



# **MIGRANTS, MINORITIES AND EMPLOYMENT IN FRANCE**

## **EXCLUSION, DISCRIMINATION AND ANTI-DISCRIMINATION**

**RAXEN 3 Report  
to the ▲ European Monitoring Centre on  
Racism and Xenophobia (EUMC)**

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## EXECUTIVE SUMMARY

Analysing the data gathered by ▲ ADRI for ▲ RAXEN 3, we have noticed that the data concerning the employment field were more numerous than those collected for the other themes (racial violence, education, and legislation). The reason is that information concerning racism in the employment field is more visible and accessible, which makes it easier to gather. Moreover, since the late 1990s, French state has made efforts to make discrimination in the employment field a priority, which has given wider public access such data.

Although there is no official definition of racism, public systems – which do not exclusively concern the employment field – and the new § law of 16 November 2001 have for several years facilitated the identification and description of discrimination in hiring, workplace relations and careers. The CODAC (▲ Departmental Commissions for Access to Citizenship), created in 1999, were used as local links for the governmental policy against discrimination. Choosing a territorial network, which also led to the creation of a toll-free number, - 114 - aimed at facilitating equal access to jobs, and the denunciation of racist language. Nevertheless, these initiatives were not evaluated, which has weakened their efficiency. The scarcity of legal proceedings is another feature of the French situation.

Although racism in the employment field is now commonly acknowledged, it is difficult to measure its extent for reasons that are specific to France: the "republican" conception of integration, which presupposes the formal equality of all citizens, has inspired legal rules narrowly restricting the statistical recording of the racist incidents in terms of categories such as ethnicity. However, the data collected for RAXEN confirm well-known sociological findings about the specific vulnerability to discrimination of certain groups – *inter alia*, children of immigrant parents, young people who live in stigmatised suburbs ("*banlieues*"), North Africans or people of North African origin, and Blacks.

# 1. INTRODUCTION

This report aims at analysing the data collected for ▲ RAXEN 2 and 3 on racism, xenophobia and racial discrimination in the employment field in France.

The objective, as specified in the “Guidelines for writing the analytical study on the four data collection areas”, is to write a descriptive and analytical report on the current situation of these phenomena using the sources and data collected in the database by the national focal point in 2001. The report also surveys the main activities of the French government, firms, trade unions and associations against racism and discrimination in the field of employment, and assesses their modes and results, with a specific focus on their recent development between 2000 and 2002.

As we wish to be pragmatic, we will bring to light information and activities directly relevant to the policy framework, and put the emphasis on the initiatives that aim at promoting equality and that can be taken as examples for public actors, organisations, institutions, and other national or European actors.

The report analyses the data for 2000 that were collected, mainly in 2001, by the French focal point. Information for 2001, and sometimes 2002, has been used when possible, but the national focal point aims at updating exhaustively the data for 2001 only by October 2002.

The methodological approach chosen in this report consists in questioning in several complementary ways the sources and data collected in the database. Practically, in order to classify the existing or non-existing data, the report uses the recommendations given in the guidelines, in studying the following tools more precisely: available statistics and their evolution, empirical studies on racism in the employment field, discriminatory acts mentioned in the media, in testimonies and case law, new policies and laws against discrimination (including the § law of 16 November 2001), local initiatives and the actions of trade unions.

## 2. BRIEF OVERVIEW OF THE POLITICAL/CULTURAL SITUATION RELATED TO THE THEME OF EMPLOYMENT

According to the researchers of the ▲ [URMIS](#),<sup>1</sup> “racial discrimination” in the employment field, as in all the other fields, has been underlined only recently in France. As a matter of fact, since the 1980s, the politicisation of the issues linked to immigration, which was the corollary of the rise of the radical right, and notably of the “Front National” led by Jean-Marie Le Pen, has made the use of racial and ethnic arguments in the French public sphere common, whereas it had been taboo until then. Since then, the “immigrant worker” has been redefined as a foreigner and no longer as a worker<sup>2</sup>. Children of immigrant workers have also been seen as foreigners, although they were born and raised in France, and although most of them are French, and have suffered from discrimination. It is only from the 1990s on that such phenomena have been acknowledged in the employment field in France.

As the use of the language of “race” is still taboo in the French public sphere, reference to ethnicity, as a kind of euphemism, is on the increase. As a matter of fact, the prevailing conception of ethnicity is essentialist, attributing to individuals or groups cultural differences regarded as radical and fixed. As a consequence, there have been many studies on “differentialist,” racism and discourses that use cultural arguments are said to be racist.<sup>3</sup>

The French government has become aware of discrimination only recently. The traditional and official analysis of integration has been brought into question. What is called in France the “second generation”, that is to say the children of the immigrants who came to France in the 1960s, who were born and raised in France, as well as the way they are treated – as different – can no longer be dealt with solely in terms of integration. As the sociologist Patrick SIMON says, these people can only define

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<sup>1</sup> All the arguments developed in this part of the report are based on the hypotheses of Christian POIRET and François VOURC’H in their ■ report on racial and ethnic discrimination in the employment field: “Rapport URMIS sur les discriminations. Repérer les discriminations ethniques et raciales dans le domaine du travail et de l’emploi”, in: *Etudes et recherches*, N° 165, Paris, ISERES Editions, 99 p., and of Véronique DE RUDDER, François VOURC’H, Christian POIRET (eds.) (2000), *L’inégalité raciste. L’universalité républicaine à l’épreuve*, Paris: P.U.F. (coll. “Pratiques théoriques”), 213 p. (■ “Racial Inequality. On the Republican Universality”).

<sup>2</sup> See Abdelmalek Sayad’s study of the symbolic representation of the “immigrant worker”, which predominated in the 1980s: Abdelmalek SAYAD, “L’immigré, “OS à vie”” (■ “The immigrant is seen as a working man/woman all his/her life”) (1999), in: *La doubler absence. Des illusions de l’émigré aux souffrances de l’immigré* (■ “Immigrants’ Illusions and Pain”), Paris: Seuil (coll. “Liber”), pp. 233-253.

<sup>3</sup> See for example Pierre-André TAGUIEFF (1987), *La force du préjugé. Essai sur le racisme et ses doubles*, Paris: La Découverte (■ “The Strength of Prejudice”).

themselves with reference to discrimination, which both stigmatises “children of immigrant parents” and justifies the creation of the policies that are made for them<sup>4</sup>. Moreover, if we look at the evolution of the academic bibliography on racial discrimination, we see that racial discrimination in the employment field has been taken into account very recently by academics. Few general studies were made before the 1990s, except on specific populations (women, young foreigners, French people from overseas territories). Most studies derive from classical academic surveys on the integration of foreign workers in the labour market (notably the pioneering work of ● [Maryse TRIPIER](#)), and the others are composed of reports funded by the ▲ [DPM](#) (Migration and Population Office) or the ▲ [FAS](#) (Social Action Funds).

▲ [INSEE](#)'s statistics barely give information on foreigners in the employment field. The census was traditionally based on the legal distinction between foreigners and nationals. Since the 1990 census, the INSEE has created a new category “immigrant”, which takes into account persons who were born abroad and who live in France. It gives information on the country of origin and, with respect to naturalized French citizens, previous nationality. Public debate often neglects the fact that not all foreigners are immigrants, and not all immigrants are foreigners (INSEE, 1997). One third of immigrants are in fact French nationals. With the help of the INSEE, the ▲ [INED](#) conducted a specific survey entitled “geographical mobility and social integration” in 1992, in order to study the experience of immigrants through the analysis of various cohorts.

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<sup>4</sup> Patrick SIMON (2000), *Les discriminations ethniques dans la société française*, Paris: IHESI, Etudes et Recherches, (■ “Ethnic Discrimination in French Society”).

### 3. THEORETICAL AND METHODOLOGICAL APPROACH TO DATA ANALYSIS

In this report, we have adopted a definition of racism that encompasses not only direct discrimination (as a deliberate act intended to harm an individual or a group), but also indirect discrimination (taking into account objective inequality, even when people are treated uniformly with no deliberate racism), institutional discrimination (when institutions and public authorities are discriminatory), and also legal discrimination (in the law)<sup>5</sup>, with the following observation: “the structural inequality of foreigners on the labour market in France does not stem only from the relative weakness, which is by the way often overestimated, of their professional qualifications before they immigrate. It also derives from a series of official steps that submit foreigners, especially non-EU citizens, to specific treatment. But it is also the result of the direct or indirect, non-legal, and even illegal discriminatory behaviour of many employers, institutions, managers or colleagues. All this creates inferiority and subordination, in addition to the economic advantages of benefiting from an imported workforce, whereas the time when it was welcome in France because of economic growth is now over”.<sup>6</sup>

The researchers from the [▲ URMIS](#) chose to take a constructivist, relational and contextual approach to racism. Thus, racism is seen as a relationship between actors who have unequal positions in society (some are socially or economically predominant, some are not). Racial discrimination is considered as a social practice, embedded in social relations that produce and reproduce it. In other words, it is the role of racism in social interactions that should be studied, and not the stigmatisation it produces.

As a consequence, we chose to survey cross-cultural relationships: the supposed or real origin of people which is seen as prevailing in the relationship; the ethnicization of groups that are defined by their real or supposed origin, or by their so-called “nature”. But the context must be taken into account: interactions must be studied within an overall social framework, which defines social, legal and political relationships. Racial discrimination does not only consist in ideological representations, but also in opinions, prejudices and behaviour, which must be taken into account in our survey.

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<sup>5</sup> See Véronique DE RUDDER, François VOUREC'H, Christian POIRET (eds.) (1995), ■ *L'inégalité raciste. L'universalité républicaine à l'épreuve, op. cit.* and (2000), *Vocabulaire historique et critique des relations inter-ethniques*, Paris: Pluriel Recherches, L'Harmattan, Cahiers N° 3, and N° 6-7 (■ “Historical and Critical Vocabulary of Cross-cultural Relationship”).

<sup>6</sup> Véronique DE RUDDER, François VOUREC'H, Christian POIRET (eds.), ■ *Ibid*, p. 129.

That is why, in the data analysis, we have used the following question and analysis chart, in order to study racist and discriminatory phenomena and actions implemented to prevent or fight against their effects in a multidimensional way:

- Is the reported or studied discrimination direct or indirect; individual, institutional or systemic; legal or illegal?
- Is discrimination openly racist, or justified by non-racist arguments?
- Is racist discrimination added to other kinds of discrimination – based on sex, class, generation?
- What are the criteria of discrimination?
- What is the position of the person drawing attention to discrimination?
- When and where does discrimination take place?
- What is the form of discrimination – exclusion, rejection, refusal?
- Who reacts and how?
- How do the victims react?



## 4. DESCRIPTION OF EXISTING AND NON-EXISTING DATA AND SOURCES

### 4.1. Statistical analysis<sup>7</sup>

#### 4.1.1. Situation of migrants and foreigners on the labour market

Between 1982 and 1990, the number of immigrant workers in France<sup>8</sup> grew from 1,750,944 to 1,756,294 people (+0.3%): it was therefore essentially stable.

In 1982, immigrants worked especially in manufacturing (527,012, including 176,008 in the semi-finished goods industry, 184,268 in the capital equipment industry – including 79,140 in car building –, and 146,776 in the consumer goods industry – including 69,052 in the textile and clothing industries), in the construction industry (352,904 people), in the service sector (324,552 people), and in trade (167,456 people).

