

LEGISLATIVE DEFINITIONS AROUND LEARNERS VULNERABLE TO EXCLUSION

Country Report: Poland



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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 POLAND

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

Although the legislation does not define special educational needs, the term is understood very broadly, and its meaning is determined by the needs of a child, pupil or learner ([Eurydice](#), 'Special education needs provision within mainstream education').

Psychological and pedagogical support (counselling and guidance) is provided to all learners found to be in need of such support. All institutions in the school education system are required to provide psychological and pedagogical support.

Other provision which indirectly defines groups of learners with special needs includes special education, rehabilitation and education classes.

An official decision of SEN refers to:

- a decision on the need for special education (*orzeczenie o potrzebie kształcenia specjalnego*) for learners with disability (mild, moderate or severe intellectual disability, deaf and hearing impairment, blind and with visual impairment, with a motor disability, including aphasia, with autism, including Asperger's syndrome, with multiple disabilities), social maladjustment or at risk of social maladjustment;
- a decision on a need for 'rehabilitation and education' classes (*orzeczenie o potrzebie zajęć rewalidacyjno-wychowawczych*) only for learners with profound intellectual disability ([European Agency Statistics on Inclusive Education, 2019/2020](#)).

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

Evidence

Different learner groups are addressed across different laws and policies.



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

Evidence

No information found.

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
<ul style="list-style-type: none">• Learners with disabilities (blind or with visual impairments, deaf or with hearing impairments, with motor disabilities, autism (including Asperger syndrome), mild, moderate and severe intellectual disabilities or multiple disabilities)• Learners with behavioural problems• Learners at risk of behavioural problems• Learners who need special organisation of education and methods of work	Notification of the Minister of National Education of 9 July 2020 on the announcement of the consolidated text of the Regulation of the Minister of National Education on the conditions for organising education and care for children and young people with disabilities, socially maladjusted and at risk of social maladjustment
Learners who have reached the age of 15 and are not considered capable of completing primary education in accordance with normal arrangements	Regulation of the Minister of National Education of 28 February 2019 on the detailed organisation of public schools and public kindergartens, §16 ; Amendments of 2022, items 566 and 644
The following groups of learners receive special education, based on a decision on special education (SE certificate) issued by a counselling and guidance centre: <ul style="list-style-type: none">• Learners with disabilities, including mild, moderate and severe intellectual disabilities; deafness or hearing impairment; blindness or visual impairment; motor disability, including aphasia; autism, including Asperger's syndrome; multiple disabilities• Socially disadvantaged learners• Learners at risk of social disadvantage.	Act of 14 December 2016, The Law on School Education (Journal of Law 2021, item 1082, with amendments) (Country information)



Specific learner groups	Evidence
<p>'Special education is provided to the following groups of children and young people who require special organisation of the teaching and learning processes and special working methods:</p> <ul style="list-style-type: none"> • children and young people with disabilities: <ul style="list-style-type: none"> – with an intellectual disability: <ul style="list-style-type: none"> ▪ a mild intellectual disability, ▪ a moderate intellectual disability, ▪ a severe intellectual disability; – deaf; – with hearing impairment; – blind; – with visual impairment; – with a motor disability, including aphasia; – with autism, including Asperger's syndrome; – with multiple disabilities; • socially maladjusted children and young people; • children and young people at risk of social maladjustment' 	<p>Article 127, Act of 14 December 2016, The Law on School Education (Journal of Law 2021, item 1082, with amendments)</p> <p>Announcement of the Minister of National Education on the publication of the consolidated text of the regulation of the Minister of National Education on the conditions for providing education and care to disabled and socially maladjusted children and those at risk of social maladjustment of 9 July 2021; Journal of Law 2020, item 1309</p> <p>(Eurydice, 'Special education needs provision within mainstream education')</p>
<p>'The term "multiple disabilities" refers to at least two combined types of disability:</p> <ul style="list-style-type: none"> • deafness; • hearing impairment; • blindness; • visual impairment; • a motor disability, including aphasia; • a mild, moderate or severe intellectual disability; • autism, including Asperger's syndrome' 	<p>Article 4, section 32, Act of 14 December 2016, The Law on School Education (Journal of Law 2021, item 1082, with amendments)</p> <p>(Eurydice, 'Special education needs provision within mainstream education')</p>



Specific learner groups	Evidence
<p>‘Although the legislation does not define special educational needs, the term is understood very broadly, and its meaning is determined by the needs of a child, pupil or learner.</p> <p>Special needs may result, in particular, from:</p> <ul style="list-style-type: none">• disability;• social maladjustment;• risk of social maladjustment;• behavioural or emotional disorders;• special talents;• specific learning difficulties;• competence deficits and verbal communication disorders;• a long-lasting illness;• crisis or traumatic situations;• school failure;• child neglect resulting from the financial situation of the pupil and his / her family, ways of spending free time and contacts in the home environment;• adaptation difficulties due to cultural differences or to the change of the learning environment, for example, upon return from abroad’.	<p>Educational policies of Poland (Eurydice, ‘Special education needs provision within mainstream education’)</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 information found.



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

Evidence

No information found.

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

Evidence

The [Integrated Skills Strategy 2030 \(ISS 2030\)](#) includes a definition of ‘social exclusion’:

... a situation in which an individual who is a member of society cannot normally participate in the activities of its citizens, and this limitation does not result from their personal beliefs, but is beyond the control of the excluded individual. Social exclusion is a multidimensional phenomenon and in practice it means an inability to participate in economic, political and cultural life, as a result of lack of access to resources, goods and institutions, restriction of social rights, and deprivation of needs (2019, p. 7).

