Guarantee of the Right to Online Education in Exceptional Situations: Case Study of the COVID-19 Pandemic

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Abstract: Covid-19 came as a challenge in human being life. After the announcement of the state of the world pandemic on March 11, 2020, by the World Health Organization, the government reacted to this situation, undertaking a series of measures considering the general interruption of social and economic activities such as closing schools, the prohibition of mass gatherings in closed or open places, the restriction or prohibition of other movements inside and outside the country, which brought the country into total quarantine for about three months. Among other things, the government also presented an action plan for the prevention and response to Covid-19 in May 2020, which provided three pillars of action: prevention, response, and recovery, to continue providing health services to the entire population. While the government’s response has necessarily been swift in terms of protecting health and guaranteeing the right to life, the pandemic situation brought a new challenge, in terms of children’s well-being and the effective exercise of their rights, especially in the most vulnerable children. In the situation of the global pandemic, international institutions have addressed a series of recommendations and statements for the protection and guarantee of the rights of children and their families.

In April 2020, ENOC calls on governments, the European Commission and the Council of Europe to take all appropriate actions to ensure that the rights of all children are guaranteed in accordance with the United Nations Convention on the Rights of the Child. Children’s rights and, the comments of the United Nations Committee on the Rights of the Child, should be respected during the Covid-19 health care crisis.

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1. INTRODUCTION

The global pandemic situation accompanied by the measures taken to limit the movement of the population, isolation and self-quarantine, consequently brought new challenges to make it possible to guarantee the child’s right to education around the globe.

After a long interruption of the teaching process with a physical presence, the Ministry of Education and Sports (MES) faced new challenges regarding the beginning of the new academic year 2020-2021, in an uncertain pandemic period. The easing of restrictive measures created the possibility of starting the new academic year and developing the learning process, physically in the environments of educational institutions, dictated by new rules (Instruction no. 543/1, 2020).

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2 ENOC is European Network of Ombudsman for Children’s Rights and Albania is represented in this network through the People’s Advocate institution for the Protection and Promotion of Children’s Rights (Law No. 8454, 1999).
3 Specifically, the Albanian Ministry of Education and Sports was forced to stop physical attendance at schools from March 9, 2020, until the end of the 2019-2020 school year. During this period (9.3.2020-30.6.2020), MES approved the order for the continuation of the learning process through distance learning (learning in home conditions).
The drafting of these rules was the main measure undertaken at that time by the Ministry of Education and Sports and the law enforcement institutions of this institution in cooperation with the Ministry of Health and Social Protection. This guideline in addition to helping and supporting educational institutions to ensure quality and comprehensive education, also defines rules for having safe environments for students, teaching, and support staff.

During the 2020-2021 academic year, the development of the learning process was made possible with the physical presence of students in 1266 schools, including dependent institutions (educational offices, regional educational directorates, etc.). At the national level, dictated by the conditions of the pandemic (physical distancing), in 567 educational institutions the educational process has been developed with two, three and four shifts (Synthetic Report of the People Advocate Institution, 2021).

2. SERIOUS DEFICIENCIES FOUND REGARDING THE EXERCISE OF CHILDREN’S RIGHTS, ESPECIALLY THE RIGHT TO EDUCATION

The biggest concerns based on the problems identified during the pandemic situation and especially the development of the online learning process, during the period of movement restrictions at the beginning of the pandemic (Avokati i Popullit, 2022), consisted in:

• The access of children with disabilities to the educational system, not having the right access to the teaching process with suitable and effective services for them;
• The inequality in access to the teaching process (lack of access of children in need to social networks and innovative technology equipment);
• The training of teachers in the use of new innovative online communication programs and access to technology devices;
• The security of the child's privacy during online learning;
• The student's well-being (psycho-social support and mental health) is caused by movement restrictions.

Regarding the violation of the right to the education of children with disabilities, the Ministry of Education informed that, where specific guidelines for the education of children with disabilities were given, special schools were specifically instructed to develop and implement internal protocols, taking care that the return to the school should first ensure the health of the child, whereby the school staff, in cooperation with the evaluation committee and the parent, should carefully assess the condition of each student who then attends a special school, as well as students who enroll in the school for the first time, determining for each student the manner of behavior and interaction with school staff and other students, both during their stay in the classroom and in other environments of the institution.

What was found during the academic year 2021, had to do with the fact that the development of the learning/conjunctive process, combined with several scenarios, applied for the first time in our country (with a physical presence in the school premises, the development of the process online in home conditions and, both together), also necessarily requires additional resources in infrastructure, budget, human resources, improved curricula and continuous education of teachers in information and communication technology.

4 The number of students, according to educational levels in educational institutions, where the learning process takes place in shifts, was 1318 students of primary education, 148739 students of secondary education and 57760 students of higher secondary education.
Through this approach, what needs to be assessed is whether the principle of the child’s best interest has been kept as a primary consideration in the process of drafting and implementing the above-mentioned by-laws, in response to the pandemic.

Also, the human, infrastructural and financial resources were sufficient for the effective management of the situation, in the protection and guarantee of children's rights.

It is important to note that the measures taken in every field of life activity (including that of education), to fight the pandemic caused by the Covid-19 virus and any other subsequent measures, must be in proportion to the situation dictated, as well as following human rights standards.

