

Finland

Päivi Gynther¹

1. Overview

The compulsory stage of education in Finland is called comprehensive school (Finnish *peruskoulu*), preceded by one year of voluntary pre-primary education. Compulsory schooling starts in the year during which the child turns seven and ends when the basic education syllabus has been completed, or ten years after the beginning of compulsory schooling.² Children permanently residing in Finland have a statutory right and obligation to complete the comprehensive school syllabus. Nonetheless, there is no compulsory school attendance. Secondary education, which is non-compulsory, is divided into academic upper secondary school and vocational school. It is also possible to attend both vocational and upper secondary school simultaneously. Graduates of both academic and vocational track can apply to universities and polytechnics.

1.1. Major current issues

Equal opportunities, high quality and internationalization are outlined as education policy priorities of Finland for the near future.³ Public debate on these issues and their subtopics has been vivid. Distribution of lesson hours is among the most debated topics. An expert group set up by the Ministry of Education and Culture recently made a proposal to diversify language learning and to give the pupils the opportunity to begin language learning earlier than today. At the same time, the requirement remained for Finnish-speaking pupils in primary and secondary schools of mainland Finland to study Swedish as a mandatory subject. As the number of Swedish-speaking Finns only amount to some 5.6 % of Finland's total population, the majority of them residing in the coastal areas of the country, the requirement that all pupils with Finnish as their mother tongue shall study Swedish in school is ever more referred to as “enforced Swedish”.⁴ Movements pressing the lawmakers to abolish mandatory Swedish have thus far had no significant impact on the established policy.

Another topical issue of Finnish education law and policy concerns youth at risk. New legislation is under debate that guarantees assistance for young people who have completed basic education and remained uncertain of their study prospects, or are in risk of dropping out at beginning of their secondary level studies. This scheme can be seen as a remedy for the legislation on “enforced application”, in force since the 1990s, whereby young people below the age of 25 are denied the right to unemployment benefits, unless they have applied for education, passed the vocational examination or participated in certain employment policy measures. Such a mandatory scheme to function requires, at least, a supportive guidance system by its side. Consequently, a law reform is considered timely.

Internationalization and worldwide cooperation is an area where the Government of Finland currently encourages educational institutions to be more active. However, this backing seems to concern principally the export-side, as will be described later on in this article.

1 Dr., University of Jyväskylä, Finland

2 The child's disability or illness are acknowledged as grounds for starting the compulsory schooling one year earlier and completing it within 11 years.

3 Education and Research for the period 2007 – 2012. Development Plan. Ministry of Education publications 2008:10.

4 The expert group also put forward two new school subjects, ethics and drama. However, this part of the proposition faced hard opposition and came to nothing.

1.2. The Structure of Schooling

Until the 1990s, Finland had a strong tradition of central (nation-state) governance in education. The law reform of 1990s gave local education providers and schools more autonomy, but simultaneously brought in a new type of central steering and control. As of today, the Ministry of Education and Culture is responsible for the development of education policy, inclusive of a unified national core curriculum. The National Board of Education (hereafter NBE) is a state agency responsible for development of educational content and methods and for information services related to education. In addition, the Education Evaluation Council operates at national level with law-based mandate to plan, co-ordinate, manage, and develop the evaluation of education at primary and secondary levels.

The intermediate level of government in primary and secondary education has been progressively weakened in recent law reforms. First, the role of regional government was drastically reduced in the beginning of 1990's, when the system of school inspectorate, including inspection visits to schools conducted by state, were discontinued. Next, in 2010 the Provincial Governments in the mainland of Finland were abolished and their tasks were taken over by Regional Administrative Agencies, along with Centers for Economic Development, Transport and the Environment. In the field of education, tasks of the new regional authorities include consultancy work, legal remedies, statistics collection and delivery of information to diverse stakeholders in education.

On the local level, main control of education lies with municipalities, insofar that most primary and secondary schools of Finland are maintained either by municipalities or by joint municipal boards (federations of municipalities). Municipal authorities determine how much autonomy is passed to schools. Both public and private schools may provide educational services according to their own administrative arrangements, as long as the basic functions, determined by law, are carried out.

2. The Legal Framework

2.1. Constitutional provisions

Quite a few provisions in the Constitution Act of Finland have a bearing on primary and secondary education.⁵ Basic rights and liberties include, for example, the right of children to be treated equally and as individuals and to be allowed to influence matters pertaining to them to a degree corresponding to their level of development. Freedom of religion and conscience has constitutional protection, even if the freedom as to attendance at religious instruction or religious worship in educational institutions is not explicitly mentioned.

