

Heading Towards Compulsory Education in the Land of the Free?

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Article 21 of the bill 'Respect for the Principles of the Republic', adopted after the first reading by the parliamentary deputies, establishes a system to ban home education by default. We are now counting on senators to remove this bill. France must remain the land of the free.

On 11 February 2021, during the full examination of Article 21 of the bill "Respect for the Principles of the Republic" **many deputies** from all parties defended the **freedom of educational choice**.

In complete contrast with the equilibrium which had resulted from the Jules Ferry Laws (1882) which made education - rather than schooling - compulsory, **Article 21** aims to **force parents to send their children to attend school establishments, from the age of 3 years onwards**, unless they obtain an authorisation issued by the education administration.

The freedom of Choice to Home Educate: a Freedom that Transcends Political Divisions

It is the **members of parliament** who are viscerally **attached to quality education** - because they are sensitive to the **needs and development of children** - who have been the most fervent **defenders of the freedom of choice to home educate**: "This educational diversity is an asset and allows the best interests of the child to be taken into account", "The victims of this law will be children", "This article will create conflicts and cause suffering for families, when they need serenity in the face of educational choices which are sometimes imposed on them by the circumstances of their child". (1)

They emphasised the **dangers of a regime of request and authorisation**, which would subject educational freedom, still constitutionally protected, to administrative discretion: "For many families, a system of authorisation will be a regime of prohibition", "We know very well that [this prior authorisation] will be granted with variable geometry", "Because freedom of education is a fundamental principle, because concretely, families have organised their entire lives according to this form of education, the free choice of parents cannot be called into question by the legislator", "The authorisation system is very restrictive", "You opt for prior discrimination rather than an objective check".

Thank you for these words which reflect the reality at ground level.

Why Create Problems Where There Were None by Opposing Two Complementary Options?

Home education is a **demanding choice** and one which will always **remain in the minority**. It concerns only 0.5% of children of compulsory school age in France. In the interests of children, it plays a complementary role and is useful **outlet valve** for the school system.

The **relative increase** in the number of home educated children in recent years is mainly linked to the lowering of the age of compulsory education from 6 years of age to 3 years of age (Law For a School of Trust of 2019), to the current health situation, and can also be explained by the interest of some parents in innovative education. This increase follows an historical trend and is observed in many democracies. According to education science researchers, it is made possible by "elevating the level of education of the population" which is in particular thanks to generalised access to countless digital educational resources via the Internet (2).

As they grow up, the vast majority of home educated children choose to join school (85% of home educated children are only educated at kindergarten or primary level), **often playing a driving and beneficial role for the class group**. (3). The situation would be totally different if education within school establishments were imposed on these children.

Why not simply let the two modes of education - education at school and home education - continue to freely coexist?

Government Incoherencies

The government is totally **incapable of explaining how such a restriction of education freedom would be justified**. Where are the figures? The government has been unable to demonstrate how it would be of no effect whatsoever with regard to the struggle against radicalism.

The **National Education Minister** was forced to resort to convoluted words, in consummate Newspeak: "All freedoms need a framework and this framework is even the guarantee that we are indeed dealing with a freedom." (1). On the other hand, the letter from his chief of staff, dated the same day, 11 February 2021, is very clear: "Article 21 of the bill proposes to restrict the possibility of having recourse to home education. This would involve moving to a system where each family [...] would have to obtain authorisation based on a restricted list of reasons, to the exclusion of any other motive in particular political, philosophical or religious." (4)

Ms Lang, who was still opposed two years ago to such an authorisation system with the support of the Minister (5), for her part clarified: "With this article, we assume our will to persuade [rather to force, editor's note] all parents send their children to school" (1). A curious concept of educational diversity...

The returning deputy **Ms Brugnera**, tried to **reassure the worried majority MPs**, suggesting that the system would be very permissive: "We expect parents to explain the reasons for their choice based on a fairly long list in order to respond to the full diversity of possible motivations". (1) But she refused to engage in a more precise way vis-a-vis the deputies asking her if the boredom of a child at school would be considered as an admissible reason (G. Labille) or to answer the question: "How can you assure us that the National Education Department, which absolutely wants all children to attend school, will not prevent the parents concerned from choosing home education? [...] An inspector, a pedagogical adviser or any national education official will answer that the school is already adapted to each child. Likewise, if I say that I want to respect my child's physiological rhythm, I will be told that this is what school does by working based on skill!" (A. Thill) (1).

Ms Brugnera was content to **refer to "a decree in the Council of State**, which will contain the list of these national criteria" in a supposed attempt at being less vague (1). **How is it possible to legislate in an informed manner without knowing the impact the adopted measures would have on families?** Ms Thill seems to have got it right, anticipating the words of the Ministry which already indicates to us in a peremptory manner in its letter of 11 February: "The French school is a benevolent school which takes into account the development of the child. It shows all the flexibility necessary to take into account the needs of each child". (4) Countless testimonies from families show that this is unfortunately far from always being the case.

Blocked Procedure

Despite the **courageous vote of 77 deputies from all parties** (including 10 LREM) **in favour of the removal of Article 21**, a majority of 186 deputies (including 152 LREM and 28 Modems) **voted against its removal** (6).

