



Vaasan yliopisto  
UNIVERSITY OF VAASA

**OSUVA** Open  
Science

This is a self-archived – parallel published version of this article in the publication archive of the University of Vaasa. It might differ from the original.

## School supervision in Finland and Sweden: taking pupils' rights more seriously?

**Author(s):** Hakalehto, Suvianna; Mäntylä, Niina; Refors Legge, Maria

**Title:** School supervision in Finland and Sweden: taking pupils' rights more seriously?

**Year:** 2022

**Version:** Publisher's PDF

**Copyright** ©2022 eddy.se

### **Please cite the original version:**

Hakalehto, S., Mäntylä, N. & Refors Legge, M. (2022). School supervision in Finland and Sweden: taking pupils' rights more seriously? *Nordisk Socialrättslig Tidskrift* 33, 27-61.  
<https://www.lawpub.se/utills/downloadsection/4940>

# School supervision in Finland and Sweden: taking pupils' rights more seriously?

SUVIANNA HAKALEHTO, professor, NIINA MÄNTYLÄ, biträdande professor och MARIA REFORS LEGGE, jur. dr

## ABSTRACT

Utbildning är en väsentlig del av unga individers liv och välfärd i samhället. Denna artikel analyserar skillnader och likheter mellan det finska och svenska systemet för tillsyn över hur barns och elevers rättigheter främjas och värnas i ländernas respektive skolsystem. Målsättningen är att analysera för- och nackdelar med de båda systemen utifrån barns ställning som rättighetsinnehavare. Artikeln innehåller en presentation av det finska och det svenska skoltillsynssystemet samt en analys av hur de två olika systemen svarar mot de krav som ställs på konventionsstaterna i FN:s konvention om barnets rättigheter som utgör grunden för all lagstiftning och åtgärder som rör barn i Sverige och Finland.

## 1. Introduction

During the recent 30 years, the right to education in Swedish and Finnish school legislation has developed from access to cost-free quality education to include, for example, elements of a safe learning environment, support in learning, medical services, and school transportation. Education providers have considerably more duties and pupils have more rights

than they had a few decades ago.<sup>1</sup> But how is it ensured that these rights are realised in everyday life at school?

This article points out the differences between the Finnish and the Swedish systems of supervising how pupils' rights are promoted and protected in schools. Our aim is to analyse both systems paying attention to a minors' unique legal status as rights-holders. We will discuss the details of the Finnish and the Swedish system and examine how they respond to the requirements set in the UN Convention on the Rights of the Child (CRC), which nowadays constitutes a basis for all legislation and actions concerning children – also in education.<sup>2</sup>

Long before children were considered as rights-holders, various methods of quality assurance of schools were a worldwide phenomenon.<sup>3</sup> School inspection has been defined by UNESCO as a “general examination of an organisational unit, issue or practice to ascertain the extent it adheres to normative standards, good practices or other criteria and to make recommendations for improvement or corrective action” (UNESCO Learning Portal). Different traditions use different terminology (for example school accreditation, inspection, supervision) but the objectives are usually the same: public accountability and the school development. Supervision often includes overall effectiveness of education, and of leadership and management, quality of teaching

- 1 Tomasevski, Katarina: *Human Rights Obligation in Education: the A Scheme*. Woolf Legal Publishers 2012; O'Lynn, Patricia – Lundy, Laura: *Education Rights*. In Kilkelly, Ursula – Liefgaard, Ton (eds.): *The Human Rights of Children*. Springer 2018. On pupils' fundamental rights and human rights at school see Hakalehto-Wainio, Suvianna: *The Best Interests of a Child in School*. *Family Law & Practice*. Vol. 1, No. 1 2014, pp. 105–112.
- 2 Lundy, Laura. *Children's rights and educational policy in Europe. The Implementation of the United Nations Convention on the Rights of the Child (2012)* 38 *Oxford Review of Education*, pp. 393–411; Covell, Katherine – Howe, Brian R. – McGillivray, Anne: *Implementing Children's Education Rights in Schools*. In Martin D. Ruck, Michele Peterson-Badali, & Michael Freeman (eds): *Handbook of Children's Rights: Global and Multidisciplinary Perspectives*. Routledge 2017.
- 3 Ehren, M.C.M. & Althrichter, H. & McNamara, G. & O'Hara, J.: *Impact of school inspection on improvement of schools – describing assumptions on causal mechanisms in six European countries*. *Educational Assessment, Evaluation and Accountability* 2013 (25), pp. 3–43; Hofer, Sarah – Holzberger, Doris – Reiss Kristina. *Evaluation school inspection effectiveness: A systematic research synthesis on 30 years of international research*. *Studies in Educational Evaluation* (Vol. 26) 2020.

and learning, personal development and welfare of pupils and learning outcomes.<sup>4</sup> In the Nordic countries, the tools, and actions to monitor the quality of the education system include national evaluations, school inspections, school self-evaluation and reporting, teacher evaluation and pupil assessment.<sup>5</sup>

The new perspective of a child as a rights-holder began to develop after the CRC was adopted in 1989.<sup>6</sup> School supervision has not traditionally covered examining how the rights of pupils are realised apart from the contents of the curriculum, some aspects of the learning environment and the support in learning provided for pupils. Nevertheless, from the contemporary child-rights perspective it is evident that pupils' rights at school include not only the right to education but also other fundamental rights and human rights like right to privacy, freedom of speech, right to religion, right to participation and right to play. In Finland and in Sweden it is nowadays a duty of all public actors like education providers to guarantee the observance of constitutional and human rights.<sup>7</sup> Eventually it is the state having the ultimate responsibility ensuring that all elements including supervision are in place at all levels of the society.<sup>8</sup>

- 4 Wilcox, B.: *Making school inspection more effective: English experience*. Paris: International Institute for Educational Planning, UNESCO 2000; Maxwell, Bill: *Creating coherent quality strategies for 21<sup>st</sup> century school systems*. 15 International Journal of Educational Law & Policy 2019, pp. 89–110.
- 5 Basic Education in the Nordic Region – similar values, different policies. Finnish National Agency for Education. Reports and surveys 2019:4.
- 6 Nylund, Anna: *Introduction to Children's Constitutional Rights in the Nordic Countries*. In Bendiksen, Lena – Haugli, Trude – Nylund, Anna – Sigurdson, Randi (eds.): *Children's Constitutional Rights in Nordic Countries*, p. 3. Brill 2019, pp. 3–18; Tobin, John: *Introduction*. In Tobin, John (ed.): *The UN Convention on the Rights of the Child. A Commentary*. Oxford University Press 2019, pp. 1–20.
- 7 Lämsineva, Pekka: *Fundamental Principles of the Constitution of Finland*, pp. 117–118. In Nuotio, Kimmo – Melander, Sakari – Huomo-Kettunen, Merita (eds.): *Introduction to Finnish Law and Legal Culture*. Forum Iuris. Helsinki 2012, pp. 111–125. At the end it is the state that holds the primary responsibility to ensure the observance of rights.
- 8 Lämsineva, Pekka: *Fundamental Principles of the Constitution of Finland*, pp. 117–118. In Nuotio, Kimmo – Melander, Sakari – Huomo-Kettunen, Merita (eds.): *Introduction to Finnish Law and Legal Culture*. Forum Iuris Helsinki 2012, pp. 111–125; *Government report on human rights policy 2021 (Finland)*.

Nevertheless, when reviewing the vast literature on school supervision, it can be noticed that even in the 21st century, pupils' rights don't belong to the elements that are being supervised.<sup>9</sup>

Sweden is one of the pioneers on supervising the rights of children at school. The Swedish National Agency for Education supervises, supports, and evaluates schools paying attention to the quality and outcomes and safeguarding pupils' right to education. The inspection focuses on the factors being especially important for the learning and security of all children. On the contrary, Finland is one of the rare states in the world without any systematic school inspection relying solely on quality assurance.

In this article, we will first explain the special legal status of a minor and the relevant obligations deriving from the CRC concerning the legal protection of children's rights at school. We then introduce the Swedish and Finnish systems of supervising the realisation of pupils' rights at school. An interesting tension can be noticed when we present the critique and other opinions expressed on systems: in Sweden the intensive supervision has been criticised while in Finland the critique has been focusing on the weakness of supervision. At the end we discuss how the different approaches to supervision meet the requirements examined in chapters 2 and 3.

## 2. The special legal status of a minor

There are several elements that distinguish minors from adults in respect of their legal position. First, *children lack full legal competence* making them dependent on the decisions and actions of adults.<sup>10</sup> Therefore, at

9 See for example O'Hara, Joe – Gustafsson, Jan-Eric – Conyngham, Gerry – Altrichter, Herbert – McNamara, Gerry – Ehren, M.C.M.: From inspection to quality: Ways in which school inspection influences change in schools. *Studies in Educational Evaluation* 47, 2015, pp. 45–57; Maxwell 2019; Hofer – Holzberger – Reiss 2020; Quesel, Carsten – Schweinberger, Kirsten – Möser, Guido: Responses to positive and negative feedback on organizational aspects of school quality: teachers' and leaders' views on a Swiss traffic light approach to school inspection. *School Effectiveness and School Improvement* 2021 (32:3), pp. 345–362.

