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Bilingual Legal Education in Finland

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2022

http://hdl.handle.net/10138/350457

Norrgård, M & Nylund, A 2022, Bilingual Legal Education in Finland. in N Etcheverry Estrázulas (ed.), Bilingual Study and Research : The Need and the Challenges. Springer, Cham, pp. 125-129. https://doi.org/10.1007/978-3-030-84550-6_6

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The Balance between Two National Languages and Challenges of Bilingualism in Legal Education in Finland

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Abstract

Bilingualism is a national cornerstone in Finland due to the fact that Finland has two constitutionally recognised national languages: Finnish and Swedish. Finnish is spoken by approximately 90% of the population and Swedish by little over 5%. This chapter explains how the concept of bilingualism is understood from a national perspective and how the legal education is structured with regard to the existence of two national languages. The focus is specifically put on the structure of the legal education at the University of Helsinki, including the Vaasa Unit of Legal Studies, as the University of Helsinki is the only bilingual university in Finland and the only provider of a full law degree (Bachelor's and Master's degree) in both national languages. The Faculty of Law at the University of Helsinki has a national responsibility to provide legal education in the minority national language Swedish. In addition, the legal education has been permeated with an international perspective over the years as a result of cross-border projects and research collaborations. In consequence, legal education programmes are today in fact tri- or multilingual, albeit the officially degrees in Finland are still only mono- or bilingual.

1 Bilingualism in Finland

1.1 The Notion of Bilingualism

The notion of bilingual legal education can mean different things. The angle in this report stems from the fact that Finland has two constitutionally recognised national languages, Finnish and Swedish, which means that bilingualism, understood as a governmental responsibility, is a national cornerstone. Here the primary focus will thus be on how the concept of bilingualism is understood from a national perspective and how the legal education is structured with regard to the existence of two national languages.

Some delineations are however necessary. Bilingualism could mean degree programmes marketed primarily to international students, and which are taught in a language which is not the regular language of instruction or the native language of the students or the teachers, for that matter. For example, Master's degree programmes with teaching in English are increasingly popular in Finland. These programmes attract students from different parts of the world. Most of the students do not, however, have English as their native language. This type of bi- or multilingualism is not, however, of interest in this report.

Exchange programmes, such as the EU sponsored Erasmus programme, make it possible for students in EU countries to go to another EU country to study for a semester or two. The universities usually arrange at least some courses in English, although the main teaching language of the country is not English in order to take into account the needs of the exchange students. Exchange programmes are not the focus of this report.

This report is divided into three chapters. To facilitate the understanding of the bilingual legal education in Finland, the first chapter serves as a short introduction to the bilingual situation in Finland as well as an overview of the Finnish education system. The bilingual legal education is presented in the second chapter, focusing on the legal education at the University of Helsinki. In the third chapter, the bilingual legal education is evaluated in its present form and some challenges are briefly discussed.

1.2 Finland and Bilingualism

Finland, officially the Republic of Finland, is a sovereign state since 1917. Finland is a democratic, parliamentary republic in Northern Europe and one of the Nordic countries. Its

neighbouring countries are Sweden to the west and Russia to the east. Finland shares a border also with Norway in the northern parts of Finland.

In 1955 Finland became a member of the United Nations and since 1995 Finland is also a member of the European Union. The capital of Finland is Helsinki which is the largest city and located in the south on the shore of the Gulf of Finland. The population of Finland is about 5.5 million of which 1.4 million live in the Helsinki metropolitan area. Finland is a well-developed country with a GDP per capita of over EUR 42,000 (2018).[1] It has a well-developed public health and social care system.[2] Finland is also a gender equality pioneer. For example, women were allowed to study at universities in 1901 and Finland was the first country in the world to grant women full political rights in 1906.[3]

Finland's judicial system is a civil law system and the primary source of law is the codified laws and statutes, which are interpreted in the light of the preparatory works. The Finnish law has its roots in the ancient Roman law via the continental European civil law[4] and – most prominently – Swedish law.[5] The court system has two branches: courts with civil and criminal jurisdiction (District Courts – Courts of Appeal – Supreme Court) and courts with jurisdiction in administrative matters (Adminstrative Courts – Supreme Adminstrative Court).[6]

