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## **COMMITTEE ON CULTURE, SCIENCE, EDUCATION AND MEDIA**

### **Right to freedom of choice in education in Europe**

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Overview of the recognition and implementation of the right to freedom of choice in education in the legal systems of Council of Europe states

**Table 1: Statutory basis of the right to freedom of choice in education**

	<i>Constitutional recognition</i>	<i>Legislative recognition</i>
<b>Albania</b>	X	
<b>Andorra</b>	X	
<b>Austria</b>	X	
<b>Belgium</b>	X	
<b>Canada</b>		X (laws of Provinces)
<b>Croatia</b>		X
<b>Cyprus</b>	X	
<b>Czech Republic</b>	X	
<b>Denmark</b>	X	
<b>Estonia</b>	X	
<b>Finland</b>		X
<b>France</b>	X	
<b>Georgia</b>	X	
<b>Germany</b>	X	
<b>Greece</b>	X	
<b>Hungary</b>	X	
<b>Iceland</b>		X
<b>Israel</b>		X
<b>Italy</b>	X	
<b>Lithuania</b>	X	
<b>Republic of Moldova</b>	X	
<b>Montenegro</b>		X
<b>Norway</b>		X
<b>Poland</b>	X	
<b>Portugal</b>	X	
<b>Romania</b>	X	
<b>Russian Federation</b>		X
<b>Serbia</b>	X	
<b>Slovak Republic</b>	X	
<b>Spain</b>	X	
<b>Sweden</b>	X (indirect)	X
<b>Switzerland</b>	X (indirect)	X (cantonal laws)
<b>“The former Yugoslav Republic of Macedonia”</b>	X	
<b>Turkey</b>	X	
<b>Ukraine</b>		X
<b>United Kingdom - England</b>		X
<b>United States</b>		X

**Table 2: Conditions stipulated for setting up private schools**

	<i>Compatibility with the syllabus and/or goals of national education</i>	<i>Financial capability and/or standards concerning premises</i>	<i>Teachers' professional and/or academic capability</i>	<i>Specific educational provision</i>	<i>Other conditions</i>
<b>Albania</b>	X	X	X		
<b>Andorra</b>		X	X		
<b>Austria</b>		X	X		
<b>Canada</b>	Conditions vary according to Province				
<b>Croatia</b>	X	X	X		
<b>Cyprus</b>	X	X	X		
<b>Czech Republic</b>	X <sup>1</sup>	X	X	X	X
<b>Denmark</b>					
<b>Estonia</b>	X	X	X		X <sup>2</sup>
<b>Finland</b>		X	X	X	
<b>Georgia</b>					
<b>Germany</b>	X	X	X	X <sup>3</sup>	X <sup>4</sup>
<b>Greece</b>			X		
<b>Hungary</b>		X	X		
<b>Iceland</b>	X	X	X		
<b>Israel<sup>5</sup></b>	X	X	X		X
<b>Lithuania<sup>6</sup></b>	X	X	X	X	
<b>Republic of Moldova</b>	X	X	X		
<b>Montenegro<sup>7</sup></b>					
<b>Norway</b>	X	X	X	X <sup>8</sup>	
<b>Poland</b>	X		X		
<b>Portugal</b>	X	X	X		
<b>Romania</b>	X	X	X		
<b>Russian Federation</b>					
<b>Serbia</b>					
<b>Slovak Republic</b>					
<b>Spain<sup>9</sup></b>	X	X	X		X
<b>Sweden<sup>10</sup></b>	X	X	X		X
<b>Switzerland<sup>11</sup></b>	X	X	X		
<b>“The former Yugoslav Republic of Macedonia”</b>	X	X	X	X	
<b>Turkey</b>	X	X	X		X <sup>12</sup>
<b>Ukraine</b>			X		
<b>United Kingdom – England<sup>13</sup></b>	X	X	X		
<b>United States</b>	Conditions vary according to State				
<b>Belgium</b>	An application need not be lodged with the administration for permission to set up a private school. (See, however, table 3 on conditions of recognition/accreditation)				
<b>France<sup>14</sup></b>					
<b>Italy</b>					

**Notes on table 2**

1 Czech Republic: the condition of compatibility with the national education programme is not applicable to higher education institutions.

