



**ELEN – European Language Equality Network**

***EBLUL/ELEN French Committee***

***European Bureau for Lesser Used Languages***

*Languages and cultures because they are expressions of human beings and human communities, are equal in dignity and their speakers have equal rights.*

**Committee on Economic, Social and Cultural Rights  
United Nations**

**58<sup>th</sup> session – June 6 to 24 2016**

**United Nations – Geneva**

**FRANCE :**

**WRITTEN CONTRIBUTION**

**of EBLUL-France**

**(European Bureau for Lesser Used Languages)**

**Member of the ELEN network, European Language Equality Network**

**Réseau Européen pour l'Égalité des Langues (\*)**

Registered association in the register of associations of the Magistrates' Court of Strasbourg, governed by Articles 21 to 79 of the local Civil Code. Date of creation : June 30<sup>th</sup>, 1984 - registered on September 28<sup>th</sup>, 1984

Special Consultative Status by the United Nations Economic and Social Council (1997)

Participatory Status by the Council of Europe

Member of the platform of civil society of the Fundamental Rights Agency of the European Union.

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- Extract from the ECRI report on France 1st March 2016
- Synthesis « France's Languages » in danger to UNESCO
- Map : Languages in Europe

"The French Republic has failed in the field of equality. We are not equal in the cultural, territorial and social plan. Our minority languages and cultures are despised by the law. Our regional territories are secondarized under a spoiler Paris whose extension does not meet the slightest opposition anymore. Here we are condemned to second-class careers for our children, unable to pay them Parisian studies in these large high schools that monopolize the places in the finest schools. And France to damage itself in a pyramidal society, at the top of which the Republican and widely Parisian elite, and below, the vast middle- and provincial class, working for the first category and monitoring those excluded of the third and final category. Cruel irony of history for the nation having built everything on the egalitarian aspiration! Here rises the French disunity"

*Extract from an article by Yvon Ollivier, magistrate, author of "The French Disunity" in "the Breton people" magazine, June 2012.*

## Reminder of CESCR observations and recommendations in 2008 on recognition of minority and regional languages and cultures.

### COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session – 28<sup>th</sup> April – 16<sup>th</sup> May 2008

#### FRANCE

##### D - Principal Subjects of Concern

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29 - The Committee remains concerned about the lack of official recognition of minorities within the territory of the State party. With specific regard to cultural rights, the Committee further notes with concern that some of these rights are not respected – such as the right to use a minority language, which can only be exercised in community with other members of the minority group.

30 - The Committee notes with concern that the State party has not made sufficient efforts in the field of preservation and promotion of regional and minority languages and cultural heritage. The Committee also notes that the absence of formal recognition of regional and minority languages has contributed to the constant decline in the number of speakers of such languages.

##### E. SUGGESTIONS AND RECOMMENDATIONS

49 - The Committee, while taking note that the recognition of minority groups or collective rights is considered by the State party to be incompatible with its Constitution, wishes to reiterate that the principles of equality before the law and prohibition of discrimination are not always adequate to ensure the equal and effective enjoyment of human rights, in particular economic, social and cultural rights, by persons belonging to minority groups. The

Committee therefore recommends that the State party consider reviewing its position with regard to the recognition of minorities under the Constitution, and recognise officially the need to protect the cultural diversity of all minority groups under the jurisdiction of the State party, in accordance with the provisions of article 15. In this regard, the Committee reiterates the recommendation formulated in its previous concluding observations (E/C.12/1/Add.72, para. 25) that the State party (i) withdraw its reservation to article 27 of the International Covenant on Civil and Political Rights and to article 30 of the Convention on the Rights of the Child and (ii) consider ratifying the Council of Europe Framework Convention for the Protection of National Minorities, as well as the European Charter for Regional or Minority Languages.

