

The legal status of home education in post-communist countries of Central Europe

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Abstract As new laws on education were gradually adopted in post-communist states after 1989, the countries also dealt with the problem of how to include home education in their own legislation. This article investigates the development of legislation on home education in five states of post-communist Central Europe: the Czech Republic, Slovakia, Slovenia, Poland and Hungary. This analysis of the legal environment for home education confirms on the one hand that these countries' approach is similar in many aspects. Generally, laws tend to regulate home education rather strictly, all home-educated children must be enrolled at some school, and these schools are mandated by the state to serve as supervisory bodies for home-educated children. This legal arrangement puts the parents of home-schooled children in a very subordinate position in relation to the school. Despite these restrictions, however, the states have gradually opened up the option for home education to quite a broad pool of potentially interested people. On the other hand, the findings show that there are also significant differences between individual countries. These differences provide a good illustration of the fact that, despite historical, economic and cultural similarities, political institutions and state bureaucracies in individual states act autonomously, which leads to different policy outcomes.

Keywords Home education · Home schooling · Alternative education · Legislation · Post-communist Central Europe · Czech Republic, Hungary, Poland · Slovakia · Slovenia

Résumé Statut juridique de l'enseignement à domicile dans les pays post-communistes d'Europe centrale – En adoptant progressivement après 1989 de nouvelles lois relatives à l'éducation, les pays post-communistes se sont également penchés sur la question d'intégrer l'enseignement à domicile dans leurs législations.

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L'auteure de cet article examine l'élaboration des lois sur l'enseignement à domicile dans cinq États de l'Europe centrale post-communiste : la Hongrie, la Pologne, la République tchèque, la Slovaquie et la Slovénie. Cette analyse du cadre juridique de l'enseignement à domicile confirme d'une part le fait que les approches de ces pays se ressemblent à de nombreux points de vue. Ces lois ont généralement tendance à réglementer assez rigoureusement l'enseignement à domicile, tous les enfants concernés devant être inscrits dans une école, et ces établissements étant mandatés par l'État à titre d'organes de supervision. Cette disposition juridique met les parents concernés dans une position très subordonnée dans leurs relations avec l'établissement. Mais en dépit de ces restrictions, les États ouvrent progressivement l'option de l'enseignement à domicile à un nombre relativement important de personnes éventuellement intéressées. D'autre part, les résultats de cette analyse montrent qu'il existe aussi d'importantes différences entre certains pays. Ces dernières illustrent bien le fait que, malgré des similitudes historiques, économiques et culturelles, les institutions politiques et les bureaucraties des divers États agissent de manière autonome, et conçoivent des politiques distinctes.

Zusammenfassung Der rechtliche Status von Hausunterricht in den postkommunistischen Ländern Mitteleuropas – Im Rahmen der sukzessiven Erneuerung der Bildungsgesetzgebung nach 1989 mussten sich die Gesetzgeber der postkommunistischen Staaten auch mit der Frage der rechtlichen Behandlung von Hausunterricht auseinandersetzen. Dieser Artikel untersucht die Entwicklung der rechtlichen Rahmenbedingungen für Hausunterricht in fünf Staaten des postkommunistischen Mitteleuropas: der Tschechischen Republik, der Slowakei, Slowenien, Polen und Ungarn. Das Ergebnis der Analyse bestätigt zum einen, dass die betroffenen Länder in vielerlei Hinsicht ähnliche Ansätze verfolgen. So wird der Hausunterricht im Allgemeinen streng reguliert: Alle zu Hause unterrichteten Kinder müssen in einer Schule angemeldet sein, und diese Schulen sind vom Staat ermächtigt, den häuslichen Unterricht zu überwachen. Eltern von zu Hause unterrichteten Kindern werden in ihrer Stellung den Schulen also klar untergeordnet. Trotz dieser Beschränkungen haben die Staaten schrittweise einer recht großen Zahl von potenziell Interessierten die Möglichkeit des Hausunterrichts eröffnet. Andererseits zeigen die Ergebnisse aber auch, dass es signifikante Unterschiede zwischen den untersuchten Ländern gibt. Diese Unterschiede zeigen anschaulich, dass die politischen Institutionen und staatlichen Verwaltungen in den einzelnen Staaten trotz historischer, wirtschaftlicher und kultureller Gemeinsamkeiten autonom agieren, was zu unterschiedlichen politischen Ergebnissen führt.

