

LEGAL GROUNDS IN FAVOUR OF EDUCATION AND SOCIAL INTEGRATION THROUGH PHYSICAL EDUCATION

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Abstract. The Romanian legislation, in line with the international norms, provides the child with the right to education and to plenary, harmonious development of personality, vocations, mental and physical skills. All components of physical health - social, mental, emotional and spiritual health - alongside an active lifestyle contribute to the fulfilment of the above mentioned goals. The article is a plea based on legal Romanian grounds for physical education which the child has the right and possibility to practice in an organized setting - the school. We also discuss some causes for which quite a few parents in Romania encourage or support children not to attend the physical education classes under multiple pretexts, emphasizing the negative effects that such an attitude has upon society.

Keywords: right; physical education; child; development; health; society

1. General considerations

The Convention on the Rights of the Child – which through its almost universal ratification has acquired unparalleled legitimacy as an instrument of change (adopted by the General Assembly of the United Nations on 29 November 1989, entered into force on 2 September 1990 and ratified by Romania by Law no. 18/1990, published in the Official Gazette of Romania, Part I, no. 109 of 28 September 1990 and republished in the Official Gazette of Romania, part I, no. 314 of June 13, 2001) expressly stipulates, in articles 28 and 29, “the right of the child to education” (Convention on the Rights of the Child, 1989).

Teaching and education – to which every individual must be granted free access – have been mentioned in the *Universal Declaration of Human Rights* ever since 1948 by the United Nations as a right which must pursue “the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups” (Universal Declaration of Human Rights, 1948). All these are qualities that can be better acquired by one of the components of education – physical education.

Education is defined as “the set of measures that are systematically taken to form and develop the intellectual, moral or physical attributes of children and youth” (Academia Română, 1989). As a component of the individual development process and of general training - alongside the intellectual, aesthetic, moral and technical ones, having implications in all aspects of the human personality shaping – physical education plays¹⁾, by its positive outcome, a significant role in increasing the well-being and development of the individual and of society.

2. Legal documents that support physical education as a key factor of health, education, performance and social integration

The beneficial effects that physical education activities – whether they are school competitions, sports demonstrations or any other form of manifestation, have upon the individual’s education, health, ability to socialize and, implicitly, upon society, explain the interest governments worldwide show in order to create the conditions for the development of sport and the implementation of its specific functions (Ministry of Youth and Sport, 2016).

Performed in a special, motivational environment and under favourable conditions, physical education can improve the individual’s spirit of initiative, feeling of independence, self-esteem and personal identity starting from an early age. The sundry skills acquired through physical education activities are “a valuable resource for achieving goals belonging to different areas of the social life, under the present circumstances where competition is a fundamental criterion that goes beyond sports arena” (Ministry of Youth and Sport, 2016: 21). By contributing to the individual’s development from all points of view and in all aspects, physical education and sport are acknowledged as “forms of manifestation of human rights” (Ministry of Youth and Sport, 2016: 7). The concern for physical education activities as a key factor of health – as the *engine* and requisite for all other achievements in life – of education, performance and social integration is visible at the highest European forums.

The European Council in its *Nice Declaration, Annex IV – Declaration on the specific characteristics of sport and its social function in Europe, of which account should be taken in implementing common policies* – acknowledges sport as “a human activity resting on fundamental social, educational and cultural values” and as a factor that aims for „integration, involvement in social life, tolerance, acceptance of differences” (European Council, 2000).

In its *White Paper on Sport* the European Commission acknowledges “the important role of sport in European society” (European Commission, 2007), asserts that “time spent in sport activities at school and at university produces health and education benefits which need to be enhanced” (European Commission, 2007: 5) and makes it clear that “the Community must, in its action under the various Treaty provisions, take account of the social, educational and cultural functions inherent in sport and make it special, in order that the code of ethics and the solidarity essential

to the preservation of its social role may be respected and nurtured” (European Commission, 2007: 2).

