

Report 2007/2008 on freedom of education in the world

Sum-up

Both a social dimension and a dimension of freedom have been distinguished with relevance in the right to education. (F. Coomans, 1995). This second dimension is mainly concerned with two liberties: to be able to choose a school and to be free to create educative centers. In the last few years, reports on the condition of education have been published, with the aim of reinforcing the protection of rights. However the dimension of freedom has often been neglected. Aware of the importance of educative freedom in human development, OIDEL, (www.oidel.ch) since its inception, has primarily dedicated itself to the promotion of freedom in education. The organisation has thus opened an avenue that has later been largely explored by the UNDP in its **Human Development Report** - 2004 dedicated to cultural freedom. « *Expanding cultural freedoms is an important goal in human development - specifies the Report – one that needs urgent attention in the 21st century. All people want to be free to be who they are. All people want to be free to express their identity as members of a group with shared commitments and values.* »

1. Our research is based on the provisions contained in international law, in particular the **International Covenant on Civil and Political Rights** (ICCPR) and the **International Covenant on Economic, Social and Cultural Rights** (CESCR), both texts having been ratified by nearly every country in the world. As one can see, the emphasis is rather laid in article 13 of the CESCR, rather than on article 18 of the ICCPR. The reason for this is simple: it is considered that economic, social and cultural rights imply the intervention of the State, a concrete action that citizens are liable to demand. In turn, civil and political rights rather translate, roughly said, the "withdrawal duties" of the State, or again they oblige the latter to respect a certain amount of liberties.
2. In 2002, OIDEL has published a **Report on freedom of education in the world**, following a prior similar work in 1995. The 2002 Report worked out and calculated an *index of freedom of education* which took into account legal provisions while examining the right to create non governmental schools (NGSs)². It also looked into the existence of rules

² We have chosen the expression "non governmental school" (NGS) in order to use neutral terminology inspired on the expression "non governmental organization" (NGO). In reality, schools named "private" are for the major part, schools having been created by civil society. On this subject, see the interesting typology established by I. KITAEV (1999) *Private education in sub-Saharan Africa : A re-examination of theories and concepts related to its development and finance*, UNESCO/IIEP, Paris.

regulating even partial financing of such schools. This study did not yet consider the effective pedagogical autonomy available to non governmental schools, although it is an essential component of academic freedom.

The right to education and liberties : conceptual framework

The school policies we will study practically all have their bases on a constitutional text or on provisions of a an act formulated in terms of right to education or of academic freedom. A national legislation which would not make any mention of this right or this freedom, would seem suspect, rightly so, in the light of human rights in general. Nonetheless, the right to education, especially in its aspect of freedom, has been neglected for a long time, just as cultural liberties have been in a more general way.

However, one cannot deny a certain "instrumentalisation" of educative freedom: educational systems, for the most part, established within the context of the State Nation, have often been used as tools, if not as the privileged tool for setting up a political system.

Too late indeed, has education been considered as a fundamental right. One can be glad that it has become today the object of numerous works, which outline a real international consensus. Educational policies have been for a long time a matter of goodwill on behalf of decision-makers. Today they should be recognised as moral and legal obligations. (S. R. OSMANI, 2004, p. 3).

Free access to education should not only concern schools depending on public authorities but also "establishments other than those of the public authorities", according to the CESCR terminology. Without this extension, we would be in a situation of economic discrimination. Having to express itself repeatedly on the subject, the French Constitutional Council has thus stressed the "compulsory character of State help" for private schools. "According to the Constitutional Council, State funding of private schools is an 'essential condition of the existence of freedom of education' and (...) as such, constitutionally compulsory". (L. FAVOREAU / L.PHILIP, 2001, p. 349).

Taking the risk to simplify, one could say the following: All people are entitled to basic free education. And it is unacceptable that those who use the fundamental right to chose a different school, should be deprived of such free basic education. To accept that only children chosing a state school have the right to free education is emptying the "right to chose a school" of its meaning.

