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REGULACJA PRAWNA PRZECIWDZIAŁANIA BULLYINGOWI: DOŚWIADCZENIE KRAJÓW EUROPEJSKICH

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Adnotacja. Artykuł dotyczy przeciwdziałania bullyingowi w instytucjach edukacyjnych, który ma nieodwracalne konsekwencje zarówno dla ofiar, jak i agresorów. Autor analizuje doświadczenia krajów europejskich i niektóre międzynarodowe dokumenty prawne dotyczące zwalczania bullyingu. Zauważono, że bullying w szkołach jest powszechnym problemem, którym należy się zająć na szczeblu państwowym. 44% krajów europejskich posiada politykę lub ustawodawstwo przeciwko przemocy lub bullyingu. Wdrażają one programy mające na celu tworzenie przyjaznej atmosfery w szkołach, eliminowanie przemocy i wspieranie ofiar bullyingu. Autor wskazuje również na potrzebę uregulowania kwestii zwalczania bullyingu na poziomie legislacyjnym Unii Europejskiej.

Słowa kluczowe: bullying, przemoc, prześladowanie, prawa dziecka, program przeciwdziałania bullyingowi.

LEGISLATIVE REGULATION OF COUNTERING BULLYING: EXPERIENCE OF EUROPEAN COUNTRIES

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Abstract. The article deals with countering bullying in educational institutions, which has irreversible consequences for both the victims and the aggressor. The author analyzed the experience of European countries and separate international legal documents related to countering bullying. It is noted that violence in schools is a widespread problem that needs to be tackled at the state level. 44% of the European countries have an anti-violence or antibullying policy or law, which implement programs aimed at creating a friendly atmosphere in schools, eradicating violence and supporting victims of bullying. It is also indicated the need to regulate the issue of countering bullying at the legislative level of the European Union.

Key words: bullying, violence, harassment, children's rights, anti-bullying program.

ЗАКОНОДАВЧЕ РЕГУЛЮВАННЯ ПРОТИДІЇ БУЛІНГУ: ДОСВІД ЄВРОПЕЙСЬКИХ КРАЇН

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Анотація. У статті йдеться про протидію в навчальних закладах булінгу, який має незворотні наслідки як для жертв, так і для агресора. Автор проаналізував досвід європейських країн та окремі міжнародно-правові документи щодо протидії булінгу. Зазначається, що насильство в школах є поширеною проблемою, яку потрібно вирішувати на державному рівні. 44% європейських країн проводять політику чи мають законодавство проти насильства чи булінгу. Вони впроваджують програми, спрямовані на створення дружньої атмосфери в школах, викорінення насильства та підтримку жертв булінгу. Також вказується на необхідність врегулювання питання протидії булінгу на законодавчому рівні Європейського Союзу.

Ключові слова: булінг, насильство, переслідування, права дітей, програма боротьби з булінгом.

Protecting children from cruelty, preventing crimes against them is an extremely important, socially significant and urgent task, the solution of which is interdisciplinary in nature. Violence against children is a problem that has always existed and, most likely, will exist for a very long time in modern society. Children are the most unprotected and vulnerable part of society, completely dependent on adults. It is because of their fault that children become victims of domestic violence, find themselves in areas of natural disasters, military operations, etc. Violence against

children is a broad concept that includes various types of behavior by parents and guardians, other relatives, teachers, educators, any person who is older or stronger.

Convention on the Rights of the Child specifies that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. One of the forms of such violence is bullying, which is the use of coercion or intimidation to obtain control over another person or to cause physical, mental, or emotional harm to another person (Collins A., Harlacher J., 2022). In 2015, the UN General Assembly adopted a resolution against bullying (69/158). The resolution encouraged Member States to take all appropriate measures to prevent and protect children, including in school, from any form of violence, including any form of bullying, by promptly responding to such acts, and to provide appropriate support to children affected by and involved in bullying (Resolution UN General Assembly against bullying). There is no international convention to combat bullying, but the Right to Education is worked out in five major conventions. One of these conventions is the Convention against Discrimination in Education, which determines that «Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups» (Convention against Discrimination in Education, 1960). Congress of Local and Regional Authorities of Europe is convinced that any policy for combating or preventing violence must be based on preventing school violence is a key aspect of education for democratic citizenship, components of which include tolerance, intercultural relations, equality between the sexes, human rights and the peaceful settlement of disputes (Resolution on local partnerships for preventing and combating violence at school, 2003).