Is this related to **the adjournment** at the beginning of the consideration of Article 21? Or related to **voting instructions** and other barely concealed **intimidation tactics**? (7) The tabling of a **last-minute government amendment** rejecting the need to request an authorisation at the start of the 2024 school year for home educating families in 2021-2022 and satisfying the pedagogical control? Note that with this amendment, the government recognises that there is **no real urgency** to restrict home education to combat Islamic radicals.

Ms Brugnera clarified: "We may even find that the 62,000 children in home education today are in compliance with the measures of the bill" (8), a statement in total inconsistency with the government's desire to reduce this number. Indeed the government impact study anticipates the compulsory re-schooling of 29,000 children ...

Like many parliamentarians, we warn: **the restriction on home education provided by Article 21 has no place in a bill aimed at strengthening a respect for the principles of the Republic!**

Distrust and Coercion Concerning Parents, Instrumentalisation of the Best Interests of the Child

Members of all parties are concerned about the **parental responsibility towards their children being called into question**: "What bothers us is that basically, Minister, you consider that the State is the only one to know what is good for a child, the only one to be able to assure their education", " This article leads to relinquishing the parents of their responsibilities and hurts the families who made the choice

of home education. The Government considers that their choice is not legitimate and questions it as if it was not a good choice. "

Let us remember the **very coercive nature of Article 21**: parents who wish to educate their children in the absence of state authorisation incur a sentence of **6 months in prison, a fine of 7,500 euros and the intervention of social services**.

The principle of the best interests of the child cannot be invoked to justify a violation of their rights. Several MPs noted the **government deviation of using the notion of the best interests of the child against parents** "in a preventive manner, in case the best interests of the child are not respected. In our law, until now, it was used ex post [...] Are you aware of how you are building a new legal relationship to parents? You create a right of mistrust "(P. Hetzel).

At the same time, several amendments giving concrete priority to the best interests of the child were rejected by the government.

Mobilisation Continues: We Call on Senators to Preserve the Freedom of Choice to Home Educate.

Article 21 - the first paragraph of which establishes a system banning home education by default - constitutes a **major setback denying a part of the identity of France**, where the main freedoms are not subject to prior censorship but rather with subsequent control.

However, the bill was **adopted** during the first reading by **the deputies** on 12 February 2021 by 80 votes (including 57 LREM and 18 Modem) against 23 and 8 absences (9).

We are counting on the senators to remove Article 21 from the project of law "Respect for the Principles of the Republic". It is not only a question of protecting a fundamental freedom, but also of preserving educational diversity, essential in a lawful state.

France must remain a country of freedom.

L'association LED'A

L'association LAIA

L'association UNIE

L'association CISE

Le Collectif FELICIA

Le Collectif EELM

L'association Liberté Éducation

Enfance Libre

Notes and References :

1 - Reports of complete sessions: <https://www.assemblee-nationale.fr/15/cri/2020-2021/>

2 - <https://www.cairn.info/revue-francaise-de-pedagogie-2018-4-page-5.htm>

3 - https://www.youtube.com/watch?v=SPS5e5ej5qo&feature=emb_logo

4 - Letter from the Chief of Staff of the Minister of Education to the LAIA Association for the IEF inter-association dated 11 February 2021 accessible here: <https://droit-instruction.org/wp-content/uploads/2021/02/mailMEN-1.pdf>

5 - As part of the examination of the bill "For a School of Trust" (2019), Mr. Blanquer, National Education Minister gave the same unfavourable opinion as the rapporteur Ms. Lang to an amendment proposing such authorisation: "Freedom of education is a principle of constitutional value. Introducing prior authorisation would run counter to the principle of educational choice". Mr. Blanquer, a Doctor of Constitutional Law, clarified: "We have already had a similar debate when examining the so-called Gatel law. The arguments supporting our proposals are therefore known".

6 - [https://www2.assemblee-nationale.fr/scrutins/detail/\(legislature\)/15/\(num\)/3395](https://www2.assemblee-nationale.fr/scrutins/detail/(legislature)/15/(num)/3395).

64 amendments to remove Article 21 had however been co-signed by 188 deputies from all parties.

7 - The **Minister of National Education** called on parliamentarians to vote against the deletion of Article 21: "If you are a republican, and if you want to apply the rights of the child, you must vote against these removal amendments and therefore for Article 21".

Mr. Euzet (Modem deputy) also tried to convince his colleagues to sacrifice the freedom of education: "I wish to launch a solemn appeal to the members of the majority - or of its borders - who would have a hand which trembles at this time to face the upcoming public ballot vote [...] I want to reassure them [...] Of course, the right to home education is a fundamental right [...] There are rules in society which mean that everyone cannot be authorised to do everything as it sees fit. To live together, we have to accept a certain number of sacrifices".

Finally, we noted **Ms. Bergé's** thinly veiled intimidation efforts: "I'm glad we're having a public ballot on these removal amendments because I believe it will allow us to identify the people who are showing [...] culpable complacency".

8 - https://www.lemonde.fr/politique/article/2021/02/12/retirer-son-enfant-de-l-ecole-et-de-la-societe-est-une-forme-de-separatisme_6069710_823448.html

9 - [https://www2.assemblee-nationale.fr/scrutins/detail/\(legislature\)/15/\(num\)/3399](https://www2.assemblee-nationale.fr/scrutins/detail/(legislature)/15/(num)/3399)