10 Kurki has developed three categories of competences of a minor: independent, negative, and dependent competences. The latter two types of competences are most

school, special measures and activity can be expected from the education provider and the staff at school.<sup>11</sup> Another important difference is that *children's developmental state makes them particularly vulnerable to human rights violations* and that the effects of violations can be more severe and longer lasting compared to adults. The third fact is that because of the lacking legal competence, *minors don't have independent access to justice* when their rights are not respected. These elements make the duty to protect children's rights especially vital and make minors a vulnerable group in respect of their rights.<sup>12</sup>

The CRC recognises many general human rights, but also special rights only guaranteed to children. By ratifying the CRC, Finland and Sweden have committed to respect, protect, and fulfil those rights, also at school. The Finnish Parliamentary Ombudsman (PO) has highlighted that all activities in the field of education do rest on basic and human rights and, more specifically, the rights of a child.<sup>13</sup>

To highlight the fact that constitutional rights and human rights also belong to minors, the Constitution of Finland includes a provision (chapter 2, section 6, subsection 3), according to which children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their degree of development. According to section 22 of the Finnish Constitution, it is a constitutional obligation of all public authorities (education providers included) to guarantee the observance of constitutional rights

---

often relevant in case of children. According to Kurki it is a highly context-specific matter what kind of competences a child has. Kurki, Visa: Active but not independent: the legal personhood of children. *Griffith Law Review*, Vol. 30, 2021 – Issue 3, pp. 395–412.

- 11 It has been pointed out that children are also dependent on the choices of their guardians concerning several aspects of school life. Fortin, Jane: *Children's Rights and the Developing Law*. Cambridge University Press, 2009. See also Lundy Laura: Family values in the classroom? Reconciling parental wishes and children's rights in state schools. *International Journal of Law, Policy and the Family* 19 (2005), pp. 346–372.
- 12 Herring, Jonathan: Vulnerability, Children and the Law in Freeman, Michael (ed.): *Law and Childhood Studies*, pp. 243–263. Oxford University Press 2012; Sigurdson, Randi: Children's Right to Respect for Their Human Dignity. In Bendiksen – Haugli – Nylund – Sigurdson (eds.): *Children's Constitutional Rights in Nordic Countries*, p. 32–24. Brill 2019, pp. 19–36.
- 13 Annual Report of the Parliamentary Ombudsman 2020, p. 19.

and international human rights (including the rights in the CRC). This is a duty also for each principal and teacher at school.

In Sweden, the legislator has emphasised the child-rights-based starting point rooted in the CRC: children must be seen as rights-bearers in all actions concerning them.<sup>14</sup> The Instrument of Government includes a specific provision for children: “The public institutions shall promote the opportunity for all to attain participation and equality in society and for the rights of the child to be safeguarded”.<sup>15</sup>

In the context of the CRC, school is meant to be a forum for children to learn about their human rights and fully enjoy them in all activities at school. Pupils at school should enjoy, for example, civil rights to freedom of conscience, privacy, freedom of expression and protection from abuse, neglect, and cruel, inhuman, and degrading treatment. Verellen has divided the provisions on education in the CRC to the ones on child’s *right to education* (articles 23 and 28), to *rights in education* (for example articles 2, 12, 13, 14, 15) and to *rights through education* (articles 29 and 42).<sup>16</sup> All rights must be provided without discrimination (Article 2) and pupils’ views must be given due weight (Article 12). According to the CRC children have a right to education that is directed at respect for human rights, including their own rights. All the practices at school must be consistent with the CRC.

According to the Article 3(1) of the CRC, in all actions concerning children, the best interests of the child shall be a primary consideration. The Committee on the Rights of the Child (the Committee) is the most authoritative interpreter of the CRC.<sup>17</sup> The Committee states that the

14 SOU 2016:19, p. 285–287. Betänkande av Barnrättsutredningen.

15 Legislative Bill 2009/10:80. This part of the regulation is not “hard-core” but merely sets out certain goals. Mattsson Titti: Constitutional Rights for Children in Sweden, p. 110–112. In Bendixsen – Haugli – Nylund – Sigurdson (eds.): *Children’s Constitutional Rights in Nordic Countries*, pp. 103–119.

16 Verhellen, Eugene: *Convention on the Rights of the Child*. Garant 1994.

17 The Committee issues General Comments on the interpretation of the articles of the CRC to support state parties to implement the Convention. By ratifying the CRC, states parties accept that the Committee will further determine the contents of the Convention. It has been argued that the Committee’s interpretations do take precedence over the possible interpretations by states parties. Sormunen, Milka: *A Focus on Domestic Structures: Best Interests of the Child in the Concluding Observations*

right of the Article 3(1) must be seen as “a substantive right, an interpretative legal principle and a rule of procedure” (CRC/C/GC/14, para 6).<sup>18</sup> According to the Committee “all decisions on measures and actions concerning a specific child or a group of children must respect the best interests of the child or children, with regard to education” (CRC/C/GC/14, para 79). From the concluding observations of the Committee, it can be noticed that both Finland and Sweden have been recommended to ensure the best interests of the child are appropriately integrated and interpreted and applied in all actions and decisions, policies, programmes, and projects having an impact on children.<sup>19</sup>

Until 2021, the Finnish Basic Education Act (628/1998) lacked a general provision of the best interests of the child.<sup>20</sup> According to a new section 3a, the best interests of the child shall be a primary consideration when planning, implementing, and making decisions on basic education.<sup>21</sup> Nevertheless, the Finnish PO – referring to the CRC – had several

---

of the UN Committee on the Rights of the Child, p. 103. *Nordic Journal of Human Rights* 2020, Vol. 28, No. 2, pp. 100–121.

- 18 See the analysis of Article 3 Eekelaar, John – Tobin, John: *The Best Interests of the Child*. In Tobin, John (ed.): *The UN Convention on the Rights of the Child. A Commentary*. Oxford University Press 2019, pp. 73–107. Sormunen has argued that the CRC has changed the best interest concept by broadening the scope of the concept, making best interests a primary consideration and established a connection between human rights and best interests. Sormunen 2020, p. 32.
- 19 Haugli – Nylund 2019, p. 406–407. When the regulations and control of Swedish schools were examined based on Sweden’s adherence to the CRC in 2020, the Swedish Government Official Report found no reason to criticise Sweden’s implementation of, e.g., article 3 of the Convention. *SOU* 2020:63, pp. 249, 1129–1138.
- 20 The Finnish Basic Education Act was drafted in the late 1990s’ without the guidance of the Constitutional Law Committee of the Parliament and the process was not informed by the CRC in a systematic manner. Hakalehto, Suvianna: *Constitutional Protection of Children’s Rights in Finland*, p. 66. In Bendiksen – Haugli – Nylund – Sigurdson (eds.): *Children’s Constitutional Rights in Nordic Countries*, pp. 58–82. See also *The Finnish Parliamentary Ombudsman, Annual Report 2019*, p. 20. In case law, the invisibility of the best interest principle in the context of children’s rights at school has probably followed from the lack of provision. Tolonen, Hannele – Koulu, Sanna – Hakalehto, Suvianna: *Best Interests of the Child in Finnish Legislation and Doctrine*, pp. 175–176. In Bendiksen – Haugli – Nylund – Sigurdson, (eds.): *Children’s Constitutional Rights in Nordic Countries*, pp. 133–184.
- 21 HE 127/2021 vp. *Hallituksen esitys eduskunnalle laeiksi perusopetuslain, ammatillisesta koulutuksesta annetun lain, lukiolain ja tutkintokoulutukseen valmentavasta koulutuksesta annetun lain muuttamisesta*.



times stated that in all decisions concerning arrangements of teaching an individual child the best interests of this child must be a primary consideration.<sup>22</sup> In 2011, the principle of the best interests was implemented in the Swedish Education Act (2010:800). According to section 1:10 the best interests of the child must be a starting point in all actions at school.

An important element of the best interests of the child is respecting the views of the child. The Article 12 of the CRC obliges states to assure to the child capable of forming his or her views the right to express those views freely in all matters affecting the child. The views of the child must be given due weight in accordance with the age and maturity of the child.<sup>23</sup> The Committee has stressed that respect for the right of the child to be heard within education is fundamental to the realization of the right to education.<sup>24</sup> According to the Committee, assessment of a child's best interests must in all matters affecting the child include respect for this right (CRC/C/GC/14, para 43). This obligation has been considered in above-mentioned section of the Swedish Education Act<sup>25</sup> but is missing from the corresponding Finnish Act.<sup>26</sup>

The CRC reflects a comprehensive child-rights perspective obliging states to pay attention to the unique legal status of a minor as an inde-

- 22 See for example decision 1633/4/14 on the right of the child to get special support for learning.
- 23 On participation rights of children at school see Lundy, Laura: "Voice" is not enough: The Implications of Article 12 of the UN Convention on the Rights of the Child for Education. *British Educational Research Journal* 2005; Parkes, Aisling: Children and International Human Rights Law. *The Right of the Child to be Heard*. Routledge 2015, pp. 123–149. Fortin has highlighted the importance of education playing an important part to ensure that children can develop their own views different from the opinions of their parents or from the groups into which they were born. Fortin, Jane. *Children's Rights and the Developing Law*. Cambridge University Press, 2009, p. 411.
- 24 Action must be taken to build opportunities for children to express their views regarding a range of issues including the planning of curricula, prevention of bullying and disciplinary measures and those views to be given due weight (CRC/C/ GC12, para 105–111).
- 25 Warnling-Nerep – Sandström – Ahlenius 2016, pp. 76–77.
- 26 Participation rights of pupils are included in the Act in an abstract level: section 47a of the Basic Education Act obligates schools to promote participation of pupils. The general right of the child to participate in his or her own matter is not embedded in school legislation except in a few specific situations. Tolonen – Koulu – Hakalehto 2019, pp. 174–175.

pendent rights-holder.<sup>27</sup> It is in the best interests of children that there are appropriate mechanisms and procedures to ensure that their rights are realised at school and that there are legal remedies in place in case of violation of rights. This is where supervision enters the stage.

