

# Language Rights in Education – Norway (2012)

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## Background

a) Swedish and Danish are understood by Norwegians, and pupils with a Swedish or Danish language background are expected to cope with Norwegian as mother tongue and language of instruction.

b) All pupils have to learn English in primary and secondary school, normally as first foreign language. From grade 8 onwards a second foreign language is encouraged, and schools are obliged to offer one of the following: German, French, Spanish or Russian. In addition, other languages may be offered, European or non-European, if the school owner decides to do so. The most popular second foreign language is Spanish (31 per cent), than German (25 per cent).<sup>3</sup>

c) Sami and Kven (the language of Norwegian Finns) are recognized as regional or minority languages in Norway, with legal implication as described below. In 2011 the number of pupils with Sami as first language in primary and lower secondary schools was 855 (0,14 per cent of the total).

d) Between 1990 and 2010, a total of 471 000 non-Nordic citizens immigrated to Norway and were granted residence here. Of these, 22 per cent came as refugees, 28 per cent were work immigrants and 11 per cent were granted residence for study purposes. Twenty-three per cent came to Norway due to family reunification with someone already in Norway, and 15 per cent were granted residence because they had established a family.

The number of immigrants residing in Norway varies with government immigration policy, labour market needs and shifting global crises. Immigration increased during and after the Balkan wars of the 1990s. In recent years, the majority of new immigrants have come to Norway as a result of family immigration.<sup>4</sup>

## Legal principles

### *Migrants*

Master the Norwegian language is seen as important for new citizens coming to the country. The act on an introductory program and Norwegian language instruction for newly arrived immigrants from 2003 [Introduction Act], states that it is both a right and obligation to participate in Norwegian language training and social studies for a total of 300 hours free of charge. (Introduction Act, section 17). This shall apply to foreign nationals between 16 and 55 years of age who have been granted a residence or work permit.<sup>5</sup>

### *Compulsory education*<sup>6</sup>

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<sup>1</sup> University of Oslo, <http://www.uv.uio.no/pfi/english/people/aca/sveinev/index.html>

<sup>2</sup> University of Oslo, <http://www.jus.uio.no/ikrs/personer/vit/tronderw/index.html>

<sup>3</sup> [http://www.udir.no/Upload/Rapporter/Utdanningsspeilet\\_2012.pdf?epslanguage=no](http://www.udir.no/Upload/Rapporter/Utdanningsspeilet_2012.pdf?epslanguage=no)

<sup>4</sup> [http://www.ssb.no/english/subjects/00/00/10/innvandring\\_en/](http://www.ssb.no/english/subjects/00/00/10/innvandring_en/)

<sup>5</sup> <http://www.ub.uio.no/ujur/ulovdata/lov-20030704-080-eng.pdf>

<sup>6</sup> <http://www.ub.uio.no/ujur/ulovdata/lov-19980717-061-eng.pdf>

In Norway "school for all" is central in the education policy. The aim is to provide learning opportunities for all, with special consideration for specific groups of children, e.g. children from language minorities or who need special support.

1) According to the Norwegian Education Act, Chapter 6, pupils attending the primary and lower secondary school in Sami districts all children at the primary and lower secondary level have the right to receive their education both in Sami and through the medium of Sami. Outside Sami districts, if at least ten pupils in a municipality wish to receive instruction in and through the medium of Sami, they have the right to such education as long as there remain at least six pupils in the group.

The Sami Parliament issues regulations concerning curricula for instruction in the Sami language in primary and lower secondary education and in upper secondary education and training, and concerning curricula for specific Sami subjects in upper secondary education and training. The regulations must lie within the scope and allocation of resources determined by the Ministry.

The Ministry issues regulations concerning other special curricula for education in Sami districts and for pupils outside Sami districts who receive Sami instruction. The Sami Parliament shall draft these regulations in consultation with the Ministry.

2) Instruction in Finnish for pupils with a Kven-Finnish background (Ed.act Section 2-7). - When so required by at least three pupils of Kven-Finnish stock (Kvens) attending primary and lower secondary schools in Troms and Finnmark, the pupils have the right to receive instruction in Finnish. From grade 8 onwards, pupils decide themselves whether they wish to receive instruction in Finnish.

3) Adapted language education for pupils from language minorities (Ed.act Section 2-8). - Pupils attending the primary and lower secondary school who have a mother tongue other than Norwegian or Sami/Kven-Finnish have the right to adapted education in Norwegian until they are sufficiently proficient in Norwegian to follow the normal instruction of the school. - If the student has sufficient proficiency in Norwegian to follow the normal instruction, mother tongue education will be the responsibility of the parents.

