

# THE LEGAL BACKGROUND AND ACCEPTANCE OF LEARNING COMMUNITIES BASED ON INTERNATIONAL COMPARISON

**Judit Langer-Buchwald, & Zsolt Langer**

*Faculty for Pedagogy and Psychology, Eötvös Loránd University (Hungary)*

## Abstract

After 2011 a new alternative educational form appeared on the palette of Hungarian public education: learning communities that provide alternative education for schoolchildren who take part in alternative or mainstream education as private pupils. The learning communities are not schools in the traditional way, but we can simplify it as home-schooling in a more organized way. The conditions of learning communities and regulations in connection with the fulfilment of compulsory education vary in different countries and there is a difference in private pupils' legal relationship in regard to how permissive or restrictive the status of being a private pupil is. The learning community as an alternative way of education has appeared in more European countries and even beyond Europe, this research discusses three European countries – Austria, Hungary and Romania – the way they regulate the fulfilment of compulsory education and their regulations in how they permit being a private pupil, as well as the attitude of educational governance towards this new form of alternative education.

**Keywords:** *Public education, alternative education, learning communities.*

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## 1. Introduction

After 2011 a new alternative educational form appeared on the palette of Hungarian public education: learning communities that provide alternative education for schoolchildren who take part in alternative or mainstream education as private pupils. The learning communities are not schools in the traditional way, but we can simplify it as home-schooling in a more organized way. (Dobos, 2019; Langerné Buchwald, 2019). The conditions of learning communities and regulations in connection with the fulfilment of compulsory education vary in different countries (Petrie, 2001) and there is a difference in private pupils' legal relationship in regard to how permissive or restrictive the status of being a private pupil is (Langerné Buchwald, 2019). The learning community as an alternative way of education has appeared in more European countries and even beyond Europe, therefore, in the framework of the present research, we sought to find out to what extent learning communities are widespread in three neighbouring European countries - Hungary, Austria and Romania - and what is the attitude of the educational administration in these countries towards this new form of alternative education.

## 2. Methods

On one hand, the fulfilment of compulsory education and the legal background behind the permission of being a private pupil were investigated: the National Public Education Act (2011) in Hungary, the Compulsory Education Act (1985) in Austria and the National Education Act (2013) in Romania. On the other hand, the literature and the articles on the subject were analysed.

In the course of the research, we investigated how three European countries - Austria, Hungary and Romania - regulate the fulfilment of compulsory school attendance and the authorisation of home schooling as a condition for the existence of learning communities, and how educational management approaches this new alternative form of education. We also sought to find out what motivates parents to send their children to a learning community instead of a formal school.

## 3. Results

In the analysis of the legal documents defining compulsory education and the status of home-schooling status, it became necessary to broaden the scope of the legislation included in the study, as different laws and regulations govern the way compulsory education can be fulfilled in each country. In addition, when exploring the literature on the topic, it became apparent that very little literature deals specifically with learning communities. This is because, on the one hand, they are a relatively new

phenomenon and, on the other hand, they are a 'grey area' for educational management, monitoring and research, since they are not formal schools, are not subject to state management and control, there are no official records on the number of learning communities and, consequently, they are not readily available for educational research.

### **3.1. Homeschooling vs. learning communities**

The definition of learning communities can be based on the concept of home learning, which has several names in the literature. The terms home-schooling, home-based education (Webb, 1989), atypical education (Beck, 2002) or family schooling (Berényi, 2002) refer to the same alternative form of learning and teaching: a form of education where the child does not attend formal schooling - public or private - but studies at home (Basham, 2001). Home education can be provided entirely by the parent, but it is common for some specific subjects (e.g. foreign languages) to be taught by a private tutor (Nágel, 2012).

Learning communities can be seen as an organised form of home schooling. Their basis is the same, children do not attend public or private schools, but learning communities differ from home schooling in several ways. The first difference is in the size of the learning community, which is made up of children from at least two families. This implies the next difference, which is the most criticised aspect of home learning: children in a learning community have more peer social contact, whereas in home learning they only have contact with their own family. In addition, home learning takes place in the family home, whereas in the majority of learning communities, organised learning takes place outside the home, so that children have the experience of 'going to school'. Closely related to this is the fact that in the case of family learning, parents teach their own children, so the teacher-student relationship is secondary, whereas in the case of learning communities there is no parent-child relationship between children and the teachers who teach them. The parent who teaches the child is not necessarily a qualified teacher, whereas in a learning community there are typically qualified teachers. Learning communities are organised, which is not necessarily the case in home education and is more flexible. Another common feature is that they are not traditionally schools, but self-sustaining democratic communities, run solely by financial contributions from families and sponsors, and independent from the state in both financial and legal terms. In all cases, the pupils in these learning communities are private pupils in formal schools (Langerné Buchwald, 2019).

### **3.2. Hungary**

After 2011, the government in power in Hungary started a strong centralisation of education policy, which led many families to choose alternative education for their children instead of the mainstream public school. However, the number of officially operating alternative schools in Hungary is relatively low, and enrolment in alternative schools is difficult due to continuous over-enrolment, which has led to the emergence of the learning community as a new form of alternative education in Hungarian public education and a significant increase in the number of children with private school status (Hajdu et al., 2019). According to the data registered by the National Network of Private and Home-schooling Communities (2019), there were 22 learning communities in Hungary in 2019, but estimates put the number at around 100.

