

THE CONSTITUTIONAL RIGHT OF PARENTS TO BRING UP THEIR CHILDREN IN THE CONTEXT OF ATTEMPTS TO AMEND THE EDUCATION LAW

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Abstract. In recent years, there has been a significant amount of public debate, particularly from conservative and right-wing circles, regarding the issue of external organizations, notably NGOs, conducting extracurricular activities in Polish schools. In some cities, parents decided to let their children take part in extracurricular activities without full knowledge and awareness of the content of these activities and the teaching aids applied to them. There were frequently justified suspicions of children and young people being demoralised during these classes, particularly in relation to gender ideology and the so-called “hard” sex education. The article examines three pieces of legislation regarding education: 1) the Education Law Amendment Act on the Government’s Initiative, 2) the Education Law Amendment Act on the Deputies’ Initiative, and 3) the Citizens’ Bill “Let’s Protect Children. Let’s support parents.”

Keywords: children; parents; school; Education Law

INTRODUCTION

The last years of the functioning of schools in Poland have been filled with discussion and wide interest of public opinion, especially conservative and right-wing, among others, as to the problem of conducting extracurricular activities in schools by external entities, especially NGOs. In some cities, parents decided to let their children take part in extracurricular activities without full knowledge and awareness of the content of these activities and the teaching aids applied to them. There were suspicions, often justified, of demoralizing children and young people during such classes, especially regarding gender ideology and the so-called hard sex education. In response to this state of affairs, first of all recognising the constitutional right of parents to educate their children according to their convictions,¹ but also

¹ Article 48 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483 as amended): “1. Parents have the right to bring up their children in accordance with their own convictions. Such upbringing should take account of the child’s maturity and of his or her freedom of conscience, religion and belief. 2. Restriction or deprivation

the constitutional obligation to protect children from demoralization,² first the Council of Ministers, then a group of deputies to the Sejm of the Republic of Poland, and finally citizens numbering more than 250,000 decided on legislative initiatives aimed at amending the education law³ in such a way that extracurricular activities in schools would be totally transparent, and that parents' decisions about their children's participation in such activities would be totally conscious and responsible.

1. THE RIGHT OF PARENTS TO BRING UP THEIR CHILDREN

Article 48 of the Constitution recognises the right of parents "to bring up their children in accordance with their own convictions" (paragraph 1) and establishes the right to restrict or deprive parental rights, but "only in cases specified by law and only on the basis of a final court decision" (paragraph 2). These provisions complement the normative content resulting from the principle of family protection.⁴

The relationship between the first („Parents have the right to bring up their children in accordance with their own convictions”) and the second sentence of paragraph 1 (“This education should take into account the degree of maturity of the child, as well as his freedom of conscience, religion and belief”) may give rise to interpretative doubts and thus lead to misunderstandings. For example, it is possible to point out some possible disputes regarding the scope of parents' right to raise children, attempts to establish standards of proper parenting depending on the age of the child or demands to check whether the child's maturity is taken into account. Depending on the interpretation, parental rights could be significantly curtailed, which, consequently, would not serve the family.

The source of these interpretative doubts lies in the scope of the matter covered by the provision of that article. The constitutional regulation (second sentence of paragraph 1) covers the issue which, as it seems, is not a matter of law at all. Considering – in the process of upbringing – the degree of maturity of the child, as well as his freedom of conscience and religion and his beliefs, requires an individual approach to the child (i.e. a high degree of flexibility). It is in fact a matter of preparing parents for their educational role and not imposing legal norms, which by their very

of parental rights may occur only in cases specified by law and only on the basis of a final court decision.”

² Article 72 of the Polish Constitution: “1. The Republic of Poland ensures the protection of children's rights. Everyone has the right to demand that public authorities protect a child from violence, cruelty, exploitation and demoralization.”

³ All these initiatives have been dubbed *Lex Czarnek* by the mainstream media.