By 1990, immigrant workers were most numerous in the service sector (452,290), then in manufacturing (402,399 people, including 133,468 in the semi-finished goods industry, 139,324 in the capital equipment industry – including 50,372 in car building –, and 128,607 in the consumer goods society – including 60,080 in the textile and clothing industries), in the construction industry (311,513 people), and in trade (183,672 people). Between 1982 and 1995, the proportion of immigrant workers in industry constantly and strongly decreased, in every sector: between 1982 and 1990, manpower decreased by 24.2% in the semi-finished goods industry, by 24.4% in the capital equipment industry, and by 12.4% in the consumer goods industry, except in the semi-finished goods industry between 1990 and 1995, where

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<sup>7</sup> All these data are taken from Patrick SIMON's article, "L'ombre portée des discriminations dans les statistiques de l'emploi", in: *Economie et Humanisme*, N° 353, July 2000, pp. 15-19 (■ "Hidden discrimination in the statistics in the employment field"), and Jean-Luc RICHARD, "Une approche de la discrimination sur le marché du travail. Les jeunes adultes issus de l'immigration étrangère en France", in: *Revue Européenne des Migrations Internationales*, 2000 (16) 3, pp. 53-83 (■ "Discrimination in the Labour Market. Young Adults of Foreign Origin in France"). The survey was reviewed in the media: e.g. Serge MARTY, "Un portrait du "délit de faciès" en France", *Le Monde*, 05/23/2000.

<sup>8</sup> The category "immigrant" has been defined in order to be used in statistics and implemented only recently (see the surveys done for the ▲ INSEE and the ▲ INED by the demographer Michèle TRIBALAT). It refers to foreigners who have *become* French and who were not born in France (including people who were born in the overseas territories). For more references and a critical study of the notion, see Véronique DE RUDDER, "Quelques problèmes épistémologiques liés aux définitions des populations immigrantes et à leurs descendance", in: *Jeunes issus de l'immigration: de l'école à l'emploi*, Paris: CIEMI-L'Harmattan (coll. "Migrations et changements"), pp. 17-44 (■ "Some epistemological problems in the definition of immigrants and their children", in *Children of Immigrant Parents. From School to Firms*).

the proportion has increased slightly. Manpower has also decreased by 11.7% in the construction industry between 1982 and 1990. But the proportion of immigrant workers strongly increased in the services (+39.4%) and a little less in trade (+9.7%) during the same period.

In 1995, according to an ▲ INSEE survey, 70% of immigrants were manual workers or clerical or administrative employees (more than 80% of North Africans and Portuguese). Immigrants have been confined in low-qualified jobs (manual workers or clerical or administrative employees) since the exceptional economic growth between the 1950s and the 1970s, when many people were hired, and when the growing French industry was short of labour.

#### 4.1.2. An increasingly female immigrant workforce

According to the 1999 census<sup>9</sup>, in metropolitan France, there were 2,294,000 immigrant workers, 35% of whom had become French. They represented 8.6% of the whole workforce (8.4% according to the previous census). This growth (of 157,000 people) resulted from the increase in the number of female immigrants (+197,000 since 1990) on the labour market, which has compensated for the collapse in the number of male immigrant workers. The proportion of women in the immigrant workforce has risen by 5% during the last ten years, even though they remain a minority (41%).<sup>10</sup>

Two main reasons explain this sharp rise: in all categories,<sup>11</sup> behaviour has changed and the new generations entering the labour market are on the whole more eager to work than their elders.<sup>12</sup> However, if behaviour has changed, it often depends on the origin of women. At one extreme, the Portuguese and women coming from South-East Asia<sup>13</sup> have a job as often as women overall, and even more often than them; and at the other extreme, the proportion of Algerian women who are employed is never higher than 70%, and the proportion of women who were born in Turkey and aged 20 to 26 is 50% at most.<sup>14</sup>

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<sup>9</sup> Insee, ■ Tableaux thématiques, exploitation complémentaire, population immigrée, population étrangère, Paris, décembre 2001, 229 p, p 33.

<sup>10</sup> Insee, ■ Tableaux thématiques, exploitation complémentaire, population immigrée, population étrangère, Paris, décembre 2001, 229 p. p 33.

<sup>11</sup> 56 women out of 100 who were born between 1959 and 1969 were employed in 1990, compared to 68 in 1999.

<sup>12</sup> Despite this improvement, the proportion of female immigrants who are employed is still below the whole female workforce rate: 57.1% compared to 63.1%.

<sup>13</sup> Cambodia, Laos, Vietnam

<sup>14</sup> Insee, ■ Tableaux thématiques, exploitation complémentaire, population immigrée, population étrangère, Paris, décembre 2001, 229 p, p 33.

### **4.1.3. Immigrants work especially in the construction industry and in services to individuals**

The immigrant workforce is still very much confined to specific fields. One third works in industry, including construction, whereas only one fourth of the whole working population does. Conversely, almost 75% of the employed labour force work in the service sector, whereas a little more than two thirds of the immigrant workforce do. Moreover, these are mainly services to individuals (as personal employees and servants, or in hotels and restaurants), where about 15% of the staff is composed of immigrants. Female immigrants are especially concerned, as they work in the service sector more often than the whole female workforce. On the contrary, only 4% of immigrants, whether they are men or women, work in energy or in finance.

This selective sectoral distribution of immigrants largely explains their socio-professional distribution: two-thirds of them (66.5%) are manual workers, compared to 56% for the whole working population. If immigrants are more likely to be manual workers, the gap is especially big for unskilled manual workers: they represent 18% of immigrants, but 11% of the whole working population. When they are clerical or administrative employees, they also more often have a job in the field of services to individuals<sup>15</sup> (11.5% compared to 6.2%). Finally, 30% of the immigrants are unskilled, compared to 17% for the whole labour force.<sup>16</sup>

### **4.1.4. Immigrants are particularly affected by unemployment and their jobs are more insecure**

On the labour market, the situation of immigrants is still fragile. Among them, the unemployment rate is as high as 22%, whereas the average unemployment rate is 13%. 500,000 immigrants were unemployed in 1999, which represented 15% of all the unemployed, whereas they represented only 8.6% of the working population. If we compare these data with the former census, we see that their situation has worsened more than that of French nationals. Since 1990, the number of unemployed immigrants had increased by one third, compared to 18% on average in France. This situation is attributable both to job losses and difficulties in labour market entry.<sup>17</sup>

Origin and gender have aggravated discrimination. Whereas the workers who were born in the European Union (in Spain, in Italy or in Portugal) are less unemployed than the French (about two points), on the contrary, nearly one third of those who were born in Africa or in Turkey do not have a job. Likewise, women are more affected by unemployment (25%) than men (20%).

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<sup>15</sup> As personal employees and servants, or in hotels and restaurants.

<sup>16</sup> Insee, ■ Tableaux thématiques, exploitation complémentaire, population immigrée, population étrangère, Paris, décembre 2001, 229 p, p 36.

<sup>17</sup> Insee, ■ Tableaux thématiques, exploitation complémentaire, population immigrée, population étrangère, Paris, décembre 2001, 229 p, p 34.

This trend concerns the whole range of skills. Immigrant workers (24%) and employees (22%) are undoubtedly more affected by unemployment than the French (respectively 15% and 16%). And the same goes for highly skilled workers who are not protected by their qualifications and their academic achievement: the unemployment rate of the immigrants who are graduates is on average twice that of all graduates (16%, compared to 8%). Generally speaking, the difference between the average unemployment rate of immigrants is always bigger by 8 points than for the whole working population with the same qualifications.

The lack of job security for immigrants also results in the fact that they are more likely to have insecure jobs and fixed-term and temporary contracts than the rest of the population: 15% of all salaried immigrants (except civil servants) are in this situation. This over-representation concerns particularly people who were born in Algeria, in Morocco, in former African colonies, and even more in Turkey (21%). Men are a little more affected than women by such kinds of jobs, but the latter have part-time jobs more often than other women; moreover their contracts have shorter fixed terms.

Statistics and quantitative trends in direct and indirect discrimination on the labour market and in the employment field

The categories that are used in these statistics are fixed and base groups on national and state definitions, and not on their self-definition in real interactions between individuals or groups, when the ethnic or racial classification is produced and manipulated.<sup>18</sup>

As a consequence, the statistical results only indicate trends, and nobody is able to define with any real empirical precision the processes and procedures that create the structural inequalities shown by the data. Direct and indirect, systemic and deliberate discrimination combine in complex patterns, and are impossible to tell apart.

One of the most obvious kinds of discrimination in the employment field is legal discrimination: the first note of the ▲ [GED](#) (Study Group on Discrimination, “Groupe d’Etude sur les Discriminations”), which was published on 14 March 2000 – and widely reviewed by the press<sup>19</sup> –, points out the high number of reserved jobs: foreigners are ineligible for, or restricted with respect to, 7 million jobs (30% of all the jobs in France). In the private sector, 50 occupations (615,000 jobs) are not open to foreigners, and 30 occupations (625,000 jobs, especially in the professions: lawyers, doctors, architects, pharmacists) demand a French diploma. The civil service and the main public companies are also discriminatory (only French nationals or, subject to certain restrictions, EU-members can be given statutory jobs). On the

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<sup>18</sup> See Véronique DE RUDDER, “Quelques problèmes épistémologiques liés aux définitions des populations immigrantes et à leurs descendance” (■ “Some epistemological problems in the definition of immigrants and their children”), *op. cit.*

<sup>19</sup> See Sylvia ZAPPI, “Un rapport dénonce les sept millions d’emplois interdits aux étrangers” (“A report denounces the seven million reserved jobs”), *in: Le Monde*, 19-20 March 2000; special feature, *in Libération*, 11-12 March 2000; special feature, *in: Le Monde*, 11 April 2000; special feature, *in: Le Nouvel Observateur*, 8-14 February 2001.

contrary, non EU-members may be hired for the same tasks as civil servants, but on a basis that is often insecure and part-time, and on much lower pay.

In addition to such legal discrimination in the employment field, notably through the reserved jobs, other kinds of discrimination, which are more informal and everyday, take place within concrete interactions. Whereas the immigrants who came to France when labour was needed (before 1974) were given low-paid and tiring jobs, their children suffer from unemployment, and problems to enter the labour market, based on their origin.<sup>20</sup>

According to a survey carried on in 1997,<sup>21</sup> the immigrant workforce do not have the same career progression as their French fellow workers. After 20 or 25 years, almost 75% of immigrants are still manual workers (of whom one-third are unskilled), compared to less than 30% of people who were born in France (and only one-fourth are unskilled). It is worth insisting on the differences within the immigrant workforce: whereas the Spanish are more likely to climb up the professional ladder than the average, the Turks or the Moroccans are on the contrary likely to have the same job all their life.

Furthermore, some categories of immigrants are more affected by industrial restructuring, as low-skilled jobs, where they are very numerous, have been especially hit. And as French workers are often more skilled, they have replaced many immigrants, who have been fired first. However, while people from North Africa are particularly affected, some other groups, especially the Portuguese, show a different pattern.<sup>22</sup>

The unemployment rate is twice to three times as high (it depends on their origin) for immigrants, and especially female immigrants, as for the whole labour force, and the situation has been worsening since 1990. Notably, female immigrants who came from North Africa, Turkey and Sub-Saharan Africa are very often unemployed. Although female participation rates are growing, female immigrants who have recently entered the labour market are most of the time unemployed (42% between 1982 and 1990) or employed part-time in the service sector. On top of this, female immigrants give up more often after suffering from unemployment for a long time. As a consequence, the impact of origin seems less and less important in women's long-term unemployment. In addition, it is difficult to distinguish between women's

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<sup>20</sup> For example, see Patrick SIMON, ■ "L'ombre portée des discriminations dans les statistiques de l'emploi", *op. cit.* p.18.