The role and importance of physical education and sport are even better highlighted by the *Resolution of 8 May 2008 of the European Parliament on the White Paper on Sport*: “sport has a special role in society as an instrument of social inclusion and integration, [...] it constitutes an important instrument for promoting intercultural dialogue and makes an outstanding contribution to the development and promotion of important societal, cultural and educational values, such as fairness, tolerance and mutual respect, solidarity, respect for rules, team spirit, and self-discipline, [...] it plays a particularly important role in European society in terms of health, education, social integration and cultural values [...]” (European Parliament Resolution, 2008).

The Treaty of Lisbon, signed by the member states on 13 December 2007 and entered into force on 1 December 2009, in Title XII – *Education, Professional Training, Youth and Sport*, article 165 (Official Journal of the European Union, 2010), also acknowledges the social and educational function of sport and stipulates that the European Union’s task is to develop the European dimension of sport.

In Romania physical education and sports are activities of national interest, the right to practice them is guaranteed by the state by the Law of Physical Education and Sport (Law no.69/2000, art. 2, paragraph (1)) and, the Law of National Education (Law no.1/2011), stipulates, in art. 3, Title I *General provisions*, the principle of *promoting education for health, including physical education and sports activities* as a governing principle of pre-university and higher education as well as lifelong learning.

There are institutions that have taken measures to achieve this goal of promoting physical activity and sport as a prerequisite of education and health: the Ministry of Youth and Sport initiates programs and creates the organizational framework for stimulating the population’s interest in practicing physical exercise, in conjunction with the development of the necessary infrastructure and the diversification of the human resources qualifications involved; the Ministry of National Education and Scientific Research, by its legislative and administrative measures, aimed at the same purpose of harmonious intellectual, moral and physical development.

The program of the governing party²⁾ proposes a minimum number of physical education classes – mandatory discipline throughout the education system – growing gradually for each educational level, as well as the reintroduction of the physical education assessment at the baccalaureate examination.

The promotion of the concept of an active lifestyle requires close cooperation between the ministries of health, education and those responsible for youth and sport, cooperation which can be translated into measures that should be consistent with the protection and promotion of children’s rights to education and training, healthcare, physical and socio-cultural development.

With strict reference to the issue of protection and promotion of children’s rights to education under all its aspects and development, we can state that the legislative

and administrative measures of the various regional or national entities are in close correlation with:

(1) Romania's Constitution, art. 49 – *Protection of children and young people*, paragraph (5), where they state that “public authorities are bound to contribute in order to secure the conditions for the free participation of young people in the political, social, economic, cultural and sports life of the country.”³⁾

(2) Law no. 272/2004 on the protection and promotion of the child rights, subsequently amended and supplemented, introduces a new vision of childhood in Romania⁴⁾ and also “[...] regulates the legal framework regarding the observance, promotion and safeguarding of the child rights [...] established by the Constitution and law, in accordance with the provisions of the United Nations Convention on the Rights of the Child, ratified by Law no. 18/1990, republished, with the subsequent amendments, and with other international stipulations in the field to which Romania is a party.”⁵⁾

(3) Law of Physical Education and Sport, no.69/2000, that in Title II - *Organization of physical education and sport*, Chapter I, *Physical Education and School and University Sports*, art. 6, paragraph 3 (a), states the “promotion of the educational valences of sport”. (Law no.69/2000)⁶⁾

(4) *The National Strategy for the Protection and Promotion of the Rights of the Child for the Period 2014 – 2020*, 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, 2015,⁷⁾ in the development of which an important role was played by the principles of the European Union's Strategy – Europe 2020.

3. Some issues on the factual situation in the Romanian school

The harmonious physical and mental development, the senses of self improvement and autonomy, of self-control, of fair play, the acquisition, development and improvement of new skills and competences, the ability to manage competitive contexts and challenges are qualities that individuals revere at their fellows. Due to the experiences faced, physical education and sports develop qualities that parents want for their children and that society values (perseverance, ambition, responsibility, solidarity, empathy, emotional balance, team spirit, increased self-esteem with effects visible in all aspects of social life, the courage to face new challenges, the ability to manage time and effort, to cooperate, to focus, to react physically and emotionally in an appropriate manner), but whose absence, unfortunately, is sometimes noticed when it is too late. Last but not least in a long list of benefits is the state of happiness, scientifically demonstrated to be incurred by physical activity and so much important nowadays when millions of young people suffer from depressive disorder caused by the lack of an active life.