The question of the funding of non governmental schools is symptomatic of a faulty understanding of the notions of "public" and "private". The *Resolution on freedom of education in the European Community* had already clearly asserted that "*the right to the freedom of education implies the obligation for the member states to enable the application of this right also financially and to grant (private) schools the subsidies necessary for them to further their mission*".

The study we present here will show that the classic distinction between the public and the private sector of education is not relevant anymore. The theoretical contribution of Amartya

Sen has clearly clarified the link between liberties and State action as facilitator of rights: *"Development is the fruit of the expansion of the freedom of choice of human beings, be it related to processes allowing freedom of action or to concrete opportunities offering themselves to persons due to their personal situation and their social environment"*.

What is the role of civil society? According to UNESCO, it takes on three functions in the educational field: *1) to supply alternative services; 2) to implement innovative steps; 3) to exert a critical and mobilizing role.*

The work we present here attempts to describe, in about a hundred countries, the role of civil society in education by means of an analysis of liberties.

We wished to introduce the situation of each country in a synthetic table collecting the main information. At the top right of the table one can find a summary of the striking elements of the country. Criteria are on the left and comments on the right.

In the centre figures the criterion and finally the **simple index of freedom of education** (IFE 07) elaborated by adding criteria 1 to 5 (maximum of 80 points). **The composite index of freedom of education** (CIFE 07) results from adding the simple index of points relative to the autonomy of the NGSs (criterion 6) (maximum of 20).

Thus 100 points is the maximum that can be awarded to a country. Taking into account the autonomy, we wanted to bring to light that a true freedom of education supposes the autonomy of schools.

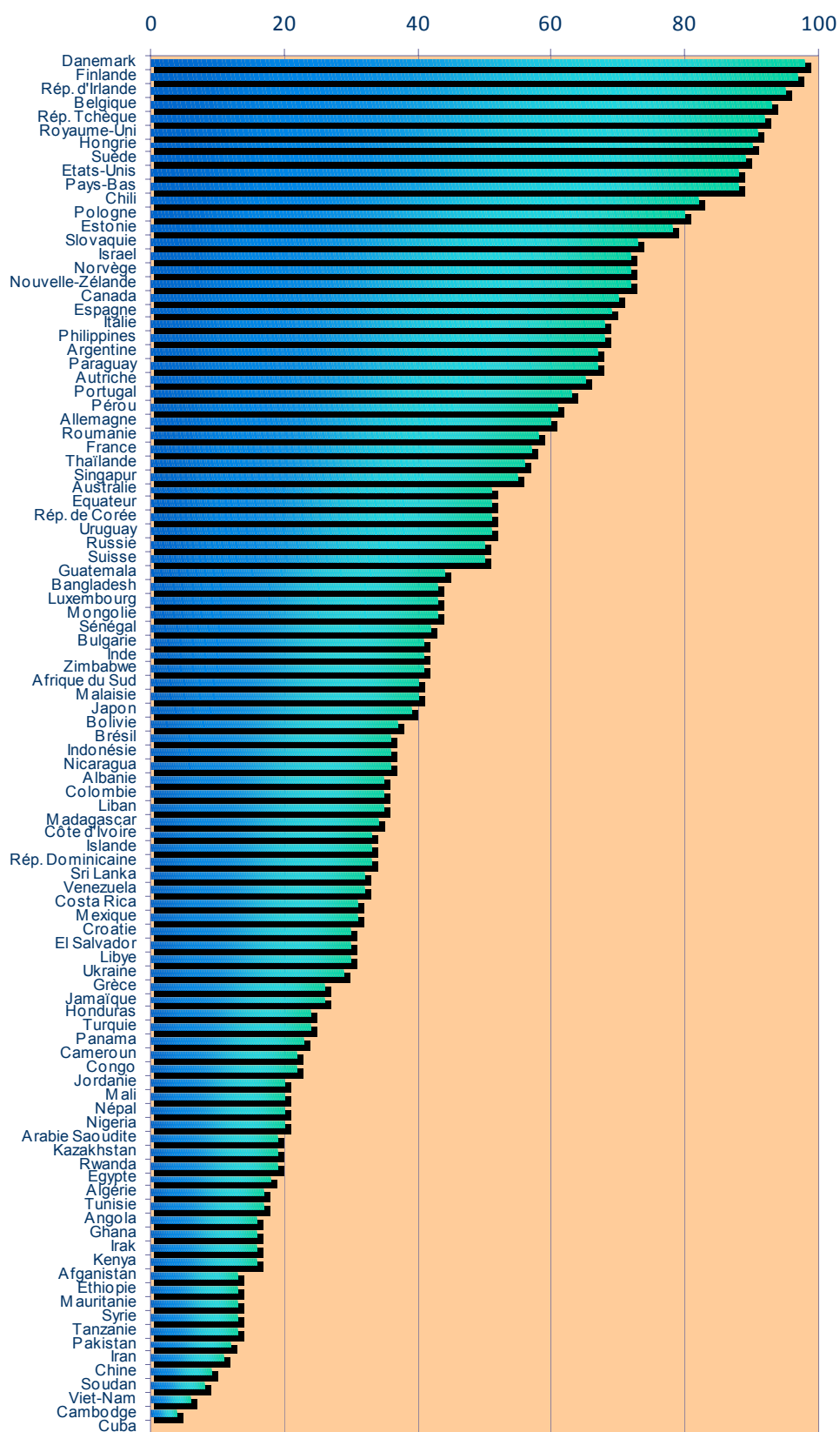
As we have already indicated, this report follows upon the one that we published in 2002. For most countries, it refers to the developments which took place between 2002 and 2006. In this report we present the situation of educational freedom in a 100 countries corresponding to about 95% of the world population in 2007.

