

The History, Present and Future of The Right to Inclusive Education in Italy

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Abstract

The European countries is moving quickly towards the promotion of an inclusive school. In Italy, this reality was faced for many years but transformations and the international debate caused new questions and critical reflections.

At national level, there have been numerous conferences, initiatives and European conventions on the subject and have promoted greater knowledge and awareness of the issue but also allowed the emergence of precise legislation to protect disability. To trace the path taken, it is necessary to retrace the roots of the concepts of disability and inclusion that, when they coexist, guarantee children with disabilities the same constitutional rights as all others, through the promotion of an inclusive school, which equips all its students with the tools to face adult life, whose primary objective is the social promotion of minors, acting as a real social elevator. Today the attention is focused on what is considered the key factor of the procedures about integration and inclusion. The article concludes with suggestions on bridging the gap between inclusive education policy and practice.

Keywords: inclusive education, special needs, disability, right of persons with disability.

International disability definitions

In Art. 1 of the CRPD (Convention on the Rights of Persons with Disabilities (CRPD) the definition of disability is as follows: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (1). Meanwhile, the WHO definition can be said to be more inclusive as it very much focuses on the impact of the environment to the individual’s life: “Disability refers to the interaction between individuals with a health condition (e.g., cerebral palsy, Down syndrome and depression) and personal and environmental factors (e.g., negative attitudes, inaccessible transportation and public buildings, and limited social supports)” (2). The author favours the WHO definition although both definitions are inclusive.

The Italian Government have adopted the following definition set forth by Law No.104/92 of 5th February 1992: Law 104/1992 (3) is an important instrument for the protection and promotion of the rights of disabled people and their integration into society. The aim of the law is to promote the full integration of disabled people into society and ensure their full enjoyment of their rights. It aims to promote the autonomy of disabled people, includes measures in support of them and enshrines the right of disabled people to education and training by promoting school inclusion and school support measures. It also provides for the coordinated programming of educational, health, social welfare, cultural, recreational and sports services, with the aim of creating a network of services around the person who can support him in his evolutionary path. Recognition of disability is necessary for access to services and transfers required by law.

It is carried out by means of the procedure for the assessment of disability, provided for and defined by art. 4 of Law 104/92. It is expected that the assessments of disability, difficulties and the need for assistance will be carried out by local health units through medical commissions integrated by a social worker. The purpose of the disability assessment procedure is to assess the situation of the disabled person and identify the most appropriate support measures to ensure their social integration. Once the disability assessment procedure has been completed, the disabled person, in particular the child with a disability, has access to the benefits guaranteed by articles, 12 and 13 of Law 104/92. Article 12 guarantees the right to education and training of disabled people, guaranteeing their inclusion in childhood (0-3 years) and in nursery schools and ordinary classes of all orders and grades. This introduction is in line with the goal of school integration, namely the development of the potential of disabled people in learning, communication, relationships and socialisation; specifying that this right cannot be impeded by learning difficulties or other disability-related difficulties. Art. 13, also on school integration, provides for local authorities to provide assistance in the autonomy and personal communication of pupils with physical or sensory disabilities and ensure support activities through the assignment of specialist staff and support teachers who participate in the Educational and didactic programming.

Law 104/1992 represents a turning point in the Italian legislation on disability in general and specifically on disability in school settings.

This definition has clear links to the disability defining the person and being the root of the problem. However, with the

enforcement of Delegated law No. 227 of 22nd December 2021, the Government must change the definition of disability and bring it in line with the definition outlined in the CRPD (L.227, 2021) (4).

The ICF (5) classification is developed by the World Health Organization and has been adopted by 191 countries as an international standard for measuring and classifying disability. Italy is part of the group of 65 states that contributed to its creation, driven by the ICIDH review process, which is the fundamental element of the medical-amending approach. The ICF is the result of attempts at integration and mediation at various levels between the medical and social perspectives of disability concepts, and can be used as an operational and analytical tool in many disciplines and different sectors.

The aims of the classification, as clarified by the WHO itself (5) can be summarized as follows:

- a. provide a scientific basis for understanding and studying health and its predominant conditions, consequences and causes;
- b. establish a common language to describe health and related conditions among the different disability actors;
- c. make it possible to compare data collected in the participating countries;
- d. provide a systematic coding scheme for information systems.

The information encoded by ICF returns a description of human functioning and its restrictions, related to different contextual factors and divided into two parts: the first one related to functioning and disability, the second one to context factors. The peculiarity of this classification, as we shall see below, is the possibility to express the components of functioning and disability in negative terms, indicating impairment, limitations in activities or participation; or in positive or neutral terms, indicating the aspects of the state of health and related states that do not constitute limitations and on which, hypothetically, interventions to extend autonomy, functions or capacities should be built. It should be noted that the ICF classification helps to describe predominantly human functioning in relation to life contexts, supporting a positive narrative of disability understood as an interaction between health status and a number of other factors.

The concept of "functioning" and "disability" in the ICF model

Among the most innovative concepts introduced by the ICF is that of functioning, which in the perspective outlined by the WHO represents a revolution in the way of thinking about disability. The functioning corresponds to the aspects considered as positive of a person. It is examined what the individual is able to do in relation to a specific context and, considering the operations as a whole, they can be defined as the actual achievements of the subject. The functioning, not only affects people with disabilities, but every individual. Today, functioning in relation to one's living environment has become the goal towards which care and inclusion interventions are directed, in all contexts. In the WHO classification, functioning represents a value opposite to disability and refers to the interaction between individual and environmental factors. This reading implies the fact that «the more a person is able to express his abilities, through the performance of activities and participation in different areas of life, less he is disabled» (6).

The ICF defines disability as a term that refers to factors related to impairment, activity limitations and restrictions on participation in a general way. The anchoring to the environment is important, both in terms of the concept of functioning and the concept of disability, and the transparency of the /idea that these concepts are the result of the interaction between assumed and acquired factors.

