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EARLY CHILDHOOD EDUCATION OF THE FOREIGN CHILD/STUDENT – A NORMATIVE APPROACH*

Introduction: The aim of the article is to discuss legal solutions concerning the functioning of a foreign child in the space of elementary education. The object of analysis is the legal norms included in the texts of legal acts in the system of universally binding national law in the area of education and care of foreign children in primary education.

Research Aim: The research objective is to analyse, interpret and evaluate the formal-legal basis of the functioning of the child/student – foreigner in the space of elementary education.

Evidence-based Facts: In studies on the legal empowerment of the foreign child/student in the Polish education system, there is a lack of analyses focusing on the initial stages of education. What is missing in this respect is a thorough analysis of the legal regulations constituting the basis for activities in the area of early childhood education.

Summary: The article identifies and discusses the current legal solutions constituting the basis for the functioning of a foreign child/student in the space of elementary education. It analyses and interprets the legal regulations in the system of internal (national) generally applicable law concerning education and care of foreign children. Legal institutions serving the realisation of the right to education and integration were presented. The scopes of legislative shortcomings and directions of necessary changes to improve the functioning of foreigners in the area of early childhood education are indicated.

Keywords: early childhood education, foreign child, foreign student, foreigner in education.

INTRODUCTION

The literature points to different conceptions of the foreigner and framings of the category “foreigner”, including different classifications within it (Kumela-Romańska,

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2017). The term “foreigner” is a formal legal term and refers to a very broad category of persons without Polish citizenship who reside on the Polish territory (Badowska, 2017). The category of “foreigner” refers to natural persons who have specific rights and obligations designated by law. The evolution of legal solutions taking place in this area is leading to an increase in the scope of powers and duties granted to foreigners, which previously applied only to citizens (Kumela-Romańska, 2017). It is emphasised that under the current constitution (Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. – further: Konstytucja RP) rights, freedoms and duties are ascribed to every natural person, regardless of citizenship (Kumela-Romańska, 2017). According to the constitutional provisions, a foreigner is a human being with – in principle – the rights to which every citizen is entitled (Kumela-Romańska, 2022, Art. 3). It enjoys constitutional freedoms and rights, and exceptions in this area are regulated by statutes (Art. 37, (2) Konstytucja RP). Against the background of civil law, individuals are equal and the scope of their actions is determined by the limits of subjective rights (Kumela-Romańska, 2022, Art. 3). However, the provisions of international law, as well as regulations adopted in the domestic legal order, allow for certain restrictions on the rights of foreigners. This applies, for example, to areas related to citizenship (cf. Kumela-Romańska, 2017) such as exercise of active and passive voting rights, holding public office, holding positions in the public sphere or directing this sphere of state functioning (Bierzanek and Symonides, 2004).

Under the law, a foreigner is any individual not holding Polish citizenship (Art. 3, (2) Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach – further: u.c.). This implies a wide range of understandings of the category in question. Foreigners will be both:

- persons having the citizenship of another country, and also
- persons without citizenship (stateless persons), and
- persons who are EU citizens (Kumela-Romańska, 2022, Art. 3).

It is important to note that the last of the distinguished components of the broad category of “foreigner” is clearly expanded, particularly in the scope of regulations against the background of the Act of 14 July 2006 concerning entering, staying in and leaving the territory of Poland for citizens of the Member States of the European Union and their family members (Ustawa z dnia 14 lipca 2006 r. o wjeździe na terytorium Rzeczypospolitej Polskiej, pobytcie oraz wyjeździe z tego terytorium obywateli państw członkowskich Unii Europejskiej i członków ich rodzin – further: u.w.t.R.P). Here the legislator uses the term “EU citizen – foreigner” to mean both a citizen of a European Union Member State, a citizen of a European Free Trade Agreement (EFTA) Member State – signatory to the Agreement on the European Economic Area, a Swiss citizen and a United Kingdom citizen (Art. 2, (3), (a)-(d) u.w.t.R.P.).