The official languages of Finland are Finnish and Swedish, which is stated in the Constitution.[7] However, on the Åland Islands, which is an autonomous and demilitarised region of Finland, the official language is Swedish only.[8] The Constitution further states that everyone has the right to use either Finnish or Swedish in communication with the national authorities. This right is further regulated in different statutes. The Constitution also acknowledges the right of minorities, such as the Sámi and the Romani people, to preserve and to develop their language and culture, as well as the right of people with functional disorders to get interpretation and translation assistance.

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[1] Statistics Finland (Prime Minister's Office) at http://www.findikaattori.fi/en/2. Accessed 6 November 2019.
[2] General information about Finland on the website 'this is Finland' upheld by the Ministry for Foreign Affairs at https://finland.fi. Accessed 4 November 2019.
[3] More information about Finland's efforts for gender equality can be found on the website of the Ministry of Social Affairs and Health at https://stm.fi/en/finland-is-a-gender-equality-pioneer. Accessed 4 November 2019.
[4] About the difference between civil law and common law see, e.g., http://thelawdictionary.org/article/common-law-vs-civil-law/. Accessed 4 November 2019.
[5] Finland was under Swedish rule for about 600 years until 1809 when Finland became an autonomous Grand Duchy in the Russian Empire, an era that lasted until 6 December 1917 when Finland declared independence. For further information about the history of Finland, see the online brochure at https://www.eduskunta.fi/FI/tietoaeduskunnasta/esitemateriaalit/Documents/2013_Eduskunta_1863_Kansan vallan_pitka_tie_ENG_LORES300413[1].pdf. Accessed 4 November 2019.
[6] More information about the judicial system can be found at https://oikeus.fi/en/index.html. Accessed 4 November 2019.
[7] The Constitution of Finland, Section 17.
[8] Act on the Autonomy of Åland, Section 36.

Finnish is spoken by approximately 90% of the population and Swedish by little over 5%. The Swedish-speaking Finns live mostly in the coastal areas of Finland and on the Åland Islands. Most of the municipalities in the Finnish coastal areas are officially bilingual and the two national languages are used side by side, for example on signs and in official notifications and information channels, as well as interchangeably in the vernacular, for example in shops, restaurants and other service establishments.

1.3 Bilingualism in the Education System

The international survey carried out within the Programme for International Student Assessment (PISA) shows that Finland is a top-ranking country in education and has been so for much of the 21st century.[9] Furthermore, Finland's education system has recently gained the attention of World Economic Forum. In the WEF article, published in collaboration with Business Insider, the Finnish education system was compared to the US system and seven reasons for the Finnish repeated success in national education rankings were listed. Among these reasons were the equality of access to education and the high-quality of teaching, which is one of the most-respected professions in Finland.[10]

Children permanently residing in Finland must attend compulsory schooling, which starts in the year the child turns seven. This means that the child must attend basic education or otherwise obtain knowledge corresponding to the basic education syllabus.[11] Thus, unlike in Sweden for example, we do not have compulsory school attendance in Finland; hence a child can be given instruction at home on the condition that the instruction corresponds to the basic education. Basic education is free of charge in Finland and encompasses nine years from the age of 7 to 16 years. Every child is allocated a place in a nearby school, thus the schools providing basic education do not select their pupils. The foundation for the basic education is the national core curriculum, within the framework of which the local authorities and the schools draw up their own specific curricula. There are no national tests in the basic education programme, instead the teachers are responsible for the assessment on the basis of the objectives in the curricula.[12]

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[9] Finland's participation in PISA is financed by the Ministry of Education and Culture. For more information about the surveys and the results, visit http://minedu.fi/en/pisa-en. Accessed 4 November 2019.
[10] Chris Weller (2017).
[11] Basic Education Act (628/1998), Section 25 and 26.
[12] General information on the website of the Finnish National Agency for Education at https://www.oph.fi/en/education-system and at https://www.oph.fi/en/basic-education. Accessed 4 November 2019.

