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Hungarian Public Education in the Light of the Enforcement of Educational Rights and Obligations

Keywords: public education, rights, obligations, Hungary

Słowa kluczowe: edukacja publiczna, prawa, obowiązki, Węgry

Abstract

Under democratic conditions, the enforcement of educational rights and obligations is one of the guarantees that the education and training system can fulfill its function effectively. In Hungary, the system of educational institutions and legal protection operating within the framework of the rule of law dates back to more than a quarter of a century, but experience in such a short period of time is significant. By presenting some of the rights and obligations related to public education, the paper gives the reader an idea of how a post-socialist country in Central and Eastern Europe operates its public education system and how it was able to adapt to European norms more than 30 years after the public law regime change. At the same time, this approach not only informs about the realization of the second-generation rights to education in Hungary, but also provides insight into the current direction of public education policy, for example through the issue of centralization-decentralization. Therefore, the study examines only those public education legal relations that are the most characteristic in terms of the presentation of the Hungarian system – in the opinion of the author -, and best reflect the public education conditions in Hungary.

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Streszczenie**Węgierska edukacja publiczna w świetle egzekwowania
praw i obowiązków edukacyjnych**

W warunkach demokratycznych egzekwowanie praw i obowiązków edukacyjnych jest jedną z gwarancji, że system edukacji i szkoleń może skutecznie wypełniać swoją funkcję. Na Węgrzech system instytucji edukacyjnych i ochrony prawnej funkcjonujących w ramach praworządności sięga ponad ćwierć wieku, ale doświadczenie w tak krótkim okresie jest znaczące. Przedstawiając niektóre prawa i obowiązki związane z edukacją publiczną, artykuł daje czytelnikowi wyobrażenie o tym, jak kraj posocjalistyczny w Europie Środkowo-Wschodniej działa w swoim systemie edukacji publicznej i jak był w stanie dostosować się do norm europejskich ponad 30 lata po zmianie reżimu prawa publicznego. Jednocześnie podejście to nie tylko informuje o realizacji praw drugiego pokolenia do edukacji na Węgrzech, ale także daje wgląd w aktualny kierunek polityki edukacji publicznej, na przykład poprzez kwestię centralizacji-decentralizacji. Dlatego w opracowaniu analizowane są tylko te stosunki prawne edukacji publicznej, które są najbardziej charakterystyczne z punktu widzenia prezentacji systemu węgierskiego – zdaniem autora – i najlepiej odzwierciedlają warunki edukacji publicznej na Węgrzech.

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I. Democratic framework for public education

The 1989 change of the public law system brought a significant change in Hungarian public education. By declaring the recognition of freedom of conscience and religion and declaring the ideology-neutrality of state and municipal schools, the state monopoly on education was abolished. Made it possible for churches, organizations and individuals – with the consent of the Parliament – to establish and maintain education institutions. The publication of textbooks was also liberalized, which was subject to state approval in the field of public education. The educational institutions continued their work on the basis of their own pedagogical program. Maintaining schools is largely from a state-norm, with a smaller proportion from market participants and other organizations, for example foundations.

In 1993 the first law on public education was passed in Hungary², which guaranteed – among others – the right to culture on the basis of equal opportunities, the right of national and ethnic minorities to education in their mother tongue, and defined the rights and duties of parents, pupils and employees of public education. It regulated compulsory schooling, and the conditions for the foundation of a school. The law created an opportunity for the integrated education of pupils with special educational needs and for improving the conditions for their social inclusion. The National Core Curriculum included general requirements for certain areas of public education from 1995.

Thanks to the new constitution of Hungary (Fundamental Law)³, the new Public Education Act⁴, which entered into force in 2012, envisaged a radical transformation of the public education system, of which two features are highlighted. One of them is the state takeover of public education institutions maintained by the local government and the centralization of public education. Under this all former municipal schools became state-owned, and local governments can only contract to operate public education institutions. The tasks of state maintenance are performed by the Center⁵ – under control of the ministry responsible for education – supply through school districts⁶. At the same time, non-state-run public education institutions may continue to be established and operated by churches, minority self-governments or other organizations as long as they fulfill the conditions which prescribed by law and regularly monitored by the state⁷.

