

CONTEMPORARY CHALLENGES REGARDING BULLYING BEHAVIOR. LEGISLATIVE PROVISIONS AND EDUCATIONAL EFFECTS

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Abstract

This paper aims to highlight the main changes to the Romanian National Education Law on the prevention of bullying behavior. The increased incidence of violent acts among students required a legislative framework focused on this type of behavior. Thus, the legislator emphasizes the prohibition of bullying in educational institutions and in spaces intended for education. At the same time, the importance of continuous professional training of teachers is emphasized in order to acquire the skills to identify bullying and to implement effective prevention strategies. In this context, we will present aspects of comparative law and analyze European legislation from the perspective of the role of the school in preventing and combating bullying (see Canada which implemented a similar law in 2012). The novelty of this paper derives both from the identification of strategies to prevent and combat bullying mentioned in national and international legislation, and from the presentation of the results of representative studies for this issue.

Keywords: bullying prevention, legislative provisions, educational strategies, teachers training, European regulations.

JEL Classification: K42

1. Introduction

The implementation of the UN Convention on the Rights of the Child at European level has required legislative and policy changes to optimize the protection of children's rights in all Member States. Until these changes in national legislation, the Council of Europe provided support to Member States for the implementation of children's rights. In the Council of Europe's Strategy on the Rights of the Child², violence against children „is a violation of rights that compromises the social development of children and affects the exercise of other rights. Most of the time, violence has devastating consequences on mental and physical health in the short and long term, persisting over generations”. In addition to the psycho-somatic, educational and legal consequences, violence involves significant costs for society. Thus, stopping all forms of violence against children is a legal, ethical and economic imperative. Although there is progress in studying violence against children, it is slow and fragmented. It is believed that this progress is affected by the allocation of insufficient funds for prevention, poorly structured and implemented national policies. Insufficient empirical knowledge and diminished attention to counseling, reporting, recovery and integration mechanisms are also discussed³.

At the same time, the Council of Europe's Charter on Education for Democratic Citizenship and Human Rights Education⁴ states that education in citizenship and respect for human rights is a lifelong process. This European document specifies that the promotion of social cohesion and intercultural dialogue, the promotion of diversity and equality is a fundamental element of education for active citizenship and respect for human rights. To achieve this goal, it is necessary to develop social knowledge and management skills to reduce conflicts, respect human dignity and common values, encourage dialogue and promote prosocial behaviors⁵. These dimensions of the child's

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² Council of Europe Strategy on the Rights of the Child (2016-2021). Council of Europe, March 2016, pp.8. Accessed online at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8> on 15.06.2021.

³ Ibid, p. 9.

⁴ Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education. Recommendation CM/Rec(2010)7 adopted by the Committee of Ministers of the Council of Europe on 11 May 2010 and explanatory memorandum. Adopted by the Committee of Ministers on 11 May 2010 at the 120th Session. Accessed online at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016803034e3> on 16.06.2021.

⁵ Ibid, p. 9.

personality become truly valid only when "*responsible attitudes towards one's own community*"⁶ and respect for and promotion of human rights are structured. For the sustainability of an effective education for democratic citizenship and respect for human rights, it is absolutely necessary the training and continuous development of educational staff. The Council of Europe recommends that the Member States introduce such education into formal education programs at all levels of education (pre-school, primary, secondary, high school and vocational and general education) and engage in updating and revising education programs for active citizenship; respecting the human rights. These recommendations are designed to stimulate sustainable development in this area⁷.

Although bullying aggression is a widespread behavior in Romanian schools, there are currently few studies that focus on this issue. The worrying increase in violent actions within the school perimeter has aroused the interest of specialists in our country to investigate this phenomenon. At the same time, the media constantly presents violent actions in school that have a strong emotional impact. Public opinion sanctions school staff for lack of intervention, tolerance of school aggression and disinterest. In order to develop legislative levers to regulate these incivilities of students, the National Education Law⁸ has undergone a number of amendments. Thus, in 2019, the Romanian Parliament issues Law 221/2019 *for amending and supplementing the National Education Law no. 1/2011* prohibiting bullying in educational institutions and in spaces intended for vocational education and training (art. 7, paragraph 1¹). Another important aspect reported in this law refers to the need for continuous professional training of teachers in order to train the skills to identify bullying and implement effective intervention strategies (art. 56¹).