<sup>21</sup> J.L DAYAN, A. ECHARDOUR, M. GLAUDE, "Le parcours professionnel des immigrés en France: une analyse longitudinale" (■ "Analysis of immigrants' careers in France"), in: J.L. RALLU, Y. COURBAGE et V. PICHE (eds.) (1997), *Anciennes et nouvelles minorités*, Paris: INED - John Libbey, Congrès et Colloques N° 17, p. 113-146 (■ "New and old minorities"), quoted by Patrick SIMON, ■ "L'ombre portée des discriminations dans les statistiques de l'emploi", *op. cit.*, p.16.

<sup>22</sup> E. MAURIN, "Les étrangers: une main-d'œuvre à part?" (■ "Foreigners, a specific workforce?"), in: *Economie et statistique*, N° 242, April 1991, p. 39-50, quoted by Patrick SIMON, "L'ombre portée des discriminations dans les statistiques de l'emploi", *op. cit.* p.17.

unemployment and labour market withdrawal:<sup>23</sup> Algerian women suffer from unemployment more often than the others, but it seems to be due to the fact that they are often housewives or that they must help their mother at home.

Among young people, origin is a key factor in explaining inequality in the labour market. The discrimination that affects children of immigrant parents<sup>24</sup> is first of all due to the economic crisis which began in France 30 years ago, and which has created structural underemployment, from which the French youth suffer too. “In the field of employment, they have two handicaps: they are young and they are of foreign origin, and sometimes they were even born abroad and are thus foreigners. So their situation is doubly fragile.”<sup>25</sup>

According to the same survey, in 1990 the biggest difference in the percentage of job seekers was between children of French parents and children, born in France, of immigrant parents. The youth of North African origin were mainly born in France, whereas young immigrants are conversely more often of Portuguese origin, especially the youngest. Thus, the youth of North African origin are twice as likely to be unemployed than the others, which is also the case when they enter the labour market: 38% of them have a steady job after leaving school, compared to 60% of the others. All their life, they suffer from unemployment twice as often as the average (30% of them are unemployed for at least one year), even when they are graduates: 32% of those who have passed the secondary school examination are unemployed, whereas the average is 15% in France. Conversely, the youth of Portuguese or Spanish origin are barely more often unemployed than the average; the former have more often passed professional examinations in high school, which protects them from unemployment. Moreover, they apply for jobs where many members of their family work, support them, and are well known, which is often perceived as a guarantee by the employer.

In contrast, the youth of Algerian origin, whose parents are more likely to be unemployed or to have insecure jobs, cannot count on them. Without their family help, they have to go to the National Job Centre three times more than the other young people who live in France. Though children of immigrant parents are as skilled as the others because they went to school, they suffer from discrimination in so far as they have to take less skilled jobs, in order not to be unemployed. 19% of young men of Algerian origin who are graduates are clerical or administrative employees (compared to 5% of the youth whose parents were French by birth); 32% of young men of Algerian origin who passed the secondary school examination are job seekers (compared to 6% of the youth whose parents were French by birth). Finally, they are much less likely to have steady jobs.

In addition to discrimination based on origin, immigrants cannot benefit from their school standard when they apply for high-skilled jobs. Only 11% of men of Algerian

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<sup>23</sup> Jean-Luc RICHARD, “Une approche de la discrimination sur le marché du travail. Les jeunes adultes issus de l’immigration étrangère en France” (■ “Discrimination in the labour market. Young adults of foreign origin in France”), *op. cit.*

<sup>24</sup> Their parents are not French who were born in France.

<sup>25</sup> Jean-Luc RICHARD, ■ *Ibid*, p. 78.



origin who are graduates are senior executives (compared to 46% of people whose parents were French by birth); 10% of those who passed the general exam taken at fifteen are middle managers (compared to 15% of those whose parents were French by birth); 22% of those who passed the secondary school examination are middle managers (compared to 39% of those whose parents were French by birth). Moreover, the older the male immigrants, the more they suffer from unemployment, much more than young people whose parents were French by birth. Finally, they are less likely to be in public sector employment (10% of the youth of Portuguese origin, 17% of the youth of Spanish origin, 20% of the youth of Algerian origin, compared to 24% of the French youth between 20 and 29, and whereas the public sector accounts for 30% of all jobs in France).<sup>26</sup>

To conclude on the impact of origin, men of Algerian or Moroccan origins, and women of Algerian origin, are more often affected by long-term unemployment and by lower wages, whatever their social, family or educational situation.

Socio-professional distribution is also discriminatory: even when they have had the same training, young men and women of Algerian origin (whose situation is the most insecure among the youth of North African origin, although they are often French) are never proportionately more numerous than the youth whose parents were French by birth in having a job that is in line with their training (or is even prestigious compared to their training).

In order to explain these inequalities, some surveys conclude that discrimination first in the French school system, then in the training system and in the labour market integration system, must be taken into account. Thus, young foreigners or children of immigrant parents are proportionately much more numerous in the primary high school and in technical schools than in high schools and technical high schools. They are more likely to have substitution jobs (training periods, work placements) than the youth whose parents were French by birth, who are given transitional jobs in the private sector. If many of them benefit from the training periods that are open to everybody, the same is not the case for training given partly in an educational institution and partly in the workplace. Yet, such a system is of considerable benefit in labour-market access.<sup>27</sup> A local statistical analysis shows that not only employers, but also middlemen and training organizations, refuse to employ these young people, especially in some specific fields, because they are said to fail.<sup>28</sup>

Other statistical surveys highlighted such discrimination at a local level. Thus, an association that aims at helping young graduates find jobs (▲ “Association pour Faciliter l’Insertion professionnelle des Jeunes diplômés”, [AFIJ](#)) worked with young people who studied from 2 to 5 years in a university and who lived in

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<sup>26</sup> Jean-Luc RICHARD, ■ *Ibid.*, p. 78.

<sup>27</sup> Mouna VIPREY and Luc DEROCHE, Jacques FREYSSINET (eds.) (1998), *Conditions d'accès à l'entreprise des jeunes étrangers ou d'origine étrangère: nature des résistances, Note de synthèse du rapport final pour le FAS*, Noisy-Le-Grand: Institut de Recherches Economiques et Sociales (IRES), March 1998, 16 p. (■ “Entry Requirements to Firms for Young Foreigners or Children of Immigrant Parents. Synthesis Report”).

<sup>28</sup> *Ibid.*

underprivileged suburbs of Marseille, Toulon (south of France) and Tours (center of France). It showed that those whose parents were French by birth found a job more easily (54% of them work) than children of immigrant parents (only 49% of whom had a job, which was moreover more insecure and less well paid).<sup>29</sup>

## 4.2. Empirical studies on racism

■ “Racism at work” (“Le racisme au travail”<sup>30</sup>) was the first widely circulated survey to give a global and transversal view of the various aspects of racism in the employment field. From a *multi-site* field study (for example, a cleaning firm and a furniture shop in the industrial and service area of Alès in the south of France), and other concrete examples, the author has tried to describe the consequences of racism, not only within firms, but also in the whole work organisation and job access.

In the first part of the survey, he shows how racism spreads within the firm, through the trivialization of racist words on the one hand, and the spreading of the ideas of the radical right on the other. He also puts the emphasis on discrimination from which foreign workers or workers of foreign origin suffer in the workplace, because of an ethnicization of tasks or because they do not have the same career progress as their French fellow workers.

Then, the author tackles hiring discrimination, stressing on how difficult it is to prove, and its systemic dimension, which is due to the fact that it involves many different actors and that it is impossible to know who is responsible for it.

In the end, he analyses the trade unions’ historical and current fight against racism, emphasizing that local trade union boards have to face the spreading of the ideas of the radical right within firms.

The main interest of the book is especially that it has helped people talk publicly about matters that had so far been denied or concealed.

The ☀ OSIME programme,<sup>31</sup> launched in 1997, brought researchers together in a European research action network, in partnership with trade unions. In France, the survey was carried out by the research team of the academic Research Unit on International Migrations and Society (“Unité de Recherche Migrations Internationales et Sociétés”, ▲ URMIS), and the trade union ▲ CGT<sup>32</sup> (“Confédération Générale du Travail”). They aimed at analysing and at comparing union struggles against racial and ethnic discrimination in the employment field, and what was going on within their structures (local or national, types of firms and activities), comparing unionists’ and researchers’ behaviour and thoughts.

<sup>29</sup> Emmanuelle VEIL (2000), “Le racisme au travail”, in: *L’Express*, 9 March 2000.

<sup>30</sup> Philippe BATAILLE (1997), ■ *Le racisme au travail*, Paris: La Découverte, 252 p.

<sup>31</sup> The OSIME programme (2001), *Organisations syndicales, immigrants et minorités ethniques en Europe. Final Report*, Paris: ISERES, Etudes et Recherches, 172 p (■ “Trade Unions, Immigrants, and Ethnic Minorities in Europe”).

<sup>32</sup> The CGT is a rather radical trade union which is close to the French Communist Party.



The published survey stresses the various forms of racism in the employment field, its trivialization at all levels and in all the employment structures, and the different kinds of discrimination (direct/indirect/systemic/institutional discrimination). The survey put the emphasis on several points:

- First, racism in the civil service does not result only from individuals who can clearly be seen as racist, but also from the organisation and running of the institution itself, in a “dialectical relationship between individuals and groups, direct and institutional discrimination”.<sup>33</sup> Discriminatory behaviour is linked to the practical conditions and to the objectives (the “missions”) of the job. Thus, in the treasury, the employees have to face the tension generated by the compromise between an ideal of performance (public expenditure has to be reduced) and an ideal of social justice (the civil service has to remain republican and to fight against inequalities). But as they have to improve the tax revenue in some branches, they sometimes favour branches where individual and collective taxpayers (firms) have more money. Thus, their social missions are neglected and some poorer taxpayers are discriminated, against especially those who live in the most deprived urban areas, precisely where ethnic minorities, people on income support, the long-term unemployed live... They have to wait a long time to meet “civil servants, who are more and more likely to class their presence and their demands as an ‘unwarranted invasion’, as attempts to get ‘more and more money’”.<sup>34</sup> Thus, in this context, daily ungracious and even racist words are directed at a category of people, or more often at individuals or groups of people who work there. It is therefore difficult to fight against the phenomenon, as direct (racist words), indirect (demands that cannot be met), and institutional (“make money”) discrimination are joined together and combine with each other.<sup>35</sup>

Another survey stresses the particular impact of discrimination on West Indians, Guianans and natives of Réunion.<sup>36</sup> Their situation and status are ambivalent, as they are considered as immigrants who came to Metropolitan France, and as French nationals at the same time. As French nationals, they are not confronted with the insecure situation foreigners have to face in order to be given a residence permit; moreover, many of them work in public services, often with tenure, which gives them some statutory rights, as they are considered as expatriates. But, as they are also treated like colonial migrants, they are given only subordinate and low-paid jobs, which prevent them from being transferred to the overseas territories. “As an ‘ethnicized minority’, these migrants, as well as their children who were born in Metropolitan France, suffer from intense discrimination and segregation, notably in housing and job access. The youth whose parents were born in the overseas territories are as often unemployed as young foreigners or children of immigrant parents”<sup>37</sup>.

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<sup>33</sup> ■ *Ibid.*, p.39.

<sup>34</sup> Alain MORICE, Christian POIRET, Véronique DE RUDDER, François VOUREC'H, “Racisme et comportements professionnels dans les administrations des Finances (Impôts, Trésor, Douanes)” (■ “Racism and Behaviour in French Treasury”), *Ibid.*, p.37-45, p.39.

<sup>35</sup> *Ibid.*

<sup>36</sup> Christian POIRET, François VOUREC'H, “Les “Originaires d’Outre-Mer” dans la CGT” (■ “People From Overseas Territories in the Trade Union CGT”), *Ibid.*, p.65-76.