The other is the National Core Curriculum for the unification of the content of public education, which has the officially declared aim of creating equal opportunities in the field of public education by defining the knowledge, national and universal cultural minimum for all Hungarian children.

² Act LXXIX of 1993 on Public Education.

³ Fundamental Law of Hungary was adopted on 18 April 2011 and entered into force on 1 January 2012.

⁴ Act CXC of 2011 on National Public Education (hereinafter: National Public Education Act).

⁵ Klebelsberg Institutional Maintenance Center. Named after Kuno Klebelsberg, recognized Minister of Culture in Hungary between the two world wars.

⁶ OECD, *Education Policy Outlook: Hungary*, 2015, p. 15, <http://www.oecd.org/education/Hungary-Profile.pdf> (10.09.2020).

⁷ National Public Education Act § 34.

Compulsory elective frameworks ensure the enforceability of the National Core Curriculum, which define, for each type of school and each stage of education, the objectives of the education, the subject system, the subjects, content and requirements of each subject and the time frames necessary to meet the requirements. According to these framework curricula, schools prepare their local curriculum, consequently, there is only limited scope for developing an individual image. In fact, therefore, the National Core Curriculum has become the most important document of communicating state ideology in public education.

The above-mentioned change in the direction of the public education system did not leave the rights of educational actors untouched either. At first glance, a striking change is that the position of entitlements within the law has changed, because the legislator not addressing the subject at the beginning of the law, and changed the order of rights and obligations of educational actors. At the same time, it can be said that, in addition to a number of structural changes, the new regulation has maintained the structure and some elements of the system of educational rights⁸.

Public education is one of the largest public services in Hungary, the use of which is not voluntary on the part of students and parents due to compulsory schooling. Relationships between actors in public education are characterized by interdependence, which derives not only from educational-, but also from employment law relationship. All this has a significant impact on the enforcement of the rights of educational actors. At the same time, the effect of community closure cannot be ignored in this system of relations, as the participants in education – due to compulsory education – participate in a compulsory and interdependent way.

It is also important that one group of actors in public education is more vulnerable than others. Students are more vulnerable to violations of their rights because of their position and can only assert their rights if adult actors in public education take an active role.

Finally, an important feature of the field of public education in Hungary is that in many cases the decisions and measures of educational institutions

⁸ Report on activities of the Commissioner for Educational Rights in 2012, p. 5, http://www.oktbiztos.hu/ugyek/jelentes2012/ojb_2012_beszamolo.pdf (10.09.2020).

are not in writing, and there are still no local regulations behind many institutional decisions. All this despite the fact that in the period following the change in the system of public law, local regulations governing the operation of institutions in the field of education became more and more widespread⁹, disregard of which may result in violation of educational rights.

In the midst of these conditions, the situations related to the following rights and obligations in the Hungarian public education system deserve attention.

II. Compulsory education

Participation in public education is compulsory from a certain age up to a certain age. This compulsory education, the regulation of which is a significant changed compared to the past. The child in that year in which shall reach the age of six by the 31st of August but will be enrolled in the following year at the latest. At the same time, the prerequisite for commencing compulsory education is that the child has the necessary level of development to attend school and that it is verified. Therefore, a child who is recommended by a committee of experts stays in kindergarten for another year after reaching the age of six, and then becomes subject to compulsory schooling. However, if the child reaches the age required to enter school before reaching the age of six, according to the opinion of the committee of experts, he or she may, at the request of the parent, begin his or her compulsory education earlier¹⁰.

The upper age limit for compulsory schooling in Hungary increased from 16 to 18 in the last years of the 20th century, and was restored to 16 in 2011 in order to “regain the honor of blue-collar work”. Compulsory education for pupils with special educational needs may be extended up to the end of the school year in which it reaches the age of 23 on the basis of the opinion of the committee of experts and the decision of the head of the school concerned. It is also possible to shorten the study time with the permission of the school head if the student fulfills the study requirements for two or more years of the school in one school year or less¹¹.

⁹ Eg. the pedagogical program, the policy, the organizational and operating rules.

¹⁰ National Public Education Act § 45.

¹¹ Ibidem.

