

© This discussion paper was prepared under the EduLaw project (573540-EPP-1-2016-1-BE-EPPKA2-CBHE-JP) funded by the European Commission. The European Commission support for the project does not constitute an endorsement of the content which reflects the views only of the authors. Please cite this discussion paper as: MARSU EduLaw team, EduLaw discussion paper, (add title and authors).

Mari State University



PART – School structures and governance

Comparative Review of Law on School Management in Europe



2017

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1. School Management in Europe

1.1. Subject-Matter of School Management

1.1.1. Meaning of School Management

In the words of Kurtz and Boone (1984), school management means the use of people and other resources to accomplish the objectives of the school¹.

School management has two aspects:

internal management and external management.

Internal management of the school covers admission, management of library, laboratory, building and other physical and material resources, financial resources, examination and promotion, relations with colleagues and students, etc.

External management covers relations with the community, department and other persons and agencies connected with the establishment and functioning of the school².

1.2. Types of Educational Institutions in General and Vocational Levels

1.2.1. Russian Federation:

Federal Law on Education in the *Russian Federation* (RF) classifies educational institutions according to different types, for example, in compliance with educational programmers being the main objective of their activity (art. 23 of Federal Law on Education in RF):

- *general educational institution* (school, gymnasium, lyceum, cadet institution, special (correctional) institution) is an educational institution implementing training and education activity on educational programmers of primary general, basic general, and (or) secondary general education as its main target activity;

- *vocational educational institution* (college, technical school, training school) is an educational institution implementing training and education activity on educational programmers of secondary-level vocational training and (or) on job-training programmers as its main target activity.

1.2.2. Republic of Belarus:

The Education Code of the Republic of Belarus, (2011), defines the following types of educational institutions:

- *institutions of general secondary education* (schools, colleges, lyceums);
- *vocational technical training institutions* (technical vocational schools, colleges, and lyceums);
- *institutions of secondary vocational education* (specialized pre-school institutions, specialized general education schools, special needs schools, special education and rehabilitation centers).

1.2.3. Albania³:

The main legal instruments concerning education include the Pre-University Education Law (1995) and subsequent amendments, the Normative Provisions for Public Schools, the Labor Code of the Republic of Albania (1995), the Private Education Law (1995, private education was reestablished after 1996) and the Higher Education Law (1998).

¹ Principles of Management by Louis E. Boone (Author), David L. Kurtz (Author)

² School Management (2008) M. Dash & Neena Dash

https://books.google.ru/books/about/School_Management.html?id=zBXiLwFJI_AC&redir_esc=y

³ <http://www.vet.al/about>

- *general lower secondary education* - general schools

(general lower Secondary Education is part of basic education. It includes classes from VI to IX. Similarly with basic education cycle it is taught at schools⁴).

- *secondary education* (full time Gymnasium [Gjimnazi] compound by three classes and ends up with state matura [Matura Shtetërore] exams; part time gymnasium [Gjimnaz me kohw tw pjesshme] with a duration of four years. They mostly serve for education of adults that did not follow full time gymnasiums or other forms of secondary education).

- *vocational educational upper secondary education* - vocational schools

(Basic Vocational Education [Arsimi Profesional Bazë]: Level I ISCED 3X oriented on basis of broad vocational directions and with a duration of two years. It is equivalent to level 2 of Albanian Qualifications Framework (AQF) and Level 2 of European Qualifications Framework (EQF). At the end of this study programme pupils receive basic vocational preparation certificates (half-qualified worker/assistant). This level allows to pass in level II of Vocational Education or to go directly to the labor market.

Vocational Education Institutions [Arsimi Profesional]: Level II, ISCED 3C oriented based on professional profiles with 1 year duration. This type of education has a one year duration and is equivalent to Level II of AQF and EQF.

Technical Education Institutions [Arsimi teknik]: One year of duration level III ISCED IIIa, oriented by professional directions. It least for one year and is equivalent to level IV in AQF and EQF. Students acquire certificates of technician or manager in respective direction as well as the Diploma of the State Professional Matura. It allows for pass to higher education or to labor market.

Professional post-secondary Institutions [Arsimin Profesional pas të Mes'ëm]: Level IV ISCED 4B a specific oriented block by vocational specialties. It may last 1-2 years and is equivalent to Level V in AQF and EQF. This level of qualification might be acquired after the completion of upper secondary education general or vocational)⁵.