<sup>37</sup> *Ibid.*, p. 65.

They also suffer indirectly from discrimination in labour law. As they are entitled to additional holidays in order to enable them to return periodically to the overseas departments and territories, many executives refuse to take them in their department after they have asked to be transferred; yet such transfers are, in practice, a prerequisite for career progression.

Immigrants or children of immigrant parents also suffer from discrimination in labour law: for example, Moroccan woodcutters in wooded areas in the South of France (“Midi-Pyrénées”).<sup>38</sup> The combination of the Labour Code with the Rural Code leads to derogations from labour law that are likely to create insecure working conditions: harder and low-paid jobs, lower welfare, especially for retirement and sick pensions, insecurity, and lower expense allowances. Thus, these workers do not have the same rights and advantages as the others. Furthermore, the market for forestry products is opaque, which means that workers have little or no knowledge of the terms and conditions of purchase of what they have produced. In this branch, power relations between the different categories of workers are therefore very much unequal, and competition and speculation are strong.

As a consequence, Moroccan workers and workers of Moroccan origin are totally subordinate to their employers, who recruited them from the Moroccan Atlas mountains, because labour was needed and because they knew these low-skilled workers would be likely to accept bad working conditions. The result is disastrous, as woodcutters, who are old and have a very low school standard, have serious problems in retraining. Besides, they have not been able to save money because their salaries are uncertain, irregular and submitted to market fluctuations, but also because they sent money to their families in Morocco, as they were hoping to go back to their country, or because their families eventually came to France.

The report also emphasises hiring discrimination against children of immigrant parents. In Grasse (South-East of France),<sup>39</sup> youth of North African origin have many problems in finding work in the perfume industry, which was long the centre of the local economy and the major employer. First, the area where they live is a means of discrimination, as the city of Grasse is divided into ethnicized areas. Thus, immigrants, especially Tunisians, suffer from urban segregation; most of them live in an underprivileged and therefore stigmatized area (social housing, especially clerical or administrative employees and manual workers). Then, local industries, because of high economic growth in the late 1990s, primarily used temporary workers to meet short-term labour requirements. Yet, temporary work agencies, with an eye to their profit margins, often refuse to hire youths of North African origin, anticipating – and thus accepting and indeed reinforcing – employers’ racism. That is why they are especially given low-qualified, insecure and temporary jobs. In Grasse, both urban segregation and the labour market are therefore based on ethnicization. On top of this, indirect discrimination is due to the local tradition of hiring the employees’ children in the perfume industry to the detriment of immigrants – a tradition that has

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<sup>38</sup> Alain MORICE, “Trajectoires professionnelle des bûcherons en Midi-Pyrénées” (■ “Woodcutters’ Careers in “Midi-Pyrénées”), *Ibid.*, p.77-89.

<sup>39</sup> Victor BORGOGNO, Lise VOLLENWEIDER-ANDRESEN, ■ “Un bassin d’emploi: Grasse avec ses industries parfums-arômes”, *in: Ibid.*, p.91-109.

applied since the first immigrants, who were Italian, came at the beginning of the 20<sup>th</sup> century.

Under the terms of the agreement between the Agency for the development of Roubaix's area and the "Voix de nanas" association, in the north of France, Saïd Bouamama and Ahmed Nenyachi carried out a qualitative survey on discrimination in employment.<sup>40</sup> It dealt especially with the main kinds of discrimination in the field of employment against young people of North African origin, but also with its consequences for them, and for their vision of society.

They worked with 20 children of immigrant parents and used semi-structured interviews.<sup>41</sup> The results of the survey pointed to the way they were confronted with discrimination and how they experienced it. The authors established that discrimination in the employment field and discrimination in the other spheres of life are closely linked. Discrimination is said to be repetitive and frequent, which seems to make job seekers sceptical, suspicious and hopeless at the same time, as they feel discredited, provoked and hyper-sensitive to the least word or insinuation. School is the first place where they are confronted with discrimination: the determination of the future course of studies and unequal opportunities are often said to be based on origin.

The authors of the report highlight three kinds of discrimination:<sup>42</sup> direct discrimination in the behaviour of some teachers; indirect discrimination when children of immigrant parents are rather sent to technical schools than given the opportunity to repeat the school year (*redoublement*); systemic discrimination, as school "reproduces" "class domination" in society. Indeed, "indirect discrimination results mainly from the conscious or unconscious observation of a major systemic socio-economic situation of the underprivileged". That is why some teachers and careers advisers try to anticipate these pupils' failures, sending them to technical schools. As North African immigrants are mainly manual workers, their children are often trained to be manual workers themselves.

Furthermore, when children of immigrant parents look for training periods or internships, they have the impression that schools do not take their difficulties into account: when they do not find training periods, they are said to be responsible for the failure, and the labour market is never said to be discriminatory. They get the idea that neither employers nor schools are interested in their skills.<sup>43</sup> They are considered as *personally* incapable of finding training periods. Thus, discrimination in the labour market is collectively neglected.

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<sup>40</sup> Saïd BOUAMAMA, Ahmde BENYACHI (2000), "*Les discriminations dans l'emploi et leurs impacts, l'exemple roubaisien*" (■ "Discrimination in the Employment Field and its Consequences. The Example of Roubaix"), Voix de Nanass, March 2000.

<sup>41</sup> *Ibid.*, p. 20.

<sup>42</sup> *Ibid.*, p. 44.

<sup>43</sup> *Ibid.*, p. 45.

When they looked for work, more than the half of the young people who were interviewed were advised to change their name<sup>44</sup>. The authors of the report insist that such advice is not deliberately discriminatory but aims at avoiding objective discrimination, which everybody seems unable to fight against. But the accumulation of such experiences shapes perceptions of the world and society.

The authors also report the illegitimate nature of discourses on discrimination: the applicant has always the feeling that people do not believe him/her, which induces him/her to wonder if he/she really suffered from discrimination. Despite the evidence, job seekers seem increasingly convinced that discrimination is exceptional in France.<sup>45</sup>

According to the authors, either people acknowledge discrimination, while thinking that it is due to very few people, or they deny it.

As a consequence, victims of discrimination seem to have adopted three strategies:

- acceptance of their so-called disadvantage, as a means of defence;
- succession of a withdrawal and a feeling of anger and revolt, as a means of passing by;
- membership of an ethnic group is adopted, as a means of going beyond discrimination.

### 4.3. Discriminatory acts: typical cases, cases of general interest, case law Examples of decisions

#### 4.3.1. Discrimination reported by the press<sup>46</sup>

The press provides us with information, emphasising discrimination in hiring and on the labour market. Its role is less to analyse (although several articles report surveys on the topic, which we have mentioned here) than to mention and denounce racial discrimination. The main two “groups” which suffer from racial discrimination and which the press has talked about are the “North African immigrants or people of North African origin”, including especially the youth who live in underprivileged areas, and the Blacks (when the colour of the skin is clearly quoted). The press always talks about direct, that is to say racist, discrimination.

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<sup>44</sup> *Ibid.*, p. 48

<sup>45</sup> *Ibid.*, p. 55.

<sup>46</sup> See ▲ ADRI's book of press cuttings: *Les discriminations dans le monde du travail* (■ “Discrimination in the Employment Field”), March 2001; and the thematic review of the press done from dailies and weeklies by the association ▲ D'un Monde A L'autre: *Revue de Presse Thématique. Discrimination à l'embauche. Panorama de la presse quotidienne, hebdomadaire, régionale et nationale*, Maison de l'intégration, 2 tomes.

Testimonies concerning hiring discrimination (when applicants are rejected) are reported most: people are selected either on racial criteria (the colour of their skin), or on their name (many testimonies, which sometimes describe the recruitment process itself), which bases the selection of applicants on their origin. Employers and customers are said to put pressure on the persons who are in charge of recruitment, and therefore said to be responsible for this rejection.

Some articles also emphasize hiring discrimination, which is based on the applicants' names, which results in the under-qualification of discriminated people (with supporting testimonies).

Racial discrimination in the workplace was reported, too: racist jokes and insults, racist nicknames, jokes on those who are said to act as an “ethnic group”, refusal to give them redundancy payment or severance pay, compared to the other employees.

Some articles stress the fact that some victims choose to change their name to avoid hiring discrimination: as such a criteria has become stigmatising through and by discrimination, some people replace their Arab-sounding name, most of the time, by a French-sounding name<sup>47</sup>, when possible, in order to be hired and to start their professional career.

Finally, some articles emphasized the living conditions of people who suffer from discrimination, especially the youth who live in stigmatised suburbs (“banlieues”). They are said to have no professional plans and to be tempted by criminality because hiring discrimination has created a specific state of mind (what sociologists call “the definition of the situation”)<sup>48</sup>.

#### 4.3.2. The testimonies collated in the RAXEN data base

The RAXEN data base is composed, among other things, of 46 interviews with victims and actors, which were gathered between October and November 2001 by the association “D’un Monde À L’autre” (▲ DMAL)<sup>49</sup> and the Mouvement contre le Racisme et Pour l’Amitié entre les Peuples (“Movement against racism and for friendship between peoples”, ▲ MRAP).<sup>50</sup> All these interviews report experiences of direct discrimination according to the origin of the victim, sometimes his/her behaviour, the colour of his/her skin, or his/her name or surname. 25 personal experiences out of the 46 are specifically concern employment.

Some of the interviews gathered by ▲ DMAL were with men, most of them rather young (between 30 and 35), who were looking for a job and who were skilled and competent for the type of job they applied for. They were not hired, either because

<sup>47</sup> Emmanuelle VEIL, ■ “Le racisme au travail”, *op. cit.*

<sup>48</sup> Francine AIZICOVICI, “Les jeunes des cités rêvent d’une insertion professionnelle sans discrimination” (“The Youth in Underprivileged Suburbs Dream of Professional Integration Without Being Discriminated”), *in: Le Monde*, 04/26/2001.

<sup>49</sup> ▲ [D’Un Monde à l’Autre](#) is a regional resources centre located in the North of France.

<sup>50</sup> ▲ [MRAP](#) is one of the leading national anti-racist NGOs in France.

their application was not selected, or because they failed during the interview. There is also racial discrimination in the workplace: a man was paid less than his colleagues who did the same work, and he did not get a pay rise, whereas his colleagues did. Moreover, customers were racist and his boss did not defend him. On top of this, he was ragged, as his boss withdrew his phone and his car, although they were necessary for his work. Another example was reported: during an entrance examination for the civil service, the invigilators accused an applicant of usurping somebody else's identity, whereas the photo on his identity card was simply old; the applicant finally left the room before the end of the examination.

In any case, discrimination is clearly based not on professional criteria but on the nationality and origin of the victims (even though these are absent from the interviews reported here). As a matter of fact, during job interviews, the person who is in charge of recruitment often asks questions that are linked to the origin of the applicant, and not to his/her experience. North Africans especially say that they have suffered from racism. The victims testify that they want to seek redress and generally to fight against discrimination. They also testify on their state of mind when they suffered from discrimination and during the proceedings: some were depressed, others lost their self-confidence, or did not trust employers or society any more, others became discouraged, angry or aggressive. Such states of mind and behaviour make it harder to work normally, as the relationships between the victim and his/her employer start badly.

