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FLASH REPORT

Country:	Czechia
Title:	Children with disability allowed to return to elementary schools following complaints from the Ombudsperson
Date:	15 June 2020
Expert:	Jakub Tomšej
<u>Context</u>	
Issue at stake:	Access of children with disability to education
Grounds of discrimination:	Disability
Field of application:	Education
Source:	National legislation
Applicable law:	Sections 1; 3(1); 33 Act No. 2/1993 Coll., Charter of Fundamental Rights and Freedoms Sections 1(1) i); 2 Act No. 198/2009 Coll., Anti-Discrimination Act Sections 2(1) a); 30(1) c) Act No. 561/2004 Coll., the School Act Convention on Rights of Person with Disability Convention on Rights of the Child

Content

On 25 May 2020, elementary schools were reopened as part of governmental measures to soften previous restrictions introduced as a response to the pandemic of illness COVID-19 in Czechia. However, children with disability were excluded from this reopening. Based on the government's decision, schools and classes educating children with disability were supposed to stay closed until the end of the school year (30 June 2020).¹

This would pose social, economic, and personal challenges for parents, and also for the children with disability. Prolonged absence at school may harm children's psychological and social well-being, worsen their school results, and could make it more difficult to return to school after the summer.

The Government intended to justify such treatment with the argument that various disabilities – irrespective of the fact whether the handicap is physical or mental – are combined with certain illnesses, such as epilepsy or heart's conditions. Thus, infection of COVID-19 would be more dangerous for children with disability.² They claimed that

¹ Ombudsperson (2020), 'Děti s postižením mají právo chodit do školy' (*Children with disability have the right to go to school*) – press release, available at: <https://www.ochrance.cz/aktualne/tiskove-zpravy-2020/deti-s-postizenim-maji-pravo-chodit-do-skoly/>.

² Czech Radio (2020), 'Ministr školství Plaga: Děti s postižením se do speciálních škol vrátí postupně od 25. Května' (*Minister of Education: Children with disability will start returning to school since 25 May*) – news article, available at: https://www.irozhlas.cz/zpravy-domov/ministerstvo-skolstvi-specialni-skoly-plaga-koronavirus-otevreni_2005132117_tkr.

postponement of the school attendance would serve as a protection of the health of children with disability.

According to the Deputy of the Public Defender of Rights, it cannot be assumed that any type of disability automatically means worse overall health. Such different treatment between children with disability and children without disability may not be justified by a legitimate aim.³

After criticism from NGOs, parents of children with disability, and the Public Defender of Rights, the Ministry of Education acknowledged that postponing the school attendance of disabled children would harm them in the future, especially children from a socially disadvantaged environment.⁴ Subsequently, after the session of the Government, the Ministry of Health issued a decision that children with disability may return to school on 1 June.⁵

Source: Ministry of Health, *Emergency Measure*, no. MZDR 20584/2020-3/MIN/KAN, available at: <https://koronavirus.mzcr.cz/wp-content/uploads/2020/05/Mimo%C5%99%C3%A1dn%C3%A9-opat%C5%99en%C3%AD-omezen%C3%AD-provozu-%C5%A1kol-a-%C5%A1kolsk%C3%BDch-za%C5%99%C3%ADzen%C3%AD-s-%C3%BA%C4%8Dinnost%C3%AD-od-1.-6.-2020-do-odvol%C3%A1n%C3%AD.pdf>.

³ Ombudsperson (2020), 'Děti s postižením mají právo chodit do školy' (*Children with disability have the right to go to school*).

⁴ Lidovky.cz (2020), 'Děti s postižením se budou moci vrátit do speciálních škol 1. června, omezeně se otevrou také střední školy' (*Children with disability may return to special schools on 1 June, also high school will be reopened, albeit limitedly*) – news article, available at: https://www.lidovky.cz/domov/deti-s-postizenim-se-budou-moct-vratit-do-specialnich-skol-1-cervna-omezene-se-otevrou-take-stredni.A200525_182653_In_domov_sei.

⁵ Ministry of Health, *Emergency Measure*, no. MZDR 20584/2020-3/MIN/KAN, available at: <https://koronavirus.mzcr.cz/wp-content/uploads/2020/05/Mimořádné-opatření-omezení-provozu-škol-a-školských-zařízení-s-účinností-od-1.-6.-2020-do-odvolání.pdf>.