⁴ In detail, see Dobrowolski 1999; Czarnek and Dobrowolski 2012.

nature establish a rigid framework. Such wording of the provision is an expression of the organizer's great mistrust towards parents. After all, it does not seem possible for parents to allow themselves to disregard the maturity of the child to any degree, even to the smallest extent. For these reasons, the second sentence of paragraph 1 should be deleted and replaced by a provision stating that the aim of education is the best interests of the child.

However, even on the basis of this provision, the principle of raising children by parents is indisputable. It is expressed directly in the provisions of the Constitution, not only in the discussed Article 48, but also in Article 53(1) of the Constitution, which indicates that parents have the right to the moral and religious upbringing of their children in accordance with their own views, and reaffirmed in Article 70(3) by giving parents the freedom to choose a non-public school for their children. The requirement to take into account the degree of maturity of the child, his freedom of conscience and religion, as well as his beliefs, refers to the process of upbringing itself, and does not change the subjects entitled to upbringing. It is only a guideline for parents on how to exercise their right. But they are the subjects most entitled to take into account the degree of maturity of the child in the upbringing process, after all, they know their children best and are responsible for their behaviour. It should therefore be stressed that although the beliefs and attitudes of the child are to be taken into account by the parents in the process of upbringing, according to the degree of development and maturity of the child, this does not mean that they are to be accepted uncritically, which would mean at the same time "abandoning further upbringing by the parents at a given stage, since their child already has certain beliefs" [Sarnecki 2003, 4].⁵

Bringing up children is, on the one hand, a manifestation of the private and personal involvement of parents in the lives of those closest to them, for whom they bear full legal responsibility; on the other hand, it is the clearest example of the social function of the family: after all, a "well" brought up child will in the future be an important pillar of the society in which he or she grows up and lives. *A contrario*, a "poorly" brought up child will be a problem for the society, the subject of necessary care and rehabilitation measures on the part of social institutions and state authorities [ibid., 1-2].

Education (bringing up) means instilling and strengthening in children certain manners of behaviour that are considered "good" in the society, a certain worldview, a system of values, beliefs, and moral principles. In short,

⁵ It is difficult to demand a passive attitude from parents and respect the child's freedom of conscience and religion when a 10-year-old son does not want to go to church with them on Sunday because ... for example, he does not believe in God, or prefers a Muslim or atheistic value system that he has drawn from the environment or from television.

upbringing is teaching how to distinguish between “good” and “evil”, passed on by parents to their children. It is nothing but the disposition of man to the right action. Man is not born fully ready for life, but only has natural dispositions that require improvement and proper direction. As the ancient classics asserted, “that which is natural (sensual, lustful, animal) must be cultivated (Greek *paideia*, Latin *cultura*) through the process of education, ennobled and subjected to the service of the truth, goodness and beauty” [Zalewski 2003, 11-12].⁶

In this context, education also appears as the duty of parents, consisting in teaching children to be – as the March Constitution put it – “the right citizens of the Homeland”, the citizens who, thanks to the education received primarily from their parents, will be able to find their place in the future society governed by the principles and values derived, among others, from the current Constitution [Sarnecki 2003, 3].

Parents have the right to raise their children in accordance with their convictions, and thus have the freedom to do so and enjoy freedom from interference by other persons, institutions and organizations. The obligations of these entities boil down first and foremost precisely to the prohibition of interference [ibid., 2]. This is particularly evident in the example of the Children’s Ombudsman, who, as the guardian of children’s rights, has the duty to intervene when these rights are violated, but always with respect for parents’ responsibilities, rights and obligations and taking into account the fact that the child’s natural environment for development is his or her family.⁷

The right to education is of paramount importance for the protection of the very existence of the family. The process of education is one of the main tasks of the family, it is a good that requires protection by the state. Without this permission, normal family life is almost impossible. Interference by the State in the affairs of the family, in accordance with the principle of safeguarding its well-being and stability, must be particularly prudent and carried out only by an independent tribunal. The exclusive power of the court to restrict or deprive parental rights (see Article 48(2) of the Constitution) guarantees parents that no one else (including other representatives of the state) will interfere in their family’s problems. Although this provision relates strictly only to the restriction or deprivation of parental rights, it cannot be interpreted in isolation from the general (everyone’s) right to a court (see Article 45) and from the principle of protection of the family. Therefore, it must be considered that only the court has the power to interfere

⁶ See also Jaroszyński 1994, 31-42.