Educational rights provision is articulated as a right of “everyone” to “basic education free of charge”. As to linguistic rights in education, the Constitution Act obliges public authorities to provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis. In addition, the right to maintain and develop their own language and culture is guaranteed for “the Sámi”, for “the Roma”, for “other groups”, and for persons using sign language. Right of minorities to establish and administer educational institutions *per se* is not constitutionally guaranteed.⁶

Beside fundamental rights and liberties, the Constitution Act also enumerates a number of respective duties. Thus, the public authorities shall:

- promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her;
- guarantee for everyone equal opportunity to receive other than basic educational services in accordance with their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship;

5 The Constitution of Finland, 11 June 1999 (731/1999, incl. amendments up to 802 / 2007). For an unofficial translation by the Ministry of Justice, see <http://www.finlex.fi/en/laki/kaannokset/1999/en19990731.pdf>

6 Sámi may also be spelled Saami, Saame or Sami.

- support families and others responsible for providing for children so that they have the ability to ensure the wellbeing and personal development of the children;
- guarantee the observance of fundamental rights and liberties and human rights.⁷

Within the state administration, it is expressly a constitutional duty of two bodies, the Chancellor of Justice of the Government and the Parliamentary Ombudsman, to monitor the implementation of fundamental rights and liberties and human rights.⁸

In contrast to the enumerated duties of public authorities, listed above, the Constitution Act stipulates just one educational duty of the individual; namely the duty to receive education. Section 16 on the right to basic education includes the following clause: “Provisions on compulsory education shall be described by Act of Parliament.”⁹ The legal meaning of this provision has been interpreted to contain not more than the following four aspects: it (i) recognizes the constitutional acceptability of the institution of compulsory education, (ii) authorizes the ordinary legislature to enact an Act of Parliament on compulsory education; (iii) prohibits the establishment of compulsory education through a lower enactment than an Act of Parliament, and (iv) protects when implemented by Act of Parliament, the right of the child to receive education against any hindrance.¹⁰ Accordingly, compulsory education need not involve attending a school. Home schooling suffices under another section of the Constitution Act, which reads as follows: “Provisions on the principles governing the other educational services [than universities] arranged by the State and the municipalities, as well as on the right to arrange corresponding education in private educational institutions, are laid down by an Act.”¹¹

Under the topic issue of freedom, accountability and autonomy in education, constitutional provisions related to the right to self-government to be enjoyed by special entities, or the individuals constituting these entities, are also relevant. These provisions acknowledge the autonomy of the Province of Åland Islands, the linguistic and cultural self-government of the indigenous Sámi people in their native region, and the self-government of municipalities. The Constitution Act provides expressly that the state legislature has the power to lay duties on municipalities, as provided by an Act.¹²

2.2. Ordinary Laws

The principal law controlling comprehensive schools is Basic Education Act. It states, *inter alia*, that the Government shall determine the general national objectives of compulsory basic education and the distribution of lesson hours to the teaching of different subjects and subject groups and to guidance counseling. The NBE determines the objectives and core contents of different subjects and cross-curricular themes, guidance counseling, and the basic principles of home-school cooperation and pupil welfare, among other things.

Within the national core curriculum framework, schools and local authorities then form their own curricular regulations.¹³ Similar procedure applies for secondary level education: Both in the general upper secondary education and the vocational upper secondary education and training, the NBE decides on the objectives and core contents of the subjects and study modules. Based on the respective national core curriculum, each education provider then prepares the local curriculum.¹⁴ The Basic

7 Constitution Act, Sections 14.3, 16.2, 19.3, 22. Notably, reference to the personal development of the children is made in the context of social rights, but not in the context of education rights.

8 Constitution Act, Sections 108 and 109.

9 There are three provisions in the Constitution Act that recognize the existence of duties of the individual: Compulsory education (Section 16.1); Responsibility for the environment (Section 20.1), and Duty to defend the country (Section 127.1).

10 Scheinin, Martin 2000. Offprint, Finland. In *Fundamental Rights and Duties in Europe and North America*. Kluwer Law International, p. 67.

11 Constitution Act, Section 123.2.

12 Constitution Act, Sections 75.1, 120, 121.

13 Basic Education Act (628/1998), Sections 14 and 15. Compulsory core subjects in basic education are mother tongue (i.e. Finnish or Swedish) and literature, second national language, foreign languages, environmental studies, health education, religion or ethics, history, social studies, mathematics, physics, chemistry, biology, geography, physical education, music, visual arts, craft, home economics and pupil counseling.