The evolution of international law: from Salamanca to Madrid

The evolution of international disability law is moving in parallel with the necessary cultural change, which will lead many states to accede to the UN Convention on the Rights of Persons with Disabilities (7). The key stages of this journey were:

the "Universal Declaration of Human Rights" (1948), (United Nations Information Centre, Italy)

recognized as the first step towards a greater awareness of human rights: a turning point for the fundamental freedoms of the individual in the aftermath of the end of the Second World War;

- the "UN Declaration on the Rights of Mentally Disabled" (1971), which placed the rights of people with mental retardation on the same footing as those of all human beings. This document emphasizes the need to provide tools to protect against exploitation risks for these subjects;
- the "UN Declaration on the Rights of Motor and Sensory Disabled" (1975);
- the "UN Declaration on the Rights of Visually and Audibly Disabled" (1979);
- the "International Year of Disabled Persons" proclaimed by the UN in 1981 culminated on 3 December in the "International Day of People with Disabilities". This is also an initiative aimed at promoting better knowledge of disability issues and supporting the inclusion of disabled people in all areas of life;

The "Decade of Disabled People", which was also launched by the UN between 1983 and 1992 with the aim of giving a ten-year horizon to Member State governments in order to implement appropriate policies and coordinate efforts to support people with disabilities;

On 3 December 2001, the Council of the European Union had proclaimed 2003 as "European Year of People with Disabilities", indicating that the objective of the initiative was to raise awareness about integration and non-discrimination. In 2002, another important development in international law took place in Madrid, under the impetus of the Spanish Presidency and the Commission of the European Union, a European conference on non-discrimination and positive action for people with disabilities is held, the conference closing with a presentation to participants (representatives of national governments, social partners, European institutions and the world of disability) the Madrid Declaration on the Social Inclusion of People with Disabilities. It should be noted that the year before, by a decision of the Madrid Declaration, based on the Council of the European Union, it set out the principles and guidelines for activities in the European Year of Disabled People under the slogan "nothing about us without us". The Declaration, among its principles, states that «disability is a human rights issue» (7).

It also states that «disabled people are seeking equal opportunities and not charity» (7), hoping that the process of abandoning paternalistic approaches in favour of empowerment-oriented approaches can continue.

The paternalistic approach is considered unacceptable by the Declaration, because it is based on compassion. It is also noted the worrying situation that the employment levels of people with disabilities are significantly lower than the standard, the greater incidence of extreme poverty on disabled citizens compared to non-disabled. In the Italian context, these statements are true as regards employment levels. In fact, «in 2019, considering the population aged 15 to 64 14 years old, only 32.2% of those suffering from severe limitations are employed compared to 59.8% of people without restrictions» (8).

As regards the risk of poverty, it is clear that its incidence in Italy «among families with disabilities does not exceed that observed at national level» (8), this is achieved through monetary transfers and welfare services.

The Madrid Declaration places the structure of our societies as a cause of exclusion, stating that «social barriers lead to discrimination and social exclusion» (7).

The Convention refers to those intangible obstacles arising from prejudice, distorted representations or partial knowledge that generate widespread stigmatizing, discriminatory and non-inclusive beliefs and attitudes, such as Also in international law, there is a shift from the medical conception of disability to the social and biopsychosocial conception as described above.

The desire for a paradigm shift is expressed in the second part of the Declaration, which sets out the thoughts of the signatories, described as «an opposition between this new concept and the old one that it is intended to replace» (7).

The new concept proposed sees disabled people no longer as objects of compassion, but as subjects with rights. No longer as sick, but as independent citizens. No longer passive, but decision makers. In particular, it sees disabled people no longer unnecessarily segregated in education but integrated into the common structures. The Madrid Declaration shows a clear willingness on the part of people with disabilities to produce a change in attitudes towards disability. To achieve this and other objectives not mentioned here, the Declaration suggests specific actions to be taken in terms of formal law, attitudes and services, with priority given to support for families. The latter is in fact recognized «a fundamental role in the education and social integration of disabled people, and especially in the case of disabled children [...] unable to represent themselves» (7).

The document goes further, indicating the actions and the precise areas of intervention on which to work, hoping:

- the enactment of legislative measures to promote the integration of disabled people;
- Disabled people's awareness of their rights;
- the provision of services that promote independent living rather than segregation; support for families given their relevance and women with disabilities given their potential dual discrimination status as women and disabled;
- Ensuring access to health, education, vocational and social services in a networked way, given the nature of the disabled person's need, which requires «a comprehensive response that takes into account both the individual and the

various aspects of his life» (7);

- Access of disabled people to the world of work, identified as one of the most important forms of combating social exclusion.

The inclusion of disabled people in the decision-making process that affects them, under the slogan "nothing about us without us". The latter is recognized as being «a fundamental role in the International acts mentioned above, although they are not the only ones in which reflection on disability has emerged with force, constitute milestones for tracing that cultural change that led, in 2006, the UN Convention on the Rights of Persons with Disabilities, which remains a key document on the subject.

The UN Convention on the Rights of Persons with Disabilities and the European Disability Strategy (2010-2020).

The UN Convention on the Rights of Persons with Disabilities was adopted by the General Assembly on 13 December 2006 and represents a milestone for the international community because, for the first time, it will have a supranational and binding legal instrument on disability. It is also the first human rights agreement of the 21st century and, while specifically addressing the rights of people with disabilities, does not just introduce specific or differentiated rights, rather, it is about achieving equality of rights and opportunities between disabled people and non-disabled people.

The Convention was ratified by Italy in 2009 with Law 18/2009. The above-mentioned law establishes, at the same time as the ratification of the treaty, a national observatory on the status of disabled persons within the Ministry of Labour and Social Policy.

