

IMPLICACIONES PARA LA INSPECCIÓN DE EDUCACIÓN EN EL TRATAMIENTO DE LAS MEDIDAS PROPUESTAS POR LA LEY ORGÁNICA 8/2021, DE 4 DE JUNIO, DE PROTECCIÓN INTEGRAL A LA INFANCIA Y LA ADOLESCENCIA FRENTE A LA VIOLENCIA.

IMPLICATIONS FOR THE EDUCATION INSPECTORATE IN DEALING WITH THE MEASURES PROPOSED BY ORGANIC LAW 8/2021, OF 4 JUNE, ON THE COMPREHENSIVE PROTECTION OF CHILDREN AND ADOLESCENTS AGAINST VIOLENCE.

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Resumen

Tomando como referencia el objetivo 16.2 de la Agenda 2030 "poner fin al maltrato, la explotación, la trata y todas las formas de violencia y tortura contra los niños", España ha fomentado diferentes medidas entre las que se destaca a

nivel legislativo la publicación de la Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia de género.

En su articulado, recoge la necesidad de adaptación organizativa para los centros educativos no universitarios que escolaricen menores de edad incluyendo, entre otras novedades, la creación de la figura del Coordinador de Bienestar y Protección de la infancia y la adolescencia.

En este contexto, y dada la implicación de la Inspección de Educación en la supervisión de los centros y asesoramiento a la comunidad educativa, este artículo pretende un breve repaso a los cambios introducidos por la norma, análisis del desarrollo normativo por parte de las Comunidades Autónomas en ejercicio de sus competencias y, por último, el análisis y propuesta para la supervisión a nivel de Inspección Educativa de la correcta implantación de la LOPIVI en los centros educativos que escolaricen menores de edad.

Palabras clave: *LOPIVI, centro escolar seguro, responsable de bienestar y protección, inspección educativa, violencia, acoso escolar, menores.*

Abstract

Taking as a reference objective 16.2 of Agenda 2030 "to put an end to abuse, exploitation, trafficking and all forms of violence and torture against children", Spain has promoted different measures, among which the publication of Organic Law 8/2021, of June 4, about comprehensive protection of children and adolescents against gender violence.

In its articles, it includes the need for organizational adaptation for non-university educational centers that educate minors, including, among other novelties, the creation of the figure of the Coordinator of Welfare and Protection of children and adolescents.

In this context, and given the involvement of the Education Inspection in the supervision of the centers and advice to the educational community, this

article aims to provide a brief review of the changes introduced by the standard, analysis of the regulatory development by the autonomous communities in the exercise of their powers and, finally, the analysis and proposal for supervision at the Educational Inspection level of the correct implementation of the LOPIVI in educational centers that educate minors.

Keywords: LOPIVI, safeguarding, educational inspection, violence, minors, school bullying.

1.- INTRODUCTION

Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents against violence, hereinafter LOVIPI, was published in the Official State Gazette of 5 June 2021. From that moment on, Spain entered an important process of change in the field of minors, since this regulation "represented a turning point, as it recognised for the first time the right of children and adolescents to grow up free from violence. Moreover, it did so from an integral point of view, including all areas that affect their well-being: family, social, leisure, educational, emotional, among others" (Educo, 2023).

The publication of this regulation under the legislative form of an Organic Law is contextualised within the framework of fundamental rights and the special constitutional protection of these, specifically article 15 of our Magna Carta, which states that "everyone has the right to life and to physical and moral integrity, without, in any case, being subjected to torture or to inhuman or degrading punishment or treatment". Under this reinforced constitutional protection, not all of the text is of an organic nature, for which the reader is referred to the 19th Final Provision of the law, which lists the provisions of an ordinary nature.

On the other hand, the protection of minors is one of the guiding principles of social and economic policy established in article 39.4 of the Spanish Constitution, which states that "children shall enjoy the protection provided for in international agreements that safeguard their rights".

In this sense, the publication of LOPIVI represents an important turning point in the area of minors since Spain's ratification of the Convention on the Rights of the Child. The effort to protect the rights of minors has been growing and "although Spain had several regulatory instruments for the protection of children, it was still far from the paradigm of the Convention, as the Committee on the Rights of the Child pointed out in 2010". (Educo, 2023). Furthermore, the

publication of this norm addresses the fulfilment of Sustainable Development Goal 16: "promote just, peaceful and inclusive societies" and specifically focuses its efforts on target 2: "end abuse, exploitation, trafficking and all forms of violence and torture against children".

With the approval of the LOPIVI, Spain becomes a pioneering country in this legislative area, although "the approval of this law is only the beginning of a paradigm shift that we must make as a society in order to eradicate violence against children in our country" (Martínez and Escorial, 2021)

2.- BASIS OF LOPIVI IN RELATION TO THE EDUCATIONAL CONTEXT

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The text begins with the introduction in the articles of the definition of the concept of violence (art. 1. 2) which specifies that "violence shall be understood as physical, psychological or emotional abuse, physical, humiliating or degrading punishment, neglect or negligent treatment, threats, insults and slander,

exploitation, including sexual violence, corruption, child pornography, prostitution, school bullying, sexual harassment, cyber-bullying, gender-based violence, genital mutilation, trafficking in human beings for any purpose, forced marriage, child marriage, unsolicited access to pornography, sexual extortion, public dissemination of private data as well as the presence of any violent behaviour in the family environment".