The classification of foreigners in the literature takes into account their division into those with ordinary status (included in the basic category) and those with special status (included in the special categories) (Kumela-Romańska, 2017). The basic

category in administrative-legal terms defines the foreigner's status by the possession of the rights to: enter and stay in the territory of our country, to work, to conduct business and to acquire real estate, and to reside with his or her family (Kumela-Romańska, 2017). Such entitlements allow the stay to be legal and the foreigner not to be obliged to return. The reasons why foreigners are included in the special category (having a special status) are: benefiting from protection on the Polish territory; having citizenship of the EU, citizenship of Norway, Iceland, Liechtenstein, Switzerland and the status of a member of their families; having a "permanent right to reside" and "long-term resident" status in the EU (Kumela-Romańska, 2017).

The law provides for granting protection to a foreigner on Polish territory expressed by: granting refugee status, granting subsidiary protection, granting asylum or temporary protection (Art. 3, (1), (1-1a), (2), (4) Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej – further: u.u.c.o.t.R.P.). Refugee status is granted when a person is unwilling or unable to enjoy the protection of their country of origin because of a well-founded fear of being persecuted for religious, national, political or social grounds (Art. 13, (1) u.u.c.o.t.R.P.). It is worth noting that a minor child born on Polish territory by a foreigner who obtained refugee status also obtains refugee status (Art. 13, (2) u.u.c.o.t.R.P.). Where a foreigner does not qualify for refugee status and would face a serious risk of return (i.e. a risk of serious harm, such as being condemned to death or executed, being exposed to torture, cruel, inhuman or humiliating punishment or treatment, or a threat to life or health due to the outbreak of an armed conflict), and such risks would render the person unwilling or unable to seek the protection of the country of origin, he or she will be granted subsidiary protection (Art. 15, (1) to (3) u.u.c.o.t.R.P.).

Focusing on the situation of foreigners enjoying protection on the Polish territory and the refugee status, it needs to be noted that such forms of public law protection allow the aforementioned to be included in special categories (cf. Kumela-Romańska, 2017). It is also extremely important to underline that an alien minor remaining in such a situation, i.e. a child, will not only belong to a special category, but, importantly, it is a particularly vulnerable category of aliens that requires special legal protection. "Foreign minor" in light of the law is an "unaccompanied minor" – who either arrives on the Polish territory or is already in our country and simultaneously remains unaccompanied by adults who, in accordance with Polish law, are responsible for him (Art. 2, (9a) u.u.c.o.t.R.P.). The term "child" should be handled in accordance with the understanding of this concept in international and domestic law. Against the background of the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989 (Konwencja o prawach dziecka przyjęta przez Zgromadzenie Ogólne Narodów Zjednoczonych dnia 20 listopada 1989 r. – further: K.P.D), "»child« means any person under the age of eighteen, unless he or she attains the

age of majority earlier in line with legislation relating to the child” (own translation) (Art. 1 K.P.D). A similar approach is reflected in national legislation. The legal definition of “child” in the Act of 6 January 2000 on the Ombudsman for Children (Ustawa z dnia 6 stycznia 2000 r. o Rzeczniku Praw Dziecka – further: u.R.P.D) indicates that a child within the meaning of this Act “is every human being from conception to adulthood” (Art. 2, (1) u.R.P.D.). The considerations in the article refer to the legal situation as of 30 May 2023.

RESEARCH PROBLEM AND OBJECTIVE

The main research problem is expressed in the question: How do the regulations of Polish law secure the right to schooling and care of the child/student – foreigner at the level of elementary education?