The new body is tasked with promoting the implementation of the Convention, and with preparing biennial action programmes to promote the inclusion and rights of persons with disabilities, to collect statistical data on the condition of people with disabilities and to define, in relation to the territories, priority areas for action. These research initiatives corroborate the ongoing surveys undertaken by MIUR, which collects and disseminates data relating to the school environment. (9).

The European Union has also acceded to the Convention (23 December 2010), marking an extremely important milestone for the rights of people with disabilities, but not the only one for 2010. One month earlier, the European Commission, in its Communication No. 636 to the European Parliament, had presented to the Council, the European Economic and Social Committee and the Committee of the Regions its "European Disability Strategy 2010-2020: A renewed commitment to a barrier-free Europe". This document is based on the UN Convention, but also refers to its terminology. It aims to strengthen the position of disabled people so that they can exercise their fundamental rights and participate in social life and economy on an equal basis with others. Eight areas are identified in which the European Union and its member countries should concentrate their actions:

- Accessibility: disabled people must have access to goods, services and assistance; they must be guaranteed access to transport, facilities, communication and technology on an equal basis with others;
- participation: Disabled people must be able to exercise their rights as citizens of the EU. This will include the removal of barriers to mobility and the provision of residential care;

the document identifies the need for active policies to promote equality between citizens in the Member States and ensure full application of European anti-discrimination rules;

- Employment: in the same area, they indicate that active policies and improved accessibility of workplaces are needed to increase the number of disabled workers;
- social protection: It is stated that the European structural funds and national measures of individual states can be used to protect people with disabilities from the risk of poverty and social exclusion;
- Health: disabled people should have equal access to healthcare facilities, including mental health centres;
- External action: the European Union is committed to promoting the rights of people with disabilities through awareness raising, European funding, collection of statistics and monitoring of the implementation of the UN Convention on the Rights of Persons with Disabilities;

Education and training: the European Strategy aims to «promote inclusive education and lifelong learning for disabled pupils and students» (9) and specifies that: «children with severe disabilities face difficulties and sometimes segregation in access to general education» (9), highlighting the importance of appropriate inclusion in general schools, and the benefit of individual support for these students.

In 2004, there were three different approaches to education policies and integration practices in Europe: the one-way approach, which concerns «countries where educational policies and implementation practices tend to include almost all pupils in the ordinary school system» (10)

- the multidirectional approach, adopted by those countries that have a wide variety of approaches to integration, offering «a plurality of services between two educational systems (ordinary and differentiated)» (10);
- the two-way approach, in which two different educational systems can be clearly distinguished: general and special schools. The re-composition of approaches to disability in Europe, with particular reference to the inclusion of disabled pupils in common school paths, testifies to the supranational focus on Disability issues. The path of transformation, which has been traced so far on a cultural and international level, also concerns Italy that, already in 2009, anticipating the accession of the Union in 2010, ratified the UN Convention on the Rights of Persons with Disabilities.

The Italian route: the Legislative Decree 66/2017 (11).

The Italian legislative process continues with Legislative Decree 297/1994, the Single Text in which the part of Law 104/92 related to education is transferred.

In 2010, with the Law 107, new regulations are inserted regarding Specific Learning Disorders (DSA) (These are neurodevelopmental disorders affecting writing, reading and computing skills) and in 2012, with the Ministerial Decree 27/12/2012, The right to personalization of learning is extended also to pupils with Special Educational Needs (SHS) A special educational need may arise from a plurality of reasons, may result from social disadvantage or difficulties arising from lack of language skills. The formal approach to the model of inclusion in school is with D.lgs. 66/2017, called "Decree inclusion". It represents the last step, in order of time, on the path towards achieving school inclusion. The period from the

promulgation of Law 104/92 to this decree is rich in important events, both at national and supranational level. As has been reported, this is the period when we record the Salamanca Declaration, the European Year of People with Disabilities, the Madrid Declaration and the UN Convention on the Rights of Persons with Disabilities.

These documents have helped to develop a different sensitivity around disability and can be rightly considered as steps in a cultural path leading from exclusion to inclusion. Art. 1 of Legislative Decree 66/2017 states that the inclusion of school is aimed at children, students and students. It aims to meet their diverse educational needs through didactic and pedagogical methods aimed at developing the capacities of each, respecting the right to self-determination and reasonable accommodation in order to ensure the best quality of life. Art. 3 defines the services that the different subjects are required to provide. In particular, the state, through the school administration, is responsible for the allocation of support teachers, while the local authorities ensure the necessary interventions for assistance, such as the allocation of staff (assistenti a personam), transport services and the physical, sensory and communicative accessibility and usability of the spaces and tools of state schools. Art. 9 of the D.lgs. 66/2017 replaces in full art. 15 of Law 104/92 which defined the articulation of "Groups for school inclusion" and realizes school inclusion through a new governance articulated on different territorial levels:

- At regional level, the Regional Inter-institutional Working Group (GLIR) has tasks to support the territorial scope and in service training of staff;
- At the territorial level, the Group for Territorial Inclusion (GIT) has the task of formulating forecasts and proposals for educational support resources to schools in its field of competence;
- At the level of individual educational institutions, the Working Group for Inclusion (GLI) assists the faculty in implementing the Annual Plan for Inclusion (PAI) and individual student education projects. These working groups are in addition to the Operational Working Group (GLO), already provided for by Law 104/92, which is set up as a multidisciplinary team focused on individual cases, thus responsible for educational personalization.