Fulfillment of compulsory education sets tasks to many educational actors. The parent is responsible for securing the obligation, who is obliged to take his child to school, may not take him out of school, or send him to work. Parents have a constitutional responsibility in this area and are obliged to guarantee the conditions necessary for their children to study¹². The child is also obliged to meet the requirements set by the state, to attend school and not to stop his studies. The school system is obliged to accommodate and retain the pupil, and cannot terminate the child's legal relationship without further care. And the state is obliged to create the conditions for fulfillment of compulsory education¹³.

In Hungary, based on general compulsory education, all children must participate in institutional public education primarily. In this context the learner's main task is to fulfill his/her study obligation, attend lessons and other activities¹⁴. Failure to do so entails consequences, sometimes very severe, which, however, can only lead to the termination of the student status in the cases of non-school age students.

If the student is absent from the school, must justify the omission, otherwise that is considered to be unjustified. Of course, the legal status of a child of compulsory school age cannot be terminated even in the case of unjustified omissions, in which case the consequences are usually of direct concern to the parents, but indirectly also affect the child. Accordingly, e.g. if a child subject to compulsory education is absent for more than fifty times from compulsory lessons, the competent state organ – based on the notification of the head of the education institution – shall initiate the suspension of family allowances for parents¹⁵.

However, the compulsory education does not necessarily mean the obligation to going to school¹⁶. In addition to attending school, compulsory education may be provided as a private student (from 2019 as an individual curriculum student) in Hungary if it is not detrimental to the student's

¹² Fundamental Law Article XVI (3).

¹³ J. Szüdi, *A gyermek megfelelő fejlődéshez való joga*, <http://www.dr.szudi.hu/2012/02/a-gyermek-megfelelo-fejlodeshez-valo-joga> (10.09.2020).

¹⁴ National Public Education Act § 45.

¹⁵ Act LXXXIV of 1998 on Family Support § 15.

¹⁶ Szüdi, *op.cit.*

development or is specifically required¹⁷. The individual curriculum student fulfills the requirements of the school in the form of essentially individual preparation and usually passes an examination on his or her knowledge¹⁸. Authorizing such status at the request of parents is often the case when staying abroad or for a career as a top athlete. A student with special educational needs, or a student who has difficulties with integration, learning, behavior, or because of the home-based medical treatment due to his or her persistent illness may also have an individual curriculum student status. In the latter case, the child will become special status student not on the request of parents but on the basis of expert or specialist opinion, when the head of the institution has no discretion or decision-making power over the subject.

In the case of parents staying abroad – when the child is not studying as an individual curriculum student in Hungary – if the student enrolls in a foreign educational institution, his/her legal status in the Hungarian institution is terminated¹⁹. Hungarian citizen may study abroad without permission and may complete his compulsory education at a foreign educational institution also, which must be reported to the head of the school²⁰.

III. Right to free public education

As the fulfillment of the compulsory schooling may not encounter an economic obstacle, the state may not request compensation for the use of the preparation and training opportunities specified by it within the scope of the compulsory schooling. At the same time, the state should help families to create the conditions for their child to learn. Therefore, the definition of the period of compulsory schooling actually means the degree of state responsibility, the limit at which it considers important to achieve in the field of education and professional standards of the country's population²¹.

¹⁷ National Public Education Act § 45.

¹⁸ Szüdi, *op.cit.*

¹⁹ National Public Education Act § 93 (3).

²⁰ National Public Education Act § 91.

²¹ Szüdi, *op.cit.*

Compared to the previous Hungarian Constitution, the Fundamental Law extended the right to free education beyond basic education to include universal secondary education²². It follows that secondary education should be made available free of charge to everyone²³. To ensure this right is the responsibility of the Hungarian state until the completion of the secondary school leaving examination or vocational qualification.

But not all public education services are free. Tasks provided free of charge in state public education institutions eg. a lesson, a study competition, a specialty group, or a sport for everyday physical exercise²⁴. Only a program organized during school hours can be compulsory for students and in this case is free. However, a body consisting of representatives of parents, teachers and students may set a maximum amount which may not be exceeded in the implementation of a non-free service organized by the educational establishment²⁵. Nevertheless, a recommended event or activity organized outside the school hours for a fee cannot be made compulsory for students.

