupil with special educational needs, even after completely individualized process, based on a certain approval at the Ministry of Education.

Is any predictability of the amount of funding that a public school will receive for such a pupil? **Are there any standards (materials or personnel) that each public school has to fulfil in order to realize the top priority right to educate pupils with special educational needs?**

Public schools do not know if the student will be eligible for more resources, except the right to have a smaller amount of other students in the classroom. If the student is "marked" as special education, then his class will have less students. There are no clear legal standards in this regard (except the class size).

2. Admission process into special schools:

Who is competent to issue a professional statement that education in a regular school with support measures is inadequate in view of the pupil's interests?

A group of people: the school where the student is, the student's doctor and the receiving special education school.

Is it necessary for a pupil firstly to "try" to attend a regular school and only if this solution "fail" it is possible a transfer to a special school?

Yes. And this is a problem. Only when the student suffers and fails does the system consider letting him go to a special education school.

What criteria are used by the Ministry of Education to determine the concrete special school (this process also partially limits the right of parental choice of concrete school for their child)?

The parents may choose the special ed school. BUT only Lisbon has some schools. In the rest of the country almost no special ed schools at all.

Does the parent have the possibility of appeal against this decision?

Legally yes. De facto no (except getting the TVs to go with him to the ministry and appear in the news...)

Does the state contribution on a pupil in a special school cover all the costs associated with education of handicapped pupils? Is it possible to provide education in these schools for fee (all of them are private)?

Special Ed schools may not ask for any contribution from parents if the student is being supported by the State. These schools run on a very tight budget and have a lot of financial problems.

3. Diagnostics of special educational needs:

The background material shows, that there is a proposal of new legislation in the sense that schools themselves will be authorized to diagnose special educational needs of pupils and to include them in defined levels of support. Do all regular schools have specialists in this area - psychologists and special pedagogues?

All state schools have a psychologist and special ed teachers. However, in a lot of cases, not enough because they have to attend very large numbers of students. One problem is that the competence of special ed teachers varies immensely. A great deal of them are primary teachers who received some hours of training...

Will there be some unified state proved methodologies and diagnostic tools in this area guaranteeing equal access to pupils with similar educational needs?

There will be a handbook and the Ministry of education will try, through the special ed department, to help schools.