The Disabled Child in Services

Legislative Decree 66/2017, (11) in Chapter III, defines the specific path for access to benefits, that is, specifies the certification procedures for school inclusion. The application for the assessment of the condition of disability in developing age for the purposes of school inclusion must be submitted to INPS and accompanied by the medical certificate diagnostic-functional that contains the clinical diagnosis by the Local Health Company (ASL). The disability certificate is then drawn up and issued by a medical board. After the disability has been assessed, a multidisciplinary assessment unit consisting of a doctor, a specialist in child neuropsychiatry, a rehabilitation therapist and a social worker is called upon to define the Functioning Profile (PDF) The European Commission has published a report on the European Union's research and development programme. This is a preparatory document, necessary for the preparation of the individual educational design for the minor. The PDF defines the professional skills and the typology of support measures and structural resources useful for school inclusion. This document consists of four sections, the first section contains the personal data of the

subject, the second the clinical elements, the third the strengths of the subject and the fourth describes the functioning of the person, highlighting whether, and how much, the environmental factors available to the subject are sufficient and suitable for overcoming any difficulties in the activities or, on the contrary, make them worse. Personalization in school contexts is reflected, instead, in the PEI Individualized Educational Project: an inclusive teaching tool that enables professionals working with disabled children to create a personalised plan of goals to be pursued during the school year. These objectives can be fully customized and defined for the individual disabled child, making it possible, for example, to work in parallel on disciplinary achievements and autonomy for independent living. The EIP also explains how teaching support, assessment criteria, testing and strategies for an inclusive learning environment can be customized.

The relevance of the objectives defined in the EIP is also given by the composition of the Operational Working Group (GLO) which is responsible for its drafting. The GLO is composed of the School Head (or his delegate), the teachers of the class council, the ASL workers who take care of the student, his parents and other components variable in relation to the specific situation. This team meets at least three times a year to draft, update and revise the Individualized Education Plan.

The multi-professional team, (whose members relate to social, health, educational and family components), make it possible to link the most relevant objectives between the different systems, coordinating the ways in which the goal is achieved between the domestic, school, hospital and care contexts (Legislative Decree 66/2017), therefore, traces a path that sees the disabled child access to the provisions presented through the "Services for children with disabilities", which are generally located within districts or health companies. These modalities depend on the specific choices made at the municipal administration level, which can choose to internalise or outsource the service. The starting point will be the municipality, if the administration directly provides the service, or the ASL in case of delegation. This second option is preferable, given the need for high social and health integration. Access is followed by the taking into account of the child and his family, which are supported for the assessment of the condition of disability in childhood for the purpose of school inclusion, obtaining the necessary documentation, drafting and application of the EIP, the school year will be renewed until the end of the school year.

In order to support the subject in the transition from school integration to work, the legislation provides that the care path can continue in accompaniment to adult life. The EIP itself has a section on "Life Project". This is a section which, starting from the needs and strengths of the disabled person, identifies existing and potential resources to enable the person to develop their full potential, to feel themselves an active part of the community and have the chance to live independently. These initiatives are vital to support the transition from school integration to work. The disabled child within the services for disability is protected by a law that accompanies it from its certification, then from the first years of life, to his job integration, to adulthood, supporting it through a network of subjects and services related to the most relevant areas of life of the person: family, school, work, social health care. This great attention to disability, guaranteed by real and operational tools for inclusion (the support teacher, the assistant ad personam, transport, the EIP and other provisions

guaranteed by the legislation), is not only legitimized by the focus of the theme thanks to the various international fora dedicated, but above all by the extension of the phenomenon that, as we will see in the following pages, takes today dimensions not negligible.

The Scale of The Phenomenon in Italy And the Characteristics of Services

The study of the phenomenon of disability in schools has a twofold aim: firstly, to enable us to better contextualize what we have already discussed so that we can understand how the legislation is translated into reality; Secondly, the school population with disabilities in Italy is the reference to which to relate the characteristics of the disabled population in territorial contexts. To understand how the legislation is implemented in practice and what the social welfare of the child is, we will then present the three "systems" of subjects and services that most affect the disabled child in its evolutionary path: the "school system", with a particular focus on support teachers; the "health system" and the "social system", with a particular focus on personal assistants.

Disabled Pupils at School

Data on disabled pupils are published annually by ISTAT and MIUR.

Pupils who, on the basis of the functional diagnostic documents drawn up by the ASL, have a need for support from a support teacher are considered to be disabled. Pupils who have a limitation, handicap or health problem but do not need support are therefore excluded from the analysis. In other words, these are minors with a disability certificate according to Law 104/92, pursuant to art. 3, comma 1, or art. 3, paragraph 3. The ISTAT report on the inclusion of students with disabilities (Istat, 2021b) estimates that more than three hundred thousand students with disability certificates will attend Italian schools in the school year 2020-2021. Their numbers are constantly growing. Compared to the previous school year, they have increased by 2%. The data provided by MIUR, consistent with those of ISTAT, in the report on disabled pupils in Italian schools (12) attest, for the school years 2019-2020 and 2020-2021, the number of disabled pupils, which are respectively 299,057 and 304,016 3.5% and 3.6% of the general school population.

Distribution by Education and Management Degree

The total number of pupils in the school year 2020-2021 is 8,363,291 and the incidence of the disabled population stands at 3.6%, marking a +0.1% compared to the previous school year. In the same school year, with reference to the distribution of the population of disabled students in the different levels of education, it is reported: 32,314 disabled students in kindergarten, corresponding to 2.4% of the enrolled, -0.2 percentage points compared to the previous school year; 113,548 in primary school, corresponding to 4.4% of the enrolled students, +0.3 percentage points compared to the previous school year; 76,226 in first secondary school, corresponding to 4.5% of the enrolled students; +0.2 percentage points compared to the previous school year; 81,931 in secondary school, corresponding to 3.0% of the students enrolled, +0.1 percentage points compared to the previous school year. An analysis of the percentage increase in disabled pupils at different levels of education can help to describe the current phenomenon. The data presented shows that the proportion of pupils with disabilities in the total number of pupils by grade is increasing, which means that there is an

increase in the number of disabled people at each level of education. These movements suggest the «Greater focus on diagnosing and certifying the disability condition among young people, the increasing demand for care from families and the growing sensitivity of the mainstream education system to the issue of school inclusion» (13).

