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CHILDREN WITH SPECIAL NEEDS IN THE CROATIAN EDUCATIONAL SYSTEM: A COMPARATIVE ANALYSIS OF THE LEGAL FRAMEWORK

Abstract: *Inclusive education implies that all children have different (special) needs which have to be met. The prerequisite for meeting those needs are legal regulations related to the education of children with special needs that are continually updated in accordance with the current scientific data.*

The aim of this research was to determine whether there are differences in legal regulation on two levels: vertical – a comparison of two subsystems (early childhood education and care and primary and secondary education) and horizontal – a comparison of two subgroups (children with disabilities and gifted children). The research conducted a qualitative comparative analysis of primary data sources (legal acts regulating the education of children with special needs in the Republic of Croatia).

The analysis showed that there is better regulation within the school education system than in the early and childhood education and care system. Also, there is better regulation relating to children with disabilities than to gifted children. The obtained results indicate the need to regulate the legal acts of the education systems and groups in order to meet children's needs.

Key words: *educational process, gifted children, inclusion, students with disabilities*

INTRODUCTION

It is generally considered that the development of a society is conditioned by the reduction of its differences. A major role in this process is played by education, the success of which depends on adjusting teaching to individual differences among children. The first step in this is to set a legal framework and to design educational measures that will enable inclusion at all levels of the educational system (Ainscow & Tweddle, 2003). Inclusion means providing learning opportunities regardless of the specific characteristics of children and adequate support in the development and acquisition of competences within the regular education system (Luketić & Karamatić Brčić, 2018). The introductory part of the paper will outline how the approach both to children with disabilities and to gifted children within education has changed over time.

Attitudes towards children (and adults) with disabilities have changed over the course of history from discriminatory through compassionate to an approach that promotes human rights (Sunko, 2016). These attitudes have been constituted into approaches or models that we can divide into: an individual/medical/humanitarian model that finds the problem in the individual (Stubbs, 2008); a social model that finds the problem, and the solution, in society and the educational system (Booth & Ainscow, 2002; Stubbs, 2008); and a human rights model (Quinn & Degener, 2002).

In the background of these changing attitudes, approaches and models, there exists a concept or paradigm, and the authors cite the following paradigms: positivistic-functionalistic versus emancipatory (Sunko, 2016) or medical-psychological versus post-positivistic (Cerić, 2008). The basis of the positivistic-functionalistic and medical-psychological paradigm is the perception of the child as a problem, that is, the placement of disabilities, not a person, in the center of attention and the creation of various special institutions that will remove or reduce these disabilities (Cerić, 2008). With descriptions of disability or difficulty as deviation from the given standards, children with disabilities are classified as less valuable, and the disability looks like their problem (Igrić, 2004).

On the other hand, other factors which led to the emergence of special needs, such as social processes, are considered within the framework of the emancipatory and post-positivistic paradigms. In other words, a wide range of barriers or obstacles to learning and participation are taken into account (Booth & Ainscow, 2002; Clark et al., 2005). The latter paradigms include freedom, human rights, integration and participation in the community and, most importantly, inclusion as a social and cultural value (Sunko, 2016). The shift from the 'medical' to the 'social and human rights' model or rather the shift from the medical-psychological to the emancipatory paradigm also implies a shift in the understanding of education. That is, the shift from education as an exclusive

process through segregated education in special institutions (Sunko, 2016) to integrated education, and then to inclusion as we know it today. Igrić (2004) says it is a shift from education in special institutions to education in a regular educational system, or as Cerić (2008) points out this is a shift from a dual to an inclusive educational system. What is extremely pedagogical in this shift is individualization, or rather taking into account the different individual needs of all children and students, regardless of their disability (Karagiannis et al., 2000, as cited in Cerić, 2008).

In other words, all children and students, indeed all individuals, have special needs and should be respected as such in the process of inclusive education. This consideration moves away from traditional ideas about the average child and a one-size-fits-all approach to teaching (Vilotijević, 1999, as cited in Jablan & Kovačević, 2008).

The aforementioned shifts in the approach towards children with disabilities, and in the paradigms on which they are based, led to a shift in the understanding of education, or rather to changes in the organization of the educational system for children with disabilities. As pointed out above, this is a shift from segregated to inclusive education. The terms that appear in this context –inclusion, educational inclusion, integration and inclusive education – are defined below.

Inclusion is a concept and process that covers a much broader area than education, but in a narrower sense denotes educational inclusion. In other words, inclusion in a broader sense refers to relations between an individual and a society and vice versa, and is defined as a process that ensures that every individual or member of a society, regardless of their opportunities, experiences and circumstances, can achieve their potential (Cerić, 2008). Many authors point out that inclusion is much more than just a term, a theory or a concept. It is rather a pedagogical-humanistic movement that seeks to create the conditions for optimal development of each individual according to their potential (Pasalić-Kreso, 2003, as cited in Cerić, 2008). It is a movement against prejudice, discrimination and segregation, a movement for tolerance and respect for diversity (Slatina, 2003, as cited in Cerić, 2008), and much more.

In a narrower sense in the context of education, inclusion refers to educational inclusion (Sindik, 2013), which is understood as a strategy for minimizing all barriers in education for all students, starting from the recognition of differences between them (Booth & Ainscow, 2002).

However, as a transitional form between the segregation of children with disabilities in special institutions and inclusion in regular educational systems, integration first emerged. Integration meant the placement of the child within the regular educational system, but did not necessarily mean adjusting the learning environment to the child (Sindik, 2013). In other words, this process entailed the physical but not the social inclusion of children with disabilities in

the regular educational system (Jablan & Kovačević, 2008). Educational inclusion, unlike integration, implies that children with and without disabilities live in the same learning environment, but also learn, play, and socialize together (Sindik, 2013). The criteria of high-quality inclusive programs, which can in our opinion serve as criteria for identifying the difference between integration and inclusion, are: access (availability of activities and learning environments), participation (belonging to a group and promotion of joint activities of all children), and support (professional development and cooperation between families and experts) (DEC NAEYC, 2009).

