

French Focal Point: CEDRA

Complementary Data Collection
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Contents

CONTENTS.....	2
1 Equality Bodies and Case Law	4
1.1. Equality Bodies - complaints data on racial or ethnic discrimination	4
1.2. Case law – Important decisions on racial or ethnic discrimination	5
2. Racist violence and crime.....	7
2.1. Statistical data and tables on racist and related crime.....	7
2.1.1. Official data and information on racist and related crime (criminal justice and government)	7
2.1.2. Unofficial data and information.....	8
2.1.3. Exemplary incidents	10
2.2. Complaints mechanisms	12
2.3. Good practice	13
3. Employment	14
3.1. Racism and discrimination (incidents and practices).....	14
3.1.1. Statistical data and tables on incidents of discrimination and racism.....	14
3.1.2. Exemplary incidents and cases	15
3.1.3. Research findings.....	16
3.1.4. Additional information	17
3.1.5. Other related issues.....	17
3.2. Good practice	17
4. Housing.....	18
4.1. Racism and discrimination (incidents and practices).....	18
4.1.1. Statistical data and tables on incidents of discrimination and racism in housing	18
4.1.2. Exemplary incidents and cases	20
4.1.3. Research findings.....	20
4.1.4. Legal restrictions to access to housing.....	20
4.2. Good practice	20
5. Health care	21
5.1. Racism and discrimination (incidents and practices).....	21
5.1.1. Statistical data and tables on incidents of racism and discrimination	21
5.1.2. Exemplary incidents and cases	21
5.1.3. Additional information	21
5.1.4. Research findings.....	22
5.2. Good practice	22

6.	Education	23
6.1.	Statistical data and tables on racist incidents.....	23
6.2.	Exemplary cases of discrimination.....	23
6.3.	Restrictions to access to education	23
6.4.	Good practices	24

1 Equality Bodies and Case Law

1.1. Equality Bodies - complaints data on racial or ethnic discrimination

- [1]. In 2008, there was no new provision regarding the French body specialising in matters of equality. Nevertheless, it is important to note that the Haute autorité de lutte contre les discriminations et pour l'égalité (HALDE – the French equal opportunities and anti-discrimination commission) achieved the strength that comes with maturity, as can be seen from the number of claims received (over 6.000), the number of claims handled (over 7.000), and the number of decisions (nearly 600) approved by the Council. This growing momentum was accompanied by recognition of the HALDE's moral authority and increased public awareness of the institution. An opinion poll conducted in December 2007 and published in February 2008 showed that 95 per cent of French people estimate that it is important to fight against discriminations. According to this same survey, 8 per cent of the French people estimate that they were victims of discrimination during the year 2007, 22 per cent state they have been witnesses of situations of discrimination and 63 per cent think that they could one day being victims of discrimination. Thirty six per cent of the French people know the HALDE and its missions and 84 per cent of them think that the HALDE is useful to fight against discriminations.¹
- [2]. Between January 1 and December 31, 2007, 6,222 claims were registered by the HALDE, compared with 4.058 in 2006 (+53 per cent).² The average number of claims filed per month went from 338 in 2006 to 518 in 2007. The breakdown of claims by discrimination criteria and area maintains a certain consistency:

¹ http://www.halde.fr/spip.php?page=article&id_article=11554

² The data provided in this section are data from the HALDE. They are publicly available in the Annual report of the HALDE: HALDE (2008), *Annual Report 2007*, Paris : La Documentation Française.

<http://www.halde.fr/rapport-annuel/2007/>

- origin remains the most frequently cited criterion put forward by discrimination victims (27 per cent). The second most frequently cited criterion is that of health or disability (22 per cent).
- Employment is still the area in which most claims are filed (50 per cent), followed by public services (20 per cent).
- A total of 32,557 calls were recorded on the shared-cost information and guidance hotline (08 10 00 50 00) between January 1 and December 31, 2007.

In Annex 1, we provide tables regarding Complaints registered by the HALDE

- [3]. Processing of cases filed with the HALDE: By December 31, 2006, the HALDE had handled 2,143 cases; by December 31, 2007 it had handled 7,369 claims. The average claim handling time increased from 113 days in 2006 to 190 days in 2007. It is important to note that, in 2007, the HALDE handled 1,147 more cases than it received; as a result, the number of cases pending declined sharply, and came out at 2,178 as at December 31, 2007. In 2007, the Council ordered 558 measures, including 332 recommendations to the government, public authorities, and businesses. Out of these recommendations, 197 are general in scope and 135 are individual. Since March 2006³, the Halde can present its observations before the courts on its own initiative; in 2007 the Halde's appearance before the courts increased sharply (+ 140 per cent – 115 cases). In the field of mediation, the HALDE has become more effective. Mediation is a means to resolve discrimination problems chosen by the parties in a growing number of cases; 49 mediation efforts were launched in 2007. 28 penal transactions (involving payment of a fine) were proposed, accepted and transferred to the public prosecutor's office, which approved them all. See Annex 1.