Section 12 of the Basic Education Act (628/1998) states that in keeping with the instruction language of the school, the pupil shall be taught Finnish, Swedish or Saami as mother tongue, alternatively the Roma language, sign language or some other language which is the pupil's native language. The instruction in mother tongue starts in the 1st form.

In schools where the instruction language is Swedish, the instruction in Finnish as the second national language normally starts in the lower forms (1st–2nd form), while in Finnish schools the instruction in Swedish as the second national language generally starts later in the 6th or 7th form. The overall distribution of lesson hours depends on whether the second national language is taught as an A or a B level language. Some schools also have special language immersion programmes and the instruction in a variety of topics is given in both Finnish and Swedish.

In the upper secondary education[13] (optional after the completion of the basic education), there are also compulsory as well as optional (advanced) courses in the second national language. However, in the Matriculation Examination, it is no longer compulsory to take the test in the second national language. Since 2005, the only compulsory test in the Matriculation exam is the one in mother tongue. English is normally taught as the first foreign language in the basic education as well as in the upper secondary education. In the higher forms of basic education and in the upper secondary education, the pupils can also take optional courses in foreign languages (B level). The selection of foreign languages varies between schools. The most popular foreign B level languages are German, French and Russian.

The higher education in Finland is divided into universities and polytechnics (i.e. universities of applied sciences). The higher education institutions enjoy large autonomy regarding the organisation of the instruction and study programmes.[14] Most of the universities have Finnish as their administrative language. These universities also do not, generally, have any of the teaching in Swedish. Courses given in English are nowadays, however, prevalent at all Finnish universities. Hanken School of Economics[15] (with campuses in Helsinki and Vaasa) and Åbo Akademi University[16] (with campuses in Turku and Vaasa) are the only two universities that are Swedish-speaking. The Swedish-speaking universities have Swedish as their

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[13] The upper secondary education has a dual structure: general upper secondary education, which leads to the Matriculation Exam, and vocational training. It is also possible to combine these two education forms. More information at https://minedu.fi/en/general-upper-secondary-education and at https://www.oph.fi/en/education-system/finnish-vocational-education-and-training. Accessed 4 November 2019.

[14] General information about the higher education structure at https://minedu.fi/en/higher-education-and-research. Accessed 4 November 2019.

[15] Visit website at https://www.hanken.fi/en. Accessed 4 November 2019.

[16] Visit website at http://www.abo.fi/?lang=en. Accessed 4 November 2019.

administrative language and the language of instruction is Swedish (and, to some degree, English). The University of Helsinki is bilingual (Finnish/Swedish), which makes it a bit peculiar.

2 Bilingual Legal Education at the University of Helsinki

2.1 General Facts about the University of Helsinki and the Faculty of Law

The University of Helsinki was established in 1640 and is the oldest and largest university in Finland. The total number of students at all levels is little over 32,000 and the university employs about 7,600 people.

The University of Helsinki is the only bilingual university in Finland. The language of instruction and examination are Finnish, Swedish or English. The University of Helsinki is the only university in Finland that offers academic education in Swedish in the fields of law, medicine, social work, social psychology, veterinary medicine, agronomy, geography and journalism. According to Section 74 of the Universities Act (558/2009), there shall be at least 28 professorships with Swedish being the teaching language at the University of Helsinki. The fields of these professorships are defined in the regulations of the university. Services and student counselling are provided in Finnish, Swedish and in English. There are also education programmes and courses in English in some fields at the university.[17]

There are 11 faculties at the University of Helsinki. The Faculty of Law is the leading institute of legal education and research in Finland. The Faculty employs about 140 teachers and researchers. Teaching and research at the Faculty is organised by discipline and members of the staff may work in several disciplines. The Faculty has separate research units as well.[18]

About 2,300 students are pursuing degrees in Finnish, Swedish and in English at the Faculty of Law. In addition, the Faculty hosts on a yearly basis around 140 exchange students from all over the world. Doctoral studies can be completed in either of the three languages as well. Studying abroad for a period is also a popular choice among the law students.[19] Since

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[17] For further information, visit https://www.helsinki.fi/en/university/strategy-and-management/bilingual-university. Accessed 4 November 2019.
[18] More information at https://www.helsinki.fi/en/faculty-of-law/faculty and at https://www.helsinki.fi/en/faculty-of-law/faculty/disciplines. Accessed 4 November 2019.
[19] More information about the Faculty of Law at https://www.helsinki.fi/en/faculty-of-law/studying. Accessed 4 November 2019.

