

Legal Framework for Activities of So-Called Alternative Schools in the Czech Republic

Abstract

This thesis describes the legal aspects of providing primary and secondary education at so-called alternative schools in the Czech Republic.

Firstly, the thesis outlines what an alternative school is and how it can differ from a traditional school. Some examples are given below. Then it explains legal provisions of international human rights law and constitutional law concerning the right to education. A state's obligation to respect parent's philosophical, religious, and other beliefs and rights of individuals and organizations to establish and run private educational institutions lies within the scope of the right to education. The author clarifies why, under these provisions, any quantitative restriction limiting number or capacity of private schools is unacceptable. As a result, some current administrative practices of the Ministry of Education not allowing private schools to be established is labeled as unlawful.

Secondly, the author thoroughly describes the general legal framework provided by Education Act nr. 561/2004 Sb., especially its aspects concerning private and alternative schools. This thesis concludes that providing education in schools needs to be seen as an act of the so-called “other“ public administration which is neither state nor provincial administration. Following that conclusion, some case law of the Supreme Administrative Court of the Czech Republic needs to be revised, especially case law interpreting legal nature of the “Framework Educational Programmes“ as internal regulations. Those are found to be abstract acts sui generis. The thesis also deduces an existence of a legal claim to establish a school when meeting all the legal requirements, which corresponds with the unacceptability of limiting the number or capacity of private schools.

The next chapter describes educational legislation in areas where alternative schools usually differ from traditional schools. It deals with curricular, assessment, organizational and other requirements set out by the law. It focuses on practices that allow alternative schools to follow a particular educational concept and at the same time to deal with those requirements.

The next chapter outlines legal requirements for school personnel and specifics concerning alternative schooling. The Pedagogical Personnel Act nr. 563/2004 Sb. defines the majority of such requirements.

Then, the author mentions the instruments provided by law for control and evaluation of school education. The thesis states that specific corrective provisions can be adopted not only when the school violates the law but also when the quality of the education provided by the school is poor.

Finally, the author makes general conclusions about the legal status of alternative schools in the Czech Republic and recommendations for the future.

Key Words

Education, schooling, alternatives.