In accordance with the above definitions of inclusion, inclusive education is considered to be an educational environment that can respond to the needs of all children regardless of their differences (Sindik, 2013). The following researches deal with the issues related to the integration and inclusion of children with disabilities in the regular educational system:

- inclusive support for children with disabilities in early childhood education and care programs (in terms of experts) is inadequate and the term 'assistant' does not exist in the legislation on kindergartens (*Pravobraniteljica za osobe s invaliditetom*, 2019);
- staffing in schools, specifically inadequate professional support in the education and rehabilitation process due to the recruitment of too few experts (Igrić, 2004; OECD, 2007);
- classes have too many students, and teacher expertise is inappropriate, therefore there is a need to strengthen institutions through professional development of staff (OECD, 2007; *Pravobraniteljica za osobe s invaliditetom*, 2013);
- regulation of the institution of teaching assistants and certain incompleteness of regulations in this area at all educational levels (Brajša-Žganec et al., 2014).

The needs of gifted children have generally not been addressed in the regulations, although over the last twenty years educational policies have afforded them greater importance and many countries have made reforms to education in order identify gifted children and adapt to their needs and abilities (Vican, 2018). Criticism is generally levelled at the traditional approach to teaching in which the school is adjusted to the average, and attention is given to children with disabilities, but educators are inadequately trained to work with gifted children meaning that they are often neglected (Zirkel, 2004, as cited in Luketić & Karamatić Brčić, 2018).

In the early 1920s, scientific research on giftedness was related to the study of children who showed above average abilities on intelligence tests (Terman, 1925, as cited in Vizek Vidović et al., 2003). With the advent of modern definitions of intelligence, the shift from single to multiple intelligence, numerous definitions of giftedness have emerged. Gardner's model (1983, as cited in

Vizek Vidović et al., 2003) focuses on the characteristics of gifted children and describes seven different specific abilities, talents or intelligences in which a child can be gifted (logical-mathematical, verbal-linguistic, visual-spatial, bodily-kinesthetic, musical-rhythmic, interpersonal, intrapersonal). Sternberg's triarchic model (1990, as cited in Vizek Vidović et al., 2003) is a cognitive model which defines indicators of giftedness as skills of successful problem-solving and knowledge acquisition (analytical, creative and practical intelligence). Sternberg (1990, as cited in Vizek Vidović et al., 2003) states that, in addition to quantitative differences, giftedness is also manifested in a specific way of mental functioning. Renzulli's Three Ring Conception of Giftedness (1978, as cited in Vizek Vidović et al., 2003) is achievement-oriented. Renzulli (1978, as cited in Vizek Vidović et al., 2003) believes that gifted behavior is the result of the interaction of above-average general and/or specific ability, high levels of task commitment and high levels of creativity. Marland (1971, as cited in Vizek Vidović et al., 2003) points out that gifted children are those who, due to their exceptional abilities in the field of general intellectual ability, specific academic aptitude, creative or productive thinking, leadership ability, visual and performing arts and/or psychomotor ability can expect high achievements. A synthesis of the definitions of gifted children by Marland (1971) and Renzulli (1990) is used as the definition of gifted children within the legal acts of the Republic of Croatia for primary and secondary school children (according to the Ordinance on primary education of gifted students, 1991 and the Ordinance on secondary education of gifted students, 1993). For gifted children in early and preschool education programs, Koren's (1989) definition is applied and a gifted child is one who has above-average ability in one or more areas (according to the National Pedagogical Standards for Preschool Education, 2008; 2010).

Čudina-Obradović (1991) states that giftedness can be manifest – when the results are visible or potential – which develops with the support and encouragement of the environment (as cited in Vizek Vidović et al., 2003). Luketić & Karamatić Brčić (2018) state that giftedness will manifest if high general and specific abilities are combined with emotional and motivational factors. Mönks & Mason (2000) emphasize the influence of social order, economics, politics and culture determinants on the manifestation, i.e., the realization of giftedness. Giftedness development is a dynamic process (Cvetković-Lay, 2010) related to the interaction between child and environmental conditions. An important role in identifying, monitoring, encouraging, supporting and working with gifted children is played by a large number of external factors, such as family, (pre)school environment, educational stakeholders, social environment, the government, applicable legislation, etc. In order to create conditions for learning and teaching within the formal educational system, it is primarily necessary, and in accordance with modern knowledge, to regulate legal acts.

However, formal involvement alone isn't enough, it is also necessary to think pedagogically about gifted children and students. Working with gifted children and young people is a specific challenge for all educators, and it is necessary, in this sense, to provide legal support and guidance to all those involved with working with them.

Recent research topics on gifted children include indicators of gifted children up to preschool age, the phenomenon of attention in gifted children, and the mental health and well-being of gifted children (Vican, 2018).

Numerous researchers highlight parents as the main participants in discovering and recognizing children's potential giftedness. Their involvement in the entire process of recognizing and monitoring the child's development and creating a stimulating environment is of great importance for the child (Cvetković-Lay, 2010). Bloom's research (1982, as cited in Sekulić-Majurec, 1995) showed that the willingness of parents to recognize giftedness is also important for the manifestation of giftedness, because it is assumed that parents will try to encourage its further development. Koren (1989) says that in children up to preschool age, only the process of recognizing and monitoring giftedness is carried out. The next instance in discovering a child's giftedness is the preschool institution, whereby educators are of special importance. They systematically monitor children's developmental abilities and systematically lead education and create conditions for the development of children's abilities (Rajović, 2009).

Tao and Shi (2018) warn that deficit of attention in gifted children is very often a response to inappropriate teaching methods, for example, content that does not interest them or working at a level not adapted to them. In environments where the needs of gifted students are neglected, that is, where there is a lack of understanding and a disincentive attitude towards the gifted, it often happens that gifted students exhibit risky behaviors (Zloković, 2016, as cited in Vican, 2018). Although gifted students potentially possess exceptional abilities, meeting expectations and academic achievements and growing up with giftedness can also be an aggravating factor in a child's well-being (Luketić & Karamatić Brčić, 2018).