14 General Upper Secondary Schools Act (629/1998), Vocational Education Act (630/1998). Further provisions concerning implementation of the Acts at issue shall be enacted by decree. Most relevant are Basic Education Decree (852/1998), and Government Decree on the general national objectives and distribution of lesson hours in basic education (1435/2001).

Education Act allows deviation from the distribution of lesson hours and the national core curriculum, and from a number of other regulations, only in cases of pilots undertaken to develop education or teaching. The authorization to conduct a pilot is granted by the Ministry of Education and Culture for a maximum of three years.¹⁵

National core curricula are the foremost means of governmental steering in primary and secondary education. Another set of steering instruments are national educational standards in languages. The Constitution Act acknowledges two national languages, Finnish and Swedish, and obliges the public authorities to provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.¹⁶ Ordinary law issued for it, first, puts the local authority in a municipality which has both Finnish and Swedish-speaking residents under an obligation to arrange basic and pre-primary education separately for both linguistic groups.¹⁷ Second, Swedish language is stipulated as a mandatory school subject for Finnish-speaking pupils in the last three years of primary education (grades 7 to 9) and in the secondary level. Correspondingly, Finnish is a mandatory subject for the Swedish-speaking pupils.¹⁸

The constitutional provision of two national languages also affects the structure of local government. Municipalities with both Finnish and Swedish-speaking residents are responsible by law for arranging basic and pre-primary education separately for both linguistic groups.¹⁹ Also by force of law, in a bilingual municipality, a separate organ shall be set up in the education administration for each language group, or then a joint organ with separate divisions for the language groups. The members to the organ or division shall be elected among individuals belonging to the language group concerned.²⁰ The Åland Islands have monolingual Swedish status in accordance with their autonomy law.²¹

As to languages other than Finnish and Swedish, education law states that the language of instruction may also be Sámi, Roma or sign language. In addition, part of teaching may be given in a language other than the pupils' native language referred to above, "provided that this does not risk the pupils' ability to follow teaching". The status on the Sámi language in education is exceptional insofar that pupils living in the home area of indigenous Sámi people (in the north) who are proficient in the Sámi language shall be primarily taught in Sámi. For pupils from other linguistic groups, the right to receive instruction in their home tongue is more conditional.²² Establishment of separate schools where teaching is given in a language other than those referred to above demands authorization from the State Government.

3. Freedom to establish non-state schools

Freedom to establish schools is not a key feature of the Finnish education system. In Chapter 2.1 above it was mentioned that the Constitution Act provides a state duty to legislate by an Act on the right to arrange education in private educational institutions.²³ However, this provision as such does not entitle anybody under the Finnish jurisdiction to establish and maintain schools. It merely obliges the state legislature to pass laws to regulate such activities. Thus, the legislature may also forbid the establishment of certain types of schools. The ordinary law currently in force makes it possible to establish a school even without the permission from the Ministry of Education and Culture. However, this option entails forfeiting state supervision and the financial benefits that accompany it.

The Basic Education Act designates the local authority as the primary duty-bearer in arranging education for children of compulsory school age residing in its area.²⁴ The obligation of the municipality

15 Basic Education Act, Section 20 (Amendment 477/2003).

16 Constitution Act, Section 17.1.

17 Basic Education Act, Section 4.4 (Amendment 1288/1999).

18 The official term for both mandatory Swedish and Finnish is the second domestic language.

19 Basic Education Act, Section 4.4.

20 Local Government Act (365/1995), Section 16.2. Unofficial translation by the present author. See also Language Act (423/2003).

21 Act on the Autonomy of the Åland Islands (1144/1991). On the linguistic and cultural self-government of the Sámi, see Act on the Sámi Parliament (974/1995).

22 Basic Education Act (628/1998), Sections 10 and 12.

23 See Chapter 2.1, above.

24 Basic Education Act, Section 4. Local authorities also may establish a municipal consortium for the collaborative provision of basic education.

to arrange basic education concerns all children of compulsory school age residing in the municipality, inclusive of non-citizens, hospitalized children, children accommodated under a care order, and most severely disabled children. Thus, the legislature has put the main responsibility for the provision of compulsory schooling to the municipalities.

