



## NEWS REPORT

<b>Date:</b>	3 June 2011
<b>Expert:</b>	Sophie Latraverse
<b>Title:</b>	Extra curriculum support
<b>Country:</b>	France
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Obligation to carry the financial charge of the special needs assistance provided to disabled children, including out of school assistance
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	National court decision, Supreme Court ( <i>Conseil d'Etat</i> ), 20 April 2011, n° 345434 et 345442
<b>Field:</b>	Education
<b>Legislative provision:</b>	Articles L112-1, L351-3 and 916-1 of the Code of Education,

### Content

**Case:** The Departmental Commission for the Rights and Autonomy of Disabled Persons is the local authority competent to establish the individual educational orientation and support of disabled children, under Article L351-3 of the Code of Education. Article L916-1 of the Code of Education provides that the special needs assistant acting in the context of state education can also intervene outside school hours. The Departmental House of Disabled Persons of Finistère (West of Brittany) satisfied the request of two families seeking for special needs assistance that included six (6) hours of assistance outside school hours. The departmental representative of the Ministry of Education (*inspecteur académique*) refused to implement this request arguing that the State's obligations in the field of education did not extend to out of school support. In an emergency injunctive proceeding before trial on the merits, an administrative court ordered that the State undertake the financing of the required support, on the ground that the inspector could not rely on budgetary grounds to limit the scope of the support afforded by the law and had erroneously interpreted the text that explicitly applies to out of school support.



The Ministry of Education appealed the emergency injunctive decision ('*référé*') before the Supreme Court (*Conseil d'Etat*).

**Decision of the Court:** The Supreme Court ("*Conseil d'Etat*") reiterated that, by virtue of the general duty enshrined in Article L112-1 of the Code of Education, the State has the obligation to organise state education, to take and allocate all means and measures, as evaluated by the Commission pursuant to Article L351-3 of the same Code, necessary to insure the effectiveness of the right to education of disabled children.

In this context, if the Commission concludes that the necessary support must extend beyond schooling hours, the Ministry must take financial charge of the necessary special needs assistant. It therefore ordered injunctive relief and requested the State to take charge of the required support.

**Internet link source and additional information:**

Decision of 15 December 2010:

<http://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000023248217&fastReqId=1516890910&fastPos=1>

Decision of 20 April 2011:

<http://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000023897748&fastReqId=226337522&fastPos=1> ; <http://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000023897749&fastReqId=2114160908&fastPos=1>