2 Estonia: at the primary and secondary levels, both the development plan for the educational institution and the provision of school medical services are required.

- 3 Germany: Specific educational provision is required only at primary level. A private primary school must either be denominational, or provide for a specific instructional approach (Montessori or Waldorf teaching method, for example).
- 4 Germany: Permission depends on two further conditions: pupils must not be distinguished according to their parents' financial situation, and teachers must enjoy a sound legal and economic position.
- 5 Israel: Compatibility with the syllabus and/or goals of national education is limited, other conditions exist in various areas, including prohibition of discrimination in respect of students and health and hygiene requirements.
- 6 Lithuania: Private schools may follow the general education curriculum only if it meets the general and special criteria set out in the rules for the development of the network of schools implementing formal education programmes.
- 7 Montenegro: The General Education Act applies without distinction to schools, whether public or private.
- 8 Norway: Specific educational provision is required at primary and secondary levels. Thus a private school must either be denominational, or prescribe a special instructional approach, or be intended for top-class trainee athletes.
- 9 Spain: To obtain administrative authorisation, private primary and secondary education institutions must comply with the constitutional principles with regard to education; in particular, education must aim to ensure full development of human personality in compliance with the democratic principles of co-existence within society and fundamental rights and freedoms. They must also meet the minimum standards set by the government concerning teachers' qualifications, the teacher/student ratio, the teaching and sports infrastructure, and the number of places.
- 10 Sweden: Adherence to the general philosophy and the fundamental values of Swedish education and the Swedish nation (democracy, human rights) constitute a precondition for the granting of permission to set up a private school (called "independent schools"). With its request for authorisation, the institution must provide certain data, including as regards its financial situation and its budget for the first year.
- 11 Switzerland: Although the conditions for granting permission to operate a private school differ according to the cantons, the three categories of conditions indicated recur in the legislation of most cantons.
- 12 Turkey: At least 3% of private schools students must be enrolled free of charge. The Minister of Education can increase this ratio up to 10%.
- 13 United-Kingdom – England: A private school (referred to as "independent school") cannot open or operate in England unless it is registered with the Department for Education. The standards that must be met as a condition of registration include suitability of proprietors and staff as well as suitability of the premises and accommodation. However, there is no requirement for teachers in private schools to have 'Qualified Teacher Status', which is generally required of teachers in State schools in England. Independent schools must ensure that the curriculum is broad and balanced; however, they do not have to follow the statutory national curriculum (whereas local authority maintained schools must do so).
- 14 France: Only foreigners who are not nationals of a State of the European Union or of the European Economic Area must obtain permission prior to opening a private school.