1.2. Case law – Important decisions on racial or ethnic discrimination

- [4]. The adoption of the Community Directives on Anti-Discrimination enabled the discrimination issue to become a legal question in France.

³ FR-Law n°2006-396 (31.03.2006), Loi pour l'égalité des chances (Law for equal opportunity), NOR: SOCX0500298L
<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000268539&dateTexte=&fastPos=1&fastReqId=14695382&oldAction=rechTexte>

The Directive caused associations engaged in the fight against racism to mobilise for the direction of discriminatory cases to the Courts.

- [5]. Legal decisions and case law have multiplied in the ten past years, and court practice has been developed. Data from legal judgments clearly reveals that when economic actors, property agencies, ANPE, etc., break the law of silence and dissociate themselves from their clients by agreeing to testify, their testimony generally results in convictions.
- [6]. In Annex 2, we provide the text of important decisions by courts and by the HALDE in order to shed light upon the role of the French special body and its procedures.

2. Racist violence and crime

2.1. Statistical data and tables on racist and related crime

2.1.1. Official data and information on racist and related crime (criminal justice and government)

Incidents/crimes recorded by the police

[7]. In France, the Ministry of the Interior and the Direction Générale des Renseignements Généraux are responsible for systematically collecting and registering all the complaints lodged with the police. As a result, we are habituated to analysing and studying official figures, which are quite reliable because the Ministry of the Interior has a long experience of collecting data on racism and anti-Semitism. There is a consensus among NGOs and other associations in France that these statistics are relevant. Nevertheless, these statistics are not exhaustive; indeed, events which have occurred are not necessarily reported to the police nor to the various relevant organisations, either because victims do not declare them or because they were not the subject of media attention. Cases of disrespect and rudeness in particular are rarely reported. We can therefore assume the existence of "hidden figures" which remain unknown.

[8]. The available data at the moment only concerns the year 2007; they come exclusively from the French NDCR's 2007 annual report (please refer to the Update of NDCR and to the French Bulletin n°1), they were made public in March 2008. Data for the year 2008 will be presented to the CNCDH in January 2009. The CEDRA will provide these data to the FRA as soon as possible (mid-January 2009).

Crimes recorded by public prosecutors.

[9]. In Annex 1, we provide tables regarding crimes recorded by public prosecutor.

- [10]. Between July 2007 and June 2008, the public prosecution services recorded 4.117 crimes, among them 3.656 were racist cases, 184 were anti-religious cases and 277 were anti-Semitic cases. In the majority of cases, the incident or crime recorded is a discriminatory act or a damage to persons (murder, wilful acts of violence and threat directed at individuals). We can note that in 80.2 per cent of cases the police or prosecution services succeeded in identifying the authors.
- [11]. The rate of penal response compares the number of cases that were actually prosecuted to the number of cases that could be prosecuted. These cases may be prosecuted since they meet factual and legal conditions. Cases where the perpetrator was not identified or where the statutory period had expired are excluded. It shall encompass not only traditional prosecution, such as setting up a preliminary investigation or summons before a criminal court, or summons upon preliminary admission of guilt, but also alternative procedures such as closing a case subject to conditions or penal mediation. For the period July 2007-June 2008, the rate of penal response is 73 per cent for racist, anti-religious and anti-semitic crimes; it is constant compared to previous periods.

Anti-Roma offences

- [12]. In France we do not have data concerning racist violence and crime against Roma. Nevertheless, ENAR Shadow report 2007 on racism in France⁵ denounces the strong level of discrimination against Roma in France as well as the fact that their rights are not fully respected. At this time, however, we do not have official (nor unofficial) figures for offences against Roma.

2.1.2. Unofficial data and information

- [13]. The Protection of the Jewish Community Service (Service de Protection de la Communauté Juive)⁶ has counted, over the year 2007, 146 violent acts of an anti-Semitic nature, against 216 for the year

⁴ The Ministry of Justice – DACG – could only provide data on this period, despite we asked for 2008 data. The DACG will be able to give 2008 data only in December 2008. The CEDRA will provide these data to the FRA before the end of December 2008.

⁵ ENAR (2008), *Shadow Report 2007 – La racisme en France*
<http://cms.horus.be/files/99935/MediaArchive/pdf/en/France%20-%20SR%202007.pdf>

⁶ Structure lead by the French Central Consistory, the Consistory of Paris, the CRIF and the FSJU. Its missions are monitoring, protection, assistance and census.

