

French Focal Point: CEDRA

National Report 2005

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Executive Summary

This report recalls that the French constitution forbids differential treatments on the basis of origin, “race” or religion. The groups affected by racism, xenophobia and discrimination are thus defined in relation to the legal definition of the penal offences and common law prohibitions that are stipulated in the relevant articles of the penal and Labour Code and other relevant legislation. But in a public statement, the Data protection agency (CNIL) has urged the public authorities to elaborate an ethnic and racial statistical standard to monitor diversity and discriminations, that is a real innovation in France...

In the field of employment, statistical data from the INSEE on the situation faced by immigrant groups on the labour market show that these tend to face unemployment more frequently than the rest of the population, and that the jobs they get are often either part-time or temporary work. The first data from the HALDE confirm that cases of discrimination in employment, professional life, and training concern almost 50% of the complaints. The report describes new several studies that give relevant information to the EUMC. The report also describes various initiatives taken by the public authorities. Among other the signature by several companies of the Diversity Chart. Also the government organized on February 3rd 2005 the first conference for equal opportunities. This conference, part of the social cohesion plan presented in 2004 by the government, must make possible the expansion of new actions in the field of the fight against discriminations.

In the field of education, 2005 was the year of first evaluation of the law on the application of the principle of secularity forbidding the wearing of religious signs in public schools. If the government seems to be very positive and affirms that “on the basis of information directly received from the chiefs of establishment and those transmitted by the academic correspondents, a number of girls and parents lived the application of the law like a release”; several association, such as “Une école pour tous” criticise this evaluation and denounce the exclusion and resignation of more than 200 pupils.

As concern legislation, most of the European Directive in the field of discrimination or immigration are now transposed in the French law. Two decrees adopted in July 2005 limited health service for illegal immigrants, whereas the law for social cohesion voted in January 2005 sets out several measures to reinforce equal opportunity and to improve the reception of immigrants, such as the creation of the “Agence Nationale de l'Accueil des Etrangers et des Migrations” (ANAEM - National Agency of the Reception of Foreigners and Migrations).

In the field of housing, there is little new academic research. And the fact that no statistics are available on the questions of discrimination and racism experienced by immigrants and their descendants, minorities asylum seekers and statutory refugees in housing shows evidence of France's urgent need for new data sources. The report describes several new provisions for reception centres for asylum seekers such as the 2004 "RELOREF" action or the social cohesion act which plan to increase the reception centres for asylum seekers' capacities.

For the 2005 report, we are not able to deliver figures regarding racist violence and crimes, as the Ministry of Interior refused to deliver information and data. Unofficial data (NGOs and association) are not yet available either.

Trends and Developments in 2005

The year 2005 has been particularly eventful regarding immigration, racism and xenophobia in France, with contrasted evolutions.

1° Improving statistics on immigration

The rapport Fauroux (September 2005) stresses the invisibility of minorities in official statistics and the necessity to take ethnic diversity into account to have a better grasp on schooling, housing and employment discriminations without violating the 1978 law "Informatique et libertés" (Data protection) which restricts the collection of ethnic, racial or religious data. In a public statement made in July 2005, the national commission dealing with data processing and freedom (CNIL) has urged the public authorities to elaborate an ethnic and racial statistical standard to monitor diversity and discriminations. INSEE (National office of statistics and economic studies) of its own initiative has for the first time asked in two of its general surveys the parents' country of birth to identify "second generations" of immigrants in the Labour and Housing surveys. Other experimental studies have used the patronymic method to study ethnic segregation in schools or at the work place. A new experimental survey is conducted by INED on the measurement of diversity at the work place. A large debate on the different ways to improve the collect of statistics has started (see 1.1 and 1.3).

2° Improving the integration of immigrants and their children, promoting equality and combating discriminations

Several measures have been implemented in that direction.

-The installation of the HALDE (High Authority for the Fight against Discriminations and for Equality), which receives complaints about all forms of discriminations [date]

- The nomination for the first time, in the new government of D de Villepin (June 2005), of a special Delegate Ministry for the Promotion of Equal opportunities, whose holder is Azouz Begag, a sociologist and well known writer of Algerian origin.