### 3. The obligations of the CRC and supervising schools

The special legal standing of children calls for special protection of their rights. This has been acknowledged in the Article 3(2) of the CRC. States have to take all appropriate legislative and administrative measures to ensure children “such protection and care as is necessary for his or her well-being”. The aim is to protect children from all forms of violence and harmful treatment.<sup>28</sup> In the CRC, there is a strong emphasis on protecting the rights of children belonging to the vulnerable groups.<sup>29</sup> This should be the aim also in school legislation and in every-day life at school.<sup>30</sup> The Finnish Governmental Proposal of the Non-Discrimination Act states that promoting equality at school requires giving special attention to the needs of pupils in danger of being discriminated as well as preventing and recognising discrimination.<sup>31</sup>

The CRC is designed to play an important part as a legal obligation implemented by education providers and school staff. Decision-making at school cannot be based mainly on administrative regulations, guidelines, plans or pedagogical grounds. It is the duty of people working in

27 Kilkelly, Ursula – Liefwaard, Ton (eds.): *International Human Rights of Children*. Springer 2018. On recognizing children as citizens see Howe – Covell 2005, p. 43.

28 The Article 3(2) has been considered as an umbrella provision constituting an important reference point for interpreting general obligations under the CRC. Eekelaar – Tobin 2019, p. 101.

29 Peleg, Noam – Tobin, John: Article 6. The Right to Life, Survival, and Development, p. 231–233. In Tobin, John (ed.): *The UN Convention on the Rights of the Child. A Commentary*. Oxford University Press 2019, pp. 186–236.

30 The Committee has recommended Finland to pay more attention to children belonging to minorities (e.g., Sami children, Roma children and migrant children), disabled children, children in foster care and minors in prisons. UN Committee on the Rights of the Child, *Concluding Observations: Finland* (20 June 2011). CRC/C/FIN/CO/4.

31 HE 19/2014 vp. Hallituksen esitys eduskunnalle yhdenvertaisuuslaiksi ja eräiksi siihen liittyviksi laeiksi, pp. 62–63.

school to strictly obey the provisions in force (Finnish Constitution, Section 2, Subsection 3). This requirement applies to all activities at school. In both Sweden and Finland provision of education is largely an administrative service function meaning that those working at school must have a good command of administrative principles and be able to meet the requirements following from the relevant legislation concerning pupils.<sup>32</sup> The Finnish Parliamentary Ombudsman (the PO) has noted that the relevant legislation includes the CRC.<sup>33</sup>

Protection under the law (or legal protection) such as right to appeal, is a constitutional right according to the Finnish Constitution, Section 21. In addition, the public authorities shall guarantee the observance of basic rights and liberties and human rights, according to the section 22 of the Finnish Constitution. Minors as well have a right to expect that rights guaranteed in law will be realised and the violations of rights will be dealt with appropriately. As a part of protection under the law, executive powers of a public actor like an education provider and an official like a teacher – shall be based on the law. This rule of the Finnish Constitution (Section 2, Subsection 3) emphasises the conformity of all actions by teachers to regulation. In Sweden the same is established in the Swedish Constitution (chapter 1, section 1).

Legal protection is not explicitly mentioned in the CRC, but Article 4 of the CRC states that states parties shall undertake all appropriate legislative, administrative, and other measures to implement the rights recognised in the CRC. The Committee has also highlighted efficient legal protection of children in the General Comments and notes the importance of rigorous monitoring of the implementation of the Convention. Monitoring should be built into the government process at all levels,

32 Warnling-Conradson, Wiweka – Sandström, Lena – Ahlenius, Henrik: *Lärare & elev. Rättsliga aspekter och etiska dilemman*. Norstedts Juridik AB, 2020; Hakalehto, Suviana: *Oppilaan oikeudet opetustoimessa*. Lakimiesliiton kustannus 2012.

33 The Annual Report of the Parliamentary Ombudsman 2019, p. 20. In Sweden it has been unclear if the Inspectorate can base its decision solely on the CRC before the legislator has made changes to the law on school inspection. Ramsjö, Peter: *En svensk papperstiger – om barnkonventionen och Skolinspektionens tillsyn*. In Victoria Enkvist & Sverker Scheutz (eds.): *Barnkonventionen och skolan*, pp. 99–123.

but also independent monitoring by, for example, national human rights institutions and others is needed (CRC/GC/2003/5, para 27 and 46).<sup>34</sup>

Children encounter significant problems using the judicial system, and their access to justice is limited (CRC/GC/2002/2, para 5).<sup>35</sup> This is why special measures and activities can be expected from the states and everyone in a position of public duty to ensure the legal protection of children. One of the activities recommended by the Committee is to review and report on the Government's monitoring of the state of children's rights (CRC/GC/2002/2, para 19), which can be seen as an essential part of the legal protection of children. Realising the rights requires an efficient enforcement mechanism that confirms that compliance is being monitored independently and there is a process for identifying breaches.<sup>36</sup>

It is essential to note that decentralisation of power – for example, to municipalities – does not reduce the State's direct responsibility to fulfil its obligations regardless of the State structure. Permanent monitoring mechanisms must be established to ensure that the CRC is applied to all children also by local authorities. There must be safeguards to ensure that decentralisation does not lead to discrimination in the enjoyment of rights by children in different regions (CRC/GC/2003/5, para 40–41). The Committee also proposes that there should be a permanent monitoring mechanism to ensure that all State and non-State service providers respect the Convention. The Committee encourages States parties to establish an independent institution to promote and monitor the implementation of the CRC (CRC/GC/2002/2, para 2).<sup>37</sup>

34 Tobin, John: Article 4. A State's General Obligation of Implementation. In Tobin, John (ed.): *The UN Convention on the Rights of the Child. A Commentary*. Oxford University Press 2019, pp. 108–158.

35 In Finland, the PO has during the inspections to child protection institutions discovered that children are not aware of their rights and the possibility to complain to authorities. This calls for special support to secure their rights. One type of support by the PO is to be more self-imposed in supervising children's rights. Toivonen, Virve: *Eduskunnan oikeusasiamies – 100 vuotta lapsen oikeuksien valvontaa*, pp. 485–486. Lakimies 2020, pp. 480–501.

36 Lundy, Laura. *Children's rights and educational policy in Europe*, p. 396. Oxford Review of Education, Vol. 38, No. 4 (2012), pp. 393–411.

37 Sormunen 2020, pp. 114–115.

Especially regarding education, the Committee calls upon States parties to develop a comprehensive national plan of action to promote and monitor the realisation of the objectives of education listed in article 29 (1) from a child-rights perspective (CRC/GC/2001/1<sup>38</sup>, para 23). In Sweden, the legislator has noticed that supervisory authorities have an essential role in taking the CRC as a basis for their supervisory actions.<sup>39</sup> On the contrary, in Finland the education sector has been rather slow to adopt the rights-based approach.

#### 4. School supervision agencies in Finland

In Finland, the basic education sector has been without systematic school supervision after school inspectors were abolished in the 1990s. This change was part of the general development highlighting strong municipal self-government and local democracy.<sup>40</sup> The main actors in the field of school supervision are 1) municipalities and schools, 2) the Regional State Administrative Agencies (*aluehallintovirasto*) and 3) the Parliamentary Ombudsman and Chancellor of Justice.

In Finland, the supervision system in the education sector is firmly based on *education providers' and schools' self-assessments and quality monitoring*. According to the Basic education Act 21 §, “an education provider shall evaluate the education it provides and its impact and take part in external evaluations of its operations”. The duty to evaluate basic education was introduced into legislation in 1998. The aim was to clarify and standardise the evaluation in education but without monitoring schools.<sup>41</sup> Evaluation consists of collecting information on how the aims of education based on the Basic Education Act have been achieved. There

38 General Comment No. 1 on Article 29(1).

39 Prop. 2017/18:186, p. 79.

40 Misukka, Heljä (2014). Koulutuksen suurvalta tienhaarassa. Kunnallisanalan kehittämissäätöön Polemia-sarjan julkaisu nro 93, p. 43; Harjula, Heikki – Kari Prättälä: Kuntalaki. Tausta ja tulkinnat, p. 22. Talentum 2015.

41 HE 86/1997 vp. It must be noticed that also in the states where school inspection is carried out (the most states in the world), there is at the same time usually an obligation for education providers and schools for self-monitoring. In fact, one of the aims of school inspections is to ensure that self-monitoring is being done according to the rules.

is a strong belief for different plans, which the education provider is responsible for drawing up. These include the agenda for pupil welfare and the plan for using the disciplinary measures at school (Student Welfare Act, 13 §). Each school must also draw rules to promote order, safety, and comfort (Basic Education Act, 29.4 §).<sup>42</sup>

In 2009, the Finnish Ministry of Education published quality criteria for basic education.<sup>43</sup> The purpose of the criteria is to secure the quality and a diverse supply of education and to guarantee the educational rights of children irrespective of their place of residence, native language, and economic standing. The criteria only pays attention to a few rights of pupils: support for learning, growth and well-being, inclusion and safety of the learning environment. In the reports and surveys on the state of the basic education in Finland, attention is most often paid to the elements like cost-free education and the right to education according to the curriculum.

The role of the *Regional State Administrative Agencies* is to promote equality and the realisation of fundamental rights and legal safety in Finland by implementing legislation, giving guidance, and supervising authorities.<sup>44</sup> With respect to schools, the task of these agencies is to protect pupils' right to health, development and education. The responsibilities include handling complaints and appeals on educational services.<sup>45</sup> The Agencies cannot investigate educational matters on their own initiative but only when parents or pupils themselves have filed a written complaint.<sup>46</sup> After investigating the matter, the Agency can draw attention of the education provider to practices that should be revised to

42 In Finland, follow-up and monitoring of education based on statistics is the responsibility of the Finnish National Agency for Education together with the Ministry of Education and Culture.