2006 (a decrease of 32%). The number of threats has fallen from 158 to 115 (a fall of 27.5%). The total number of all categories of acts is 261, against 371 in 2006, i.e a decrease of 30%.⁷

Report of United Nations Independent Expert on minority issues : mission in France (19-28 September 2007)⁸

- [14]. During her official mission to France, the United Nations Independent Expert on minority issues, Gay J. McDougall, found that serious discrimination is experienced by members of minority communities in France and she called on the French Government to respond with policies that address effectively widespread, entrenched and institutionalized discrimination in French society. "Racism is alive, insidious and clearly targeted at those "visible" minorities of immigrant heritage, the majority of whom are French citizens", the Independent Expert stated. "Young people's hopes and dreams are being denied; they see no possibility of upward mobility because of their skin colour, their religion, their surname or their address (in what's called the sensitive suburbs). People who have worked hard, played by all the rules and truly believe in the principles of the French Republic are trapped in socially and geographically isolated urban ghettos, with unemployment in some areas over 40 per cent. They feel discriminated against and rejected by rigid notions of French national identity to which they do not conform", she said.
- [15]. The Independent Expert expressed her concern about statements made by French political leaders and candidates during the electoral period that have been viewed as at best unwelcoming and at worst of a racist nature. She stated that the messages coming from the highest officials of the state must be unambiguous in signaling full commitment to promoting equality and diversity in practice.
- [16]. "The Constitutional promise of equality is the vision, but not the reality of modern France. France's leaders must live up to that promise", she stated.
- [17]. Ms. McDougall calls for the promotion of equality through robust affirmative action policies. "Non-discrimination is just the first step in establishing equality." In the area of employment, for example, she

⁷ SPCJ (2008), *Rapport sur l'antisémitisme en France – 2007*
http://www.crif.org/pdf/Rapport_Antisemitisme_2007.pdf

⁸ MacDougall M. , (2008) *Report of the independent expert on minority issues – Addendum : MISSION TO FRANCE*, United Nations, A/HRC/7/23/Add.2, 04.03.2008
<http://daccessdds.un.org/doc/UNDOC/GEN/G08/114/02/PDF/G0811402.pdf?OpenElement>

believes that more must be done and can be done easily to create opportunities for all and to transform the ranks of the civil service, the police, and other public institutions to reflect the broad diversity within French citizenry.

- [18]. The Independent Expert received information from numerous sources regarding the situation of many groups within French society, including the Roma/travelers, and the Jewish community. She focused particular attention on the experiences of French citizens of immigrant heritage, settled residents of France, sometimes described as "new" minorities, including those of North African, sub-Saharan origin, Muslims, and those from the overseas departments and territories.
- [19]. Visits to minority communities where the Independent Expert held forums for community members revealed frustration amongst many French citizens of immigrant origin that despite their own strong commitment to French values and principles of equality, they remain second class citizens, lacking the opportunities available to others, and blamed for "communitarianism" when in fact they are given little choice other than to live in isolated low cost housing "ghettos". Concern was also expressed to the Independent Expert regarding current debates on immigration, announcing quotas for deportations, and questions of DNA testing for example, which generate a general climate of suspicion and negativity against those of immigrant origin".

2.1.3. Exemplary incidents

Antisemitism and communities confrontation

- [20]. On Saturday June 21 2008, a young Jewish, Rudy H., had been lynched in Paris, by several young people from African and Maghrebian origin. The Public Prosecutor upheld the aggravating charge of anti-Semitism against the authors, as it seemed obvious that this lynching was linked to the Judaism of the victim, who wore a kippa.
- [21]. This event enlightened the communities' tensions that exist in some Paris area, where groups of young people from Jewish origin are confronted to groups from African and Maghrebian origin. Some weekends the confrontation could be violent, as on this summer Saturday. Since the beginning of the year, six young men have been wounded and another shot and killed. And several Jewish people

testified of the difficulties they faced when cohabiting with other communities.

[22]. The 19th Arrondissement of Paris is one of the most complicated districts of Paris – one of the largest, youngest, poorest, most racially diverse- and the most criminal. The district is split into at least three territories, run by their own gangs of youths, who spar along the borders and sometimes clash with the Jews. Dominique Sopo, president of t SOS-Racisme, said, "We're faced with a layer cake, a logic of territorialisation." He noted that the segregation of the district was not diluted by the public schools, because there is only one nontechnical high school and many Jews are leaving the public schools. "When you live only with your own kind, you build yourself in opposition to the territory next door, in opposition to those who do not have the same origin," he said. "It's a caldron that gives rise to high tension, and it's in this framework that anti-Semitic attacks can be explained."

[23]. On 19 September 2008, the City of Paris created a “Comité du vivre ensemble dans le 19ème”, a committee which gathered the Mayor of Paris, the Mayor of the 19th Arrondissement, the Public Prosecutor, the Prefect and several ONG (among them the CRIF) and religious representatives. Its aims are to institute concrete projects and programmes in the district in order to fight against violence, anti-Semitism and racism.