-The development of the experimental contracts CAI “Welcome and Integration” (39 0205 signed during the eight first months of 2005), designed to help the integration in France of newly arrived migrants over 18 years old (civic formation, French courses, social aids etc)

- Schemes aiming at increasing the access to high school for students from deprived suburbs, on the model of the ZEP/Sciences Po scheme, are being adopted by other “Grandes écoles” (ESSEC and others) with the support of the Ministry for social cohesion (Chart for Equal opportunities and trainings of Excellency) .

3° Coping with the past

-The 60th birthday of the liberation of the Nazi concentration camps was celebrated this year with a special emphasis and solemnity all over the country, in sharp contrast with the wave of anti-Semitic actions of the past year

-A project of a National Centre for the History of Immigration opening in Paris is on its way, devoted to the history and memory of these men and women who came from abroad and have “made France”

-Article 4 of the law of February 2, 2005 asking school readers to stress the “positive aspects” of the French colonization created a scandal and started a large debate on how, on the contrary, France should face its responsibilities in the colonization process and the institutionalization of slavery, and how these dark sides of the past should be dealt with in the school programs.

4° Tackling the social housing shortage

A series of dramatic fires this year, especially in the Hotel Opera in 2005 (23 dead, half of which were children, 60 injured, mostly African families) have shed a crude light on the lack of decent housing conditions for many immigrant families reduced to emergency shelters or dilapidated hotels and started a debate on the causes of such dramas. They stem from social exclusion and poverty, municipalities refusing to build public housing projects, but also from the explosion this year of the number of non suited asylum seekers which should rise to over 60 000 cases by the end of the year, unforeseen effect of the acceleration of the regularization procedures at OFPRA (Office for the protection of refugees and stateless) and CRR (Resort Commission for refugees) (80% of the demands are rejected). It also results from discriminations in access to social housing that keep families from sub-saharian Africa trapped in those insalubrious buildings, even when these families are accompanied by social workers and organisations. Most of the families concerned by the fires this summer were regular migrants with jobs and income.

5° A restrictive interpretation of secularism

The aftermath of the law banning religious symbols in public schools (March 2004), mainly the headscarf for Muslim girls, has given rise to restrictive

interpretations such as decrees banning the headscarf in public services, mayors forbidding a veiled women to be witness in a marriage, and reopened a debate about the opportunity of such a measure. (see Françoise LORCERIE (dir.), *La politisation du voile en France, en Europe et dans le monde arabe*, Paris: L'Harmattan, 2005)

6° The “Sarkozy” effect on the immigration issue

The new Minister of the Interior has announced publicly his intention to make the repression of illegal immigration harsher, multiplying charter planes and escort back to the borders, enforcing a very repressive understanding of the law and order in the suburbs (using the image of cleaning them up with “karsher”, high pressure cleaning device). He also announced, in stark opposition with the Prime Minister, his rival for the next presidential elections, that he was in favour of “affirmative action” (opposed to equal opportunities) and quotas of immigrants.

Employment

1. The situation regarding racism and xenophobia in employment

1.1. New sources of data and information regarding racism and discrimination and the situation of immigrants, refugees, asylum seekers and minorities in employment.

Besides the first complaints addressed to the Halde¹ (half of the 500 complaints that were filed concern the access to employment and more than a third are related to the applicants' origins), the available statistical data about racial discrimination in employment for the year 2005 do not rest on actual new sources; most of them are based on information gathered in the course of the preceding years (see 1-2). Yet discussions concerning the fight against discrimination at work have lately been rekindled by a number of reports and surveys (see 1-3). Today, in order to fight this kind of discrimination some employers contemplate starting a policy of internal recruiting and promotion taking into account the diversity of the social or 'ethnic' origins of the French population. This policy will be based on statistics measuring 'the diversity of the origins' of their staffs and applicants for a post. The interest in the measuring of ethnic diversity led to the launching of a survey on this question: an experimental survey organised by the Ministry for Equal Opportunities and the National Institute of Demographic Surveys (INED, Institut National d'Études Démographiques) will be started before the end of this year. Aiming at testing the various methods used to record the origins of employees, it will be anonymous and based on self-declaration. The tools that will be used for measuring the diversity include the gathering of data allowing the (temporary) identification of the persons concerned; hence they are subjected to the data processing and freedom act. This is why the national commission dealing with data processing and freedom (CNIL, Commission Nationale de l'Informatique et des Libertés) adopted a series of recommendations in order to help employers in their evaluation of the diversity of their employees' origins².

