

Daniel Polihronov

ORCID: 0000-0001-9670-5774

Sofia University "St. Kliment Ohridski"

Sofia, Bulgaria

d.polihronov@fp.uni-sofia.bg

**THE BULGARIAN LEGAL FRAMEWORK DETERMINING
THE SPECIFICITY OF PEDAGOGICAL WORK**<https://doi.org/10.34739/sn.2023.23.02>

Abstract: The article provides an overview of the legal framework that regulates the management, organisation and conduct of the educational process in the conditions of a pre-school multicultural environment. Basic legal provisions outlining the general rules for behaviour of subjects in the multicultural kindergarten's educational process are presented.

Keywords: *legal framework, law interpretation, pedagogical work, multicultural environment*

The kindergarten has a defining role in the formation and development of competences related to tolerance and intercultural dialogue in a multicultural environment. The legal framework in the Republic of Bulgaria largely succeeds in meeting the needs of the society for the incorporation of different cultural, ethnic and religious communities. However, the proper interpretation and application of this legal framework remains a challenge.

The legal framework is a strictly constructed pyramid in which each legal act takes a strictly defined place. It includes:

- *The Constitution of the Republic of Bulgaria (CRB)* as supreme law, which other normative acts cannot contradict [Article 5, para. 1, CRB]. Its provisions have direct effect [Art. 5, para. 2, CRB]. "It regulates the organisation, principles, powers and obligations of state institutions, as well as the rights and duties of citizens" [<https://e-justice.europa.eu/>].
- *"International treaties*, constitutionally ratified, promulgated and having come into force as for the Republic of Bulgaria, are a part of

the domestic law of the country. They take precedence over any conflicting norms of domestic legislation” [Art. 5, para. 4, CRB].

- *Acts of the bodies of the European Union:*
 - *regulations* – they have general application, are binding in their entirety and are directly applicable in all Member States;
 - *directives* have a binding force, as to the result to be achieved, upon each Member State to which they are addressed, but give an opportunity to choose the forms and methods of their implementation;
 - *decisions* – their force is binding in their entirety only on the persons to whom they are addressed;
 - *recommendations and opinions* – they have no binding force [Art. 288 of the Treaty on the Functioning of the European Union].
- *Normative legal acts:*
 - *laws* governing “primarily or on the basis of the Constitution, public relations that are susceptible to permanent regulation, according to the subject-matter or subjects in one or several law institutes or their subdivisions” [Art. 3, Para. 1, Law on Normative Acts (LNA)];
 - *codes* that regulate “public relations, subject of an entire branch of the legal system or of a separate section of it” [Art. 4, para. 1, LNA].
- *By-laws:*
 - *decrees* – they are issued by the Council of Ministers when “it adopts rules, ordinances or instructions” or when “it manages, in accordance with the laws, public relations unsettled by them in the field of its executive activities and orders” [Art. 6, LNA];
 - *rules* issued “for the implementation of a law in its entirety, for the organisation of state and local authorities or for the internal procedure of their activity” [Art. 7, para. 1, LNA];
 - *ordinances* – “for the implementation of particular orders or subdivisions of a normative act of a higher level” [Art. 7, para. 2, LNA];
 - *instructions* – with them “a superior authority gives instructions to subordinate authorities regarding the implementation of a normative act which it has issued or whose implementation it shall ensure” [Art. 7, para. 3, LNA].

Knowing the hierarchy of normative acts has an important significance for working with them. *Legal acts with a lower rank have lower legal force than those with a higher rank and cannot contradict them.*

Subject matter of this topic are mainly the **national normative documents** (*the Constitution, normative legal acts and by-laws*). **Strategic documents** are not considered, as they have no legal force and *are not mandatory for implementation*. **The international regulations**, including the acts of the European Union, are considered as *the first source, the reason and the context*. Most of them have been *transposed* into our national legislation.

Non-discrimination is a basic principle underlying the provisions of a number of international and national legal acts – Universal Declaration of Human Rights, European Convention on Human Rights, Constitution of the Republic of Bulgaria, Law on Protection from Discrimination, Law on Preschool and School Education and etc.

Anti-discrimination policies in education find expression in the political and conceptual bases for implementation of the **idea of “equal access to quality education”** [see, in more detail: Chavdarova-Kostova, 2011, p. 6], understood as “overly generalising the expectations of its users in order to obtain possibly the most optimal results from the efforts not simply and not only of teachers and students, but of all those related to the organisation of children’s proper development, i.e. international organisations, state and non-governmental institutions and organisations, local authorities, parents, the public in general” [ibidem, p. 111].