From a social service perspective and analysis of the demand for services, this figure is readable as a generalized and constant (as will be seen in the time series) increase in the demand for services, particularly social and educational services, The world of disability. In the 2020-2021 school year, of the 304,016 students, 10.62% of the school population with disabilities were enrolled in a pre-school, 37.35% in a primary school, 25.07% in the so-called "middle school" and 26.95% at a secondary school. The distribution of the previous school year is overlapping.

The School System

The school is the place where disabled children spend a significant part of their time and where they have the opportunity to interact with their peers and all the professionals working in educational institutions. The role of the support teacher is particularly important. It is the cornerstone of social and educational integration, thanks to its daily presence in classrooms where students with disabilities are present and its proximity to disabled children.

The support teacher is a specialist teacher who, in addition to being qualified to act as a teacher, has specific training to be able to contribute usefully to school inclusion. Primary school teachers, trained as such and therefore possessing a single-cycle degree in the sciences of primary education and specialized on teaching support, and secondary school teachers.

Qualified to teach in their subject thanks to the master's degree and completion of the necessary credits for the different classes of competition, also equipped with specialization on teaching support.

The support teacher is not a resource for the individual disabled student, but a professional assigned to the class (or classes) where a disabled person is present in order to meet the greatest educational needs that may arise. The methods of using this professional resource are established by two guidelines: first, they derive from the role and function of the teacher who assumes co-ownership of the class, having towards it full educational responsibility, together with the other teachers. Secondly, since it is a disability, the support intervention must be as personalised as possible according to the needs of each individual: the specific person with disabilities, placed in the specific school and in the specific class group. For this purpose, the modalities of employment of the support teacher are defined and shared among all the parties involved: the school, social services, health services and family, gathered in a multiprofessional working group (GLO). The terms of use are then formalised and shared in the EIP.

Personalization is necessary because often the paths of the pupil are not only in the sphere of school learning, but also in the sphere of sociality and personal autonomy.

In the school system, the support teacher and curriculum teachers are part of a larger gear that includes other actors who, depending on the specific situation, can intervene to support inclusion initiatives. Examples of this are the socio-educational

inclusion initiatives, which often provide specific roles and functions for the class group and ATA staff who interact with the disabled student on a daily basis.

Another fundamental role is that of the school director, who is responsible for organizing interventions and methods of inclusion in schools. The school leader's task is to monitor the implementation of what has been defined in the EIP by the multi-professional working group. The term "organization of school inclusion" refers to the executive's prerogatives: the allocation of pupils with disabilities in classes according to the criteria defined by law, the planning of design meetings, Recruitment of staff to include and maintain the necessary relationships between the systems involved. As previously highlighted, a non-marginal role is assigned to the school staff, who are entrusted with basic assistance, that is, material support in access, exit and within the school facilities. The involvement of the school employee can also be expanded on the basis of the needs of the individual case, in agreement and within GLO. In other words, if properly involved, the school worker is fully involved in the educational project and is a key resource for promoting school inclusion.

The Support Teachers in The Italian School System

In line with the increase of disability certifications in schools, the number of support teachers has also increased. An analysis of the percentage of teaching assistants in relation to the total number of teachers, shows that, from 2001 to 2021, the trend is towards a progressive increase in the number of teaching assistants compared with their colleagues in the curriculum.

In the 2020-2021 school year, compared to a staff of 907,929 teachers hired in the state school, there are 184,405 support teachers and 723,524 teaching staff. These increases in support staff would at first sight appear to correspond to the adaptation of the education system towards school inclusion, reflecting a focus on the specific needs of children with disabilities in the school context. In reality, this is not exactly the case when looking at the contractual types of these teachers. Again, with reference to the 2020-2021 school year, of the 184,405 support teachers present only a minority share, equal to 80,672 teachers, is classified as permanent teachers. The remaining 103,733 are employed under a fixed-term contract. The most recent data on how support teachers are recruited shows some worrying evidence. The ISTAT report on the inclusion of students with disabilities in school highlights that in the 2021-2022 school year, 32% of teachers, corresponding to over 70 thousand units, were selected from teachers (and not) that have no specific training on inclusion but is used to support classes attended by students with disabilities.

The data shows that the significant increase in the number of teachers trained on teaching support, highlighted by the same report (68% of the 2021-2022 school year compared to 63% of the 2019/2020 school year), is not sufficient to meet the need for specialized support teachers. In other words, if we take a sample of ten teachers in the state school, only seven would have the qualifications to fill that post, while we know very little about the training paths of the three others.

The lack of specialized staff, combined with the delays in the system for recruiting teachers, produces some distortions that are real obstacles, if not negations, to the right to study of many students. The shortage of teachers with specific training on support is often accompanied by a delay in assignment.

Consider a school which, having experienced the traditional procedures for recruiting its teachers, is unable to meet its staff needs by using official recruitment lists. This school, to compensate for the lack of specialized teachers, has the possibility of teaching its own methods of recruitment through the so-called "provision". This is the collection of free applications, which can be submitted to individual schools even in the absence of legal qualifications for teaching: anyone who has obtained a baccalaureate diploma can submit their own offer. The school will then draw up an internal ranking on the basis of the applications received and call for those available to be contracted out for a fixed period. This is the way in which we compensate for the absence of a specialized teacher to cover that position. The fact that this recruitment is systematic is evidenced by a figure: in the school year 2021-2022, 14% of support teachers, one month after the start of teaching activities, had not yet been assigned to schools. This same component is the one that is then taken up through the provision.

This situation shows that the school attendance of pupils in Italian schools is actually differentiated between classes that get the assignment of the support teacher at the beginning of the school year, and other less fortunate classes. In 2021-2022 the allocation was one month late.