For the first time, some INSEE (French National Institute of Economic and Statistical Information) general surveys now include variables allowing the identification of immigrants' children: the INSEE yearly survey about Employment and the Housing survey (2005) include references to the parents'

¹ Haute Autorité de lutte contre les discriminations et pour l'égalité.

² *Lutte contre les discriminations : les recommandations de la CNIL pour mesurer la diversité des origines*, 09/07/2005 - Echos des séances.

birthplaces. This information allows further analyses of the situation of the 'second generations' on the job market, of their carriers and work conditions. Thanks to the gathering of data concerning the immigrants' children, the observation of the people that are likely to be exposed to discriminations has significantly developed, which considerably improves the quality of information.

As regards employment, France has not used the method of testing very often; but recently this has been improving. In a May 2004 survey of this kind concerning 258 jobs offered by the French Observatory of Discriminations³ (Observatoire des Discriminations), significant differences in the success rates of applicants were brought into relief. It appeared that a man of Moroccan origins got five times less positive answers than an applicant with references. In a similar way, a man with an ill-favoured face or an applicant coming from a problem area were also given fewer notifications to attend. Finally, this survey shows that it is the sending of résumés and the selection on the basis of résumés that constitute the main obstacle to employment.

The Ministry of Employment (the DARES) also ordered the BIT (ILO) to make a testing according to the method that was developed by Bovenkerk⁴ and applied in several countries⁵. This testing will be carried out in the course of the first semester 2006 and it will bring new information that will be presented in the next yearly report.

Starting in 2003, the reception and integration contract is offered to all foreigners who come to live in France for a while. Thanks to that contract, it will be possible for us, in the years to come, to have an exhaustive data base, which will offer new opportunities. From this data base, the DRESS plans to carry out a survey in relation with the OMI. Among other issues, this survey will deal with people's trajectories (residential, professional, family-related) and the way people have been resorting to social services (as regards housing, employment and education) since they arrived in France. This survey will also centre on the various contacts established by the new migrants with institutions, organisations and people. People will also be asked about the way they consider

³ *Discriminations à l'embauche : de l'envoi du CV à l'entretien*, study realised by Adia/ Paris I University, April 2005.

⁴ This method is based upon 'couple audit', also known as testing. The BIT produced a brochure on how to use this method of testing discriminations in employment ; it involves actors and has already been used a number of times. Pairs of actors, one member of which is of French extraction and the other one of foreign origin, respond to job offers either on the phone or by sending their résumés. Their sole difference lies in their origins; hence the differences shown by employers in terms of attitude or treatment necessarily result from discrimination in employment based upon ethnic reasons. Statistic results prove to be representative. In France 6 cities will be tested.

⁵ This testing was carried out in collaboration with the BIT in five countries (Belgium, the Netherlands, Spain, Germany and Italy) and it was carried out autonomously in Denmark and Switzerland.

their own evolution, the various forms of help they got when they arrived and their own expectations. In a more general way, focusing on people who arrived in France recently, the survey will finally lead to the analysis of the first stages in the process of social and economic integration.

1.2. Most significant official and non-official data available in 2005. Current trends on the basis of a comparison with statistical data from previous years.