As to other education providers than municipalities, only registered associations or foundations can be authorized to provide basic education for children in compulsory school age. In order for a private school to be part of the public school system (and thereby to receive state funding) it shall apply for an authorization from the Government. The law provides that such an authorization shall be conditional on a specific educational or cultural need for the provision. As an additional condition, an agreement shall be concluded between the applicant and the respective local authority. However, such an agreement is not required for education provision by the medium of a foreign language, special-needs education or education according to a particular ideology.

Moreover, a condition for the authorization is that the applicant has the professional and financial prerequisites for arranging the education appropriately. All in all, the Government has wide discretion over authorizations. The law stipulates straightforwardly that basic education “shall not be provided in pursuit of financial gain”.²⁵

4. Home schooling

The Basic Education Act states that it is on the responsibility of the guardian to see that compulsory schooling is completed. Moreover, it states that in case when a child of compulsory school age does not participate in education provided under Basic Education Act, the local authority of the pupil's place of residence shall supervise his or her progress. More than that, home schooling is not addressed in law.²⁶ On a lower norm-hierarchical level, the National Board of Education has given legally non-binding guidelines (hereafter NBE Guidelines 2010). These guidelines serve as the primary source of information for the rest of this chapter.²⁷

Home schooling does not require permission from public authorities. As soon as the guardian of the child opts for home schooling, s/he takes liability for the education of the child. Parents who fail to comply with this duty may become subject to imposition of fines. Decisions on how the supervision of home schooling is organized are made on the municipality level. Usually, the responsible local authority assigns a teacher to assess the progress of the child. Nothing is stipulated about how often assessment should be done, but according to the NBE common practice is that assessment takes place once or twice a year.

The progress of home-schooled children is assessed and monitored in relation to the objectives of those subjects which the basic education syllabus contains. Progress may be assessed by means of discussions, verbal and oral examinations, and skill demonstrations. Diverse types of skill demonstrations or portfolios are used in particular when assessing progress in art and physical education.

As the law remains silent on the funding of home schooling, lower level regulation leaves at this particular point space for maneuver. The NBE Guidelines 2010 spell out that, because a home-schooled child is not registered as pupil in any school, the municipality has no duty to offer school books, meals, travels, health care, or any other entitlement prescribed by the law for children attending education in schools. Nonetheless, it is also mentioned in the Guidelines that no law provision prohibits municipalities from providing free school books or other services to home-schooled children. Thus, the decision is left to the discretion of local authorities.

25 Basic Education Act, Section 7. The government itself may also provide basic education, but under similar terms and conditions as other education providers.

26 To be precise, the law states that compulsory schooling concerns children permanently residing in Finland. Until the law reform of 1998, only children with Finnish citizenship were obliged to attend compulsory schooling. Basic Education Act, Sections 25 and 26.

27 Guidelines for Basic Education Provision/Home Schooling. Dated 16.8.2010. Available in Finnish only at http://www.oph.fi/saadokset_ja_ohjeet/ohjeita_koulutuksen_jarjestamiseen/perusopetuksen_jarjestaminen/kotiopetus Translation by the present author.

5. School choice not limited by family income

As was mentioned in the introductory chapter, the Constitution Act of Finland guarantees for everyone “basic education free of charge”. In the ordinary law, free education at this point is defined as consisting of: teaching, the necessary textbooks, other learning materials and school equipment. In addition, the interpretation and assistance service for a disabled child or a child with special educational needs shall be free of charge. Moreover, a balanced and appropriately organized and supervised daily meal shall be provided for a pupil attending basic education.

Furthermore, the law stipulates that a pupil shall be entitled to free pupil welfare services, which comprise school health care and support to education and parenting. When the distance to school for a pupil in basic education or in additional voluntary education exceeds five kilometers, the pupil shall be entitled to free transportation. An alternative to free transportation is an adequate subsidy for transporting or accompanying the pupil to school.²⁸ Children living in remote areas shall be entitled to free accommodation and board. In secondary level schools tuition is free, and students are entitled to school health care and a free lunch every day. Nevertheless, they must buy their own books and materials.