The analyses conducted served to answer the following specific questions:

- 1) What provisions in the generally applicable national law system serve to secure the right to schooling and care of a child/pupil – foreigner at the level of elementary education?
 - a) What legal institutions serve to ensure the realisation of the right to schooling and care of children/students–foreigners?
 - b) How do they secure the sphere of integration into society and the sphere of integration into the school environment?
- 2) What are the peculiarities of the formal-legal regulation of the educational situation of children/students – foreigners resulting from the Law of 12 March 2022 on assistance to citizens of Ukraine in relation to the armed conflict on its territory and implementing acts of the Law?

The aim of the research is to analyse, interpret and evaluate the legal solutions concerning the functioning of the child/student – foreigner in the space of elementary education. The objective thus defined is pursued in the theoretical and practical dimensions. In the theoretical layer, it focuses on identifying the conditions of functioning of a child/student – foreigner in the space of education; in the practical layer, it serves to specify the legal provisions relating to the situation of a foreign child in the area of early childhood education. In terms of the subject, the article is aimed at interpreting and evaluating the legal solutions in the field of the relationship: child/student – foreigner–early education, made on the basis of analyses of legal acts and positions presented in the doctrine and pedagogical literature. From the subjective perspective, it focuses on the foreign child and his/her rights in the Polish educational reality.

The primary method used in the research is legal text analysis (Chauvin et al., 2014). The material of the study was the provisions of the legal acts commonly in force in Poland concerning the education and care of children – foreigners.

STATE OF KNOWLEDGE

The foreigner in the space of elementary education in legal-normative terms

The legal grounds for the education of foreigners is determined both by the Constitution of the Republic of Poland, laws and acts implementing the laws. It is supposed to be emphasised that the basic law points out the subjective right to education to which every person is entitled (Art. 70, (1) Konstytucja RP). It is a human “right” and therefore not subject-limited and is enjoyed by “everyone” without being narrowed down to a question of citizenship (Pilich and Olszewski, 2021, Art. 165). According to constitutional and statutory regulations, this right is to be combined with educational obligations. These include compulsory annual pre-school preparation, compulsory schooling and compulsory education (Art. 31, (4), Art. 35, Art. 36, (9), (1)-(2) Ustawa z dnia 14 grudnia 2016 r. – Prawo oświatowe – further: u.p.o.). The manner in which these duties are to be performed is determined by the provisions of the above-mentioned law. Commentaries on educational law draw attention to the universality of educational obligations (compulsory annual pre-school preparation for six-year-old children and compulsory schooling) to all persons under the authority of the Polish Republic (Pilich and Olszewski, 2021, Art. 165). It is also pointed out that the lack of precision in defining the subjects to whom the obligations of schooling and education are addressed, stressing that the legislator’s aim, related to the education of foreigners, was not only to grant them the right to education but also to make them subject to compulsory schooling (Pilich and Olszewski, 2021, Art. 165). Compulsory education lasts until the end of primary school. However, schooling lasts no longer than 18 years of age, depending on which of these events, i.e. completion of primary school or reaching the legally prescribed age, occurs first (Art. 35, (1)-(2) u.p.o.).

The legal regulations for the education of people arriving from abroad are included in the Education Law (Art. 165–166 u.p.o.). An analysis of the content of the cited article (Art. 165 u.p.o.) makes it possible to identify the rights of persons arriving from abroad with regard to education. Pursuant to the regulations contained therein, a foreigner, as a rule, has the right to schooling and care in the context of fulfilment of educational obligations under the conditions applicable to Polish citizens. He/she is also entitled to additional benefits aimed at integration into society and integration into the school environment. As regards non-Polish nationals, the issue of their education on the terms applicable to Polish nationals boils down to the provision of their care and education in public and non-public pre-school education institutions, as well as in public schools and institutions in fulfilment of the statutory schooling obligation (Art. 165, (1) u.p.o.). However, in a situation where pupils fulfilling their compulsory education obligation do not know Polish or know it poorly, i.e. to an extent that prevents them from fulfilling their legal-administrative obligation, they are entitled to additional free Polish

language tuition (however, for a period not exceeding 24 months). They are also entitled to additional entitlements, which are: the use of a school assistant, the use of additional remedial classes and study in a preparatory unit. The period over which these entitlements may be exercised in the case of the first two is no more than 12 months, and in the case of study in a preparatory unit, it may not exceed two school years (Art. 165, (7) to (13) u.p.o.).