⁷ See Article 1(2-3) of the Act of 6 January 2000 on the Ombudsman for Children (Journal of Laws No. 6, item 69 as amended).

in any way with the inviolability (subjectivity) of the family, including, first and foremost, to assess the way in which parental authority is exercised, also with regard to “taking into account the degree of maturity of the child.” The doctrine of family law regards the right to education as part of a whole series of duties and powers that parents have in relation to their children, referred to as “parental authority.”⁸ The Constitution does not use that term (this does not mean, however, that under ordinary legislation such an institution has no reason to exist, because the essence of a given legal institution depends not so much on its name as on the content of the regulations regulating it [Winiarz 1994, 210]), but on its basis it can be said that parents are granted power (parental rights) in relation to their children.

For this reason, the role of parents should also be strengthened in the life of the school in which their children attend. Since it is up to them, and not to teachers, to have parental authority and the resulting right to bring up children in accordance with their convictions, parents should be the ones who have the first opportunity to familiarize themselves with the content of extracurricular activities at school. Only then will they be able to make an informed decision whether or not to allow their children to participate in such activities. To this end, appropriate legislative initiatives have been taken.

2. THE ACT ON THE AMENDMENT OF THE EDUCATION LAW ON THE INITIATIVE OF THE GOVERNMENT

In the Act of 13 January 2022 amending the Act – Education Law and Certain Other Acts, which was finally vetoed by the President of the Republic of Poland on 2 March 2022, the Sejm of the Republic of Poland proposed that in Article 86 para. 2, add a paragraph. 2a-2g reads as follows: “If the agreed conditions of activity [...] provide for the conduct of classes with pupils, the organization and conduct of these classes shall require obtaining a positive opinion from the educational supervisor [...] concerning the conformity of the programme of these classes with the provisions of law. [...] In order to obtain the opinion referred to in para. 2a, the headmaster of the school or an educational institution, no later than 2 months before the start of classes referred to in para. 2a, shall transmit, as appropriate, to the educational supervisor or to the specialized supervisory unit

⁸ Parental authority is a set of interrelated rights and obligations of parents towards the person and property of the child, which serve to protect the child’s well-being and prepare the child for an independent life. This authority consists of three elements: 1) custody of the child, 2) representation, and 3) administration of the child’s property. The above definition is not a statutory definition; it has been established by the doctrine of family law. See: Winiarz 1994, 210; Smyczyński 1997, 139.

referred to in Article 53 para. 1, the programme of classes and materials used for the implementation of the programme of classes, as well as the positive opinions of the school or the institution board and the parents' board referred to in para. 2. The opinion referred to in para. 2a, as the case may be, the educational supervisor or the specialized supervisory unit referred to in Article 53(2) issue within 30 days from the date of receipt of the documents referred to in para. 2b. Failure to deliver an opinion within that period shall be tantamount to delivering a favourable opinion. The headmaster of the school or of an education institution, after obtaining a favourable opinion from the educational supervisor or the specialized supervisory body referred to in Article 53(3), as the case may be first or after the expiry of the time limit for issuing the opinion referred to in para. 2c, is obliged before the start of the classes referred to in para. 2a, present to the pupil's parents and, in the case of adult pupils, to these pupils: 1) full information on the objectives and contents of the course programme; 2) a positive opinion from the educational supervisor or the specialist supervisory body referred to in Article 53 para. 1 – if they have been issued; 3) positive opinions of the school or institution board and the parents' board referred to in p. 2.

The principal of the school or of an educational institution shall make the materials – used for the implementation of the programme of classes – available to the parents of the pupil, and in the case of adult pupils to these pupils, upon their request. Participation in the classes referred to in para. 2a, requires the written consent of the parents of the pupils, and in the case of adult pupils – of those pupils.