The interviews reported by the ▲ MRAP are more detailed, and the origin of the victims is clearly mentioned when used as a discriminatory criterion. Testimonies deal with discrimination in the workplace, which is sometimes racial. Origin, and sometimes the colour of the skin are put into relief (especially for the Blacks). A man was discriminated against on the basis of his language and behaviour (as he was talking in Arabic during private conversations, and as he had "Arab manners"); another suffered from religious discrimination (as he was Muslim, he was insulted during – and about – the fast of *ramadan*). A victim was also blamed for being on welfare, as he was said to belong to a "group" which is "above all interested in welfare". Most of the time, victims suffer from racist insults, but sometimes from harassment, and two of them even received death threats (from a manager and from a colleague who was a dog-handler and who was working for Paris' underground). On top of this, a man, who was accused of stealing from his firm, was questioned by the police, though there was no proof and though he had obviously nothing to do with the theft.

Most of the time, victims got in touch with one or more anti-racist associations, first of all with the MRAP (which is an obvious bias of the research exercise), but also with the public prosecutor, the 114 help-line and the ▲ CODAC (Departmental Commissions for Access to Citizenship), although one victim who called the CODAC complained bitterly that it was inefficient. Others asked trade unions or their managers to help them. For some of them, the proceedings succeeded, as their colleagues or their boss had to pay a fine or were punished within the firm (with a notice in their file). For most of them, the proceedings were still running when they were interviewed, but complaints were sometimes dismissed by the court. Most



victims were disgusted because the discrimination was not punished, and they said they had lodged complaints in order to salvage their pride and honour.

Other interviews were done by DMAL with people whose job is to fight against discrimination in the North-Pas-de-Calais, especially around the Lille suburbs of Roubaix and Tourcoing (as ▲ DMAL is based in this area). They work as project managers, official representatives, lawyers, advisors in organizations that support people who have problems finding a job, and they work in partnership with the National Job Centre and/or with anti-discrimination associations and firms. Sometimes they also work within firms and with trade unions. One of the mission representatives who was interviewed works to prevent discrimination and provides information on it, using short films. A general secretary of the trade union ▲ CFDT, and two people who work for the 114-CODAC were interviewed, too. Many of these actors were themselves of North African origin.

They mentioned the situations of racial discrimination that they had to face (hiring discrimination based on the colour of the skin, for example). They insisted on the fact that people of North African origin (notably young people and women), and of Sub-Saharan African origin in particular, suffer from discrimination, most of the time during hiring processes and trial periods. They highlight the same discriminatory criteria as the victims who were interviewed by the ▲ MRAP.

They all pointed to the weakness, unwieldiness and slowness of the law and of the courts, which seem generally to be inadequate. First, victims have only three months to lodge complaints; secondly, they often prefer to settle out of court, in order to restore mutual trust and respect with their employer, and insist on the role of mediation, as the law is for them a last resort and used as a way to put pressure on the practitioners of discrimination. Some insisted that the system must improve; one of them said that it creates inequalities and thus discrimination, even though he wished he could be taught the law. Most of the actors who were interviewed advised victims to call the 114 help-line or to get in touch with the ▲ CODAC. One of them encouraged victims to move to the North, where discrimination in the employment field is said to be less frequent. Another one insisted that racism concerns also union members, although they claim they defend equality at work. In the end, another one noticed that, despite employers' racism, he has to work with them as they nevertheless hire job seekers whom he advised them to hire. But many emphasized that discrimination is often due to ignorance of other groups, cultures, etc. within society.

### 4.3.3. Case laws

Hitherto complaints lodged in cases of discrimination have been extremely rare. Thus, in spite of criminal penalties for discrimination on the basis of race or origin, statistics have generally been insignificant. As for civil suits, they have traditionally been even rarer.<sup>51</sup> The problem was the burden of proof: before the law of 16 November 2001, the victim had to prove he/she had suffered from discrimination. As a result, cases were often dismissed even before coming to trial,<sup>52</sup> and analysis of criminal proceedings shows that matters usually came to trial only because interested parties (typically specialised associations) sued on their own behalf after charges had initially been dropped by the public prosecutor. In response, the prosecution service has tended to neglect such cases and demand from victims the kind of direct proof of discrimination that is inherently impossible to provide.<sup>53</sup>

There is no central compendium of cases and suits in France. It is therefore difficult to produce an annual review of all cases, including those (the majority) that never reach trial. Information on court decisions is available in the press. In what follows, the cases mentioned are merely examples that illustrate the judicial dimension of discrimination.

#### EXAMPLES OF TRIALS

CRIMINAL COURT OF TOULOUSE, 14 MARCH 2000<sup>54</sup>.

The MRAP and the association “Act against Exclusion” (“Agir contre l’Exclusion”) lodged a complaint.

An employee of the Chamber of Commerce sent out a job offer for a service station of the Motorway A62, which said that “no Black and no North African would be hired, because the employee will be in contact with customers at the cash desk”. She had to pay a 10,000 francs fine (1,500 euros), half of it suspended.

She argued that she just wanted to meet the demand of the customer of the Chamber of Commerce, and that she had been hired less than one month ago, that she was still on trial period, and that she had anticipated the failure of some applicants.

These arguments were considered as attenuating circumstances, but the court said that the employee was perfectly able to see that the job offer was illegal.

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<sup>51</sup> GELD (2000), “Le recours au droit dans la lutte contre les discriminations: la question de la preuve” (■ “To Resort to the Law in Anti-discrimination. The Burden of Proof”, note N° 2, October 2000, p. 22.

<sup>52</sup> CNCDH (Human Rights Commission) (2001), “La lutte contre le racisme et la xénophobie” (■ “The Fight Against Racism and Xenophobia”), p. 235.

<sup>53</sup> GELD, *op. cit.*, p. 27.

<sup>54</sup> See: “Amende pour l’employée raciste” (“A Racist Employee Was Fined”), *in: Libération*, 03/15/2000.



This case shows that it is possible to lodge a complaint, provided discrimination is proved. Nevertheless, it also shows the limits of legal proceedings, as a trainee, and not the customer of the Chamber of Commerce, was held responsible for the situation.

CHÂTEAURoux DISTRICT COURT (CENTRE OF FRANCE), 14 JUNE 2000.

Mme G. got in touch by phone with Mme R. through the National Job Center. Mme R., who managed the company B., wished to hire an employee. When Mme G. gave her name, Mme R. coldly said “Ah !”, which made Mme G. think that her name was a problem. After she reported the conversation to the Job Centre advisor, the latter called Mme R in the presence of Mme. G.

Mme R. confirmed that “as Mme G has a North African-sounding name, she hesitates to hire her because some customers are bound to be reluctant to be in touch with her”. A complaint was lodged against Mme R., who had to pay Mme G. 2,500 francs in damages (around 380 euros), because of the Job Centre advisor’s testimony.

CAMBRAI DISTRICT COURT (NORTH-WEST OF FRANCE), 23 FEBRUARY 2000<sup>55</sup>.

A pharmacist published a job offer in a specialized journal, as he wished to hire an assistant. The man who lodged a complaint said that, after a two hour-trial period, he had received a letter in which he was said he could not be hired because “customers do not seem to like [his] foreign origin”. The employer had to pay the victim, the MRAP and the Human Rights League a 30,000 francs fine (4,600 euros) and 4,000 franc damages (600 euros).

CRIMINAL COURT OF VERSAILLES, 2 APRIL 2002<sup>56</sup>

In April 1998, an employee of the company Ikea in Saint-Germain-en-Laye (a western suburb of Paris), whose job was to hire the employees who deliver to private households the catalogues of Ikea products, sent an email to the 16 people in charge of the customer service, which suggested "not to hire Blacks because they are unfortunately less welcome by private persons than others". The employee was sentenced to pay a 30,000 franc fine (around 4,600 euros) for hiring discrimination. The company Ikea was criminally discharged but it was sued because the employee worked for it. Both had to pay SOS Racism, the MRAP, and four trade unions 100,000 francs in damages (around 15,000 euros)

The court said that in “giving instructions to those whose task was to hire people” within each shop, the employee was guilty of “direct racial discrimination”.

- GRENOBLE DISTRICT COURT, 20 MARCH 2000<sup>57</sup>.

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<sup>55</sup> See: “Il est d’origine marocaine, on refuse de l’embaucher” (“He Cannot be Hired Because he is of Moroccan Origin”), in: *Nord-Eclair*, 01/12/99; “Un pharmacien écarté en raison de ses origines” (“A Pharmacist is not Hired Because of His Origins”, in: *La Voix du Nord*, 01/12/99.

<sup>56</sup> See: “Une cadre d’Ikéa accusée de discrimination raciale à l’embauche” (“An Executive of Ikea is Accused of Racial Hiring Discrimination”), in: *Libération*, 02/07/01.

<sup>57</sup> See “Le mauvais ‘feeling’ d’un employeur” (“An Employer’s Bad Feeling”), in: *Le Figaro*, 7 March 2000.

This was a case of hiring discrimination after racist language towards an employee of the National Job Centre, following a test ("*testing*"<sup>58</sup>). It was brought to the Court of Appeal.

The penalty was two months' suspended imprisonment, a 10,000 francs fine (around 1,500 euros), and the publishing of the judgement in the regional daily *Le Dauphiné* and in the national daily *Libération*. 7,000 francs in damages (around 1,070 euros) were awarded in favour of the victim, and 5,000 francs in damages (around 760 euros) in favour of [▲ SOS Racisme](#). SOS Racisme's "testers" were witnesses for the prosecution.

It is noteworthy that the judge accepted the evidence of phone testing, although phone calls and recordings are generally not considered as evidence in French law.


## 4.4. New policies and laws on professional integration and on migrants', minorities' and foreigners' work permits

### 4.4.1. Anti-discrimination systems.

The improvement of the awareness of authorities concerning discrimination was due to the fact that the traditional analysis framework of integration was put into question. The rise of what is called the "second generation" of immigrants, that is to say children of immigrant parents who went to France in the 1960s, refers to the youth who were born and educated in France. As a result, the discrimination which they suffer from is not a matter of integration.<sup>59</sup>

This issue entered the public sphere on 20 October 1998, as the Ministry of the Employment and Solidarity made a presentation on the fight against discrimination during the weekly council of ministers, and dispatched a circular on the fight against racial discrimination on the labour market.

This statement was the starting point of the implementation of a system which gave rise to:

- The  creation of the CODAC (Departmental Commissions for Access to Citizenship) by the Ministry of the Interior.

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<sup>58</sup> "Testing" refers to experiments made by anti-racist groups to check if some firms and night clubs are discriminatory.

<sup>59</sup> See Patrick SIMON (2000), *Les discriminations ethniques dans la société française* (■ "Ethnic Discrimination in French Society"), Paris: IHESI, Etudes et Recherches, November 2000.

- The ☀ creation of the Groupement d'intérêt Public Groupe d'Etude sur les Discriminations (GIP-GED) (Public Interest Group-Study Group on Discrimination) in September 1999.
- The ☀ implementation of a help-line with a toll-free number, the 114 (Prime Minister's circular of 2 May 2000; Ministry of the Interior's and Ministry of the Employment and Solidarity's circular of 10 May 2000), which is to allow each person who has witnessed or suffered from discrimination to denounce it.

The employment field is not the only one concerned by such policies.

1° The ☀ creation of the CODAC is to improve labour market access.

The CODAC were settled in 1999 by the Ministry of the Interior through the circular of 18 January 1999, in order to “help children of immigrant parents find a job and integrate in society, and to make hiring discrimination, and discrimination in the fields of housing and the leisure activities decrease” (circular of 01/18/99). The CODAC are under the supervision of prefects and prosecutors, and make state departments, local councillors, National Job Centers, welfare organizations, Chambers of Commerce and Industry, employer organizations, trade unions and anti-racist groups work together. Then, through Prime Minister's circular of 2 May 2000, they were given the mission of studying discrimination in each department. They therefore took over from the government in the field of anti-discrimination.