1.2.4. Belgium (Flemish Community):

The main laws and parliamentary acts on mainstream and special needs of secondary education are grouped together in the Codex of Secondary Education.

The Alternance Training System has been determined in a parliamentary Act on the topic in question (2008).

- *first stage of secondary institutions* - secondary schools

(The first stage of secondary education is subdivided in two grades. The first grade has an A-stream and a B-stream. The A-stream is organized for most pupils with a certificate of primary education.

The B-stream is destined for pupils without a certificate of primary education or for pupils who are less apt at predominantly theoretical education. This school year functions as a bridging class between primary and secondary education. After the first

⁴ Law No. 69/2012 “On pre-university education system in the Republic of Albania Ligj Nr. 69/2012 “Për sistemin arsimor parauniversitar në Republikën e Shqipërisë”

⁵ National Strategy for Employment and Skills 2014-2020 (Strategjia Kombëtare për Aftësim dhe Punësim) http://www.sociale.gov.al/files/documents_files/Strategjia_per_Punesim_dhe_Aftesim_2014-2020.pdf and Ligj Nr. 63, datë 26.6.2014 “Për disa ndryshime dhe Shtesa në Ligj Nr 8872, datë 29.3.2002 Për arsimin dhe Formimin Profesional në Republikën e Shqipërisë [Law No. 63, dated 26.6.2014 “For some changes and amendments to law No. 8872, date 29.3.2002 “On VET in Albania]

grade B pupils can continue with a pre-vocational year or they can move to the first grade A.

The second grade of the first stage builds upon the A-stream and offers in addition to the basic curriculum an offer from various basic optional subjects. It prepares a pupil to choose in the second stage for a course of study in general (gse) or technical (tse) secondary education or secondary education in the arts (sea).

An alternative pre-vocational second grade offers in addition to the basic curriculum a choice from various programs which are called occupational fields. It prepares the pupil to choose in the second stage one of the courses of study in vocational secondary education (vse)).

- *second and third stage of secondary institutions* - secondary schools

Secondary education (secundair onderwijs) is organized for youngsters from 12 to 18. From the second stage onwards four different types of education are offered. In Flanders a pupil chooses a course of study within one of the following types of schools:

1. *general secondary education schools*, which focuses on broad general education. It does not prepare pupils for a specific profession, but rather lays a firm foundation for higher education.

2. *technical secondary education schools* attention goes in particular to general and technical-theoretical subjects. After tse a youngster may practice a profession or transfer to higher education. This type of education also contains practical training.

3. *vocational secondary education schools* is a practically-oriented type of education in which the youngster receives general education but where the focus primarily lies on learning a specific profession.

In Belgium, a certificate of upper secondary education grants unrestricted access to higher education.

1.2.5. Lithuania:

Organization of basic, secondary and vocational education in Lithuania is regulated by the following legal acts: the Constitution (1992), General Concept of Education in Lithuania (1992), National Education Strategy for 2013-2022 (2013), Law on Education (2011) and so on.

- *general lower secondary institutions*

Basic education curricula are delivered by the following types of schools: general education schools known as pre-gymnasiums (grades 5–8 or grades 5–8 and 1–4); schools with a unique pedagogical system (Waldorf, Maria Montessori, Shin'ichi Suzuki, traditional religious community or association, etc.); adult schools; general education schools known as basic schools (grades 5–10 or grades 5–10 and 1–4); basic schools; schools–multi-functional centers; special schools; youth schools; youth homes and so on.

- *vocational lower secondary institutions*

The main vocational education providers in Lithuania are called vocational schools. Vocational education can be provided by a freelance teacher or other vocational education provider (general education school, institution, organization, company, whose main activity is not vocational training), which has a right, according to the law, to prepare and/or implement vocational education programs.

- *general upper secondary institutions*

Upper-secondary education programs are offered by the following types of schools: upper-secondary type of general education schools; schools with a unique pedagogical system; adult schools; youth schools; gymnasiums and so on.

- *vocational upper secondary institutions* (vocational schools and centers of practical training).

- *post-secondary non-tertiary institutions*

Vocational training is provided at vocational schools (technology and business schools) and also at vocational training centers.