Official data

“The immigrants in France” by the INSEE⁶ is the work that supplies most of the information available about the immigrant population. Organised around five main axes corresponding to thematic cards and starting both from data derived from the census⁷ and various surveys made in households, it draws a portrait of the social-demographic characteristics of immigrants (and their descendants⁸) and presents their long-term migratory history. As regards employment, it gives a static description of the situation of immigrants (employment rate, unemployment, statuses, etc.) and also centres upon the dynamics of their trajectories thanks to the study of professional and social mobility (comparisons in the course of the period between 1992 and 2002⁹).

Besides, the INSEE completed the publication of data that had already been mentioned in the 2004 report, regarding the situation of the immigrant populations in the different French regions¹⁰. These data confirm the difficulties

⁶ *Les immigrés en France*, INSEE REFERENCES, Edition 2005.

⁷ Information deriving from the first elements of the most recent census will not be taken into account since several gatherings of information are necessary to study the immigrant population thoroughly. Yet, the first analyses made for the year 2004 confirm the fact that the diversification of the immigrants’ geographical origins is going on (cf. Borrel, C. & Durr, JM. (January 2005) *Enquêtes annuelles de recensement : premiers résultats de la collecte 2004, Principales caractéristiques de la population et des logements*, INSEE).

⁸ By “descendants” we are referring to people born in France, whose parents are both immigrants.

⁹ INSEE, employment surveys, 1992 and 2002.

¹⁰ Atlas des populations immigrées de la région Centre, INSEE Centre, 2005. 32p. (D1/08/INS) ; Les populations immigrées en Aquitaine, INSEE Aquitaine, 2005. 30p. (D1/09/INS) ; Atlas des populations immigrées Midi-Pyrénées, INSEE, 2005. 62p. (D1/12/INS) ; Atlas des populations immigrées en Rhône-Alpes, INSEE Rhône-Alpes 2005 52p. (D1/13/INS) ; Atlas des populations immigrées de la région Auvergne, INSEE Auvergne 2005 36p. (D1/14/INS) ; Atlas des populations immigrées de Lorraine, INSEE, 2005. 16p. (D1/17/INS) ; Atlas des populations immigrées pour l’Alsace, INSEE, 2005. 31p. (D1/18/INS) ; Atlas des populations immigrées en Champagne-Ardenne, INSEE, 2005. 32p. (D1/19/INS) ; L’immigration en Franche-Comté, 2005. 31p (D1/21/INS).

experienced by the immigrants in the job market (the unemployment rate is higher, statuses are more precarious).

The survey carried out by the CNAV (Caisse Nationale d'Assurance Vieillesse) in collaboration with the INSEE¹¹ (the PRI survey, concerning the immigrants' retirement) analyses the life conditions and integration of the retired immigrants as well as their double relationship with their country of origin and with France. Far from being considered "illegitimate", retirement in France is a sign and a factor of satisfactory integration. The way people experience their retirement is primarily conditioned by their health conditions and wages, which is true for all retired persons, whether they are immigrant or not. For an important part of the immigrants from Europe, from the Maghreb and from Africa, settlement in France goes together with the persistence of essential links with their countries of origin. Moreover, it was noted that it is the retired (as opposed to the working population) who most strongly adhere to the French identity.

Research and Surveys

Several surveys that were carried out in the past years and published in 2005 shed light on the situation of immigrants and their children in the job market.

Starting from data deriving from the 1999 census¹², M. Okba, F. Lainé and S. Rospabé stated that the foreign population or people of foreign origins are faced with an unemployment rate and a job precariousness that are in average higher than it is the case for people born in France. At the local level, the unemployment of foreigners is very important in some job basins and some areas. In average, foreigners' education levels are inferior to those of people born in France and they belong to social-professional categories that are more disadvantaged. But this is not the only explanation. 'In a similar situation', foreigners that do not belong to the European Union experience higher unemployment in certain neighbourhoods, especially those located in problem urban areas. Two hypotheses are being raised: on the one hand, a cumulative effect between nationalities and neighbourhoods, which would aggravate the foreigners' difficulty in finding jobs; on the other hand, the most fragile populations would be relegated to this kind of neighbourhood.