43 Perusopetuksen laatukriteerit. Opetusministeriön julkaisu 2009:19.

44 HE 59/2009 vp, pp. 23, 44. Hallituksen esitys Eduskunnalle aluehallinnon uudistusta koskevaksi lainsäädännöksi.

45 The number of complaints related to the education and culture sector has increased dramatically in recent years: from 250 (2015) to 416 /2018). Parliamentary ombudsman K 15/2020, p. 28.

46 At some other sectors they can exercise systematic control, give warning and order the operator to take corrective action by a certain deadline or a risk of fine, or report the operator to the police.

ensure compliance with the law in the future. It is also possible to give a reprimand if the education provider has acted in an unlawful manner or failed to fulfil its duties. Nevertheless, it is not possible to order the education provider to take specific measures. Neither is it possible to overturn decisions taken in education matters or to order the education provider to compensate damages. Regional State Administrative Agencies can impose fines, but this sanction has not been used in educational matters. No data is available on the amount of complaints led to measures taken by Regional State Administrative Agencies.

*The two overseers of legality, the Parliamentary Ombudsman and the Chancellor of Justice (CJ)* both oversee the legality of actions taken by the authorities. From 1995 onwards, the task has included monitoring the implementation of fundamental and human rights. The PO's field of operation is general: it supervises the activities of all actors exercising public tasks.<sup>47</sup> Since 1998 the PO has had a special duty to supervise children's rights.<sup>48</sup> Both overseers of legality endeavour to ensure that the courts of law, other authorities and civil servants, and other persons or bodies assigned to perform public tasks, comply with the law, and fulfil their assigned obligations.

Based on individual complaints, the PO and the CJ investigate if education provider has followed the law or if it has acted in an unlawful manner, otherwise wrongfully or failed to fulfil its responsibilities. In particular, the PO ensures that fundamental rights and human rights have been respected. In the education sector, the supreme overseers of legality are the only authorities with the Regional State Administrative

47 Sarja, Mikko: Eduskunnan oikeusasiamies yleispalveluiden ja julkisten palveluiden valvojana, pp. 5–8. Edilex 2019/43.

48 This has been confirmed in the Report of the Constitutional Law Committee of the Finnish Parliament when the Constitution of Finland was being amended to include two Parliamentary Ombudsmen instead of one. See PeVM 5/1997 vp. See also Toivonen, Virve: Eduskunnan oikeusasiamies – 100 vuotta lapsen oikeuksien valvontaa, p. 481. Lakimies 2020, pp. 480–501. With the Children's Ombudsman the PO is intended to constitute the independent national human rights institution to supervise the compliance of the CRC in Finland.

Agencies to use external control. This has been considered to give the decisions passed by overseers of legality exceptional weight.<sup>49</sup>

Anyone can make a complaint to the PO or to the CJ if they think that they have been treated wrongly or unfairly in any public activity. In 2019 the PO handled 514 cases concerning children's rights.<sup>50</sup> The consequences of a complaint include a reprimand if the authority has acted in an unlawful manner or failed to fulfil the responsibilities. The PO and the CJ may issue instructions on the proper legal procedure for the future reference and draw an authority's attention to the requirements of good governance or considerations that would advance the realisation of fundamental and human rights. It is also possible to ask the authority to voluntarily correct a mistake or make it up to the complainant.<sup>51</sup>

The complaints on basic education typically address problems concerning equal access to education (the provision of education for children with disabilities or illnesses), education free-of-charge, failures in administration or decision making, decisions on awarding special support, student welfare services, religious elements in schools, using disciplinary measures and the safety of the learning environment. In 2019, the number of complaints at the education and culture sector was 243 and measures were taken in response to 20% of complaints. That compares to a general response rate of 15%.<sup>52</sup>

The highest overseers of legality can investigate matters also by their own initiatives. The PO can carry out sporadic inspections in institutions

49 Pölönen, Pasi in *The Annual Report of the Parliamentary Ombudsman 2019*. The Parliament in Finland has in April 2022 enacted a law on division of work between the PO and the CJ. According to the governmental proposal it is functional to centralise the complaints on children's rights to the PO. Thus, the PO can continue to develop supervising children's rights. See HE 179/2021 vp. Hallituksen esitys eduskunnalle laiksi valtioneuvoston oikeuskanslerin ja eduskunnan oikeusasiamiehen tehtävien jaosta.

50 In 2021 the CJ received 2301 complaints (2844 in 2020). 72 of them were in the field of education and culture. In 2021 the PO received altogether 7737 complaints (7059 in 2020).

51 It is interesting that the complaints from minors themselves have many times more often ended up with consequences compared to the complaints filed by an adult. Toivonen 2020, pp. 486–487.

52 Parliamentary Ombudsman K 8/2021, pp. 159–160 (Annual report 2020) and Parliamentary Ombudsman K 15/2020, p. 28. (Annual report 2019).



and schools.<sup>53</sup> During the inspection, the PO usually pays attention to certain elements indicating the realisation of pupils' rights: equality, right to privacy, support for learning, immigrant children, administrative decision-making, guidance for guardians (for example applying for school transport allowance), cooperation between school and family, school welfare, safe learning environment. It is typical for inspections that PO meets the personnel of the school and the pupils and explores the school premises.<sup>54</sup>

Also, the National Non-Discrimination and Equality Tribunal (*Yhdenvertaisuus ja tasa-arvolautakunta*) supervises children's rights in cases of discrimination or violations related to the Act on Equality between Women and Men (Equality Act) based on written petitions. The number of cases related to school and pupils' rights has been small.<sup>55</sup> It is also possible to get advice from Non-Discrimination Ombudsman or the Ombudsman for Equality. These actors can even take the individual case to the tribunal, but typically this kind of help will be directed to cases with special significance.

There are several agencies giving guidance to schools and monitoring education by doing surveys on the different aspects of education. One of these actors is the Finnish Education Evaluation Centre (FINEEC) (*Kansallinen koulutuksen arviointikeskus*) which was founded in 2014. FINEEC is an independent expert organisation that provides information for the use of education policy and supports education providers and schools in their self-evaluation. FINEEC publishes a compilation of results, but instead of focusing on individual schools, this kind of external thematic or system evaluation aims to evaluate the educational system in general.

53 By looking at the statistics of the PO it can be noticed that inspections to schools have been rare, often one or two school per year.

54 The working methods of the PO have been considered quite flexible. PO has promoted children's rights several times by drawing attention of the Government to serious problems. PO's own initiatives and inspections seem to have general impact compared to individual complaints. See Nieminen, Liisa: *Eduskunnan oikeusasiamies "pienen ihmisen" asialla*. Lakimies 2018, pp. 143–176.

55 See National Non-Discrimination and Equality Tribunal Dnro 360/2017 (religious discrimination).

## 5. School supervision agencies in Sweden

Roughly speaking, the Swedish school governance and supervision system can be described as built on two pillars. One pillar is goal management, and another is performance evaluation. The idea behind this system is that school development should be based on follow-up and assessment. Information from the evaluation activity is meant to provide a starting point for evaluation and decisions about change in the public sector.<sup>56</sup> The Parliament and the Government are in this way intended to govern through school laws and ordinances based on review and supervision at the national level by government agencies.

There are currently five specialised school agencies in Sweden: The National Agency for Education (Statens skolverk), the Swedish Schools Inspectorate (Statens skolinspektion), the Swedish Agency for Special Needs Education (Specialpedagogiska skolmyndigheten), the Sami School Board (Sameskolstyrelsen), and the School Research Institute (Skolforskningsinstitutet). Of these five agencies, only the Swedish Schools Inspectorate exercise regular and comprehensive supervision. In addition to the specialised supervisory school agencies, other government agencies supervise parts of the school's activities in one or more specific areas.

1. The discrimination ombudsman is responsible for the school's work with discrimination issues,
2. The Swedish Work Environment Authority is responsible for the supervision of the school's work environment,
3. The Swedish municipalities are responsible for the supervision of independent pre-schools, and
4. The Parliamentary Ombudsmen are responsible for supervising the activities of the Swedish public agencies.

In comparison to Finland's system, the Swedish school supervision is extensive. Since so many agencies have supervisory responsibilities

56 Lundgren, Ulf, *Skolans huvudmannaskap och styrning*, Lärarnas historia, 2010, [www.lararnashistoria.se](http://www.lararnashistoria.se), p. 11–13. Se även Skott, Pia, *Utbildningspolitik och läroplanshistoria*, Larsson, Esbjörn och Westerberg, Johannes (red.), *Utbildningshistoria*, 2015, pp. 424–429.

concerning Swedish schools, the focus of this account of the Swedish experience of regulated school supervision is going to be the Schools Inspectorate and its regular and comprehensive control of school activities and school owners. The Swedish Schools Inspectorate is a state administrative agency with mission to ensure that pupils have good conditions for development and learning. The Inspectorate controls schools' operations through supervision and quality review. The Inspectorate's supervision can take place in five different forms: regular supervision, directed supervision, establishment control and first-time supervision, control based on individual matters and so-called thematic supervision.<sup>57</sup> The Schools Inspectorate's quality review takes the form of thematic quality reviews and regular quality reviews.