The equal access to education is a right, guaranteed by the provisions of art. 53 of the **Constitution of the Republic of Bulgaria**. It is compulsory for citizens up to 16-years-old and free of charge if attending state and municipal educational institutions.

The Law on Preschool and School education (LPSE) „regulates the social relationships concerning the safeguarding of the right to preschool and school education, as well as the structure, functions, organisation, management and financing of the preschool and school education system” [Art. 1, LPSE], which includes “the participants in the educational process and the institutions, as well as their relationships and linkages with a view to attaining education objectives” [Art. 2, para. 1, LPSE].

Parents are full participants in the educational process along with children, students, teachers, principals and other pedagogical specialists [Art. 2, para. 2, LPSE]. The LPSE determines their rights and obligations in relation to the exercise of that role. According to art. 209 of the LPSE, parents have the following rights: to periodically and timely receive information on the success and development of their children in the educational process, on the observance of the rules, and on their inclusion in the community; to meet the leadership, the class teacher, teachers and the other pedagogical specialists, during designated reception time or at another time convenient to both sides; to be aware of the school syllabus; to attend and, if they wish, to be heard when decisions concerning rights and interests of the pupil are taken; at least once a year, to receive information, support and counselling at the school on issues related to the education and personal development of their children. Along with these rights, in art. 210 LPSE also sets correlative obligations for parents: to ensure the regular attendance of the pupil at school, notifying in cases of absence in due course; to enrol the child in first grade; to regularly inform themselves of their children's inclusion in the school environment, of their success and development in education and of their observance of the school rules; to take part in the process of building self-study habits as part of building lifelong learning skills. Parents support the work of the personality development support team at school, providing additional support to pupils from ethnic minorities [Art. 188, LPSE].

The main principles laid down in the LPSE, which are related to the specific aspects of working with vulnerable groups in the conditions of a multicultural environment, are:

- "Orientation to the interest and motivation of the child and the pupil, to the age and social changes in their lives, as well as to their ability to apply the competences they have mastered in practice" [Art. 3, para. 2, item 2, LPSE];
- "Equal access to quality education and inclusion of every child and every pupil" [Art. 3, para. 2, item 3, LPSE];
- "Equality and non-discrimination in pre-school and school education" [Art. 3, para. 2, item 4, LPSE];

- “Preservation and development of the Bulgarian educational tradition” [Art. 3, para. 2, item 5, LPSE];
- “Humanism and tolerance” [Art. 3, para. 2, item 6, LPSE];
- “Preservation of cultural diversity and inclusion through the Bulgarian language” [Art. 3, para. 2, item 7, LPSE].

The mandatory requirements for the results of the educational process and for the conditions and processes for their attainment are referred to in art. 22 of the LPSE, **19 state education standards** are formulated and legally enshrined in regulations. Important accents related to the specifics of the organisation, management and conduct of the educational process with vulnerable groups in a multicultural environment are laid down in the regulations defining the state educational standards for: preschool education; mastering of the Bulgarian literary language; inclusive education; civic, health, environmental and intercultural education; and physical environment and information and library provision of kindergartens, schools and personal development support centres.

With the adoption of the LPSE and **the state educational standard for inclusive education** [Ordinance on inclusive education, 2016, new – 2017] in pedagogical theory and practice, the use of the term “*inclusive education*” is imposed and legally defined as “a process of awareness, acceptance and support of the individuality of each child or pupil and of the diversity of needs of all children and pupils, by activating and involvement of resources, aimed at removing barriers to learning and getting knowledge, and creating opportunities for development and participation of children and pupils in all aspects of community life” [Art. 3, para. 1, Ordinance on Inclusive Education, 2017].

On the basis of the normative definition of the term “inclusive education”, S. Chavdarova–Kostova [2019] highlights three main points:

- “The child’s *individuality and needs*”;
- “The child’s *development* – with an accent on the presence of necessary environmental conditions and overcoming barriers to learning” and
- “The child’s *participation* – as a member of a community” [Chavdarova-Kostova, 2019, p. 26].

This gives the author a reason to define “inclusive education” as an “umbrella concept” [ibidem, p. 27], which includes not only “*integration of children with SEN [...], integration of children from traditional and non-traditional minorities, but is also a focus to children with other “differences”* (here a big question remains open about the *norm-difference relation personally in an educational context*), as well as *the implementation of educational activities in a variety of fields (in-school and out-of-school)*” [ibidem, p. 32]. “Highlighting the concept “support of personal development”, as well as components of overall content of the ordinance, give to anyone dealing with educational issues the opportunity to find at least several leading aspects of education theory - for example, principles of education, methods of education, civic education, intercultural education, moral education” [ibidem, 29].