50 - The Committee reiterates the recommendation formulated in its previous concluding observations (E/C.12/1/Add.72, para. 26) that the State party increase its efforts to preserve and promote regional and minority languages and cultural heritage, *inter alia* by ensuring that sufficient financial and human resources be allocated to the teaching of regional and minority languages and cultures in public schools and to TV and radio broadcasting in these languages. The Committee also recommends that the State party consider reviewing its position concerning the lack of formal recognition of regional and minority languages in the Constitution of the State party.

53 - The Committee further encourages the State party to consider ratifying Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

## Comments on responses of France

### 1- Non-recognition of minorities and of territories diversity :

- article 27 of Covenant on Civil and Political Rights
- article 30 of the Convention on the rights of the child,
- European Charter for Regional or Minority Languages
- European Framework Convention on National Minorities  
(§ 64 to 73 of report of France)

#### § 66 report of France :

The State argument according to which the refusal of recognition of minorities would be **"a most demanding conception of human rights" is totally mistaken**. Asserting that identity in France results from a personal choice is a view of the mind. In reality, the dominant group running the State from the monarchy to the present days imposes its identity and aims to destroy all other identities, especially by recognizing only one single, official language : French.

Reminding of the over secular fight of the State against regional languages would take too long.

Let us quote however some current events :

#### 1.1- **The independent expert on minority issues denounces the total assimilation and racial discrimination rooted in attitudes and institutions in France.**

Ms. Gay McDougall, United Nations Independent Expert minorities issues, wrote in her report on France in 2008:

*"Currently, she found, there is a widespread feeling within the community of visible minorities that to become a citizen of France is not sufficient for full acceptance; that acceptance will be granted only with total assimilation that forces them to reject major facets of their identities."*

In conclusion, the report notes that *«In spite of important national anti-discrimination legislation, serious racial discrimination is experienced by members of minority communities in France that is entrenched and institutionalized in nature. A political culture of denial has been an obstacle to effective measures to fully implement non-discrimination laws and to take concrete steps to address the complex inequalities that have been generated. »*

Being true for populations mostly coming from former colonies, this finding is just as much for metropolis and overseas territories populations, more formerly conquered by the monarchy, the Republic or the Empire during history.

## 1.2- The Territorial reform refuses to take into account identities of the various territories of the French Republic.

Following a decision of the President of the Republic, the Government undertook in 2014 a redistribution of the metropolitan regions of France to authoritatively reduce their number from 22 to 13. The Minister for Home Affairs Bernard Cazeneuve officially declared that the regional division should not take regional identities into account.

Thus,

**-The city of Nantes, historic capital city of Brittany, independent State then autonomous province until the French Revolution was kept out of the region of Brittany,** with its department of Loire-Atlantique. The existing partition since the collaborationist Vichy government decision in 1941 continues against the Breton sense of belonging of inhabitants of Loire-Atlantique evidenced by surveys and numerous demonstrations (40 000 people on September 27<sup>th</sup> 2014 in Nantes). Inhabitants of Loire-Atlantique are no longer called Bretons by all official bodies, in education, mass communication media, newspapers, radio, television, but "Ligerians". References to Brittany are erased. The population has never been consulted. How can the State then mention an identity resulting from a personal choice?

**-The Alsace region, which has a special status, was merged by force into a large "Champagne-Alsace-Lorraine" Eastern region** against the will of the vast majority of its elected representatives and its population and will no longer hold any of its own political body capable of defending its interests and its regional identity based in particular on a double culture of French and Germanic languages.

**The Government has refused any consultation of the populations** regarding this from-above-decided redistricting, without any referendum for concerned citizens, **unlike the application of Article 5 of the European Charter of Local Self-Government (1985)** yet ratified by France on January 17<sup>th</sup>, 2007.

The Government has also refused all amendments to the law of New territorial organization of the Republic that forbids departments to choose themselves, by their elected representatives or by referendum, their own region.

**The removal of the clause on regions general competence** and the decline in their fiscal autonomy, their dependence to 90% of State grants significantly reduces their power of decision and challenges the very notion of "decentralized organization" of the Republic affirmed by Article 1 of the Constitution.