Opinions referred to in para. 2a, are not required for the classes referred to in para. 2a, organized and conducted: 1) as part of a task entrusted to the public administration, or 2) by scouting organizations under the Honorary Protectorate of the President of the Republic of Poland operating in the territory of the Republic of Poland.⁹

The explanatory memorandum to the government bill states that “the bill also contains other amendments of a more precise nature. These amendments concern those provisions which most often give rise to questions of interpretation. These are primarily changes in the scope of activities carried out by associations and other organizations whose statutory objective is educational activity or to expand and enrich the forms of didactic, educational, caring and innovative activity of a school or institution. According to the draft law, the headmaster of a school or an educational institution will be obliged to obtain a positive opinion from the curator of education, and in the case of a school and artistic institution and an institution referred

⁹ Sejm Printing No. 1812, <https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=1812> [accessed: 05.11.2023].

to in Article 2 point 8 of the Act of 14 December 2016 – Educational Law, for students of artistic schools – from a specialized supervisory unit referred to in Article 53(1) of the Act. 1 of this Act, prior to the commencement of classes and to present to the parents of the pupil or an adult pupil the information about the objectives and content of the class programme, the positive opinion of the educational supervisor and the positive opinions of the school or institution board and the parents’ board, and at the request of the parent or adult pupil – also materials used for the implementation of the class programme. Such a procedure will increase the awareness of pupils and parents of the content of the proposed programmes. The parent should have the right to decide on the participation of the child in the activities, as well as to obtain information, e.g. as to the professional experience, competences and skills of the persons conducting the activities, within the scope of the activities.”

The public was also very interested in the issue of the role of the Curators of Education in the proposed procedure for admitting non-governmental organizations to extracurricular activities. The explanatory memorandum to the Act clarifies that “the constitutional duty of public authorities is to ensure universal and equal access to education for citizens. The Basic Law recognises the importance of pedagogical supervision of schools and the need to define its rules by statute. Thus Pedagogical supervisory bodies, in particular educational supervisors, play an extremely important role in the education system. The pedagogical supervisory authority, which has the appropriate tools and a specialized unit, is obliged to pay particular attention to the proper quality of education in the broad sense (training, upbringing and care) and to its examination and evaluation. The Curator of Education is a body within the unified administration in the voivodship, which, on behalf of the voivodship, performs the tasks and competences in the field of education, defined in the Act of 14 December 2016 – Education Law (Journal of Laws of 2021, item 1082) within the voivodship. The Curator of Education, in addition to the tasks resulting from the provisions of the Act, also carries out tasks specified in other legal acts, including the Act of 26 January 1982 – The Teacher’s Charter (Journal of Laws of 2021, item 1762). Pedagogical supervision is one of the tasks carried out by the curator of education. It should be stressed that the other tasks carried out by the educational supervisor are closely linked to the pedagogical supervision exercised by that authority. The curator of education carries out these tasks, having comprehensive knowledge about the functioning of schools and institutions, which he obtains as part of his pedagogical supervision. At the same time, the curator of education has a statutory obligation to cooperate with other bodies and organizations in matters concerning the conditions of development of children and young people, to support teachers, schools and their

leading bodies. In order to ensure that schools and institutions carry out their teaching, education and care tasks properly, it is essential that the educational supervisor has a strong voice in local decision-making on important issues concerning the functioning of the units of the education system.”

The developer also pointed out that “a different role in the education system is played by the bodies running schools and institutions, including local government units, whose statutory obligation is to run public schools and institutions. The task of the governing bodies is, in particular, to ensure the operating conditions of the school or institution, to equip it with teaching aids and equipment necessary for the full implementation of statutory tasks, to carry out renovations of school facilities and necessary investments, to provide administrative services, including legal, financial, organizational services of the school or institution, as well as to carry out activities related to labour law vis-à-vis the headmaster of the school or institution. The school and its functioning is thus an area in which the competences of the pedagogical supervisory authority and the school management authority intersect.”

