

## PROTECTING AND PROMOTING CHILDREN’S EDUCATION RIGHTS

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### Abstract

The right to Education in Hungary is declared by the constitution (Fundamental Law). Act on National Public Education sets the general rules and legal circumstances of the rights and obligations about education in Hungary. The Commissioner for Educational Rights, established by this act, in one of the key defender of education rights. This article summarises the Commissioner’s experience and views on how the case law could develop the legal environment of education. Moreover it underlines the need for an open discussion on the aim of education.

Keywords: right to education, children, teacher, protection of rights.

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In the last two years, there has been significantly more talk about educational rights and the manifestation of the basic values of democracy at schools and universities.<sup>1</sup> This past year, many people came to us requesting information regarding their rights and possibilities, which is a good indicator of the level of interest among the participants in education. Providing information and passing on regulations is of the utmost importance in the world of education. The right to information forms the basis of educational rights. In public education, parents do not have the option to freely decide whether to enrol their children on school or not. Parents—along with their children—are users of the second largest public service in the country. As such,

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they are entitled to have rights. The teachers provide the public service; therefore, they are the obligors in this relationship.

It is our opinion that a large number of debates and arguments can be pre-empted through the regular provision of information on the main regulations concerning schools. This provision of information protects more than just the parents and the students. The statutes clearly mark the line that distinguishes between the responsibilities of the parents and the schools. The law serves as a standard for the settling of disputes. If concerned parties are familiar with these rules, then they are able to resolve their differences in a democratic way. In the absence of familiarity with and application of the law, disputes will be settled based on power, position, emotion, morality and taste. Private differences might be settled relying on the above values, but they do not apply to public service.

One of the cornerstones of democracy is the rule of law. Schools and universities are part of this democracy. The principles and values we have held true for the past thirty years and which we apply in many areas of our lives must also be enforced here. Public and higher education are matters of public interest and must form part of the debate on democratic public life. Suppose this debate occurs exclusively between policymakers and teachers. Even though it might become interesting or even productive, the fact remains that those most affected by it are effectively left out: children, parents and future parents. Also left out are the voters who could have a say in how Members of Parliament (MPs) use local, national or EU funds available to finance the organisation and operation of various public services and the performance of tasks.

The accession to the European Union has a particular effect on education. Namely, the field of education remains within the national sphere of competence. We Hungarians must make an effort to consider and review the type of education we desire, and we have to make the decisions ourselves. EU standards, regulations or guidelines do not bind us, and we are not obligated to receive and apply community norms. However, this unlimited freedom cannot make us forget that the young people and fresh graduates emerging from the education system will have to work, create, compete and live in European Union trade, services, industries, agriculture and public administration. This is the reason why education is a matter of public interest. Lawful education is the minimum requirement.

Many people will enter and frequently review this debate on education. The more this debate is reopened and the more participants there are in the discussion; the closer we can get to good solutions. Still, the emphasis is on the debate itself. What makes us democrats is not constantly finding solutions but rather constantly searching for them. Experience shows that, in many cases, there is no room for arguments in the institutions at all because the participants of education do not trust each other. For this reason, cooperation between them is non-existent. In such cases, they tend to suppress their grievances, which surface later on drenched in passion and emotion, with practically no hope for a solution. Yet, wherever there is occasionally a chance for debate, the chance of irreparable damages and grievances occurring is smaller. Naturally, interests and solutions may vary, just like the roads leading to them. A debate only makes sense if we possess the information, and it is our mutual goal to

continuously search for good solutions, to correct bad decisions within the framework of the law, all the while adhering to the provisions of the law. These debates have one very important condition, though: we need to have faith that the other party's goals are the same as ours. This does not work without trust.

Institutions regularly find themselves in situations where they are left on their own to deal with certain important problems. The pandemic, economic crisis, war in our neighbourhood, incidents concerning aggression among young people, drug and alcohol abuse, the lack of sexual education and poverty are all cases where asking for help is necessary. The authorities, the protectors of rights, the professors, researchers and experts and last but not least non-governmental organisations have significant experience in these fields. If they manage to find forms of cooperation, then schools and families will not be abandoned. Within the European Union, cooperation has no alternative.

It is now, when we start planning the school of the future, where teaching objectives can be achieved by ensuring that digital technology does not exclude anyone from education and where particular emphasis is placed on human dignity, personal freedoms, and especially the protection of personal data. This is a joint and shared learning process from which we can all reap benefits.

We have a great debt towards Hungarian society: in the last 30 years, we have not found an answer to the most important question concerning our educational system: *why do we teach? What is the aim of it?* There was only one question we forgot to ask ourselves: why are we doing all this? Why are we spending all that money on education? What kind of mandate does society give to the large team of professionals that we call the community of teachers? During the last three decades, we have heard many debates over *what* we should teach and even more debates over *how* we should teach, but these should be only one of the many steps – while the very first step has not been made, the question of questions has not been answered.

I firmly believe that if we were to start a search together aiming to find a consensual goal for our future and education, that could stream an immense amount of energy towards the educational system.