1991, there is a Master of Laws diploma programme fully taught in English at the Faculty. This particular Master's programme is focusing on International Business Law (IBL), including contract law, company law, intellectual property law, competition law and commercial dispute resolution.[20]

As previously mentioned, the Faculty of Law has a national responsibility to provide legal education in Swedish. The University of Helsinki is the only university in Finland where a student can complete a full law degree (i.e. a Bachelor's and a Master's degree in law) in Swedish. It is possible to take a Bachelor's degree in law in Swedish at the Åbo Akademi University in Turku, but this undergraduate degree does not qualify for the legal profession.

To become a student at the Faculty of Law, i.e. to complete both the Bachelor's and Master's degree at the University of Helsinki, the applicant must pass the compulsory entrance examination in the form of a book exam. There are separate tests and quotas for Finnish-speaking and Swedish-speaking applicants; hence, the applicant must already when applying choose which of the two national languages that will be the (main) language of the law degree. About 200 Finnish-speaking and 22 Swedish-speaking applicants are annually admitted to the education programme in Helsinki. The numbers for Vaasa are around 26 and 12 respectively.

2.2 Structure and Content of the Legal Education

2.2.1 Structure

The Bachelor of Laws degree comprises 180 ECTS credits, which is equivalent to three years of full-time studies. The Bachelor's programme includes a variety of studies and examinations in compulsory as well as in optional disciplines. It is possible to complete the Bachelor's degree as a bilingual degree, which is a popular option especially at the Vaasa campus. The bilingual degree implies that the student completes at least one third, i.e. 60 ECTS credits, of the Bachelor's programme in the national language (Finnish or Swedish) that is not the student's main language of the degree (i.e. the language in which the student took the entrance examination, usually the student's mother tongue). The student will then get a specific mention of the bilingualism in the degree diploma.

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[20] Further information about the IBL programme is available at https://www.helsinki.fi/en/admissions/degree-programmes/international-business-law/faq. Accessed 4 November 2019.

However, the Bachelor's degree does not qualify for the legal profession, hence law students generally pursue the Master of Laws degree, which comprises 300 ECTS credits (180 + 120) and is equivalent to two years of full-time studies. The Master's programme comprises 120 ECTS credits and includes some compulsory disciplines and advanced studies in discipline(s) of the student's own choice. The emphasis of the Master's programme lies, however, on the Master's thesis.

2.2.2 Studies, Courses and Examinations

The legal studies include courses and examinations, which generally require a lot of individual reading of text books. Lecture series are held annually in every compulsory discipline (e.g. criminal law, commercial law, family and inheritance law, international law) and normally the lecture series end with a minor exam, an essay or a study diary. The final exams are usually in the form of book exams or take-home exams.

The teaching language depends on the teacher. In some disciplines, there are parallel lectures in Finnish and in Swedish (in Helsinki), and in other disciplines the lectures are given in one language only. Sometimes there are also lectures in English if the teacher does not speak either of the two national languages or if the subject is very international, such as public international law or energy law. The students are, however, always entitled to write their exams and course work in Finnish or in Swedish regardless of the language of the lectures. In exceptional cases, though, where the teacher is foreign, the students may be asked to do the lecture exam or the written assignment in English, but then the students are allowed to use dictionaries. Students pursuing the bilingual degree are also allowed to use dictionaries when they write their exams in the other national language.