Romanian legislation on aggression and violence targets only school and family. There is a low interest from schools in investigating students' views on bullying. Measures to prevent bullying are limited to promoting non-violence, and individual plans are completely lacking⁹. In accordance with this statement are the results of the study "*School violence: research, policies, recommendations*" conducted in 2016 by the Institute of Education Sciences. Thus, in order to analyze the current state of research in the field of school violence, specialists from this institute, following the documentation of research in Romania, were surprised that until 2016 no research investigated the effectiveness of school violence prevention programs¹⁰. The first study in the field of education sciences on this issue was conducted by the author Grădinariu in 2019 in a doctoral thesis and aimed at developing and empirically testing a curriculum for a continuing education program¹¹. In the pilot study, which was to analyze the training needs of teachers, it was found that teachers perceive relational aggression as less serious than physical and verbal aggression. The scientific literature reflects similar findings in the sense that hidden forms of aggression such as exclusion from the group of friends and launching rumors are perceived by teachers as less serious than hitting, ironizing, nicknaming, threatening, insulting¹².

The family, as the first instance of socialization, has a major role in shaping the child's personality. Experts believe that parenting methods of educating the child can provide explanations for the child's involvement in aggressive incidents. Both aggressors and victims of bullying come

⁶ Cucoș, C., *Pedagogie*, 3rd edition revised and added, Polirom Publishing House, Iași, 2014, p. 68.

⁷ *Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education*. Recommendation CM/Rec(2010)7 adopted by the Committee of Ministers of the Council of Europe on 11 May 2010 and explanatory memorandum.

⁸ Law 221/2019 for amending and supplementing the National Education Law no. 1/2011. Issued by the Romanian Parliament. Published in the Official Gazette no. 929 of November 19, 2019, available on the website <http://legislatie.just.ro/Public/DetaliiDocumentAfis/219895>. Accessed online on June 16, 2021.

⁹ National Strategy for the Protection and Promotion of the Rights of the Child for the period 2014-2020, issued by the Government of Romania, Approved by Government Decision no. 1,113 of December 12, 2014, published in the Official Gazette of Romania, Part I, No. 33 of January 15, 2015.

¹⁰ Mitulescu, S., Scoda, A. D., Șandru, I., Zambeta, E. (2016). "*Violența Școlară: cercetări, politici, recomandări*", Institute of Educational Sciences, European Project, available on the website https://www.academia.edu/31460568/VIOLEN%C8%9AA_%C8%98COLAR%C4%82_cercet%C4%83ri_politici_recomand%C4%83ri_Un_proiect_european_Institutul_de_tiin_e_ale_Educa_iei, accessed on 15.06.08.2021.

¹¹ Grădinariu, T., *Agresivitatea de tip bullying. Repere psihopedagogice pentru o prevenire eficientă*, "Alexandru Ioan Cuza" University Publishing House, Iași, 2021.

¹² Craig, K., Bell, D. & Leschied, A. (2011). *Pre-service Teachers' Knowledge and Attitudes Regarding School-Based Bullying*. Canadian Journal of Education, 34 (2), 21-33.

from families with an authoritarian parenting style¹³. Norwegian researcher Olweus¹⁴ has identified the risk factors associated with the family in the development of aggressive behaviors of children: a negative emotional attitude on the part of parents and lack of affection increases the likelihood of involvement of the child in acts of aggression); the parent's tolerance towards the child's aggressive behavior and the lack of rules and limits in his education; parenting styles used in educating the child (using violence as a way to discipline the child increases the risk of developing aggressive behavior).