In the employment field, the report, which was made in December 2000 by the welfare monitoring services (▲ “Inspection Générale des Affaires Sociales”, [IGAS](#)) and the administration monitoring services (▲ “Inspection Générale de l'Administration”, [IGA](#)) on the situation of the ▲ CODAC, mentioned that a working party specialized in the matters of “employment and professional integration” was set up in almost half of the departments, in partnership with the directors of departmental employment and training offices, local and departmental Job Centres, and sometimes trade unions and local councillors.

Among the concrete actions of those organizations, one survey dealt with the youth support system which was set up in around twenty departments. “The improvement of awareness of anti-discrimination and of the encouragement to hire children of immigrant parents” was also put into relief, and the creation of charters with professional organizations (employers engaged themselves to ban hiring discrimination and discrimination in the workplace) was emphasized. In four departments, in addition to such initiatives, the employees of local job centres were trained to deal with discrimination.

As we have little information on what was really done by the CODAC, we can say that the system had a limited impact. Thus, although the report emphasized three positive aspects, “the state's goodwill”, the “fact that partners are more and more aware of discrimination, and the mobilization of the existing tools”, and the “encouragement to use transparency and mutual information”, it also denounced many negative aspects of the implementation and the running of the system.

As a matter of fact, the Ministry of the Interior decided the CODAC should be created very quickly and without asking anybody else's opinion. Moreover, people did not involve themselves the same in each department (local councillors did not participate much, public services involved themselves unequally). Furthermore, some actions did not meet the objectives, as working parties were especially active in the employment field, whereas the CODAC proposed few new measures to overcome the hiring difficulties met by young people.

Besides, the general administration office did not give the CODAC any impetus, any framework, any objective, or any advice to implement typical actions or to pool their experience. Ultimately, prefects were not given any additional grant or staff by the state, which caused some NGOs to question the government's real intention to act, beyond public declarations.

After this report was published, the system was relaunched by a circular on 30 October 2001, which was signed by eight ministers (Employment and Solidarity, Interior, Justice, Education, the Youth and Sports, Urban affairs, Technical Education, Housing) and which gave priority to:

The creation of an anti-discrimination departmental programme, and of new initiatives in the fields of employment, housing, leisure activities, education for citizenship. The Ministry of the Interior was to be proposed these programmes before 30 June 2002;

The improvement of the partnership between the ▲ CODAC and departmental public systems which aim at being as close to people as possible.

The employment field, though not specifically aimed *at*, is very much concerned *by* this programme, although it has not been evaluated yet...

Moreover, the “fight against discrimination” was part of the 2000/2004 urban policies (“contrats de ville”), and the CODAC were mentioned in the framework programmes as a “place to analyse racial discrimination, to anticipate and organize the fight against racial discrimination, improving all trade unions' and economic partners' awareness of the phenomenon”<sup>60</sup>.

## 2° The ☀ 114 help-line and employment.

The GIP-GED was created in the second semester of 1999. Its board of directors is composed of public authorities, anti-racist groups, employers' organizations and trade unions. It has also an orientation board, which is composed of researchers and academics. In October 2000, the GED became the [GELD](#) (Study and Anti-Discrimination Group). The 114 is a national help-line that is managed by the GELD, while the ▲ CODAC are in charge of the registration of discrimination in each department. Between 16 May 2000 and 30 October 2001, 35.454 calls were received

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<sup>60</sup> *L'intégration et la lutte contre les discriminations raciales dans les contrats de ville du XI<sup>e</sup> plan. Rapport final* (■ "Integration and the Fight Against Racial Discrimination in the Urban Policies of the XI<sup>th</sup> Programme. Final Report"), Vol. 1: Synthesis, April 2001.

through the 114 help-line; as a result, 9.945 discrimination case files were transferred to a CODAC.<sup>61</sup>

Not all the calls result in registration: sometimes, people prefer to remain anonymous or ask for information only. In the last event, they may need to talk to someone who is likely to believe them. On the other hand, if they wish to be helped with a personal touch, they ask the listeners to fill in a registration card, which is sent to the CODAC in order to be dealt in-depth at a local level. Then, the CODAC permanent secretary contacts what is called a middleman/middlewoman (“réfèrent”), who works either in a state department, for local authorities, in an anti-racist and anti-discrimination organization, or for a trade union. He/She may belong to a victim support group or to a social mediation group; and he/she may be a professional or a voluntary worker.

The field of “employment/occupational life/training” is the most common, as it concerns 34% of registered descriptions, including 64.7% of men (and, as a consequence, 35.3% of women). Then, access to goods and services accounts for only 19% of the registrations, which illustrates the marked predominance of the employment field<sup>62</sup>.

### **Examples of registration in the employment field<sup>63</sup>**

05/20/00 – MAN – WITNESS – DEPARTMENT OF THE LOIRE (CENTER OF FRANCE)

A man, who called on behalf of his wife, wished to denounce the managers’ and foremen’s excessive behaviour towards 80% of the foreign people who have a job... They were harassed, in so far as they could not have breaks, they were addressed in the familiar “tu” instead of the more formal “vous”, and also received racial insults, like “you Arab; I do not like Arabs”. His wife suffered from depression and was afraid of losing her job.

#### **Follow-up:**

The registration card was transmitted to the CODAC of the Loire on 21 May 2000, which appointed the factory inspector as middleman. After the inquiry, the manager of the firm eventually acknowledged a racial incident had taken place in the workshop. The foreman who was accused was given a verbal reprimand and had to apologize to the employee. Moreover, during a meeting of all foremen, the general manager said that racist behaviour would not be allowed in the company anymore.

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<sup>61</sup> According to the CNCDH (Human Rights Commission) 2001 report, *La lutte contre le racisme et la xénophobie. Rapport d’activité* (■ “The Fight Against Racism and Discrimination”), Paris, La Documentation française, p 186.

<sup>62</sup> According to the CNCDH (Human Rights Commission) 2001 report, *La lutte contre le racisme et la xénophobie. Rapport d’activité* (■ “The Fight Against Racism and Discrimination”), Paris, La Documentation française.

<sup>63</sup> Source: <http://www.social.gouv.fr/htm/actu/discrim/discrim.rtf> (10/02/04)

06/23/00 – MAN – VICTIM – DEPARTMENT OF THE BOUCHES-DU-RHÔNE (SOUTH-EAST OF FRANCE)

A man, who failed an auxiliary nurse examination, wished to meet the director in order to get more information. But she refused to give him a copy of his evaluation, whereas the other applicants could get one.

After describing his situation, he called the 114 back on 18 July 2000, in order to give further information. As a matter of fact, during the written examination, the examiners asked the applicants not to hide their name on the copy, according to the instructions of the director.

**Follow-up:**

The registration card was transmitted to the CODAC of the Bouches-du-Rhône, which appointed a representative of the local social work department<sup>64</sup> as middleman. After the inquiry, the organization that was accused acknowledged that there had been tactlessness. In August 2000, in order to avoid arguments, the organization board decided to cancel the results of the examination. The applicants were notified of another examination in September.

06/22/00 – MAN – VICTIM – DEPARTMENT OF THE SEINE-SAINT-DENIS (NORTH OF PARIS):

The man who called 114 said he had been harassed for seven months by a colleague who was an ambulance driver, who used to make many racist insults to him, and to talk about the uselessness of “Blacks and Arabs”. The victim alerted his employer to the situation several times, but he answered that he could not do anything about it. The man was on sick leave for depression and thought about resigning if the situation continued.

**Follow-up:**

On 23 June 2000, the registration card was transmitted to the CODAC of the Seine-Saint-Denis, which lodged a complaint by the public prosecutor. The victim won his case during the trial on 2 May 2001: his colleague was sentenced to pay 3,000 francs damages (around 450 euros).

09/06/00: MAN – VICTIM – DEPARTMENT OF THE PUY-DE-DÔME (CENTER OF FRANCE):

The victim was a waiter in a restaurant. He had been regularly harassed by his employer, whose wife eventually insulted him: “Go home, you Arab!”

**Follow-up:**

The description card was transmitted to the CODAC of the Puy-de-Dôme on 7 September 2000. After a complaint was lodged on 11 September 2000, the woman was sentenced to pay a 2,000 francs fine (around 300 euros) by Riom magistrate’s court on 15 September 2000.

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<sup>64</sup> The tasks of the local social work department (“Direction Départementale de l’Action Sanitaire et Sociale”, DDASS) is to deal with children who have been abandoned or ill-treated.

The first two examples show that CODAC do not always lodge complaints, as the system encourages mediation. Public inquiry proved that facts were true and, in the first case, allowed people to be aware *of*, or at least to talk *about* discrimination in the workplace. The last two examples show that lodging a complaint can result in penalties.

However, such examples must not make us forget that very few legal procedures could really be instituted. There has not been any evaluation yet of the number of complaints which gave way to sentences, but the burden of proof is a leitmotiv in many surveys and articles<sup>65</sup>. As a matter of fact, in France, before 16 November 2001, the victim had to prove that he/she had suffered from discrimination and that the man/woman who was sued was directly responsible for it. Thus, this new law represents great progress for the victims.

#### 4.4.2. The new § anti-discrimination law of 16 November 2001<sup>66</sup>.

Modification of the article #122-45 of labour law (changes in **bold**):

“No applicant can be turned down for a job or a training period, no employee can be sanctioned, fired or directly or indirectly discriminated against, especially with respect to wages, training, regarding, assignment, qualification, classification, promotion, transfer, or contract renewal because of his/her origin, sex, mores, sexual preference, age, family situation, real or supposed belonging to an ethnic group, a nation or a race, his/her political opinion, trade union or mutual insurance company membership, religion, physical appearance, name or state of health or handicap, except if the doctor who carries out the annual examination, required by law, of the employees of a company, certifies unfitness for work, according to Book II of the **§ Labour Code**”.<sup>67</sup>

The notion of indirect discrimination was thus introduced into law, grounds for discrimination were extended, and the scope of implementation was widened.

The law also facilitated legal procedures:

- Trade unions and anti-discrimination groups are now allowed to refer matters to the judge who is in charge of labour affairs (article L.122-45-1 of the **§ Labour Code**);

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<sup>65</sup> See, among others, the note of the GELD, N° 2, October 2000; see also: “Les discriminations raciales au travail: quelles stratégies pour les services publics du travail, de l’emploi et de la formation professionnelle?” (■ “Racial Discrimination in the Workplace: Which Strategies for Labour and Training Public Services?”), INTEFP, Seminar in Lyon, 8-9 March 2000; see also: BOUAMA Saïd, BENYACHI Ahmed (2000), “Les discriminations dans l’emploi et leurs impacts” (■ “Discrimination at Work and its Consequences”), March 2000, p. 55; see eventually: “BATAILLE Philippe (2000), “L’actualité sociale des discriminations raciales” (■ “What is New in the Fight Against Racial Discrimination?”), *in: Migrations et Sociétés*, Vol. 13, N° 75-76, May-August 2000, p. 87.

<sup>66</sup> French government publication giving information to the public about new laws, government business and new companies (“[Journal Officiel](#)”), N° 267, 17 November 2001; CNCDH Report, ■ *op. cit.*, p. 135-140.

<sup>67</sup> Passages in bold refer to the modifications brought by the **§** law of 16 November 2001.

- Employees, who lodge complaints or testify for victims of discrimination during legal procedures, are protected against potential sanctions of discriminatory treatments in the company (paragraph 3 of the article L.122-45 of the § Labour Code).
- The burden of proof has evolved: if the complainant claims to have suffered from direct or indirect discrimination, the defendants have to prove that it was not the case (paragraph 4 of the article L.122-45 of the § Labour Code).
- The powers of factory inspectors are extended: they are now allowed to check all kinds of discrimination and to get all kinds of documents or information which are likely to be in relation with it (a paragraph is added to the article L.611-9 of the Labour Code).
- The law bans the lists of applicants drawn up by political parties or organizations, which advocate discrimination during the elections of industrial arbitrators (L.513-3-1 and L.513-10 and 11 of the Labour Code).

