

THE CURRENT LEGAL AND FACTUAL REGULATION OF SCHOOL INTEGRATION OF PUPILS WITH SPECIAL NEEDS AT ELEMENTARY SCHOOLS IN THE CZECH REPUBLIC

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Summary

This article deals with the current legislation concerning the education of pupils with a disability. It is primarily aimed at the legislation regulating the so-called integrative education. The new educational legislation valid from the 1st January 2005 is discussed the most – it is the New Education Act and its amendments and also its implementing regulations. The discussion concentrates mostly on some controversial parts of the legislation which are – according to the authors – in contradiction to the declared standards of education and their embodiment in the law.

Key words

school integration, pupils with disabilities, pupils with special educational needs, equal opportunities, special educational support, supportive measures, a catchment school, school counselling institutions

INTRODUCTION

Present educational trends in the Czech Republic are based on a series of drafts, normative acts and legal measures concerning education or special education that were accepted in the last few years. The concept of education pays an increasing amount of attention to the basic principles of plural democratic society which give the responsibility for one's destiny, and partially also for collective decisions, to each individual. The second feature of the current trends is the effort to provide equal opportunities for all and to remove barriers to the development of all people including the disabled.

Changes in education in the last years caused that the Czech Republic developed a combined educational system for children, pupils, and students with a disability. In addition to the established system of the so-called special education, a new system started to develop gradually in which children with disabilities participate in mainstream education. They are integrated into schools

belonging to the “regular” educational system (nursery, elementary, and secondary schools). Presently, the basic task within both of these trends is to improve the educational conditions – even after adopting the new school legislation.¹

The education of children, pupils, and students in specially designed institutions (formerly called special schools) has a great tradition in the Czech Republic. These schools have always had well-organised activities, they had skilled staff, and received methodical and financial support. Yet this way of education is sometimes accused of segregating the disabled which is contrary to the rules and principles of social inclusion. On the other hand, the integrative educational system – in which students with a disability participate in mainstream education of the so-called regular schools – is considered to be in accordance with these principles. As regards legislation, human resources, funding and organizing, this type of education has not received the same amount of support as the former type of education. This fact causes difficulties to all participants in the education – legitimate representatives of students, schools, teachers, school administrative bodies, and mainly to disabled children.

The key objective in educating people with a disability is to provide them with equal opportunities. Among other things, this involves the elimination of wrong attitudes towards them and the prevention of (even indirectly) discriminating behaviour in particular situations. Integrative education should be understood as an important act of social inclusion that functions as prevention rather than simply an arrangement of education.

From the point of view of equal opportunities, education is believed to be a basic human right which has universal human values.

Educating the disabled in such a way that their mobility in the labour market increases, will become more and more crucial².

Basic principles of special educational support are being gradually implemented into a body of curricular documents newly prepared in the Czech schooling system.

¹ ACT No. 561/2004 Collection of Law, on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act), as amended.

² It seems that we have not yet realized that education and employment policies are closely interrelated – which applies not only to people with a disability.

The national educational programme states some basic principles and objectives of the state education policy and defines general requirements on the content and outputs of education. It defines proprieties of the content of educational programmes which should respect the special needs of the disabled. It is also the base for developing frame education programmes.

The frame education programmes specify output target skills and knowledge and the content of education corresponding to the individual grades and branches of education. **The school educational programme** is a kind of implementing document which is developed by schools themselves while respecting concrete needs and conditions, including also special educational needs of students with a disability.

The current task is to **improve and complete the system of supporting special education**³ which is the prerequisite for providing the disabled with equal opportunities in education.

CURRENT LEGAL AND FACTUAL REGULATIONS OF EDUCATING THE DISABLED

The new **law No. 561/2004 on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act)** came into force on the 1st January 2005.

This law interprets newly **the education of pupils with special educational needs**, especially the enforcement of their right to be educated via specific forms and methods, and the arrangement of special conditions which will allow their education.

According to a preamble to the bill: “the accent is put on equal educational opportunities for all and on removing barriers which would impede them, with respect to educational needs of individuals during education and its quality.” The environment of mutual respect, respect for all people and measures against discrimination and intolerance are conditions also mentioned in the preamble. Emphasis is also placed on the effort to provide disabled children with access to the education.

