

LEGISLATIVE DEFINITIONS AROUND LEARNERS VULNERABLE TO EXCLUSION

Country Report: Estonia



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You may cite this publication as follows: European Agency for Special Needs and Inclusive Education, 2023. *Legislative Definitions around Learners Vulnerable to Exclusion – Country Report: Estonia*. Odense, Denmark

The information in this document was current in November 2022.

See the [Legislative Definitions around Learners Vulnerable to Exclusion web area](#) for further information about this activity.



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INTRODUCTION

Since the foundation of the European Agency for Special Needs and Inclusive Education (the Agency) in 1996, there have been key conceptual changes in the thinking behind and policy priorities for developments on the journey towards inclusive education.

A first shift was from the concept of special educational needs (SEN) to special needs education (SNE). This represented a move away from focusing on the learner (special educational needs), towards a focus on the provision that learners who experience difficulties at school may need (special needs education). The term '**special needs education**' widened the focus beyond learners with disabilities to include learners who appeared to be failing in school for a wide variety of reasons – for example, children living in poverty or those from different linguistic or cultural backgrounds. Special needs education, however, continued the deficit or medical model that still saw the problems as being within the learner.

There has never been an agreed definition of SEN or SNE that could be used across countries. The groups of learners considered to have **special needs** requiring additional provision largely differ across countries.

Inclusion requires a move away from a concern with the categories a learner may or may not fall into, to focus on the barriers some learners experience that lead to marginalisation and exclusion. This leads to an overall focus on **learners vulnerable to exclusion** by the education system. Agency work focuses on supporting the development of **inclusive education** systems in its member countries to ensure every learner's right to inclusive and equitable educational opportunities. This aim is directed at **all learners**, while recognising the need to specifically address specific **learners vulnerable to exclusion**.

Agency work acknowledges that every learner has their own unique experiences of discrimination and/or barriers to learning. All aspects of Agency work aim to consider everything and anything that can marginalise learners and increase their chances of exclusion (European Agency, 2021¹). This requires a move away from a medical approach and labelling with separate provision for different groups, towards a rights-based approach that focuses on the barriers within the system ([European Agency, 2022a](#)).

Central to this commitment and understanding of inclusive education are the legal definitions or descriptions in policy that Agency member countries use to identify and potentially label learners to make additional provision and resources available for them based on their needs.

The Agency also acknowledges the growing need to take account of **intersectionality** – the interconnected nature of all social categorisations – when considering the needs of all learners. Intersectionality is the understanding that a person, group of people,

¹ European Agency for Special Needs and Inclusive Education, 2021. *Multi-Annual Work Programme 2021–2027 Parameters*. Odense, Denmark. Unpublished



organisation or social problem is affected and impacted upon by a number of pressures, forces, levers, discriminations and disadvantages. It considers everything and anything that can marginalise learners and increase their chances of exclusion. This includes, but is not limited to:

... gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes ([UNESCO, 2020](#), p. 4).

The Agency's current [Multi-Annual Work Programme](#) (2021–2027) highlights the concept of intersectionality.

The Legislative Definitions around Learners Vulnerable to Exclusion activity

[Legislative Definitions around Learners Vulnerable to Exclusion](#) aimed to collect information from Agency member countries focusing on legislative definitions around learners vulnerable to exclusion in education systems. It collected evidence to indicate where countries currently stand regarding the **definition of** and **approach to** learner groups and risk factors within inclusive education systems. There was a particular focus on legislative definitions and descriptions around a broad vision of inclusive education for **all learners**.

Specifically, the activity examined how Agency member countries legally define and describe learners' needs in terms of considering them as groups of **learners with special needs** or **learners vulnerable to exclusion**. It also considered how **anti-discrimination legislation** and **legislation for inclusive education** define and/or describe learners' needs, and explored the concept of **intersectionality**.

In the activity, the term '**learners' needs**' is understood as a way to highlight a requirement for educational provision and/or support without applying a label based on an external factor that in some way describes or impacts upon an individual or group of learners. Using the non-categorical term 'learners' needs' would be an **ideal** approach for countries to take and is in line with the Agency position on inclusive education systems ([European Agency, 2022b](#)).