Desecrations

[24]. On April 6, 2008 about 150 Muslim graves were damaged in the military cemetery Notre-Dame de Lorette in Arras (Pas-de-Calais). It was the second time this cemetery was desecrated (the same thing happened in April 2007). The graves were “severely damaged,” having been covered by islamophobic and racist insults. Steles and gravestone were knocked over and smashed to pieces with no particular logic.

Racism in football

[25]. Football is, in France, an area where expressions of racism are important. In February and March 2008, French football was “shaked up” by several racist incidents.

- Saturday February 16: during the match Metz-Valenciennes (L1), the Moroccan player Ouaddou was victim of racist insults from a supporter of the Metz team. He decided to file a complaint. The supporter was judged on March 18, the Prosecution service recommended a three month suspended prison sentence, a probation order and three year of

stadium interdiction. The judgement has been postponed to May 13.

- Friday February 22: before the beginning of the match Bastia-Libourne (L2), the supporters of Bastia deployed racist banner, against a player of Libourne (Boubacar Kebé, who is from Burkina-Faso), who had been excluded from the preceding match because he had gave the Bastia supporters - who uttered racist insults to him - the finger. The Professional Football League (LFP) decided to sportingly sanction the Bastia Sporting Club by withdrawing it a point (sanction confirmed in appeal and by the French National Olympic and Sporting Committee). It is a decision without precedent in France.
- Saturday February 23: after the match Lyon-Metz (L1), several supporters of Metz had racists behaviors (racist insults, nazi salutes...). Because of these incidents, and because of the previous one in Valenciennes, the LFP decided to withdraw the Football Club of Metz a point and the obligation to play next match behind closed doors. The Football club, supported by the Licra, lodged a complaint against the supporters.
- Saturday March 29: during the League Cup Final Lens-Paris, some supporters of the Paris-Saint-Germain (PSG) deployed a very large banner “Pédophiles, chômeurs, consanguins : bienvenue chez les Ch’tis” (“Paedophiles, unemployed, consanguineous: welcome at Ch'tis” – the banner made a reference to a very famous film in France “Bienvenue chez les Ch’tis”, which is about the people living in the North of France, and who are called “Ch’tis”). This xenophobic banner caused a very sharp emotion in France and many reactions. It gave – again - on the front of the scene the problem of racism in football. On April 17, 2008 the Minister of Interior dissolved the PSG supporter club “Les Boulogne Boys”, under the terms of the law 2006-784, and on April 30, 2008 the LFP condemned the PSG by excluding it from the League Cup in 2008-2009.

2.2. Complaints mechanisms

- [26]. The information was supplied last year, and there is no new development in 2008. The National Commission for a Code of Conduct in Matters of Security (*Commission nationale de déontologie de la sécurité*, or CNDS) is still charged with ensuring that persons carrying out security operations on the territory of the Republic abide by ethical standards.

2.3. Good practice

[27]. In Annex 3, we provide examples of projects and policy initiatives.

3. Employment

3.1. Racism and discrimination (incidents and practices)

3.1.1. Statistical data and tables on incidents of discrimination and racism

Discriminations in companies: testing of the HALDE

- [28]. On June 11 2008, the HALDE published the result of a large survey on discrimination in the French big companies⁹. For this “big testing”, the HALDE tested discrimination in recruitment in 20 companies (15 are big companies of the CAC 40 and 5 are recruiting agencies). According to the report of the HALDE, the big French companies are not really discriminating. The results show that a candidate from African origin would have 22,7% of chance less to be recruited than a French candidate (NB : the testing of the ILO in 2006 stated 80% less...). Louis Schweitzer, president of the HALDE, explained these positive results by the fact that the testing had be done in big companies, which all have a policy to fight discrimination and to promote diversity... the result could have been different in small and medium-sized firms, less famous... The HALDE pointed out only two companies Accor and the Crédit Agricole, but without giving data...
- [29]. The problem with this testing is that no detailed data have been published and no control can be made. Throughout the study, its methods had been criticized and the results are questionable... The companies (even those which obtained good results) contested the results, which can not be scientific as the method was biased, for example 57 per cent of the resumes of people from foreign origin were send without motivation letters, versus 47 per cent of the resumes of people from French origin (it can explain why more candidatures were rejected), or the phone number on the resume was wrong or nobody answer (it can explain why some candidates could not obtain an interview...)
- [30]. More generally, this testing and its questionable results refuelled the debate on ethnic statistics. For several social researchers and NGO’s it proves that the currently available information in France do not enable the evaluation of discriminations. Testing method does not enable to measure discriminations. Only public and official data, from census for example, disaggregated by origin of the people, could give a measure of discriminations in France. These researchers and NGOs are in accordance with International Institution such as the Council of Europe or the CERD which urge France to elaborate ethnic statistics, as according to them, for the moment there is no real way to measure discriminations in France.