³ These supportive measures include: the presence of two teachers in specially chosen classes, a teacher’s assistant, a special education teacher, a psychologist, the issue of transport, the compensation and learning aids, the number of pupils in the class, the forms and ways of differentiation of educational content,...

The new education act does not define separately the former special schools. From the legal point of view, these schools are included into the system of regular schools. A specific type of elementary schools, now referred to as 'elementary school special (základní škola speciální)', is now established for pupils with severe mental disabilities, multiple handicaps or autism. According to this law, the formal auxiliary schools became practical elementary school and remedial schools became elementary schools special.⁴

The responsibility for setting the conditions for education of children, pupils and students with disabilities or health disorders still lies in the hands of regional authorities.

The new law (the education act) recognizes a new possibility to create the post of a teacher's assistant. The director of a nursery, elementary, elementary school special, secondary school and tertiary professional school can, with the approval of regional authorities, create this post in the class or working group where a child, pupil or student with special educational needs is educated.

The education act also defines the term pupil with special educational needs in section §16. According to this law, children, pupils and students with special educational needs are considered to be the ones who have:

- Disability
- Health disadvantage
- Social disadvantage

The definition is based on the hypothesis that these are the children, pupils and students who have to be educated via special forms and methods which correspond to their needs and who have got the right to be educated in special conditions - that means such conditions which enable the pupils with some of the type of disability or disadvantage to overcome the handicap.

We can find the following note in the preamble to the bill:

"children, pupils and students with disability will be integrated into regular schools in cases when it is possible and suitable⁵, it is also possible to establish

⁴ ACT No. 73/2005 Regulation of Ministry of Education, Youth and Sport on Education of Children, Pupils and Students with Special Educational Needs and of Exceptionally Gifted Children, Pupils and Students brought some problems to this area because it uses again the term "special schools" in the title of §5.

⁵ We criticize the use of such terms as „when it is possible and suitable” - these represent authors of the norms' subjective opinion about the phenomenon of school integration and are not competent to give eligible and accurate interpretation of legislative intent!

classes in particular schools where the education of these individuals will follow methods and forms of education adapted to their needs or there can be established schools specialized for their education.”

There appeared some problems with the right of children with a disability to attend an elementary school in the so-called catchment area in the past (until 2004). The education act regulates the problem by placing the child into an elementary school almost unambiguously.

There exists the text and interpretation of the provision of education act §36 regulating completion of compulsory education. According to it, education is compulsory for nine school years but at most until the school year when the pupil reaches the age of seventeen. The pupil attends the elementary school established by municipality or municipal unions where the permanent residence of the pupil is (the so-called catchment school) if his/her legitimate representative does not choose another school.

The director of such a school has the duty to accept preferably pupils whose permanent residence is in relevant school catchment area. He/she has to accept a permitted quantity of pupils given by the school register.

The school director is *de iure* not allowed to reject a disabled pupil. The school is bound to accept any pupil whose permanent residence is in the school's district if the pupil's legitimate representative insists on his/her acceptance. And we have to add that the school must educate the pupil in such way and using forms that respect his/her special educational needs.

A curious situation has developed in the Czech Republic – the clear text of the education act was specified by ACT No. 73/2005 Regulation of Ministry of Education, Youth and Sport which we present below⁶. It contains the following provision according to which:

“in case that the school or special-school director does not include the pupil with disability, who is obliged to attend the school, into some of the special forms of education, he/she has the duty to inform the legitimate representative of the disabled pupil, the regional authority, and municipality in the region where the pupil's permanent residence is.”

⁶ It is the text §9 sub clause 4) of the above-mentioned regulation which is in contradiction to the text of the education act § 36 regulating compulsory education of children who have permanent residence in the catchment area of the school.

The new education act avoids correctly the formerly used term “exemption from compulsory education” and solves the situation when some groups of children and pupils cannot attend regular compulsory education due to the profundity of their disability by the legal institute of “another way of completing compulsory education”. The legal institute concerns also individual ways of education. The education act, in relation to pupils with a profound mental disability, states:

*“Regional authorities in the region of the child’s permanent residence select, with the approval of the pupil’s **legitimate representative** and according to the expert opinion of a doctor and a school counselling institution, such way of education which corresponds to the child’s mental and physical abilities. Regional authorities also guarantee corresponding support for the child’s education, especially pedagogical and methodological support...”* (§42 of the education act)

The first practical experience with this regulation brought discomfiture. The reality is that regional authorities and especially institutions, which should fulfil the educational needs of pupils with a profound mental disability in “another” way, act in individual cases differently. But the requirement of legal security, which also means ensuring identical educational conditions for all these children in the Czech Republic, should be the priority.