**Table 3: Conditions of recognition of the education and diplomas provided by a private school**

	<i>Compatibility with the national education syllabus</i>	<i>Teachers' professional and/or academic capability</i>	<i>Financial capability and/or standards concerning premises</i>	<i>Other conditions</i>
<b>Albania</b>	X			
<b>Andorra</b>				
<b>Austria<sup>1</sup></b>				X
<b>Belgium<sup>2</sup></b>	X		X	
<b>Canada<sup>3</sup></b>	Conditions vary according to Province			
<b>Croatia</b>	Same level of requirements as for State schools			
<b>Cyprus</b>	X	X	X	
<b>Czech Republic</b>				X
<b>Denmark</b>	Same level of requirements as for municipal schools			
<b>Estonia<sup>4</sup></b>	X	X	X	
<b>Finland</b>	X			
<b>France<sup>5</sup></b>	X	X	X	
<b>Georgia</b>				
<b>Germany<sup>6</sup></b>	X	X	X	X <sup>7</sup>
<b>Greece</b>	X			
<b>Hungary</b>	X			
<b>Iceland</b>	X			
<b>Israel<sup>8</sup></b>	X	X	X	X
<b>Italy</b>	X	X	X	
<b>Lithuania<sup>9</sup></b>	X	X	X	
<b>Montenegro<sup>10</sup></b>				
<b>Poland</b>	X	X		
<b>Portugal<sup>11</sup></b>	X	X	X	
<b>Russian Federation<sup>12</sup></b>				
<b>Serbia</b>				
<b>Spain</b>	Same level of requirements as for State schools			
<b>Switzerland<sup>13</sup></b>	X			
<b>“The former Yugoslav Republic of Macedonia”</b>	X	X	X	
<b>Turkey<sup>14</sup></b>				
<b>Ukraine</b>				
<b>United Kingdom</b>	X <sup>15</sup>			
<b>United States</b>	Conditions vary according to State			
<b>Republic of Moldova</b>	The grant of permission to set up the school carries accreditation.			
<b>Norway</b>				
<b>Romania</b>				
<b>Sweden<sup>16</sup></b>				

**Notes on table 3**

1 Austria: Accreditation of a primary or secondary school, formalised by the conferment of a status in public law (“Öffentlichkeitsrecht”), is not founded on assessment of the syllabus *per se* but on the school performance/results achieved. By extension, this can also be construed as a means of “judging” the quality of the syllabus and the effectiveness of the teaching methods. Private higher education establishments for their part are accredited after the quality of their training syllabi has been assessed.

2 Belgium: As this is a federal country, the conditions of accreditation are the prerogative of the Dutch, French and German speaking communities. However, the stipulated conditions are often similar, especially regarding the compatibility of the teaching syllabus and material requirements.

- 3 Canada: For example, in British Columbia, the government awards education certificates to students, who meet the requirements of the Ministry of Education; in Alberta, a private institution cannot be registered or accredited until its education programme is accepted by the ministry.
- 4 Estonia: Before granting accreditation, the Ministry of Education and Research verifies that the conditions required for the creation of the private school are fulfilled. As regards higher education, the Higher Education Quality Agency makes an assessment of the internal quality assurance system to check that it meets the requirements. Diplomas are issued under the conditions and pursuant to the procedures established by law for public institutions of the same type.
- 5 France: "Recognised" private schools nevertheless cannot issue diplomas, except certain private colleges of advanced education. The State organises the end of course examinations and issues the diplomas. Contracts between the State and the teaching establishment formalise the accreditation of the instruction given in a private school. These contracts are concluded – as the table shows – after assessment of, in particular, the teaching syllabus, the teachers' qualifications and the suitability of the premises. Non-contracted – that is unrecognised – establishments teach only 0.3 % of the French primary and secondary enrolment. Accreditation of the courses of private colleges of advanced education is subject to more stringent conditions regarding instruction (content, conditions of admission of students, quality of the teaching staff...)
- 6 Germany: Before granting accreditation, the authorities verify that the conditions stipulated for the creation of the private school are consistently fulfilled.
- 7 Germany: Besides, the regulations applicable to State schools regarding acceptance of pupils and examinations must be applied in these private schools. At the level of higher education, conditions relating to the quality of the teaching must be fulfilled for the courses and diplomas to receive accreditation.
- 8 Israel: Same remark as for table 2
- 9 Lithuania: The conditions are the same as those required for municipal schools.
- 10 Montenegro: A private education institution's curriculum must be validated by the competent Council, when it is established that it is a publicly valid education curriculum for certain areas of education. For a curriculum delivered according to special pedagogic principles, the Council must verify that it is recognised internationally, and that it provides minimum knowledge enabling successful completion of education.
- 11 Portugal: Before granting accreditation, the authorities verify that the conditions stipulated for the creation of the private school are duly met. The school must have facilities and equipment appropriate to the objectives it seeks to achieve.
- 12 Russian Federation: Private institutions that request State accreditation of their educational curricula must comply with federal educational standards.
- 13 Switzerland: In most cantons, the administration can recognise schooling and diplomas at the request of private schools. Generally the cantons grant recognition after assessing the school's teaching syllabus.
- 14 Turkey: exams in private schools are held according to regulations applicable to State schools.
- 15 United Kingdom – England: Concerning programmes see note to table 2. Private schools do not issue their own public qualifications. When deciding what education and public examinations their pupils should be offered, each private school is mindful of what qualifications are recognised especially for university entrance. Approval of qualifications is a matter for the regulatory body (Office of the Qualifications and Examinations Regulator).
- 16 Sweden: As regards the recognition of diplomas, an independent school must follow the general national policy documents for education (such as syllabuses), and the same rules regarding assessment and grading, as State schools.