In relation to our focus of interest and assuming that any form of violence can occur or be detected in the school context, it is worth highlighting the explicit mention of bullying, which has a direct impact on day-to-day school life and, like other forms of violence that plague classrooms today, has a direct impact on student performance and their own development and wellbeing.

By way of summary, we can identify several key concepts or new developments in relation to the mandates that the norm carries out in the educational environment:

- **Educational establishments as safe environments.** All types of centres and stages that provide schooling for minors must guarantee their safety, in addition to the development of the principles set out in article 30 of the text, which can be roughly summarised as training, mutual respect and the achievement of an atmosphere of respect for the principles of democratic coexistence.
- **Measures for safe educational establishments:**
 - Approval of a coexistence plan in accordance with article 124 of the LOE (art. 31 LOPIVI).
 - Supervision of staff recruitment (art. 32 LOPIVI).
 - Training of professionals for the early detection of situations of violence (art. 5).

- Training for children and adolescents on rights, safety and digital responsibility (art. 33).
- Application of the action protocols developed by the educational administrations (art. 34).
- Creation and implementation of the figure of the welfare and protection coordinator (art. 35).

3.- THE WELFARE AND PROTECTION COORDINATOR

"One of the most relevant advances of the LOPIVI is the introduction, in article 35, of the figure of the Welfare and Protection Coordinator, which was already included in the LOMLOE. This figure follows the tradition of other education systems, such as the British, where there is a professional safeguarding profile. The aim of this new role is to ensure the protection of all students and to protect their rights in all spaces, physical and virtual" (Educo, 2023). Article 35.1 of the LOPIVI establishes that "all educational centres where minors are studying, regardless of their ownership, must have a Coordinator for the welfare and protection of students who will act under the supervision of the person who owns the centre".

But the LOPIVI is not the only Organic Law that has made mention of this new figure, the LOMLOE in its article 124.5 indicates that "the educational administrations shall regulate the protocols for action in the event of signs of bullying, cyberbullying, sexual harassment, gender-based violence and any other manifestation of violence, as well as the requirements and functions to be carried out by the welfare and protection coordinator, who must be appointed in all educational centres regardless of their ownership. The headmasters, headmistresses or head teachers of educational centres will be responsible for ensuring that the educational community is informed of the existing protocols of action as well as the execution and monitoring of the actions foreseen in them. In

any case, the rights of those affected must be guaranteed". This figure "will be responsible for ensuring that the compulsory protocols for action are complied with in schools in the event of signs of bullying, cyberbullying, sexual harassment, gender violence, suicide, self-harm and any other form of violence" (Rebón Rodríguez, N. L. 2021).

So far, this task has been shared between tutors, guidance counsellors and the head of studies, without prejudice to the intervention of other professionals in the centre. However, given the relevance of the issue, LOPIVI understands the need to establish a reference person in each school that educates minors, regardless of its ownership. On the other hand, the interest in introducing this figure in our educational system has been based on "the effectiveness that this professional has been demonstrating in other systems in our environment, both to increase the welfare of children and adolescents, and to protect those responsible for educational centres from the civil and criminal consequences derived from the exercise of their responsibilities in the face of certain types of situations" (Espinosa Bayal, 2022).

Undoubtedly, the creation of the figure of the welfare and protection coordinator is the main advance proposed by LOPIVI in the school environment, in a clear commitment to reinforcing the protective function of educational centres and the important role of teachers in detecting, preventing and raising awareness of violence against minors. In this sense, the regulatory development carried out by the autonomous communities will be decisive for this measure to achieve the desired objectives.

3.1.- FUNCTIONS OF THE WELFARE AND PROTECTION COORDINATOR

The importance of this figure lies in the weight assigned to it by the LOPIVI in determining its functions. These are defined in article 35.2 of the regulation, in an attempt to establish the bases for subsequent development by the Autonomous Communities in the exercise of their competences.

The functions of the welfare and protection coordinator (art. 35.2) are presented below, arranged according to the level of action (Title III) on which they are based or with which they are most directly related:

AWARENESS

a) Promote training plans on prevention, early detection and protection of children and adolescents, aimed at both staff working in schools and students. Priority will be given to training plans aimed at school staff who act as tutors, as well as those aimed at pupils to help them acquire the skills to detect and respond to situations of violence.

Likewise, in coordination with the Parents' Associations, it shall promote such training among parents, and those who exercise guardianship, custody or fostering functions.

f) Inform the staff of the centre about the protocols for the prevention and protection of any form of violence existing in their locality or autonomous community.