In addition, gifted students may perform poorly in certain subjects and often have problems socializing with peers (Delisle, 1999). Due to being rejected in this way, they more often opt for solitude while learning (French & Shore, 2008), and sometimes deliberately fail (Delisle, 1999). Non-acceptance can result in withdrawal and even the development of delinquent behavior (Vrkić Dimić & Buterin Mičić, 2018). Their social and emotional development may lag behind their intellectual development and may be distinguished by intrusive behavior, disruption of work, and disruption of discipline by opposition, resentment, etc., thus drawing attention to themselves and their needs (Winerbrenner, 2001). For this reason, it is very important in the education of gifted students to

focus not only on cognitive-academic needs, but also on personal-social needs (Milgram, 1991).

After introducing all these issues related to the education of children with special needs, the authors mainly consider the inconsistency or gap between the legislation and its practical application, touching on the legal acts themselves and their quality to a lesser extent. Based on all the above, the goal of the research was defined. The aim of this research is to determine the differences in the legal regulation of the education of children and students with special educational needs at two levels:

- vertical – comparison of two subsystems of education
 - early and preschool
 - school: primary and secondary school
- horizontal – comparison of two subgroups of children and students with special educational needs
 - children and students with disabilities
 - gifted children and students

In order to specify the goal of the study, the following research questions were formulated:

1. Is the right to an assistant or mentor for children and students with disabilities and gifted children and students regulated?
2. Is there a difference in the regulation of the number of children/students in the classroom/educational group with regard to the inclusion of gifted children and students and students and children with disabilities?
3. Is working with gifted children and students and children and students with disabilities who are included in regular classrooms/educational groups a special condition of the collective agreement on the basis of which a salary supplement can be realized?

How often have legal acts related to the education of gifted children and students and children and students with disabilities been amended?

METHODOLOGY

The research was conducted through a qualitative comparative analysis of primary data sources, that is, of legislation regulating the education of children with special educational needs in the Republic of Croatia:

- National Pedagogical Standard for Preschool Education (2008; 2010);
- Preschool Education Act (1997; 2007; 2013; 2019);
- Ordinance on special conditions and criteria for realization of preschool education programmes (1997);
- Ordinance on forms and content of pedagogical documentation and records on children in kindergarten (2001);

- National Pedagogical Standard for Primary Education System (2008; 2010);
- National Pedagogical Standard for Secondary Education System (2008; 2010);
- Ordinance on primary education of gifted students (1991);
- Ordinance on secondary education of gifted students (1993);
- Ordinance on primary and secondary education for students with disabilities (2015);
- Ordinance on the number of students in regular and combined class and educational group in primary school (2009; 2010);
- Ordinance on teaching assistants and professional communication mediators (2018; 2019; 2020);
- Primary and Secondary Education Act (2008; 2009; 2010; 2011; 2012; 2013; 2014; 2017; 2018; 2019; 2020);
- Collective agreement for employees in secondary institutions (2018);
- Collective agreement for employees in primary school institutions (2018);
- Collective agreement for employees in preschool institutions of the City of Zagreb (2015);
- Collective agreement for employees in the Rijeka kindergarten (2017);
- Collective agreement for preschool education for employees of the "Maslačak" Đurđevac kindergarten (2017);
- Collective agreement for employees of the Radost and Sunce kindergartens (2018) ;
- Ordinance on the content and duration of programmes of Preschool (2014).

The analysis of documents, in accordance with the research questions, focused on the following criteria of comparison:

- exercising the right to an assistant or mentor in the educational process;
- regulation of the number of children/students in the class/educational group if the child/student with special educational needs is included;
- working with children with special educational needs that are integrated into regular classes/educational groups as a condition for supplements to the basic salary;
- the contemporary nature of legal acts and data.

RESULTS AND DISCUSSION

Table 1 presents a qualitative comparative analysis of two educational subsystems and two subgroups of children and students with special educational needs.

Table 1. Comparative analysis of legal acts

	CHILDREN AND STUDENTS WITH DISABILITIES			GIFTED CHILDREN AND STUDENTS		
	Kindergarten	Primary school	Secondary school	Kindergarten	Primary school	Secondary school
Teaching assistants/mentors (RQ.1)	Partially	YES	YES	NO	NO	NO
Regulation of the number of children (RQ.2)	YES	YES	Partially	NO	Partially	Partially
Salary supplements (RQ.3)	Inconsistent (depending on the individual collective agreement)	YES	YES	Inconsistent (depending on the individual collective agreement)	NO	NO
Legislation updates (RQ.4)	NO	YES	Partially	NO	NO	NO

Each criterion listed in Table 1 will be described in more detail in passages below.

RQ.1 – TEACHING ASSISTANTS/MENTORS

The involvement of assistants or mentors in the educational process in the early childhood education and care system is defined in less detail in the legislation than in the school system, which will be discussed in the second part of the analysis. The legal framework of the early childhood education and care system (the ([Croatian] National Pedagogical Standard for Preschool Education, 2008; [Croatian] Ordinance on special conditions and criteria for realization of preschool education programmes, 1997; and the [Croatian] Preschool Education Act, 1997, 2007, 2013, 2019) does mention the possibility of such support to children with special needs, however the measure itself is not adequately structured and/or regulated. The reasons for that are: ambiguities regarding the inclusion of assistants or mentors in the educational process, lack of criteria on who can become a mentor or assistant, and the lack of description of their professional development and duties. In contrast, the [Croatian] Ordinance on teaching assistants and professional communication mediators (2018) regulates these aspects of including assistants in schools as well as other public institutions engaged in education. This interpretation would suggest that institutions in

the early childhood education and care system (kindergartens), are institutions of that kind. However, when describing the process of exercising the right to the support of a teaching assistant, it is evident that this legal act is not intended for preschoolers because the procedure itself should be initiated by a proposal from the expert committee of the primary school or the teachers' council of the secondary school that the student attends ([Croatian] Ordinance on teaching assistants and professional communication mediators, 2018). A legal act that specifies the measure of inclusion of assistants in the educational process is the [Croatian] National Pedagogical Standard for Preschool Education (2008). This document (2008) anticipates the involvement of another educator, or an educational-rehabilitation expert in the case of the inclusion of a child with severe disabilities, in an educational group. This could very well be considered a measure of involvement of assistants in the educational process. In addition, the [Croatian] National Pedagogical Standard of Preschool Education (2008) prescribes that an assistant for care, nursing and escort must be included in educational groups with special programs for children with disabilities.