1.2.6. Poland:

The following types of secondary schools exist in Poland:

lower secondary school – educational stage III:

a 3-year lower secondary school (gimnazjum) for students aged 13-16 is another stage of compulsory education. At the end of lower secondary school pupils take a compulsory external exam and its results influence admission to upper secondary schools).

upper secondary schools – educational stage IV (although this stage of education is not compulsory (or in fact compulsory part time up to the age of 18) vast majority of students continues education in upper secondary school, including:

a 3-year basic vocational school (zasadnicza szkoła zawodowa); graduates receive a diploma upon passing exams confirming vocational qualifications and may continue education in grade 2 of general upper secondary school for adults;

a 3-year general upper secondary school (liceum ogólnokształcące) where students may obtain a maturity certificate (świadectwo maturalne) upon passing the maturity exam (egzamin maturalny);

a 4-year technical upper secondary school (technikum) where students may obtain a diploma upon passing exams confirming vocational qualifications, and may also take the maturity exam (egzamin maturalny) and obtain a maturity certificate (świadectwo maturalne);

a 3-year special school preparing for employment which is intended for pupils with moderate and severe mental disabilities and pupils with multiple disabilities, and which awards a diploma confirming preparation for employment (see also Educational Support and Guidance).

post-secondary schools

- a post-secondary school (szkoła policealna) for those who have completed secondary education, which offers programs lasting from 1 to 2.5 years and awards diplomas to those who have passed examinations confirming vocational qualifications⁶.

1.3. Scope of School Management

School Management in General and Vocational Levels has to perform a lot of activities either by the managing body/manager/director or through and in cooperation with additional bodies in the school. Hence the scope of school management is very wide. It includes the following elements: Planning; Budgeting; Organizing; Directing; Controlling; Coordinating; Decision-making; Evaluating; and Activities and Programs.

In other words school management includes the following activities under its scope:

– planning of all activities and programs of the school in the beginning of the session - admission, academic work, co-curricular activities, examination, promotion of students to the next higher class, staff meetings, meeting of parents-teachers association, etc.

⁶ School Education Act of 7 September 1991 to add Art

- distribution of academic and curricular activities among staff members keeping in view their interests, abilities and experiences.
- preparation of budget for the year indicating receipts and proposed expenditure on different heads. The expenditure must match with the funds available. In no case there should be deficits.
- preparation of timetable.
- provision of staff.
- provision of equipment and furniture-purchase, repair and maintenance.
- provision of books for the school library-purchase and maintenance.
- organization of academic work-ensuring completion of course in time.

1.4. School Management and School Administration

There is often a terminological conflict between management and administration. Some suggest that there is no fundamental difference between management and administration. Others suggest that there is difference between these two terms because both of them represent different activities. For example, Oliver Sheldon (1923) emphasized administration as decision-making function and management as execution function. In this sense administration is above management. Authors like Brech (1972) argue that administration is a part of management, "the most popular and practical view is that management and administration are same because both involve the same functions, principles and objectives".

Dash (2004), has quoted the difference between management and administration as follows:

"Administration gives more stress on strict conformity to rules and regulations. An administrator is considered as a 'boss' who emphasizes maintenance of order and discipline, who directs and exercises control. Management emphasizes democratization in policy formulation, decision-making, implementing and bringing improvements in the system. A manager is considered as one among the staff-friend, philosopher and guide for others."

1.5. Principles of School Management in Educational Institution

School management should not be a bundle of theoretical principles. The school should decide its objectives which are achievable. It should provide measures to achieve the objectives which are practicable.

However, for educational purposes, the identification of principles will be very useful for make a framework for management theory and practice.

Principles of management of educational institution are the main guidelines for the subject of management activities (director, manager, teacher) in the management process.

The *principles of management of educational institution* are provisions that reflect the most general, fundamental requirements to management activities.

The principles of management of educational institution are:

- democracy and humanity;
- justice;
- combination of centralization and decentralization;
- objectivity;
- information transparency;
- combination of single authority and collective character;

- normative character;
- equality.

For additional information see video: https://youtu.be/ttmU9Ojo_YQ

3. Case Law

3.1. Case law concerning the School Management in Albanian

3.1.1. Case Title

Mismanagement of conflicts with teachers.

3.1.2. The Scope and Level of Education from which the Case is Taken

Conflict Management in Pre-University Education.

3.1.3. Description of the Case

On October 24, 2015, RED (Regional Education Directorate) - Elbasan warns of the dismissal of Mrs. M.K., a school director appointed to this position in April 2014, with the motive: "For non-fulfilment of functional duties leading to the non-management of conflicting situations created between teachers in the school".