⁹ HALDE (2008), *Présentation des tests de discrimination – Dossier de presse*
http://www.halde.fr/IMG/pdf/DP_tests.pdf

A.R.I.R.S (2008), *Actions de test par envois de CV – rapport général remis à la Halde*
http://www.halde.fr/IMG/pdf/Rapport_general_2008.pdf

3.1.2. Exemplary incidents and cases

Justice condemns Renault for racial discrimination

- [31]. On April 2008 the Appeal Court of Versailles condemned the Renault company to pay two former employees 80.000 and 60.000 euros of damages and 8.000 euros each one non-pecuniary damages. Two formers employees of the car company Renault estimated to have had progressions of careers slowed down, even blocked, because of their skin colour (both of them were black people – African and Martican).
- [32]. The plaintiffs presented in front of the court their individual assessment reports, these documents show that the two employees had good reports, they were motivated and made efforts of formation. But if we compare their course of career to the career of others paid recruited on the same level, all of them had a more important evolution than the two plaintiffs.
- [33]. The court judged that the two men had had careers less interesting than their “French” colleagues, because of their origin. For the court, Renault did not give the evidence that the difference in treatment between the two men and the others paid is justified by objective elements, having nothing to do with any discrimination. The company said it was surprised and disappointed by the decision of the court. The company, whose former president, Louis Schweitzer, currently chairs the Halde, stresses that it condemns racism and does not practise, in any case, discrimination.

Justice condemned Bosh for discrimination

- [34]. After five years of analyses and studies on the employees list of the Bosh Company, the French trade union CGT decided to support 25 employees of the company and help them to lodge a complaint for discrimination in front of industrial tribunal.
- [35]. Analysing all employees’ files since thirty years, the trade union find out that employees who have African, Maghrebian, or Asian names, such as women, did not evolve in their career in the same way than other employees. They we recruited as workers or skilled workers and they are still workers thirty years later. At the beginning of the procedure there were 47 litigious files, but the company entered in negociation, so on December 2007, 25 employees were presented in front of the court.
- [36]. The tribunal judged that with comparable length of service and level of qualification, the professional evolution of these employees did not follow the same tendency of the one’s of French or European employees. It also noted that there were only very few individuals from foreign origins in managerial positions. The tribunal condemned the Bosch Company for racial and gender discrimination against seven employees or former employees (six of them are men from foreign origin and the seventh is a woman). The company will have to pay between 5,500 and 10,000 euros of damages, and the three employees who are still working in the company will be promoted. The 18 other plaintiffs were nonsuited.
- [37]. The trade union CGT estimates that, beyond the sentence itself, the most important result of this legal procedure is the evolution of behaviours in the company. In five years, thanks to the legal procedure and the negotiations, more and more employees from foreign origin had been promoted.
- [38]. This trial was the most important one for discrimination (25 files), it found an important echo in the media. The tribunal took into account the “general context” of the company, in its decisions, it made the point that “the direction admits that situations of racial discrimination were registered and that it was appropriate to put an end to them”. But this

fact was not sufficient for the judge to condemn the company: each plaintiff had to bring some concrete proofs of discrimination he/she was victim of.

3.1.3. Research findings

HALDE opinion poll: discriminations in employment

[39]. In February 2008, the HALDE published the results of an opinion poll conducted by the institute CSA, between January 9 and 29, 2008.¹⁰

[40]. The results show that :

- A great majority of employees think that it is very important to fight against discriminations on workplaces (65% in the witness sample (WS) ; 75% in the focused sample(FS)).
- Thirty one per cent of the employees of big companies had already been victim of discrimination in employment (career, recruitment, wage...), versus 25 per cent in the witness sample of private companies employees;
- Twenty seven per cent of the employees had already been witness of discriminatory practices on their workplace, versus 31 per cent in the WS.
- In a great majority of cases, the author of the discrimination was the employer or the supervisor, less often the colleagues or the customers.
- Most of people who were discriminated against did not say anything (38 per cent in WS and 42 per cent in FS).