The need to fill all support posts in order to guarantee disabled students' right to education therefore systematically involves the recruitment of staff who, as well as not being specialised in teaching support, are not necessarily teaching staff, or not hold the legal qualifications to teach in public school at the date of recruitment. The recruitment procedure by making available does not guarantee the possession of a degree. The school establishes an internal ranking on the basis of the applications received, admitting its own criteria of discernment and, in the absence of qualified subjects, must necessarily call someone to make up for the lack of specialized teachers. The right of these children to study is hampered by two sets of factors: firstly, the lack of specialist teachers, whose current number cannot meet the needs and results in delays in assignments; Secondly, by recruitment procedures which cannot guarantee a priori that the resource assigned to a class is specialised in support, either a teacher or has specific training. The solution to this problem is complex and involves the whole field of teacher recruitment, which has historically been problematic in Italy.

The specialisation procedure for support teachers is currently called Active Traineeship (TFA) and trains annually a number of teachers who are insufficient to cover the needs but also for the current training cycle, no adjustments are made to the number of teachers who will obtain their specialization.

We are therefore faced with a systematic problem: the lack of specialized teachers and "wide-ranging" recruitment procedures which cannot guarantee the effective preparation of the resources employed. This does not mean to demonize the "making available" procedure, which is clearly necessary for staffing the school; however, it would also be necessary to adapt the recruitment system which cannot and should not be based on emergency criteria. Pending the intervention of the State, attention should be paid to the training of "available" teachers, so that it is not left to the initiative of the individual institution or the individual teacher who, having obtained the annual assignment by making available, must really be an element of social and educational inclusion, and must necessarily respond to the needs of the class.

The Health System

The school component is defined and the difference between legislative principles and operational reality introduced, the second major actor is introduced, which revolves around the disabled child and his family. The health component, in connection with the social system, is essential in the universe of disability, especially in the context of the developing age. This component is necessary by law for the purpose of determining the condition of disability in the age of development with a view to inclusion in school, that is the assessment procedure that gives access to the provisions provided for by the legislation. This assessment concerns minors attending pre-school, primary school, secondary school of first and second degree recognized as disabled in accordance with art. 3 of Law 104/92 (paragraphs 1 and 3). In relation to the recognition of severe disability (art. 3, paragraph 3 Law 104/92) specific routes are prepared and facilitated for specific categories of citizens. One example is the special provisions for cancer patients, for whom health checks are guaranteed within 15 days of the application and access to benefits is earlier than validation by INPS. Another example is the provision for people with Down syndrome, for whom no medical examination is required because the family doctor's certificate corresponds to the demonstration of a serious disability.

The health component, after the necessary verifications, remains in the school path of the minor in the figure of the psychologist or neuropsychiatrist, and is enriched by subjects (such as speech therapists, physiotherapists and others) in relation to the social welfare needs of the subject and the possible severity of his condition. These subjects, defined on the basis of the severity of the disability, are those who by law are required to attend the regular coordination meetings between the systems, or the GLO which, as has been pointed out, allow for dialogue between schools, family, health and social components.

The Social System

The social component is the less easily defined one. It varies, in fact, on the basis of the specific local organizational structure. In relation to organizational choices, it can therefore be a function of the local authority that provides it directly, it can be outsourced or delegated to health companies. These services, although they are part of the ASL, have a predominantly social character and employ professionals such as social workers, professional educators and social health assistants. The social system is called by law to provide assistance for autonomy and communication to pupils with disabilities who need it. This is achieved by the assignment of the assistant ad personam, a figure regulated by art. 13, paragraph 3 of Law 104/92. The wide discretion of the local government level in defining the requirements, and therefore the training of this professional figure, has created a heterogeneous context in the terminology adopted (assistant personnel, educational assistants, Braille experts, LIS experts, carers, etc.) and recruitment procedures. Law 104/92 simply provides in general terms that the staff must be specially qualified and specifically trained. The social system also plays a role in linking up the systems, monitoring the family situations of pupils certified by Law 104/92 and supporting school education, At the end of which, a number of other integrated social and health services are available for the disabled person. Examples are day centres, job placement services and social initiatives outside the school. In the organizational context analysed, SISS represent a real gateway to services, not only related to disability but also to those of equal genere.

The AD Personam Assistants in The Italian School System

The figure of the assistant ad personam is of great importance for the school life of the disabled pupil, and in case the situation requires it, he or she supports the teachers in the classroom. It is the same Law 104/92 to provide such figure in art. 13 paragraph 3. It is specified that, unlike the support teacher and the curriculum assistant, the assistant ad personam is a resource requested by the school director to the local authority, which organizes its delivery directly, by delegation to the health undertaking or outsourcing. The professional profile of the ad personam assistant is not clear at present. Legislative Decree 66/2017 provides that, in the context of a permanent conference between the State, regions and autonomous provinces, criteria are identified to achieve a progressive uniformity of the profile of this resource throughout the national territory.

It is an operator who has the task of facilitating communication of the student with disabilities, stimulating the development of skills in the different dimensions of his autonomy, mediate between the student with disabilities and the class group to strengthen relations, support him in participating in the activities, participating in the educational action in synergy with the teachers.

ISTAT, in the Survey "School inclusion of students with disabilities - 2019-2020" (14), indicates that there are more than 57 thousand such professionals in Italian schools, but that their availability varies greatly on a territorial basis. At national level the pupil/assistant ratio is 4.6; in the Mezzogiorno it rises to 5.5, with peaks in Campania and Molise where it exceeds 14 and 11 disabled pupils per assistant respectively. The presence of assistants is increasing in the central and northern regions of the country (4.4) reaching the highest levels in the Autonomous Province of Trento, Lombardy and Marche, with a ratio around the threshold of 3.1 pupils per assistant.