The **reality** – as evidenced by analysing countries' legislative definitions or descriptions in policy around learners' needs – clearly indicates that legislation and policy documents describe learners' needs with less of a focus on learner requirements for provision and support, and more on externally generated labels that identify groups of learner characteristics.

The activity uses the terms '**categories of groups of learners**' and '**groups of learners**'. They refer to the groups of learners identified through the analysis conducted in this activity. However, it must be made clear that references to categories of groups of learners do not in any way endorse or promote the labelling of learners. The term 'groups of learners' has been applied as a way of investigating where and how country legislation and policy make distinctions between different groups of learners who may be vulnerable to exclusion.



As with the journey towards inclusive education, legal definitions may be developing towards **learners vulnerable to exclusion** and the consideration of **intersectionality**. Therefore, to respect the context of all countries, information on **special needs** categories is considered, as well as definitions considering **all learners**.

Please refer to the [Legislative Definitions around Learners' Needs – Policy Brief](#) for more information about the activity.

How the country reports were prepared

Agency team members compiled evidence from 35 Agency member countries.

Agency team members collected the information in this country report from Agency reports, the [country information pages](#) and [Eurydice](#) sources. The extracts focus on identifying **legal definitions** around learners vulnerable to exclusion. They do not cover the different forms of provision for these learners. However, it is recognised that in some cases there may be *operational* definitions rather than *legal* definitions.

The extracts are considered evidence of a *legal definition* and are included if they explain how a term is understood within legislation and policy. In some cases, there may not be an extract that provides this information; however, the legal documents provide indirect evidence that a legal definition may exist. Where this indirect evidence was found, it has been included.

It is to be expected that there may not be information available in response to every question, as country contexts differ and each country is at a different stage on the journey to develop inclusive education. Therefore, a wide range of questions was selected to allow evidence to be collected from every Agency member country.

Each of the first three sections begins by clarifying key terminology.

This report includes three sections with information that the Agency team compiled:

1. [Legal definitions of special needs](#)
2. [Legal definitions of learners vulnerable to exclusion](#)
3. [Legal definitions of inclusive education](#).

Section 4 contains [additional questions](#) that country representatives could choose to answer. Country representatives also had the option to review and amend sections 1–3.

The completed country reports served to identify trends within and across countries on legal definitions related to learners vulnerable to exclusion. The activity report, [Legislative Definitions around Learners' Needs: A snapshot of European country approaches](#), explains how the country reports were used for the analysis and presents the findings.



LEGISLATIVE DEFINITIONS AROUND LEARNERS' NEEDS IN ESTONIA

1. Legal definition of special needs

A learner with special needs is understood as a learner who:

... for a wide variety of reasons, require[s] additional support and adaptive pedagogical methods in order to participate and meet learning objectives in an education programme. Reasons may include (but are not limited to) disadvantages in physical, behavioural, intellectual, emotional and social capacities ([UNESCO Institute for Statistics, 2012](#), p. 83).

1.1 There is a legal definition of special needs

Evidence

According to the Basic Schools and Upper-Secondary Schools Act § 46 (6) students with special educational needs (SEN) are pupils who, upon the recommendation of an external multi-disciplinary advisory team, receive enhanced support or special support ([GEM Background Paper, Estonia](#), p. 21).

According to the [National Curriculum for Pre-School Child Care Institution](#) (established by a regulation of the Government of the Republic, only in Estonian), a child with special needs is a child who, due to their abilities, state of health, linguistic and cultural background and personality, needs adjustments in their growth environment (play and teaching aids, rooms, teaching and upbringing methods, etc.) or in the group's action plan to support their developmental needs.

According to the [Conditions and Procedure for Studying in a Vocational Education Institution for a student with special educational needs](#) (established by a regulation of the minister, only in Estonian) a learner with special educational needs is a person with an identified need for additional support in the learning process and who needs changes or adjustments in study time, teaching methods, assessment methods, study organisation, teaching materials or learning environment to achieve the learning outcomes.