2. Bullying aggression. Definition and main features

Bullying dates back to when we have a school and will continue as long as the school exists. Despite the efforts of researchers to know the many facets of this behavior, daily incidents occur in schools around the world between students. A student is assaulted "*when he is repeatedly and over time exposed to negative actions by one or more students*"¹⁵. In Olweus' view, negative action "*represents the intentional way in which a person causes or attempts to cause suffering, injury, discomfort to another person and can manifest itself through physical contact, words, distortions, obscene gestures and intentional exclusion from a group*"¹⁶.

Half a century after the identification of this behavior, numerous prevention programs have been developed and implemented. However, studies show that between 15% and 20% of students in today's schools are affected by bullying¹⁷. Most of the time, teachers do not recognize aggressive bullying behaviors and underestimate the negative interactions between students. Although manifested in childhood, bullying should not be seen as child's play¹⁸. In their game, children imitate different characters using imagination and invent relational styles, which are actually stages in the development of social intelligence. In the game, children tease "friendly" more under the rule of emotions than with the intention of aggression. When this way of relating practiced in the game is repeated, offended and continued despite the fact that the victim expresses opposition and suffers, we can talk about bullying. This is the challenge of the specialists, to delimit the malicious teasing from the friendly one.

Bullying is not just about the aggressor-victim relationship, but is a group phenomenon in which several students are involved¹⁹. In an attempt to provide a definition of this way of destructive relationships between students, the authors Newman, Horne and Bartolomucci propose the criterion "*Double I/R*": intention, imbalance and repetition. Thus, they opine that in bullying: *the aggressor's intention to hurt is present; aggressors have the ability to abuse power and spot other students who do not have the physical or psychological characteristics to defend themselves, there is an imbalance of power; repeating, aggressive acts is the hallmark that differentiates bullying from occasional violence. It is true that singular aggressive incidents are problematic and require attention from teachers. In the case of occasional violence, although the child experiences discomfort, he is able to cope*²⁰. Therefore, bullying is a premeditated and systematic aggression, manifested by a student who inspires fears, and the unpleasant experiences of the victims are external (physical) and internal (psychological)²¹.

¹³ Duncan, R. *The impact of family relationship at school bullies and victims*. In: L. Espelage & M. Swearer (Ed), *Bullying in American schools: A social ecological perspective on prevention and intervention*. New Jersey: Lawrence Erlbaum Associates, Inc. 2004. pp. 227-244.

¹⁴ Olweus, D. *Bullying at School: what we know and what we can do*, Oxford, Blackwell, 1993.

¹⁵ Olweus, D. *Sweden*. In Smith, P.K., Morita, Y., Junger-Tas, J., Olweus, D., Catalano, R., & Slee, P. (1999) (Eds). *The Nature of School Bullying: A Cross-National Perspective*. London & New York: Routledge, p. 10.

¹⁶ Olweus, D. *Annotation: Bullying at school: Basic facts and effects of a school based intervention program*. *The Journal of Child Psychology and Psychiatry*, 35(7), 1994, pp. 1171-1190.

¹⁷ Batsche, G.M., Knoff, H.M., *Bullies and their victims: Understanding a pervasive problem in the school*, *School Psychology Review*, 23, 1994, pp. 165-174.

¹⁸ Garrett, A., *Bullying in American schools*. North Carolina: McFarland & Company, Inc., 2003.

¹⁹ Olweus, D., *Peer harassment: A critical analysis and some important questions*. In J. Juvonen & S. Graham (Eds.). *Peer harassment in school: The plight of the vulnerable and victimized*. New York, NY: Guilford Press, 2001, pp. 3-20.

²⁰ Newman Carlson, D., Horne, A.M., Bartolomucci, C.L. *Bully Busters- A Teacher's Manual*, in Research Press, 2000.

²¹ Hazler, R.J., *Breaking the cycle of violence: Intervention for bullying and victimization*, Washington, DC: Accelerated Development, 1996.

Aggression can be direct (physical and verbal) or indirect (relational). Direct aggression involves direct attacks on the victim such as hitting, pushing, destroying personal property, nicknames, insulting, threatening, while indirect aggression includes marginalization, deliberate exclusion from a group, gossip, launching false rumors²². At the level of scientific literature, aggressive incidents that have a major psychological impact on the child are attributed to emotional aggression. Closely related to emotional aggression is relational aggression which results in affecting the victim's relational system.

