



National Non-profit organization for Homeschooling
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Paper presented by *Liberté Education*

on the occasion of the

74th session of the Committee on Economic, Social and Cultural Rights, (OHCHR-UN)

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Report presented by :

- Hubert Veauvy, Chairman
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Ladies and Gentlemen Rapporteurs,

We have the honor of sending you this communication drawn up by the association *Liberté Éducation* on the occasion of the 74th session of the Committee on Economic, Social and Cultural Rights.

Liberté Éducation is a non-political and non-religious association (civil society organization), a gathering of 2,200 families practicing homeschooling in France. Its purpose is to promote and defend the freedom of education, in particular homeschooling, regardless of the parents' origin, religion or resources. It has special concern for young parents, single parents and disadvantaged people.

It regularly appears before the National Assembly and the Senate and is received at the Ministry of Education.

Liberté Éducation relies on:

- her expertise on the subject of homeschooling, for which she is being called upon since 2020 by many parents and their children
- the help it provides to families who have been refused the authorization to homeschool across the country (over 700 in two years)
- its exchanges with numerous parliamentarians, international experts in *homeschooling*,
- his meetings with leaders of organizations promoting homeschooling around the world
- its multi-disciplinary studies and research carried out with professionals involved in education and alternative teaching methods.

This communication concerns France's compliance with its international obligations in terms of education.

1. French context regarding this freedom

Since 1882, parents in France have been able to freely and legally exercise their right to teach their children themselves at home, at any time of the year, with a simple declaratory system for this choice. This declaration triggered academic and social controls to check that the child was properly educated.

The Act of 24 August 2021 abruptly broke this right with a restrictive derogation system of authorizations issued by local education departments. So that parents can now choose to homeschool their child, they must now apply for an authorization between March, 1st and May, 31st each year for the following school year, and for each child, and, where applicable, independently of the results obtained in the controls the previous year.

The child is authorized to be homeschooled for one of the reasons strictly defined by the law: the child's state of health or disability, intense practice of sports or artistic activities, family non-sedentary or geographical remoteness from any educational establishment, the existence

of a situation specific to the child that justifies the educational project, subject to the condition that the persons responsible for the child provide evidence of their ability to instruct the child.

On August, 13th, 2021, this law was validated by the Constitutional Council after it refused to consider homeschooling as a component of freedom of education¹. Subsequently, the last reason for homeschooling – that relating to the child's own situation – was the subject of a very restrictive interpretation by the Conseil d'État, which, in its ruling of December, 13th, 2022, gives the State the prerogative to decide for itself which form of education it considers to be the most consistent with the best interests of the child². This has encouraged administrative courts to reject the vast majority of appeals.

2. Many unjustified refusals

Since the gradual implementation of the new law on homeschooling, also known as “family instruction”, there are unjustifiable refusals for children with acknowledged disabilities³, school phobia, sometimes school harassment, or even top-level sportsmen and women, despite very well-built applications.

In the Lyon education authority, for example, 89 % of applications were rejected for the new school year. This rate rises to 96% for siblings where several children are already educated in the family, the youngest being required to attend school from the age of 3 and sometimes two and a half. In the Eure department, more than 80 % of requests for authorization to homeschool children are systematically and unjustifiably rejected. In Toulouse last year, the local education authority had refused more than 90 % of applications. As a result, the new French authorization system for homeschooling leads to administrative arbitrariness, unequal treatment and notorious territorial discrimination.

For 2022-2023, the Ministry of National Education communicated on these refusals⁴:

- 15.7 % of authorization requests related to the child's state of health or disability were refused; the school doctor went against the advice of another doctor in around 1,000 situations;
- 18.1 % of requests for intensive sports or artistic activities were turned down despite the fact that their children are national-level athletes;
- 32.3 % of applications were refused on the grounds of being a non-sedentary family or geographical remoteness from any public school, even for children who live more than forty kilometers from a public school;

¹ Source: <https://www.conseil-constitutionnel.fr/decision/2021/2021823DC.htm>

² Ruling no. 462274: *"For the implementation of these provisions, which mean that children subject to schooling obligation are, in principle, educated in an educational establishment or school, it is up to the administrative authority, when it receives a request for a child to be homeschooled, to be granted, by exception, to research, given the child's situation, what are the advantages and disadvantages of having such a child be instructed, on the one hand, in an educational establishment or school, and on the other, be homeschooled in the family according to the terms set out in the application and, following this review, to select the form of instruction in the best interests of the child"*.

³ From the Local House for Disabled People (MDPH)

⁴ See <https://www.liberteeducation.com/refus-dinstruction-en-famille-le-palmare-des-pires-academies/>

- 37.5 % of families' applications were refused on the ground of educational reason - figures to be compared with the 98% success rate of these children in academic controls, according to the ministry.