Resumen El status legal de la educación en el hogar en países postcomunistas de Europa Central – Mientras se iban adoptando nuevas leyes sobre la educación en los Estados postcomunistas después de 1989, los países también tuvieron que tratar el problema de cómo incluir en sus respectivas legislaciones la educación en el hogar. En este artículo, la autora investiga el desarrollo de la legislación sobre educación en el hogar de cinco Estados en la Europa Central postcomunista: la República Checa, Eslovaquia, Eslovenia, Polonia y Hungría. Por una parte, este análisis sobre el entorno legal para la educación en el hogar confirma que el enfoque de estos

países es similar en muchos aspectos. Por regla general, las leyes tienden a una regulación más bien estricta de la educación en el hogar: todos los niños educados en casa deben estar matriculados en alguna escuela, y a estas escuelas el Estado les asigna la función de ente supervisor de los niños educados en el hogar. Estas disposiciones legales colocan a los padres de niños educados en casa en una posición muy subordinada con respecto a la escuela. Pese a estas restricciones, sin embargo, los Estados han abierto gradualmente la opción de educación en el hogar para un grupo bastante amplio de personas potencialmente interesadas. Por otra parte, los resultados muestran que también existen diferencias significantes entre los países. Estas diferencias ilustran claramente el hecho de que pese a las similitudes históricas, económicas y culturales, las instituciones políticas y las burocracias de Estado en cada uno de los países actúan con autonomía, lo cual conduce a diferentes resultados en cuanto a las políticas aplicadas.

Резюме Правовой статус домашнего образования в посткоммунистических странах Центральной Европы – В связи с постепенным принятием новых законодательств в сфере образования в посткоммунистических странах Центральной Европы, возникает вопрос о включении домашнего образования в законодательные системы этих стран. В настоящей статье рассматривается процесс разработки законов о домашнем образовании в пяти посткоммунистических странах Центральной Европы: Чешской Республике, Словакии, Словении, Польше и Венгрии. С одной стороны, анализ законодательного климата в сфере домашнего образования в указанных странах указывает на то, что во многих отношениях подход к домашнему образованию в этих странах носит аналогичный характер. В целом, наблюдается тенденция к довольно строгому регулированию процесса домашнего образования: все дети, получающие образование дома, должны быть записаны в школы, на которых лежит обязанность осуществлять наблюдение и контроль за детьми, обучающимися в домашних условиях. Подобные правила ставят родителей детей, обучающихся дома, в зависимость от школ. Тем не менее, несмотря на указанные ограничения, в этих государствах постепенно открываются возможности выбора домашнего образования для всё более широкого круга потенциально заинтересованных в этом лиц. С другой стороны, результаты исследования указывают на наличие также существенных различий между отдельными странами. Подобные различия свидетельствуют о том, что несмотря на историческое, экономическое и культурное сходство, политические институты и бюрократические структуры в отдельных государствах действуют автономно, что приводит к различным результатам в ходе разработки государственной образовательной политики.

Introduction

After the fall of the Iron Curtain in 1989, new laws on education were gradually adopted in the post-communist states of Central and Eastern Europe. These laws

were designed to adapt the systems of education to the new needs of emerging democratic societies. The educational systems that had served as a tool for homogenising individuals during the Communist era were transformed into systems that were geared towards enabling individualised education. The educational systems that had enabled the state to exercise social control over families were transformed into more open systems that encouraged the involvement of parents in the educational process. They were designed to foster the principles of democracy, variability, decentralisation and effectiveness (Adámková 2007). Despite the general trend towards more democratic and more individualised education that could be observed in post-communist countries after 1989, some educational alternatives that were considered “too extreme”, like home education, were not readily accepted. Many countries dealt with the problem of whether and how to include this educational alternative in their own legislation.

This contrasts with the situation in most Western democracies, where home education is a well-established alternative (Dalahooke 1986; Ray 1994, 1997; Petrie 1995, 2001; Meyer 1999; Rothermel 2002; Beck 2002, 2008; Priesnitz 2003). So far, very little research has been carried out in post-communist countries to investigate the development of home education in the states of post-communist Central Europe: the Czech Republic, Slovakia, Slovenia, Poland and Hungary. This article aims to fill that gap.¹ As empirical data on home education in the region are scarce, the best way to analyse its development is to concentrate on the development of the legislation concerning home education.

The beginnings of home education in the post-communist countries of Central Europe

Information about home education did not reach the post-communist countries of Central Europe until the early 1990s. The first country to make home education legal was Poland. The legal option of educating one’s children at home was established by the Education Act passed by the first post-communist Polish parliament in 1991 (PL 1991; Dueholm 2006). The second country to legalise home education was Hungary. The Education Act of 1993 (H 1993) introduced the status of “private student” as someone who could receive their education individually and outside the school system. In Slovenia, the law enabling legal home education was passed in 1996 (SLO 1996). The legalisation of home education in the Czech Republic and Slovakia occurred much later. The Czech Republic began allowing home education for some children in the 1998/1999 school year, but only as an “educational experiment” aimed at “experimental testing of home education as a different form of basic education”² and designed solely for children in the first to fifth grades of elementary school (Kolář 2000). The Education Act that made this

¹ This paper does not deal with the regulation of the education of children with special educational needs. The needs of such children are in many respects specific and differ from those of healthy home-educated children.

² I henceforth use the term “experimental testing” for the sake of simplicity.

form of education officially legal was not adopted until 2004 (CZ 2004). In Slovakia, the first post-communist Education Act that included the option of home education was only adopted in 2008 (SK 2008), almost twenty years after the fall of the Communist regime.

