THE RIGHT TO EDUCATION: ACCESS OF CHILDREN WITH MIGRATION EXPERIENCE TO POLISH SCHOOLS OF DIFFERENT LEVELS

30 years after the adoption of the UN Convention on the Rights of the Child (CRC) is a moment to remind it and take measures to strengthen awareness, understanding and the actual realisation of children’s rights worldwide.

We will focus here especially on the Convention’s article 28, which says that children and young people have the right to education no matter who they are, regardless of race, gender or disability. Thus, children all over the world regardless their legal status should benefit from this right and be enrolled into schools. It is curtail to mention that for beneficiaries of international protection education is one of key elements for social inclusion into host society and enabler of their bilateral integration with members of this society.

Poland ratified the CRC in 1991 and committed to respect, protect and promote the rights enshrined in this document and it is worthwhile to see, how the needs of children with refugee background are envisaged in public education in Poland. How its system operates in the country that neither is a champion in the beneficiaries’ of international protection (BIPs’) integration policies, nor is accepting large numbers of refugees? How Polish education system is prepared for accepting people that flee from wars or their lives were in danger in home countries? Answering such questions is an aim of the evaluation of the area of education in the National Integration Evaluation Mechanism (NIEM) project. Below we will briefly discuss its findings.

The Polish system related to education is oriented towards all children of foreign origin and having less or no knowledge of Polish (as the same system is also dedicated to Polish repatriates and re-emigrating Poles). All of them have generally unlimited access to basic educational services and it also includes asylum seeking and refugee children. The education offer includes the possibility of using dedicated instruments that take into account the special needs of children with migration background. Moreover, we have (with some restrictions) statistical data on the number of foreign students in Polish schools.

However, day-by-day implementation of these solutions doesn’t occur with problems. Moreover, recent reconstruction of the education system that led to increased crowding of the educational institutions can also have a negative impact on the access of foreigners to the education system in Poland. We will discuss all these characteristics one by one in this text.

Child migrants and refugees access to Polish schools of different levels

Children who are not Polish citizens can benefit from education and care in public kindergartens and primary schools and junior high schools on the same basis as Polish
citizens. This solution applies to individuals until they turn 18 years old or graduate from high school. Thus, it can be concluded that as a result, the universal right to education for individuals until they turn 18 years old, as stipulated in Polish Constitution of 1997 (art. 70.1 & 2), pertains to foreigners as well.

The access to a specific school is regulated on a territorial basis, so it depends on residence in a given territorial unit. And irrelevant is the legal residence status of the child’s parents and/or guardians, including their tolerated or unregulated status. In the past few years, the rules for accepting foreign children into Polish kindergartens and schools have been simplified. Also the requirement to recognize school certificates was abolished.

Admission to the school is based on the child’s school certificates and/or the total number of schooling years or/pupil's age. If this number cannot be proved by documents, a proper grade is established on the basis of statement by a parent, legal guardian or the foreign student himself/herself, provided she or he is an adult. Even when a pupil is unable to provide any documents, she or he can still be admitted to school following an interview with a headmaster. However, there is no standardized nation-wide scenario for such interview with a pupil unable to provide any documents. Instead, it is the head of the school who decides on a particular basis.

A bit more complicated might be an access to post-secondary and tertiary education. The Act on Tertiary Education of 2005 in art. 43 doesn’t mention asylum seekers and persons under humanitarian protection as having access to tertiary education equal as Polish citizens. This situation has not changed with adoption of the new Law on higher education and science of July 20, 2018. In this regulation it is stipulated in art. 79 that a public university may charge for educational services related to educating foreigners in a full-time studies delivered in Polish language (that are free of charge for Polish citizens). However, art. 324 of the same law stipulates that a foreigner is exempted from these fees, if he or she has the refugee status granted in the Republic of Poland or enjoys temporary protection or subsidiary protection on the territory of the Republic of Poland. The same is when such student is a family member of a person being a beneficiary of an international protection in Poland. Thus, we may assume that to other groups of refugees general rules applies, what includes asylum seekers and persons under humanitarian protection. Therefore, such people may still be exempted from tuition fees related to any kind of higher/tertiary education, but decision has to be made by one of the entities listed in art. 323.1 of the same Law on higher education and science (i.e. Ministry of higher education and science, rector or director of the adequate scientific institute).

How the system works in practice and some challenges for it in the future

In result, according to the System of Educational Information (official tool for statistics of the Ministry of Education) as for the end September 2018 there were 43,892 foreigners studying in 7161 schools of primary and secondary levels in Poland. Amongst them there were 212 students with refugee status or being members of the refugee families, 815 students with a permit for tolerated stay, 448 students with temporary protection in Poland, 383 students being members of the asylum seekers families, 310 students granted subsidiary
protection or being family members of persons with it, 3,915 students granted permission to stay for humanitarian reasons or being family members of persons with this permission and 1,131 students being family members of applicants for international protection. The remaining part were 2,720 students with a temporary residence permit related to various circumstances that include victims of human trafficking or children arriving in Poland in result of the family re-unification, but also children of highly qualified migrants and the EU long-term residents.

But there are still several challenges to the whole system of education. Thus, there is lack of the relevant policies, including a long-term strategy involving all relevant partners. On the central level there is no mechanism to monitor and evaluate education policies and outcomes for children and youth under international protection. Moreover, there is a lack of the obligatory anti-discrimination classes for pupils in the education system in Poland or any other form of the multicultural education. In result, more and more often examples of discrimination occur at schools and they might be not properly answered. It can hinder integration of foreign students, as from various studies we know that it won't be fully possible, if whole school environment isn’t open to cultural, ethnic and religious diversity.

Filip Pazderski
Institute of Public Affairs
Poland