In practice, free public education in Hungary does not mean total exemption from costs. On the one hand, because the school or the organizers, for the most part unlawfully, charge fees for the cost of participating in free educational programs. On the other hand, the majority of underfunded public education institutions supplement their operational funds with parental contributions, the practical form of which is the establishment of a school foundation and its support by parents.

However, free public education - within the above framework - can only be interpreted as a general rule in relation to the performance of a public task by the state. Use of the services of a church or private educational institution – eg. learner status, dormitory membership - you may be required to pay²⁶. Accordingly, the maintainer of such an institution shall decide the rules on the ba-

²² Fundamental Law Article XI (1) (2).

²³ Szüdi, *op.cit.*

²⁴ 229/2012 (VIII. 28.) Government Decree on implementing of the National Public Education Act [hereinafter 229/2012 (VIII. 28.) Government Decree] broadly defines the scope of public education tasks provided free of charge.

²⁵ 229/2012 (VIII. 28.) Government Decree § 34 (3).

²⁶ National Public Education Act § 31 (2) (c), 229/2012 (VIII. 28.) Government Decree § 37.

sis of which the head of the public educational establishment shall determine the amount of tuition, the allowances granted and the method of payment²⁷.

IV. Freedom of teaching and learning

Freedom of teaching in public education includes the freedom of choice of institution for parents and pupils, the possibility of institution-foundation and the methodological freedom of the teacher within the educational process, the right of educational institutions to form in shaping of learning processes, and to participate in institutional administrative processes²⁸.

Freedom to learn is closely related to that fundamental constitutional right in Hungary that parents have the right to choose the kind of education to be given to their child²⁹. According to this, the parent can freely choose a school or apply for public education in accordance with his or her child's abilities and interests, taking into account his or her own religious and ideological convictions and nationality. Thus, in defining the manner of fulfilling the schooling obligation, the parent – as discussed above – enjoys a high degree of freedom of decision, which he exercises with the child after the age of fourteen³⁰.

The right to free and compulsory primary education and the right to free and universal secondary education – as enshrined in the Fundamental Law – are based on the student status. The starting point of a student relationship is the admission or transfer to the institution, which is decided by the head-teacher³¹. In addition to the right to free choice of institution, the National Public Education Act also guarantees that no child will be placed in a situation where he is unable to fulfill his compulsory education obligations due to lack of places. Therefore, in Hungary, “compulsory schooling according to the child's place of residence” is guaranteed protection. This means that the freedom of decision-making of recruitment or admission of the district

²⁷ J. Sári, B. Somody, *Alapjogok. Alkotmánytan II. 21. A művelődéshez való jog – Az oktatás, a tudomány és a művészetek szabadsága*, Budapest 2008. pp. 161–162.

²⁸ Szüdi, op.cit.

²⁹ Fundamental Law Article XVI (2).

³⁰ Szüdi, op.cit.

³¹ National Public Education Act § 50 (1).

school is limited. The primary school is obliged to admit and take over the pupil who is living in the district of the primary school³².

In spite of the regulations, in many cases we can see in practice the rejection decision of the institution providing compulsory enrollment, which is due to the enormous oversubscription of a popular institution and the limited number of enrollments. However, in almost all cases the authority obliges the institution to enroll children in the district in school, which can be achieved by expanding the number of classes or starting a new class. If there is an unexpected increase in the number of district students in the school enrollment district during the school year, the situation for the following school year may be corrected by adjusting the district boundaries³³.

In addition to the free choice of institution, it is the student's right to choose from among the subjects, activity, and possibly teachers, within the framework of the pedagogical program³⁴. For the first foreign language, e.g. children can choose between English, German, French and Chinese, and the public education institution must ensure that they can continue to study these in the upper grades³⁵.

In addition to the learner and the parent, the educator has the right to choose – based on the pedagogical program – the knowledge, the curriculum and the methods of education in the context of his or her job³⁶. A common question in this regard is whether the head of the institution can instruct a teacher to use the pedagogical method he or she has indicated in teaching. Based on the decision of the school board and the head of the institution, the pedagogical program includes the specific pedagogical methods used in the school³⁷. Therefore, teachers' freedom of teaching is very limited, during the

³² National Public Education Act § 50 (6).