All civilized countries show a great deal of interest for the pursuit of sporting activities: programs are initiated and organizational frameworks are created to meet the aspirations and needs of all population groups.

Let's consider the Americans, for instance, to understand to what extent they value and how much they do for the young generation to take part in sports activities organized from

the primary education level to university. Youth are not exempted from these activities, even more, they are encouraged by the family who participate as supporters of the various organized events.

Famous universities, to which many Romania students have been lately applying, have teams of students that represent them in inter-university competitions. On the Yale University Web site one can read: “Yale has over 30 men’s and women’s varsity teams; over 40 club sports and undergraduate and graduate intramural programs”⁸⁾. Examples may continue with universities as famous in the United Kingdom, Germany, Switzerland, and France where students attend tens of sports activities that take place weekly on hundreds of square meters of sports facilities⁹⁾. Of course, tradition plays its role.

In Romania, although the legislative framework was harmonized with the Community regulations, an essential objective of the country’s “accession strategy for membership of the European Union and at the same time a legal obligation assumed by the Romania – European Union Agreement of European Association, ratified by Law no. 20/1993” (Fircă, 2013) the state of facts is rather different. There are parents who are doing all sorts of schemes to exempt their children from attending physical education and sport classes or any other sports activities organized by school, disregarding the fact that “schools have been acknowledged as the primary institution with responsibility for promoting activity in young people and more specifically, school physical education has been recognized as having a key role to play” (Cale and Harris, 2006).

This happens – most particularly during primary and secondary school – for several reasons: on one hand, there are those families who disregard physical education and understate the importance of these classes under the claim that they bring no intellectual benefit. For people who reckon that reading a book or solving some math or physics problems is more beneficial for the child’s future, physical education is a useless activity where children sweat, get dirty and tired. They discourage children from participating in such activities, still being under the influence of an outdated view according to which drawing, music, calligraphy, gymnastics, household and hand-work classes were subjects rated as secondary in the curriculum. Romanians used to name such classes *dexterităţi* but the irony is that dictionaries defined the word as: “The object of education [...] which aims to develop the students’ artistic and the practical skills” (Academia Română, 1989) and that, although the term is rated as “out of use”, the idea still prevails.

On the other hand, there are those parents who pretend that they protect their children – it is the case of those who are plump or less lively – from being the laughing stock of the others. Unfortunately, the bad habit of not practicing a sport will become a way of life that children will perpetuate during high school, university - where physical education classes are also disregarded – and even later as adults until, feeling unwell for various reasons, they come to blame family for their poor health condition or appearance.

There are some facts that parents overlook when they act like this: (1) that physical activity serves and supports the intellectual, moral, and psychological development and shapes the character, traits appreciated by society; (2) that according to scientific researches

(Greenberg, Dintiman and Myers, 2004: 9), an unhealthy lifestyle - which means the lack of regular physical activity - is responsible, in an overwhelming proportion of 50%, for serious diseases like cancer, stroke, heart diseases; (3) that individuals' health condition caused by lack of physical exercise deteriorates and that, as a consequence, this puts a burden on the health budgets" (European Parliament Resolution, 2008) of the state.

It is enough to quote the *National Strategy for the Protection and Promotion of the Rights of the Child for the period 2014 – 2020* paragraph referring to the current situation in Romania, to see where we are heading: "The World Health Organization recommends for children between 5 – 17 at least one hour of moderate or intense daily physical activity, emphasizing that a constant practice of a form of physical activity has beneficial effects on the body. In Romania, only 32% of 11-year-old boys and 20% of the same-age girls declare that fall within the recommended physical activity level and the situation deteriorates with age, reaching 7% girls and 16% boys at the age of 15." (Ministry of Labour, Family, Social and the Elderly Protection, 2014).