Country results in alphabetical order

| COUNTRY | 1. Right to create | 2. Funding obligation | 3. Value of subsidies | 4. Parental choice | 5. Homeschooling | 6. Autonomy | ILE simple index | ICLE Composite index | ILE classification /100 | ICLE classification /100 |
|-----------------|-----------------------|--------------------------|--------------------------|-----------------------|---------------------|----------------|---------------------|-------------------------|----------------------------|-----------------------------|
| Afganistan | 13 | 0 | 0 | 0 | 0 | 0 | 13 | 13 | 84 | 89 |
| Afrique du Sud | 16 | 8 | 0 | 4 | 4 | 8 | 32 | 40 | 47 | 46 |
| Albanie | 13 | 0 | 0 | 0 | 16 | 6 | 29 | 35 | 51 | 53 |
| Algérie | 13 | 0 | 0 | 0 | 0 | 4 | 13 | 17 | 84 | 83 |
| Allemagne | 16 | 13 | 8 | 4 | 4 | 15 | 45 | 60 | 30 | 27 |
| Angola | 16 | 0 | 0 | 0 | 0 | 0 | 16 | 16 | 75 | 85 |
| Arabie Saoudite | 4 | 4 | 8 | 0 | 0 | 3 | 16 | 19 | 75 | 79 |
| Argentine | 16 | 8 | 8 | 13 | 4 | 18 | 49 | 67 | 27 | 22 |
| Australie | 13 | 8 | 8 | 0 | 4 | 18 | 33 | 51 | 45 | 32 |
| Autriche | 16 | 8 | 8 | 4 | 13 | 16 | 49 | 65 | 27 | 24 |
| Bangladesh | 13 | 13 | 8 | 0 | 4 | 5 | 38 | 43 | 40 | 39 |
| Belgique | 16 | 16 | 16 | 16 | 13 | 16 | 77 | 93 | 3 | 4 |
| Bolivie | 16 | 13 | 8 | 0 | 0 | 0 | 37 | 37 | 43 | 49 |
| Brésil | 16 | 13 | 0 | 0 | 0 | 7 | 29 | 36 | 51 | 50 |
| Bulgarie | 16 | 0 | 0 | 13 | 0 | 12 | 29 | 41 | 51 | 43 |
| Cambodge | 4 | 0 | 0 | 0 | 0 | 0 | 4 | 4 | 97 | 99 |
| Cameroun | 13 | 4 | 0 | 0 | 0 | 5 | 17 | 22 | 73 | 73 |
| Canada | 13 | 13 | 8 | 4 | 16 | 16 | 54 | 70 | 20 | 18 |
| Chili | 16 | 13 | 8 | 13 | 16 | 16 | 66 | 82 | 11 | 11 |
| Chine | 0 | 0 | 0 | 0 | 0 | 9 | 0 | 9 | 98 | 96 |
| Colombie | 16 | 8 | 0 | 0 | 4 | 7 | 28 | 35 | 59 | 53 |
| Congo | 16 | 0 | 0 | 0 | 0 | 6 | 16 | 22 | 75 | 73 |
| Costa Rica | 16 | 4 | 4 | 0 | 0 | 7 | 24 | 31 | 64 | 62 |
| Côte d'Ivoire | 13 | 8 | 4 | 0 | 0 | 8 | 25 | 33 | 62 | 57 |
| Croatie | 16 | 4 | 4 | 0 | 0 | 6 | 24 | 30 | 64 | 64 |
| Cuba | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 98 | 100 |
| Danemark | 16 | 16 | 16 | 16 | 16 | 18 | 80 | 98 | 1 | 1 |
| Egypte | 13 | 0 | 0 | 0 | 4 | 1 | 17 | 18 | 73 | 82 |
| El Salvador | 16 | 8 | 0 | 0 | 0 | 6 | 24 | 30 | 64 | 64 |
| Equateur | 13 | 8 | 4 | 0 | 16 | 10 | 41 | 51 | 34 | 32 |
| Espagne | 16 | 13 | 13 | 13 | 4 | 10 | 59 | 69 | 15 | 19 |
| Estonie | 16 | 13 | 8 | 13 | 13 | 15 | 63 | 78 | 12 | 13 |
| Etats-Unis | 16 | 13 | 11 | 16 | 16 | 16 | 72 | 88 | 7 | 9 |
| Ethiopie | 13 | 0 | 0 | 0 | 0 | 0 | 13 | 13 | 84 | 89 |
| Finlande | 16 | 16 | 16 | 13 | 16 | 20 | 77 | 97 | 3 | 2 |
| France | 16 | 8 | 13 | 4 | 13 | 3 | 54 | 57 | 20 | 29 |
| Ghana | 13 | 0 | 0 | 0 | 0 | 3 | 13 | 16 | 84 | 85 |
| Grèce | 16 | 4 | 4 | 0 | 0 | 2 | 24 | 26 | 64 | 68 |
| Guatemala | 16 | 8 | 0 | 0 | 16 | 4 | 40 | 44 | 36 | 38 |
| Honduras | 13 | 8 | 0 | 0 | 0 | 3 | 21 | 24 | 70 | 70 |
| Hongrie | 16 | 16 | 13 | 16 | 16 | 13 | 77 | 90 | 3 | 7 |
| Inde | 16 | 13 | 8 | 0 | 4 | 0 | 41 | 41 | 34 | 43 |
| Indonésie | 13 | 4 | 0 | 0 | 13 | 6 | 30 | 36 | 50 | 50 |
| Irak | 16 | 0 | 0 | 0 | 0 | 0 | 16 | 16 | 75 | 85 |
| Iran | 4 | 4 | 0 | 0 | 0 | 3 | 8 | 11 | 95 | 95 |
| Islande | 13 | 4 | 4 | 4 | 4 | 4 | 29 | 33 | 51 | 57 |
| Israël | 16 | 13 | 8 | 16 | 4 | 15 | 57 | 72 | 18 | 15 |
| Italie | 16 | 8 | 8 | 13 | 13 | 10 | 58 | 68 | 16 | 20 |
| Jamaïque | 13 | 4 | 8 | 0 | 0 | 1 | 25 | 26 | 62 | 68 |