As for gifted children in the early childhood education and care system, the [Croatian] National Pedagogical Standard for Preschool Education (2008) very briefly addresses the possibility of individual mentoring for gifted children. Such work has been classified in the [Croatian] National Pedagogical Standard for Preschool Education (2008) as a special preschool program for gifted children, along with playrooms for gifted children of similar intellectual abilities and interests, and special programs for children of similar abilities, interests and talents (music, art, sports, language, creative playground). Since individual mentoring work is classified as specific, rather than regular, it is implied that gifted children in the early childhood education and care system do not exercise the right to receive individual mentoring.

From the analysis of documents in the field of the early childhood education and care system, it can be concluded that the issue of assistants and mentors in the educational process is insufficiently regulated. However, greater emphasis is placed on children with disabilities, i.e., the possibility of providing assistants who can help them in the educational process.

This is an indicator of the insufficient regulation of the early childhood education and care system in this part of the system. It can only be speculated upon as to why this is the case or why there are such differences in the vertical of the national educational system. One of the possible reasons is the fact that early childhood education and care is not compulsory and that mandatory education starts only in the year preceding primary school ([Croatian] Ordinance on the content and duration of programmes of preschool, 2014). This analysis also shows that the early childhood education and care system differs from the primary and secondary education systems, that is, that the issue of assistants or

mentors in the early childhood education and care system is much less regulated in comparison to the primary and secondary education systems.

From analysis of the main document of the primary and secondary education, the Law on Education in Primary and Secondary School (2020), it can be seen that there is the possibility of utilizing teaching assistants, who do not perform teaching activities, in the educational process. How this is to be carried out and what their training should involve is covered in the Ordinance on teaching assistants and professional communication intermediaries (2018). The issue of the education of students with disabilities is also regulated by a special Ordinance on primary and secondary education of students with disabilities (2015). Teaching assistants are, according to the latter ordinance, providers of professional support in student education (2015). Furthermore, the National Pedagogical Standard for the Primary Education System (2008) states the possibility of providing teaching assistants for students who have a decision on the appropriate form of education, which, among other things, prescribes the necessary assistance in learning and performing school activities and tasks. It should be emphasized that in the same document (2008) appropriate forms of schooling are mentioned only in the chapter on the education of students with disabilities. The National Pedagogical Standard for the Secondary Education System (2008) does not provide for the provision of teaching assistants or mentors for any group of students with special educational needs. Consequently, it regulates only the provision of teaching assistants for students with disabilities, not mentors or assistants for gifted students.

In relation to gifted students, in the glossary of the National Pedagogical Standard of the Primary School Education System (2008), the term teacher-mentor denotes a teacher trained to work with potentially gifted students in primary school, but this term is not used anywhere else in the document, not even in Article 32 which regulates the education of gifted students. The education of gifted students is regulated by the Ordinance on primary education of gifted students (1991) and the Ordinance on secondary education of gifted students (1993). In both ordinances, it is only as part of the measures to encourage gifted students that working with a mentor and the obligation of the school to provide a mentor are mentioned. However, due to the lack of a clear definition of what working with a mentor means, including information on who can be a mentor, the training they receive, and the duties they are required to perform, it cannot be said that the right to be allocated a mentor in the educational process of gifted students is regulated. In the general provisions of the Ordinance on teaching assistants and professional communication mediators (2018), it is stated that teaching assistants are only for students with disabilities. It is also important to point out that the Law on Education in Primary and Secondary Schools (2020) does not mention the possibility of providing mentors for gifted students.

From the analysis of the main documents in the school education system, it can be concluded that the provision of teaching assistants for students with disabilities is very well regulated by law, determining the manner of provision and the manner and content of the training they receive. The measures provided concerning mentors working with gifted students are present in some legal acts, but due to inadequate definition of this measure, it cannot be concluded that there is appropriate regulation of the right to be allocated a mentor for gifted students in the regular educational process.

RQ.2 - REGULATION OF THE NUMBER OF CHILDREN IN CLASSES AND EDUCATIONAL GROUPS

Out of all the analyzed documents that can regulate issues related to the care of children with special needs in the area of early childhood education and care, only the [Croatian] National Pedagogical Standard of Preschool Education (2008) does so. This legal act (2008) defines children with special educational needs as: children with disabilities (a child with a determined degree and type of disability according to social welfare regulations, who is included in a regular and/or special educational group in a kindergarten or special educational institution) or gifted children (a child with a determined above average capability in one or more areas and who is included in early childhood education and care programs). However, the number of children in an educational group in the regular program is determined by the number of children with disabilities included in that group ([Croatian] National Pedagogical Standard of Preschool Education, 2008). Thus, if one child with minor disabilities is included in an educational group the number of children in the group should decrease by two children. If the number of children with disabilities is insufficient to form a special program educational group, then one child with greater or combined difficulties can be included and the overall number of children should decrease by four ([Croatian] National Pedagogical Standard for Preschool Education, 2008). The same regulation for the overall number of children in an educational group ([Croatian] National Pedagogical Standard for Preschool Education, 2008) does not exist for gifted children.

The analysis has shown that the measures for regulating the number of children with special needs in an educational group is one of the best stipulated in Croatian legislation in the area of early childhood education and care, but it is regulated only for a subgroup of children with disabilities. Gifted children are not included in that.