Today, these families are in great distress as they suffer this administrative violence and who have no recourse other than to rush to court. A procedure which, it should be pointed out, is not suspensive and which therefore obliges them to accept, against their will, for the start of the next school year, a decision by the local educational authority which clashes with their parental authority, and even their conscience.

3. A bleak future for this educational alternative

If we simulate the start of the school year in September 2024 with an average refusal rate of 25.9 % for 60,000 authorization applications, 15,540 authorizations would be refused. With 49.3 % of prior administrative appeals unsuccessful, and if all these families do appeal, 7,661 children would be forced to return to school, even if their parents bring the matter before the administrative court.

4. Direct opposition to Article 13 of the Covenant

Article 13.3 of the International Covenant on Economic, Social and Cultural Rights states:

"The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions."

This law on homeschooling is in direct conflict with the rights and freedoms guaranteed by this article, which guarantees parents the right *"to choose for their children establishments other than those run by the public authorities"*. In France, in the space of just two years, home education has become an educational alternative that is no longer authorized by the authorities only with exceptional dispensation.

Against the guarantees offered by the Covenant, this law aims, in practice, at reducing the role of the parents by gradually removing their role as educators and assigning this role to the republican school.

In his speech on October 2nd, 2020, announcing the draft law in question, the President de la République said: *"School is the crucible of the Republic. It's what makes us fully protect our children from all religious symbols and religion. It is really the heart of the secular space, and it is this place where we form consciences so that children become free, rational citizens who can choose their own lives."*

Similar statements were made very recently on August 23rd, 2023, at his interview with *Le Point*⁵.

The French government has ignored warnings from numerous organizations in France. These include:

- The Conseil national consultatif des Personnes handicapées (National Advisory Council for Disabled People) regretted not having been consulted, rejecting a text that it considers contrary to international conventions such as the International Convention on the Rights of the Child (CRC).
- The French National Consultative Commission on Human Rights (CNCDH) has adopted a very critical opinion: *"While the objective of combating criminal fanaticism more effectively is legitimate, explained its chairman, it could not justify the introduction of measures which undermine fundamental freedoms, that lie at the heart of the republican and democratic pact"*. This commission warned that the law *"risked to undermine republican principles instead of reinforcing them"*, deploring *"the recourse to fast-tracking procedure and haste"*.
- The Human Rights Defender also expressed *"several reservations about the compatibility of the provisions introduced by the text with parents' freedom to teach"*.
- The Syndicat national des inspecteurs d'académie (which inspects families who have chosen homeschooling) considered that *"it may be counter-productive to impose the schooling at all costs"* and that *"the values of the Republic are not passed on not by submission but by adhesion"*. A project that *"embarks the school on a crusade that is dangerous, counter-productive and fundamentally contrary to the values of our society, values of emancipation through knowledge and critical distancing which form the basis of the School of the Republic"*; the union also criticizes *"a simplistic and deadly approach to the role of the school, conceived as a place for taming a public that is believed to be kept captive, and not like an open place, of emancipation through knowledge."*

Our association currently receives up to ten calls for help a day from distraught parents who are unjustifiably refused homeschooling, not without consequences for their children's physical and psychological health.

5. A bending from international conventions

The new law contravenes international human rights conventions:

- Article 26.3 of the Universal Declaration of Human Rights: *"Parents have, as a matter of priority, the right to choose the kind of education they want for their children"*.
- Article 27 of the International Convention on the Rights of the Child (ICRC) states that *"The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development."* Likewise, Article 3 adds that *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*

⁵ Source: https://www.lepoint.fr/politique/emmanuel-macron-il-faut-s-atteler-a-reciviliser-23-08-2023-2532595_20.php

- The European Convention for the Protection of Human Rights and Fundamental Freedoms which came into force in 1952 and which states in Article 2 of the first additional protocol, that *"The State, in the exercise of the functions which it will assume in the field of education, respect the right of parents to provide such education and in accordance with their religious and philosophical convictions"*. At the time, the rapporteur, Pierre Henri Teitgen, stated that *"we don't think it's possible to limit, in a text of this importance, the right of the father of the family to only the education of children"*. According to Pierre Henri Teitgen, the text must also guarantee *"the fundamental right of every father to have his children brought up and educated children according to his conscience, whatever the dictates of his conscience, and it is not for the State to judge"*.
- Applicable within the European Union, the Charter of Fundamental Rights of the European Union recognizes, in Article 14.3, *"the freedom to establish educational establishments in accordance with democratic principles, as well as the right of parents to ensure the education and teaching of their children in accordance with their religious, philosophical and educational convictions..."*, after proclaiming in Article 10 that *"everyone has the right to freedom of thought, conscience and religion"*, specifying that *"this right implies... the freedom to manifest one's religion or belief, individually or collectively, in public or privately, through worship, teaching..."*.