While in some Central European countries such as Hungary and Slovenia legislation on home education was adopted once and subsequently left alone, in other countries it has been amended several times since being introduced. A typical example is Poland (Dueholm, not dated), where home education was made legal for the first time by the Education Act in 1991. In article 16, paragraph 8, the Education Act states:

At the request of parents, the director of a school can authorise the fulfilment of compulsory school attendance out of school. A child that fulfils the requirements of compulsory schooling in this way is eligible to obtaining a final school report certifying completion of elementary school on the basis of a graded examination that is administered by the school whose director authorised this form of fulfilment of compulsory school attendance. (PL 1991)³

The law referred to home education as education “out of school”. Some Polish advocates of home education considered this wording of the law as being relatively favourable to home education.⁴ But in 1995 the amendment to the Education Act was passed (PL 1995), and some of its changes affected the sections on home education. For instance, the amendment introduced stricter regulation of home education. After its adoption, the out-of-school fulfilment of compulsory school attendance could only be authorised by the director of the public school (not private schools) in the school district of the child’s permanent residency (so not just any public school). Children authorised to receive their education out of school obtain school reports at the end of each school year or obtain a final school report after passing examinations (the amendment uses the plural) administered by the school authorising their home education. Home education was also affected by the new Polish Constitution adopted in 1997 (PL 1997). Article 70, paragraph 3 states: “Parents have the right to choose other schools than the public ones for their children.” Some supporters of home education interpreted this wording of the Constitution as opening the doors to educating children at home, provided such education is labelled “home schooling” (Dueholm 2003). The following year, in 1998, the Education Act was amended once more (PL 1998), and the changes again affected home education. The new version of the law also made it possible for older children to be home-educated. Home education could be authorised by the director of the public elementary school or the secondary school in the school district the child resided in or by the director of the lower tertiary school in which the child was enrolled. The other changes affecting home education were only technicalities. The conditions under which children can be educated at home were changed again by a 2009 amendment to the Education Act (PL 2009). The latest version of the law is analysed in detail in the next section.

³ All translations from non-English-language sources are the author’s.

⁴ See <http://www.edukacjadomowa.piasta.pl/pytania.html#czy3>, accessed 8 April 2010.

As in Poland, the legal regulation of home education in the Czech Republic developed along a complicated path. The Czech Republic has compulsory school attendance, mentioned by the Charter of Fundamental Rights and Freedoms (CZ 1993).⁵ Demand for home education started to emerge in the second half of the 1990s. Parents who wanted to home-educate their children were faced with the problem of how to do so without breaking the law. At that time, there was little chance that the existing Education Act would be amended. Nevertheless, an unorthodox solution which enabled legal home education was soon found. The Ministry of Education, Youth and Sports made home education possible as part of an “educational experiment” (Kolář 2000) designed to last for five school years.⁶ Thus, on 1 September 1998, it became legally possible to educate children at home, but only as part of this unusual form of “educational experiment”, and only in the case of children of lower elementary school age (first- to fifth-graders). In the course of the experiment, the Ministry sought to make its rules stricter⁷ but it ultimately failed to do so. The move to a stricter regulation of home education succeeded, however, in the Education Act of 2004 (CZ 2004), which officially legalised home education for children of younger elementary school age. (A detailed analysis of the current law is provided in the next section.) Children of older elementary school age (sixth to ninth grades) can be educated at home only within the framework of another educational experiment⁸ that was launched by the Ministry on 23 May 2007. Provided that the results of the experiment are considered positive, home education is also expected to be made legal for children of older elementary school age.

Home education advocates in Slovakia sought to follow the example of their Czech counterparts. The representatives of the Association of Home School Friends in Slovakia (*Spoločnosť priateľ'ov domácej školy na Slovensku*) called on the government to organise a home schooling experiment like that of the Czech Republic, but the Slovak Ministry refused. Despite this, home education was made legal in Slovakia by the new Education Act passed by the parliament in 2008 (SK 2008).

The current situation of home education in the post-communist countries of Central Europe

In all the post-communist countries of Central Europe home education was legal within two decades of the fall of the Communist regimes. This section aims to

⁵ Somewhat paradoxically, compulsory school attendance is the only “obligation” of citizens mentioned in this declaration, which is otherwise full of “rights” and “freedoms”.

⁶ The “experimental testing” ultimately lasted for seven school years, as even after the experiment had run for five years there was still no legal regulation.

⁷ The initial rules of the experiment gave a lot of power to the director of the school. Directors made the decision on whether or not to include a child in the experiment and even determined the conditions under which children could be educated at home. The Ministry only required that the schools evaluate home-educated children twice a year.

⁸ The announcement of the experimental verification in accordance with Article 171 paragraph 1 of the Act on Pre-primary, Primary, Secondary, Lower Tertiary and Other Education (CZ 2004).

provide an overview of current home education in the region. This overview will include basic information about the scope and organisation of home education and a more detailed analysis of the current legislation that regulates home education in individual countries. This section attempts to answer several questions: How many children are educated at home? How is home education organised? Who can be educated at home? Under which conditions can children be educated at home? How do states supervise home education and its results?

