

Language Rights Support Program’s summary of impact study entitled:

« Mise en place d’un réseau de garderies et de CPE de langue française hors Québec – Les obligations du gouvernement fédéral »

The Commission nationale des parents francophones (CNPF), concerned about the lack of consultations in relation to preschool development, particularly in the lack of consultation of organisations that represent parents, has asked lawyer Mr. Simon Ruel to study the question of the federal government’s obligation to consult.

To analyze the federal government’s obligations in establishing daycare networks and CPE (Early Childhood Centres), the author, Mr. Ruel relies on the provisions of the *Official Languages Act* and on the unwritten constitutional principles to determine the obligations of the Government of Canada regarding services offered at the preschool level. Under Part VII of the *Official Languages Act*, the federal government is committed to enhancing the vitality of official language minority communities in Canada and supports their development. In addition, the Canadian government is committed to promoting the recognition and use of French and English in Canadian society.

In response to these obligations, the federal government has created several programs including the Development of Official-Language Communities Program which includes the “Community Life” component. This component aims to improve the delivery of programs and activities related to education in the language of official language minority communities. To foster the implementation of the “Community Life” component, the Government of Canada has signed agreements with provincial and territorial governments.

These agreements provide a mechanism for consultation of stakeholders by the federal, provincial and territorial governments. In this study, Mr. Ruel aims to define what are the obligations of the federal government and to whom it is obligated.

Based on an analysis of the agreements, the legislative framework and jurisprudence, Mr. Ruel concludes that the agreements regarding preschool education as part of the “Community Life”

component of the Development of Official-Language Communities Program includes an obligation to consult the Francophone school boards and school divisions outside Quebec because, as representatives of official language minority communities, they are privileged interlocutors. As well, he specifies that the Supreme Court in *Haïda Nation*¹ clarified that consultations conducted adequately can create an obligation for the government to accommodate, in other words to understand and respond to expressed preoccupations.

¹ [Haida Nation v. British Columbia \(Minister of Forests\)](#), 2004 SCC 73, at para 49.