| COUNTRY | 1. Right to create | 2. Funding obligation | 3. Value of subsidies | 4. Parental choice | 5. Homeschooling | 6. Autonomy | ILE simple index | ICLE Composite index | ILE classification /100 | ICLE classification /100 |
|------------------|-----------------------|--------------------------|--------------------------|-----------------------|---------------------|----------------|---------------------|-------------------------|----------------------------|-----------------------------|
| Jordanie | 16 | 0 | 0 | 0 | 0 | 4 | 16 | 20 | 75 | 75 |
| Kazakhstan | 16 | 0 | 0 | 0 | 0 | 3 | 16 | 19 | 75 | 79 |
| Kenya | 16 | 0 | 0 | 0 | 0 | 0 | 16 | 16 | 75 | 85 |
| Liban | 16 | 0 | 8 | 4 | 0 | 7 | 28 | 35 | 59 | 53 |
| Libye | 16 | 0 | 0 | 0 | 13 | 1 | 29 | 30 | 51 | 64 |
| Luxembourg | 13 | 8 | 8 | 9 | 0 | 5 | 38 | 43 | 40 | 39 |
| Madagascar | 16 | 4 | 8 | 0 | 0 | 6 | 28 | 34 | 59 | 56 |
| Malaisie | 16 | 8 | 8 | 4 | 4 | 0 | 40 | 40 | 36 | 46 |
| Mali | 16 | 0 | 0 | 0 | 0 | 4 | 16 | 20 | 75 | 75 |
| Mauritanie | 13 | 0 | 0 | 0 | 0 | 0 | 13 | 13 | 84 | 89 |
| Mexique | 16 | 4 | 0 | 0 | 4 | 7 | 24 | 31 | 64 | 62 |
| Mongolie | 16 | 8 | 0 | 0 | 16 | 3 | 40 | 43 | 36 | 39 |
| Népal | 4 | 0 | 0 | 0 | 16 | 0 | 20 | 20 | 71 | 75 |
| Nicaragua | 16 | 0 | 0 | 0 | 13 | 7 | 29 | 36 | 51 | 50 |
| Nigeria | 13 | 0 | 0 | 0 | 0 | 7 | 13 | 20 | 84 | 75 |
| Norvège | 13 | 16 | 13 | 2 | 13 | 15 | 57 | 72 | 18 | 15 |
| Nouvelle-Zélande | 13 | 13 | 8 | 13 | 13 | 12 | 60 | 72 | 14 | 15 |
| Pakistan | 4 | 4 | 0 | 4 | 0 | 0 | 12 | 12 | 94 | 94 |
| Panama | 16 | 0 | 0 | 0 | 0 | 7 | 16 | 23 | 75 | 72 |
| Paraguay | 16 | 8 | 8 | 16 | 4 | 15 | 52 | 67 | 24 | 22 |
| Pays-Bas | 16 | 16 | 16 | 16 | 4 | 20 | 68 | 88 | 10 | 9 |