The scope and organisation of home education

The number of children who are home-educated substantially varies from one country to the other in the post-communist countries of Central Europe. Despite the generally growing numbers of home-schooled children in the region, it is safe to claim that the number of children involved is relatively small. The largest number of home-schooled children can be found in Hungary, where there were 6,830 in 2006/2007 (Kolasinska et al. 2007). The most reliable information on the number of home-educated children is available in the Czech Republic, where such data have been officially published annually since 2005 in the *Statistical Yearbook of Education* (Czech Statistical Office 2005/2006, 2006/2007, 2007/2008, 2008/2009, 2009/2010, 2010/2011). According to this source, the number of home-educated children fluctuated around 500, which represents about 0.1 per cent of the total number of children enrolled at lower elementary school level. By contrast, the number of home-educated children in Poland, where they are not officially recorded by the Ministry of Education (Tomczyk 2001), is estimated by representatives of home educators themselves⁹ to be as low as about 40. A similar situation exists in Slovakia, where the number of children being home-schooled is unknown but is estimated to be below 20,¹⁰ and in Slovenia.

The figures for home-schooled children cited here are quite low when compared with Anglo-Saxon countries, where in absolute and relative terms the most home-schooled children can be found. A report issued by the National Center for Education Statistics of the US Department of Education in December 2008 (NCES 2008) made an estimate from the results of the National Household Education Survey that the number of home-educated children in the United States had reached 1.5 million in 2007, which represented 2.9 per cent of the school-age population. Less reliable information about the scope of home education is available for the United Kingdom, where no official data are published. Amanda Petrie (1995) estimated the number of children being home-schooled in the United Kingdom to be around 3,000–4,000 in 1991. Eleven years later, Mike Fortune-Wood (2006) estimated the percentage of home-schooled children in the UK to be between 1 and 1.5 per cent of all school-age children, which represents about 75,000–100,000 children being home-schooled. However, when the post-communist countries of Central Europe are compared with other developed countries, in particular those

⁹ For details see <http://edudom.blox.pl/strony/coto.html>, accessed 8 April 2010.

¹⁰ This estimate is based on e-mail correspondence between the author and Jana Pajgerová, vice-chair of the Friends of Homeschooling Association, 20 June 2010.

with a similar population size, their relatively small numbers of home-educated children are not unusual. Christian Beck (2002), for example, estimated the number of home-educated children to be c. 500 in Norway, c. 300 in Finland and as few as c. 100 in Sweden. In Estonia, the number of home-educated children was 1,008 in the 2005/2006 school year, but only 70 were reported as being home-educated by their parents' choice, while the other 938 were home-educated for medical reasons (Leis 2005). According to the Austrian Ministry of Education and Culture there were 252 children being home-schooled in Austria in 1991 (Petrie 1995).

Despite the relatively small number of children being home-schooled, home-educating families in the post-communist countries of Central Europe have managed to organise themselves quite well. To pursue their goals, the first informal groups they formed lobbied among legislators and high-ranking ministerial officials to be allowed to educate their children at home, and they promoted their cause in the media and among the general public (Kostecká 2010). Later, these groups transformed themselves into official home schooling organisations which, in addition to lobbying and PR activities, served as support groups for parents choosing to educate their children at home. In the Czech Republic, the Association for Home Education (*Asociace pro domácí vzdělávání*) was established in 2002. Similar associations came into existence in two other post-communist countries of Central Europe. The Polish Association for Home Education (*Stowarzyszenie Edukacji Domowej*) was established in 2003, while the Association of Friends of Homeschooling (*Spoločnosť priateľ'ov domácej školy na Slovensku*) has been active in Slovakia since 2001.

The practical organisation of home education varies not only between countries but also between families within individual countries. The most common form of education at home is one-to-one teaching, with a parent (usually the mother) serving as teacher (Kostecká 2003). Research has shown (Marvanová 2001; Kostecká 2003; Mifková 2009) that some parents maintain close links to schools and regard them as a place where they can get help and advice. Schools offer them consultation with teachers and the opportunity to participate in activities organised by the school. Other parents, in particular those living in large cities where children being home-schooled are more numerous, tend to avoid having close ties to any school and instead opt to cooperate amongst themselves and establish various working groups for same-aged children. These groups cooperate either on a long-term basis or are created ad hoc for specific projects (Czech School Inspection 2001, 2002).

Who can be educated at home?

The definition of which pupils are eligible for home education generally varies from one country to the next. A study of the legislation on home education in various countries (e.g. Petrie 1995, 2001; Kostecká 2003) indicated that the target group is always limited by age (or, more precisely, school level and grade, respectively) and sometimes by the specific reasons for home education. Examining the situation in the post-communist countries of Central Europe, I therefore concentrated on the ages at which children are allowed to be educated at home and whether home

education is limited to any particular group of children or is open to all children in the particular age group.

