

QUESTIONNAIRE IN PREPARATION OF THE SEMINAR ON PARENTAL RIGHTS IN EDUCATION

Austria

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How does the law, in light of constitutional principles, regulate the legal relationship between school authorities and parents on the following points in the European member states:

Topic 1 primarily examines how the law regulates the legal relationship between school authorities and parents on school choice and admission?

- Can a school for primary or secondary education ask parents to pay fees?
They have to, otherwise they could not survive. Free schools are subsidized per pupil with 1/5 to 1/8 of the amount the state spends for each pupil in public schools. This is only since 2010 – before there has even been less funding.
- Can a school refuse parents to register their child? On what grounds?
Yes, they can refuse. They have an agreement under private law signed by school and parents, and this is voluntary on each side.
- Can a child disagree with a parental decision on school choice and be heard to seek governmental review of a parental decision (right of the child to be heard)?
Generally no, but there are sincere efforts by school authorities to not force the child into a school it does not fit in, and the intention to hear what the child says and prefers are sincere. Although the “right of the child to be heard” this is not a school-law itself.
- Can denominational schools established by parents be legally enforced to teach "alternative worldviews"?
In some way, yes. Precondition for being subsidized is teaching in a “progressive” way (so called “alternative pedagogic”) instead of the traditional way performed in the public schools. On the other hand denominational schools are nearly completely funded if they are installed by a recognized religious community.
- Are parents prevented from homeschooling their children?
It depends. The permission for home schooling must be obtained before the start of the school year (ie. no later than the end of August) at the relevant district council and may also be denied. This happens very rarely, there must already exist valid reasons. A change to home schooling during the school year is not possible. In the eighth grade homeschooling, according to law, it not even possible. A child who is registered for homeschooling must pass an annual examination in a public school. If this is not passed, the pupil must immediately change to a public school.

Topic 2 examines how the law regulates the legal relationship between school authorities and parents on the school project?

- What does the school's duty in loco parentis – to stand in the parent's place – essentially means? Is it interpreted that the rights of parents over their children end at the school door?
The school has only the powers that are outlined in the school contract. In fact, the rights of the school is very limited, their only "leverage" is the resolution of the school contract.

Topic 3 examines how the law regulates the legal relationship between school authorities and parents on the exercise of fundamental rights within the school?

- What are the limitations on the freedom of expression in school, can pupils express worldviews of parents in schools?
Yes, of course. Nevertheless, what pupils and teachers are allowed to say is regulated by the civil law, not by the school laws.
- How is in educational environments the respect for the private life of parents regulated?
The parents private life is commonly accepted and protected, but not especially touched by school law.

Topic 4 examines how the law regulates the legal relationship between school authorities and parents on the application of disciplinary measures/ questioning of pupils?

- What rights do parents have in discipline procedures against their child? Is parental notification part of student discipline procedures?
Parents are generally not allowed to harm the child or be violent. Parental notification may be part of communication between school and parents but are not regarded as "punishment".
- Can a child be interrogated by school officials and coerced to give a confession for noncriminal offenses without notification to the pupils and parents that an interrogation is taking place?
Of course a teacher may ask a child: "Did you hide your friends' hood?" Or "Do you know why the plate is broken?" without having to ask the parents or the child for permission. But any cruelty is forbidden.

Topic 5 examines how the law regulates the legal relationship between school authorities and parents on curriculum development?

- Can parents choose which religious instruction their child should follow in school? Or do parents only have the authority to give their children advice about religion?
Parents choose the religious instruction of their children by choosing the appropriate school or special religious lessons. When parents choose a school for their child, which explicitly does not offer some special religious education, then they cannot expect this education to be performed. Generally they can decide for their children, yes.
- Can parents opt their children out of religious instruction?
Yes, they can
- Can parents opt their children out of sex education?
No, they can not
- Do pupils have the right to reproductive health information and services, including abortions, without parental knowledge or consent?
Yes

Topic 6 examines how the law regulates the legal relationship between school authorities and parents on the quality of education?

- What legal procedures exist for the parents to submit a complaint for failure in provision of quality education to their child?
Parents can sue for non-performance of the school contract, they can complain to the district school board or the Board of Education. The school will then be visited and inspected by a superintendent of schools.
- What is the responsibility of the school towards parents in case of failure to provide quality education?

The school may be taken away the right to issue certificates, so to say taken the status of a school, but instead being regarded as just a tutoring-institute, like doing home schooling, thus pupils would have to take exams in public schools.

Topic 7 examines how the law regulates the legal relationship between school authorities and parents on the evaluation of educational performances?

- What legal procedures exist for parents to submit a complaint against the evaluation of educational performances of their child?

They can complain to the district school board or the Board of Education.

Concluding topic: What are special difficulties within the present legal norms of educational relations in the member states?

Independent schools in Austria have many duties, but virtually few rights. They must accept all the requirements of the school authorities and implements, apply for approval of their teachers to meet all legal requirements, they must comply with the standards of education. In return, they get hardly any funding and limited legal protection. The Austrian "Private School Law" is from the year 1962, installed according to the circumstances of former times. Thus any subsidies given to private schools by the state are strictly voluntarily, entirely within the discretion of the Government, depending on the general budgetary situation. There is no legally binding commitment of any kind whatsoever subsidies. However, we may enjoy some freedom in alternative or progressive education in return, but this is hard to maintain with the present low public funding. The current law is clearly out-of-date.