Detailed regulations concerning the above-mentioned statutory provisions, including also the terms and procedures for the admission of children/students to kindergartens, other forms of pre-school education (which, according to § 1 points 1–2 of the Regulation of the Minister of National Education of 28 August 2017 on the types of other forms of pre-school education, the conditions for creating and organising these forms and the manner of their operation [Rozporządzenie Ministra Edukacji Narodowej z dnia 28 sierpnia 2017 r. w sprawie rodzajów innych form wychowania przedszkolnego, warunków tworzenia i organizowania tych form oraz sposobu ich działania], are pre-school points and pre-school education complexes) and classes I–III of primary school are specified in the Regulation of the Minister of National Education of 23 August 2017 on the education of persons who are not Polish citizens and persons who are Polish citizens and who received their education in schools operating in the educational systems of other countries (Rozporządzenie Ministra Edukacji Narodowej z dnia 23 sierpnia 2017 r. w sprawie kształcenia osób niebędących obywatelami polskimi oraz osób będących obywatelami polskimi, które pobierały naukę w szkołach funkcjonujących w systemach oświaty innych państw) – issued on the basis of Art. 165, (16) of the Act – Education Law – hereinafter referred to as Rozporządzenie MEN z 23.08.2017 r. Important regulations in this area are also contained in the Regulation of the Minister of National Education of 28 February 2019 on the detailed organisation of public schools and public kindergartens (Rozporządzenie Ministra Edukacji Narodowej z dnia 28 lutego 2019 r. w sprawie szczegółowej organizacji publicznych szkół i publicznych przedszkoli). In accordance with the contents of the Regulation of the Ministry of Education of 23 August 2017, a child arriving from abroad is admitted to public pre-school education establishments under the conditions and procedure of the recruitment procedure concerning Polish citizens (§ 3, (1) Rozporządzenie MEN z 23.08.2017 r.). A student arriving from abroad is admitted to Class I of a public primary school *ex officio* (§ 4, (1), (1) Rozporządzenie MEN z 23.08.2017 r.), whereas for grades II–III of a public primary school he/she is also qualified and admitted *ex officio* and on the basis of documents (this is usually a certificate) (§ 4, (2), (1) Rozporządzenie MEN z 23.08.2017 r.). In the absence of documents, an interview may also be conducted (§ 12, (1) Rozporządzenie MEN z 23.08.2017 r.). The law allows a student to be admitted to an establishment in exceptional situations on the grounds of an interview, which, moreover, can take place in the student's foreign language (§ 12, (4) Rozporządzenie MEN