The Ordinance on Inclusive Education regulates the provision of *general and additional support for personal development* of children and students, “which provides appropriate physical, psychological and social environment for development of their abilities and skills” [Art. 4, para. 1, Ordinance on Inclusive Education, 2017].

A manifestation of the systematic and holistic approach of educational institutions in terms of organisation and cooperation in the field of inclusive education is the *parents’ participation* in the educational process [Art. 3, para. 2, Ordinance on Inclusive Education, 2017]. It guarantees the cooperation between all participants in the process of inclusive education and is manifested in the organising and coordination of activities and events in school for the students, the school and the parent community aimed at the change in attitudes and accepting the difference, as well as the expression of students’ talents [Art. 7, para. 4, item 13, Ordinance on Inclusive Education, 2017]. In order to provide general support for personal development, as well as for student’s individual support, activities for environmental impact are applied. Through working together with the family, overcoming the problematic child’s behaviour is attained, as well as coping with his/her difficulties in inclusion in the educational process, with his/her participation in kindergarten activities and with the behaviour.

Conditions and order for the Bulgarian language acquisition by children for whom Bulgarian is not mother tongue are defined in the **state educational standard for the acquisition of the Bulgarian literary language** in the system of preschool and school education – Ordinance 6 of 11 August 2016 on the acquisition of the Bulgarian literary language. On the basis of the constitutional provision that Bulgarian language is official in the republic [Art. 3, CRB] and it is the right and obligation of every Bulgarian citizen to study it and to use it [Art. 36, para. 1, CRB], an obligation is made to implement in Bulgarian language pre-school and school education, with the exception of the disciplines Foreign language and Mother tongue [Art. 3, para. 2, Ordinance 6 of 2016].

The legal framework does not allow the use of mother tongue in the educational process. The norms of art. 19 of the Law on Preschool and School Education and Ordinance 6 on the acquisition of the Bulgarian literary language imperatively establish the teachers' obligation to teach in the Bulgarian language and to support children and students in mastering and applying its literary language norms in all subjects, excluding Foreign Language, Mother Tongue and subjects studied in foreign language (Law on preschool and school education and Ordinance 6 of 11 August 2016 on the acquisition of the Bulgarian literary language).

The acquisition of the Bulgarian literary language takes place in all organisational forms of the preschool educational process, through: pedagogical situations and additional forms of pedagogical interaction organised according to the needs and interests of the children. This process is also carried out in the communication process in the preschool and school educational system [Art. 7, Ordinance 6 of 2016].

According to the Ordinance on the acquisition of the Bulgarian literary language, children and students from traditional and non-traditional ethnic minorities, immigrants seeking or received international protection; third country nationals are provided with *additional conditions* for the acquisition of the Bulgarian literary language in order to support their educational inclusion.

The State Educational Standard for Civic, Health, Environmental and Intercultural Education [Ordinance No. 13 of 21 September 2016] defines the essence and the objectives, the methods and forms, the framework

requirements for the outcomes and institutional policies for support of civic, health, environmental and intercultural education, taking place in the preschool and school educational system.

Intercultural education is education “aimed at acquiring knowledge about different dimensions of cultural identities and about main characteristics of intercultural relations, forming a positive attitude towards diversity in all areas of human life, as well as skills and attitudes for constructive interactions in a multicultural environment” [Art. 3, para. 5, Ordinance No. 13 of 21 September 2016]. It is implemented in all age groups of preschool education, and is integrated in the main or additional forms of pedagogical interaction, or as a separate educational field within the framework of an innovative or proprietary programme system [Art. 5, para. 1, Ordinance No. 13 of 21 September 2016].

Institutional policies to support civic and intercultural education are “aimed at building and maintaining a democratic school organisational culture that encourages compliance with shared rules, procedures, traditions and collective values” [Art. 16, para. 1, Ordinance No. 13 of 21 September 2016]. They include:

- various traditions, values, symbols and rituals related to belonging to the educational institution [Art. 16, para. 2];
- supporting children’s initiative and participation in organising volunteer activities, campaigns, holidays and events in the kindergarten, activities of interests [Art. 16, para. 2];
- support of the multicultural environment by preventing the formation of separate groups on the basis of ethnicity [Art. 18, para. 2].

The broad interpretation of art. 18, para. 4 encourages inter-institutional cooperation to act for creating intercultural forms of joint activity with other educational institutions.