If necessary, such pupils are also entitled to mother tongue instruction, bilingual subject teaching, or both. The mother tongue instruction may be provided at a school other than that normally attended by the pupil.

When mother tongue instruction and bilingual subject teaching cannot be provided by suitable teaching staff, the municipality shall as far as possible provide for other instruction adapted to the pupils' abilities.

The number of pupils with adapted education in Norwegian increased during the period from 2006-2007 to 2010-2011.

The percentage of pupils receiving adapted education in Norwegian varies widely among the counties. Oslo has the highest percentage with 24 per cent, and Nord-Trøndelag has the lowest with 2.8 per cent of the pupils<sup>7</sup>.

### *Higher education*

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<sup>7</sup> <http://www.udir.no/Tilstand/Utdanningsspeilet/Education-Mirror/The-Education-Mirror-2011/>

Students in higher education have the right to use Danish, Swedish or English in their exams as an alternative to Norwegian<sup>8</sup>.

### **Appeals and complaints**

1) The individual pupil's right to mother tongue education is provided in the Education Act, section 2-8 and 3-12. This statutory provision was included in the act in 2008. We also had a provision with much of the same content in the previous education act (before 1998), but it was not formulated and given as an individual right. The main condition for the right to mother tongue education, is that the pupil has a first language other than Norwegian or Sami. - As far as we can see, there have been no appeals to the Norwegian courts concerning the right to mother tongue education.

2) Language minority pupil are not found among complaints to the County Governor. - During 2010 a total of 31 cases of appeal to the County Governor of Oslo and Akershus, were analyzed.<sup>9</sup>

Given that immigrant students in the Oslo and Drammen schools now constitute close to 40 % of the student population, and Statistics Norway (SSB) estimates that the number for Oslo schools will move up to half of all pupils in 2020, it is striking that they are practically not present in the complaint material. The researchers found this interesting, but also disturbing, and read through another 67 cases, now looking only for foreign names. Again, the result was the same: of all 98 cases they only found one parent with a non-Norwegian name and background. The pupil had a Norwegian mother and a foreign father.

### **Current issues and debates<sup>10</sup>**

#### *Importance of language in a nation-building context*

In 2014 our Norwegian constitution has its 200 year anniversary (the 17 of May 1814). In this connection there is a discussion about renewal of the constitution and how, and how far, the human rights should be present in the constitution text.

The main proposal is that the right to education is to be expressed as an individual right in a new paragraph 109. This is in accordance with the European Human Right Convention, UN Child Convention, UN convention on social and political rights, among others.

Education is of importance for understanding the basic democratic values that we want to characterize our society, such as peace, solidarity and inclusion.

In this perspective, language is a basic element to ensure education and fulfill the most important purpose of education.

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<sup>8</sup> <http://www.admin.uio.no/admhb/reglhb/studier/studier-eksamen-grader/forskr-studier-eks.xml#para5>

<sup>9</sup> The research project "Education and appeals - an analysis of the county's practice, school owners' law skills and the pupil's legal protection" was based on an initiative of the County Governor of Oslo and Akershus and the Department of Public Law, Faculty of Law, University of Oslo. The project was conducted by researcher Trond Welstad and research assistant Simen Warp under supervision of professor Kirsten Sandberg and professor emeritus Henning Jakhelln.

<sup>10</sup> References to the Norwegian debate:

Austad, Hilde: *Byråkrati og rettigheter* i Bedre Skole nr. 2 2012.

Heldal, Andreas: *Rettent til særskilt språkopplering* i Jakhelln og Welstad (red.) Utdanningsrettslige emner, Cappelen Damm 2012.

Welstad, Trond: *Språklige minoriteter og rettsfjerne grupper – om likhetsprinsipper i opplæringsloven* i Kritisk Juss nr. 1 2012.

Øzerk, Kamil: *Til ettertanke: Minoritetsspråklige elever og opplæringslovens paragraf 2-8* i Bedre skole nr. 1 2012.

### *Immigrants and aspects of integration*

Despite a broader focus on school law, and more individual rights for the pupils – conducted both in the human rights declarations and the national curriculum, there is concern that the law design might be an obstacle for implementing the same rights on daily basis in the practical school context. In particular, the right to mother tongue education is an individual right designed in a way that gives the schools much of the responsibility for fulfillment. This may be a problem because this kind of education requires resources, both money and expertise.

Secondly, the law text itself is of a rather vague character, open to interpretation and decisions on school level. Seen in light of the absence of complaints to the County Governor of Oslo on inadequate implementation of the right, these facts make it relevant to ask how present the right to mother tongue education actually is in the practical school life of the minority children.

The right to mother tongue education has not been debated in depth in Norway. From time to time question are raised about the contents and scope of the education. But the discussions have been limited.