The explanatory memorandum also explains that „as part of pedagogical supervision, an assessment is made of the state of compliance by the school or institution with the legal provisions concerning didactic, educational and care activities and other statutory activities of the school or institution. If irregularities are found, i.e. non-compliance with the law, recommendations are issued. Signals about cases of non-implementing by school or institution headmasters recommendations issued as a result of pedagogical supervision and the lack of effective tools for enforcing this obligation were reported to the Ministry of Education and Science (formerly the Ministry of National Education) by educational supervisors. Information on such situations was already provided before the introduction of temporary restrictions on the functioning of units of the education system in connection with the prevention, control and control of COVID-19.” It was additionally stressed that “education supervisors also provided the Ministry of Education and Science (formerly the Ministry of National Education) with information on problems of pedagogical supervision in schools and non-public institutions, pointing out that it was not possible to carry out pedagogical supervision in a school or a non-public institution. Such situations resulted from avoidance of contact by the headmaster of the school or institution or the supervisor (often the same person), failure to reply to letters sent to the headmaster (the supervisor), failure to provide documentation during the performance of pedagogical supervision at the school or institution.” And although “failure to implement recommendations by school or institution principals and to prevent non-public pedagogical supervision from being carried out in a school or institution is not common, it is

nevertheless impossible, given the importance of pedagogical supervision, to leave the educational supervisor without effective means of influence in such cases.” Therefore, “it is extremely important to secure the conditions for the proper performance of teaching, educational and care tasks by schools and institutions, which justifies the introduction in the draft law of solutions strengthening the role of pedagogical supervisory authorities, including the curator of education, when making decisions at the local level regarding the functioning of schools and institutions.”

3. THE ACT ON THE AMENDMENT OF THE EDUCATION LAW ON THE INITIATIVE OF THE DEPUTIES

The veto of the President of the Republic of Poland blocked the effects of legislative work undertaken to create transparency of activities of non-governmental organizations in schools and to realize the constitutional right and priority of parents to educate their children in accordance with their world views. However, on the day of the veto, the President of the Republic of Poland agreed with the Minister of Education and Science that the deputies of the Sejm Committee on Education, Science and Youth, together with the Ministry of Education and Science, would consult on new legislative solutions on this subject together with the ministers in the Chancellery of the President of the Republic of Poland.¹⁰

The regulations developed in this way were recorded in the new Act of 4 November 2022 amending the Education Law Act and certain other acts.¹¹ This time, the legislator proposed that in Article 86(2), add a paragraph. 2a-2n with the following adjustment.

An association or other organization intending to operate in a school or in an educational institution would be required to send to the headmaster of that school or institution, in electronic and paper form, information including in particular: 1) the description of the past activities of the association or other organisation; 2) objectives and contents to be implemented in the school or institution as part of the activities carried out by an association or other organization; 3) the description of the materials used to achieve the objectives and content referred to in p 2.

Subsequently, the headmaster of the school or institution, within 7 days from the date of receipt of the above information, would be required to: 1) inform the parents of pupils of the intention of the association or other

¹⁰ Such arrangements were made in an interview between the author and the President of the Republic of Poland Andrzej Duda.

¹¹ Sejm Printing No. 2710, <https://www.sejm.gov.pl/Sejm9.nsf/PrzebiegProc.xsp?nr=2710> [accessed: 05.11.2023].

organisation to take up activities in that school or establishment and to hold consultations thereon; 2) provide the parents of the pupils with the information referred to in para. 2a; 3) provide the school or institution board and the parents' board with the information referred to in para. 2a.

All the information should be communicated to the parents of pupils in the manner customary at the school or institution, in particular by placing it prominently on the premises of the school or institution or on its website.

The school or institution's board and the parents' board would have to give an opinion on the matter within 21 days of receipt of the information referred to in paragraph 1. 2a, or to receive additional materials, information or clarifications. Before issuing its opinion, the parents' board should consult the parents of the pupils on the association or other organization taking up activities at the school or institution and could request from the headmaster of the school or institution any additional materials, information or explanations necessary to give the opinion referred to in paragraph 1. 2. The Parents' Council would be obliged to inform the parents of the pupils of the start and end dates of the consultation, except that the consultation could last no less than 7 days.