In cases where private schools receive the same level of public funding as publicly funded schools, they are required to give their pupils all the entitlements that are offered to the children attending municipal schools. Responsibility for educational funding is divided between the state and the local authorities. This practice derives its origin from the shifting public-private divide in the Finnish education system. Private schools were well established in 1970s when the public comprehensive school system took over. In the nationalization process of that time, some of the private schools remained legally private with special laws regulating their relationship to public authorities. It was first the Basic Education Act of 1999 that abrogated special laws on, *inter alia*, teacher training schools, schools for hearing / visually / physically impaired, the Finnish-Russian School, the French-Finnish School, Steiner schools, private schools in foreign language, and private schools abroad authorized to replace comprehensive schools. As of today, nearly all of these schools are covered by the Basic Education Act. They are for large part funded by the state and follow the same national core curricula as municipal schools. Some of the private schools have catchment areas of their own, based on agreements between them and the local authority. Even if basic education free of charge is constitutionally guaranteed, “moderate fees” are allowed to be charged to pupils for education arranged abroad and for education provided by a private organization or foundation in a language other than Finnish, Swedish, Sámi, Romanes, or sign language, when such education is based on a special mission assigned by the Ministry of Education and Culture.²⁹ However, without the consent of the guardian, a child may not be assigned to education for which a fee is charged.³⁰

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6. School distinctiveness protected by law and policy

A child in compulsory school age is considered to have a subjective right to attend a school assigned by the local authority. The determination of a pupil’s school is defined to some detail in law. Accordingly, “education shall be arranged in municipalities so as to make pupils’ travel to and from school as safe and short as possible in view of the habitation, the location of schools and other places of education, and public transportation”. Furthermore, the law states that “the local authority shall assign to a child of compulsory school age a neighborhood school or some other appropriate place. It is also expressly

28 The scope of the free transportation of pupils appears to be a most frequently contested topic in the database on the judgments of the Supreme Administrative Court.

29 Basic Education Act, Sections 31, 32, 33 and 44. The decision on fees to be charged to pupils, where applicable, shall be made in accordance with the Act on Criteria for Charges Payable to the State (150/1992). In the law reform of 1998, express stipulation were abolish on entitlements such as duty of the municipality to pay the costs of eye-glasses or hearing aid for children of indigent families.

30 Basic Education Act, Section 6.3.

stipulated that a child may not, without the consent of the parent/career, be assigned to education which follows a given ethical or pedagogic system.³¹

Nevertheless, children and their parents are given some freedom to choose the comprehensive school of their preference. A child may apply for a place in a school where education is given according to a curriculum with special emphasis on one or several subjects. Courses based on weighted curricula starting in the first year are commonly available in languages and music. Language teaching based on weighted curricula can be bilingual or solely in the foreign language. Children wishing to enroll in schools with weighted curricula must take an aptitude test. However, it is up to the local authority to give precedence to children residing in its area in admission to education provided by it.³² Pupils domiciled in other municipalities may also enroll in public schools, if there are free places after local intake. On the secondary level, students are entitled to apply nationally to any institution offering upper secondary education or vocational education and training.

A special area of concern, in Finland as elsewhere, is a division of the schools into “good” and “bad” ones, and the phenomenon in which families of the socio-economically better-off population start avoiding schools and areas where the proportion of families living on social welfare is high. As it is in the power of municipalities to indicate the local school of a child subject to compulsory education, the NBE has urged local authorities to intervene in segregation problems. Private schools that have received official status to provide basic education and to receive funding for that from the Government cannot decide attendance requirements by themselves. Instead, local school authorities have the right to indicate such a private school for a child resident in the area where the school is located. Moreover, within the limits of their local self-governance, municipalities are free to provide special funding for schools in areas where the danger of social marginalization is high.

Certificate of completion of the basic education syllabus is crucial for eligibility to upper secondary and vocational education. Private schools that are authorized by the Government to provide basic education may deliver qualifications that are comparable to municipality schools. The law stipulates succinctly in the following words: “The basic education syllabus or parts thereof can be taken in a separate examination as provided by decree.”³³ The Decree in question stipulates that for pupils of compulsory school age, basic education certificate can be issued first when s/he has been assessed in all core subjects listed in Basic Education Act, Section 11.³⁴ Accordingly, a child with eligibility to secondary level studies is expected to have studied at least the following core subjects in basic education: mother tongue and literature, the second national language, foreign languages, environmental studies, health education, religious education or ethics, history, civics, mathematics, physics, chemistry, biology, geography, physical education, music, art, crafts, and home economics.³⁵ More detailed regulations are given in the national core curricula.