3. National legislation governing the prevention of bullying

The amendments brought to the National Education Law no. 1/2011 on psychological violence-bullying are portrayed in the methodological norms of application²³. Regarding the intervention mechanism in case of bullying, Norma provides the types of intervention in case of aggressive incidents. Thus, there are clear directions of intervention for actors in education and at community level, such as: specific intervention at the level of case-victim, aggressor, witness; extended intervention - family, class of students, group; extended intervention at school level; extended intervention at community level; extensive intervention at national level. These methodological norms have the role of providing specialized support for professionals working in education but also to the authorities responsible for the protection of children's rights against violence. It was also necessary to create legislative levers to empower teachers to "*create a safe and positive climate in the school, based on respect for the person, non-discrimination, motivation for learning and ensuring the well-being of preschoolers/students in the educational unit*"²⁴. Particular emphasis is placed on preventing and combating bullying and cyberbullying in pre-university education and on multidisciplinary team intervention. As the Romanian criminologist Florian mentions, "*prevention is not only the work of a specialist, but it requires everyone's effort. Beyond very limited recommendations, it involves the call for a change of mentality ... A society where communication is renewed, where constraints remain flexible, where man is constantly taken into account, will refuse violence. By refusing this defiance, a world will be born not without violence, but calmer*"²⁵.

According to Annex 1 to the methodological norms on the prevention of bullying and cyberbullying in pre-university education units, teachers have the obligation to identify risk situations and to submit to the approval of school boards the types of prevention and intervention required transmission to school inspectorates (OMEC no. 4343/2020, art. 1). The latter have the task of approving the prevention plans and monitoring the implementation at school level. In other words, the school must be receptive and identify aggressive bullying behaviors early on. As the major role of teachers in eradicating this phenomenon is highlighted, the Rules emphasize the training of teachers both by including the issue of bullying in the initial vocational training programs of future teachers and by continuing vocational training programs [OMEC no. 4343/2020, article 3 para. (2)].

When the signs of victimization are obvious and the psycho-somatic health of the student is affected, the intervention of a clinical psychologist or pediatric psychiatrist is required for a specialized evaluation and recommendations of appropriate therapies (O.M.E.C no. 4343/2020, art. 4, paragraph 1). The responsibility for initiating the intervention and rehabilitation of the victim lies with the teachers and the school counselor. Depending on the specifics of each incident of aggression and in accordance with the principle of the best interests of the child regarding its protection against any form of abuse and violence, the school will report the general direction of social assistance and

²² Horne, A.M., Bartolomuci, C.L., Newman-Carlson, D., *Bully Busters- A Teacher's Manual for Helping Bullies, Victims and Bystanders*, Research Press, 2003.

²³ Project H.G. for the approval of the Methodological Norms for the application of the provisions of Law no. 221/2019, for the amendment and completion of the National Education Law no. 1/2011 on psychological violence-bullying.

²⁴ M.E.C Order no. 4343/2020 of May 27, 2020 regarding the approval of the Methodological Norms for the application of the provisions of art. 7 para. (1)¹, art. 56¹ and of point 6¹ of the annex to the National Education Law no. 1/2011, regarding psychological violence - bullying, Published in the Official Gazette no. 492 of June 10, 2020, available on the website https://www.edu.ro/sites/default/files/fi%C8%99iere/Legislatie/2020/OMEC_4343_2020_norme20antibullying.pdf. Accessed online on 16.06.2021.

²⁵ Florian, G., *Prevenirea criminalității. Teorie și practică*. Oscar Print Publishing House, Bucharest, 2005, p. 187.

child protection at county level. For serious cases, the public social assistance service at the community level will be requested as a matter of urgency. Subsequently, the verifications will be continued in order to clarify the fact that the victimization is attributed to bullying and the rehabilitation plan will be made (art. 4, paragraph 4).