Under these provisions, pupils' parents could at any time submit to the head of the school or institution their views on the activities of the association or other organization in question. If, on the other hand, the agreed conditions of activity provided for the conduct of classes with pupils, the organization and conduct of these classes would require obtaining a positive opinion from the educational supervisor or a specialist supervision unit. In order to obtain this opinion, the headmaster of the school or institution would, no later than 2 months before the start of the classes, present the programme of classes and the materials used for the implementation of the programme, as well as the positive opinions of the school or institution's board and the parents' board to the educational supervisor. Such an opinion would be issued by the supervisor of education or a specialized supervisory unit within 30 days of receipt of the documents, and failure to issue an opinion within that period would be tantamount to issuing a positive opinion. The principal of the school or institution, after obtaining a positive opinion from the educational supervisor or a specialist supervisory unit, or after the expiry of the deadline for issuing such opinion, was obliged to present to the pupil's parents and, in the case of an adult pupil, to the pupil: 1) full information about the objectives and contents of the course programme; 2) a positive opinion of the educational supervisor or a specialist supervisory unit, as appropriate – if they had been issued; 3) a positive opinion of the school or institution board and the parent board.

The director of the school or institution was to make available to the parents of the pupil, and in the case of an adult pupil – to the pupil, upon their request, the materials used for the implementation of the programme of classes. Participation in classes would, of course, require the written consent of the student's parents, and in the case of an adult student – of that student. The whole procedure was abandoned in the case of the classes organized and conducted: 1) as part of a task entrusted to the public administration, or 2) as part of the tasks carried out by the National Centre for Counteracting Addiction, or 3) by a scouting organization under the Honorary Protectorate of the President of the Republic of Poland operating in the territory of the Republic of Poland, or 4) by the Polish Red Cross operating in the territory of the Republic of Poland under the supervision of the Prime Minister.

The explanatory memorandum of the second draft law on transparency of non-curricular activities conducted at school by non-governmental organizations states that “the changes introduced are aimed at strengthening the position and voice of parents and their representatives in the social body of the school (parents' council) in the area of deciding on the content addressed to their children by associations or other organizations referred to in Article 86(1) of the Act of 14 December 2016 – Educational Law. The Parents' Council will be empowered to consult all parents before issuing the opinion required for the headmaster of the school or an educational institution to authorize the institution or an association or other organization. Tasks have been set for the principal and the parents' board to conduct the consultation on the basis of information received from the applicant association or other organization (the information should include the description of the activities of the association or other organization to date, the objectives and content to be pursued by the school or establishment and the description of the materials used). Only after consultation will the Parents' Council be able to give its opinion. The powers of the Parents' Council will also be extended to monitor the activities of associations or other organizations operating in the school or institution and to inform the parents of pupils about their results. Thanks to this regulation, parents will gain wider information about the organization's offer, its achievements and potential effects in terms of supporting their educational impact. The way of conducting consultations and the manner and frequency of informing parents of pupils about the results of monitoring will be specified in the rules of its activities.

In addition, according to the draft law, if the agreed conditions of activity are to be provided for classes with pupils, the headmaster of the school or institution will be obliged to obtain a positive opinion from the curator of education, and in the case of a school and artistic institution and an institution

referred to in Article 2 point 8 of the Act of 14 December 2016 – Educational Law, for students of artistic schools – a specialized supervisory unit referred to in Article 53(1) of the Act. 1 of the above-mentioned Act, prior to the commencement of classes and to present to the parents of the pupil or an adult pupil full information on the objectives and contents of the class programme, the above-mentioned positive opinion of the pedagogical supervisory authority and the positive opinions of the school or institution board and the parents’ board, and at the request of the parent or an adult pupil – also materials used for the implementation of the class programme. Such a procedure will increase the awareness of pupils and parents of the contents of the proposed programmes. The parent should have the right to decide on the participation of the child in the classes, as well as to obtain information, e.g. as to the professional experience, competences and skills of the persons conducting the classes, in the scope covered by the classes.