In order to be extended, collective bargaining, which is specific to each branch, has to define anti-discrimination measures, and the national commission for collective bargaining is to follow up the enforcement of this measure each year (L.136-2 of the Labour Code).

As the law is recent, its concrete repercussions on case law will be measured and analysed in the future and included in the [Raxen database](#).

## 4.5. Other initiatives and current prospects to promote diversity on the labour market and in the employment field

### 4.5.1. Local initiatives from public actors

1° Initiatives taken by and towards institutions and local firms, job centres and trade unions.

In order to improve the awareness of people who are in charge of urban policies (local councillors, technicians, organizations, employers), the ▲ DIV (Interministerial Office for Urban Affairs), the ▲ DPM (Migration and Population Office), the ▲ DGEFP (Work and Vocational Training General Office), and the ▲ FAS (Social Action Funds) created a practical guide entitled ☀ “Fight against racial discrimination on the labour market”, which was sent to local authorities and big firms’ personnel management (Peugeot, Danone or Lafargue)<sup>68</sup>, and which aimed at drawing people’s attention to racial discrimination in the employment field, on the one hand; at taking advantage of the existing initiatives, and at letting them known and making them accessible, on the other. The first volume of the guide gave some

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<sup>68</sup> See: “Bartolone veut aider les jeunes des cités” (“The Minister of Urban Affairs Wishes to Help the Youth in Underprivileged Suburbs”), *in: Le Parisien*, 11/23/00.



information on the law which is in force, and was composed of 13 monographs on the initiatives which were conducted. The second volume contained methodologies and training guides in order to “define adequate anti-discrimination measures”. It also introduced anti-discrimination public systems (CODAC, 114 help-line), and other organisations which play a great role in the fight against discrimination (FAS, main anti-racist groups).

The ☀ ASPECT<sup>69</sup> project (“Action Spécifique pour l’Egalité des Chances au Travail”, Specific Measures for Equal Opportunities at Work) also aimed at mobilizing companies, trade unions and job centres in the prevention of and the fight against racial discrimination, whether the employees worked or looked for a job. In 1988, an “operational group”, which was created in Rhône-Alpes, gathered all the partners which could support projects (employers organizations, trade unions, job centers). They acknowledged the existence of racial discrimination in the employment field, they gave the orientation of the actions that should be implemented, and they committed themselves to participate in them. The programme also gave scope for local initiatives that were not forecast at the beginning, such as a training programme for the employees of the regional job centre, and the creation of working parties on discrimination, which were composed of men and women whose job was to help people find work.

Training such people is crucial, insofar as it contributes to improve their awareness of the problems. In this sense, some training organizations (such as “the AEFTI Midi-Pyrénées”) implemented meetings for the salaried employees.

“D’Un Monde A L’autre” organized meetings in small and medium-sized firms organizations<sup>70</sup>, in order to improve their awareness of discrimination. The IFCIL SA organization trained local actors, with the support of the FAS, and the initiative was entitled: “labour market and discrimination” and had three main themes: face cultural diversity and its representatives; analyse discrimination that is based on racial origin; build tools in order to spot discrimination and fight against it.

2° Initiatives taken by and towards the groups which are likely to suffer from discrimination on the labour market

Among the measures taken against discrimination concerning labour market access, a support system for young people is the most common. It aims at supporting individuals, “helping young people, for whom it is difficult to enter the labour market, find or keep a job, with the help of voluntary workers in whom employers trust”<sup>71</sup>. Either a local job center, a company network (Chambers of Commerce and

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<sup>69</sup> See: CEDIEY Eric, “Le projet ASPECT: prototype d’une nouvelle politique de lutte contre les discriminations?” ■ (“The ASPECT Project: Draft of a New Anti-Discrimination Policy?”, in: *Economie et Humanisme*, N° 353, July 2000. see also e.g. <http://www.cean.u-bordeaux.fr/pubcean/cncdh.rtf> (10/02/04).

<sup>70</sup> See: “Talents perdus et discrimination” (“Spoiled Skills and Discrimination”), in: *Le Nouvel Observateur*, 25 May 2000.

<sup>71</sup> See: FAS, Ministry of the Employment and Solidarity, ■ “Practical Guide for the Youth Who Look for Work”, June 1999.

Industry, for instance) or a non-profit organization bring voluntary workers and the young people together.

In the region Midi-Pyrénées, 28 networks of this kind were set up in the eight departments. Almost 2,000 young people were supported by 1,100 voluntary workers<sup>72</sup>. A supervising committee, composed of the DRETEFP (Employment and Training Departmental Office), of the general delegation of the ▲ FAS, of the ▲ DRASS (Social Work Regional Office), of the regional job center and the Regional Council, was created in order to encourage the setting up of programmes and the development of networks.

A youth support system was also settled within the ☀ PRISME programme<sup>73</sup>, in order to encourage the integration of foreign employees within firms. Supported by the FAS, the DPM, and the Regional Council of Rhône-Alpes, the programme was launched in 1998 and aimed at improving employers' awareness of the fight against hiring discrimination. Thirty-four young people, who were all graduates, most of them being of foreign origin, were helped by thirty-four voluntary workers.

Moreover, the programme entitled ☀ “young graduates”<sup>74</sup> was set under the aegis of the local Roubaix Integration Plan and aimed at helping young graduates who had spent at least two years in a university or a polytechnic, and who had been unemployed for at least six months, find work. 79.7% of them were children of immigrant parents<sup>75</sup>. There were several steps: steady and individualized interviews, logistics (computers, help to write a résumé), targeted training.

As a result, 50 people out of the 300 who followed the programme got a permanent contract, and 165 got a fixed-term contract. Nonetheless, according to them, they would never have found a job without the psychological and moral support they had been given in the scope of the programme<sup>76</sup>, which helped them becoming more dynamic.

It should be noted here that the programme was not made only for people who may be confronted to discrimination, but that it was put in the scope of common law. According to Philippe Bataille, the youth support system should not concern

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<sup>72</sup> See: “Quelle coopération entre le monde de l’entreprise et le monde de l’intégration?” (“What Kind of Cooperation between Firms and Youth-Support Organizations?”), in: *Pour Avec*, December 2000, p. 79.

<sup>73</sup> MICHIELS M.A., DESCOMBES J. (2000), “La brèche des parrainages” (■ “Youth Support Systems Give New Opportunities”), in: *Economie et Humanisme*, N° 353, July 2000, p. 60-65.

<sup>74</sup> See: LALEMAND Dominique (2000), “Roubaix lutte contre les discriminations à l’emploi” (■ “Roubaix’s Fight Against Discrimination in the Employment Field”), in: *Actualités Sociales Hebdomadaires*, N° 2163, 21 April 2000.

<sup>75</sup> See: VELOSO Sara (2000), *Rapport final sur l’accompagnement méthodologique et l’évaluation de l’action “jeunes diplômés”* (■ “Final Report and Evaluation of the Graduates Support System”), Lille: Université des Sciences et Technologies de Lille, CUEEP, January 2000.

<sup>76</sup> LALEMAND Dominique, ■ *Ibid.*

foreigners only, but also all the youth who cannot find their place in society<sup>77</sup>. However, figures show that foreigners and children of immigrant parents were especially helped. Besides, Véronique De Rudder and François Vourc'h think that “such programmes should try to adapt some passages of common law, while not stigmatizing a specific group of people – immigrants, and children of immigrants”<sup>78</sup>.

In this part of the report, we have tried to list anti-discrimination programmes. However, some additional remarks should be made. First, although we could find information on what kind of actors play a major role in these programmes, on their goals and objectives, we had very little information on the way people, for whom such programmes are made, got involved, or have even rallied in support of them. Furthermore, while such programmes point to a public awareness of discrimination, it is very hard to evaluate their impact, as the means of such an evaluation have not been thought of yet.

#### 4.5.2. Some actions carried out by trade unions.

In the scope of the ☀ SEREDAT programme (“Séminaire Européen sur le Racisme et les Discriminations Au Travail”, European seminar on racism and discrimination in firms), the trade union ▲ CGT, in collaboration with the ▲ ISERES (“Institut Syndical d’Etudes et de Recherches Economiques et Sociales”, the CGT’s economic and social research institute), collected in a data base<sup>79</sup> union initiatives concerning anti-racism and anti-discrimination in the workplace. It was to contribute to social progress. The name of the recorder, of people and groups (trade unions, non-profit organizations), which participated in the programme within the firm, are written on cards. Thus, this database is a practical information tool, which should provide trade union representatives and activists with a more useful help against discrimination in the workplace, and against hiring discrimination<sup>80</sup>.

#### 4.5.3. Internet sources

In 2002, ▲ Adri selected 67 web sites on racism and discrimination and 18 web sites on the theme of the economics of immigration. Based on an analysis of more than 20 sites dealing with issues of racism, discrimination and employment, it appears that

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<sup>77</sup> INTEFP (2000), *Les discriminations raciales au travail: quelles stratégies pour les services publics du travail, de l’emploi et de la formation professionnelle?* (■ “Racial Discrimination in the Field of Employment: Which Strategies for the Employment and Training Departmental Board?”), Actes du colloque de Lyon, 8-9 March 2000.

<sup>78</sup> VOURC’H F., DE RUDDER V. (2001), “Les enjeux politiques des luttes contre le racisme. Discrimination justifiée, affirmative action, discrimination positive. Parle-t-on de la même chose?” (■ “The Political Issues Raised by of Anti-racism. Are ‘Justified Discrimination’, Affirmative Action, ‘Positive Discrimination’ Equivalent?”); *in: Migrations et Sociétés*, Vol 13, 75-76, May-August 2001.

<sup>79</sup> This data base is available on the Internet: <http://www.iseres.org>

<sup>80</sup> See: OUADDANE Mohamed, SIMON Valérie, *Programme SEREDAT (Séminaire Européen sur le Racisme et les Discriminations au Travail. Rapport final)* (■ “The SEREDAT Programme. Final Report”), p. 65-108.

Internet sources are multiple and extensive. The data are easy to search and to consult because these web sites are designed to be widely accessible.<sup>81</sup>

The Internet sources generally give information about activities and publications of the organisation responsible for the site. They provide bibliographical databases and web site databases with links to selected sites. Some focus on legislation and case law in order to facilitate access to the law, especially for victims of racism and discrimination or for NGOs.

Some sites offer on-line publications such as newsletters, press or magazine articles, reports and book summaries and reviews. A few also have presentations of good practices or case studies. Some, in addition, offer training, pedagogical tools or methods, or intercultural education. A more systematic analysis of these Internet sources would be a subject for an interesting research project.

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<sup>81</sup> The directory of these web sites is available on <http://www.adri.fr/basesites/> Among them (10/02/04): <http://www.ined.fr> ; <http://www.economie-humanisme.org> ; <http://www.recensement.insee.fr> ; <http://www.insee.fr> ; <http://www.antiracism-info.org> ; <http://www.le114.com> ; <http://www.equal-france.com> ; <http://www.clp.asso.fr> ; <http://www.cfdt.org> ; <http://www.epra.net> ; <http://www.unice.fr/urmis-soliis/> ; <http://www.ifrance.com/cofrimi> ; <http://www.iseres.org>

## 5. ANALYSIS OF THE FINDINGS

Looking at the results of the qualitative surveys on discrimination in the employment field that were carried out in France, it is not possible to articulate precisely an analysis of what is going on within firms so as to enable us to change discriminatory behaviour. Furthermore, although systematic and indirect discrimination are demonstrated in these surveys, public authorities and economic actors are not yet preventing these phenomena or combating their effects, as they are complicated phenomena which need to be understood in the broader economic context.