³³ Report on activities of the Commissioner for Educational Rights in 2016 (hereinafter 2016 Report) p. 29. Available at: www.oktbiztos.hu/ugyek/jelentes2016/ojb_2016_beszamolo.pdf (10.09.2020).

³⁴ National Public Education Act § 46 (6) (b).

³⁵ 110/2012 (VI. 4.) Government Decree on the Publication, Introduction and Application of the National Core Curriculum.

³⁶ National Public Education Act § 63 (1) (b).

³⁷ 20/2012 (VIII. 31.) EMMI Decree on the Operation of Educational Institutions and on the Use of the Names of Public Educational Institutions [hereinafter 20/2012 (VIII. 31.) EMMI Decree] § 7 (4).

choice of methods it can prevail within the framework of the pedagogical program, which is compulsory for teachers³⁸.

Teachers also have – a broad, but not unrestricted – freedom when evaluating students' work³⁹, during which teacher can develop unique methods, apply specific assessment techniques, and teacher may consider marks with different weightings when determining semester-end evaluation. Due to the broad evaluation autonomy of the teacher, the legislator provides a limited remedy for appraisal complaints⁴⁰. In such a case, it is the student's right, for example, to have his/her application examined by an independent examination board in accordance with the procedure laid down by law and for a fee⁴¹.

V. Rights of students with special needs

It is a priority task of public education to take into account the special needs of students with special educational needs, to facilitate their most effective development in line with their individual abilities, and to create the fullest possible social integration⁴².

In the context of the rights of children with special needs, those affected and their parents - based on experience - are easily exposed to a situation in which they are unable to exercise their rights properly. In many cases, this is due to a lack of information because neither the students and their parents nor the organs have not the necessary legal awareness. All this requires increased attention from all those who perform tasks related to students with special needs in public education⁴³.

³⁸ J. Sári, B. Somody, op.cit. pp. 163–164. https://regi.tankonyvtar.hu/hu/tartalom/tamop425/2011_0001_520_alapjogok_alkotmanytan_ii/index.html (10.09.2020).

³⁹ 20/2012 (VIII. 31.) EMMI Decree § 7 (1) (b).

⁴⁰ 2016 Report pp. 54–59.

⁴¹ National Public Education Act § 46 (6) (m).

⁴² E. Gábor, *Living with a disability in Hungary – Reconstructing the narratives of disabled students*, [in:] *Disability in Eastern Europe and the Former Soviet Union – History, policy and everyday life*. eds. M. Rasell, E. Iarskaia-Smirnova, New York 2014, pp. 121–139.

⁴³ Report on activities of the Commissioner for Educational Rights in 2015 (hereinafter 2015 Report) p. 72. Available at: www.oktbiztos.hu/ugyek/jelentes2015/ojb_2015_beszamolok.pdf (10.09.2020).

The committees of experts are of particular importance in this area, which have a dual role. On the one hand, eligibility for specific benefits arises through the issuing of an expert opinion drawn up by these pedagogical services, meaning that without the expert opinion the learner cannot claim special services. On the other hand, with their specific expertise and the information available to them, they suggest specific care that will serve the child's, student's development. The committee of experts may, subject to the relevant rules of procedure, issue expert opinions having legal effect and binding force⁴⁴.

The expert committee - based on examination of the student - provides in its expert opinion - inter alia - on how to fulfill the student's compulsory education, designation of the appropriate institution, specific requirements for the child's upbringing, development tasks and discharge, and propose for a specialist if necessary⁴⁵.

In all cases, the benefits corresponding to the special treatment shall be provided in accordance with the opinion of the committee of experts. For students with special educational needs eg. if necessary, longer exam preparation time must be provided on the exam, the written or oral examination should provide the usual tools that he or she uses in his or her school studies, and the organization of the exam must be adapted to the student's abilities⁴⁶.

When deciding on a student, the director of the school must take into account of the expert opinion and has no discretion in this regard. This means that if, for example, the expert opinion provides for exemption from assessment in respect of a given subject, the learner cannot be evaluate in that subject and consequently cannot be required to repeat the class⁴⁷.