Both the freedom of parents to provide instruction and education in accordance with their religious and philosophical convictions, and the best interests of the child are severely undermined.

6. An erroneous justification by the French State

The government had justified the law of 24 August 2021 by the need to fight against Islamist radicalism⁶.

Interviewed in the book *L'école à la maison, une liberté fondamentale*⁷ (Homeschooling, a fundamental freedom), researchers from the leading French research institutes specializing in radicalization have stated that they had no figures on supposed radicalization through homeschooling: Institut des Hautes Etudes de la Défense Nationale (IHEDN), Institut des Hautes Etudes du Ministère de l'Intérieur (IHEMI), Institut Français des Relations Internationales (IFRI), Ecole des Hautes Etudes en Sciences Sociales (EHESS), Centre National de la Recherche Scientifique (CNRS), UNESCO Chair in the Prevention of Radicalization and Violent Extremism, etc.

French researchers Philippe Bongrand and Dominique Glasman, authors of a paper published in 2018 in the *Revue française de pédagogie*⁸, explain that *"these family profiles do exist, such as our current surveys with parents and officers in charge of controlling them document it. But current knowledge in no way allows us to state that they would predominate among families"*

⁶ Speech by Emmanuel Macron at Les Mureaux, 2 October 2020.

⁷ Jean-Baptiste Maillard, *L'école à la maison, une liberté fondamentale*, Editions Artège 2021, p. 163 to 176.

⁸ Bongrand, Glasman, Instruction(s) en famille. Explorations sociologiques d'un phénomène émergent, *Revue française de pédagogie* 2018/4 (n° 205).

who educate outside of an establishment". The Ministry of Education, in its Vademecum on homeschooling published on Eduscol in October 2020, stated that these cases were "exceptional". The Minister for National Education finally acknowledged, in a special committee meeting on 6 December 2020, that it had no precise figures. On 15 January 2021, in the same commission, the head of the Service central du renseignement territorial (SCRT) of the Direction General of the French National Police said: "It is extremely complicated for me to make a direct link between the increase in community withdrawal and the increase of home education". The special adviser to the Minister for Education, interviewed by the authors at the beginning of June 2021, also acknowledged an absence of figures.

Moreover, during the debates in the National Assembly, the national representatives were deprived of the reports from the French Ministry of Education, which indicated that only 0.09% of all homeschooled children were problematic, and it was not related to separatism or radicalism. And finally, according to the new figures communicated in 2023 in these reports, only 47 applications out of a total of 60,638 (i.e. 0.077%) have been the subject of a refusal for being registered on the FIJAIS files (perpetrators of sexual or violent offences) and FIFAIT (perpetrators of terrorist offences) of the person responsible for the child's education. As for the question of socialization, researchers in educational science have reached the same consensus: "children educated in the family are as well or better socialized than children in state schools"⁹.

The entire population was thus deprived of the inalienable human right to homeschooling under the pretext of radicalism.

In these circumstances, the French government's determination to eradicate the alternative of homeschooling is unacceptable and parents must regain the right to be able to do so with their children.

7. Our recommendations

Here are *Liberté Éducation*'s recommendations:

- R1. Inscribe into the law that parents are the first and foremost educators of their children and in this respect, that they should benefit from freedom of education, including pedagogically.
- R2. Inscribe into the law that homeschooling is one of the variations of freedom of education.
- R3. Change the current legal framework, so that the request for a homeschooling authorization would be possible anytime during the school year.
- R4. Change the current legal framework, to delete the 4th motive of a "child's proper situation" to replace it by the handover of a personalized educational project, customized to the child's abilities and pace of learning, in accordance with his right to be educated.
- R5. Add into the law the motives of learning disabilities (dysgraphia, dyscalculia, etc.), hyperactivity, school phobia and school bullying.
- R6. Change the current legal framework to grant the automatic authorization for the following year, as soon as the pedagogical control performed during the school year was positive.

⁹ Jean-Baptiste Maillard, *L'école à la maison, une liberté fondamentale*, Editions Artège 2021, p. 88 to 92.

- R7. Associate the national non-profit organizations representing homeschooling families to the writing of national guidelines for homeschooling.
- R8. Nominate within each educational region a point of contact for homeschooling who would be the member of a local or a national nonprofit organization representing homeschooling families; this point of contact will sit at the commission of administrative pleas.
- N9. Build constructive partnership conventions between national non-profit organizations representing homeschooling families and the Secretary of Education.
- R10. Communicate transparently on the result of authorization requests, educational region by educational region (“académie”), county by county (“département”), motive by motive, with refusal figures and the main refusal reasons provided.