Private schools that receive public funding have only limited possibility to maintain a distinctive curriculum. This is for the very reason that, as has been mentioned already, any provider of basic education authorized by the Government shall base its curriculum on the national core curriculum. The law does not require any interest groups in particular to be directly represented in the process of deciding what sort of curriculum Finnish schools shall provide. In contrast, it is expressly stipulated in Section 3.3 of the Basic Education Act that “those providing education shall cooperate with pupils’ parents/carers”³⁶ [care-takers]. The draft explanatory material does not provide any content or detailed reasons for this particular clause.³⁷ On the level of Government decree, a vague provision reiterates the law clause, with merely a minor addition. Accordingly, “education and upbringing shall be provided in cooperation with homes and guardians so that every child gets education, guidance and support according to her/his stage of development and needs”³⁸

31 Basic Education Act, Section 6.

32 Basic Education Act, Section 28.

33 Basic Education Act, Section 38.

34 Basic Education Decree (852/1998), Section 23. The national core curriculum allows for certain exceptions in certification for pupils in international language schools and private schools based on Rudolph Steiner pedagogical principles.

35 Basic Education Act, Section 11.1.

36 Basic Education Act, Section 3.3.

37 Government Proposal (86/1997).

38 Government Decree (1435/2001), Section 4.1. Translation by the present author.

The NBE is mandated to determine the principles of home-school cooperation and pupil welfare under the purview of the local education authority. Subsequently, the national core curriculum stipulates a number of obligations. School must cooperate with the parents or guardians so that they can, for their part, support their children's purposeful learning and schooling. The parents or guardians must be given information about the curriculum, the provision of instruction, pupil welfare, and opportunities to take part in home-school cooperation. The co-operation must be organized so that, with the help of pupil welfare and a multi-professional cooperative network, the pupil's schooling and well-being can be supported. At the final stage of basic education, the parents or guardians must be given an opportunity to discuss the questions and possible problems associated with the pupil's further education. As necessary, the parents or guardians must also be given a chance to discuss these issues with the pupil's guidance counselor and the various pupil welfare experts.³⁹

It is to be noted that just about all of the must-does listed above concern one-way information and consultation from the school to the family. Even though there is a nationwide parents' association consisting of nearly 1,400 parental organizations, there are still many schools that have no parents' associations at all. Neither is there any legal obligation to establish school boards. It is only in activities involving the exercise of public powers where the Basic Education Act lays down an explicit duty for education providers to consult families. Accordingly, parents or guardians shall be consulted before a pupil is admitted or transferred to special-needs education, and before the pupil is made to repeat a year-class. Likewise, in situations where it is up to parents or guardians to make decisions concerning the choice of subjects and syllabi, a chosen subject or syllabus may be substituted for another only after they have been heard in the matter.⁴⁰

There are private schools that are run as "home schools" without any governmental funding. The policy guidelines that apply to home schooling apply to these schools as well. According to the NBE, home-schoolers have the freedom to write their home-school curriculum, but the guiding principles of the national core curriculum shall be followed even by them. When home-schooling is based on the local school curriculum of the monitoring municipality, assessment follows the criteria established therein. In many cases, parents opting for private schools or home schooling would like to skip some of the core subjects listed in the national core curriculum. In Finland, religious education or ethics is not necessarily the most controversial subject, as diverse religious communities officially registered under Finnish jurisdiction can have their own specific curricula in religious education. Instead, some other core subjects may be difficult to accept for parents with strong religious convictions. As examples can be mentioned: health education (incl. sex education); physical education (incl. swimming and dance, dress requirements, communal shower after classes); music (incl. religious, heavy, rock, metal) and art (incl. representational art). Likewise, for creationists from any religious group it may be difficult to accept that evolution theory rules in biology and geography classes. Moreover, just few nominal languages have hegemony in core subjects named "mother tongue and literature" and "foreign languages", whilst children with other linguistic capital are more easily considered as linguistically deficient, no matter how fluent they may be in third languages.

The law enumerates situations where a pupil's education may be arranged otherwise than provided in the basic education syllabus. Interestingly, the NBE Guidelines 2010 underline – without a reference to any specific Act – that "certain law provisions concerning special teaching arrangements apply to those children only that attend school". Consequently, it is argued, home-schooling based on the decision of the guardian cannot get exemption from studying the core subjects. What is more, the NBE Guidelines 2010 state that it is no possible to individualize the syllabus of home-schooled children. As the reason for this, the Guidelines note that a decision on special-needs education can only be done for a pupil that attends school. From this follows – so the reasoning in the NBE Guidelines goes – that in case of home-schooled children both the studies and their assessment shall be more tightly bound by syllabi of the core subjects than in case of children attending school. Consequently, a home-schooled child may replace neither "mother tongue and literature" nor "the second national language" with her/his home-language.