The BIT/DARES survey

[41]. The *Direction de l'Animation de la Recherche, des Etudes et des Statistiques* (DARES) published in February 2008 an analysis¹¹ of the results of the survey conducted by the BIT in 2006, with the method of testing; it emphasises the fact that discrimination during recruitment affecting young people whose parents immigrated to France is very widespread. Carried out in several large French cities, the survey shows that the totality of surveys heretofore conducted has recorded a much greater number of tests manifesting discrimination against test-candidates who present a supposed extra-European origin, than towards those test-candidates who present a supposed European or native origin. During the initial contact, the two candidates were refused at first sight in a third of the cases, the employer declaring most often that the position had already been filled. Next to “immediate refusals,” the most frequent kind of reaction consisted in giving different responses to the two candidates, treating one in a more favourably than the other.” More generally, the report indicated that only 11% of the employers responded equally to the candidates without taking

¹⁰ HALDE/CSA, Les discriminations dans le monde du travail, February 2008

http://www.halde.fr/IMG/pdf/CSA_HALDE_Discrimination_dans_le_monde_du_travail-2-3.pdf

Method :

- A « witness » sample : 603 employees of private companies, representative of the national population of employees of private companies, aged of 18 years and more, sample built according to the quotas method (gender, age, occupation of head of family), after a stratification of region and cities. People were interviewed by phone.
- A “Focused” sample on big companies : 429 employees of big private companies (more than 5.000 employees), aged of 18 years and more, sample built according to the quotas method (gender, age, occupation of head of family), after a stratification of region and cities. People were interviewed in face-to-face.

¹¹Cediey E. , Foroni F. , Garner H, (2008) *Discriminations à l'embauche fondées sur l'origine à l'encontre de jeunes français (es) peu qualifié(e)s*, Paris : DARES

<http://www.travail-solidarite.gouv.fr/IMG/pdf/2008.02-06.3.pdf>

into account their origin or supposed origin. Paying particular attention to the initial contacts between an employer and an applicant, the report emphasises that the differences in working treatment can hardly be founded only on the last name and first name of the candidates, who are selected from a distance, without the employers even having met them: in this case, arbitrary nature of the discrimination is flagrant.

3.1.4. Additional information

Reserved jobs for third-country nationals

- [42]. The Ministry of Immigration and Integration published in November 2007, a list of jobs, which European citizens and third-country nationals could have access to, according to geographical quotas. One hundred and fifty jobs for European people and thirty for the others. A residency permit and a work permit will be delivered to third-country nationals who come in France to occupy one of the job in the list, but Algerian and Tunisian people are excluded from this system (whereas they count for 30 per cent of the entries in France). Bulgarian, Estonian, Latvian, Lithuanian, Hungarian, Slovenian, Slovakian and Polish people will be able to access 40 per cent of employment offers (1.400.000 jobs). The lists are available on: <http://www.immigration.gouv.fr> / http://www.immigration.gouv.fr/article.php?id_article=407

3.1.5. Other related issues

Strike of illegal immigrants

- [43]. In spring 2008, almost 300 illegal immigrants workers are on strike in Ile-de-France. Supported by the trade-union CGT, they claim for residency permits: “On bosse ici, on vit ici, on reste ici!” (We work here, we live here, we stay here !”). These workers, mainly from African origin, work in cleaning society or in kitchens of restaurant, they pay their contributions to social security and pension fund, pay taxes, but they do not have any residency permit and can be expelled from France at any time. By being on strike, they hope to obtain the support of their employers, who can help them to obtain residency permit. They also want to denounce working conditions of illegal workers, as some of them are exploited. Each case had been examined by the Prefectures of Ile-de-France, and the great majority of them obtained residency permit.

3.2. Good practice

- [44]. In Annex 3, we provide examples of projects and policy initiatives.

4. Housing

4.1. Racism and discrimination (incidents and practices)

4.1.1. Statistical data and tables on incidents of discrimination and racism in housing

Haut Conseil à l'intégration : housing of immigrant people¹²

[45]. In January 2008, the High council for Integration (Haut Conseil à l'intégration – HCI) presented a report to the Prime Minister on the housing of immigrant people. The report is mainly based on the results of the Enquête nationale logement (ENL – National Housing Survey), the last survey was conducted in 2001-2002. It is the only data which distinguish between French people, foreign people and people whose parents were foreigners. The report show that immigrant people more often live in social housing, they encounter more often poor conditions of housing and are victim of discriminations in access to housing.

	Owners	Tenants	Among tenants : Tenants in social housing
French families	56 %	38 %	17 %
Foreign families	35 %	56 %	32 %
Mixed families	55 %	40 %	23 %

[46]. Photography of immigrant people and their housing :

- A population most vulnerable to unemployment and poverty
- Households most tenants, over-represented in the social housing and more overcrowding
- A concentration in HLM housing in areas in difficulty
- The unworthy housing is largely devoted to immigrant households

FEANTSA data

[47]. The Fédération des associations nationales de travail avec les sans abri (FEANTSA - European Federation of National Organisations Working with the Homeless presented a report on housing in France in front of the European Committee of Social Rights.

[48].