In Hungary, the law makes education compulsory for children between 6 and 18 years of age. In accordance with the Education Act (H 1993), it is possible to fulfil this requirement as a “private student”.¹¹ Those who want to educate their children at home are not required to provide any reasons for doing so. Parental choice is considered a valid enough reason. Slovenia also has compulsory education requirements. The current version of the Slovene Elementary School Act (SLO 2006) makes education compulsory for nine years starting at the age of six. As in Hungary, home education is open to all children of compulsory school age, and again, parents do not have to give any reasons for their decision to home-educate.

In contrast to that, Poland, the Czech Republic and Slovakia are among the countries where parents cannot simply decide to educate their children at home. Nevertheless, home education is allowed upon fulfilment of certain conditions. Parents can apply for permission to home-educate their children. Permission can be granted by the director of the school in which the child is enrolled, and the final decision is made by the director. Poland requires ten years of compulsory education for children from the age of six. The Polish Education Act of 2009 (PL 2009) gives the directors of both public and private schools in which a child is enrolled the right to grant permission for the requirement of compulsory schooling to be met out of school.¹² The law does not require parents to state the reasons for choosing home education, nor does the law restrict the option of home education to any specific group of children.

The Czech Republic requires nine years of compulsory education for children from the age of six. Home education is addressed in Article 41, paragraph 1, of the Czech Education Act of 2004 (CZ 2004), wherein parents are granted the right to apply to the director of a school for permission to home-educate.¹³ Generally, parents of children of compulsory school age in the Czech Republic have the right to apply to home-educate their children. However, currently children of upper elementary school age can still only be home-educated within the framework of the Ministry’s educational “experiment”. However, the decision to educate children at home is not solely up to the parents. The law says that the director gives permission if “valid reasons for home education exist”. The law, however, does not explicitly state what reasons should be considered “valid”. That decision is left to the director. Thus, home education is not open to all children of compulsory school age, only to those who have valid reasons (whatever these may be) for this form of education.

Slovakia’s legislation on home education is not straightforward either. The Slovak Education Act of 2008 (SK 2008) established ten years of compulsory school attendance for all children between the ages of six and sixteen, and article 24 of the Act deals with “individual education”. Paragraph 1 states that individual

¹¹ The law uses the term “private student” for a child educated at home.

¹² The most recent version of the Polish Education Act is somewhat more liberal than the previous ones. It allows applicants to submit an application to schools of different levels and status, regardless of the child’s place of permanent residence.

¹³ The Education Act of 2004 does not use the term “home education”. It uses the term “individual education” instead.

education can be authorised by the director of the school in which a child is enrolled to meet the requirement of compulsory school attendance. Home education is only open to children of younger elementary school age or children who have specific reasons for receiving this type of education.

The conditions under which children can be educated at home

The conditions that must be met before an applicant is granted permission for home education and the rules to be followed when home education is already authorised are usually set out in law.

In Hungary, the conditions for legal home education are regulated by a 1994 ministerial decree (H 1994). Parents who want to educate their children at home are obliged to inform the director of the school in which their children are enrolled of their decision. The director of the school is obliged to seek the opinion of the local child welfare service on whether this form of education is “suitable” for the child for whom the application is being made. The public administration officers may decide how the student should complete his/her compulsory education.

Slovene law does not set any “admission requirements” for those interested in home education. In accordance with Article 89 of the Slovene Elementary School Act (SLO 2006), parents are only required to inform in writing the director of the school in which the child is enrolled at least three months before the start of the school year. Article 90 of the Act also sets out the quality of home education as having to be of “at least comparable quality to the education provided by the educational programme of the public school”. If the pupil fails to attain the requisite level of knowledge, he/she can be retained in the same grade. If the pupil fails again even after repeating the same grade, he/she must continue his/her education at a public or private school as of the next school year.

Unlike the situation in Hungary and Slovenia, the current version of the Polish Education Act (PL 2009) lists a set of conditions that must be fulfilled by applicants before they can obtain a permit for home education from the school director. Article 16 requires parents to provide the written opinion of a certified educational and psychological counsellor, the declaration that they have established the necessary conditions in which to provide the given educational programme so that its successful completion can be expected, and pledge that the child will be given annual graded examinations. Even if parents provide all the documents that are required, the director is not obliged to grant permission. Once permission is granted, parents are obliged to adhere to other regulations. The permission to educate out of school must be repealed if a child does not pass the annual examinations or fails to turn up for the examinations.

The law in the Czech Republic (CZ 2004) also sets out a number of conditions that must be met before home education can be authorised. Parents have to submit a written application that includes, besides basic information about the child, the reasons for home education, a description of the material and spatial conditions as well as conditions in terms of health and hygiene of the child’s home-schooling environment, legal documents confirming that the educator has at least completed the upper secondary level of education, a list of textbooks and educational materials

that are to be used during home education, the written opinion of an accredited educational and psychological counsellor, and other relevant information that may influence the education of the child. The law stipulates that the director should issue the permit if the following conditions are met: valid reasons for home education exist, adequate material and health conditions for home education are assured, the educator has the required level of education, and the proper textbooks and educational materials have been obtained.