In 2020 (that admittedly was affected by the pandemic),<sup>58</sup> the Schools Inspectorate examined 67 primary schools, 24 upper secondary schools and one special upper secondary school within the agency's *regular inspection*. Of the primary schools, 76% had at least one notable deficiency that led to some form of sanction from the Inspectorate.<sup>59</sup> In 2020, the Schools Inspectorate and BEO<sup>60</sup> decided on 4,190 notifications about sanctions aimed at different schools. Parallel with this, the Schools Inspectorate made 77 decisions within the agency's *regular quality review*. During the first half of 2021, the Schools Inspectorate made four decisions on fines. During the corresponding period in 2020, the Inspectorate made 19 decisions on penalties that varied between 200,000 and 950,000 SEK.<sup>61</sup> During the same period, 586 reports of discrimination were made to the Discrimination Ombudsman on the grounds of alleged discrimination

57 Skolinspektionen, *Årsrapport 2019*, dnr 2019:10074, pp. 15–48.

58 Skolinspektionen, *Regelbunden kvalitetsgranskning 2020*, www.skolinspektionen.se.

59 Skolinspektionen, *Årsstatistik för regelbunden kvalitetsgranskning*, dnr 2021:1542.

60 Barn- och elevombudet (BEO, in English the Child and School Student Representative) protects the rights of children and school students, and investigates reports of bullying and abusive behaviour in school. The BEO can also claim damages on behalf of children and school students who have been subjected to abusive behaviour and bullying.

61 Skolinspektionen, *Antal beslutade förelägganden vid vite, Skolinspektionen 2011-första halvåret 2021*, dnr 2021:5053.

in education (this also includes education at the university level).<sup>62</sup> In 2020, the Discrimination Ombudsman made supervisory decisions in two education-related cases and sued a school on behalf of one pupil.<sup>63</sup>

The complaints submitted usually concern pupils in compulsory school and mainly pupils in upper secondary school.<sup>64</sup> Supervision based on individual reports is in many cases done after the Schools Inspectorate has received a report from a guardian who is dissatisfied with or worried about their child's school situation. The Inspectorate has regional departments that handle all cases except those that only concern abusive treatment which are handled by the BEO. Reports based on incompetence or unsuitability of teachers are also handled within the Schools Inspectorate.<sup>65</sup> A report made by an individual to the Schools Inspectorate means that the individual's information is submitted to the Inspectorate's supervisory work. The authority can then choose how and if an issue will be investigated.<sup>66</sup>

The BEO is a part of the Schools Inspectorate and is therefore not an independent agency. The BEO is assigned to protect the rights of pupils and investigates reports of abusive behaviour (including bullying) in Swedish schools. The BEO can also claim damages on behalf of pupils who have been subjected to abusive behaviour.<sup>67</sup> According to the ordinances (2011:556) with instructions for the Swedish Schools Inspectorate, section 13, the BEO's assignment is to safeguard children's and pupils' individual rights regarding abusive treatment (i.e., violations that have no connection to any ground for discrimination). The BEO must also explain how the requirements in the Education Act relate

62 Diskrimineringsombudsmannen, *Statistik över anmälningar, tips och klagomål som inkommit till Diskrimineringsombudsmannen åren 2015–2020*, Rapport 2021:1, 2021, p. 32.

63 Diskrimineringsombudsmannen, *Tillsynsbeslut och domar*, www.do.se.

64 Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, p. 31. Most of the supervision based on individual reports stems from complaints made by guardians.

65 Such an investigation can result in a report to the Teachers' Liability Committee, which then decides if a teacher's diplomas of certification should be withdrawn or to give the teacher in question a formal warning.

66 Skolinspektionen, *Årsrapport 2019*, dnr 2019:10074, p. 26.

67 Barn- och elevombudet: About the Swedish Schools Inspectorate, Skolinspektionen, 2022, www.skolinspektionen.se, retrieved 2022-05-12.

to the Discrimination Act (2008:567) (DiskrL).<sup>68</sup> The BEO does not conduct regular, targeted, or thematic supervision, nor does the agency function with any form of establishment control, first-time supervision, or quality review. The BEO's task is solely concerned with individual matters of pupils. When the Inspectorate receives a report from a child or their guardian, and the report only contains information about abusive treatment, the BEO will handle the case.<sup>69</sup>

In addition to the usual administrative law sanction measures in the form of injunctions and remarks, the BEO may also bring an individual pupil's action for damages to the court if the measure is due to the pupil being subjected to abusive treatment (Swedish Education Act chap. 6, sections 12 and 15). However, this only applies if the school principal has not sufficiently investigated and remedied the violations (Swedish Education Act chap. 6, section 10). According to the Swedish Education Act, the BEO may, in a dispute about damages, as a party, bring an action to the court if the child in question allows it.<sup>70</sup>

The Discrimination Ombudsman has supervisory responsibility for children's and pupils' exposure to violations in the form of discrimination. According to Discrimination Act chap. 4, section 1 it follows that the main task of the Discrimination Ombudsman is to supervise different actors in the Swedish society and their compliance with the Discrimination Act. The agency's goal is to make those covered by the

68 In addition, according to Section 13 of the School Inspectorate, the BEO needs to maintain contact with the Discrimination Ombudsman, Swedish municipalities, state agencies, pupil organizations and other organizations whose activities concern abusive treatment against children in school.

69 Matters are distributed between the Schools Inspectorate's regional offices and the BEO. The distribution is based on the principle that the BEO investigates cases that only concern abusive treatment while the Swedish Schools Inspectorate's regional offices investigate so-called "mixed cases" that contain abusive treatment and other grounds for reporting, for example, that a pupil in need of support activities in school does not receive it. Riksrevisionen, *Kränt eller diskriminerad i skolan – är det någon skillnad?* RIR 2013:15, 2013, p. 32.

70 Children over the age of 16 can themselves give BEO their permission to bring their case before the court, while children under the age of 16 need the consent of their guardians (Swedish Education Act chap. 6, sec 15. Prop. 2005/06:38, *Trygghet, respekt och ansvar: om förbud mot diskriminering och annan kränkande behandling av barn och elever*, p. 117.

Act voluntarily comply with the legislation. An essential function of supervision in the context of the Discrimination Act is thus (as the regulation is designed) to prevent discrimination rather than to prosecute it.<sup>71</sup>

According to the Discrimination Act, the Discrimination Ombudsman (as a party) may bring an action to the court for an individual who has been subjected to discrimination and who allows it, is over 18 years of age or has the consent of the guardians (Discrimination Act chap. 6, section 2). The Discrimination Ombudsman may, within the framework of supervision, in addition to bringing an action for discrimination compensation to court, order a person bound by the prohibitions against discrimination to remedy deficiencies in their work under the threat of fines (substantive fines) or to provide the Discrimination Ombudsman with information (procedural fines).<sup>72</sup>

## 6. The Swedish and Finnish experience of school supervision

### 6.1 *Sweden*

In the area regulated by the Swedish Education Act there are three agencies having an *overlapping supervisory responsibility and different supervisory and sanction tools* regarding pupils' exposure to abusive acts (the Swedish Schools Inspectorate/BEO, the Work Environment Agency, and the Discrimination Ombudsman). The agencies (primarily the Schools Inspectorate/BEO and the Discrimination Ombudsman) also have different financial means and personnel resources.<sup>73</sup> The Schools Inspectorate

71 Prop. 2007/08:95, p. 370.

72 The National Non-Discrimination and Equality Tribunal supervises children's rights in cases of discrimination or violations related to the Act on Equality between Women and Men (Equality Act) based on written petitions. The number of cases related to school and pupils' rights has been negligible. See National Non-Discrimination and Equality Tribunal Dnro 360/2017 (religious discrimination). It is also possible to get advice from Non-Discrimination Ombudsman or the Ombudsman for Equality. These actors can even take the individual case to the tribunal, but typically this kind of help will be directed to cases with special significance.

73 See for instance SOU 2016:87, *Bättre skydd mot diskriminering*; SOU 2010:99, *Flickor, pojkar, individer – om betydelsen av jämställdhet för kunskap och utveckling*

and the Work Environment Agency have resolved the situation with the overlapping regulations by reaching an agreement: the Schools Inspectorate shall be responsible for the supervision of degrading treatment against pupils and that the Work Environment Authority shall transfer cases of degrading treatment to the Schools Inspectorate.<sup>74</sup>

The Schools Inspectorate and the Discrimination Ombudsman have also reached an agreement: the Schools Inspectorate/BEO shall supervise abusive treatment (only) and that the Discrimination Ombudsman shall supervise discrimination (only).<sup>75</sup> Since children who are exposed to abuse of different kinds at school often are exposed to both degrading treatment (as protected by the Education Act) and harassment (as protected by the Discrimination Act) within the same course of events, the consequence is that these violations are usually investigated separately by two different authorities and that no one takes comprehensive responsibility. There is also a significant difference between the Schools Inspectorate's and the Discrimination Ombudsman's supervision and the respective agencies regulations.<sup>76</sup>

In December 2020, a partial report was presented to a state inquiry into specific issues in the Discrimination Act, where it is proposed that the Schools Inspectorate should take over the Discrimination Ombudsman's supervisory responsibility for discrimination against children and

---

i skolan; SOU 2004:50, Skolans ansvar för kränkningar av elever and SOU 2020:79. Se även Riksrevisionen, *Kränt eller diskriminerad i skolan – är det någon skillnad?*, RIR 2013:15, 2013 och Refors-Legge, Maria, *Tillsynen över skolan och barnen som kommer i kläm*, *Förvaltningsrättslig tidskrift*, 2016. The authorities' management has had very different views on how supervision based on individual matters should be weighted with other supervisory tasks. SOU 2020:79, p. 188.

74 Överenskommelse, Skolinspektion och Arbetsmiljöverket, dnr 2016/045165 och 2016:7909 (2016) pp. 1–2.

75 Skolinspektionen, *Yttrande över utkast till lagrådsremiss: Stärkt skydd mot diskriminering i skolan*, Ku2018/01543/RS, 2018, p. 5–6. See also SOU 2020:79, p. 203.