| Pérou | 16 | 8 | 0 | 16 | 13 | 8 | 53 | 61 | 22 | 26 |
| Philippines | 16 | 8 | 0 | 16 | 13 | 15 | 53 | 68 | 22 | 20 |
| Pologne | 16 | 16 | 13 | 13 | 4 | 18 | 62 | 80 | 13 | 12 |
| Portugal | 16 | 13 | 8 | 0 | 13 | 13 | 50 | 63 | 26 | 25 |
| Rép. de Corée | 13 | 13 | 8 | 0 | 4 | 13 | 38 | 51 | 40 | 32 |
| Rép. d'Irlande | 16 | 16 | 16 | 16 | 16 | 15 | 80 | 95 | 1 | 3 |
| Rép. Dominicaine | 13 | 0 | 0 | 16 | 4 | 0 | 33 | 33 | 45 | 57 |
| Rép. Tchèque | 16 | 16 | 16 | 13 | 13 | 18 | 74 | 92 | 6 | 5 |
| Roumanie | 16 | 8 | 13 | 4 | 4 | 13 | 45 | 58 | 30 | 28 |
| Royaume-Uni | 13 | 16 | 13 | 13 | 16 | 20 | 71 | 91 | 8 | 6 |
| Russie | 13 | 8 | 8 | 0 | 13 | 8 | 42 | 50 | 33 | 36 |
| Rwanda | 13 | 0 | 0 | 0 | 0 | 6 | 13 | 19 | 84 | 79 |
| Sénégal | 16 | 8 | 8 | 0 | 0 | 10 | 32 | 42 | 47 | 42 |
| Singapur | 16 | 8 | 8 | 16 | 4 | 3 | 52 | 55 | 24 | 31 |
| Slovaquie | 16 | 16 | 13 | 13 | 0 | 15 | 58 | 73 | 16 | 14 |
| Soudan | 4 | 4 | 0 | 0 | 0 | 0 | 8 | 8 | 95 | 97 |
| Sri Lanka | 13 | 8 | 8 | 0 | 0 | 3 | 29 | 32 | 51 | 60 |
| Suède | 13 | 16 | 16 | 13 | 13 | 18 | 71 | 89 | 8 | 8 |
| Suisse | 13 | 4 | 4 | 4 | 15 | 10 | 40 | 50 | 36 | 36 |
| Syrie | 13 | 0 | 0 | 0 | 0 | 0 | 13 | 13 | 84 | 89 |
| Tanzanie | 13 | 0 | 0 | 0 | 0 | 0 | 13 | 13 | 84 | 89 |
| Thaïlande | 16 | 8 | 8 | 0 | 16 | 8 | 48 | 56 | 29 | 30 |
| Tunisie | 13 | 0 | 0 | 0 | 0 | 4 | 13 | 17 | 84 | 83 |
| Turquie | 16 | 0 | 0 | 0 | 4 | 4 | 20 | 24 | 71 | 70 |
| Ukraine | 4 | 0 | 0 | 16 | 4 | 5 | 24 | 29 | 64 | 67 |
| Uruguay | 16 | 8 | 0 | 16 | 4 | 7 | 44 | 51 | 32 | 32 |
| Venezuela | 16 | 8 | 8 | 0 | 0 | 0 | 32 | 32 | 47 | 60 |
| Viet-Nam | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 6 | 98 | 98 |
| Zimbabwe | 13 | 8 | 0 | 0 | 16 | 4 | 37 | 41 | 43 | 43 |