PREVENTION

d) Promote measures that ensure maximum well-being for children and adolescents, as well as a culture of good treatment of children and adolescents.

e) To promote the use of alternative methods of peaceful conflict resolution among school staff and students.

g) To promote respect for students with disabilities or any other circumstance of special vulnerability or diversity.

h) Coordinate with the school management the coexistence plan referred to in article 31.

k) Promote healthy and nutritious food at the educational centre to enable children and adolescents, *especially the most vulnerable, to eat a balanced diet.*

EARLY DETECTION

b) Coordinate, in accordance with the protocols approved by the educational administrations, cases requiring intervention by the competent social services, informing the corresponding authorities, if deemed necessary, and without prejudice to the duty of communication in the cases provided for by law.

c) Identify themselves to students, to school staff and, in general, to the educational community, as the main point of reference for communications related to possible cases of violence in the school itself or in the surrounding area.

i) Promote, in those situations that pose a risk to the safety of minors, the immediate communication by the educational centre to the State Security Forces and Bodies.

j) Promote, in those situations that may involve the unlawful processing of personal data of minors, the immediate communication by the educational centre to the Data Protection Agencies.

This general framework of tasks should be specified by “the competent educational administrations” which “shall determine the requirements and functions to be carried out by the welfare and protection coordinator. They shall also determine whether these functions are to be carried out by existing or new staff”.

3.2-. THE WELFARE AND PROTECTION COORDINATOR (WPC) IN REGIONAL REGULATION

The regulatory development that corresponded to the autonomous communities with regard to the requirements of the Welfare and Protection Coordinator, as established in article 35.2 of the LOPIVI, has left an unequal panorama in the autonomous territories.

Based on the *vacatio legis* of six months from the entry into force of article 35, which regulates the figure of the Welfare and Protection Coordinator, unions and associations expressed their disagreement with the unequal panorama we found at the beginning of the 2022 academic year, where only eleven of the seventeen regions had planned for its implementation. In the 23/24 academic year, practically all the autonomous communities have, at least, included the reference in the instructions corresponding to the beginning of the academic year, while others have opted for their own detailed development.

A) REGULATORY DEVELOPMENT

If we focus on the regulations that regulate it, in the strict sense of the concept, the only communities that have published regulations in this respect are: La Rioja (Decree 31/2022 and Order EDC/6g/2022), Community of Valencia (Decree 195/2022) and Galicia (Order of 23 August 2023). The rest have published all kinds of Resolutions, Instructions or Circulars, which do not have regulatory status *sensu stricto*, being rather administrative provisions.

Some communities have published Resolutions (Balearic Islands, Canary Islands and Madrid) or Instructions (Andalusia, Aragon and Extremadura) to regulate the figure of the coordinator. Others have simply included a reference to the coordinator in the instructions for the start of the school year for the different schools where minors are enrolled (Asturias, Cantabria, Catalonia, Murcia, Navarre, the Basque Country and the MEFP territory).

In some cases, several of these instruments have been used to regulate the coordination of Welfare and Protection, as in the case of La Rioja, which

publishes, in addition to the Decree and Regulatory Order, a Resolution with the timetable allocation, Madrid, with an *ad hoc* Resolution and instructions for the start of the school year and Valencia, which, in addition to its own Decree for the figure, develops it through the Instructions for the start of the school year and in the Decrees on organisation and functioning of the school year.

Finally, in a more precarious situation would be Castile-La Mancha, which only makes a minimal reference to the figure in the Organisation and Operation Orders of the different education systems, or the striking case of Castile and Leon, which has not legislated at all in this respect.

By way of summary, and with the aim of facilitating understanding of the regulatory panorama by autonomous region, table 1 is included below with various columns in relation to the regulatory techniques used for the development of the figure.

Table n° 1: Regulation of the figure of the welfare and protection coordinator by autonomous communities (ACs).

ACs.	REGULATIONS (Decreets and Orders)	DEVELOPMENT EXCLUSIVE (Resolutions, Instructions or Circulars)	INSTRUCTIONS FOR THE START OF THE COURSE	GUIDES	ORGANISATIONAL AND OPERATIONAL RULES
Andalusia		X			
Aragon		X	X		
Asturias			X		
Cantabria			X		
Castile-La Mancha					X

Castile and Leon					
Catalonia			X		
Extremadura		X	X		
Galicia	X				
Balearic Islands		X	X		
Canary Islands		X			
La Rioja	X	X			
Madrid		X	X		
Murcia			X	X	
Navarra			X		
Basque Country			X		
Valencia	X		X		X
MEFP			X		

B) PRINCIPLES OF ACTION AND DEVELOPMENT OF FUNCTIONS

PRINCIPLES OF ACTION

Extremadura is the only community that establishes principles of action, in relation to the protocols and regulations of the United Nations, among which the following stand out: ensuring the best interests of children, networking, protection in all areas, both physical and virtual, preventing discrimination and avoiding stigmatisation, encouraging child participation in processes and decision-making

and collaborating with families and/or legal guardians, informing the educational community and guaranteeing confidentiality and the protection of personal data.

FUNCTIONS

As for the functions, almost all the autonomous regions limit themselves to reproducing those established in article 35.2 of the LOPIVI. Some regions organise the functions in areas, sometimes shared with other figures and positions in the centres (Aragón), while others add functions (Catalonia in the area of coeducation and emotional well-being or equality in Extremadura) or subtract them (Navarre or Valencia).

In the different texts analysed, it can be seen that mention is made of other previous figures who assumed these functions. In the case of the Valencian Community, its regulations clarify that the co-ordination of equality and coexistence was created prior to the LOPIVI and is therefore institutionalised in all educational centres, although it differs in some of the functions attributed to the school head. This is also the case in Aragon, which already had the figure of the Coexistence and Equality Coordinator, and Andalusia, with the Coexistence Plan Coordinator.