The issue of the number of students in classrooms differs significantly in terms of the regulations and the compatibility of legal acts for primary and secondary schools. There are two documents for primary schools, both derived from the Primary and Secondary School Education Act (2018), which deal

with this issue: the National Pedagogical Standards for the Primary Education System (2008) and the slightly newer Ordinance on the number of students in regular and combined class units and educational groups in primary schools (2010). Both of these documents provide criteria for the number of students in a class depending on whether it is a regular class, a combined class or an educational group. The National Pedagogical Standards for the Primary Education System (2008) prescribes that a maximum of three students with disabilities may be included in a class, in which case the number of students may not exceed 20. Also, this document states that the number of students should decrease by two students per inclusion of one student with other special educational needs (2008). This item emphasizes that these are other special needs, which are not disabilities, so it can be concluded that these are gifted students. Namely, the National Pedagogical Standards for the Primary Education System (2008) defines a student with special educational needs as a student with disabilities or a potentially gifted student. It does not prescribe the permitted maximum number of students in a class which includes gifted students. Combined classrooms are made up of students from (2, 3 or 4) different grades, and are common in smaller schools and for students from the first to the fourth grade. For such groups, the National Pedagogical Standards for the Primary Education System (2008) regulates the number of students depending on the number of classes and the number of students in a class depends on the number of classes in which students with disabilities are included. The number of gifted students included in combined classes was not considered.

The National Pedagogical Standards for the Primary Education System (2008) distinguishes educational groups based on the reason for their creation, and it stipulates that an additional teaching class is an individualized form of work with potentially gifted students and its size is regulated. Regulation of the number of students in classes is prescribed by the Ordinance on the number of students in regular and combined classes in primary school (2010). Analyzing these two documents, it can be concluded that the Ordinance on the number of students in regular and combined classes in primary school (2010) is consistent and compatible with the National Pedagogical Standards for the Primary Education System (2008) in terms of the number of students with disabilities. For example, the Ordinance (2010) defines how the number of students in regular and combined classes decreases based on the number of students with different types of disabilities in a class and that the number of students with disabilities does not decrease if one of the students has a teaching assistant. However, the Ordinance (2010) does not mention the inclusion of gifted students in regular and combined classes or the effect this would have on the class size. It only regulates the number of students in additional classes, which can be taken to mean gifted students (according to the definition in the National Pedagogical Standards for the Primary Education System), where the number

of students included in this group is ten, which is more than the prescribed number in the National Pedagogical Standards for the Primary Education System. Also, it should be pointed out that the Ordinance on primary education of gifted students (1991) states that the number of gifted students in an educational group can be a maximum of five, while in the National Pedagogical Standard of the Primary Education System (2008) it is eight, and the Ordinance on the number of students in regular and combined class in primary school (2010) gives a maximum of ten students.

From the conducted analysis, it can be concluded that the number of students in regular and combined classes in primary schools is only regulated for students with disabilities, not for gifted students. The regulations concerning the reduction of the number of students in a class based on the inclusion of students with disabilities are much more clearly defined than for the inclusion of gifted students.

Regulation of the number of students in secondary school classes is mentioned only in the National Pedagogical Standard for the Secondary Education System (2008). It provides regulation of the number of students in the classroom and the number of students based on the number of students with disabilities (2008). It is also stated that the number of students in the class in which a gifted student is included is regulated in the same way as students with disabilities. What is not addressed is a class which includes both gifted students and students with disabilities. The National Pedagogical Standards for the Secondary Education System (2008) stipulates that the education of gifted students is also carried out in various groups whose size is not regulated, while the number of gifted children included in the educational group is regulated by the Ordinance on secondary education of gifted students (1993) at a maximum of five.

The regulation of the number of students with special educational needs takes into account both subgroups of students, but it is significantly better regulated for students with disabilities than gifted students.

By vertical comparison of the two subsystems of education, it can be said that the primary and secondary school systems are better regulated on this issue than the early and preschool education system.

RQ.3 – SALARY SUPPLEMENTS ACCORDING TO COLLECTIVE AGREEMENTS

Collective agreements are legal acts which, among other things, regulate supplements to basic salary.

Collective Agreement for employees in the primary and secondary education system is signed by the Croatian Government and the trade unions in charge of these systems, while for the early childhood education and care system the agreement is signed by trade unions and kindergarten founders (MZO, <https://mzo.>

gov.hr/o-ministarstvu/kutak-za-djelatnike-u-znanosti-i-obrazovanju-1719/kolektivni-ugovori/rani-predskolski-odgoj-i-obrazovanje/978).

This shows that a unified text of the collective agreement (between the trade union and education policy makers) does not exist for the early childhood education and care system, rather it is regulated by each kindergarten founder separately. That means that every founder of a kindergarten has a collective agreement. A detailed analysis of all collective agreements in the field of the early childhood education and care system exceeds the scope of this analysis and this paper. Therefore, for the purposes of this paper, only a limited number of collective agreements with employees in kindergartens have been analyzed. The aim of the analysis of these collective agreements is to show how the supplements to the basic salary are regulated and which other benefits, based on additional engagement through work with children with special needs, are realized by employees. The following collective agreements were analyzed:

- for employees of preschool institutions of the City of Zagreb (2015);
- for employees of the kindergarten Rijeka (2017);
- for employees of the kindergarten “Maslačak” Đurđevac (2017);
- for employees of the kindergartens Radost and Sunce (2018).

Analysis shows that only one of the collective agreements (for the Radost and Sunce kindergartens, 2018) awards additional vacation days for work in jobs with difficult or special working conditions, and increases employees' salaries in three cases: work with children with development and health problems; work with identified gifted children (3%); and work with children with mild development and health disabilities (2%). It is not completely clear what specifically work in special and difficult conditions means and whether educators working with children with special needs belong to this category. By comparison, the collective agreement for employees in preschool institutions of the City of Zagreb (2015) determines that employees of kindergartens are entitled to additional vacation days in terms of working conditions, according to the criteria: activities related to noise, temperature, and humidity. This collective agreement (2015) also provides work benefits based on the principle's assessment (1-3 days of vacation), which may be a way to reward educators working with children with special needs, at least until such a time as when the category of work with children with special needs is included separately in a legal framework.