39 Basic Education Act, Section 14.3 (Amendment 477/2003). National core curriculum for basic education 2009, p. 20.

40 Basic Education Act, Sections 17.3, 22.3, (Amendment 477/2003) and Section 30.3.

In the Finnish education policy, language appears to be a sensitive issue. The Constitution Act does contain a non-discrimination clause, according to which no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person. Moreover, the Constitution Act obliges the public authorities to guarantee the observance of basic rights and liberties and human rights.⁴¹ On the level of ordinary law, the Non-Discrimination Act aims to safeguard equality and enhance the protection provided by law to those who have been discriminated against. Nonetheless, the scope of the Non-Discrimination Act is expressly defined as not being applicable to the aims or content of education or the education system.⁴²

It is also interesting to note that, although the law prohibits provision of basic education in pursuit of financial gain, there are private schools in Finland where education costs parents up to 15.000 euros a year. In these cases, potential profit is regarded as merely an accounting term, to be invested in school or in education, whilst foundations and associations maintaining the school have no divided right.⁴³ An exceptional school with regard to its legal status and funding is the European Schooling Helsinki, which was established through special legislation in 2008. This state school offers education based on the European School curricula and prepares to the European Baccalaureate. According to the law, education given in the school shall be free of charge for children of persons working in a European Community agency in Finland and for children of the School staff. To other pupils, who may be admitted to the school when space allows, tuition fees shall be charged.⁴⁴

One more interesting case, from the perspective of commercializing education, is the recent initiative of a Swedish private education provider Kunskapsskolan (the School of Knowledge) to establish a private school in Finland. Apparently, this Swedish company must register itself as association or foundation before it could receive authorization from the Government to provide basic education in Finland.

7. Decisions about staff

The teaching profession is quite firmly regulated in Finland. Provisions concerning the qualifications of both a head teacher and a teacher in any school operating under the Basic Education Act shall be enacted by Government Decree. The National Board of Education has been authorized to issue supplementary regulations, where necessary. Until recently, it was up to the Ministry of Education to grant exemptions from the qualification requirements, but in 2009 this power to grant exemptions was delegated to Regional Administrative Agencies.⁴⁵

The qualifications required for teaching staff on different levels of education are enacted in the Teaching Qualifications Decree. In addition, aptitude and personality tests are to be used when selecting candidates for teacher training. Teachers that have completed a qualification abroad and wish to become eligible for a teaching post in Finland need to apply to the NBE for a decision on eligibility. Teachers from other Nordic countries are an exception; they are eligible to work in Finland without specific decision.⁴⁶

As to private providers of basic education, competent teaching staff is included as one of the key requirements for the establishment of an independent school. There are separate regulations concerning qualifications for three categories of teaching staff. First, the NBE may grant eligibility to provide education where the language of instruction is other than Finnish, Swedish or Sámi. In such case, a favorable decision requires, among other things, that the applicant is fully qualified to work in a corresponding teaching position in his or her country of origin. Second, special regulations issued

41 Constitution Act, Sections 6.1 and 22.

42 Non-Discrimination Act (21/2004 with amendments until 84/2009), Section 3.

43 For instance, the International School of Helsinki, which is maintained and owned by its parents' association, has tuition fees from 11,000 to 15,000 euros, plus a registration fee of 3,000 euros and non-residency fees from some 3000 euros (for Grades 1-9) to some 4000 euros (Grades 10-12). The English School, with the curriculum following the national guidelines, but placing a special emphasis on both English and Finnish languages, charges tuition fees up to some 700 euros a year plus separate fees for the administration of entrance tests and for registration.

44 Act on European Schooling Helsinki (1463/2007), Sections 2, 3, 11, 15.

45 Basic Education Act, Section 37, Amendment 1444/2009.

46 Teaching Qualification Decree 986/1998, Section 4.

by the NBE exist for the staff of Steiner schools. Third, an individual decision on eligibility to provide pre-primary education based on Montessori pedagogy can be applied from to the NBE.⁴⁷ Unlike teachers, parents need virtually no qualifications to home school. Children can be taught at home by parents or by tutors, none of whom needs to have formal credentials. Parents may also establish themselves as small unofficial private schools and hire tutors, credentialed or non-credentialed, while possibly teaching parts of the syllabus by themselves at home.