The Canary Islands, Balearic Islands and Galicia relate the figure to the school coexistence commission. In the second case, the functions are slightly extended, as in addition to those set out in the LOPIVI, the coordinator must convene the committee, participate in the drafting, monitoring and evaluation of the coexistence and well-being plan, as well as coordinate the actions arising from it and represent the school community before the administration, and is also responsible for the promotion of coexistence in the schools. In the case of the Canary Islands, in addition to assuming the coordination of coexistence, this coordinator will be the point of reference in situations of bullying that may occur.

Catalonia has created a figure known as the Coordinator for Coeducation, Coexistence and Student Wellbeing (COCOBE) to which many of the functions established in article 35.2 LOPIVI are attributed, as well as adding others related to coeducation and the emotional wellbeing of students.

As for the areas of action, while retaining the three original ones (awareness, prevention and early detection), some regions have renamed them, extended them or simply kept them unchanged. The Canary Islands and Aragon include coordination as an area, and the latter also mentions training, as will be analysed below. Extremadura and La Rioja extend the areas and relate them to the moment of the process in which the intervention is carried out (planning, prevention, training and educational intervention and detection and early warning of risk situations).

The Riojan regulation makes a realistic reflection by indicating that the functions of this important figure extend beyond the educational centre, reaching the family and community sphere, including its virtual extension.

C) PROFESSIONAL ASPECTS IN RELATION TO THE WELFARE AND PROTECTION CO-ORDINATOR

PROFESSIONAL PROFILE

The differences in the profile that the coordinator should have (if they are indicated) are relevant. While in Cantabria or Extremadura (only in primary schools) the coordinator must be a member of the management team, in the Canary Islands or La Rioja the approach is the opposite. In some cases, it is indicated that it should be staff with stability in the centre and with training or experience in coexistence, such as PSCs or social educators (Extremadura in IES, La Rioja), while in others it is assimilated to already existing figures, such as the person responsible for equality or coeducation in the centre, as, for example, in the Basque Country.

Andalusia is one of the communities that opt for the management team to carry out this task, provided that there is no coordinator of the coexistence plan in the school.

The Canary Islands, for its part, chooses to require that the PBC be appointed by the management from among the teaching staff who have stability in the school; it is also recommended that they have training in coexistence, school mediation, emotional education, equality and affective-sexual and gender education. They also consider that they should have a track record and teaching experience in the implementation of projects related to the improvement of coexistence, the emotional education of students or coeducation and communication and socio-emotional skills and leadership capacity.

However, the Canary Islands veto the post of director and head of studies, except in schools with fewer than 6 units and those with fewer than 25 minor pupils, except for rural schools where it is compulsory to coincide with the director.

For La Rioja, the choice will be made preferably from among permanent staff with training or experience in coexistence, such as PSCs or social educators or another post working with the community. In this community, the appointment will be for two years, extendable for a further two years after evaluation by the SIE. It is recommended that he/she is neither a member of the management team nor the school counsellor.

The Basque Country also tries to take advantage of previous experience, giving priority to the person coordinating the BAT team.

Finally, Murcia includes, in addition to stability and training, that the person chosen should have communication and socio-emotional skills, as well as leadership and teamwork abilities. In the same vein, in Valencia, they consider it advisable for the person to have links with the socio-community environment.

TRAINING

In view of the study of the regulations of the different autonomous communities, the specific and initial training for the coordinator to be able to correctly perform his/her duties is regulated as a guarantee provided by each administration (Asturias, Cantabria, Catalonia, Extremadura, Galicia, Balearic Islands, Canary Islands, La Rioja, Madrid and the Basque Country). Other communities, despite not making any reference to it, have developed this offer through their training networks.

In the case of Extremadura, the importance given to PBC training is noteworthy, as it establishes that the person designated for coordination must have extensive training or undertake to receive it, in regulations, child protection standards, protocols for action, professional networks and resources, identification, prevention and intervention in situations of violence against children.

It is worth mentioning that Aragon, in a clever way of making the most of the training it has or will provide for the welfare coordinators, reinforces the training competences of these coordinators, who will be able to carry out the training of students and teachers who are part of the coexistence and equality team in relation to the programmes of student helpers, mediation, peer tutoring, affective tutoring and students for gender equality.

COURSE LOAD

With regard to time reductions for the performance of functions inherent to this coordinating role, there is also a wide variety of proposals between regions. Castile and Leon, Catalonia, Navarre and the Basque Country do not allocate any reduction in hours; the Balearic Islands and Castile-La Mancha rely on the organisational autonomy of the centres by granting time "slots" to be distributed among the different co-ordinating bodies; the Valencian Community and Murcia

only grant one hour of teaching time, in the first case, and complementary hours in the second; finally, Madrid and Aragon add up the complementary hours.

A great variability of teaching and complementary hours, which in many cases depend on the size of the centre and which go up to the seven teaching hours allocated in La Rioja and which, in this case, will depend on the centre in relation to the number of units, the number of students enrolled and their percentage in a situation of vulnerability.