**Table 4: Public funding of private schools**

	Nature of aid to the school				Ceiling on amount (€)	Financial support per pupil in private education / Financial cost per pupil in State education (€)
	General grant	Specific grant	Tax relief	Remuneration of teachers		
Austria <sup>1</sup>		X		X	None	
Belgium <sup>2</sup>		X				
Canada <sup>3</sup>	Rules vary according to Province					
Czech Republic	X	X				
Denmark <sup>4</sup>	X	X				
Estonia	X <sup>5</sup>	X				
Finland	X				None	=
France <sup>6</sup>	X			X		
Germany <sup>7</sup>	X	X			According to Land	4 500 / 4 700
Hungary	X	X <sup>8</sup>				815 / 2 000
Iceland	X	X			None	
Israel		X				0,75 / 1
Italy		X	X <sup>9</sup>			
Lithuania <sup>10</sup>	X					
Republic of Moldova						
Montenegro <sup>11</sup>						
Norway <sup>12</sup>	X	X				0,85 / 1
Poland <sup>13</sup>	X	X				
Portugal <sup>14</sup>	X		X			=
Romania	X					=
Slovak Republic <sup>15</sup>	X	X				=
Spain <sup>16</sup>						=
Sweden <sup>17</sup>						=
Switzerland <sup>18</sup>						
Turkey			X <sup>19</sup>			
United Kingdom			X <sup>20</sup>			
United States <sup>21</sup>		X	X			
Albania	There is no provision for public funding directed at private schools.					
Andorra						
Croatia						
Cyprus <sup>22</sup>						
Georgia						
Greece						
Russian Federation						
Serbia						
Ukraine						
“The former Yugoslav Republic of Macedonia”						

**Notes on table 4**

1 Austria: Public funding is only possible for costs relating to staff. All other operating costs or capital expenditure cannot, in principle, be publicly subsidised. Non-denominational private schools can receive specific grants for paying their teachers. In denominational private schools (for recognised religions), teachers are civil servants and therefore directly remunerated by the State.

2 Belgium: Financial support takes the sole form of specific grants earmarked for a given item of expenditure: staff, equipment, construction. The accreditation of the school necessarily confers entitlement to these. In addition to the grants, accredited schools can benefit from what are called "social" advantages. In fact these consist in access to certain services and facilities to which State schools are entitled: canteens, swimming baths...

3 Canada: To make it simple, private secondary education is partially funded by the Governments of Alberta, British-Columbia, Manitoba, Saskatchewan and Quebec.

4 Denmark: the annual grant (calculated according to the number of pupils) concerns the operating expenses and in principle corresponds to the cost defrayed for the pupils of the municipal schools less the enrolment fees paid by the families. In fact the schools must partly finance themselves: in 2006 the standard level of self-financing per pupil was 5000 DKK. Specific grants concern, for example, expenditure for teaching children with particular difficulties or, up to third grade, for recreational activities (according to the number of pupils participating). Financial support is granted only to schools with a minimum number of pupils in each class. Schools must not be the property of an individual and must not be profit-oriented.