76 For instance, according to the Discrimination Act, discrimination compensation has a preventive purpose (in keeping with EU law) that damages according to the Education Act do not have. Prop. 2005/06:38 p. 147. See also NJA 2016 s. 596. This means that for a pupil who has been a victim of discrimination can be awarded a more considerable sum of money in compensation for the abuse than for a pupil who has been the victim of degrading treatment.

pupils in schools. By now, this proposal has not led to any changes in the legislation.<sup>77</sup>

*The effectiveness of conducting school supervision by trying individual cases of schools not adhering to the Education Act or the Discrimination Act has been questioned* in Sweden.<sup>78</sup> One criticism towards the school supervision is that the focus on individual pupils' complaints takes attention away from the agency's more comprehensive social responsibility.<sup>79</sup> The individual complaints are not necessarily representative of the general problems concerning discrimination and degrading treatment in school.<sup>80</sup> The previous Discrimination Ombudsman's objection to supervision based on individual cases has been supported by a report from the Swedish Agency for Public Management. The report concluded that pupils and guardians with a certain background are more likely to make complaints and that this is often due to having better conditions to make their voices heard. In other words, the opportunity to report misconduct at school or by school personnel is primarily used by pupils and guardians who have sound finances, a high level of education and Swedish background.<sup>81</sup>

77 SOU 2020:79, p. 225.

78 DO, dnr LED 2015/221, 2015. See also Refors-Legge, Maria: *Skolans skyldighet att förhindra kränkande behandling av elever: En rättsvetenskaplig studie*, Diss., Stockholms universitet, 2021 and Hasselrot, Andrea, Kyhlbäck, Sanna och Holmberg, Kajsa: *Klagomålshanteringen i skolan: Förslag till ett mer ändamålsenligt system*, Statskontoret, 2020.

79 DO, dnr LED 2015/221, 2015. Cf. Hasselrot, et al.: *Klagomålshanteringen i skolan*, 2020.

80 The previous Discrimination Ombudsman even pointed out that it would be unreasonable to spend a disproportionate share of the agency's resources on matters that only affect individual pupils mainly belonging to groups with high socio-economical standing for whom the propensity to report deficiencies is high for various reasons. DO, dnr LED 2015/221, 2015. Cf. Hasselrot, et al.: *Klagomålshanteringen i skolan*, 2020.

81 The Agency for Public Management was also able to see that many guardians turned to, for example, the Schools Inspectorate for reasons other than was initially intended when the provisions on the school's responsibility for abusive treatment was introduced in 2006. Hasselrot, et al.: *Klagomålshanteringen i skolan*, 2020, p. 25; Refors-Legge 2021, p. 75. Cf. DO, dnr LED 2015/221, 2015. See also Lindström, Lisbeth – Perdahl, Solange: *The Swedish Schools Inspectorate's View of Swedish Schools*. *Journal of Education and Learning* 2014, Vol. 3, No. 3.



In recent years, the teacher perspective on school supervision in Sweden has become an increasingly important topic in the general debate. The Swedish Teachers' Unions have sounded the alarm and reported that agency *supervision of schools negatively affects their members' work environment*.<sup>82</sup> The discussion on supervision based on individual cases has also taken place on various debate pages in the news media and it has been discussed loudly by several representatives of Swedish parliamentary parties. At least two parliamentary parties have stated that they want to close down the BEO because the agency (according to the parties' representatives) has weakened the teachers' mandate, especially regarding disciplinary measures.<sup>83</sup> The Work Environment Agency has observed that there is an increased influx of opinions, reports, and threats of suing schools for damages and that this affects the school staff's work environment.<sup>84</sup> Inspections made by the agency show that many school principals are daily met by a massive influx of emails, text messages and phone calls from parents and guardians. The content is often negative, and the guardians demand immediate feedback. This has considered to be a new risk for school leaders' work environment.<sup>85</sup>

## 6.2 Finland

In Finland, the discussion on supervising schools have been scant probably because supervision has been considered unnecessary in the light of excellent learning outcomes and PISA results. Legal research on educational matters – especially from the children's rights perspective – was not strong before the 21<sup>st</sup> century. The growing importance of human

82 Bergling, Mikael: Var femte lärare tvekar att ingripa vid bråk, *Skolvärlden*, 2017, [www.skolvarden.se](http://www.skolvarden.se) and Rehnberg, Ylva: Lärare utsätts för orimliga föräldrakrav, *Läraren*, 2020, [www.lararen.se](http://www.lararen.se).

83 Canoilas, Viviana: Liberalerna kräver att regeringen lägger ner Barn- och elevombudet, *DN*, 2019, [www.dn.se](http://www.dn.se) and Dousa, Benjamin: Kvacksalveri styr skolan – inte hjärnforskning, *www.dn.se*, 2018.

84 Arbetsmiljöverket, *Nio av tio skolor i Stockholms län får krav efter inspektion*, [www.av.se](http://www.av.se), 2015.

85 Arbetsmiljöverket, *Nio av tio skolor i Stockholms län får krav efter inspektion*, 2015. Cf. Skolinspektionen, *Lokal klagomålshantering: för snabb hjälp till eleverna*, dnr 400-2016:6994, 2017, p. 29.

rights obligations in national legislation, court praxis and administration have strengthened the legal status of minors, including pupils at school. In last 10 years, education law researchers have often noted the problematic situation regarding the lack of systematic supervision of education sector. *The current supervision system in Finland has been found inefficient and problematic from the perspective of the legal protection of children.*<sup>86</sup>

In the annual report from 2019, *the PO has noted that there are problems in the legal knowledge, administrative processes and decision-making at school causing challenges in pupils' legal protection.* Education providers and even local education authorities may have gaps in the basic knowledge of good governance.<sup>87</sup> When analysing the complaints from the past five years it can be noticed that many schools are not aware of the very basics of pupils' rights. In most of the decisions by the PO, the fundamental rules from the Finnish Constitution must be referred to.<sup>88</sup>

Also, the Union of Upper-Secondary Students in Finland has brought up the issue of lacking legal protection of pupils at school. The Union refers to the surveys made by the Finnish National Health Authorities according to which 85% of students on the upper-secondary level feel that teachers do not intervene in bullying and that the third of the female students in secondary and upper-secondary school have faced sexual harassment. The Union is worried that *pupils are not aware of their rights and of the legal measures they could take.* They also mention that students might not act because of being afraid of getting stigmatised.<sup>89</sup>

86 Hakalehto-Wainio 2012, p. 329; Mäntylä, Niina: Bullying at school in Finland and Sweden. *Scandinavian Studies in Law* 2015 (61), p. 251; Lahtinen, Nina – Haanpää, Sanna: Oppilashuolto perusopetuksessa – näkökulmia moniammatillisen yhteistyön toimivuuteen, p. 167. In Hakalehto, Sivianna (ed.): *Lapsen oikeudet koulussa. Helsingin Kamari* 2015; Hakalehto, Sivianna – Lerwall, Lotta – Mäntylä, Niina: *Disciplinary measures in school – Finland and Sweden*, p. 115. *Nordisk Socialrättslig Tidskrift* (2021), pp. 85–117.

87 Annual Report 2019, p. 161. Annual reports of the PO are available at the website [https://www.oikeusasiamies.fi/fi\\_FI/web/guest/toimintakertomukset](https://www.oikeusasiamies.fi/fi_FI/web/guest/toimintakertomukset).

88 The Parliamentary Ombudsman has noted that in the education sector there are problems in respect of the basic legal skills, administrative processes and decision-making at school causing problems in pupils' legal protection. P. 161, *The Annual Reports of the Finnish Parliamentary Ombudsman 2016–2020* available at [https://www.oikeusasiamies.fi/en\\_GB/web/guest/annual-reports](https://www.oikeusasiamies.fi/en_GB/web/guest/annual-reports).

89 <https://lukio.fi/lukiolaiset-opiskelijan-oikeusturvakeinojen-kynnysta-madallettava/>.

In the education sector, municipal self-government has a very strong role. This causes *a noteworthy difference between the supervision of the social-, health- and early childhood education sector and the education sector without any legitimate reason*. For example, in basic education issues, unlike issues in other sectors, a Regional Administrative State Agency cannot investigate matters without a complaint.<sup>90</sup>

In Finland, the supervision system in the education sector is firmly based on school self-assessments but there is *no authority monitoring these assessments* unlike in many other countries. National evaluations of education concentrate on learning outcomes rather than the legality of the activities and operating of schools. It was mentioned above that FINEEC *only aims to evaluate the education system in general, instead of individual schools and the findings will not result in any sanctions*.<sup>91</sup> This has led to a critique because assessments have shown some schools having continuing problems, for example, with bullying or not offering support for pupils with special educational needs. The degree of protection of pupils' rights vary by municipalities and schools and equality in education cannot be ensured.<sup>92</sup>

*The Finnish system puts lots of expectations on the guardians to whom the system has left the role to supervise their children's rights in education*.<sup>93</sup> It is usually the guardians who must act, for example, by writing the complaint to activate the supervision process. As a result, especially the right to legal protection of children from families not having the possibility or capacity to act when facing legal problems, might not be realised. In Finland there is no similar body to BEO giving advice to pupils and their guardians and carry the economic risk in court cases. It is possible for children to receive legal aid without costs if the value of their personal property

90 Mäntylä 2015, p. 251.

91 Volmari 2019, pp. 14–15, 39–40.

92 Mäntylä, Niina – Karjalainen, Ville – Refors Legge, Maria – Pernaa, Hanna-Kaisa: Pukki kaalimaan vartijana: Kuka valvoo peruskouluja? p. 38. Kunnallisalan kehittämissäätiö 2021.