The time "slots" provided by Castile-La Mancha depend on the type and size of school, as it is understood that this directly affects the time that the coordinator will dedicate to the development of his/her functions. Thus, it is up to the management teams to decide how to divide these hours between the PBC, the coordination of the reading plan and the coordination of the digital transformation and training plan.

Andalusia seems to want to mark the timetable of the person responsible in relation to the post and thus assigns a fraction of the time spent at the school for the performance of functions, as it does with the coexistence coordinator, a figure to which it is assimilated in its regulations.

Extremadura stands out once again for agreeing on coordination with the educational community, for which it allows the use of an additional hour per week, in addition to the teaching hours of the person in charge.

ECONOMIC COMPLEMENT

As a final aspect of this analysis, we consider it curious, to say the least, that only Catalonia, the Canary Islands and Galicia have considered valuing the important work of this novel figure through the allocation of a specific economic complement.

Aragon, relying on a very popular formula for valuing the work of professionals without affecting the General Budget of the Autonomous Community, recognises the work of the PBC with eight hours of training per academic year.

Following this analysis, we include a table that may help the reader to understand the uneven landscape that, once again, is left by the regulation of this figure in the different autonomous communities, in this case in relation to the professional issues analysed.

Table 2: Other professional issues surrounding the figure of the welfare and protection coordinator in the regulations of the different autonomous communities..

ACS.	Time availability	Specific allowance	Professional profile	Initial training
Andalusia	Non-direct.	NO	NO	NO
Aragon	3 additional hours.	NO. 8 hours of training.	NO	NO
Asturias	Up to 2 teaching hours	NO	NO	YES
Cantabria	2 to 4 teaching hours in primary schools and 3 to 5 in secondary schools.	NO	Member of the management team in collaboration with Guidance and the PSC.	Yes
Castile-La Mancha	Between 3 and 7 in the CEIPs and between 6 and 8 periods in the IES, to be distributed with other coordinations.	NO	NO	NO
Castile and Leon	NO	NO	NO	NO

Catalonia	NO	YES	NO NO	YES
Extremadura	Between two and three teaching periods and one additional hour per week for coordination with the educational community.	NO	Members of the management team, preferably in pre-school, primary and special schools, and social educators in secondary schools.	YES
Galicia	Up to two teaching hours and two complementary hours.	YES	YES. Teachers from the teaching staff, preferably with a permanent post, for a period of two years, prioritising their specific training, experience, interest and time availability.	YES
Balearic Islands	YES, within a coordination pool, from 11 to 21 hours in CEIP and from 24 to 37 in IES.	NO	NO	YES
Canary Islands	In CEIP, from 2 complementary hours to 4 teaching hours and 1 complementary hour. In IES, between 1 and 4 teaching hours and up to 2 complementary hours.	30€	YES. No management or head of studies, except in small schools.	YES
La Rioja	Between 3 and 9 teaching hours.	NO	YES. Teaching staff, with a permanent post, with training or experience in coexistence, such as PTSC or social educators. Must	YES

			not be a member of the school's management team or guidance counsellor.	
Madrid	Complementary hours	NO	NO	YES
Murcia	Minimum, 1 complementary hour.	NO	YES	NO
Navarra	NO	NO	NO	NO
Basque Country	NO	NO	YES. Preferably the person in charge of equality or coeducation at the centre. The coordinator of the BAT team.	YES
Valencia	Minimum 1 teaching hour.	NO	YES	NO
MEFP	Two teaching hours and the possibility of complementary hours.	NO	YES. It cannot be the director or the head of studies, except in centres with fewer than 6 units.	NO

D) ORGANISATION AND OPERATION OF THE CENTRES

TYPE OF CENTRES

The LOPIVI and its development should be applicable to all schools that educate under-age pupils, although the autonomy of private schools and their organic regulations have meant that some communities do not refer to them, so it may seem, in some cases, that the figure should only be implemented in public schools. Difficult panorama.

The Canary Islands is a clear example of this, as it clarifies in the regulations governing the figure that it will be applicable to non-university educational centres supported with public funds. This is due to the number of aspects that are regulated in a very specific manner, although these issues are usually solved with the recurring phrase "in all that is applicable to them", they have preferred to opt for specific regulations to regulate the figure in private Canarian centres.

Madrid, a region with a large number of privately owned schools, is the only one that has resolved this issue by publishing specific regulations for private schools. It has done so by means of the Resolution of 18 July 2022, which regulates the creation of this figure in this type of centre.

Extremadura and the Basque Country have opted for procedural economy, regulating with the same regulation all types of centres, regardless of their ownership, where minors study. In this line, Galicia has opted for the same formula, although these authors cannot understand the sense of the exception made by this community, which excludes centres that teach the first cycle of Early Childhood Education.

ADSCRIPTION OR DEPENDENCE

As is clearly described in the Basque regulations, the welfare coordinator will act under the supervision of the person who holds the management or ownership of the centre in clear compliance with the functions of both figures. Apart from this evidence, these authors would like to draw attention to the assignment of this figure in La Rioja, where he/she will be assigned to the Guidance Department at Secondary level and to the management team at Primary level.

INTERNAL COORDINATION NETWORK

Coordination is the fundamental principle in the exercise of the work of this figure, as otherwise it will not be possible for its functions to be carried out properly. This has been something that the autonomous communities have been clear about when developing their texts. As Murcia indicates in its Guide, this is the person in charge of "uniting the efforts of all members of the educational community in matters of protection and welfare".