[49]. According to FEANTSA, migrants make up 8.4 per cent of households in France but represent 15 per cent of HLM (moderate rent housing) tenants. Fifty four per cent of households own their main residence, compared to 37 per cent of migrant households, 18 per

¹² Haut Conseil à l'intégration (2008), *Le logement des personnes immigrées*
http://www.hci.gouv.fr/IMG/pdf/Avis_logement_immigres.pdf

cent are tenants in the social housing sector compared to 30 per cent of migrant households, and 20 per cent in the private sector compared to 24 per cent of migrant households. Migrant households have difficulties in finding homes, and the absence of clear housing allocation procedures enables discrimination to persist. These groups cannot complain because the allocations procedure is unclear and dispersed, and does not permit identifying the person responsible or establishing the latter's real motives.

- [50]. Migrant households come under the rules of common law and are not subject to a specific policy, although they have special needs: different lifestyles, large families, low incomes.
- [51]. The waiting periods for migrant households are longer than average. There are indirect forms of discrimination based on criteria of length of residence in the municipality, often preventing migrants from fulfilling this condition. A remedy in the event of discrimination does indeed exist: Article L-225.1 of the Penal Code outlaws any distinction between natural persons on the ground of their origin, gender, etc. Moreover, the Act of 29 July 1998 required social landlords to inform applicants of the reasons for being refused an allocation, but as this Act also introduced the goal of social mix without specifying the conditions of how to achieve it, applicants can be turned down without it being possible to discern any discrimination. In practice, discrimination is at all events hard to prove.
- [52]. The selection procedures themselves permit discrimination to take place. Landlords make a selection between good and bad classes of tenants. Discrimination is not necessarily intentional but is generated by a local system in which there are very many institutions working in their routines and not always aware of the effects which a culture of implicit norms has. No official is really answerable for the situation of migrants, so all invoke their own internal constraints (social mix, profitability, running community life, planning of public space) and claim that a third person is responsible.
- [53]. As regards access to housing for travellers, an Act of 1990 updated in 2000 requires each municipality with over 5 000 residents to create a stopping place for travellers living in caravans, as well as implementing a scheme at département level for the reception of travellers which provides housing solutions of a quality and quantity to match the needs. However, it takes a long time to establish these schemes and if the project is not technically feasible no alternative solution will be sought. Besides, fewer than 20 per cent of municipalities have created the required stopping places and so 80 per cent of travellers use sites illegally.
- [54]. Since the Act of 18 March 2003 on internal security came into force, occupying a site in order to take up residence on it without permission is punishable by 6 months' imprisonment and a fine of 3 750 euros, besides the risk of a 3 year disqualification from driving and confiscation of vehicles other than those lived in. Accordingly, the police no longer need a judge's decision and the prefect's approval to carry out eviction, but may do so immediately after the offence is discovered. Thus, the failure of municipalities to meet their obligations forces travellers into a situation of illegality which is criminalised without the persons concerned enjoying procedural guarantees.
- [55]. FEANTSA points out that the State Audit Board in 2004 made a severe assessment of the recent policies on the integration of migrants with regard to housing and especially concerning the migrant workers' hostels which have not benefited from an adequate financial investment on the part of the local and regional authorities.

4.1.2. Exemplary incidents and cases

- [56]. In June 2008, the European Committee of Social Rights published two statements on discrimination in housing in France. In both case, the committee considers that the situation in France amounts to a violation of Article 31 of the Revised Charter taken in conjunction with Article E.
- [57]. As regards housing for Travellers, local authorities and the State have failed to take into account to a sufficient degree the specific needs of this community for a considerably long period. This being said, legislation on settlements/stopping places for Travellers was adopted in 2000 (the Reception and Accommodation of Travellers Act, No. 2000-614 of 5 July 2000). The legislation requires municipalities with over 5,000 residents to prepare a plan for the setting up of permanent camp sites for Travellers. However, the Act has only been implemented in a minority of the municipalities concerned. The Government has acknowledged the delay in the implementation of the departmental schemes for the reception of Travellers and estimates that there is a deficit of around 41 800 places. The delay in implementing the above-mentioned Act is regrettable, since it compels Travellers to make use of illegal sites and therefore exposes them to the risk of forcible eviction under the 2003 Act on internal security. Therefore, the deficient implementation of legislation on stopping places for Travellers constitutes a violation of Article 31§3 of the Revised Charter in conjunction with Article E.
- [58]. All the rights set out in the Charter, including the right to adequate housing, must be ensured without discrimination on any ground. In respect of social housing, States must guarantee that migrants have access to it on conditions “not less favourable” than that of nationals. Statistics show that unfulfilled social housing applications for migrants are higher than for French households, which is an indication that there might be a problem of indirect discrimination against migrants in respect of access to social housing.

4.1.3. Research findings

- [59]. No new research findings on discrimination published in 2008 to present.

4.1.4. Legal restrictions to access to housing

- [60]. No new information to provide, the restrictions only concern the Law DALO and they were presented in the French NDCR 2007 (see section Legal restrictions to access to housing – p.94).