Pays selon ICLE



Synthesis of results and perspectives

Important differences between the 2002 and the 2007 Report can be observed. They are due to the change of methodology and to the fact that we used six criteria instead of three, the sixth one being subdivided into four sub-criteria. We also adopted a new approach by introducing an evaluation of the autonomy of NGSs and by looking into home education as well as parents' free choice.

Countries supporting the freedom of educational are for the greater part in the European and North American region, Greece being a remarkable exception. Other countries belonging to other regions like Chile, Israel and, in a lesser way, the Philippines, Argentina and Paraguay, all set up policies which promote the freedom of education.

Almost all countries of the world grant subsidies to NGSs. For more than half of the studied countries (53) funding of NGSs is important. There is thus a global tendency to think that funding is necessary for the existence of "schools other than state schools". Nevertheless many countries do not subsidise and do not plan to. This tendency to finance the NGSs contrasts with the attitude of many States who are reluctant to a progressive interpretation of international standards.

The situation within the European Union

Considering that these countries are generally among those who protect best the liberties, we would like here to explain why this result is true.

Constitutional guarantees (criterion 1). Almost all countries of the European Union recognise, at the constitutional level, the freedom to found a NGS.

The funding and the autonomy of private schools (criteria 2, 3 and 6). It makes sense to consider the question of funding with regard to the criterion of autonomy (criterion 6). We chose to study the autonomy of establishments because we were aware that certain countries granted subsidies to NGSs, provided such schools would give up their own originality or put it in perspective. This concerns especially northern and eastern European countries which expect NGSs to be able to receive State funding, either with few restricting conditions or at least with a wide range of application. This funding allows recognised NGSs, even all NGSs, to offer free access or near free access to their pupils.

Moreover this funding is not given at the cost of the autonomy of establishments. This is the case of Denmark, Finland, Ireland, Belgium, the Czech Republic, the United Kingdom, the Netherlands, Hungary, Sweden, Poland... Except for these countries which, in the world, are most open to the freedom of education, the other EU countries present all the possible scenarios; we enumerate them below.