5 Estonia: A general grant can be paid according to the agreement concluded between the Ministry of Education and Research and the private school concerned.

6 France: The State also defrays certain requisites, particularly textbooks.

7 Germany: The nature of the funding varies between Länder (either general or specific grants). However, all Länder prescribe a minimum financial support to private schools. These subsidies are generally intended for the operating costs (staff, equipment) and sometimes certain other costs (construction, free school requisites for pupils). Overall, the public funding which these establishments receive per pupil is equivalent to the financial outlay for a pupil attending a State school.

8 Hungary: Specific subsidies may concern needs such as collective catering for pupils, purchase of computer equipment and upkeep of premises. Subsidies are paid according to the number of students to institutions (public and private) offering specific services such as teaching in a minority language or in both languages (Hungarian and a foreign language), behavioural education, pre-school education for children in need, vocational training, school transport and the free supply of textbooks.

9 Italy: Tax relief is possible only for accredited non profit-making schools.

10 Lithuania: Operational expenses of private and public establishments at all levels (except higher education) are financed in an equal manner according to the so called "pupil's basket". The pupil's basket for the year 2011 is 3310 LTL. Private schools are required to bear utility and maintenance expenses.

11 Montenegro: The General Education Act stipulates that the nature and means of financial support shall be determined by a contract between the institution and the State.

12 Norway: At the level of higher education, virtually all private institutions - with the exception of a small number - receive State funding.

13 Poland: The burden of financing primary and secondary schools falls on the municipalities. For compulsory schooling (primary and lower secondary) the amount per pupil allocated to private schools cannot be lower than the amount per pupil transferred to the municipalities by the State. For the other classes, this amount cannot be lower than 50% of the routine expenditure of a comparable State school as entered in the budget of the municipality. In general, the State only subsidises certain costs of private universities, but an optional public grant is prescribed exceptionally for those offering a particularly high standard of education.

14 Portugal: Private education institutions receive tax exemptions. Under certain conditions, the State financially supports private primary and secondary education institutions. In these cases an agreement is



signed. A general grant is paid based on the number of classes and students. The State does not fund private higher education institutions.

15 Slovak Republic: State financial support is provided for both the infrastructure (since January 2007) and the operation of private or denominational schools. One of the objectives of the funding system is to introduce a standardised system of funding per student and to promote equality between schools' founders.

16 Spain: Private schools that meet all the required standards and provide an education free of charge can benefit from public funding. In these cases, an agreement is signed with the competent education authority. The private institutions in question thus enter the public education service and are funded either by the State or by the autonomous communities' budgets on the same basis as State schools.

17 Sweden: It is the local authority that decides how much will be allocated per year to an independent school. The amount is decided in the same way as for a school run by the local authority (mainly a given sum per pupil).

18 Switzerland: the situation varies according to Cantons. Their legislation can establish the payment of subsidies to private schools which fulfil certain conditions and/or aids or tax rebates for the families.

19 Turkey: Public funding of private schools is very marginal. The only possibility lies in the availability of tax relief (for example on water, gas and electricity rates or on value added tax).

20 United Kingdom – England: Private schools which are registered charities are entitled to certain tax reliefs.

21 United States: 3 States (out of 50) plus a few individual municipalities offer vouchers of tuition financial assistance (often, only to low-income families). Non-profit schools (including religious ones) receive tax relief.

22 Cyprus: Only one school with a particular status receives a specific subsidy based on a Council of Ministers' decision.