3. FINDINGS AND PROBLEMS IN PRACTICE

Taking into account the long-standing discourse of guaranteeing children's rights, to make possible the functioning of the consolidated democratic system, through continuous education, in respect of their rights, even in the pandemic period by educational institutions, as well as in order to have an impartial approach, the correctness of all state bodies foreseen by the legislation on pre-university education is stated. The identified problems closely related to the Covid-19 pandemic resulted in the violation of children's rights, related to:

• The right of the child to be educated;
• The rights of children with disabilities;
• The child's right to be protected from any form of violence;
• The right to life and normal development of the child;
• The right to life and health of minors in conflict with the law and deprived of their liberty;
• Protection of children placed in residential social care institutions.

Despite the efforts of the responsible educational institutions, through the measures taken to guarantee the right to education, the educational infrastructure of our country inherits enough problems, which, in a way, turn into hindering factors, to make it possible to acquire the new approach. This is also in the context of the social economic circumstances in which the family develops as a social structure in our country. This is mainly related to the limited socio-economic opportunities to own electronic equipment or Internet lines, as well as the lack of necessary spaces in family environments. This has led to the loss of access for many children to follow and attend online lessons. The whole process in itself is a change and a challenge, both for the children and the teachers, and adapting to the new educational development process requires the right time, which is accompanied by anxiety and stress in the children. Precisely, this element has not been evaluated as well as how it would affect the child’s conjunctive and health development.

4. CHILDREN’S RIGHTS – THE RIGHT TO EDUCATION

Education is valued as a human right in itself and as a necessary tool for realizing other rights. A rights-based education system better fulfills its mission of quality education for all (Universal Declaration of Human Rights, 1948). Albanian legislation in the field of education has
advanced significantly in the last decade (Law no. 15/2017, 2017; Law no. 69/2012, 2012; Instruction no. 25, 2018; Decision of the Council of Ministers no. 98, 2019; Decision of the Council of Ministers no. 99, 2019; Decision of the Council of Ministers no. 540, 2018; Instruction no. 13, 2019). The legislative changes are mainly focused on the fulfillment of important reforms such as a competency-based curriculum, transparent and merit-based recruitment of teachers, the new governing structure of the pre-university education system, as well as the improvement of education services for citizens.

In this sense, the Ministry of Education and Sports and the dependent institutions for the education sector aim to build a comprehensive education system, which successfully addresses the individual needs of all children, pupils and students, treating them equally and with respect for diversity. Inclusion and equality are necessary prerequisites to ensure the quality education of all individuals and to narrow the educational achievement gap between different social groups. Every child within the territory of the Republic of Albania should be offered a quality and decent education, in which the student's interest is primarily in the activities of the institutions of the pre-university education system.

In this spirit, the child has the right to access and attend free, quality education, based on equal opportunities and without discrimination, under his age and ability to understand. Education must be developed, to improve knowledge in respect of basic human rights and freedoms, according to international and local standards. Also, during and after the learning and educational process, the child must be treated with dignity by every actor and institution that deals with children.

5. CONCLUSION AND RECOMMENDATIONS

So that children's education is carried out in a peaceful environment, guaranteeing their right to be educated, based on the best interest of the child, following articles 18 and 28 of the Convention on the Rights of the Child (United Nations, 1989) as well as the Albanian Law no. 18/2017 (2017) "On the rights and protection of the child", the responsible institutions are required to take the necessary legal and procedural steps; the gist of it is that everything proposed, as a measure to be undertaken, is embodied in actions concrete from the responsible state institutions so that not only the pandemic, but any other circumstance, does not prevent the achievement of the Sustainable Development Objectives settled in the Agenda 2030 of the UN (SDG 4) for education in our country.

The public authorities must take measures to create suitable environments for effective learning, through the improvement and expansion of the school infrastructure, making it possible to:
• to ensure that all schools have the functional infrastructure for the use of information (computers, laptops, smart tablets);
• to have high-speed internet and the possibility of online access;
• to have technical support that ensures efficient use of the infrastructure;
• to have access to education portals, in accordance with the planned curriculum;
• to have access to portals for students with different abilities.

freedoms. It should develop understanding, tolerance and friendship between all nations, races and religious groups and further the peacekeeping activities of the United Nations.
Guaranteeing children the exercise of these rights is a challenge in itself, especially in cases of crisis, pandemic, or emergencies. Therefore, especially the rights of children, concerning the situation we found ourselves in during the Covid-19 pandemic, cannot be ignored, overlooked, or violated. Therefore, it is the primary duty of the responsible state institutions to deal with new challenges, either in the institutional or in the legal aspect. Meanwhile, attention is being paid to the well-being of children and youth in Albania who continue to face challenges exacerbated by the Covid-19 pandemic. The lack of budget forecasts, following the relevant activities foreseen in the national strategies and plans, which directly affect the lives of children and, as a result, the lack of services in the community have brought more challenges that require the most appropriate solutions in the dynamics of development and children's needs.

**References**

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Instruction no. 13, dated 22.05.2019 of the Minister of Education, Sport and Youth, "On the procedures for accepting and appointing a teacher to a vacant position in public educational institutions of preliminary education and for the administration of the portal "Teachers for Albania", amended. (2019).


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Additional reading


Directive no. 10, dated 25.2.2015, “On the ways, forms of cooperation and intervention procedures to assist children at risk for the main institutions and structures responsible for child protection” co-nomination of four ministers, according to state responsibility areas (2015).


Decision no. 148, dated 13.3.2018, of Council of Ministers, “On establishing rules of cooperation among the institutional mechanisms, structures for the protection of children at the local level and non-profitable organizations to execute national and local policies as well as for the necessary services on child protection” (2018).