### 5.1. In France, professional practices tend to undergo “ethnicization”:

#### 5.1.1. Social workers

A recent survey dealt with the social work done by people who were chosen on ethnic criteria<sup>82</sup>, that is to say on their origin (North or Sub Saharan Africa) and their “belonging” to a “group” of people who live in stigmatized and insecure areas with strong immigration (“banlieues”). It aimed at developing programmes for such people. The author studied more particularly what he called “ethnic leaders”, *i. e.* young men/women who live up groups of young people in their area, and who are middlemen/middlewomen between them and the other inhabitants and economic, social and cultural actors.

The word “leader” nevertheless seems inappropriate since, although they have much in common with the other members of the group, they are not its representatives, especially regarding ethnic or “community” claims. Moreover, they refuse to be trapped in a specific ethnic category, although they consider they belong to French society and act in this perspective. Their involvement in social work is due particularly to the social problems they have been confronted with in their families, areas, and with their friends. They have grown up with them and wish to fight against them. They therefore engage themselves against social inequalities, and not for ethnic claims, although the former are often said to be linked to ethnic discrimination.

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<sup>82</sup> See: JOVELIN Emmanuel (2001), “Le leadership ethnique dans le travail social. Choix du métier et pratiques professionnelles” (■ “Ethnic Leadership in Social Work. The Choice of an Occupation and Professional Practices”), *in* GOSSELIN Gabriel, LAVAN Jean-Pierre, *Ethnicité et mobilisations identitaires* (■ “Ethnicity and Identity Mobilizations”), Paris: l’Harmattan, p. 122. The survey was comparative and used questionnaires which were given to two categories of people: 170 social workers of “foreign origin”, and 200 social workers of “French origin”. There were also 27 semi-directive interviews and 12 interviews with “leaders”.

Inside the area, their work is acknowledged by other social workers and by the people they help, as they notably succeed in putting an end to conflicts that could never be resolved before. But such actions raise problems, because they look for upward mobility, but at the same time they wish to stay in contact with the place where they grew up, even though their action is stigmatized by public authorities and the public. That is why they often have to move to carry on their career.<sup>83</sup>

### 5.1.2. Recruitment policies which claim to be non-discriminatory

According to Monique Garnier and Christelle Massard<sup>84</sup>, firms which ban hiring discrimination or favour the recruitment of people of foreign origin are motivated by various things. On the one hand, some companies simply need workforce and refuse hiring discrimination. On the other, they may want to “fit in their environment”. In the end, some may look for a “positive image in society”, and be seen as contributing to common good. For example, the manager of a computer company, who had suffered from his colleagues’ and his superiors’ anti-Semitism when he was a sales engineer, paid attention to what happened in his company. In particular, he watched over the selection of résumés and the salary scale<sup>85</sup>.

Nevertheless, such behaviour is often motivated by profit. For example, the food company MacDonald’s, who is anxious that its employees “should look like customers”, explained that local recruitment “allows companies to take their place in the stigmatized suburbs”, as American firms traditionally refer to people’s skills and not to their origin<sup>86</sup>.

So, there are economic motivations. On the one hand, “the manager wishes to ameliorate the working atmosphere and especially to improve the development of the firm”. On the other, the aftermath in terms of image – and thus in terms of money – may be very serious when a company is accused of discrimination (See: the case of Ikea). Finally, Hervé Bordy emphasizes that “Great Britain, hiring young French people whose parents were immigrants, is now benefiting from human resources, which France does not know how to use. Hiring a young man/woman who speaks French, English and Arabic is a real godsend, and can help the company gain new markets”<sup>87</sup>.

Most of the programmes which aim at fighting against racial discrimination in the employment field are carried out for children of immigrant parents, as they suffer most from discrimination, especially when they are young men of North African origin. Mediation programmes for labour market access bring young job seekers and

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<sup>83</sup> See: JOVELIN Emmanuel, ■ *Op. cit.*, p. 122.

<sup>84</sup> GARNIER Monique, MASSARD Christine (2000), “L’entreprise au cœur de toute évolution” (■ “Firms Are in the Heart of All Changes”), in: *Economie et Humanisme*, N° 353, July 2000.

<sup>85</sup> See: VEIL Emmanuelle (2000), “Le racisme au travail” (“Racism at Work”), in: *L’Express*, 9 March 2000.

<sup>86</sup> *Ibid.*

<sup>87</sup> See: “Talents perdus et discrimination”, ■ *Op. cit.*

companies together very often. Although they do not make employers change their mind on these young people, they help them both to find jobs which seem to correspond to their skills, and to change their attitudes towards the labour market. Such programmes concern in particular the economic sectors which have, or are expected to have, recruitment problems or to need a young labour force.

### **5.1.3. Difficulties in setting up evaluation systems**

Most of the systems and programmes that were described in this report show how difficult it is to create suitable evaluation tools. First, prevention and anti-racism and anti-discrimination programmes in the employment field are made for people who do not fit in precise categories. Traditional administrative categories, which are used in the scope of public policies, can define these people, but racism and discrimination cannot. It is then difficult to know what consequences the programmes may really have on the people they are carried out for.

Secondly, the evaluation systems have problems in finding operational criteria which would inform us precisely on the impact of prevention and anti-discrimination programmes. As a consequence, there are few systems which can give continuous evaluation, and which are capable of changing the programmes in real time if necessary.

Finally, each system or programme defines and sets up its own evaluation system, in order to be consistent and to be linked to the other evaluation systems, which strongly limits exchanges, articulations, and interactions between the different local policies, especially in an industrial and service area. The absence of more unified evaluation systems does not allow us to give a scientific analysis of the results of such systems and programmes.

### **5.1.4. The ambiguous attitudes of trade unions**

Trade unions have sometimes tried to study racism and discrimination in precise areas, while aiming at making professional practices change, in the light of the results of their surveys. Yet, evidence shows the ambiguous, and even evasive attitude of trade unions concerning racism in the employment field. As a matter of fact, some unionists, and especially activists who have local and professional responsibilities,<sup>88</sup> have been evasive and fatalistic in trivializing discrimination.

Such an attitude is due, first, to the fact that trade unions fear losing their grassroots voters and activists; secondly, to the trade unions' ideology which refuses to distinguish between workers when equality is claimed; finally, to the presence and

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<sup>88</sup> See: MORICE Alain, "Le secteur automobile. Recherche menée avec la Coordination des Commissions Immigration des syndicats CGT des usines Renault" (■ "Research Carried Out in Partnership with the Representatives of the Immigration Commissions of the Trade Unions CGT of the Car Construction Industry"), *in: Ibid.*, p. 46-64



trivialization of racism within trade unions, among activists and unionists themselves. Trade unions refuse therefore to open a dialogue and make policies, within and outside the firm, responsible for the main behaviour and practices that are in force. As a consequence, while they care for the specific problems of workers who have suffered from discrimination and help them understand the situation, they do not want to tackle the problems generally and specifically. Thus, it is difficult to define the problems met by workers, as it is not possible to use specific criteria to study them, and the same goes for the treatment of discrimination: trade unions refuse to link ethnic origin to the social weakness of some groups of workers, who thus cannot differentiate themselves from each other.

So, trade unions do not know anything about indirect discrimination, and the same goes for union members who are in charge of these problems, and who are in an embarrassing position. For instance, the representatives on Renault's "Immigration Commission" have problems of representativeness and feel isolated within their trade union. Debates on claims which are specific to discriminated workers and which take place within trade unions raise the same problems.

For example, when the issue of granting children of immigrant parents reductions on trips to their native countries is debated, those who are in favour of this argue that such reductions compensate for discrimination, putting children in contact with their origins, while those who are against defend the equality of rights for all workers. Such ambivalence manifests itself in the professional situation of salaried workers from overseas territories. As a matter of fact, they suffer from a specific treatment in the trade union organization: as they depend on a national particular structure, they belong to the overseas groups ("les collectifs Outre Mer"), without being able to be treated as individuals by trade unions. Thus, their claims are always considered as collective, although they have various specific demands: as they are seen as immigrants, while being French nationals, they can benefit from additional holidays; and, as they are natives of former French colonies, they are caught in the current public debates which take place in trade unions, too, around the recognition of the slave trade and of slavery as a crime against Humanity.

So, the usual attitudes of trade unions waver between entrusting these salaried workers with such demands and issues, in order to preserve the grassroots voters and activists, and taking no further interest in them (in neglecting them during the meetings of trade union boards), or even distrusting them (some fear "particularism" and are afraid that racism be tackled in the workplace; others fear that activists of the radical right might join trade unions and even stand for office, in order to protest against the priority of the claims of salaried workers from overseas territories)<sup>89</sup>.

The relationships between the ▲ CGT and the ▲ CFDT<sup>90</sup> and such "immigrants" are ambiguous. Although the trade unions supported their movement and demands when they were asking for better living and working conditions, in the 1970s, they

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<sup>89</sup> See: POIRET Christian, VOURET François, "Les 'Originaires d'Outre-Mer' dans la CGT" (■ "Salaries from Overseas Territories' in the Trade Union CGT"), *Op. Cit.*, p. 65-76.

<sup>90</sup> The CFDT ("Confédération Française Démocratique du Travail") is another French trade union, which is more moderate than the CGT and close to social democrats.



are still reluctant to include their claims in global demands. In the 1990s, the place given to particularism has little by little concentrated on the issue of additional holidays for civil servants, although the identity issues were treated specifically in political debates.

In addition, trade unions are ambiguous towards temporary workers, whose situation is unsteady, especially for discriminated workers: trade unions both condemn such jobs and defend temporary workers. As a consequence, they do not really know the role of temporary employment agencies in the perpetuating of ethnic discrimination<sup>91</sup>. For all these reasons, trade unions have no clear political outline, and do not know the law very well, which means they can make mistakes when they fight against discrimination, although activists often ask for information and training in this field. In the end, debates on racism and discrimination in the workplace are poorly identified.

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<sup>91</sup> See: BORGOGNO Victor, VOLLENWEIDER-ANDRESEN Lise, “Un bassin d’emploi: Grasse avec ses industries parfums-arômes” (■ “An industrial and service area: Grasse – South of France – perfume industries”), *Op. Cit.*, p. 91-109.

## 6. CONCLUSION

In France, the dominance of the “republican ideal”, which only takes universal individuals and citizens into account, and which denies any difference which would be based on “the origin or the race”, made it difficult for discrimination to enter the public sphere. Thus, its denunciation was often seen as illegitimate, because it implied to put the “French republican model of integration” and the traditional and formal republican equality into question. Furthermore, whereas legal weapons against racism, with all the problems their implementation has raised, have existed for thirty years now, the “anti-discrimination law” was only voted in 2001.

For several years, however, there has been an “all-out denunciation of discrimination, which is defined sometimes as ideological deviance, sometimes as resulting from prejudices, and sometimes as deriving from ‘innocent’ and unintentional practices which could be stopped by efficient information and goodwill.

Such a conception of discrimination, while it has improved, compared to the former blindness, underestimates the problem. As a matter of fact, it neglects the role of institutions and of the state itself in the build-up of discrimination, and it does not catch the importance of the racist dimension of discrimination, that is to say the build-up and the reproduction of social domination, which permeates and structures society on the whole”<sup>92</sup>.

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<sup>92</sup> See: DE RUDDER Véronique, POIRET Christian, VOUREC’H François (eds.), *L’inégalité raciste. L’universalité républicaine à l’épreuve*, ■ *Op.cit.*, p. 186.