**Contrary to State assertions, there is indeed a high discrimination** between the official, French language identity, imposed on all, and various other identities, which are as much parts of the Republic, but which are due to other languages and other individual or collective histories, as well as to choice by the population.

## 2- The right to education Articles 13 to 14: no right to bilingual education (§ 68 of the report)

The report states that French policy “results in concrete measures” :

**"Multilingualism is encouraged and bilingual education in regional languages is possible in primary, secondary and high schools"**

Progresses actually exist in bilingual education. For instance in the Basque Country, bilingual systems (immersive and joint) reach the third of the population in the first degree (up to 11 years old), but bilingual pupils are no more than 12 % in the second degree. While the Basque Country is one of the most advanced, from 1991 to 2011, the Basque-speaking population has declined by 23% (**2013 EBLUL-ELEN Report to UNESCO**).

Bilingual associative schools in immersion, carrying a genuine renewal of the social life of languages are often discriminated against by the authorities for operational resources (**2014 EBLUL-ELEN Report to Committee on the Rights of the Child**)

**So, the Bill on Refoundation of the school of the Republic adopted in 2013** did not include the slightest mention of existence or teaching of regional languages. It took a very strong mobilization of civil society and parliamentarians to amend the draft and introduce the possibility of bilingual education into the law.

**It still remains to be said that this teaching is still not a right for children and their parents**, but a simple possibility for the academic institution that does not always implement the necessary means.

## 3 -The lack of recognition of minorities or groups (§ 65, 69, 70, 71, 72) opposes the European Charter for Regional or Minority Languages (§ 73)

It is obvious that France does not recognize the existence of different groups, different cultures within itself. To such a point that the only recognition of language rights for speakers of regional or minority languages traditionally spoken in its various territories appears to France as a recognition of groups, which is however not in itself.

This is a terrible confession: it is here the affirmation that the French Constitution would be incompatible with human rights and especially the rights of minorities being an integral part of Human rights as proclaimed by the United Nations, UNESCO, the Council of Europe and the European Union. Hence the temptation of the State to ratify the European Charter strengthening the Constitution in a manner contrary to the rights of persons belonging to minorities to protect from its own diversity. It would be tragic for the application of Human rights in all territories of the French Republic and for the actual application of the Charter.

**The French population overwhelmingly agrees with its cultural diversity and internal linguistics as stated in the report of France.**

**Rather than trying to bring back Human rights to its Constitution, which is absurd, France should reform its Constitution to recognize the diversity and richness of its components, being killed by its unitary dogmatism and the dream of a perfect unity and homogeneity.**

## **4- Article 15 - The right for everyone to culture and to benefits of scientific progress.**

### **A- The constitutional reform of July 2008 establishes no right or freedom (§ 502, 503 and 504).**

**§ 502** The State calls upon the constitutional reform of July 2008 and Article 75-1 of the Constitution saying today that "**regional languages belong to the heritage of France.**" But questioned by a Priority Question of Constitutionality (QCP) the Constitutional Council does not intend to draw any conclusions from this change, because it considers that "**this article does not establish a right or a freedom guaranteed by the Constitution**" (decision number 2011 -130 of 20<sup>th</sup> May 2011).

**§ 503** If the State considers that preservation of regional linguistic heritage "falls from now on to local authorities", these latter do not have either means or skills to intervene directly in the field of education or the media.

**§ 504** - France declares applying most of the 39 provisions of the Charter out of 95 (thus at a minimal level) signed by itself in Budapest on 7<sup>th</sup> May 1999. But this application is not a right, it is often marginal and meets the opposition of the administration, the lack of general policy and attitudes in bad faith as shown by many examples (2014 EBLUL-ELEN Report to Committee on the Rights of the Child). This situation is contrary to the commitment of the Convention which requires the will of a determined action on behalf of the State.