4.2. Good practice

- [61]. In Annex 3, we provide examples of projects and policy initiatives.

5. Health care

5.1. Racism and discrimination (incidents and practices)

5.1.1. Statistical data and tables on incidents of racism and discrimination

- [62]. No new statistical data on racism or discrimination in healthcare was found, confirming that racism in the health system is a taboo question.

5.1.2. Exemplary incidents and cases

- [63]. On September 1, 2008, the HALDE publish a deliberation regarding the payment of family allowances, for foreign parents whose children entered in France outside the family reunification procedure.¹³
- [64]. Since 2006, the HALDE has been sized of several complaints from foreign parents who were denied family allowances because their children entered in France outside the family reunification procedure. According to the articles L.512-1 and L.513-1 of the Social Security Code, the family allowances are linked to the status of permanent and effective charge of children permanently residing in France, whatever their nationality or their place of birth. Moreover, the Article 14 of the European Convention for Human Rights states that the enjoyment of rights and freedoms recognized in the Convention must be ensured without any particular distinction based on national origin, the application of article 14 had been extended to social allowances.
- [65]. Based on these legal provisions, the HALDE has published several deliberations acting on the discriminatory nature of these practices and recommended the Ministry of Health to initiate a legislative and regulatory change. As the HALDE has obtained no answer neither from the Ministry nor from the Director of Social Security, the HALDE renews its request.

5.1.3. Additional information

- [66]. The Monitoring Centre of Health Right for Foreign People (observatoire du droit à la santé pour les étrangers – ODSE) published in June 2008 a report on the application of the law, adopted on Mai 11, 1998, which give the right to sick foreign people to have a residency permit in order to stay legally in France and to be treated.¹⁴

¹³ HALDE, deliberation n° 2008-179 (01.09.2008)

¹⁴ ODSE (2008) *La régularisation pour raison médicale en France : un bilan de santé alarmant (1998-2008 : dix ans d'application du droit au séjour des étrangers malades)*

http://www.medecinsdumonde.org/fr/publications/les_rapports/les_dix_ans_de_la_regularisation_pour_raison_medicale_un_bilan_de_sante_alarant

See also the ODSE website :

<http://www.odse.eu.org/>

[67]. The ODSE note a poor application of this law by the “préfectures”, more and more people are sent back to their country where their disease could not be treated. The Monitoring Centre denounces a wrong application of the law, which is used as a mean to control immigration, whereas it must be an humanitarian device.

[68]. This report is published in the same time as some French deputies are considering to reform the law and to make it harder for sick foreigners to obtain residency permit.

5.1.4. Research findings

[69]. No information to provide.

5.2. Good practice

[70]. No specific good practices registered for 2008.

6. Education

6.1. Statistical data and tables on racist incidents

[71]. In December 2006, the Ministry of Education announced the creation of new software in order to record racist and anti-Semitic incidents in school. This new software will take into account the remarks of the trade unions, the school heads and the pupils' parents association in order to improve the collection of data.

[72]. At the beginning of the 2007-2008 academic year, the SIVIS software (Système d'Information et de Vigilance sur la Sécurité scolaire Vigilance and Information system on school Safety) became operational. A sample group of 1,500 to 2,000 school establishments was provided with SIVIS. SIVIS takes into account only serious incidents punishable by law and those that cause physical or psychological damage: ragging, racket, happy slapping, sexual violence, homophobic violence, violent robbery. The Ministry has precised that all racist and anti-Semitic acts will be registered in the SIVIS system, as they are considered as serious incidents. Analysis of SIVIS data will be carried out directly by the ministry and educational authorities (rectorships, as was the case with SIGNA).

[73]. The Ministry announced a publication of the first results of SIVIS for the spring 2008, but actually no data were provided (some said it was because of municipal elections. The first data and their analysis (for the school year 2007-2008) will normally be published before the end of the year 2008. The CNCDH hopes to obtain data in November 2008. Then, we could transmit them to the FRA.

6.2. Exemplary cases of discrimination

[74]. No data to provide.

6.3. Restrictions to access to education

Roma and travellers

[75]. While many testimonies indicate a growing demand for education from Roma or travellers parents, cases of discrimination on grounds of origin are numerous (see Annex 2 – HALDE deliberation n° 2007-30). Applications for registration in primary schools are often rejected by municipalities, in contradiction with the legal texts on compulsory education. The reasons are diverse: registration time too short, deportation proceedings under way, lack of places in the class, not respecting the school map (carte scolaire) as there is no fixed address fixed ... When parent succeed in registering their children, they are subject to rejection and exclusion from other children (and sometimes teachers), which is not conducive to their success. The registration rate in primary school of Roma and traveller children nevertheless progress, but remains below the registration of sedentary children.

6.4. Good practices

[76]. In Annex 3, we provide examples of projects and policy initiatives.