As soon as she started in this position, teachers have had complaints about the managerial skills of the director, complaints that were made known to the RED by the teachers in person.

In June 2015, these complaints were made official through letters sent by the school teachers to RED and MES, made public in the newspaper "Panorama".

The following letters to the RED regarding the school director M.K. were written by three teachers of this school from June 2015 to September 2015. The teachers claim that the director exercised on them physical, verbal and psychological violence. These papers were also made public in the media.

Complaint letter no.1. On 15 June 2015, E. L., a retired teacher, sent a letter to RED- Elbasan. E. L. had gone to her school to meet former students and colleagues but was forced out violently. In her letter, the retired teacher cites that, more than being physically abused, she was hurt morally and she requires that action is taken against M. K. But according to the teacher, although the Regional Educational Directorate had been notified, this institution had not taken any measure.

Complaint letter no. 2. Another complaint letter about the school director M.K., addressed to RED-Elbasan, was written by S.K. (teacher at this school). She complained about the director's conflicting behavior and lack of management of relations with the staff. S. K. required by the authorities to take the appropriate measures. She mentioned in her complaint that the dignity of teachers has been profaned during the lesson, as she was pushed and yelled at in the presence of her students.

Complaint letter no. 3. The last letter was written by F.T. and she addressed the Minister of Education. F.T. presents concrete facts about the lack of school management by the school director related to issues such as: incorrect distribution of classes, improper knowledge about documentation, assigning teachers, drafting the annual school plan, lack of communication ethics, a two- standard evaluation system, lack of organization, etc.

3.1.4. Legal Provisions

Based on the Law on Pre-University Education(2012), Chapter IX on the status of teaching staff, Article 54, para 2.c "the director of the public or private educational institution shall be responsible for the management of the staff and the creation of conditions for the professional development of the employees of the institution" which seems to have not been accomplished by M.K during the period that she has exercised this task.

Article 55 "Management Aspects" of Normative Provisions, in point 3 stipulates that "The Director, after consulting with the council of teachers: a) sets the division of

classes; b) decides on the workload of teachers; c) assigns tutor teachers; drafts himself / herself or assigns a vice director / teacher to design the weekly teaching schedule of the institution. In Article 122 of the Normative Provisions it is concluded that: RED: a) implements the National Strategy of Pre-University Education in local conditions; b) cooperates with the core unit of local government; c) observes the teaching process and management of the educational institution.

3.1.5. The Followed Procedure and the Decision of RED – Elbasan

After receiving the complaints, the Ministry of Education and Sports sent an inspection team that together with the monitoring team of RED Elbasan carried out verifications at the school.

Given the findings of these two groups, in October 2015, RED-Elbasan, warns of the dismissal of Mrs M.K., director appointed to this post in April 2014, with the motive: "For failure to perform functional duties by leading to the non-management of conflicting situations created among teachers". After this decision as well as several hearings and counselling sessions aimed at resolving the conflicts, the situation in the school was not stabilized and RED Elbasan has started the procedures for the dismissal of M.K.

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3.2. Case Law Concerning the School Management in Belarus

3.2.1. Case Title

Mismanagement in school employment.

3.2.2. The Scope and Level of Education from which the Case is Taken

Employment Management in school education.

3.2.3. Description of the Case

On April 2009, school principal employed a Mrs. Belova on a position of special teacher. But she didn't have an appropriate education: she just had a bachelor degree in economics. So – principle defied law by employing a person without appropriate competence.

On September 2009, principle sent Mrs. Belova for a retraining program to get a specialization "Special teacher". She entered and graduated studies. After she continued working at the same school. After 7 years, on July 2016, Mrs. Belova decided to increase her qualification and get an approval of a higher category. But she was denied because it was revealed, that she could not get a specialization "Special teacher" without attending studies to get bachelor degree in pedagogy first. That means that educational institution made a mistake by letting her attend studies without higher pedagogical education.

3.2.4. Legal Provisions

Unified qualification directory of posts employees - is a normative document that regulates process of employment in educational institutions. The directory says that disability specialist special teacher must have : "Higher education in the profiles of "Pedagogy", Pedagogy. Professional education" (special education) or higher education in the profiles of "Pedagogy", "Pedagogy. Vocational education "and retraining in the direction of "Special Education".