### **B – Bilingualism in local authorities**

#### **§ 505 – Bilingualism in official documents : refusal to co-officiality or to the use of a regional language.**

While it is true that bilingualism may develop in the local authorities, the regional language has no official status :

-Despite a favorable vote of the Territorial Assembly of Corsica, the State refuses co-officiality of Corsican and French.

-Deliberations in Polynesian languages of the French Polynesian Territorial Assembly known as "country languages" were declared as illegal by the Council of State (decision of 13<sup>th</sup> June 2013)

-On 27<sup>th</sup> January 2015, the Administrative Court of Pau (Pyrénées Atlantiques) overturned the decision of the municipal Council of Ustaritz (6 200 inhabitants) which had decided co-officiality of Basque.

-The Department of Justice prohibits Breton municipalities as the town of Carhaix to continue to deliver bilingual family registers French-Breton, only French should appear referring to a decree of 24 Prairial year XI (13<sup>th</sup> June 1803) of the first Consul Napoleon Bonaparte imposing French to the new territories occupied by France (Ministerial written reply to the National Assembly – Question n° 5552, answer n° 2612 JO 05/03/2013 p. 2612)

Without any official recognition, regional languages already dominated in the society cannot hope to survive and to develop.

### **C – A still very weak place for regional languages in the public media.**

The given figures speak for themselves: 300 hours all in all in a year for 6 regional languages on France 3 representing an average of 50 hours per language. In a media landscape concentrating 95% of the French audiovisual production in Paris, a greater equity in the distribution of resources and jobs between territories would have the advantage of providing more diverse and pluralistic views on the world.

### **D – Strengthen teaching of regional languages and original languages in the regions and overseas territories.**

**-Associative and secular schools** open to all for the French-regional language bilingualism by immersion in the regional language should be fully recognized and supported by the State and by authorities just as French public schools are.

**Overseas territories languages** should enjoy at least the achieved legislative progress, which is not generally the case in particular to meet the demand for bilingual education in Mayotte.



## The experience of children who speak a regional language in France

**List of concrete examples of discrimination sent to the Rights Defender in France for the 25th anniversary of the covenant on the Rights of the Child, when those children are speakers of a regional language.**

**November 3rd 2014** – The mayor of Ciboure (Pyrénées-Atlantiques) **cuts off the electricity of Seaska Ikastola**, where a dozen children are taught in the Basque language. Their education is secular and free of charge.

**September 2014** – Pau's administrative tribunal orders Seaska to vacate, within seven days, a parcel of land in the municipality of Ciboure on which there is a portable unit housing a Basque-language nursery school class. In July, the municipality had **refused to renew the lease agreement**.

**September 2014** – Lily C.-B. cannot begin her school year with her bilingual class at the public school in Landerneau (Finistère): the municipality of which she is a resident and that of her school cannot agree on who should pay the school fees. The public school **refuses to enroll her**.

**September 2014** – By decision of the administrative tribunal of Limoges, the Calandreta of Limoges must **reimburse 47 000 Euros to the Regional Council**, which had given them this grant. Since 1994, the Calandreta has schooled around fifty children in the Occitan language. Their education is secular and free of charge.

**July 2014** – The Strasbourg education authority **refuses to open** public bilingual classes in Erstein (Bas-Rhin) despite the pre-inscription of seventy children. The quadripartite Convention (between the State, the Alsace region and the departments of Bas-Rhin and Haut-Rhin) of 2007-2013 announced that the number of enrollments in bilingual classes would be doubled. Enrollments in fact grew from 16492 pupils in 2007 to 23283 students at the beginning of the school year 2014; 9700 fewer than announced.

**June 2014** – Students in their final year of study in technical sections of the public high school Fulgence Bienvenüe in Loudéac are **not permitted to take their facultative exams in Gallo** despite their having been taught in this language for several years. According to a communiqué of the Ministerial service dated October 18th, 2012, "there will no longer be facultative exams in foreign or regional modern languages".