From the point of view of its permissive and restrictive nature, the legal regulation of private student status in Hungary can be divided into two distinct periods, the point of departure being the amendment to the Public Education Act of 2011, which will enter into force in September 2020 and will affect compulsory schooling and private student status. The national law on public education, which will be in force before 2020, extends the definition of compulsory education to compulsory participation in institutional education and training, which, if it is "not detrimental to the pupil's development and the successful continuation and completion of his or her studies", may be fulfilled not only by attending school but also, at the request of the parent, by private schooling. However, the amendment to this law, which has been in force since September 2020, has significantly restricted the possibility of fulfilling compulsory schooling, stating that "compulsory schooling may be fulfilled by attending school", which may be derogated from only by applying for an individual work schedule for a limited period of time in justified cases (Government Decree 196/2019 (VIII.1.)). Thanks to this restrictive amendment, the number of learning communities in Hungary has drastically decreased, but their existence has not completely disappeared.

The government's approach to learning communities can also be divided into two phases. While the number of pupils with private school status at the request of their parents, and hence the number of learning communities, was low, their existence was accepted. However, the significant increase in their numbers has encouraged the government to prevent the proliferation and reduce the number of learning communities operating in a grey area beyond its control, and to return teachers and children in learning communities to state-controlled public education institutions.

### **3.3. Austria**

In Austria, the number of home-schoolers and learning communities increased during the coronavirus epidemic: the number of children with home-schooling status tripled - from 2,100 to 7,500 - and more learning communities were established across the country (Zahl der Schulabmeldung steigt, 2021). This is due to protests against the strict measures against the coronavirus epidemic, such as compulsory mask wearing and testing at school, and fears of an epidemic, which have led many Austrian families to choose home schooling for their children, but instead of teaching their children at home, they have sent their children to a substitute school (Mehrere illegale Privatschulen in Österreich entdeckt, 2021).

Home education in Austria has been enshrined as a basic right of citizenship in the Austrian constitution (Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger, 1867) since the time of the Austro-Hungarian Monarchy. On the other hand, compulsory schooling can be fulfilled by attending home schooling or private schools without public law, with the permission of the education authority, by pupils having to take an annual external examination in public schools with public law (Schulpflichtgesetz, 1985). However, the Austrian legislature has dealt with the situation of the learning communities separately since their inception, and it has been decided that home education may be transferred to a private school providing an education equivalent to that of a public school or a school with public law, and that, according to a precedent-setting decision of the competent Austrian educational authorities, learning communities do not meet this criterion. (Erkenntnis des Bundesverwaltungsgerichts Republik Österreich, 2021) Home schooling is therefore still legal in Austria, but its organised implementation and placement in learning communities is illegal.

### **3.4. Romania**

In Romania, unlike the previous two countries, the number of home-schooled children in public education is low at around 500, but in recent years more and more families have opted for home education. No information on the functioning of learning communities was found. There are no precise figures on the number of children who choose home education, as home education is subject to strict conditions for authorisation and therefore the statistics on officially registered home schooling do not reflect the full reality. Some parents therefore enrol their children in Hungarian or American schools, where they are allowed to study abroad as opposed to home schooling, and then complete their compulsory education as private students. The reasons behind the decision to home school are dissatisfaction with Romanian public education on the one hand, and the possibility of personalised education on the other (Kiss & Körössy, 2016)

The Romanian National Education Law strictly regulates the conditions for home education and only allows it in very justified cases. According to the law, public education must be organised in the form of a timetabled or reduced timetabled education. The only exceptions to this are children with special educational needs and children who are immobile for medical reasons, whose education at home or in a health institution is organised by the education inspectorate on the basis of a methodology developed by the Ministry of Education (National Education Act, 2013). In this case, the child is enrolled in the nearest school of his/her place of residence and is taught at home by a teacher appointed by the school, based on the curriculum or personalised teaching materials (Kiss & Körössy, 2016). However, all Romanian citizens can participate in alternative forms of education in Romanian, the language of national minorities or the world language without restrictions (National Education Law, 2013), and the qualifications awarded by them are recognised by the Romanian education system (Kiss & Körössy, 2016).

Although home schooling is not currently widespread in Romania, the demand for it has led the National Association for Home Education to repeatedly submit a draft to Parliament for a law amendment to allow all families to choose home education.

## **4. Conclusion**

The results of the research showed that the acceptance of home schooling and learning communities in the grey zone differs from country to country along the dimensions of permissive-restrictive-prohibitive. In Hungary the fulfilment of compulsory education and the regulation of the legal background of being a private pupil have changed, instead of previously permissive laws, they are now significantly more restrictive. However, the operation of learning communities is legal, despite restrictive measures aimed at reducing the number of private students and learning communities. In Austria, a private student status is attainable, the choice of home education is a fundamental right, but the learning communities, that consist of private students, are considered to be illegal schools, their operation is against the law. In Romania the permission private student status is strictly limited, so the

rate of private students is low, but one can fulfil the compulsory education by attending school abroad, and thanks to this the number of private pupils has increased recently, and efforts have also begun to relax legislation on home education.

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