According to educational standard of specialization “Special teacher“, a person, who attends retraining, must have higher education in “Pedagogy”, “Pedagogy. Professional training”⁸.

3.3. Case Law Concerning the School Management in Russia

3.3.1. Case Title

Appeal definition of the Moscow City Court of February 16, 2015 No. 33-4797 / 15 of refusing to require the recognition of the unlawful act of forming the list of elected members of the Gymnasium Council.

3.3.2. The Scope and Level of Education from which the Case is Taken

Self management in school education.

3.3.3. Description of the Case

At the merger of several general educational organizations, the Moscow Department of Education approved a new Charter for the gymnasium, which provides for the formation of one Governing Council.

In order to form a new Council in the primary organizations, the election of delegates to the conference was to be held for the election of the Governing Council. In the gymnasium, such meetings were not held and, accordingly, delegates to the conference were not elected, which deprived the plaintiff of the right to represent the interests of the class and his son in the Governing Council of the joint educational organization in violation of Art. 44 of the Law "On Education".

3.3.4. General Finding

Deciding on the requirements regarding the recognition of the election of the Governing Council as illegal and the obligation of the director of the gymnasium to hold elections for the Governing Council, the court concluded that the formation of the Governing Council was attributed to the discretion of the gymnasium, therefore, the court does not have the right to evaluate the expediency of the decision and did not find grounds for satisfying the claim.

3.3.5. Case Title

The appeal ruling of the Moscow City Court of May 18, 2015 No. 33-16065 / 2015 declaring an order of dismissal illegal due to a reduction.

3.3.6. The Scope and Level of Education from which the Case is Taken

Competence of the head of the educational organization

3.3.7. General Finding

The court refused to meet the requirement, since the established reduction procedure was observed: the claimant was promptly notified of the impending reduction, the respondent offered all the vacant posts he had, from which the claimant refused. The court noted that the general education institution has the right to independently form the staff list according to the academic load and, accordingly, decide whether there is a need for a certain position or decide on its exclusion from the staff list.⁹

⁹ Prepared by Marina Mokoseeva, PhD

References

1. Dyatlov A.N., Plotnikov M.V. General Management. The Course of Lectures. Electronic resource <http://group27.narod.ru/ucheba/files/management-dyatlov-plotnikov.pdf>
2. Zhigun L.A., Theory of Management: Theory of Organisation: Study guide. – M., INFRA, 2016 – 320 p.
3. Arrangement of Public Management in the Educational Institution: educational learning material for targeted advanced training of management staff. / Compiled by S.G. Kosaretsky. Edited by A.M. Moiseev. - M.: ASOU, 2007, 68 p. - [Electronic resource]. Available at <http://www.gouo.ru>
4. Provision on Creation and Work of Governing Councils of Educational Institutions [Electronic resource]. Available at <http://www.gouo.ru>
5. Everard K.B., Geoffrey Morris, Ian Wilson. Effective School Management. Electronic resource
https://books.google.ru/books?id=pXLxiWrtd8EC&printsec=frontcover&hl=ru&lr=&num=20&source=gbs_book_other_versions_r&cad=4#v=onepage&q&f=false
6. Education Code of the Republic of Belarus, No. 243-3 dated 13 January 2011
7. Education Law No. 7952 of June 1995
8. Private Education Law dd 1995
9. Higher Education Law No. 8461 of 25 February dd 1998
10. Normative Provisions for Public Schools, the Labor Code of the Republic of Albania dd 1995
11. Act on the topic in question dd 10 July 2008.
12. Constitution dd 1992,
13. General Concept of Education in Lithuania dd 1992),
14. National Education Strategy for 2013-2022 dd 2013),
15. Law on Education dd 2011
16. Federal Law on Education in the Russian Federation dd
6. School Management: A Training Manual for Educational Management. Electronic resource <http://unesdoc.unesco.org/images/0015/001511/151182e.pdf>
7. <http://www.vet.al/about>
8. Principles of Management by Louis E. Boone (Author), David L. Kurtz (Author)
9. School Management (2008) M. Dash & Neena Dash
https://books.google.ru/books/about/School_Management.html?id=zBXiLwFJI_A C&redir_esc=y
10. http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Albania.pdf
11. The limits of the autonomy of the educational organization in matters of management and the formation of the organizational structure: a review of judicial practice http://www.lexed.ru/obrazovatelnoepravo/analitika/obzory/detail.php?ELEMENT_ID=5822