- Countries granting total funding to recognised NGSs, at the cost of their autonomy: France finds itself in this situation, because the subsidies given to schools under contract cover

mainly staff payroll and a part of their investment expenses, allowing thus a near free access. However, schools under contract have only a reduced autonomy. Spain also falls in this category.

- Countries granting partial funding, not allowing near free access to pupils of NGSs, but respecting the autonomy of establishments, e.g.: Germany, Austria, Portugal and Estonia.
- Countries granting partial funding, not allowing near free access to pupils of NGSs, at the cost of the autonomy of establishments, e.g.: Rumania. The Rumanian State pays the salaries of the teachers, but the autonomy of the subsidised schools is therefore reduced.
- Countries planning almost no funding while respecting the autonomy of establishments, e.g.: Bulgaria.
- Countries planning almost no funding, e.g.: Greece.

The free choice of schools by parents (criterion 4). As a general rule countries considered progressive in matters of funding are also progressive in terms of the choice given to parents amongst free schools (state funded or not).

If it was absolutely necessary to make a global distinction on freedom of education in the EU, it would be possible to assert that countries which present legislations in favour of this freedom are to be found mostly in the North and the East of Europe, whereas countries of the South tend to be more reluctant in this respect. However, if there is an indisputable similarity between most liberal countries, those of the South, such as France, Greece, Rumania, Portugal, Bulgaria, etc., present such a variety of situations that it would be unfair to judge them all in the same way.

The need to change perspective

At the end of this research, we would consider that the educational liberties cannot be really taken into account without a radical change of perspective. This change requires that we move from the viewpoint of the service provider - common amongst authorities - to the viewpoint of the beneficiary of this right, i.e. the child, keeping in mind always "the superior interest of the child". In other words, it will be necessary to move from the perspective of the recognition of the needs which authorities have to fulfill, to the recognition of the rights of the citizens, which imply that specific legal obligations are imposed upon the States.

As alternative to the current educational model, OIDEL proposes a system based on cultural identities to be built upon three pillars:

1. Identity. Education allowing the constitution of a cultural identity.
2. Tolerance. Education in understanding and respect.
3. Human Rights. Education in a universal vision.

This model is inspired among others by Emmanuel Mounier's ideas on education in his "Manifesto in the service of personalism". He writes "the State has no right to impose a doctrine and an education through a situation of monopoly. Every spiritual family who can certify having a minimum number of children to teach locally, and testifies endorsing even partially the foundations of the city has the right to obtain the effective means to impart to children the education of their choice " (*Free rendering*).

To modify durably this perspective, a two-level change is necessary: first in terms of the governance of the educational system and second in terms of the financing system.

Reforming the governance of the educational system

The educational system does not function correctly in most countries because the stakeholders are not involved enough, both in the planning and in the implementation of policies. Participation cannot limit itself to simple consultations: it needs to imply a true distribution of powers between authorities and other actors in order to give civil society and the private sector the possibility of creating educational initiatives. With Osmani one can distinguish at least four levels of participation: the expression of preferences, the vote of policies, implementation, monitoring, evaluating and responsibility (S.R. Osmani, par. 36).

Changing funding method

Free access to educational services raises certain issues, not only in terms of cost, but also because often neither the child nor his representatives are aware of the effort imposed upon society. Knowing that the principle of free access is indispensable to guarantee the access of all citizens to education, it is important to look into the modalities to ensure that the user of the service is aware of its value and its cost for the community. **As a principle it is therefore necessary to articulate the free access with modes and methods that emphasise the value of the service supplied and involve the direct responsibility of the user.**

This mode of funding was widely studied by the General Commissioner of the French Plan in a 2001 Report. At its birth, one would give every person a capital of twenty years of study (which is the average duration of studies). This capital would run out as it is used and would be regenerated by the exercise of a professional activity. The first phase would correspond to the basic training which aims at acquiring basic culture. One would call it "first training". After this phase, the beneficiary - or right-holder - could take up a longer or a shorter training while keeping part of his capital, by acquiring vocational training or by accumulating training and professional experience.