It is obvious that the social system of the decades to come that will rely on today's youth, whose turn will be to "do the job" and to produce and supply for society, will bear the burden of such attitudes where many families, more or less consciously, impede their children's growing as active persons. This is out rightly stated in the *Principles of the National Strategy for the Protection and Promotion of the Rights of the Child for the period 2014 – 2020*, paragraph 8 – *Equity and transparency of budgeting/financial allocations for children*: "children's state of health, education and social inclusion directly impact both on the present social costs and on the future development of society, and the constant and equitable financing of the measures aimed at their harmonious development is one of the effective ways of fulfilling the obligations state assumed in the matter of the protection of the child rights." (Ministry of Labour, Family, Social and the Elderly Protection, 2014).

Conclusions

Few parents are aware of other components of health, as important as physical health which "is not the total picture: *Social health* – the ability to interact well with people and the environment, to have satisfying interpersonal relationships; *Mental health* – the ability to learn and grow intellectually. Life's experiences enhance mental health; *Emotional health* – the ability to control emotions so that you feel comfortable expressing them and can express them appropriately. Conversely, emotional health is the ability to avoid expressing emotions when it is inappropriate to do so. *Spiritual health* – a belief in some unifying force which varies from person to person but has the concept of faith at its core. Faith is a feeling of connection to other humans, of a purpose to life, of a quest for meaning in life." (Greenberg, 2004: 7)

Therefore, by discouraging children from attending physical education classes or by agreeing to their reluctance to such classes, parents confine, without ill will in some cases, of course, other rights of the child stipulated in Article 2, paragraph 2, Chapter I *General Provisions and Definitions* of Law no. 272/2004: to grow healthy and "to receive that type

of education that allows him to develop [...] his abilities and personality” in accordance with Chapter II *Child Rights*, Section 3 *Health and Welfare*, and Section 4 *Education, Recreational and Cultural Activities* of Law no. 272/2004.

Unless the healthy lifestyle habits are formed at an early age, given the current conditions when children are increasingly sedentary due to school curriculum requirements or their dependence on modern technology, it is barely likely that as adults they will change their lifestyle for better but it is very sure that they will be a burden to their family and to society.

NOTES

1. Physical education aims “to ensure the harmonious physical development of individuals, to strengthen health, to train and improve the knowledge, skill and mobility necessary both for work and sports.” (DEX, 1989). Retrieved from: <https://dexonline.ro/definitie/educa%C8%9Bie>
2. Programul de guvernare al PSD și ALDE 2017 – 2020, București, 2017, p. 165. http://www.cdep.ro/pdfs/guv201706/Program_de_Guvernare.pdf
3. Romania’s Constitution, Title II *Rights, freedoms and duties Fundamental Rights and Freedoms*. Retrieved from: http://www.cdep.ro/pls/dic/site.page?den=act2_1&parl=2.
4. Law no. 272/2004 stipulates that the rights of the child are part of the human rights category. As a novelty, unlike previous legislation which only contained provisions for disabled children, the current legislation extends its provisions to all children. Law stresses that parents are primarily responsible for the growth, care and child development.
5. Law no. 272/2004 on the protection and promotion of the child rights was published in the Official Gazette of Romania, Part I, no. 557 of 23 June 2004 and was amended by Law no. 71/2011 for the implementation of Law no. 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, no. 409 of 10 June 2011, rectified in the Official Gazette of Romania, Part I, no. 489 of 8 July 2011, as subsequently amended and supplemented, by Law no. 197/2012 on quality assurance in the field of social services, published in the Official Gazette of Romania, Part I, no. 754 of 9 November 2012, and by Law no. 187/2012 for the implementation of Law no. 286/2009 on the Criminal Code, published in the Official Gazette of Romania, Part I, no. 757 of November 12, 2012, rectified in the Official Gazette of Romania, Part I, no. 117 of March 1, 2013, as amended. Retrieved from: http://www.dreptonline.ro/legislatie/legea_protectiei_copilului.php
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