1.2 The legal definition of special needs is found in laws and policies

Evidence

[Basic Schools and Upper-Secondary Schools Act](#)

(Country Policy Review and Analysis, pp. 27–28)

[National Curriculum for Pre-School Child Care Institution](#)

[Conditions and Procedure for Studying in a Vocational Education Institution for a student with special educational needs](#)



1.3 The legal definition of special needs is found in strategies and programmes

Evidence

Instead of defining special needs, the [Education Strategy 2021-2035](#) emphasises a learner-centred approach and personalised learning, which means considering the individual differences and development needs of every learner. Personalised learning is based on the interests, needs, capabilities, learning style and pace of the learner; the learner has an active role in shaping their learning experiences and educational path.

1.4a Does your country's legal definition of special needs specify particular groups of learners?

Yes.

1.4b Which specific learner groups does the legal definition of special needs address?

Specific learner groups	Evidence
Learners with severe and multiple disorders	Republic of Estonia's disability policy Implementation of the Convention on the Rights of Persons with Disabilities Country information
<ul style="list-style-type: none">• learners with visual and hearing impairments;• learners who have a special educational need in addition to a physical disability;• learners with severe and multiple disorders;• learners with emotional-behavioural disorders.	Country information
Learners with special needs	Basic Schools and Upper-Secondary Schools Act Eurydice



Specific learner groups	Evidence
<p>The Act mentions:</p> <ul style="list-style-type: none"> • children with physical disabilities; • children with specific development disorders; • children with mental disabilities; • children with sensory disabilities; • children with multiple disabilities; • children with pervasive developmental disorders. 	<p>The Preschool Child Care Institutions Act</p> <p>A new law on pre-primary education and childcare is being developed. The draft abandons the diagnosis-based approach and no longer mentions specific groups of learners.</p>
<p>Enhanced or special support is applied to learners who need adjustments in their studies due to their permanent learning difficulty or mental or behavioural disorder, intellectual or multiple disabilities or another health condition or disability.</p>	<p>Basic Schools and Upper-Secondary Schools Act</p>
<p>Distinctions for learners with physical disabilities, speech impairments, hearing impairments and visual impairments.</p>	<p>National Curriculum for Basic Schools (only in Estonian)</p>
<p>Learners with an intellectual disability</p>	<p>Simplified National Curriculum for Basic Schools</p>
<p>Identifies the following special educational needs:</p> <ul style="list-style-type: none"> • persistent learning difficulties in the field of oral and written speech, reasoning and recollection or structuring and numeracy; • an intellectual disability; • emotional difficulties, behavioural difficulties; • visual impairment; • hearing impairment; • a disability; • a state of health; • insufficient knowledge of the Estonian language to commence studies. 	<p>Conditions and Procedure for Studying in a Vocational Education Institution for a student with special educational needs</p> <p>(established by a regulation of the minister, only in Estonian)</p>



2. Learners legally considered vulnerable to exclusion from education

Within this document, the term **learners vulnerable to exclusion** encompasses all learners whose educational experience is 'impacted upon by a number of pressures, forces, levers, discriminations and disadvantages' (European Agency, 2021, p. 6). These learners may or may not fall into categories of special needs and a special type of provision may or may not be available to support them.

Although there may not be an official definition of learners vulnerable to exclusion, learner groups which are addressed in different legal documents as receiving support and not identified as learners with special needs are listed here.

2.1 There is a legal definition of learners vulnerable to exclusion from education

Evidence

No legal definition.

2.2 The legal definition of learners vulnerable to exclusion from education is found in laws and policies

Evidence

The [Equal Treatment Act](#) ensures the protection of persons against discrimination on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation ([GEM Background Paper, Estonia](#), p. 21).

2.3 The legal definition of learners vulnerable to exclusion from education is found in strategies and programmes

Evidence

Although there is no legal definition describing vulnerable young people who might be excluded from education, specific measures are planned for young people who are at the risk of exclusion in the Youth Field Development Plan for 2021–2035.

The [Education Strategy 2021-2035](#) refers to a bottleneck, where the choice of educational path can be influenced by the learner's place of residence, gender, origin and numerous other factors that hamper social mobility and exacerbate educational and socio-economic inequalities. This results in segregation both in the labour market and in society at large.

2.4a Do your country's legislation, policies or strategies specify particular groups of learners?

Yes.



2.4b Which specific learner groups are legally considered to be vulnerable to exclusion from education across legislation, policies or strategies?