The Ordinance No. 5 of 3 June 2016 on preschool education determines the state educational standard for preschool education, the organisation of activities, the requirements for implementation of a programme system and the mechanism for interaction between the participants in the process of preschool education [Art. 1, para. 1, Ordinance No. 5 of 3 June 2016]. *The state educational standard for preschool education* “is a set of requirements for the learning outcomes and it determines:

- 1) the educational areas in which pre-school education is carried out;
- 2) the objectives and content of different educational areas;
- 3) the requirements concerning learning outcomes for each educational area in the respective age groups” [Art. 1, para. 2, Ordinance No. 5 of 3 June 2016].

Ordinance No. 5 of 3 June 2016 on preschool education outlines the framework of work in the various educational areas. Some of the guidelines for the teacher given in the ordinance and in relation to the problem of vulnerable groups’ inclusion in a multicultural environment are:

- “Practical mastery of Bulgarian language is the foundation for communicating. The results of speech development make possible the integration of children with mother tongue other than Bulgarian, as well as their further realisation in school education” [Appendix No. 1 to art. 28, para. 2, item 1, Ordinance No. 5 of 3 June 2016].
- Expected outcomes from the educational core “Self-affirmation and communication with others” in the educational area “Environment world”: for second age group – “the child has a concrete idea of children with differences and assists others in the process of self-affirmation”; for third age group – “the child has a concrete idea of demonstrating trust and tolerance towards the other”; for fourth age group – “the child demonstrates tolerance towards children and adults with differences” [Appendix No. 3 to art. 28, para. 2, item 3, Ordinance No. 5 of 3 June 2016].
- “It is valuable to educate in the other children the necessity of personal attitude to experience. Thus, trust and tolerance towards others provide the safety in the close social community. The child's skills to pay attention, to concentrate, to choose grounds for discussion, to try assumptions which lead to the ability to align his/her point of view with others are realised” [ibidem].

The specificity of pedagogical work with vulnerable groups is manifested in the *variability of the children's teacher in the educational process*. The variety of methodological approaches and forms is difficult to regulate and should not be derived as a unified model suitable for all work conditions, with a specific group in the kindergarten. Therefore, the teacher's attention is focused on the possibility of variability in the application of

specific methodologies and resources in the specific teaching situations. Thus, the optimal implementation of intercultural education which implies effective inclusion of the various vulnerable groups of children will be achieved.

In fulfilling the requirements of the qualification framework (**Ordinance No. 15 of 22 July 2019 on the status and professional development of teachers, principals and other pedagogical specialists**), teachers pursue their career development, but have no motivation for thematic programmes. Professional qualifications are related to career development, but they are not sufficient to expand and specify the professional competence of teachers to work with vulnerable groups in a multicultural environment. Practice shows that pedagogical specialists need qualification courses, more specifically, *thematic programmes related to the specifics of work in a multicultural environment, as well as the inclusion of qualification courses that offer different forms of cooperation with the family, in which parents can be engaged as active participants in the educational process*. However, they are often neglected and are not a priority when choosing extra-institutional qualification forms for pedagogical specialists [Polihronov, 2021, p 171-172].

The establishing and functioning of a permanent *mechanism for cooperation of the institutions on coverage, inclusion and prevention of dropout of compulsory preschool and school age children and students from the educational system, is regulated in Decree No. 100 of 8 June 2018*. The mechanism is applicable “with regard to children and students who are not enrolled in the educational system, for whom there is a risk of dropout from school and kindergarten or who leave education early” [Art. 1, para. 2, Decree No. 100 of 8 June 2018]. The established mechanism implies active inter-institutional interaction for applying a complex of measures for coverage, inclusion and prevention of dropout from the educational system. According to art. 3 *teams for institutional joint work for enrolment and inclusion in the educational system*, coordinated with the directors of the relevant educational institutions propose measures for the coverage, reintegration and prevention of dropout of compulsory preschool and school age children and students from the educational system.

They are involved in: planning of parent visitation schedule; systemic and active interaction with the family; determining the cause of dropout or the risk of dropout; the involvement of mediators and local communities; taking additional measures for applying a complex approach; analysing the outcomes and studying the effectiveness of the applied measures.