8. Accountability for school quality

The activities of all education providers on primary and secondary levels, inclusive of private providers, are guided by objectives laid down in legislation and the national core curricula. Any authorized education provider is required to evaluate the education it provides and its impact and take part in external evaluations of its operations. Moreover, as was mentioned above, a separate Education Evaluation Council is attached to the Ministry of Education and Culture.⁴⁸

There are no league tables and no school inspectorates in Finland. Instead, school management and teaching staff are expected to carry out evaluation. Self-evaluation is currently the most popular method in attempts to improve the reliability and responsibility of single schools. Teachers carry out assessment in their respective subjects on the basis of objectives and assessment criteria written into the curriculum. The national core curriculum also includes the descriptions of good performance in all common subjects. Competence-based qualifications have been part of vocational education and training since 1994.

As appears from what has been said above, home schooling is virtually the only mode of basic education that remains unregulated by law. Actually, the old Constitution Act, in force until March 2000, even contained a provision stipulating expressly that instruction given at home is not to be supervised by any authorities. In the reform of 1999, this provision, along with many others relevant to education, was abolished from the constitution.

68 Nonetheless, pros and cons considered, there are factors that might encourage better regulation of home schooling. For one thing, authorities in central agencies and municipalities with direct involvement in the topic matter may be unknowledgeable about the extent of their powers. As an example serve the NBE Guidelines 2010, discussed above, which contain several apparent flaws of reasoning. Also, by way of illustration, one of the largest cities in Finland deems in its local guidelines that is simply up to municipality to decide not to allow home-schooling in core subject of music.⁴⁹ A further rationale for better regulation is that the lack of legislation may allow potential maltreatment of home-schooled children to remain undetected longer time than in case of children attending schools.

9. Teaching of values

The Constitution Act provides that it shall guarantee the inviolability of human dignity and the freedom and rights of the individual and promote justice in society. Moreover, it requires that children “shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to them to a degree corresponding to their level of development”.⁵⁰ Parents do not possess a constitutional right to infringe on the rights of their minor children. Thus, in case of Finland, the principle of equal opportunities defeats the principle of the autonomy of the family unit.

What happens, then, if laws or regulations in lower levels are inconsistent with or in derogation of the constitutional provisions? The Constitution Act does oblige the public authorities to guarantee the observance of basic rights and liberties and human rights. It also stipulates that in case of conflict between a constitutional provision and a statute of a lower level, the last mentioned shall not be applied

47 Teaching Qualification Decree 986/1998, Section 21; National Board of Education Regulations No. 43/011/1999 and No. 19/011/2001.

48 Basic Education Act, Section 21, Amendment 32/2003.

49 Guidelines given by the City of Turku. Available in Finnish at <http://www05.turku.fi/ah/olsj/2007/0620006x/1678665.htm>

50 Constitution Act, Sections 1 and 6.2.

by any public authority.⁵¹ Nonetheless, the judicial system in Finland is extraordinary in that there is no constitutional court. Instead, the mandate to issue statements on the constitutionality of legislative proposals is given to the Committee for Constitutional Law, which consists of politically elected members of the Parliament. At this point, the separation of powers in the governance of Finland is frail. The Basic Education Act defines the objectives of education in the following words: (i) to support pupils' growth into humanity and into ethically responsible membership of society; (ii) to provide them with knowledge and skills needed in life; (iii) to promote civilization and equality in society and pupils' prerequisites for participating in education and otherwise developing themselves during their lives; (iv) to secure adequate equity in education throughout the country.⁵² A matter of its own is to what degree teachers and pupils adopt values prescribed by the Government. The multitude of values that remain unmentioned is still another matter entirely.

Finally, the power over schooling is encompassed in constitutional provisions stating that any exercise of public powers shall be based on ordinary law, and that in all public activity the law shall be strictly observed. A public administrative task may be delegated to others than public authorities only by an Act or by virtue of an Act "if this is necessary for the appropriate performance of the task and if basic rights and liberties, legal remedies and other requirements of good governance are not endangered". Moreover, a task involving significant exercise of public powers shall only be delegated to public authorities.⁵³

In Finnish jurisprudence, the exercise of public powers is commonly defined as the power to make an authoritative decision, with legally binding effect, on privileges, rights or duties of individuals. Examples in the education sector include, for example, authority to provide free school books, to decide on free transportation between home and the place of schooling, or to expel a pupil. From the viewpoint of functional public powers, home-schooled children of Finland seem to be in a grey area.

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51 Constitution Act Sections 22, 74, 106, 107.

52 Basic Education Act 628/1998, Section 2.

53 Constitution Act, Sections 2.3 and 124.