From the above analysis in the area of early childhood education and care, regarding supplements to base salary and additional vacation days for working with children with special needs, we can conclude the following: there is no compatibility between legal acts, only one of the four analyzed collective agreements provides salary benefits, and employees receive payment for work in special conditions which are set out in detail but do not mention work with gifted children.

The collective agreement for employees in primary school institutions (2018) determines the rights and obligations of the signatories (Government of the Republic of Croatia and the authorized teachers' union). The third chapter of the agreement regulates the salaries and compensations of employees of primary school institutions. The right to receive supplements to the basic salary in the form of incentives, allowances for special working conditions, position allowances and salary increases is stated. Also, special working conditions for teachers have been defined, which, among other things, provide for work in a regular or combined class with students with disabilities, but not with gifted students. Accordingly, a supplement to the basic salary is defined for working in special conditions, but only for working with students with disabilities, not gifted students.

Similarly, the Collective Agreement for employees in secondary school institutions (2018) determines the rights and obligations of the signatories (Government of the Republic of Croatia and the authorized teachers' union).

The third chapter of the Agreement deals with the regulation of salaries and compensations for employees of secondary school institutions. At the same time, possible supplements to the basic salary are prescribed. These are allowances for performance, allowances for difficult working conditions, allowances for special working conditions, position allowances and salary increases. Work with students with disabilities comes under special working conditions, and in accordance with the type of classroom and program, a salary supplement is prescribed. In addition to the fact that the previous article states that working with gifted students does not come under special working conditions, Article 23 of this Agreement (2018) also states that work with gifted students is planned by the annual plan and work program of the secondary school and school curriculum and it is considered as work in additional classes, consequently no salary supplement is prescribed.

The analysis showed that the measure of receiving a supplement to the basic salary in the school system is better regulated for teachers who work with students with disabilities than for those who work with gifted students. At the same time, the high school system is notable for in some way providing compensation for teachers working with gifted students.

RQ.4 – LEGISLATION UPDATES

In the early childhood education and care system, the most amendments have been made to the [Croatian] Preschool Education Act (1997), which has been amended three times since its adoption (2007; 2013; 2019). Unfortunately, these changes did not relate to children with special educational needs in any meaningful way. Rather, they mostly regulate the use of contemporary terminology, so that the term 'training' is replaced with 'education' (2013), 'preschool

education' with 'early childhood education and care' (2013), and the term 'children with special needs' is introduced as a fundamental term that includes both children with disabilities and gifted children (2007). The 2013 amendment to this Act did also bring some substantial changes, but again not related to children with special needs. The second umbrella document in this area, the [Croatian] National Pedagogical Standard for Preschool Education (2008), has been amended only once, more than ten years ago.

That amendment mostly referred to the feasibility coefficients, meaning the period within which it is necessary to apply certain articles stipulated by the [Croatian] National Pedagogical Standards for Preschool Education (2010). Of particular interest are the modifications regarding the number of children in an educational group, with the feasibility coefficient moving from 1 to 2, i.e., the obligation to achieve this goal is within five years (where previously it was three years) (2010). This feasibility coefficient is related to the number of children in an educational group, which in addition to the chronological age depends on the number of children with disabilities in the group, i.e., it regulates the number of children with mild, severe or combined disabilities that can be enrolled in educational groups in the regular program (2010). In other words, the [Croatian] National Pedagogical Standards for Preschool Education (2010) by this amendment prescribes that kindergartens have two additional years to apply the regulations. It would be informative to see which changes have been implemented and what they have achieved, and to see what the situation is really like in kindergartens, especially regarding the inclusion of children with disabilities in regular educational programs.

We can conclude that the only modification to the [Croatian] National Pedagogical Standard for Preschool Education dates back to 2010 and that it refers to the postponement of the implementation of standards, and not to qualitative change in work with children with special educational needs.

In addition to the [Croatian] Preschool Education Act (1997) and the [Croatian] National Pedagogical Standards for Preschool Education (2008), two other legal acts in the field of children with special needs in the early childhood education and care system were analyzed. These acts have not changed in 20 years. One of them prescribes the required pedagogical documentation that must be kept on children in kindergartens ([Croatian] Ordinance on the forms and content of pedagogical documentation and records on children in kindergarten, 2001). Among other things, preschool teachers and pedagogues, psychologists, defectologists and nurses must keep a file for every child who has a special need (children with disabilities and gifted children) (2001). The other act is the [Croatian] Ordinance on special conditions and criteria for realization of preschool education programmes (1997), which stipulates how early childhood education and care programs can be implemented if they are not implemented in kindergartens. Among other things, this act (1997) prescribes

that special institutions which implement primary education of children with special needs (children with disabilities) can also provide preschool education programs for children with disabilities. From this formulation we can see that by the term 'children with special needs' the Ordinance (1997) refers only to children with disabilities, which is an example of using outdated terminology, thus not complying with the contemporary legislation which was the basis of this analysis.

From the analysis of documents in the early childhood education and care system, it can be concluded that legal acts have not changed significantly. The changes that have been made refer to terminology and/or postponement of the implementation of standards, rather than qualitative change in the work with children with special educational needs.

In the field of primary education, the current Law on Education in Primary and Secondary Schools (2020), first adopted in 2008, has undergone the most changes, as many as 14 (OG, 87/08; 86/09; 92/10; 105/10; 90/11; 5/12; 16/12; 86/12; 126/12; 94/13; 152/14; 07/17; 68/18; 98/19; 64/20). It is important to note that with the enactment of this law in 2008, the Law on Primary Education (OG, 59/90; 26/93; 27/93; 29/94; 7/96; 59/01; 114/01; 76/05) and the Law on Secondary Education (OG 19/92; 26/93; 27/93; 50/95; 59/01; 114/01; 81/05) ceased to be valid. Of the eight times that the Law on Primary Education (1990) was amended, only one change (OG, 59/01) referred to students with special educational needs - that the school founders should provide schools with the money required for teaching programs, for the purchase of teaching tools and kits, etc., for gifted students and students with disabilities. Likewise, of the seven amendments to the Law on Secondary Education (1992), only one applied to students with special educational needs, specifically to students with disabilities. The Law on Amendments to the Law on Secondary Education (2005) actually expands the existing Article 22 of the Law by stating that teachers create adapted programs in accordance with the abilities of students with disabilities or they adapt teaching methods based on the regular programs.