93 Mäntylä 2021, pp. 10, 28, 53. Lahtinen, Nina: Oppilaan oikeudet ja vanhempien vastuu. Helsinki 2011.

will not exceed 5 000 euros (Government degree on legal aid 388/2002). Typically, the parents and children are not aware of these possibilities.<sup>94</sup>

## 7. Reviewing the concerns on supervision from the child-rights perspective

Legislation is a fundamental tool to ensure the realisation of children's rights.<sup>95</sup> Monitoring the implementation of legal obligations is an essential element of legal protection. This is of even more importance in case of vulnerable rights-holders like minors. From that premise, it is interesting to examine the views and opinions described in chapter 6. In Finland there has been a concern on lacking supervision leading to the violations of pupils' rights while in Sweden the existing supervision seems to worry both the education providers and the supervising authorities.

The lack of systematic supervision and inspections in Finland has been explained by highlighting that schools and teachers have “earned” their autonomy, showing accountability and trustworthiness, and by mentioning the high quality of Finnish teacher education.<sup>96</sup> It is still usual to argue that “the culture of trust” has been working well even though pupils might suffer from unequal treatment.<sup>97</sup> These attitudes reflect the *unawareness on children's rights and the legal obligations of the school staff*. The lack of supervising how the school personnel fulfil their duties in respect of pupils' rights and how the international human rights obligations

94 Mäntylä et al. 2021.

95 UN Committee on the Rights of the Child, General comment No. 5: General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para 6) (27 November 2003) CRC/GC/2003/5, para 18–23.

96 Vainikainen, Mari-Pauliina, Helena Thuneberg, Jukka Marjanen, Jarkko Hautamäki, Sirkku Kupiainen, and Risto Hotulainen; How Do Finns Know? Educational Monitoring without Inspection and Standard Setting, p. 251. In book: S. Blömeke, J.-E. Gustafsson (eds.), *Standard Setting in Education, Methodology of Educational Measurement and Assessment*, pp. 243–259. Springer 2017.

97 Misukka, Heljä (2014): Koulutuksen suurvalta tienhaarassa, p. 14. Kunnallissalan kehittämissäätiön Polemia-sarjan julkaisu nro 93. A strong reliance and the high professionalism and ethics of teachers are also mentioned by the Trade Union of Education in 2016 when they presented their “Map of Equality”, a program aiming to secure equality in education in the future. [https://www.oaj.fi/globalassets/julkaisut/2016/tasa-arvontiekartta3\\_20160412.pdf](https://www.oaj.fi/globalassets/julkaisut/2016/tasa-arvontiekartta3_20160412.pdf).

are being met cannot be justified by regarding that a particular area of public activity is “trusted” while the legal protection of everyone has been safeguarded in the Constitution.

There have been some signs of changing attitudes at the education sector. In 2016, Trade Union of Education expressed *concern due to the lack of supervision on children’s educational rights*. According to the Union it is necessary to have means to intervene if the equal treatment and legal safety of pupils might be in danger.<sup>98</sup> This looks like a step towards a deeper “juridification of schools” which in Sweden has been considered as a problem because the supervision has been considered to affect negatively to the work environment of teachers.<sup>99</sup> One aspect of juridification is that people increasingly consider themselves entitled to certain things and see the legal system as a guarantor of these rights.<sup>100</sup> It has been proposed that juridification has reduced the teaching staff’s scope from teaching to a professional assessment and treatment of pupils and guardians.<sup>101</sup>

One aspect of juridification is a tendency to try and solve problems through formal, legal avenues instead of solving the issues on a local level. In Sweden, guardians often turn to supervisory authorities such as the

98 In their program the Union refers to the existing dispersed system of legal protection and presents a model that would bring together the authorities of Regional State Administrative Agencies, Children’s Ombudsman, the Parliamentary Ombudsman, and administrative courts to construct a new authority specialised in legal protection of pupils. The suggestion didn’t get much attention and has not been heard of after its presentation. [https://www.oaj.fi/globalassets/julkaisut/2016/tasa-arvontiekkartta3\\_20160412.pdf](https://www.oaj.fi/globalassets/julkaisut/2016/tasa-arvontiekkartta3_20160412.pdf).

99 Arbetsmiljöverket, Nio av tio skolor i Stockholms län får krav efter inspektion, 2015. Gustafsson, Håkan, Taking social rights seriously (I): Om sociala rättigheters status, *Tidsskrift för Rettsvitenskap*, 2005, pp. 439–490; Novak, Judit, Juridification of Educational Spheres: The Case of Swedish School Inspection, *Acta Universitatis Upsaliensis*, 2018, p. 64; Novak, Judit and Gustafsson, Håkan, God utbildning i lagens namn? Fejes, Andreas och Dahlstedt, Magnus (eds.), *Perspektiv på skolans problem – vad säger forskningen?* Pupillitteratur 2020, p. 237.

100 Blichner, Lars and Molander, Anders, Mapping juridification, *European Law Journal*, 2008, pp. 36–54; Lindgren, et al., *Skolans arbete mot kränkningar* 2020, p. 133. Critics of juridification often point out that the juridification process shifts the understanding between individuals and the state (including municipalities, regions, etc.) to a more legal and contractual customer relationship. Lindgren, m.fl., *Skolans arbete mot kränkningar*, p. 133.

101 Colnerud, Gunnel, *Lärares yrkesetiska dilemman och den ökande juridifieringen i Sverige*, *Etikk i praksis*, 2014, pp. 22–30.

Schools Inspectorate without first discussing perceived shortcomings in their children's education with school representatives at the local level first.<sup>102</sup> Guardians might threaten to report a school to the Schools Inspectorate to get teachers and principals to implement their desired measures in school.<sup>103</sup> In Finland, the lack of a systematic supervision system has led to a situation in which *problems must be solved at the school or municipal level* if there is no will or competence to file a complaint to Regional Authority or to overseers of legality. Based on a recent survey, this can be positive: if most of the cases are being solved at the school level, the process is faster and cheaper for society than external agencies' handling a matter. This demands that the school staff has enough competence in legal matters. In Finland, parents often find it difficult to get advice and help if there is a conflict between parents and school staff. The lack of procedures for this kind of situation can make guardians hesitant to act or contact external agencies especially when they have not been created for the similar purposes than Swedish Schools Inspectorate.<sup>104</sup>

In children's rights research the challenges to change traditional cultures of public authorities have been recognized. Also, in schools there might be persistence of traditional attitudes and beliefs about children which are at odds with realising children's rights.<sup>105</sup> Like in the context of juridification, the supervision might be seen as a threat for traditional working methods or fluent operation of the education sector. When eval-

102 Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, p. 34.

103 Many guardians and parents perceive that it is more effective to report malpractice in school to the Schools Inspectorate than to a representative at the local level because the Schools Inspectorate is a state supervisory agency and thus wields more power and authority. Supervisors and investigators at the Schools Inspectorate report that guardians who describe perceived misconduct to the agency often have very high expectations of what the Schools Inspectorate should help them with. Some guardians incorrectly believe that the Schools Inspectorate can force municipalities to provide more resources to a specific school or that the agency can relocate troubled pupils. Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, p. 34. See also Refors-Legge, *Skolans skyldighet att förhindra kränkande behandling av elever*, 2021 p. 75. Cf. DO, dnr LED 2015/221, 2015.

104 Also, the fear that acting might harm the school staff's attitude to their child can prevent parents from reacting to the violation of their child's rights. Mäntylä et al. 2021, p. 61.

105 Howe – Cowell 2005, p. 150.

uating the systems protecting children's rights it must not be forgotten that protecting the rights of individuals is the core of the legal system even if it would not be always experienced as positive by the authorities.<sup>106</sup> At school the demand for precise legal rules regulating activities and the need to ensure the lawful operation is especially crucial when education is compulsory.<sup>107</sup> An efficient system of supervising serves to promoting legal safety of the child.<sup>108</sup>

From the child-rights perspective, it is obvious that regardless of the negative connotations of “juridification” it is the legal obligation of the state to ensure that in all actions concerning children, the best interests of the child – the realisation of the children's rights – shall be a primary consideration. The other interests will not be given as strong weight and they might even put aside.<sup>109</sup> If the realisation of children's rights has a negative effect for example in the teachers' working environment, that must be taken care of but not by violating the rights of pupils. Both Swedish and Finnish societies have gone through juridification meaning lots of new obligations for the public sector and implementation of the international human rights obligations. In fact, the reason for the extensive supervisory legislation of schools in Sweden is to ensure that Swedish legislation fulfils these obligations. The legislated supervision of Swedish schools through agencies like the Schools Inspectorate and the Discrimination Ombudsman is meant to safeguard children's human rights.

In this regard, Sweden is ahead of Finland, where there are no specific channels created especially for pupils to react to the violations of their rights and the available channels are fewer compared to Sweden. Nevertheless, neither of the systems seems to fully safeguard access to justice

106 This thematic is thoroughly examined in the doctoral thesis of Virve Toivonen: Toivonen, Virve-Maria, *Lapsen oikeudet ja oikeusturva. Lastensuojeluasiat hallintotuomioistuimissa*. Alma Talent 2017.

107 Hakalehto-Wainio 2012, pp. 91–92.

108 Toivonen emphasises the access to justice approach to children's rights: the juridical system should maximise access to justice for all members of society – also children. De Godzinsky, Virve: *Legal Safety of the Child in Court Procedures of Care Orders*, p. 47. *Nordisk Socialrättslig Tidskrift* 2013 (7–8), pp. 43–80.

109 On weighting children's rights with competing interests in the context of the CRC Eekelaar – Tobin 2019, pp. 95–99.

for pupils when reflected against the recommendations of the Committee on the Rights of the Child. The General Comment 5 calls for “effective, child-sensitive procedures available to children and their representatives” including “child-friendly information, advice, advocacy, and access to independent complaint procedures and to the courts with necessary legal and other assistance” (CRC/GC/2003/5, para 24). The Committee has identified a need for a specific school complaint mechanism in several state party reports. It is important to provide children with a possibility to bring forth any problems they might have experienced at school.<sup>110</sup> To improve children’s access to justice, the Finnish PO has established a special web page for children where information is given on when and how it is possible to complain to the PO. In practice, the number of complaints from minors is very low.