z 23.08.2017 r.). Preparatory divisions according to the regulation may have no more than 25 pupils, and classes may be conducted in combined classes I–III (§ 16, (2), (6), (1) Rozporządzenie MEN z 23.08.2017 r.). The number of compulsory education classes for early childhood education classes is a minimum of 20 hours per week (§ 16, (5), (1) Rozporządzenie MEN z 23.08.2017 r.). Students are qualified for the preparatory ward by a three-member qualification team appointed by the principal and consisting of teachers and an educationalist or psychologist (§ 16, (1) Rozporządzenie MEN z 23.08.2017 r.). Here, teaching is carried out according to the school's curriculum, taking into account the need to adapt the methods and forms to the individual development and educational needs and the psycho-physical abilities of the students (§ 16, (3) Rozporządzenie MEN z 23.08.2017 r.). The educational classes are taught by teachers of the respective educational classes and, importantly, they can be assisted by a speaker of the language of the student's country of origin (§ 16, (4) Rozporządzenie MEN z 23.08.2017 r.). The detailed regulations on additional free Polish language learning indicate that it is provided for students arriving from abroad in the form of additional Polish language classes of at least 2 lessons per week (§ 17, (1)–(3) Rozporządzenie MEN z 23.08.2017 r.). Students subject to compulsory schooling may also benefit from additional remedial classes if there is a need to make up curriculum differences. Such classes are provided on either an individual or group basis as additional lessons (§ 18, (1)–(3), § 19 Rozporządzenie MEN z 23.08.2017 r.). In addition, the child/student – foreigner under the Regulation of the Minister of National Education of 9 August 2017 on the principles of organising and providing psychological and pedagogical assistance in public kindergartens, schools and institutions (Rozporządzenie Ministra Edukacji Narodowej z dnia 9 sierpnia 2017 r. w sprawie zasad organizacji i udzielania pomocy psychologiczno-pedagogicznej w publicznych przedszkolach, szkołach i placówkach) is also given both psychological and pedagogical guidance. Paragraph 2(2)(12) of the aforementioned regulation indicates that adaptation difficulties related to cultural differences or involving a change in the educational environment constitute one of the premises for including a foreign child/student in this type of assistance. Such a subject manifests special educational needs which, in the meaning of the educational law, become the basis for taking a number of measures towards individualisation of education (in the scope of curriculum and organisation, as well as methodology) (cf. Młynarczyk-Sokołowska and Szostak-Król, 2022).

Additional regulations on the upbringing, education and care of children/students–foreigners apply to citizens of Ukraine and result from the Law of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country (Ustawa z dnia 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa – further: u.p.o.U.) and implementing acts to the Act. The cited Act (as a special

law) introduces special regulations (or derogates from the existing regulations to a certain extent) (cf. Górski, 2022b, Art. 55). First of all, it regulates a number of issues relating to the educational situation of Ukrainian citizens residing on the Polish territory. It also foresees the execution of additional educational tasks and the support of units of local self-government in their implementation (Art. 1, (3), (7) u.p.o.U.). These include:

- the possibility of teaching in the preparatory division in an inter-school group (Art. 55, (1)-(5) u.p.o.U.), as well as the possibility of providing additional Polish language tuition in an inter-school group (Art. 55b, (1) u.p.o.U.). Such preparatory classes have a special role to play within the educational system. Compared to other types of classes, they are unique and their task is to prepare Ukrainian children to freely participate in the Polish educational system, emphasising language skills and integration (Górski, 2022b, Art. 55),
- the possibility of creating other locations for teaching, educating and caring for Ukrainian citizens (Art. 51, (1)-(10) u.p.o.U.). This special regulation introduced by the special law makes it possible to exclude the application of certain provisions of the education law and the construction law (Górski, 2022a, Art. 51),
- the possibility of organising free transport for children and students (Ukrainian citizens) to establishments where education, upbringing, care is provided (Art. 52 u.p.o.U.),
- the possibility of employing, in the school years 2021–2022 and 2022–2023, a person without Polish citizenship in the position of a teacher's assistant (school assistant) if he or she speaks and writes Polish to an extent that makes it possible to assist a pupil who does not know Polish or knows it at a level insufficient to benefit from education (Art. 57 u.p.o.U.),
- the possibility to delete (by decision of the director or the person in charge of the institution) from the list of a child/pupil/ward (who are citizens of Ukraine) after fulfilling the conditions stipulated by law: 1) if the aforementioned does not reside in the area of the municipality where the institution is located, 2) has an unexcused absence over a period of two months for at least 50% of the days of classes (kindergarten/school/other institution) (Art. 55c, (1)-(2) u.p.o.U.).