Some Critical Points

The main focus of the legislator's attention to the world of disability in childhood has been highlighted, but two major issues have also been highlighted, one of training and organizational nature, The problems that emerge. According to the subsidiarity criterion which regulates the relationship between the levels of government of the state, in the absence of an institutional or systemic response, it is the task of the institutions closest to the citizen to provide answers and seek solutions. In the context of disability in developing age these entities correspond to schools and local authorities, which already through the GLO coordination meetings for their own pupils or disabled citizens, interoperate permanently. The problematic issues, as we have seen, concern in particular the question of the training and recruitment of the support teacher and assistant ad personam.

The problematic issue of the ad personam assistant, whose professional profile is still being defined, was raised and this was the second issue, the special recruitment procedure which allows non-specialist teachers to obtain posts in support positions not allocated by official lists. It is clear that there is no intention to demote the practice of "making available", an indispensable tool for schools to define their own staff and it is fully aware that the resolution of this problem is a ministerial responsibility and not of the individual school. There is no desire to mortify all those professionals who work within the school by making available, bringing daily their fundamental contribution to the Italian school system.

The introduction of the Life Project, to assess disabilities and ensure a complete take-over of the person from the health, social and sanitary point of view will allow to overcome extreme fragmentation of benefits, services and measures and the reform of the civil disability assessment system.

Delegation to the Government in matters of disability

Framework: The legislative decrees Law 22 December 2021, n. 227, "Delegation to the Government in matters of disability" (4) The law of 22 December 2021, n. 227, has delegated the Government to adopt, by 15 March 2024, one or more legislative decrees for "revision and reorganization of the current provisions on disability" (4)

In implementation of the above mentioned law of delegation, the following decree schemes have been prepared:

1. Upgrading public services for inclusion and accessibility;
2. Establishment of the National Authority for the Rights of Persons with Disabilities;
3. Definition of the disability condition, basic assessment, reasonable accommodation, multidimensional assessment for the elaboration and implementation of the personalized and participated individual life project.

The completion of the reform, through the enactment of the legislative decrees provided for in it, will allow the achievement of Mission 5, Component 2, of the PNRR and, in particular, of Reform 1.1, "Framework Law for Disabilities". Legislative decree on provisions for the upgrading of public services to include and accessibility, in implementation of the delegation law, was issued and published in OJ the legislative decree 13 December 2023, n. 222, "Provisions on the upgrading of public services for inclusion and accessibility". The provisions of the decree aim to ensure uniformity in the protection of workers with disabilities throughout the country and accessibility to services provided by public administrations for their full inclusion. We introduce a qualified figure within public administrations responsible for the strategic planning of the full accessibility of administrations by people with disabilities. Furthermore, the objectives of accessibility and effective inclusion of people with disabilities are also part of the performance evaluation system in relation to managerial accountability. Finally, the scope of collective action against public administrations in cases of non-implementation or breach of quality standards of services essential for social inclusion and accessibility of people with disabilities contained in the service or obligation cards provided for by the relevant legislation.

Legislative decree establishing the National Authority for the Rights of Persons with Disabilities

At its meeting of 31 January 2024, the Council of Ministers definitively approved the second implementing decree of the Delegation Law, which establishes «the National Authority for the Rights of Persons with Disabilities».

The provisions give the Supervisor the status of an independent guarantee body with the task of ensuring the protection, effective implementation and promotion of the rights of persons with disabilities.

The Supervisor is given, among other tasks, the following:

- Promotes and monitors compliance with the standards set out in the UN Convention, international agreements, the Constitution and other relevant sources;
- Combat direct and indirect discrimination or harassment on the basis of disability;
- Collects reports from people with disabilities, their

- representatives, family members and associations;
- visits facilities that provide essential public services (such as residential and semi-residential facilities, residential reception centres and day care centres), with the possibility of confidential interviews with persons with disabilities and with persons who can provide relevant information;
- Make recommendations and advice to public administrations and public contractors, urging or proposing reasonable actions, measures or arrangements to overcome the critical issues identified;
- Act and resist legal action in defence of its prerogatives;
- Promotes awareness and communication campaigns. Decreto legislativo recante definizione della condizione di disabilità, della valutazione di base, di accomodamento ragionevole, della valutazione multidimensionale per l'elaborazione e attuazione del progetto di vita individuale personalizzato e partecipato
- At the meeting of 3 November 2023, the draft legislative decree on «definition of the condition of disability, basic assessment, reasonable accommodation, multi-dimensional assessment for the elaboration and implementation of the personalized and participated individual life project».*
- Following the agreement in the Unified Conference, approved at the meeting of 11 January 2024, the draft was sent to the Council of State for the required opinion.*
- The decree has a historical significance and will reform, simplifying, the procedures for assessing disability (c.d. basic assessment) and the subsequent multidimensional evaluation for the elaboration of the individual project of individual life, personalized and participated.*
- The reform also intervenes from the point of view of the normative language on disability, expressly incorporating into national law the definitions of persons with disabilities and of disability, consistent with the approach of the UN Convention. The terms "disabled", "handicapped", "disabled person", "differently-abled", etc., will be replaced by the new definitions wherever they occur.*
- The aspects which characterize and qualify the new basic valuation process can be summarised as follows:*
- First, the basic assessment procedure is configured as a unitary system that brings together existing procedures aimed at, inter alia, the recognition of disability; the determination of civil invalidity; the determination of civil blindness; To the detection of civil deafness, etc.*
- The procedure for recognition of disability is unique and focused on the person.*
- Secondly, there are new criteria for the procedure. In particular, it is expected that the forensic evaluation process will be addressed, according to the International Classification of Functioning, Disability and Health - ICF, an assessment of the impact of the compromises on the person's activities and participation in life contexts. At the same time, the 10th revision of the World Health Organization's International Classification of Diseases (ICD) is being adopted.