This amendment also regulates the procedures and conditions for enrolling students with disabilities in secondary schools. More extensive and significant changes related to students with special educational needs were made with the adoption of the Law on Education in Primary and Secondary schools (2008). Some of the changes are as follows:

- the introduction of the concept of students with special educational needs, which includes gifted students and students with disabilities;
- the decision that the programs for gifted students, as well as the methods of monitoring, schooling, and encouragement are prescribed by the Minister of Science and Education, and that the school implements them and organizes additional work in accordance with the needs;

- the right of gifted students to accelerate and complete schooling in a shorter time than prescribed (regulated by the ordinances for the education of gifted students from 1991);
- categorization of students with disabilities according to the type of disabilities;
- the decision that programs for students with disabilities are prescribed by the Minister of Science and Education;
- regulation of the rights of students with disabilities to appropriate education programs and forms of assistance;
- the possibility of employing staff in the school whose task it is to ensure that the requirements for special needs in educational are met i.e., working with students with disabilities, working with gifted students, working with students who are members of national minorities, or other specific conditions, and under the direct guidance of teachers and their duty for the acquisition of basic competencies for performing educational activities (today's teaching assistants);
- the possibility of establishing special classes for students with disabilities (not gifted) and of organizing classroom teaching for students with disabilities from the fifth to the eighth grade of primary school;
- the obligation to provide escorts on teaching trips, excursions and similar activities;
- depending on the student's type of disability, the possibility of descriptive or numerical assessment;
- special content and form of pedagogical documentation for students with disabilities (certificates, confirmations, certificates, student booklets, records).

Since then, the Law has been amended as many as 14 times, but these changes have included the education of students with special educational needs only five times. The first was in relation to the possibility of postponing enrollment in the first grade of primary school for students with multiple disabilities (2011), the second, in 2012, defined where and how parents should request such a postponement. Major changes were made in 2014 when it was established that the network of school institutions must contain programs for students with disabilities (but not programs for gifted students) and clearly states that the school can employ staff to work with students with disabilities (thus, only to a certain group of students with disabilities, not gifted), who are called teaching assistants or professional communication mediators, and who do not perform teaching activities. The 2017 amendment to the Law defines the procedure for gaining the right to have a teaching assistant and regulates the manner of their training. Finally, the last change was in 2018, when the decision was made that students with multiple disabilities have the right to complete primary school by the age of 21, and programs for gifted students were included in the network of

school institutions. It can be seen that the need to provide teaching assistants for students with special educational needs already existed in 2008, in 2014 teaching assistants were limited to students with disabilities, and the first ordinance on teaching assistants was adopted in 2018. Also, it is evident that almost all the changes related to the education of students with disabilities. Out of a total of nine changes that concerned students with special educational needs, only two referred to gifted students, and eight of them to students with disabilities.

The next important documents are national pedagogical standards for primary and secondary schools adopted in 2008, which have not changed since then. Although the entry into force of certain articles is planned by 2022, and accordingly significant changes can be expected, it is important to emphasize that those standards relating to the education of children with special educational needs are marked with a coefficient feasibility of standard 0, which means that all the envisaged standards could enter into force immediately after their adoption, i.e., in 2008. These standards could also have been subject to change, which means that once adopted, the standards remained the same for 12 years, regardless of new knowledge concerning the education of this group of students.

The only version of the Ordinance on teaching assistants and professional communication mediators was adopted relatively recently, in 2018. This data is surprising since a number of documents from the National Pedagogical Standard for the Primary Education System (2008), the National Pedagogical Standard for the Secondary Education System (2008) and the Ordinance on primary and secondary education of students with disabilities (2015), explicitly state the right of students with disabilities to a teaching assistant. Even the regulations on the education of gifted students (1991; 1992) state the right to work with a mentor. The very fact that teaching assistants and mentors are provided for working with students with special educational needs, and the ordinance on them was adopted ten or more years later, clearly indicates the lack of up-to-date institutions in harmonizing and timely adoption of necessary legal acts related to students with special educational needs. In addition, the adoption of such ordinance for only one subgroup of students with special needs indicates the continued general neglect and inadequate regulation of the education of gifted students. Furthermore, attention is once again called to the issue of the inadequate regulation of the legal framework of early and preschool education, in which no ordinance exists concerning the regulation of assistants in the educational process.

The first version of the current Ordinance on the number of students in regular and combined class in primary school (2009) was adopted in 1991, at which time the number of students in a class in relation to students with special education needs was not regulated. Students with disabilities are not mentioned at all, while work with an additional group of students is envisaged which is

typically eight to ten students, but it cannot be argued that this applied to groups of gifted students. In 1996, there were no significant changes regarding the regulation of the number of students with special needs; students with disabilities were first mentioned in this Ordinance (2009) in an amendment from 1999. At that time the number of students in regular and combined classes is regulated according to the number of students with disabilities and the type of disability. Gifted students are not mentioned as such, but also for the first time an educational group appears, not then in relation to gifted students, for which the maximum number of students is up to ten (Ordinance on the number of students in regular and combined classes and educational group in primary school, 2009).

With the latest amendment to the 2009 ordinance, the regulation of the number of students included in regular and combined classes and educational groups is set out in detail. For the first time the purpose of establishing an educational group could be related to working with gifted students, but, still that work relates to work in additional class, not within the regular or combined class..

This shortcoming, among other things, indicates the need to update this 12-year-old ordinance. Also, the question remains as to why such an ordinance does not exist for secondary schools or why additional provisions for secondary schools are not incorporated into the existing one, and whether this will happen in the necessary new revisions.