Educational legislation lays down different provisions from the general in case of children and students with special educational needs, such as school maturity, compulsory education and an individual curriculum student status. The parents' freedom of decision in this area is limited, as the education and development of such students can only take place in accordance with the expert opinion⁴⁸.

⁴⁴ 2015 Report p. 73.

⁴⁵ National Public Education Act § 47.

⁴⁶ National Public Education Act § 51 (5).

⁴⁷ 2015 Report p. 85.

⁴⁸ 2015 Report p. 75.

VI. Guarantees of the enforcement of educational rights

In order for educational actors to fulfill their obligations and to exercise their rights, the following factors are necessary.

It is the student's fundamental right to have access to the information necessary to exercise his or her rights. The student must be explicitly informed about questions concerning his/her person and his/her studies, in this area he/she has the right to make a proposal, he/she can ask questions to the school leaders and teachers and to which must receive a substantive answer within a reasonable time⁴⁹.

It is the constitutional duty of the parent (legal representative) to provide the conditions necessary for the development of the child and for the child to fulfill his or her obligations⁵⁰. However, in order for the parent to fulfill this duty and to exercise his or her freedom of decision, the school must ensure that the parent is fully and effectively informed about his or her child. The content of parental information should also cover the pedagogical program, policies of the institution, the child's development, behavior and educational advancement⁵¹. The primary area of informing is the school brief, the diary and the certificate at the end of the school year, which accurate and regular management is crucial to informing the parent⁵².

The interpretation of the right to information changes in the case of students of legal age, in that the provisions on parental rights and obligations do not apply⁵³. In the case of an adult student, the right or obligation of the parent belongs to the student. However, if the student of legal age does not have an independent income and is living with the parent, the parent shall be notified of the decision on the termination of the student status, of the fulfillment of student's obligation to study and of the payment obligations⁵⁴.

An important guarantee of the protection of the rights of educational actors is that they have the right to remedy in respect of decisions, measures

⁴⁹ National Public Education Act § 46 (6) (e) and (g).

⁵⁰ Fundamental Law Article XVI.

⁵¹ National Public Education Act § 72 (5) (a) and (b).

⁵² 2016 Report pp. 83–84.

⁵³ National Public Education Act § 46 (8).

⁵⁴ 2016 Report p. 82.

and omissions affecting them, which guaranteed by the Fundamental Law⁵⁵. The student or the parent, against the school's decision, action or omission - within a reasonable time period provided by law⁵⁶ - can initiate proceedings in the interests of the child. However, there is no right of appeal against the evaluation of studies only if it is not done in accordance with the local curriculum applied by the school, or it is in conflict with the law or the student status provisions⁵⁷. In such cases, after the first instance decision of the head of the public education institution, the maintainer acts in the second instance.

Finally, it should be mentioned that in order to protect the rights of individual public education actors, prevent violations and effectively remedy the violations, a special educational law protection state organ was created in Hungary in the last year of the 20th century. This is the Commissioner for Education Rights, who - through his mediation process - promotes the provision of education-related rights - guaranteed by the Basic Law and the Laws on Public and Higher Education - to all participants in education (pupils, students, teachers, educators, researchers and their parents and their communities)⁵⁸. The Commissioner's work will also ultimately help educational institutions to create local forums for optimal conflict resolution which can serve as remedies for violations of law as well as to strengthen individual and institutional responsibility⁵⁹.

VII. Possible consequences of breach of students' obligations

To penalize students for misconduct the school has available the opportunities provided by law and in its own school rules of procedure, in justified cases, disciplinary action may be taken and disciplinary proceedings may be initiated⁶⁰. However, it is an essential guarantee that pupils subject to compulso-

⁵⁵ Fundamental Law Article XXVIII.

⁵⁶ Within fifteen days of such communication or, failing that, of becoming aware thereof.

⁵⁷ National Public Education Act § 37 (2).

⁵⁸ 40/1999 (X. 8.) OM Decree on the Duties and Rules of Operation of the Office of the Commissioner for Education Rights § 3.

⁵⁹ Report on activities of the Commissioner for Educational Rights in 2000. Available at: www.oktbiztos.hu/ugyek/indexugyek.htm (10.09.2020).