Cantabria and Aragon link collaboration with teachers specialising in educational guidance and community services.

Extremadura formalises coordination with other professional profiles and the importance of networking (management team, tutors, educational guidance, Education Inspectorate), as well as with internal networks (in addition to the aforementioned profiles, School Council, School Staff, Equality Committee, School Absenteeism Committee, Protocols, Programmes in the field of school coexistence, Complementary and extracurricular services and AMPA¹), and external ones (Units specialised in prevention, such as agents of the State Security Forces and Corps, social services and the health field).

Galicia groups the functions of the PBC according to the body with which it should be coordinated in order to carry them out: management team, guidance department and AMPA.

As there are already similar or analogous bodies with similar functions, as we have already mentioned, Madrid considers it necessary to count on their collaboration.

COLLEGIATE ORGANISATIONS.

Relations between the school's collegiate bodies and the PBC vary from one autonomous community to another. In the case of schools located in MEFP

¹ Parents' Board.

territory or in Madrid, the appointment will be communicated to the school staff and the School Council.

Extremadura and Andalusia go a step further, giving a more official character to the figure. The former establishes that the School Council must be consulted prior to the appointment. Andalusia, in its case, requires annual approval by this body.

The Canary Islands, among the commitments made by the school management, includes the promotion of a slight degree of accountability, by requiring that the PBC be given access to the Pedagogical Coordination Committee, at least once a term, to explain the actions of its work plan.

Andalusia, without reference to the figure in this sense, does maintain what is established in the LOPIVI and includes among the competences of the school staff and the School Council the promotion of the adoption and monitoring of educational measures that promote the recognition and protection of the rights of minors in the face of any form of violence.

CENTRE PROGRAMME DOCUMENTS

The Coexistence Plan is the reference document for collecting issues related to the development of the functions of this figure, as indicated by Andalusia. Extremadura also considers it necessary to include in this document all the aspects that develop the three levels of intervention set out in its regulations.

The recommendation that the WPC should draw up an annual work plan, to be included in the coexistence plan, can be found in the Canary Islands, the MEFP territory and Galicia. In the Canary Islands and the MEFP territory, the plan will be evaluated annually at the end of the academic year, while in Galicia it will be specified in the Annual General Programme (AGP) of each academic year.

In relation to the AGP, the Balearic Islands indicates that the distribution of the periods assigned to each co-ordination must be stated in this document.

Murcia mentions the Tutorial Action Plan, as coordinators in Murcia must collaborate in the design and development of activities, campaigns, programmes and plans included in it.

E) SECTORAL CONFERENCE ON CHILDREN AND ADOLESCENTS

In short, each autonomous community has regulated the figure of Welfare and Protection Coordinator differently, lacking unity and clarity in the functions to be carried out and the conditions under which they are to perform them.

One of the novelties of LOPIVI is the creation of the Sectorial Conference for Childhood and Adolescence (art. 7). This body will be in charge of "cooperation between public administrations in matters of protection and development of children and adolescents". In this sense, it is the opinion of these authors that the irregularity and disparity in the regulatory development of the relevant figure of the welfare and protection coordinator in educational centres could be harmonised within this body, where all the autonomous communities will be present and whose first function (art. 7.2.a) supports the need for "coherence and complementarity" in the actions "carried out by the public administrations" in the fight against violence against minors.

4.- IMPLICATIONS OF THE LOPIVI FOR THE ACTIONS OF THE EDUCATION INSPECTORATE

"The law imposes on educational administrations the obligation to guarantee that all educational centres, regardless of their ownership, are safe environments and comply with protocols in cases of violence" (Martínez and Escorial, 2021).

With the partial modification of article 151 of the LOE by the LOMLOE, where the inspection functions are included, a section "h" is added which "normalises the growing role of inspectors in the field of school coexistence, both in terms of their role as supervisors and advisors to the guidance teams and in responding to coexistence issues frequently raised by educational centres" (Marrodán, 2021). This includes the responsibility to "guide the management teams in the adoption and monitoring of measures that favour coexistence, the participation of the educational community and conflict resolution, promoting and participating, when necessary, in mediation processes" (art. 151.h LOE).

"Inspection, as a public service, is an essential instrument of the administration to promote progress in schools" (Esteban, 2014). Thus, Esteban Frades understands that "the inspectorate has powers to promote improvement in the general interest of citizens and, consequently, it must, from a positive viewpoint, attend to the modernisation of the education system". But in the opinion of these authors, this modernisation goes beyond organisational and curricular modernisation, as violence against minors, in any of its forms, is a daily reality in which, to a greater or lesser extent, the pupils in the classrooms we supervise live every day.

As a first step within the framework of the control function of regulatory compliance, we propose below a humble and brief proposal for intervention in relation to the main aspects introduced by the regulation in order to, at least, ensure the proper implementation of the LOPIVI in the educational centres under our supervision without having to wait for the *ad hoc* inclusion of a specific action in the corresponding action plan.