Bullying leaves serious social consequences at the educational and health levels, especially affecting the victim. Emotionally, they may experience fear, anxiety, and a diminished sense of self-worth. Persistent stress and mental health issues, such as depression, anxiety disorders, and PTSD, can also arise. Behaviorally, children may internalize their distress, resulting in withdrawal and depression, or externalize their emotions, leading to self-destructive behaviors (Siddique B., Khan W., Rauf U., 2023). A poll conducted and presented by BeatBullying UK showed that more than half (55%) of children in Europe who have been bullied said they became depressed as a result, with over a third saying they harmed themselves (35%) or thought about suicide (38%) (European Anti-bullying Network Conference Report, 2014). No society is free of bullying's impact of, no matter how well its social care system and solidarity culture are developed, regardless how influential religion and cultural values are upon daily life, whatever principles the educational model is based on (European Anti-Bullying Network: a Policy Paper, 2021). That is why it is so important to counteract this shameful phenomenon.

According to Olweus' papers on this topic, school bullying requires three criteria: intentional harm-doing, repetitiveness, and a power imbalance favoring the perpetrator (Olweus, 2013). Intentionality is a concept used in philosophy as a property of human consciousness to be directed at some object, that is, to be interested in considering this particular object and not another. In the context of bullying, it means the desire of the bully to cause harm (injury or discomfort) to a certain person (victim). The second characteristic of bullying is repetitiveness, and there is no unambiguous number of cases of bullying to attribute such actions to bullying. It is implied that such negative actions have taken place «repeatedly» and may be repeated.

An imbalance (asymmetry) of power means that there is a significant difference in their statuses between the victim and the aggressor. The difference may lie both in the numerical superiority of the aggressors and in their physical strength. From this it can be concluded that two average students who are on the same social, property, physical, psychological levels cannot be considered as a «victim» and a «bully» in relation to each other. Here we will observe healthy competition and competitiveness. However, exceptions are also possible, since self-bullying can be provoked by strong, gifted individuals who cause envy and irritation of their peers due to their high level of knowledge, curiosity, and the accumulation of the teacher's attention. As a result, the gifted student is isolated from the class.

What influences the occurrence of aggression among teenagers? According to one of the Spanish studies the appearance of violent behavior in primary and secondary school children is influenced by the use of new technologies and television (Fernández-Alfaraz M.-L., Nieto-Sobrino M., Antón-Sancho Á., Vergara D., 2023). In addition, it should be noted that aggressive attitudes in the family have a negative impact on the behavior of both the victim and the aggressor, because they identify violent behavior towards themselves or others as a normal pattern of relationships. Therefore, the fight against bullying should start at home in the family, continue at school and be carried out in all directions with the support of the state. Not only family, but also school has a responsibility that adolescents both are and feel safe at school to prevent unauthorized absence. Improving the school climate could therefore be an important part to tackle bullying and cyberbullying (Kyrrestad H., Kaiser S. & Fossum S., 2023). The problem of bullying is quite widespread all over the world, but most countries have developed their own strategies to combat bullying.

European Commission notes that «Children across Europe testify that physical and emotional bullying in schools is part of their everyday lives. Children are particularly vulnerable when they are confronted with harmful content and conduct, such as cyber-bullying and grooming, in audiovisual media and on the Internet» (An EU Agenda for the Rights of the Child, 2011).

According to data published by Statista in the current year regarding victims of bullying in European countries in 2018, the highest level of bullying is observed in Russia (37%), Latvia (35%) and Romania (34%) (Share of students who reported being victims..., 2023). Despite the rather high rates of bullying in a number of European countries, they

make significant efforts at all levels to minimize the number of bullying victims. In many countries, at the legislative level, restorative acts regarding the prevention of bullying have been adopted. From the GALE report in 2017 seems that 44% of the European countries have an anti-violence or antibullying policy or law. According to the PISA research in 2018 70% of the European countries have some kind of national antibullying policy; 73% have national guidelines for a school-based antibullying policy; 59% – a national strategy for how schools should respond to bullying find 52% – monitored the impact of the antibullying policies (Dankmeijer P., 2020).