The course material is usually in the language of the lectures or the language of the course. However, the literature relating to the specific disciplines, i.e. the exam literature, is mainly in Finnish. Some works have been translated into Swedish and in some cases an equivalent work in Swedish can be found and legal literature from Sweden can be useful to some extent, but there is no denying the fact that the shortage of Swedish legal literature dealing with Finnish law puts the students who are pursuing a degree in Swedish at a disadvantage. Some attempts have been made to rectify this shortcoming but it is a time-consuming project that requires financial support as well as bilingual legal expertise.

Furthermore, there are compulsory seminars in specific disciplines, where the students train in academic legal writing and in acting as an opponent of another student's text; hence

the seminar courses comprise of both writing and discussions. These seminars are held in Finnish, Swedish and/or English.

2.3 The Vaasa Unit of Legal Studies

Since 1991, the Faculty of Law at the University of Helsinki has maintained a unit of legal studies in Vaasa in the bilingual region of Ostrobothnia on the west coast of Finland. The population of Vaasa is about 67,000: 70% of whom have Finnish, 23% Swedish and 7% other languages as their mother tongue. Vaasa is the largest university city in Finland in proportion to the population; besides the University of Vaasa with nearly 4,500 students, Hanken School of Economics and Åbo Akademi University have campuses in Vaasa as well. In addition, there are three institutes of vocational higher education.[21] In total there are over 13,000 university students in Vaasa (including universities of applied science).

The main reason behind the establishment of a campus in Vaasa was the need for bilingual legal practitioners in the region. The city has a District Court, a Court of Appeal, an Administrative Court with special competence in environmental matters, a prosecutor's office, a Regional State Administrative Agency, a Centre for Economic Development, Transport and the Environment, a tax office and several solicitor's offices. In addition to this, the Vaasa region is the centre for the largest energy technology cluster of the Nordic Countries and many international enterprises such as Wärtsilä, ABB, Danfoss/Vacon, KWH Group and Citec have their main offices or branches in Vaasa, thus there is a growing need for multilingual legal expertise in these business fields.

In the late 1980s it was felt that there was a clear shortage of lawyers competent in both national languages. Thus, with very strong support from the President of the Court of Appeal, the Faculty of Law at the University of Helsinki established a campus in Vaasa. This strong regional support is still very much visible today. Half of the Unit's budget comes from the Vaasa region (municipalities and foundations) and the other half from the University of Helsinki.

The aim at the Vaasa Unit is that the instruction is to equal proportions given in Finnish and Swedish. The study environment in Vaasa is truly bilingual; both students and teachers use Finnish and Swedish interchangeably. Unlike in Helsinki, in Vaasa there are no parallel lectures for Finnish-speaking and Swedish-speaking law students, thus all students attend the same

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[21] General information about Vaasa at https://www.vaasa.fi/en/about-vaasa-and-the-vaasa-region/vaasa-region/. Accessed 4 November 2019.

lecture series regardless of the language. The students are not required to become fully fluent in the two national languages, but they must be able to understand instruction and study materials in Finnish, Swedish and also in English to some extent. Nevertheless, the students are always entitled to take their exams and do their written assignments in their mother tongue (Finnish or Swedish). The students have, however, the option to complete some of the studies (at least 60 ECTS credits) of the Bachelor's programme in the other national language within the framework of the specific bilingual law degree.

3 Evaluation of the Bilingual Legal Education System

In a country with two national languages and where citizens have the right to communicate with government officials, judges etc. in their mother tongue – Finnish or Swedish – it is of utmost importance to guarantee that there are government officials with sufficient language skills. For the Faculty of Law this means that we must be able to educate lawyers with sufficient skills in both national languages. Language may become an issue also in cases where the parties themselves do not rely on their right to use their mother tongue. For example, in a criminal case witnesses might not be able to give their statement in the other national language. If the police, prosecutor, defendant's attorney, and judges do not understand what the witness says, tricky situations may arise, that only partly can be offset by translation services. Thus educating bilingual lawyers is natural and necessary in the bilingual regions of Finland, such as Vaasa.