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
‘In addition to support offered to children and young people with SEN, there are specific support measures aimed at: <ul style="list-style-type: none">• ... children and young people in a difficult financial situation (scholarships)’	Act on the Education System of 7 September 2021, Chapter 8a (Journal of Law 1991, item 1915 and 2022 item 583) Country Policy Review and Analysis (CPRA) , p. 54



Specific learner groups	Evidence
<p>‘The following learners are considered vulnerable to exclusion:</p> <p>with disabilities: physical disability, including aphasia, intellectual disability, blind, visually impaired, deaf, hearing impaired, autism, including Asperger syndrome, multiple impairments;</p> <p>socially maladjusted learners</p> <p>learners at risk of social maladjustment</p> <p>speech impairment</p> <p>learners with long term illness</p> <p>learners with behavioural problems or trauma induced emotional/behavioural difficulties</p> <p>learners who are gifted/have high abilities</p> <p>learners with mental health problems</p> <p>learners affected by:</p> <ul style="list-style-type: none"> – neglect related to living conditions, social environment etc. – adaptation difficulties due to a change of cultural or educational environment, including those from an immigrant background, asylum seekers etc.’ 	<p>Regulation of the Minister of National Education of 9 August 2017 on the principles for organising and providing psychological and pedagogical support in public kindergartens, schools and educational facilities, paragraph 2.1</p> <p>Global Education Monitoring (GEM) 2021 country report, pp. 7–8</p>
<p>Learners with disabilities, including those with mild intellectual disabilities</p>	<p>Announcements of the Director of the Central Examination Board (adjustments for eight-grade students of primary school in 2020)</p> <p>GEM 2021 country report, p. 10</p>
<p>‘According to the legislation, a learner’s need may result, in particular, from: ... social maladjustment, risk of social maladjustment, ... a long-lasting illness, crisis or traumatic situations, school failure, child neglect resulting from the financial situation of the pupil/student and his/her family, ways of spending free time and contacts in the home environment, adaptation difficulties due to cultural differences or to the change of the educational environment, e.g. upon return from abroad’</p>	<p>Regulation of the Minister of National Education of 9 August 2017 on the principles for organising and providing psychological and pedagogical support in public kindergartens, schools and educational facilities (Journal of Law 2020, item 1591)</p> <p>GEM 2021 country report, pp. 23–24</p>



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
<p>Access to and the conditions for the enjoyment of education and higher education must take into account the principle of equal treatment on the grounds of sex, race, ethnic origin, nationality, religion, creed, philosophy of life, disability, age or sexual orientation.</p> <p>The Act prohibits unequal treatment of individuals on the basis of race, ethnicity, or national origin in health care and education and higher education.</p> <p>The Act defines the areas and ways of counteracting violations of this principle and the competent authorities in this respect.</p>	<p>Act on the implementation of certain provisions of the European Union in the field of equal treatment of 3 December 2010 (Journal of Law 2020, item 2156)</p>
<p>‘In mainstream or integrated pre-schools, schools and classes, learners with disabilities shall be educated at each stage in integration with non-disabled peers and in the proximity of their homes’.</p>	<p>Announcement of the Minister of National Education on the publication of the consolidated text of the regulation of the Minister of National Education on the conditions for providing education and care to disabled and socially maladjusted children and those at risk of social maladjustment of 9 July 2021; Journal of Law 2020, item 1309 (CPRA, p. 4 and GEM 2021 country report, p. 9)</p>



Specific learner groups	Evidence
<p>‘In addition to support offered to children and young people with SEN, there are specific support measures aimed at:</p> <ul style="list-style-type: none">• ... children and young people from ethnic and national minority backgrounds;• children and young people who are non-Polish nationals or Polish nationals of full-time or part-time compulsory school age who do not speak Polish or whose command of Polish is not sufficient to follow mainstream classes’	<p>Regulation of the Minister of National Education of 23 August 2017 on the education of non-Polish nationals and Polish nationals who have attended schools within school education systems in other countries (Journal of Law 2020, item 1283 and 2022 item 573) (CPRA, p. 54)</p>
<p>‘... provides equal rights for women in family, political, social and economic life and, in particular, both have equal rights to education, employment and promotion, equal pay, social benefits, etc.’</p>	<p>Constitution of the Republic of Poland of 2 April 1997; Article 33 (GEM 2021 country report, p. 11)</p>
<p>‘Aiming to integrate members of Roma community’</p>	<p>Programme for the social and civic integration of Roma in Poland for 2021–2030 GEM 2021 country report, p. 20</p>

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

No information found.

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

Evidence

No information found.

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

Evidence

In the [Strategy for People with Disabilities 2021–2030](#), inclusive education is defined as:

... the accessibility of the teaching-learning process and increasing the quality of education for all learners of all ages, conditioned by different developmental and educational needs, including those resulting from disabilities (2021, p. 175).

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.

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?

No.

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

No information.

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?

Work is underway to develop a draft law to support children, learners and families based on the assumptions prepared under the project entitled ‘Supporting the Improvement of



Quality in Inclusive Education' in Poland. The project was implemented under the European Commission's Structural Reform Support Programme in co-operation with the European Agency for Special Needs and Inclusive Education. The bill has been included in the [government's legislative work list](#).

4.4 Do you have any further comments?

No information.