4. New provisions in Canadian legislation to prevent bullying

In order to make education factors responsible for bullying aggression, the Canadian state adopted a bill in 2012 to prevent and combat school bullying and violence. Thus, the draft law no. 56, adopted by the National Assembly on June 12, 2012, brings significant amendments to the Education Law and the Private Education Law. This legislative instrument highlights the role of the school board in the sense that it must be concerned with ensuring a healthy learning environment in which all students realize their potential and can develop "*free from any form of bullying*."²⁶ The Canadian bill is based on five directions for bullying prevention: the plan to combat bullying and school violence, the establishment of rules of conduct and the framework for their dissemination, the establishment of the head of the commission to prevent and combat bullying, bullying and school violence, regulation of school board agreements with police forces and organizations in the network of social services and health, the way of annual reporting²⁷. The law outlines obligations and responsibilities for all actors involved: students, the student committee, principals, teachers, parents, the board of directors, the school board and the student advocate. In this sense, students are responsible for showing a civic attitude towards teachers and colleagues, to get involved in creating a healthy and safe learning environment, to participate in school activities on citizenship and combating bullying, to assume commitments to stop bullying if I am the perpetrator.

The new legislation focuses on measures to prevent and combat all forms of intimidation or intentional violence, in particular in the case of racism, sexual orientation, gender identity, homophobia, a disability or a physical characteristic. An element of novelty, compared to the Romanian legislation, is that of appointing a student defender. It has the task of taking over the complaints concerning an incident of aggression which falls to it as a result of the applicant's dissatisfaction with the analysis or settlement of the case (art. 220, para. 2)²⁸. It also receives annual reporting of school bullying incidents by the school board as well as a copy of the agreements reached between the school board and the police, health institutions and social services. Also, in the sphere of attributions of the student defender is the receipt of the decision of the school council to expel a student when this measure is required to stop bullying and school violence²⁹.

5. Conclusions

In this paper we conducted an investigation of the main legislative references with educational implications in Romania, Europe and Canada. The idea is emerging in the European Community that special emphasis is placed on education in active citizenship and respect for human rights in order to develop knowledge and social skills in conflict management and in encouraging and promoting prosocial behavior. Council of Europe member states that have acceded to the European Convention on Human Rights, including Romania, have the directive to introduce education for democratic citizenship and education for respect for human rights in formal education programs at all levels of education. A special emphasis is also placed on the training and continuous development of the educational staff.

We also found that in the Romanian education law there are express provisions only for school

²⁶ Projet de Loi no. 56 (2012, chapitre 19) - Loi visant à prévenir et à combattre l'intimidation et la violence à l'école. Sanctionné le 15 juin 2012 par l'Assemblée nationale du Québec, Délivré par Le Parlement Du Québec. Éditeur officiel du Québec, 2021.

²⁷ Loi visant à prévenir et à combattre l'intimidation et la violence à l'école (Loi 56), accessed online at https://www.familleslgbt.org/documents/pdf/CFH_MELS_Module3B_FRA.pdf, on 15.06.2021.

²⁸ Loi sur L'instruction Publique, accessed online at <http://www.legisquebec.gouv.qc.ca/fr/showdoc/cs/I-13.3>, on 14.06.2021.

²⁹ Loi visant à prévenir et à combattre l'intimidation et la violence à l'école, accessed online at https://www.familleslgbt.org/documents/pdf/CFH_MELS_Module3B_FRA.pdf, on 14.06.2021.

and family, there is little interest for the victimized "voice of the child", while the Canadian education law provides for the existence of a defender of the protagonists involved in bullying among students, who is directly involved in resolving aggressive incidents. At the same time, specialists consider the school as the best environment for the prevention of violence because it has the mechanisms to facilitate peer-to-peer interactions³⁰. Another identified aspect is the fact that the research of bullying in our country is in its infancy. A concentration of Romanian specialists is required to study bullying aggression in order to achieve and implement effective prevention strategies.

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³⁰ M. Cusson, *Prevenirea delincvenței*, Gramar Publishing House, Bucharest, 2002, p. 96.

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