**May 2014** – The Rennes/Roazhon education authority **refuses to open a bilingual class** in the public school of Coray, claiming a lack of teachers. The lack of teachers and the inadequacy of their training are recurrent problems. The education authority then revokes its decision, allowing the class to be opened in September. However, the city hall does not have the means to finance a nursery assistant for the 20 children enrolled in the nursery school.

**May 2014** – The administrative court **refuses the demand** of the Diwan school of Guingamp to oblige those students' municipalities of residence which fall outside the school's municipality to participate in school fees. The Diwan school of Guingamp educates 80 children in Breton: their education is secular and free of charge.

**February 2014** – Martí B., born in Perpignan, celebrates his 16th birthday. His parents chose to give him a Catalan first name, but the civil registrar **refused to spell his name** with the proper accent on the i. French law forbids the use of diacritical marks (dots, accents and cedillas) which do not exist in the French language. This stance has been held even in the Court of Appeal and the Council of Europe.

**November 2013** – Nolwenn C. has studied Breton for 14 years. When she enrolls for her baccalaureate exam in Management and Administration, the education authority of Rennes/Roazhon **refuses to let her choose Breton** in her facultative exam subjects. According to a communiqué of the Ministerial service dated October 18th, 2012, “there will no longer be facultative exams in foreign or regional modern languages”.

**October 2013** – The education authority **forbids the display of the national motto in Breton**, to be placed side by side with the French, in public high schools.

**September 2013** – The Minister of young people **refuses to validate the BAFA-BAFD training** offered by the Breton union for group activities in rural areas (UBAPAR), because part of the training is to take place in Breton.

**September 2013** – For the first time, in a written question to the Minister of National Education, reference is made to **“institutionalized blockage” by the assistant superintendent of Mayotte** the teaching of local languages, to the profit of an exclusively monolingual educational system.

**September 2013** – The Occitan section of the public middle school Révolution in the only of its kind in the Gard department, is closed by its **principal who deems it insufficiently “cost-effective”**.

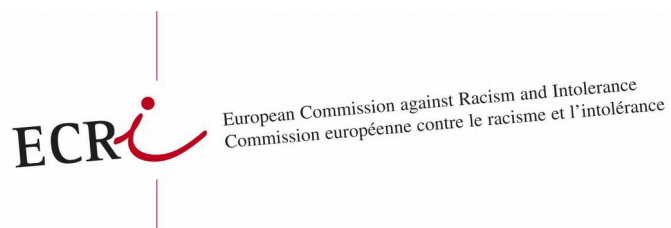
**July 2013** – The report on regional languages, addressed to the ministry of Culture, recommends researching a solution for financing associative schools which contribute to the policy of regional language development. It emphasizes that these schools are secular, open to all, respect the national curriculum and train regional language speakers who perfectly master the French language. It also laments the situation of the schools in question (ABCM, Zweisprachigkeit, la Bressola, Calandreta, Diwan, Seaska) which it describes as **unsatisfactory for the State, for the regional governments, and for the associations themselves**. Since July 2013, no action has been undertaken to resolve this problem.

## **Propositions and recommendations of EBLUL/ELEN France towards a real recognition of linguistic and cultural diversity**

- 1. PROMOTE BILINGUALISM IN PUBLIC LIFE, giving CO-OFFICIAL STATUS TO REGIONAL AND TERRITORIAL LANGUAGES** alongside French in territories where such a desire is expressed by elected bodies or the population.
  
- 2. RECOGNISE LINGUISTIC DISCRIMINATION IN EXISTING PENAL LAW** against all forms of discrimination, as the European Commission against Racism and Intolerance has recently recommended (report of the ECRI on France, March 1<sup>st</sup>2016)
  
- 3. PROVIDE PUBLIC FINANCING FOR IMMERSIVE SCHOOLS IN REGIONAL LANGUAGES** in order to make free education available to all families and students, whatever their origin, who choose to follow an education in a regional language, thereby supporting bilingualism and the creation of native speakers.
  