The language policy of the Vaasa unit is a bit peculiar. It could be characterised as extremely liberal: everybody – teachers, students, administrative staff – can use either Finnish or Swedish of their own choosing, and the recipient/listener must accept that choice and be prepared to (try to) understand the speaker. The recipient/listener can then, freely, choose to reply in either Finnish or Swedish. This leads frequently to bilingual discussions, where one or some speak one language, and one or some the other language. It is also possible that the language changes during a discussion if someone leaves or joins the discussion. This type of truly bilingual communication takes place also during lectures at least if the teacher has attained a level of bilingualism that allows him or her to seamlessly change between languages. To give an example: In some course, the main language of the lectures can, for example, be Swedish. A student might then ask a question in Finnish, which the teacher reverts back to the students in Swedish (Student: "How do you mean?"; Teacher: "Yes, how do I mean; any suggestions?

Anyone?"). Another student might then answer in Swedish with the first student commenting on that answer in Finnish! This kind of extreme language liberalism works probably only in an environment where all, teachers and students alike, understand that bilingualism in all communicative situations is the rule, not the exception. In a truly bilingual region, such as Vaasa, this works seamlessly. It might work in other places as well, if the participants adhere to bilingualism as the rule. Otherwise some students might start complaining about not understanding everything.

The discussion on bilingualism is, at least in Finland, actually more a question of multilingualism. The University of Helsinki has a great national responsibility regarding the legal education in Finland since it is the only provider of a full law degree in both national languages. However, the Faculty of Law does not focus solely on national needs. Over the years, the legal education has been permeated with an international perspective. In addition to the international Master's programme, the Faculty of Law is involved in several international projects.[22] Collaboration with researchers outside Finland is also very common. Furthermore, the main publication language is in some of the more international fields English. Finland's legislation and case law are also greatly influenced by the legislative activities in the European Union, and the legal education is affected accordingly. Companies, and thus also legal counsel, work increasingly in an English-speaking environment with all communication (including contracts) being drawn up in English. In consequence of this cross-border development, there is a need for multi-talented legal practitioners with skills in several languages. Thus, legal education programmes are today in fact tri- or multilingual, albeit that officially degrees are still only mono- or bilingual.

Bilingual legal education is not without challenges, though. First, the realisation of bilingualism is to a large extent dependent on the teachers giving the lectures in especially the compulsory disciplines. The aim at the Vaasa campus is that the instruction is given in equal proportions in Finnish and Swedish but the actual apportionment varies a bit from year to year depending on which teachers and guest lecturers are available for instruction. Secondly, there is the scarcity of literature in Swedish dealing with Finnish law, which is a drawback to both the Swedish-speaking students and the Finnish-speaking students who wish to improve their language skills in the other national language. Digital online materials could possibly remedy

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[22] E.g. Vis Moot, which is an international moot court competition, more information at https://vismoot.pace.edu. Accessed 4 November 2019. See also the Global Law (GLAW) research on globalization at https://www.helsinki.fi/en/research/top-research/strategic-research-areas/human-mind-in-changing-world/focus-areas. Accessed 4 November 2019.

this scarcity, but such materials will not produce themselves. Thirdly, the attitude of students, teachers and, in a wider sense, of society to bilingualism affects the education programme, the instruction and the overall atmosphere. From the perspective of Vaasa, where the instruction is truly bilingual also in compulsory disciplines, there have been no major problems with negative attitudes to bilingualism, because bilingualism is a natural part of the everyday life in Vaasa, not to mention the Vaasa law students' association *Justus* where bilingualism is a permanent feature. The majority of the law students do see the benefit of possessing versatile language skills.

All in all, the bilingual legal education programme has been successful so far, especially in Vaasa, judging from the general impression of the education and from the result of the survey[23] carried out last year among the *Justus*-alumni for the Vaasa Unit's 25-year jubilee in 2016. Nevertheless, there is always room for improvement and development of the education programme, including the international Master's programme. The legal education at the University of Helsinki and the bilingualism of Finland are rather unique phenomena, all the more reason for advertising them.

[23] The result of the survey was published in the miscellany in honour of the Vaasa Unit's 25-year jubilee, see Norrgård & Luoma (2016).

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Biographies

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