In addition, the WHODAS, a psychometric questionnaire on self-perceived disability developed by the WHO on the conceptual framework of the ICF, is introduced to provide a standardized method for measuring health and disability in different cultures. The tables referred to in the decree of the Minister of Health of 5 February 1992 are updated for the purposes of assessing civil invalidity. The current tables are

limited to the pathology or impairment itself and the consequent reduction of the general working capacity in percentage terms, while the updated tables will have to determine how much the impairment affects the functioning of the person. To ensure the homogeneity of procedures, INPS is identified as the sole manager of the basic valuation. By identifying a single verification phase at the INPS, a historical simplification is implemented that eliminates the current double verification phase attributable, firstly, to the integrated ASL-INPS commissions and, secondly, validation by another INPS commission of what was established "in the first instance".

The discipline of the reasonable accommodation system is also of particular importance, to which recourse is made in residual cases when the right of a person with disabilities is not actually fully exercisable. The decree identifies those entitled to propose reasonable accommodation, defines the essential features of the institute and provides that "The refusal of reasonable accommodation or the rejection of the proposal made by the person concerned by the public administration is admissible as a claim for discrimination under the law 1 March 2006, n. 67".

In view of the innovative nature of the reform, the decree provides for a preliminary phase of testing of the new rules, lasting twelve months, to be activated in certain territories, identified according to the principle of geographical differentiation between north, South and Central Italy. Chapter III of the scheme concerns multi-dimensional assessment, that is the post-basic assessment, which serves to develop the life plan of the person with disabilities. The life project is the instrument which identifies, in terms of quality, quantity and intensity, the tools, resources, interventions, benefits, services and reasonable accommodation, Also aimed at removing barriers and activating the facilitators necessary for the inclusion of the person in different spheres of life, including housing, work and social.

In adhering to this approach, the legislative decree scheme: provides that the multi-dimensional assessment is conducted according to the ICD and ICF, It articulates the multi-dimensional assessment in four phases including the identification of the disabled person's goals according to their wishes and expectations and the identification of the profile of functioning (first phase); the identification of barriers and adaptive capacity of the person (second phase); the identification of support needs (third phase); the definition of the objectives to be achieved with the life project as well as the construction of measures and interventions to be activated also in terms of evaluation of results (fourth phase), ensures the self-determination and active participation of the person in the entire multi-dimensional assessment process, enables the person with disabilities to identify a figure for support in expressing their choices and understanding of the measures and supports that can be activated with the life plan, recognises the right of the person with disabilities to choose where they live, in implementation of Article 19 of the UN Convention. To this end, the living project is expected to identify appropriate housing solutions and, if required, guarantee the right to home care and support, defines the contents of the life project in which the instruments must converge and coordinate, resources, interventions, benefits, services and reasonable accommodation, including the removal of barriers and enablers necessary for the inclusion of the individual in different spheres of life, including housing, social and labour, it enhances the role and active involvement of Third

Sector entities in the elaboration phase of the life project, it regulates the budget of the project, the instrument that supports the life project and which is constituted, in an integrated way, by the whole human, professional, technological, instrumental and economic resources, public and private, also within the local community and the informal support system.

Also, in relation to these provisions, in view of the innovative scope of the reform, the decree provides for a preliminary phase of experimentation mirroring that regulated for the introduction of the new basic assessment of disability.

Conclusion

The aim of this work is to provide a basis, at least in the area under analysis, to be able to give these subjects, teachers and operators, useful information to be able to perform better the complex role that they are called to cover. Both the support teacher and the assistant and personam are called upon to work daily in close contact with disabled children, whose educational needs can vary considerably from case to case.

The introduction of the Life Project, to assess disabilities and ensure a complete take-over of the person from the health, social and sanitary point of view will allow to overcome extreme fragmentation of benefits, services and measures and the reform of the civil disability assessment system.

It is essential to simplify and unbureaucratise the current complex routes and eliminate repeated check-ups and obtain certificates and medical examinations in more acceptable times. For the benefits related to civil invalidity, there are medical-legal tables, but these will be updated to take into account the overall functioning of the person rather than just the pathology. The legislative decree introduces the concept of "reasonable accommodation" which is a residual solution applicable in situations where a civil and social right cannot be immediately exercised in full without disproportionate burdens. This concept does not replace or limit the right to full access to services and supports provided by law.

The decree also modifies Article 3 of Law n. 104/1992, using the concept of "person with disabilities" as a basis for rights and benefits, replacing the words related to "disability" with references to "disability condition". One principle of fundamental importance that is finally introduced is the principle of non-regression, which aims to guarantee the safeguarding of rights previously acquired by people with disabilities. The second legislative decree focuses mainly on the establishment of the Regia Cabin for essential levels of benefits for people with disabilities. The most important task of the control room will be to carry out a real recognition of the essential performance of people with disabilities, and, subsequently, propose essential guidelines for the services to be made available in particular recognize the individual project of life considered as essential. To carry out its tasks, the Regia Booth can count on the organizational support of the Office for policies in favor of people with disabilities and the Technical Secretariat of the National Observatory on the Status of Persons with Disabilities. Works closely with the relevant ministries and agencies, performing key tasks such as performance assessment, setting guidelines for essential services, managing a transitional framework during the change period, The contribution to the definition of criteria for resource use.

In adhering to this approach, the legislative decree scheme: provides that the multi-dimensional assessment is conducted according to the ICD and ICF, It articulates the multi-dimensional assessment in four phases including the identification of the disabled person's goals according to their wishes and expectations and the identification of the profile of functioning (first phase); the identification of barriers and adaptive capacity of the person (second phase); the identification of support needs (third phase); the definition of the objectives to be achieved with the life project as well as the construction of measures and interventions to be activated also in terms of evaluation of results (fourth phase), ensures the self-determination and active participation of the person in the entire multi-dimensional assessment process, enables the person with disabilities to identify a figure for support in expressing their choices and understanding of the measures and supports that can be activated with the life plan, recognizes the right of the person with disabilities to choose where they live, in implementation of Article 19 of the UN Convention. The instrument that supports the life project and which is constituted, in an integrated way, by the whole human, professional, technological, instrumental and economic resources, public and private, also within the local.

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