The Finnish Basic Education Act of 1998 states that each and every student has the right to a safe school environment. In 2003, the law was further amended to specify that «the education provider shall draw up a plan, in connection with curriculum design, for safeguarding pupils against violence, bullying, and harassment, execute the plan, and supervise adherence to it and its implementation». (Finlex, 2010)

In Italy was adopted the law No 16 of February 5, 2007 «General guidelines and national action to prevent and combat school bullying», which requires the development of positive behavior and instilling universal human values in students. The law suggests a strategic plan to combat bullying: at the national level it should provide a communication campaign and diversified information addressed to all stakeholders about non-acceptance of bullying among students. In order to combat bullying, in each Regional Education Office there are regional observatories on bullying, which keep a constant monitoring of the phenomenon. Among the activities launched by the Department for Equal Opportunities in 2017, the following project is worth mentioning «School as a place of prevention and protection: how to protect children and teenagers from the phenomena of violence, bullying and cyberbullying, sexual abuse and exploitation».

In Greece, according to the institutional framework set by law 1566/1985, a work plan entitled «Managing violence and aggression at school», which aimed to record the violence within schools was implemented. The aim of the project was to adopt a policy to prevent and deal with the violence. On policy level, an Observatory for the Prevention of School Violence and Bullying has been established since December 2012. The Observatory aims in recording and studying school violence and bullying, referring school violence and bullying incidences to accredited agencies, and planning and implementing actions and activities for the prevention of school violence and bullying. The Observatory operates under the auspices, funding and supervision of the Ministry of Education and Religious Affairs, Culture and Sports (European Guide of Anti-bullying Good Practices, 2014).

In Romania, the specific legislation is Law No. 221/18 November 2019 for the amendment and completion of the National Education Law No. 1/2011, which provides for combating bullying in educational institutions. The methodological rules of application/May 27, 2020 of Law 221/2019 state that each educational unit must introduce the objective «school with zero tolerance to violence» into the Internal Order Regulation, an anti-bullying action group must be created and implement a plan based on the following: information and awareness activities on the phenomenon of bullying; intervention procedures in bullying situations; mobilizing teaching staff regarding immediate intervention in reported or identified bullying situations. The School Safety Police deals with the prevention and combating of bullying in schools, drug trafficking in schools, but can also intervene in cases of family violence. In 2017, the National Strategic Campaign for Informing, Preventing and Countering Bullying was launched, as part of which the «Education without Bullying» application was launched in October 2022. It provides easy access to bullying legislation; it helps the user to directly contact institutions capable of offering solutions in case of aggression or specific bullying and cyberbullying; it is created as a tool to help victims and witnesses of bullying. Asociation Telefonul Copilului (ATC) offers real and immediate support to children in situations of violence: information and advice on the promotion and respect of children's rights; tracking how cases are resolved; monitoring the respect of children's rights following registered cases and informing the competent institutions about the problems encountered by children (Bucur M.-C., 2022).

In Belgium in the French community was created Health and Welfare Centers, which contact points regarding the problems of early school leaving and violence at school. In addition, there are school mediation services, Mobile Teams, Toll free number «Assistance écoles», which informs victims of violence and support and assist schools when an exceptional event occurs. Also in Belgium was published by the General Directorate of Compulsory Education a practical guide to preventing and combating violence in schools. The document, which is very comprehensive, covers many topics related to violence in the school environment. In the Flemish Community was developed Flemish Action Plan to support and protect the physical, psychological and sexual integrity of minors in the field of youth and child care, education, youth and sport (29/01/2016). This action plan commits the Ministers of Youth, Sport, Social Welfare and Education to work together and in a coordinated manner to prevent and treat all forms of violence. Within the framework of this action plan is carried out: a) expanding and sharing knowledge about violence among children and youth; b) general support and awareness measures to protect the general public's physical, psychological and sexual integrity of children and adolescents; c) properly deal with the inviolability of minors and the behavior of unacceptable abuse of children and young people in the relevant sectors; d) provide appropriate support and assistance to children who have become victims and perpetrators of violence and inappropriate behavior.