The organisation of education, upbringing, care at the beginning stage of education for children/students – citizens of Ukraine legally residing in Polish territory is defined in detail by the Regulation of the Minister of Education and Science of 21 March 2022 on the organisation of education, upbringing and care for children and young people who are citizens of Ukraine (Rozporządzenie Ministra Edukacji i Nauki z dnia 21 marca 2022 r. w sprawie organizacji kształcenia, wychowania i opieki dzieci i młodzieży będących obywatelami Ukrainy) issued pursuant to Ar-

title 59 u.p.o.U. – hereinafter: Rozporządzenie MEiN z 21.03.2022 r. It should be noted that the aforementioned executive act was amended several times in 2022, adapting the regulations to the current situation and needs. This means that in the space of just a few months, as many as four one-off acts were issued amending the aforementioned regulation. The regulations covered by the regulation mainly concern changes to the permitted number of children/pupils/ward in individual types of educational institutions. In this area, the regulation defines the legal possibilities of increasing the number of the above-mentioned subjects in branches of: kindergartens, classes I–III of primary schools, day care centres, special education institutions, educational groups in a special school and educational centre or special educational centre (§ 7–11 Rozporządzenie MEiN z 21.03.2022 r.). The law stipulates that until the end of the 2022–2023 school year, the number of children in a kindergarten division can be increased by up to 3 persons who are Ukrainian citizens, and in grades I–III by up to 4 persons who are Ukrainian citizens (§ 7, (1), § 8, (1) Rozporządzenie MEiN z 21.03.2022 r.). In the case of branches which, in accordance with the current regulations, already function with an increased number of pupils in grades I–III, the admission of additional persons – citizens of Ukraine – cannot cause the number of pupils in a branch to exceed 29 (§ 8, (2), (1)-(2) Rozporządzenie MEiN z 21.03.2022 r.). The increased number of children in the wards can function until the completion of the pre-school education and educational stage, respectively (§ 7, (1a), § 8, (4) Rozporządzenie MEiN z 21.03.2022 r.). In the case of pupils with disabilities, the number of children/students may be increased by a maximum of 2 in the special education unit (§ 9, (1)-(4) Rozporządzenie MEiN z 21.03.2022 r.). By the same number of persons with disabilities – citizens of Ukraine, the educational groups in a special school and educational centre or a special educational centre may be increased (§ 10, (1)-(2) Rozporządzenie MEiN z 21.03.2022 r.). In day care centres, the number of students supervised by one teacher may be increased to 4 in mainstream primary schools and a maximum of 2 students with disabilities in integrated and special education (§ 11, (1)-(3) Rozporządzenie MEiN z 21.03.2022 r.). In the case of a child/student of a Ukrainian citizen who is admitted to a special education institution, for the school years 2021–2022 and 2022–2023, the basis for applying for admission is only a declaration by the parent or the person who has custody of the child that an application has been made to a public psychological-pedagogical counselling centre for a statement on the need for special education (§ 12 Rozporządzenie MEiN z 21.03.2022 r.). The basis for admission, therefore, does not have to be the judgment itself, but only the application submitted for its issue. The mentioned act regulates also other issues, important in the context of placing children/students – citizens of Ukraine in the Polish educational system. When there is a need for educational and upbringing support, under the mentioned regulation it is possible to modify the educational and preventive programme implemented at school (§ 13 Rozporządzenie MEiN z 21.03.2022 r.). The circumstance

of the implementation of education by children/students of Ukrainian citizens residing in Poland in the Ukrainian educational system using remote learning was also taken into account. Paragraph 15 of the Regulation of the MEiN of 21 March 2022 indicates that if children/students of Ukrainian citizens benefit from distance learning in the Ukrainian educational system using methods and techniques of distance learning, they are not subject to educational obligations on the Polish territory (this relates to the commitment of annual preschool preparation, school obligation or learning obligation) (§ 15 Rozporządzenie MEiN z 21.03.2022 r.). In such a situation, it is also required that the parents or guardians of the minor submit an appropriate declaration that the child/student will continue his/her education in the Ukrainian educational system. Such a document is a declaration by the parent or guardian of the student that he/she will continue education in the Ukrainian educational system and is submitted to the municipality having jurisdiction over the place of residence of the child or student (§ 15 Rozporządzenie MEiN z 21.03.2022 r.). However, the doctrine of law points to the unconstitutionality of such a solution. The commentary to the Act emphasises that the provision of § 15 of the Regulation finds no basis in the statutory delegation arising from Art. 59 of the u.p.o.U., insofar as it modifies the issues of the subjective application of articles of the educational law concerning educational obligations. Articles 31(4), 35, 36(9) u.p.o. are referred to (Górski, 2022c, Art. 59).