Because some conditions are only rather vaguely defined, the decision whether or not the conditions have been met is the exclusive decision of the director. The law (*ibid.*), for example, requires that permission only be granted to children whose reasons are “valid”, but it gives no clue as to what reasons count as valid and what reasons do not. It is purely the subjective decision of the director whether the reasons cited by the applicants are valid enough. The requirement that parents attach to the application a description of the material and spatial conditions in which the home education will be provided is also quite unusual. Again, the law provides no criteria on how to determine what kinds of conditions are suitable for home education and what kinds are not suitable. It is left to the discretion of the director to determine this. If the director declines to grant permission on the grounds that the “material or spatial conditions for home education” are inadequate, this might be considered discrimination against less well-to-do applicants. Such a decision could be attacked in court on the basis of anti-discrimination legislation. A practical problem is the fact that the director has very limited chances of verifying whether the information on the material and spatial conditions for home education provided by the applicant are factual. The director cannot “physically inspect” the conditions at the applicants’ household as there is no law giving him/her the authority to do so. Article 41, paragraph 7 of the law (*ibid.*) also specifies the conditions under which the director of the school can withdraw permission that has already been granted: if the conditions for home education are no longer suitable, if the child’s legal representative does not adhere to the requirements established by the law, if a pupil fails to pass the annual examinations, or if the educational progress of the pupil cannot be evaluated.

In Slovakia, the law (SK 2008) also establishes a set of conditions that must be met before home education can be permitted. Permission for the individual education of a child can be granted on the basis of a written application submitted by the child’s legal representative (usually the parents) to the director of the school. The education has to be provided by a person who has obtained the qualification of a certified teacher specialised in education at the lower elementary school level, a stipulation which limits the number of potential applicants considerably. In fact, parents can educate their own children at home only if they are certified teachers specialised in the education of children between first and fifth grade. If parents do not have such a qualification (which indeed the absolute majority of them do not) they can only provide home education for their children if they hire a qualified teacher at their own expense (*ibid.*).¹⁴ As in the Czech Republic, the application has

¹⁴ Article 24 paragraph 14: “The legal representative covers financial remuneration of a person that individually educates a pupil.”

to specify the reasons for the home education, the curriculum that will be taught at home, the principles and aims of which must be in conformity with the Education Act, a description of the material and spatial conditions for education at home, a description of health and hygiene conditions of the home-schooling environment of the child, the name and surname of the educator, legal documents confirming the educator's required qualifications, a list of textbooks and educational materials, and other relevant information that may influence the education of the child. Permission may be withdrawn if the pupil fails to pass the annual examinations or if the general school inspector advises it.

Who guarantees the quality of home education and how are the results of home education evaluated?

In countries where home education is a legal alternative to school attendance, there usually exist some institutions that supervise home education and guarantee to the state that the content and the quality of the education being provided at home meet the criteria established by law. In the post-communist countries this role is usually played by the schools in which the children are officially enrolled. The schools perform this supervisory role in all five of the Central European countries investigated in this paper, as well as in some other post-communist states such as Estonia (Leis 2005), Romania,¹⁵ Latvia (Kolasińska et al. 2007) and Lithuania (ibid.).

In Hungary, home education is monitored and supervised by the school to which the child was admitted for the purpose of fulfilling the legal requirements of compulsory education (Kolasińska et al. 2007). The school is responsible for the evaluation of the educational progress of the home-educated student. However, the student may request an evaluation by an independent evaluation committee. Article 23, paragraph 2 of the Ministerial Decree on Educational Institutions (H 1993) assigns schools the power to decide whether a private student has satisfied the requirements of the given school grade and may advance to the next grade. The law, however, defines neither the frequency nor the form of the evaluation. Such decisions are left to the discretion of the director of the supervising school.

In Slovenia too it is the school in which the child is enrolled that is the guarantor of the quality of home education. Article 90 of the Elementary School Act (SLO 2006) requires home-educated pupils to pass an exam at the end of each school year. The examination board checks the educational progress of pupils educated at home. The law also prescribes the content of the exam in terms of subjects. If the pupil does not attain the level of knowledge required for the specific grade he/she is in, the pupil is entitled to take a second examination. Pupils who fail the second examination must continue their education at school starting from the next school year.

¹⁵ Reply of the Secretary of State of the Ministry of Education and Research Gabriela Pastor to the interpellation of MP Adrian-Sirojea Mihei of 10 March 2008. Available online from the website of the Romanian Parliament at <http://www.cdep.ro/pls/steno/steno.stenograma?ids=6451&idm=9,01&idl=1>.