The protection of children and young adults from violence is a priority in Hungary. Under Act CXC of 2011 on National Public Education the personality, human dignity and rights of a child/student shall be respected, and protection has to be provided for them against physical and mental violence. For this purpose, in 1999, the Office of the State Commissioner for Educational Rights was established. This institute contributes to the promotion of rights concerning education of children, students, teachers, parents. Any child, pupil, parent, educator, student, researcher, teacher or their associations may file a petition in individual cases, if in their judgement their guaranteed

rights have been infringed or there is a direct threat of such infringement. The Commissioner shall investigate all petitions. In order to support the operation of a childprotection warning system and the coordination between the education sector and social services, several social workers and/or child-protection professionals are present in schools where needed, from January 2016 (Compilation of Replies to Question 1). Protection of children from various forms of violence, including cyberbullying and sexting, takes place in Hungary in different directions. It should be noted the implementation of such measures as: a training program for teachers called «Crime prevention in schools»; presence of crime prevention counsellors in schools; the Internet Hotline which is available to the public for reporting online content that is illegal or harmful to minors; providing of two prevention programs (DADA and ELLEN-SZER); the Virtual Knowledge Centre against School Conflicts etc.

Since 2004, the Ministry of Education and Science of the Republic of Lithuania has adopted documents and programs, and has prepared action plan, aiming in the prevention of school dropouts, drug use, HIV/AIDS, school violence and delinquency. In 2008, under a Ministerial decision for Prevention of School Violence and Bullying and, based on the National Program for the Prevention of Violence against Children and Assistance to Children for 2008–2010, the Ministry of Education and Science has implemented three violence and bullying prevention programs: The Zippy's Friends program for preschoolers (helps young children –5-7 year olds –to develop coping and social skills is successfully going on from 2004), The Second Step program in lower schools (started in Lithuania in 1999), and The Olweus' anti-bullying program in secondary schools (was initiated in Lithuania in 2008). More 17 recently, the national child abuse prevention and child support program for 2011-2015 aims in reducing the prevalence of violence against children and improving the legal protection of children in Lithuania. Actions and activities of the national program include the monitoring of violence against children, the organization of public education on violence against children and prevention, the improvement of professionals working with children by providing violence prevention training and support, the provision of services to children who are victims of violence and their families, and the expansion of international cooperation (European Guide of Anti-bullying Good Practices, 2014).

In 2014, the EU-funded European Anti-Bullying Network (EAN) project was established, an active network of organizations working in and across Europe to combat bullying and violence in schools. EAN is an innovative network established to bring together knowledge, expertise, experience and methodologies to inform a European approach. The ultimate goal is to raise awareness of effective tools and programs that positively address the bullying phenomenon throughout Europe. The strategy of the network itself has been to exchange good practices among members, and on the European level to advocate for specific attention for bullying as separate from the more general concept of violence. The exchange of good practices took shape in the production of a newsletter and the organization of an annual conference and the European advocacy was mainly focused on the adoption of a European Antibullying Day (Dankmeijer P., 2020).

EAN's action field is made up of four main parts: 1) Capacity building: increase the capacity of EAN members and key non-member organizations to prevent bullying. 2) Method Development: objective is to encourage and facilitate the empowerment of young people, adults, and institutions in order to prevent bullying and respond to bullying. 3) Awareness-raising: educating people about the need to combat bullying as a specific form of violence and the possibilities for doing so, including by establishing and promoting a certification process for school policies against bullying. 4) Advocacy: monitor national and European policies on bullying and stimulate and support higher impact strategies (European Anti-Bullying Network: a Policy Paper, 2021).

It is necessary to understand that countering bullying is a repeated event, it is a long complex mechanism that includes many key elements. In any case, such work must be comprehensive, implemented at the state level. Such programs do not give immediate, but long-term results. It can be noted as a positive example Comprehensive Bullying Prevention (CBP). CBP is a schoolwide approach that reinforces a positive school climate, engages the community, and outlines structures to actively preventing bullying and to address specific instances of bullying. CBP is composed of five components: 1) school climate, 2) policy, 3) evidence-based curricula, 4) family and community partnership, and 5) data-based decision making (Collins A., Harlacher J., 2022).

Despite the fact that many European countries have their own anti-bullying legislation and anti-bullying programs, there is no single standardized act of the European Union. The European Union could initiate a European government dialogue on how schools' anti-bullying and inclusion policies can be strengthened, and whether European leadership can play a role in this (Dankmeijer P., 2020). Currently, there is a question about the need to create a single EU legislative act, that would introduce a methodology for effective countering of bullying. Also in this sense, the mutual assistance of the EU member states to each other is important, in order to spread the positive experience of the states, that have high results in combating bullying and its prevention.

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