Specific learner groups	Evidence
Where it becomes evident that a learner is gifted, an individual curriculum is drawn up for the learner at school	Basic Schools and Upper-Secondary Schools Act

2.5a Does anti-discrimination and equal rights legislation address different learner groups in the education system?

Yes.

2.5b Which specific learner groups are listed in anti-discrimination and equal rights legislation?

Specific learner groups	Evidence
... right of people with special needs to pre-primary, basic, secondary and higher education must be guaranteed according to the principle of equal opportunity.	Republic of Estonia's disability policy According to the Constitution of the Republic of Estonia no one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other beliefs, property or social status, or on other grounds. Country information
... pupils with SEN attend their local school and they are provided with the required conditions.	Republic of Estonia's disability policy Country information
... protection of persons against discrimination on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.	Equal Treatment Act GEM Background Paper, Estonia , p. 21

3. Legal definition of inclusive education

The Agency views **inclusive education** as:

... a systemic approach to providing high quality education in mainstream schools that effectively meets the academic and social learning needs of all the learners from the school's local community ([European Agency, 2015](#), p. 2).



In inclusive education:

Learners are placed at the centre of a system that needs to be able to recognise, accept and respond to learner diversity. Inclusive education aims to respond to the principles of efficiency, equality and equity, where diversity is perceived as an asset. Learners also need to be prepared to engage in society, to access meaningful citizenship and to acknowledge the values of human rights, freedom, tolerance and non-discrimination ([Soriano, Watkins and Ebersold, 2017](#), p. 6).

3.1 There is a legal definition of inclusive education

Evidence

... general education of good quality adheres to the principles of inclusive education and is equally available to all persons regardless of their social and economic background, nationality, gender, place of residence or special educational needs ([Basic Schools and Upper-Secondary Schools Act](#), § 6).

([Country information](#))

3.2 The legal definition of inclusive education is found in laws and policies

Evidence

[Basic Schools and Upper-Secondary Schools Act](#)

([Country information](#))

3.3 The legal definition of inclusive education is found in strategies and programmes

Evidence

The [Education Strategy 2021-2035](#) refers to the Agency's definition of inclusive education.

3.4 Do legal documents related to inclusive education refer to all learners, specific learner groups, or both all learners and specific learner groups?

Legal documents refer to all learners and learners with special educational needs.

4. Additional questions

4.1 Are there other specific learner groups that receive additional support within the education system that have not been accounted for in this document? If yes, which legal documents (legislation, policies or strategies) address them?

Children with a home language other than the language of instruction and a migrant background (the [Basic Schools and Upper-Secondary Schools Act](#), the [Foreigners Act](#)).

4.2a Is the term or concept of 'intersectionality' mentioned in legislation?

No.



4.2b Share details on how the concept is mentioned in the legislation

The need for help is not defined by a certain characteristic, but by the learner's actual need for support, no matter how the need arises.

4.3a Are there any proposals/plans for changes in legislation focused on learners vulnerable to exclusion?

Yes.

4.3b What proposals or plans exist for changes in legislation focused on learners vulnerable to exclusion?

The draft amendment to the Pre-Primary Education Act is being developed. In co-operation with the Ministry of Social Affairs, a reform of support systems for children with special needs has been launched with the aim of eliminating duplication and fragmentation of services between different areas.

4.4 Do you have any further comments?

The amendment to the Basic Schools and Upper-Secondary Schools Act, which entered into force in 2018, abandoned the diagnosis-based approach. A similar change is also being planned in pre-primary education. The new approach is based on the understanding that each learner may need support for a shorter or longer period of time at some point during their studies. Supporting each learner's learning requires identifying their closest development zone and adapting learning to each learner's individual needs and abilities.

The school provides learners who have difficulties in attending school or who lag behind in achieving the study outcomes with general support. This involves individual additional instruction by a teacher, the availability of the services of the support specialists and, where necessary, the organisation of study assistance lessons individually or in a group. Where necessary, the services of a special education teacher, a speech therapist, a psychologist and a social educator are ensured. Where the general support provided by the school does not produce the desired results for the learner's development, enhanced support or special support may be applied upon recommendation of an external advisory team.