4. CITIZENS’ BILL “LET’S PROTECT CHILDREN. LET’S SUPPORT PARENTS”

The President’s unexpected veto of the Parliamentary Act amending the Education Law, applied on 16 December 2022, led to the mobilization of the parents themselves, who, in the spring of 2023, in the number of more than 250,000, submitted a citizen’s bill amending the Education Law Act to the Marshal of the Sejm of the Republic of Poland. The legislative process carried out on the basis of this draft led to the adoption of the Act of 17 August 2023 with the same title.¹² It is proposed that Article 86(1) of the Act should be amended. 1 add the following provision: “Associations and other organizations promoting issues related to the sexualisation of children shall be prohibited in kindergartens, pre-school departments of primary schools, primary schools and art schools providing general primary education.” Thus, the applicant decided unequivocally that any action aimed at demoralizing children and young people with regard to their sexuality and the sexual sphere of their lives is prohibited. In turn, by the mouth. 2 the legislator added the following provisions: ‘An association or other organization referred to in para. A person intending to take up an activity in a school or in any educational institution shall communicate to the headmaster of that school or establishment, in electronic and paper form, information containing in particular: 1) the description of the past activities of the association or other organization; 2) objectives and contents to be implemented in the school or institution as part of the activities carried out by an association or other organization; 3) the description of the materials used to achieve the objectives and content referred to in p 2.

¹² Sejm Printing No. 3520.

The principal of the school or of an educational institution, immediately upon receipt of the information referred to in para. 2a, shall ask the board of the school or institution and the parents' board to express the opinion referred to in para. 2 and at the same time informing the competent authority responsible for the pedagogical supervision and the authority running the school or institution of the receipt of the information. After obtaining the opinions referred to in para. 2, the headmaster of the school or institution allows parents to familiarize themselves with them. Participation in classes conducted by an association or organization referred to in para. 1 requires the written consent of the pupil's parents or, in the case of an adult pupil, of that pupil.

The above procedure does not apply to classes organized and conducted: 1) as part of a task entrusted to the public administration, or 2) as part of the tasks carried out by the National Centre for Counteracting Addiction, referred to in Article 8b para. 2 points 2-7 of the Act of 11 September 2015 on Public Health (Journal of Laws of 2022, item 1608), or 3) by a scouting organization under the Honorary Protectorate of the President of the Republic of Poland operating in the territory of the Republic of Poland, or 4) by the Polish Red Cross referred to in the Act of 16 November 1964 on the Polish Red Cross.

The explanatory memorandum to the bill states that the proposed solutions, "in order to meet social expectations, are aimed at strengthening the position and voice of parents and their representatives in the social body of the school (parents' council) in terms of effectively opposing undesirable contents directed at their children by associations or other organizations." It was also pointed out that the current situation creates a significant legal gap, which is that the parents of children whose rights are infringed or at risk of being infringed have a very limited legal path to be able to effectively prevent them directly.

The applicants also referred to the scientific studies which show that "early exposure of children to sexual or violent materials and behaviour may result in lifelong difficulties in sexual development and in building close relationships. [...] If a child experiences sexual abuse in the form of epathetic material or behaviour, it is difficult for him to bear; the child is overwhelmed and has to defend himself against it. In psychoanalytic theories, the defenses that explain self-sexualization and risky sexual behaviour that lead to retraumatization are called experiencing and repetition. They can lead to the choice of destructive lifestyles."¹³

¹³ A report from the American Psychological Association, The explanatory memorandum for a citizen's bill, Sejm Printing No. 3520.

However, the legislative process has not yet been completed. The Senate rejected the bill in its entirety on 7 September this year.¹⁴ Due to the fact that citizens' bills are not subject to discontinuation of work, the Senate resolution will be dealt with by the Sejm of the next term of office, which begins on 13 November 2023.

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¹⁴ Sejm Printing No. 3644.