

ASSOCIATION  
LUXEMBOURGEOISE  
pour la LIBERTÉ  
d'INSTRUCTION



## **What is freedom of education and why does it concern us all ?**

There is a global index in a way to a certain extent defining freedom of education and also trying to measure the degree of freedom of education by country. It was established by the Italian foundation Novaeterrae.

The 2015/2016 report can be accessed on the following link :

[http://www.novaeterrae.eu/images/FEI\\_completo\\_Eng\\_Fra.pdf](http://www.novaeterrae.eu/images/FEI_completo_Eng_Fra.pdf)

It concerns 136 countries representing 94% of the world population.

The Index is composed of:

- freedom of choice for children's education (constitutional and legislative provisions, public schools, homeschooling);
- public support for freedom of education (family vouchers, direct support for schools, teachers' wages, investment costs such as costs of structures and buildings etc.);
- net Enrolment rate in primary education
- the percentage of students enrolled in independent schools.

## **What are the constitutional and legislative provisions in Luxembourg ?**

In a rough and simplistic way, the hierarchy of laws is as follows:

CONSTITUTION > FONDAMENTAL RIGHTS > SCHOOL LAW

There is the **Constitution**: the highest law, then **fundamental rights** that is to say human rights and children's rights, which are also part of the Luxembourgish law, and at the bottom we find the school law and other laws, which in fact should concretize the principles of the higher laws mentioned before.

Already in the **Constitution**, freedom of education is limited because Basis Education is compulsory and is under the control of the State as mentioned in Article 23

*Art. 23 Basic Education Obligation*

*L'Etat veille à l'organisation de l'instruction primaire, qui sera obligatoire et gratuite*

*The State ensures the organization of basic education that will be compulsory and free*

Public agents are nevertheless obliged to respect the law, including fundamental rights and commit not to exercise their function arbitrarily but with integrity, accuracy and impartiality as stipulated in article 110.

*Art.110 (2) Arbitrary? Fundamental rights?*

*(2) Tous les fonctionnaires publics civils, avant d'entrer en fonctions, prêtent le serment suivant:*

*«Je jure fidélité au Grand-Duc, obéissance à la Constitution et aux lois de l'Etat. Je promets de remplir mes fonctions avec intégrité, exactitude et impartialité.»*

This also implies that :

*In all acts relating to children, whether performed by public authorities or private institutions, the best interests of the child must be a primary consideration*

and

*education must be directed to the full development of the human personality and sense of dignity and to the strengthening of respect for human rights and fundamental freedoms.*

We find these ethical values in the human rights and children's rights law in Luxembourg since respectively 1953 and 1993. They are also reminded in the Luxembourgish family law (2008) and in the school law (2009).

You probably wonder how Luxembourg was ranked. Luxembourg ended on rank Nr. 28, surprisingly behind Germany (Nr. 24) despite an absolute schooling obligation (Schulzwang) in Germany unlike Luxembourg. In Germany however there are many more alternative free schools in comparison with Luxembourg where they are practically non-existent.

Yet this index refers to the years 2015-2016 and it can be read in the report that homeschooling was allowed in Luxembourg only for high potential or sick children, which is not correct (from a legal point of view since over a century). As a result this ranking is probably too severe.

Besides as association defending freedom of education in Luxembourg we could observe a positive evolution towards homeschooling in the last 2 or 3 years. Interactions and cooperation with inspectors improved and based on stories told by families, we feel more trust and openness from authorities towards homeschooling families.

In that context also, some cases of compulsory schooling whereby the well-being of the children were particularly endangered have been positively supported by the Education Minister of Luxembourg Mr Claude MEISCH. Luxembourg is maybe one of the rare countries currently, if not the only one in Europe, where home based education was recently supported.

**Schooling obligation** is not so much an issue in Luxembourg (except maybe for allophone families) as long as parents are sufficiently informed and emotionally strong.

What concerns us most in this colloquium is **compulsory education**. To what extent is compulsory education or said differently the obligation to teach efficient ? socially fair ? in accordance with human and children's rights ? ethical ? necessary ? economically desirable ? dangerous for the well-being of the child ? how could it be otherwise ? do we need to radically rethink education ? shall we encourage self-directed learning rather than following an imposed school curriculum ?

To answer these questions, we first need to ask ourselves what are the best interests of the child or what is meant with well-being of the child and think about the **status and the rights of children in our democratic society**. I hope that the contribution of Bertrand Stern and Franziska Klinkigt on this questions will be inspiring.

Then we will discuss the situation and outlook in Europe and our other participants: Bernard Collot, Peter Hartkamp, Jean-Pierre Lepri, Bernadette Nozarian, Harriet Pattison, Melissa Plavis and Alan Thomas will enrich this topic from an **empirical and philosophical point of view**.

**May this colloquium be constructive as well as inspiring and enable people to think more deeply about the importance of freedom of education to defend democratic values and lead to individual and collective well-being.**