4.1.- THE WELFARE AND PROTECTION COORDINATOR, PERFORMANCE OF FUNCTIONS

The relationship between the figure of the welfare coordinator and the Inspector of Education could generate an interesting synergy in the context of the

functions of the former and the provision of advice to sectors of the educational community for the fulfilment of their obligations (art. 151.f LOE) and in connection with the improvement of coexistence in schools (art. 151.h LOE), for the latter.

UNICEF recalled that "it is advisable to establish a close link with the Education Inspectorate to enable a solid structure of accountability towards the education administration as an important source of institutional support for its work" (UNICEF, 2021).

Firstly, it is considered interesting and necessary to focus on the preparation of an annual work plan by the welfare and protection coordinator, which could be included in the school's Coexistence Plan. Although the preparation of this document as such is not compulsory in all autonomous communities, it would guarantee the development of all the functions, which could be associated with actions related to each of the areas (prevention, detection and intervention) and timed through the inclusion of a chronogram that would facilitate both its development and evaluation at the end of each school year.

It is essential to ensure that the figure of the welfare coordinator maintains a fluid and constant relationship with the person who holds the management or ownership of the school as the first person responsible for supervising the development of the functions. The person in charge will in turn provide direct support to the competence of school management in terms of promoting coexistence in schools (art. 132 LOE). In this sense, it is recommended that advice to Management Teams should guide this coordination with a pre-established frequency as a guarantee for the development of the actions that are theirs, as well as other internal and external coordination within and outside the school, which are key to the development of this figure.

4.2.- ADAPTATION OF INSTITUTIONAL DOCUMENTS OF THE CENTRE

As introduced in the previous section, "the actions of the welfare and protection coordinator must be framed within two of the fundamental documents that regulate the functioning and dynamics of the educational centre, namely: the Educational Project of the Centre and the Coexistence Plan" (Espinosa, 2022). In the usual inspection tasks, it will be necessary to ensure that the school's instructional documents are adapted to the provisions of the regulations, not only in relation to the figure of the welfare coordinator, but also in relation to the educational activity that the LOPIVI includes in article 31

In this sense, it will be necessary to check that:

1.- The strategic lines of the educational project have been adapted to what is established in the Coexistence Plan (art. 121 LOE).

2.- The school has a Coexistence Plan document in accordance with article 124 of the modified LOE (art. 31.1 LOPIVI).

3.- The Coexistence Plan includes activities for the acquisition of awareness-raising skills in the educational community, promotion of good treatment and peaceful conflict resolution by the school staff, pupils and the educational community (art. 31.1 LOPIVI).

4.- The coexistence plan includes the codes of conduct in the event of bullying or other situations that affect coexistence at the educational centre, regardless of whether they occur at the centre itself or through ICT (art. 31.2 LOPIVI).

5.- School activities have been planned which have been included in the PGA, awareness-raising activities from tutorials, talks or activities with associations or organisations outside the school, etc. (in accordance with art. 34.1 LOPIVI and 125 of the LOE).

4.3.- DISSEMINATION OF PROTOCOLS FOR ACTION

"The promotion of a cultural change that implies a unanimous and unequivocal rejection by society as a whole of any form of violence against children must be an essential objective" (Pérez and Palomino 2021). In this effort to raise social awareness, article 34 of the law leaves it the responsibility of the administrations to regulate through the publication of protocols of action on forms of violence such as bullying, cyberbullying and other forms of violence listed in the article itself or in the law itself. The importance of these protocols lies in providing a unique and effective response to the possible protection needs of minors who are victims of violence that may arise in the educational context; it also connects directly with the levels of action of the LOVIPI in terms of prevention and early detection of these situations.

In order to ensure the correct dissemination of these documents, Article 34.3 entrusts "the persons in charge of the management or ownership of educational centres" with the responsibility "to ensure that the educational community is informed of the existing action protocols as well as of the implementation and monitoring of the planned actions".

In the light of the text, the advice that the education inspector must provide to the Management Teams in order to comply with this regulatory mandate must be thorough so that, from the centres, both the dissemination and the correct execution and subsequent monitoring of the protocols are achieved. In this sense, the support of the figure of the person responsible for welfare is fundamental for the management teams to be able to develop what is required in an adequate manner, given that he/she will be able to collaborate from the simplest dissemination to more in-depth actions so that the community can have sufficient knowledge of these texts.

It would also be advisable for the Inspector to check that each centre has included in its Rules of Organisation, Operation and Coexistence the protocols of action existing in each Educational Administration, in relation to "mistreatment

and bullying and cyber-bullying, sexual harassment, gender violence, suicide or self-harm as well as other manifestations of violence" (in accordance with art. 34.3 LOPIVI and 124.1 of the LOE). It should be remembered that it is possible and recommended that they can adapt some aspects to their own uniqueness within the margin of their autonomy.

4.4.- POWERS OF THE COLLEGIATE GOVERNING BODIES

The LOPIVI makes a pronouncement on educational organisation in article 31, briefly mentioning the collegiate governing bodies of schools. Thus, it indicates that "the teaching staff and the School Council shall have among their competences the promotion of the adoption and monitoring of educational measures that encourage the revival and protection of the rights of minors in the face of any form of violence".