⁶⁰ National Public Education Act § 58.

ry schooling will be punished with exclusion only in cases of extraordinary or repeated misconduct and that the transfer will be subject in only case of the agreement of the headteacher with the headmaster of another school⁶¹.

In Hungary, it is a common occurrence that the head of the school advises a student to leave school because of behavioral or other problems, or forces a student into an individual curriculum student status. The occurrence of “advise to leave school” in public education institutions is an unlawful practice, given that it seriously violates the rights of students and parents. The reason for this is that “advise to leave school” as a disciplinary measure is not one of the statutory options for termination of student status as mentioned by law, and is therefore unlawful⁶².

Often the reason behind these decisions of the principal is that the school does not consider the pedagogical tools at its disposal sufficient in case of for a student with difficult to handle, problematic behavior. “To advise to leave school”, although not legally binding in practice, in spite of this can have a serious impact on a parent. The situation of the parent and the director acting on behalf of the school is very different. In this case, the parent is not in bargaining position because parent does not wish to be bad for child or does not want to be forced to study in a hostile environment. It is only seems the parent exercises the right to free choice of school, when takes the child to another institution or initiates an individual curriculum student status under the pressure of the school, in reality, however, the parent relieves the pressure because he feels no other option. “To advise to leave school” is a compulsive solution that should not occur in public education institutions. With this solution, the school takes the matter outside the legally regulated procedures, which should take place in a legally strict order. This in turn deprives the student of the guarantees associated with the application of disciplinary measures and the conduct of disciplinary proceedings. It should be noted that, in all cases of this type, it can be difficult to prove whether the student left the institution under the influence of the school or whether, the student requested an individual curriculum student status under the pressure of the director⁶³.

⁶¹ National Public Education Act § 53.

⁶² 2016 Report p. 75.

⁶³ 2016 Report p. 76.

Failure to comply with the legal provisions governing the termination of a student's status may, in most cases, result in a violation of the learner's educational rights. Any action of the school, which – even if it was taken with the best of intentions – that does not comply with the law may lead to situations with irreversible consequences.

VIII. Summary

The development of the constitutional institutions of the Hungarian civil state, which developed after the change of regime, took place in a typical political situation, in some respects relatively quickly, in some cases with modernization techniques, in others with attempts to adapt foreign solutions. In this process, the education sector is of paramount importance, which undoubtedly requires a long-term minimum consensus of political forces due to balanced state-social development.

However, the past thirty years have highlighted that the degraded role of some sectors as servants of politics has not spared education – including public education –, and that the continuous 'search for a path' in this area has caused damage that is difficult to repair today. Hungarian public education has come a long way in the last 30 years, from the almost complete liberalization of the sector to the almost extreme strengthening of the role of the state⁶⁴. Consequently, under the influence of the opposite effects from time to time, the development of the public education system, which was forced to turn abruptly, took a specific, different from the ideal situation in Hungary.

The direction of public education policy in the last 10 years is basically characterized by the strengthening of the role of the state, as a result of which – necessary in order to convey state ideological expectations – the institutional maintenance and the centralization of curriculum regulation can be observed. Given that uniformized public education institutions have become executors of the state will, open, inclusive education

⁶⁴ See on the subject C. Wyplosz, *The Centralization-Decentralization Issue*, [in:] *European Economy Discussion Paper 014*, European Commission, Luxembourg 2015, and N. McGinn, T. Welsh, *Decentralization of Education: Why, When, What and How?*, Paris 1999.

that puts the interests of the learner first is not an alternative in Hungary today⁶⁵.

As a result of a unified, top-down public education policy, the teacher has lost the opportunity to shape his or her pedagogical activity independently, taking into account the abilities and interests of the students. At the heart of the expectations placed on students is a rigid system of requirements that ignores individual abilities and alternative routes, but the application of severe sanctions in the event of a breach of an obligation⁶⁶.

At the same time, the almost complete nationalization of the sector has led to changes in the system of educational rights and obligations. As a result of the unilateral legal relations of public education, it can be perceived that the system of educational rights and freedoms is limited, the tools of enforcement can sometimes become formal, due to this the efficiency of public education falls far short of the level to which it is predestined by its potential.

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⁶⁵ Szüdi, op.cit.

⁶⁶ Ibidem.