With regard to formal and legal issues concerning the participation of a foreign child in the Polish education system, it should be added that foreign documents confirming the fact of a child's learning at the level of elementary education abroad or his/her completion of this stage of education and at the same time constituting the basis for his/her admission in Poland to public schools do not require nostrification (Ministerstwo Edukacji i Nauki, 2023). The nostrification of certificates and other documents issued abroad, as required by law, takes place with the recognition of the rules laid down in international agreements and in compliance with Art. 93(3) of the Act of 7 September 1991 on the educational system (Ustawa z dnia 7 września 1991 r. o systemie oświaty, t.j. Dz.U. z 2022 r. poz. 2230 – hereinafter: u.s.o.), may refer to documents confirming education in Poland at the following levels: primary, lower secondary, vocational, basic/secondary – vocational or secondary, or entitlement to continue education (including application for admission to university) (Art. 93, (2) to (3) u.s.o.).

SUMMARY

In international terms, primary education is compulsory and free of charge, as indicated by Art. 28(1)(a) of the K.P.D. In relation to the Polish reality, it means the realisation of the following obligations: annual pre-school preparation and

compulsory schooling (cf. Pilich and Olszewski, 2021, Art. 165). The obligation of education at the elementary level applies to all persons under the authority of the Republic of Poland, i.e. also to all children/students – foreigners regardless of citizenship. The functioning of the child/student – foreigner in the space of elementary education is determined by a number of legal norms, which at present also take into account the specificity of the new situation related to the war in Ukraine and the necessity of legal ordering of matters concerning pupils – citizens of Ukraine receiving education and care in the Polish education system. In this area of regulation, the legal institution from u.u.c.o.t.R.P. of 13 June 2003, which is temporary protection, has been implemented. Taking into account the large number of Ukrainian citizens enjoying temporary protection on the territory of our country, the regulation of their rights and obligations was made in the legal act of statutory rank – u.p.o.U. of 12 March 2022 (Pilich, 2022, Art. 165). According to data posted on the website of the Office for Foreigners, Ukrainian citizens account for more than 80% of all foreigners residing in our country. Beneficiaries of temporary protection are approx. 1 million people, and of this group, about 43% are children and young people. The highest concentration of Ukrainian citizens takes place in the area of the largest agglomerations and concerns the provinces from Mazowieckie (21%) through Dolnośląskie, Wielkopolskie and Małopolskie (10–11%) to Śląskie (9%) (Urząd do Spraw Cudzoziemców, 2023).

The analysis of the legal situation shows that the provisions of generally applicable law in the domestic (national) legal system regulate – both in a general way (at the level of laws) and in a more specific way (at the level of regulations) – a number of areas concerning education and care of foreigners, emphasising the sphere of communication and integration. Tasks supporting the process of communication and integration in the educational environment are determined by educational legislation. Activities aimed at social integration are also regulated by other legislation. Pursuant to the Act of 12 March 2004 on social assistance (Ustawa z dnia 12 marca 2004 r. o pomocy społecznej – further: u.p.s.), difficulties in integration of foreigners may constitute the basis for granting assistance aimed at supporting the foreigner's integration process (Art. 7, (11) u.p.s.). Detailed solutions in this respect are included in the Regulation of the Minister of Labour and Social Policy of 7 April 2015 on providing assistance to foreigners (Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 7 kwietnia 2015 r. w sprawie udzielania pomocy cudzoziemcom).