One important aim of the Swedish supervisory legislation has been *to promote the participation of children within the legal system*. It has been demonstrated that Schools Inspectorate is well known among Swedish pupils.<sup>111</sup> With the current school legislation and existing supervisory bodies it is easier for pupils to “assert their right” in court.<sup>112</sup> Before the implementation of the current Education Act and its rules about schools’ responsibilities for issues like degrading treatment and discrimination, there were examples of failed tort proceedings between individual pupils and school boards where the children weren’t awarded damages even though they had been subjected to degrading treatment and harassment.

In a Swedish high-profile “Johanna-case” the Swedish Supreme Court found that a pupil called Johanna had been subjected to degrading treatment but the court concluded in a final assessment that “[...] the school had done what could reasonably be requested” and thus ruled to

110 Parkes 2015, p. 136.

111 Still, the report also shows that pupils primarily turn to school staff if they consider themselves mistreated. Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, p. 31; Skolinspektionen, *Lämna uppgifter om missförhållanden*, 2020, [www.skolinspektionen.se](http://www.skolinspektionen.se).

112 BEO, *10 år med BEO*, 2016, p. 14.



Johanna's disadvantage in the question of damages.<sup>113</sup> Johanna had been subjected to extensive degrading treatment (bullying) from seventh to ninth grade in her local school without her teachers or her school taking steps to stop the bullying. This led to mental health problems for her later life and an incomplete education. After the Supreme Court's ruling, it became clear that it was difficult for vulnerable pupils to obtain redress through the usual means of tort law. Individual pupils were forced to take great economic risks to assert their rights against municipalities and school boards since they were at risk of ending up to pay the other party's legal costs.

At the same time, the surveys show that many children do not know what they can report to the Schools Inspectorate or how they should go about making a report to the agency.<sup>114</sup> Reports from the Children's Ombudsman and the NGO Children's Rights in Society (BRIS) also show that children in many cases are dependent on their guardian initiating a claim with the relevant supervisory agency or approving that the supervisory agency, e.g., pursue an action for damages or discrimination.<sup>115</sup>

When looking for the opinions on supervision, we noticed the lack of information on views of pupils. It is essential to examine pupils' views on how their rights are being realized and on the supervision system. The Committee on the Rights of the Child has noted about education that "all decisions on measures and actions concerning a specific child or a group of children must respect the best interests of the child or children" (CRC/C/GC/14, para 79). It is a human right of pupils to express their views also on this issue. It is also essential to be able to build a system that is in the best interests of them. This should be kept in mind when developing the supervision of schools.

113 Johanna had claimed damages from Grums municipality for the damage she suffered due to the abuse she suffered by other pupils at the school. Johanna won against the municipality in the district court, but the municipality appealed, and the case was in the end tried in the Swedish Supreme Court. NJA 2001 p. 755. Se also Schultz, Mårten, *Om skadestånd vid mobbning*, JT, 2001, pp. 915 ff.

114 Barnombudsmannen, *Dom tror att dom vet bättre*, 2020, p. 7; BRIS, *Hur har barn det? Om barns livssituation – trender, utmaningar och möjligheter*, 2018, p. 48 and Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, pp. 16–19.

115 Hasselrot, et al., *Klagomålshanteringen i skolan*, 2020, p. 24.

## 8. Concluding remarks

So far, the research on supervision of schools has not been observed from the child-rights perspective. In this article we have aimed to bring up this element of supervision. We have found that the supervision of the Swedish schools is quite extensive compared to Finland where there is no systematic supervision of schools. Also, in Sweden there are many different supervisory authorities. In Finland there are not as many agencies to file complaints on educational matters.

In Sweden, the schools are given feedback on the legality of their operation which promotes the knowledge of school personnel as well as pupils and guardians and even more widely because of the public nature of the reports. This has influence on the rights of pupils. The Swedish system reaches the general challenges in protecting pupils' rights unlike in Finland where occasional individual complaints don't build a comprehensive picture of the legal challenges in education. The school personnel is not being informed on the decisions from the complaint authorities nor are the pupils or their guardians.<sup>116</sup> Thus the preventive and informative influence of the system is weak.

It has been noted that around the world states have generally failed to incorporate the CRC into education legislation and policy, to incorporate children's rights into teacher training, and to advance the teaching and practice of children's rights and human rights in schools.<sup>117</sup> In Finland, one of the main obstacles on realising children's rights in education seems to be the lack of the systematic and rights-based approach in everyday life at school.<sup>118</sup> Also in Sweden, the underlying challenge in the education sector seems to be the lacking knowledge of children's rights. Children themselves remain largely unaware of their human rights.

According to the CRC (article 42) it is a human right of children to know and understand their rights and the rights of others. It is a duty of

116 The decisions of the Regional Administrative Agencies are not published and thus not available for the education sector in general.

117 Covell – Howe – McGillivray 2017, p. 296. In Martin D. Ruck, Michele Peterson-Badali, & Michael Freeman (eds): *Handbook of Children's Rights: Global and Multidisciplinary Perspectives*, p. 298. Routledge 2017.

118 Tolonen – Koulu – Hakalehto 2019, pp. 175–176.

schools to provide pupils with children's rights education.<sup>119</sup> There is a need to ensure that pupils are aware of their rights and have opportunities to demand them as well as to respect the rights of the others.<sup>120</sup> The more schools will take care of this duty, the less there will be violations, misunderstandings, and complaints on rights.<sup>121</sup>

According to Covell, Howe and McGillivray, one of the primary obstacles to implement children's rights in education is "a reluctance among educators to engage in the comprehensive re-culturing of schools that rights-consistent schooling requires".<sup>122</sup> We would prefer to believe that the challenge lies merely in the ignorance concerning pupils' rights in general and in the ignorance with respect to the education provider's duty to guarantee the observance of these rights.<sup>123</sup> We also consider that

119 Howe – Covell 2005 and Covell – Howe – McGillivray 2017, p. 296.

120 Howe, Brian R. – Covell, Katherine: Empowering children. Children's rights education as a pathway to citizenship. University of Toronto Press 2005, p. 19. Lundy and Martinez Sainz point out that children are observing and experiencing injustices in their own lives and the lives of others at school. They have noted that human rights education does not often include learning about the breaches of human rights in the context of school. It is important to train teachers and teach pupils to identify and challenge the violations of rights. Lundy, Laura – Martinez Sainz, Gabriela: The role of law and legal knowledge for a transformative human rights education: addressing violations of children's rights in formal education. Human Rights Education Review, Vol. 1, No. 2 (2018), pp. 4–24.

121 In Sweden, it has been proposed that government agencies like School Inspectorate and School and National Agency for Education should take measures to make the activity that the agency is responsible for known, accessible and adapted to children. SOU 2016:19, pp. 63; 238–324.

122 Covell – Howe – McGillivray. Implementing Children's Education Rights in Schools in Martin D. Ruck, Michele Peterson-Badali, & Michael Freeman (eds.) Handbook of Children's Rights: Global and Multidisciplinary Perspectives, pp. 296–311. Routledge 2017.

123 It has been noticed that only few states have mainstreamed children's rights into teacher education or the system governing teacher qualification. In Sweden there is to some extent training for becoming teachers but in Finland the situation is weaker. Jerome, Lee – Emerson, Lesley – Lundy, Laura – Orr, Karen: Teaching and learning about child rights: A study of implementation in 26 countries. Queen's University Belfast and Unicef 2015, p. 23. According to the recent study, Swedish teacher education seems to be associated with so called Global Citizenship Model providing pupils with knowledge related to universal values and fostering compassion. It does not empower pupils to promote and defend their own and other pupils' rights. Olsson, Åsa: Children's rights in Swedish teacher education. Human Rights Education Review, Vol. 3, No. 2 (2020), pp. 49–67.

not enough attention has been paid to the role of the management of the education provider in capacity building ensuring that the staff is aware of their legal duties. Promoting and protecting children's rights at school is possible only if school personnel is capable of interpreting the school legislation.<sup>124</sup> If the management and staff are appropriately trained to foresee and handle the common legal problems in school, there will be less complaints from guardians and the supervision systems won't be too loaded.

Sormunen has identified six main measures the Committee on the Rights of the Child focuses on when describing what kind of active measures states need to take to implement the obligation to consider the best interests of the child: legislative measures, integration in practices, cooperation, awareness-raising and training, budgeting, and monitoring.<sup>125</sup> This is a solid starting point also in Sweden and in Finland when developing the education system towards better realising children's rights.

In his famous article "Taking Children's Rights More Seriously", Michael Freeman argues that the true recognition of children's rights requires implementation of these rights in practice.<sup>126</sup> The more carefully the rights are implemented into school legislation, the better the school personnel is aware of their responsibilities and the more parents and pupils are aware of children's rights, the closer we are to securing children's rights at school in conformity with the CRC. By supervising to ensure that this happens – also at school – is taking children's rights more seriously.

124 Hakalehto – Lerwall – Mäntylä 2021, p. 117. This is also a matter of the legal safety of school personnel.

125 The Committee suggests that states should create structures that advance the implementation of human rights in general. Sormunen, Milka: A Focus on Domestic Structures: Best Interests of the Child in the Concluding Observations of the UN Committee on the Rights of the Child. *Nordic Journal of Human Rights* 2020, pp. 100–121.

126 Freeman, Michael: Taking Children's Rights More Seriously. *International Journal of Law and the Family* 1992, pp. 52–71.