- 4. GENERALISE TEACHING REGIONAL LANGUAGES**, culture, and history, as well as education about respect for cultural diversity.
  
- 5. AUDIOVISUAL MEDIA: ESTABLISH PROGRAMMING OVER SEVERAL YEARS** to progressively attain a volume of production and broadcasting in regional languages that represents a significant portion of the public audiovisual media budget: for example, 10% over 10 years.

### **Attached documents :**

- **Extract from the ECRI report on France 1st March 2016**
- **Synthesis « France's Languages » in danger to UNESCO**
- **Map : Languages in Europe**



## COUNCIL OF EUROPE - ECRI REPORT ON FRANCE - 1 March 2016

### FINDINGS AND RECOMMENDATIONS

#### I. Common themes

##### 1. Legislation to combat racism and racial discrimination<sup>1</sup>

###### - Protocol No. 12 to the European Convention on Human Rights

1. The French authorities have informed ECRI that they have no plans to sign or ratify Protocol No. 12. ECRI believes that this Protocol, which was adopted on 4 November 2000 and provides for a general ban on discrimination, is a key element in the fight against racism and intolerance.

2. ECRI once again recommends that France ratify Protocol No. 12 to the European Convention on Human Rights.

3. ECRI has on several occasions examined the various provisions of criminal, civil and administrative law with reference to its General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination. The analysis below will deal with the points not yet studied or with continuing shortcomings.

###### - Criminal law

4. With regard to paragraphs 18.a), b) and c) of GPR No. 7, ECRI notes that the provisions making public incitement to violence, hatred or discrimination or public insults or defamation criminal offences are part of the Law on Freedom of the Press of 29 July 1881 (Articles 24.7, 32.2 and 33.3 respectively), while those that make threats a criminal offence are part of the Criminal Code (Article 222-18-1). At this stage of its analysis, ECRI would first of all like to mention an initiative announced by the President of the Republic (on 27 January 2015) and the Ministry of Justice (on 16 January 2015) to insert into the Criminal Code the various Articles of the aforementioned Law on Freedom of the Press and to make it a general rule that racist and antisemitic remarks are an aggravating circumstance of every ordinary offence (on this point, see also paragraph 9). This initiative, which is important with regard to the effectiveness of the provisions of the criminal law, will be discussed in the part of the report on hate speech.

5. ECRI notes that these legal provisions refer in particular to origin, ethnicity, nationality, race, religion, sexual orientation and gender identity as characteristics of victims of racist behaviour classified as criminal offences (referred to below as “prohibited grounds”). **Prohibited grounds missing from this list are, therefore, citizenship, skin colour and language.** The authorities argue that French case-law indicates that the first two of these three grounds are nevertheless covered. This is confirmed, for example, by a judgment of the Court of Cassation of 24 June 1997 as far as citizenship is concerned, two judgments of the Court of Cassation of 23 June 2009 and 25 June 2013 with regard to skin colour, and the three judgments of the Paris Court of Appeal of 7 June 2004, the Rennes Court of Appeal of 15 November 2010 and the Saint-Denis de la Réunion Court of Appeal of 24 November 2011.<sup>2</sup> **ECRI is aware, however, that a continuing shortcoming remains as far as language is concerned.**

<sup>1</sup> In accordance with ECRI’s General Policy Recommendation (GPR) No. 7, **racism is understood as meaning the belief that a ground such as** “race”, colour, **language**, religion, nationality or ethnic origin justifies contempt of a person or group of persons or the notion of superiority of a person or group of persons. Similarly, “racial discrimination” is understood as meaning any differential treatment based on these grounds, which has no objective and reasonable justification.

<sup>2</sup> Judgments on various cases involving employment discrimination, physical violence, insults and public incitement to discrimination on the ground of skin colour.