**Table 5: State system of private school inspection**

	<b>State system of retrospective review of compliance with the conditions applying to private schools</b>
<b>Albania</b>	Periodical scrutiny of the accredited private school's syllabus.
<b>Andorra</b>	For private schools, the State verifies and guarantees the compliance of the conditions of instruction.
<b>Austria</b>	System of supervision of all private schools. For "recognised" schools, this concerns both the requirements applicable to private schools and the stipulations relating to State schools.
<b>Belgium</b>	Rigorous system of inspection, particularly for subsidised private schools: financial audit and administrative verification, check on the compatibility of syllabi. However, these schools have complete educational freedom.
<b>Canada</b>	Rules vary according to Province
<b>Croatia</b>	An inspection system exists and it is the same for State and private schools.
<b>Cyprus</b>	Private institutions are subject to a continuous inspection system as regards their operation and programs.
<b>Czech Republic</b>	An inspection system exists.
<b>Denmark</b>	Inspection system managed by private supervisors on behalf of the families. Exceptionally, State supervision if seriously deficient education is suspected.
<b>Finland</b>	An inspection system exists. Inspection can lead to withdrawal of permission to operate, if the conditions are not met.
<b>France</b>	All private schools undergo an inspection, including those not accredited. "Recognised" (contracted) schools are subject to extensive control: financial accounts, teachers' ability, compatibility of syllabus...
<b>Georgia</b>	Review of compliance with the conditions for setting up private schools.
<b>Germany</b>	Classroom controls and visits: checks on teachers' quality and numbers, quality of the school syllabi, examination results, administrative efficiency and observance of the legal stipulations applicable to schools.
<b>Greece</b>	Private schools are supervised by the competent ministerial services.
<b>Hungary</b>	Private schools are regularly inspected and controlled. The State verifies teachers' proficiencies and the financial situation. It also verifies if the schools are generally operating in accordance with the relevant laws (for example, labour laws).
<b>Israel</b>	Existence of a system of supervision, though not fully applied in practice.
<b>Italy</b>	Annual check on the maintenance of the conditions laid down for accredited schools.
<b>Lithuania</b>	An inspection system exists. All schools (public and private) are subject to internal and external quality audits in accordance with the auditing rules approved by the Ministry of Education and Science.
<b>Republic of Moldova</b>	Periodical appraisal of teachers' standard of professional training. Obligation for private schools to submit an annual report on their activities.
<b>Montenegro</b>	Supervision of private schools is carried out by the competent educational inspection services.
<b>Norway</b>	State supervision of private schools. Possible withdrawal of permission and of financial support if the conditions are not met.
<b>Poland</b>	Pedagogic supervision
<b>Portugal</b>	All private schools are subject to a system of supervision as regards the required conditions (education programmes, teachers' qualifications, facilities and equipment), as well as financial accounts.
<b>Romania</b>	At pre-university level there is a common system of inspection (set up by the General School Inspectorate) to monitor the curricula and the educational process. At higher education level, supervision is carried out by the National Council for University Titles, Diploma and Certificates
<b>Russian Federation</b>	The Federal service on supervision in the sphere of education and science is responsible for the monitoring of compliance with applicable laws and the quality of education, as well as accreditations.
<b>Serbia</b>	
<b>Slovak Republic</b>	A common inspection system exists.
<b>Spain</b>	A common inspection system exists. Inspection may lead to withdrawal of the authorisation to operate if the requirements have not been met.
<b>Sweden</b>	There is a national inspection system common to all schools. Inspection (which takes place regularly) can lead to the withdrawal of authorisation to operate of the

	independent school.
<b>Switzerland</b>	Existence of an inspection system in all cantons. Inspection can lead to withdrawal of permission to operate.
<b>“The former Yugoslav Republic of Macedonia”</b>	An inspection system exists.
<b>Turkey</b>	Inspection by Ministry of Education officials.
<b>United Kingdom – England</b>	Private schools are subject to school inspections. If provision is deemed to be unsatisfactory, improvements must be made. A school which fails to meet the required standards may be deleted from the register of independent schools. It is against the law to operate a private school that is not registered.
<b>United States</b>	Inspection system specific to each State.