Therefore, it is necessary for the education inspector to supervise that both the school council and the school staff promote educational measures that encourage the recognition and protection of minors in the face of any form of violence. This verification of compliance can be carried out in a simple way through the minutes of these bodies. In the same way, and respecting the principles of autonomy, the connection between the proposed measures and the line established in the school documents could be studied in greater depth, with special attention to the connection between the specific proposals for each school year that have been included in the APG.

4.5.- STUDENT PARTICIPATION

Despite the fact that student participation in the educational sphere cannot be considered a novelty, as it is part of the democratic and values-based education that has inspired the Spanish educational system for decades, the importance that LOPIVI gives to the involvement of minors in the school context is noteworthy. This commitment to the participation of minors is reflected in other

proposals in the law, such as the creation of the State Council for the Participation of Children and Adolescents, which is included in the seventeenth final provision.

In this sense, advice on the participation of this sector of the educational community should be guided by the following mandates drawn from the articles dedicated to the educational sphere:

- "Children and adolescents at all educational stages and regardless of the ownership of the centre, shall receive, in a cross-cutting manner, an education that includes their participation" (art. 30, second paragraph LOPIVI).
- "The codes of conduct of educational centres must also be agreed with the pupils (art. 31.2 LOPIVI).
- "Training in digital rights, security and responsibility" (art. 33 LOPIVI).
- "In the regulation of action protocols for the educational sphere, the educational administrations will count on the participation of children and adolescents" (art. 31.1 LOPIVI).

4.6.- THE RECRUITMENT OF PROFESSIONALS

LOPIVI regulates, between articles 57 to 60, issues relating to the negative certification of the Central Register of Sex Offenders for positions that involve regular contact with minors. Thus, the regulation develops and details a measure that at the time was introduced by Law 26/2015, of 28 July, on the modification of the child and adolescent protection system.

Article 57 establishes the accreditation by means of negative certification from the Central Register of Sexual Offenders as a requirement for access to professionals, trades and activities that involve regular contact with minors, "not having been convicted by final judgment for any crime against sexual freedom

and indemnity..." typified in the penal code "as well as for any crime of trafficking in human beings...".

The professionals who must obtain this negative certification are all those who "exercise professions, trades and activities that involve regular contact with minors", which, as Martínez and Escorial (Martínez and Escorial, 2021) aptly summarise):

- "They may be remunerated or not.
- They must involve repeated, direct and regular and not merely occasional contact with children or adolescents.
- All those primarily involving minors.
- This includes those who work as employees and those who carry out voluntary activities" (article 59, LOPIVI).

In schools, the persons required to meet this requirement are covered by article 32 of the regulation, these being both "teaching and auxiliary staff, service contracts, or other professionals who work or collaborate regularly in the school, whether remunerated or not".

Article 32 of the LOPIVI leaves the responsibility for the supervision of educational centres to "the educational administrations and the persons in charge of the management and ownership of the centres".

Although it is usual, as the regulation indicates, for the personnel services of the public administrations or the corresponding departments for privately owned centres to be responsible for verifying this requirement, there are occasions where it has been observed that this requirement is absent in recruitment. Among the usual supervisory tasks of the Education Inspectorate is the verification of the qualification requirements for teachers in schools which do

not depend on the corresponding Education Administration. Thus, it would be advisable to include a small verification action to guarantee this requirement, in order to be able to provide the corresponding advice since, in the event of non-compliance by the company, it will be subject to the corresponding sanctioning regime (art. 59.3) in addition to other fatal consequences. Similarly, advice to management teams and parents' and pupils' associations may also be of interest, especially for voluntary work and extracurricular activities.

4.7.- THE RIGHT OF MINORS TO BE HEARD

"The rights of minors, already consolidated in our state and international regulations, are once again recognised and developed in this law" (Vilella, 2022). In addition to the recognition of the cardinal right not to suffer any type of violence and, in general, to have their general interest respected, Title I of the law sets out a series of rights and faculties of children and adolescents who are victims of violence, not all of an organic nature, such as the right to information and advice (art. 10), the right of victims to be heard (art. 11), the right to comprehensive care (art. 12), legal standing to defend rights and interests in legal proceedings arising from a situation of violence (art. 13) and the right to free legal aid (art. 14)".

With this modification, it is important to know that there is no age limit for minors to be "heard and listened to with all guarantees" in all procedures, including administrative procedures. Furthermore, it is necessary to be clear that this right can only be restricted "in a reasoned manner, when it is contrary to the best interests of the child" (art. 11.1). This will be very interesting to bear in mind, both for advising the centres and for the development of our own inspection work.

5.- CONCLUSION

It is a reality that "there is great variability between the Action Plans of the Education Inspectorate of the different autonomous communities. This variability is determined by the autonomous structure of the Spanish state and by the delegation of competences in education to them" (González Calero and Martínez, 2021). Without prejudice to the above and in this context, there is a common need to assume as a challenge and responsibility of the Education Inspectorate as guarantors of the renowned quality, the inclusion in the next work plans, actions to know and guarantee the correct state of implementation of the LOPIVI in that which affects the educational sphere. This necessary supervision should preferably affect the implications for the collegiate bodies and institutional documents of the centres, in addition to the correct development of the functions of the relevant figure of the welfare and protection coordinator.

It is a priority objective to collaborate actively in safeguarding the rights of the most vulnerable members of the educational community without whom education would be meaningless: our children and young people.

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