Polish home education proceeds in close cooperation with the school in which the child is enrolled to complete his/her compulsory schooling. The director of the school supervises the education of home-schooled children in order to ensure that the conditions required by the law are met. Every home-educated child must take annual graded exams at the supervising school. Upon successful completion of the exams, each home-educated child obtains a school report. Article 17 of the amended version of the 2007 Education Act (PL 2007) specifies the form and the content of these annual examinations. The graded evaluation takes the form of both an oral and a written exam. The exact date of the examinations must be agreed upon with the parents of the home-educated child. The graded examinations are administered by an exam board that is chaired by the director (or the deputy director) of the supervising school, and the members of the exam board are teachers of the respective subjects included in the school's educational programme. The child's parents (legal representatives) can be present as observers. The school is obliged to issue a report on the exam. The pupil's written test/essays and a brief description of the pupil's performance in the oral tests are attached to the exam report.

Home education in the Czech Republic is evaluated by supervising schools on a bi-annual (in the sense of twice a year) basis. The examiners are the teachers of the respective subjects at the given school. If the child's legal representative has doubts about the correctness of the evaluation, he/she can ask the director of the school to administer the exam in front of the examination board.¹⁶ The director can (but is not obliged to) organise such an exam. Compared to Poland, the academic development of home-educated children is assessed more frequently in the Czech Republic (twice a year as opposed to annually), but Czech law gives the director more authority over how the evaluation is organised.

Slovakia is the only post-communist country in Central Europe where the director of the school is not exclusively responsible for evaluating the academic performance of home-schooled children. Article 24, paragraph 10 of the Slovak Education Act (SK 2008) states that the quality of individual education is assessed by the State School Inspection Office, while the educational, material, technical and health conditions of individual education are supervised by the school in which the pupil is enrolled. The law specifies that examinations administered by the exam board are to be organised twice a year by the school in which the pupil is enrolled. The school issues a school report on the basis of the examination results. The law specifies that the exam is administered by an exam board chaired by the director of the school or by a teacher appointed by the director. The other members of the exam board comprise an examiner and an observer. Both the examiner and the observer must be certified teachers in the given subject. The director may (but is not obliged to) authorise the presence of the pupil's legal representative(s) at the exam.

It is clear that Slovak regulation of home education is the strictest. Almost all parents are ineligible to home-school, as the law requires home educators to have very high and very specific qualifications, even if the individual students are their

¹⁶ If the director of the school himself/herself is the examiner, the child's legal representative may ask the regional office to administer the examination. If the regional office grants this request, the office nominates who will sit on the exam board administering the exam.

own children. Thus, the only option open to the absolute majority of parents who want their children to be educated at home is to hire a professional certified teacher to serve *de facto* as a private teacher. The law also interferes in the household privacy of families with home-educated children, as they are obliged to allow on-site inspections not only by employees of the supervising school but also by authorised school inspectors. Neither parents nor educators have the right to participate even as observers in the evaluation procedure organised by the examination boards.¹⁷ The decision of the examination board is final and cannot be appealed against.

The control of the quality of education that is provided to home-schooled children is highly decentralised in the post-communist countries of Central Europe. This, together with the absence of standardised performance testing, makes comparing the quality of education at home to education provided at schools very difficult. If the quality of education at home did not meet the general standards, home-educated students would probably fail in the examinations administered by schools. The simple fact that there is no information about such exam failures can serve as an indirect indication that the quality of education provided at home is comparable to that provided by schools. Examples of direct comparisons of the educational performance of home-schooled children with their school-going counterparts are very rare. A study aimed at evaluating the quality of home education in the Czech Republic, which was commissioned by the Research Institute of Education in Prague in 2001, concluded that there were no differences between home-educated children and children educated in schools (Nováková et al. 2002). Václav Mertin (2003, p. 409), referring to the results of another study conducted in the Czech Republic, concluded that “the average educational outcome of home-educated children is comparable or exceeds the average outcome of children educated traditionally in school”.

Conclusion

The system of education in any country is strongly influenced by both politics and culture. At the same time, educational systems typically exhibit a high level of historical inertia. As a result, the educational systems in the post-communist countries of Central Europe have some specific features. One such specific feature is how they regulate home education. The above analysis of the legal environment for home education in the five post-communist countries investigated here confirms that their approach to home education is similar in many aspects. However, the findings also show that there are significant differences between individual countries. These differences provide a good illustration of the simple fact that, despite historical, economic and cultural similarities, political institutions and state bureaucracies in individual states act autonomously, which may lead to different policy outcomes.

¹⁷ Thus, somewhat paradoxically, the work of certified elementary school teachers, who alone can serve as educators of home-schooled children in Slovakia, is assessed by other certified elementary school teachers who are members of the examination board. The educator him-/herself may not even be allowed to be present during the exams.

In some of the countries investigated (e.g. Poland), home education was legalised quite soon after the change of political regime; in other countries parents who wanted to educate their children at home had to wait much longer. In Slovakia, for example, it took almost twenty years before home education was legalised. It is also necessary to take into account that the term “home education” is not always directly mentioned in legislative documents. Only Slovene legislation uses the term “home education”. Polish laws use the term “education out of school”, while the Czech and Slovak laws use the term “individual education”, and Hungarian legislation describes home-educated pupils as “private students”. Regardless of the differences in terminology, home education was made legal in various practical forms in all five of the observed countries.