On the basis of the review of the legal framework, implementing the various types of interpretation as the main legal method for working with legal acts, we can outline the following conclusions and generalisations:

1. **The teleological interpretation** of the legal acts which are related to the specifics of working with vulnerable groups in a multicultural environment points to **an inclusive strategy** oriented towards *"awareness, acceptance and support of the individuality of each child or pupil and the variety of needs of all children and pupils by activating and inclusion of resources aimed at removing the obstacles to studying and learning and at creating opportunities for development and participation of children and pupils in all aspects of community life"* [Art. 3, para. 1, Ordinance on inclusive education]. Thus, the idea of equal access to education is realised.
2. The contemporary model for working in a multicultural environment can be inferred on the basis of the **systematic interpretation** of the normative documents. It requires implementation of the *pedagogical interaction in the teacher-student-parent triad*, which in the separate constructs is determined by various factors: *the institutions, non-governmental organisations, the criteria requirements of the legal framework and the cultural and informational environment*. The influence between the *pedagogical and the family environment is interdependent and has the characteristics of interfering superimposition*, taking into account the new role of the *parent as a full participant in the educational process*.
3. Pedagogical work with vulnerable groups in a multicultural environment is realised in the context of national and European normative documents with a focus on the **competence approach** perceived in the contemporary educational model.
4. **The logical interpretation** of the normative and strategic documents through inductive synthesis leads to *providing a positive educational*

environment through a synergetic, holistic, systematic, individualised and differentiated approach in education, oriented towards general and additional psychological-pedagogical (including and with emphasis – linguistic) support for subsequent personal, social and professional realisation.

In conclusion, the review of the legal framework, regulating the specifics of work in a multicultural environment does not claim to be comprehensive. The report presents main statements coherent with **the concept of inclusive education** as *a reflection of the new social attitudes, related to the global competency of every citizen of the contemporary society to understand his/her place in the world and to accept and respect the "differences" of others in the name of the common good.*

Literature:

- Chavdarova-Kostova S. (2011), *The idea of "Equal access to education". Political and conceptual grounds*, University Publishing House "St. Kliment Ohridski", Sofia.
- Chavdarova-Kostova S. (2019), *Inclusive education*, University Publishing House "St. Kliment Ohridski", Sofia.
- Polihronov D. (2021), *Pedagogical Technologies for Stimulating Literacy in Multicultural Preschool, School and Family Environments*, University Publishing House "St. Kliment Ohridski", Sofia.

Legal acts:

- Anti-Discrimination Act. In force from 01.01.2004 Promulgated, State Gazette, issue 86 of 30 September 2003, (...) amended, State Gazette, issue 7 of 19 January 2018.
- Constitution of the Republic of Bulgaria. In force from 13.07.1991. Publ. SG. 56/13 July 1991, (...) amend. and add. SG. 100 / 18 December 2015.
- Decree No. 100 of 8 June 2018 on the establishment and functioning of mechanism for cooperation of institutions on coverage, inclusion and prevention of dropout of compulsory preschool and school age children and students from the educational system. Prom. SG, issue 50 of 15 June 2018, amend. and add. SG, issue 82 of 18 October 2019.
- Decree No. 883 of 24.04.1974 on the application of the Law on normative acts. Promulgated, SG, issue 39 of 21.05.1974, [...] amended and supplemented, no. 46 of 12.06.2007.

- Law on normative legal acts. Publ. SG. 27 /3 April 1973 (...) amend. and add. SG. 34/ 3 May 2016.
- Law on preschool and school education. Effective from 01.08.2016. Prom. SG. No. 79 of 13 October 2015, (...) amend. and add. SG. No. 82 of 18 September 2020.
- Ordinance No. 13 of 21 September 2016 on civic, health, environmental and intercultural education. In force from 11.10.2016. Promulgated, State Gazette, issue 80 of 11 October 2016, amended. and add. SG, issue 80 of 28 September 2018.
- Ordinance No. 15 of July 22, 2019 on the status and professional development of teachers, principals and other pedagogical specialists. In force from 02.08.2019. Prom. SG, issue 61 of 2 August 2019, (...) amended. and add. SG, issue 80 of 24 September 2021.
- Ordinance No. 3 of 06.04.2017 on the terms and conditions for admission and education of persons seeking or having been granted international protection. Prom. State Gazette, issue 32 of 21.04.2017, in force from 21.04.2017.
- Ordinance No. 5 of 3 June 2016 on preschool education. Effective from 01.08.2016. Prom. SG. 46/ 17 June 2016, (...) amend. and add. SG. issue 75 of 10 September 2021.
- Ordinance No. 6 of 11 August 2016 on the acquisition of the Bulgarian literary language. In force from 01.09.2016. Publ. SG. issue 67 of 26 August 2016.
- Ordinance on inclusive education. Effective from 27.10.2017. Adopted by the Council of Ministers No. 232 from 20.10.2017. Promulgated, State Gazette, issue 86 of 27 October 2017, (...) amended. SG, issue 91 of 2 November 2021.
- Treaty on the Functioning of the EU. Official Journal of the European Union, C 326/49, 26.10.2012.