ACT No. 73/2005 Regulation on Education of Children, Pupils and Students with Special Educational Needs and of Exceptionally Gifted Children, Pupils and Students became the implementing legislation for the area of education of persons with a disability. This regulation substituted the former regulation (ACT No. 127/1997 Regulation on Special Schools and Special Nursery Schools). According to it, children, pupils. and students with special educational needs are educated with the support of such measures that are different or that are provided beyond the scope of pedagogical and organisational measures connected with the education of pupils of the same age at schools which do not specialize in pupils with a disability (the so-called regular schools).

The regulation defines the term ‘pupil with a severe disability’ even though it does not define or outline the term ‘pupil with a disability’⁷.

⁷ Not even this regulation could fully avoid “the tautology” of education norms, according to which the severely disabled person is the person who has got a severe disability...

A pupil with a severe disability, according to the regulation, is the pupil with:

- Severe visual impairment
- Severe hearing impairment
- Severe speech disorder
- Deaf-blind
- Multiple handicap
- Autism
- Severe physical disability
- Severe or profound mental disability

According to the regulation, these pupils, with respect to the extent of their special educational needs, belong to a group which needs the highest degree of supportive measures. The regulation also describes forms of special education of pupils with disabilities.

According to the regulation, the special education of pupils with a disability happens:

- In the form of individual integration
- In the form of group integration
- In a school established especially for pupils with disabilities (“a special school”)
- By a combination of the above-mentioned forms

According to the regulation, individual integration means the education of a pupil:

- In a regular school
- In a special school designed for pupils with another type of disability in special cases

ACT No. 72/2005 Regulation of Ministry of Education, Youth and Sport on Counselling Services in Schools and School Counselling Institutions regulates some properties of the education of children, pupils and students with disability.

The regulation primarily states the following types of school counselling institutions:

- Educational and psychological counselling centres
- Special pedagogical centres

The school counselling institutions provide standard counselling services for free and they do so on the request of pupils, their legitimate representatives, schools or school institutions.

CONCLUSION

A short analysis of norms valid in the educational system in the Czech Republic regulating relations in the frame of school integration showed that, in comparison to the end of 2004, we can in some areas see improvement of legal and (we expect) also factual state of affairs at elementary schools. On the other hand, we have pointed out many imperfections and inaccuracies (sometimes we could say contradictions) which are still included in norms regulating this area.

THE SURVEY OF BASIC LEGAL NORMS REGULATING THE EDUCATION OF PERSONS WITH A DISABILITY

ACT No. 561/2004 Collection of Law, on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act), as amended

ACT No. 563/2004 Law on Education Personnel

ACT No. 48/2005 Regulation of Ministry of Education, Youth and Sport on Elementary Education and Completing Compulsory Education

ACT No. 72/2005 Regulation of Ministry of Education, Youth and Sport on Provision of Counselling Services and School Counselling Institutions

ACT No. 73/2005 Regulation of Ministry of Education, Youth and Sport on Education of Children, Pupils and Students with Special Educational Needs and Children, Pupils and Students Exceptionally Gifted

ACT No. 13/2005 Regulation of Ministry of Education, Youth and Sport on Secondary Education and Education at Conservatory

ACT No. 14/2005 Regulation of Ministry of Education, Youth and Sport on Pre-school Education

ACT No. 15/2005 Regulation of Ministry of Education, Youth and Sport on Proprieties of Long-term Plans, Annual Reports and Evaluation of the School

The Directive No. 13710/2001-24 of 6 June 2002 of Ministry of Education, Youth and Sport on Integration of Children and Pupils with Special Educational Needs

LITERATURE AND RESOURCES

ACT No. 561/2004 Collection of Law, on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act), as amended

ACT No. 72/2005 Regulation of Ministry of Education, Youth and Sport on Provision of Counselling Services and School Counselling Institutions

ACT No. 73/2005 Regulation of Ministry of Education, Youth and Sport on Education of Children, Pupils and Students with Special Educational Needs and Children, Pupils and Students Exceptionally Gifted

ACT No. 127/1997 Regulation on Special Schools and Special Nursery Schools

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