In some countries legislation on home education has changed substantially in the two decades since 1989. A good example of such a country is Poland, where the legal environment was initially quite home education-friendly, but over time regulation of home education became tighter and the conditions under which it could be permitted became much stricter. A somewhat similar development took place in the Czech Republic. The relatively liberal conditions in which home education started under the umbrella of an educational experiment in the 1990s were later replaced by the more restrictive regulation of the current law.

It is not, however, possible to simply claim that after a short period of a liberal approach to home education following the fall of the Communist regimes the regulation of home education became more restrictive. While the conditions under which home education is provided are more restricted now than they were in the 1990s, the states did open up the option for home education to a broader pool of potentially interested people. The most recent version of the Polish Education Act from 2009 (PL 2009), for example, expanded the possibility of home education to include students from kindergarten age up to lower tertiary level and made home education possible under the supervision of private schools. In the Czech Republic, home education was also made possible, albeit provisionally, for children of upper elementary school age in 2007. In Slovakia, home education was made possible for the first time in the state’s modern history in 2008. Thus, the changes to the legal framework of home education are somewhat inconsistent: home education is now open to a growing number of children and families, but the conditions under which home education is practised have become more regulated.

An interesting paradox can be observed in the post-communist countries of Central Europe: Parents who want to take the responsibility for educating their children away from the schools and into their own hands are, as a result of the legislation, in much closer contact with schools than they ever were in the past (and probably in closer contact than they would be if their children attended school regularly). This is true even in countries where the laws require compulsory education but not compulsory school attendance. The source of this paradox is easy to identify: all home-educated children must be enrolled at some school, and these schools are mandated by the state to serve as supervisory bodies for home-educated children. This legal arrangement put the parents of home-schooled children in a very subordinate position in relation to the school. In some countries parents cannot simply decide to educate their children at home, and instead have to apply to a

school for permission to home-educate. The school directors only grant permission if a number of requirements are met by the applicants. Even when parents meet these requirements they have no guarantee that they will be granted permission, as nothing like the right to home education exists.

The key problem significantly restricting the feasibility of choosing home education in the post-communist countries of Central Europe is the way in which its educational outcomes are evaluated. The laws tend to regulate the evaluation procedures in great detail. Children are evaluated very frequently (annually or even every six months). As a rule, evaluations take the form of exams in individual subjects (and in some countries are taken in front of an examination board). Parents, who are the primary educators of home-schooled children, do not have any influence on how the academic performance of their children is evaluated. The evaluation is based solely on the results of a single series of subject exams. In Slovakia, where only certified teachers can educate children at home, the regulation of home education is the strictest. While teachers in schools regularly evaluate an entire class of children, home-educated children, who are educated privately by a certified teacher with exactly the same qualification, are subjected to an evaluation twice a year in all school subjects by the special examination board.

Observation of the legal development of home education might lead one to conclude that parents have an unclear role in the education systems of Central European post-communist countries. We can observe two contradictory trends in this respect. In the traditional system of education, represented by schools, there has been a clearly visible trend towards greater parental involvement in the education of their children since the change of political regime in 1989. Under the Communist regime, school was considered the key institution through which the state could exercise control over the education of young generations. Milada Rabušicová et al. (2004, p. 9) claim that for decades the relations between schools and parents were asymmetrical and mostly unidirectional in that they basically involved the transmission of information from school to parents. Jan Průcha (1999, p. 237) even cites examples of opinions to the effect that “the interference of parents in schools is not desirable”.

This changed substantially after the collapse of the Communist regime. In contrast to the previous state policies, the National Programme of the Development of Education officially adopted by the Czech Ministry of Education in 2001 (Czech Ministry of Education 2001) declared the principle of democratisation through decentralisation and the participation of parents to be the main principles of educational reform. School is now understood as an “equal fellowship of partners mutually learning from each other – teachers, pupils and their children” (ibid., p. 41). Schools should seek “as much as possible to involve the parents of pupils in all school activities” (p. 50). Moreover, new laws have established self-governing institutions such as school boards, in which parents have been assigned an important role. In brief, in the last two decades there has been a general political trend towards strengthening and broadening the role of parents in the educational process. Parents are encouraged by different means to participate more intensively in school activities and to take a greater interest in the education of their children.

Paradoxically, this trend does not apply to parents who decide to take full responsibility for the education of their children by educating them at home. Unlike the previously described trend, after legalising home education, states adopted stricter laws to regulate home education and began limiting the freedom of home-educating parents. Each state clearly wants parents to be more involved in the education of their children, but at the same time it wants to retain full control over education. Although stricter legal regulation of home education was probably introduced in part owing to fears about the possible misuse of home education by some parents, the result is a substantial loss in the appeal of home education. This is probably one reason why the demand for home education is relatively limited in these countries (Kostecká 2010b). If the regulation of home education is not eased in the future, it is unrealistic to expect any increase in the number of home-schooled children in post-communist Central Europe.

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