With the entry into force of the Ordinance on primary and secondary education of students with disabilities (2015), the Ordinance on primary education of students with disabilities (1991) and the Ordinance on secondary education of students with disabilities (1992) ceased to be valid, which is actually the only alteration to this ordinance that deals with students with disabilities. However, the analysis shows that the regulations differ significantly in terms of more developed and modern programs and professional support, orientation lists with types of difficulties, organization of classrooms and programs, etc., and in accordance with scientific and pedagogical-psychological knowledge. What has been partially neglected and insufficiently elaborated on by the 2015 ordinance is the pedagogical-didactic adjustment required for students.

In contrast, the ordinances related to the primary and secondary education of gifted students have not been changed since they were first adopted (Ordinance on the primary education of gifted students, 1991; Ordinance on the secondary education of gifted students, 1993).

Therefore, it could be said that the focus and interest of educational policy is more focused on the subgroup of students with special educational needs, i.e., students with disabilities. In addition, an even greater problem arises from this analysis – the neglect of gifted students in general. While in the last twenty years the expansion of the scientific community's interest in researching the field of the education of gifted children has yielded significant results, Croatia

has not responded in a timely manner to current knowledge and revised its own legal acts accordingly.

Also, it is to be assumed that the observed inconsistency among documents from terminology to regulating the number of children and students with special educational needs within classrooms/educational groups is the result of obsolete legal acts.

This analysis, as well as many described above, showed that in the school system, the revision of legal acts in most cases applies only to students with disabilities, while gifted students remain neglected. The analysis also showed that the main documents in the school system are amended frequently, many amendments are made, and they bring some qualitative changes related to the education of students with special educational needs.

CONCLUSION

Analysis of the first criterion – the inclusion of assistants or mentors in the educational process, showed that in the vertical of educational system this measure is more comprehensive and concretely regulated in the school system. However, the early childhood education and care system is characterized by inadequate regulation and legal definition of this provision. We only need look at the names of legal acts concerning early childhood education and care to see that, unlike in the school system, there are no regulations on assistants and/or mentors. In terms of comparative analysis at the horizontal level, we can conclude that while in both systems (school and early childhood education and care) the provision of mentors to work with gifted children is mentioned in some of the legal acts, inadequate definition of this provision means that one cannot speak of gifted children's right to mentors in the educational process. In other words, the analysis shows that this measure is better regulated and defined for children with disabilities.

Analysis of the second criterion showed that for secondary schools the number of students in a class is equally well regulated for students with disabilities and gifted students, the regulations for primary schools are most detailed for students with disabilities, and they are least detailed for children with special needs in the early childhood education and care system. Horizontal analysis has shown that there is a difference in the regulation of this measure in favor of children with disabilities.

Furthermore, the vertical comparative analysis of the third criterion – the benefit of supplements to the basic salary, showed that the school system, as opposed to early childhood education and care, is more uniform and that all employees of (primary and secondary) schools have one collective agreement regulating their salary rights. Horizontal analysis of this criterion has shown that the measure of salary-based compensation is better regulated for teachers

working with students with disabilities than for those working with gifted students. At the same time, the secondary school system achieves a positive shift in that direction because it awards some compensation for teachers who work with gifted students.

Finally, it is evident from the analysis that there are no fundamental legal acts that substantively regulate work with children with special educational needs in the early childhood education and care system. This means that there are no legal acts for children with disabilities and gifted children in this area at all. Laws, regulations and standards that exist in the early childhood education and care system are very general, undergoing minimal changes – mostly in terms of terminology and they do not address anything essential or substantive. In contrast, legal acts regulating primary and secondary education have been amended much more frequently and more substantively regulate the issue of students with special educational needs. However, it should be noted that the changes in most cases only refer to students with disabilities, while gifted students remain overlooked.

Lastly the question to be answered is what the implications of these results are. The [Croatian] Strategy of Education, Science and Technology (2014) sets out various objectives and measures that should be implemented in education, determines in whose jurisdiction they belong, who is tasked with their implementation and what their implementation indicators are. In order to determine the most important implications of the results of this research, the focus will be placed on those measures and implementation indicators from the Strategy (2014) relating to the education of children and students with special educational needs and related to the changes of legal acts.

Consequently, the implications of this research are as follows:

1. Adopt a legal act that regulates all relevant aspects of the work of assistants or mentors in the complete vertical of the educational system, in order to establish a fair and efficient system of approval, engagement, financing, education and licensing of educational assistants (2014).
2. Revise regulations governing the education of gifted students so as to enable identification, education, encouraging and monitoring of gifted students in an optimal way (2014) and to ensure the visibility of this subgroup of children and students with special educational needs.
3. Design appropriate solutions that define the standard of teachers (2014) and preschool teachers and define the benefits of their additional engagement.
4. Update legal acts in line with contemporary scientific findings and standardize collective agreements for early childhood education and care employees.

The [Croatian] Strategy of Education, Science and Technology (2014) issues some guidelines for its implementation, including the provision of an

implementation framework, which, among other things, includes conducting an analysis of the need to amend existing legislation in order to achieve the required objectives. Analysis of existing legislation in the field of education of children and students with special educational needs can be used for similar purposes, i.e.. for the purpose of amending existing legislation in order to achieve qualitative and inclusive education of children with special educational needs.

LIMITATIONS AND RECOMMENDATIONS FOR FURTHER RESEARCH

One of the limitations of this research is related to its research methodology. Although the criteria for analysis arose from theoretical considerations and research issues that have been set at the beginning, there are still many criteria by which vertical and horizontal analysis of the legal acts related to the education of children with special educational needs could and should be made. For example, some of the potential criteria could be measures for identifying, monitoring, working with and supporting children and students with special educational needs and their compliance with modern scientific findings. Also, one of the recommendations for further research could be a comparison of legal acts regulating this area in the Republic of Croatia in relation to other countries of Europe and/or the world.

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