CONCLUSIONS

The basis for effective action in the area of early childhood education is a thorough recognition of the legal regulations covering the specificity of education of foreign

children in the realities of the Polish system (cf. Stepaniuk, 2017). The legal solutions serve to ensure that foreign children/students realise their subjective right to education and care, thus, fulfilling a guarantee function in the scope in question.

Following the analyses of the legal regulations, several conclusions emerge signalling the need for legislative action in the areas of:

- further clarification by the Polish legislator of provisions aimed at guaranteeing the realisation of the subjective right to education and care of foreign children in the area of early childhood education,
- training of early childhood education teachers to enable them to skilfully navigate in the sphere of legal solutions constituting the basis for efficient educational activities with regard to children/pupils – foreigners (cf. Turczyk, 2023),
- clarification of the regulations securing the sphere of language education (it is about bridging communication difficulties and intensifying activities in the field of teaching foreign languages). There are already some voices in the academic sphere concerning the extension of the educational offer with elements necessary in relation to the specificity of the present day marked by the increased presence of foreign children in Polish institutions. There is talk of the need to build an educational environment that takes into account the aspect of bilingualism and broad integration activities (Szplit and Tamborska, 2022),
- due to the overly large number of children in kindergarten units and classes I–III of primary school, changes are needed to take into account the specific functioning of the child/student at the early education stage. The specific regulations introduced into the legal order in this respect by the special law require changes,
- due to the small number of specialists working in the centres on a daily basis, as well as the insufficient number of hours allocated to providing assistance to individual children – foreigners, there is a need for legal solutions that would secure this sphere of functioning. It has been argued among educational theoreticians and practitioners that the regulations concerning the functioning in a Polish school of students who have experienced refugeeism focus mainly on organisational issues, not caring enough about the everyday educational reality (Żmijewska, 2022).

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WCZESNA EDUKACJA DZIECKA/UCZNIĄ CUDZOZIEMSKIEGO – UJĘCIE NORMATYWNE

Wprowadzenie: Celem artykułu jest omówienie rozwiązań prawnych dotyczących funkcjonowania dziecka cudzoziemskiego w przestrzeni edukacji elementarnej. Przedmiotem analiz są normy prawne ujęte w tekstach aktów prawnych w systemie prawa krajowego powszechnie obowiązującego w zakresie dotyczącym nauki i opieki dzieci cudzoziemców na etapie edukacji elementarnej.

Cel badań: Celem badań jest dokonanie analizy, interpretacji oraz oceny formalno-prawnych podstaw funkcjonowania dziecka/uczniā-cudzoziemca w przestrzeni edukacji elementarnej.

Stan wiedzy: W opracowaniach dotyczących prawnego umocowania dziecka/uczniā – cudzoziemca w polskim systemie edukacji brakuje analiz koncentrujących się na początkowych etapach edukacji. Brakuje w tym zakresie wnikliwej analizy regulacji prawnych stanowiących podstawę działań w obszarze wczesnej edukacji dziecka.

Podsumowanie: W artykule wskazano oraz omówiono obowiązujące rozwiązania prawne stanowiące podstawę funkcjonowania dziecka/uczniā-cudzoziemca w przestrzeni edukacji elementarnej. Dokonano analizy i interpretacji regulacji prawnych w systemie prawa wewnętrznego (krajowego) powszechnie obowiązującego dotyczących nauki i opieki dzieci cudzoziemców. Przedstawiono służące realizacji prawa do edukacji i integracji instytucje prawne. Zidentyfikowano przejawy uchybień legislacyjnych oraz kierunki koniecznych zmian służących poprawie funkcjonowania cudzoziemców w obszarze wczesnej edukacji.

Słowa kluczowe: wczesna edukacja, dziecko cudzoziemskie, uczeń-cudzoziemiec, cudzoziemiec w edukacji.