Relying on the survey *Generations 98*¹³ by the Centre of Surveys and Research upon Qualifications (CEREQ), several studies centred upon discriminations in the job market¹⁴:

¹¹ Attias-Donfut, C., Teissier, P., and Wolff, FC. (2005), « Les immigrés au temps de la retraite », in *Retraite et Société*, La Documentation Française, n°44, p. 11-47.

¹² Lainé F., Okba M. and Rospabé S. (April 2005) « Les difficultés des étrangers sur le marché du travail: effet nationalité, effet quartier ? », in *Premières synthèses informations*, DARES.

¹³ For a presentation of the survey, see *National Annual Report 2004*, Raxen 5 Programme, EUMC.

Considering two factors – origin¹⁵ and gender – works by O. Joseph and S. Lemièrre¹⁶ analyse the phenomena of discrimination at the level of the jobs that young people occupy three years after leaving school. Three aspects of their professional situations are tackled: first, salaries and risks of salary discrimination; secondly, the structures of jobs and their influence upon the salary discrepancies between the different categories of jobs and within the same category; thirdly, the access to employment. The evaluations that were carried out confirm that there is a salary discrimination according to the origin, even if it is moderate (it concerns women regardless of their origins). Double discrimination (of origin and gender) is particularly frequent when it comes to finding a job.

In their survey¹⁷, F. Lainé and M. Okba focus on the positions occupied by young people coming from the immigration. They take into account education levels and professional specialisation. Taking stock of those young people's jobs and drawing a parallel with the "first generation's" jobs, they try to establish why professional specificities are explained by school trajectories, the parents' social origins or "specificities" related to geographical origins. They also analyse the quality of jobs (status, qualification) and the link between this quality and the feeling of discrimination experienced by young people coming from the immigration. They notice that the situation is particularly difficult for young people of north-western African origins: unlike their counterparts from southern Europe, they frequently tend to occupy short-term jobs requiring a low level of qualification. Young people of north-western African origins occupy unqualified jobs more often than young people born in France or in Europe and they are exposed to a higher risk of fall in status even if they appear to be "in a similar situation". Hence young people of north-western African origins, men and women alike, have the feeling that they are being underestimated and misused, whatever their personal situation in terms of downgrading (real or supposed). Their denunciation of discrimination in employment is always stronger.

The *Life Story* survey (INSEE) about the construct of identities was carried out in 2003 and it gave birth to publications in 2005 focusing on how people feel about discriminating attitudes. Through the exploitation of the unit entitled

¹⁴ Information about the parents' origins is not frequent in sources about employment. In that respect, the survey "Generation 98" has an important advantage insofar as it highlights the fathers' and mothers' birthplaces and their position as regards the French nationality: born in France, French nationality acquired, foreigner.

¹⁵ The origins that are analysed here are foreign origins in general, i. e. people coming from north-western Africa and from southern Europe.

¹⁶ Joseph O., Lemièrre S., (March 2005) La discrimination de genre et d'origine à l'encontre des jeunes sur le marché du travail, mesures à partir de différents aspects de la vie professionnelle, CEREQ.

¹⁷ Lainé F., Okba M. (April 2005) L'insertion des jeunes issu de l'immigration : de l'école au métier, CEREQ.

Relations with others, which is used to approach the attitudes and negative treatments with which individuals have been faced because of a number of characteristics that were given to them, E. Algava and M. Beque¹⁸ showed that immigrants and people coming from the immigration declare that they have been subjected to negative treatments related to their origin, skin colour, name or elocution more often than others. Those negative treatments increase with their levels of qualification. A complementary analysis published in 2005¹⁹ makes it clear that sensitiveness to this kind of attitude is stronger with the second, younger generation but negative treatments are often less serious than they are for the first generation of now older immigrants. Intolerant behaviours that are “racially” connoted are more specifically evoked by one fourth of the immigrants and people coming from the immigration (as opposed to 14% of the total population). Nearly half of the negative attitudes addressed to the people coming from the immigration (and so is the case for the total population) took place at school, whereas 41% of immigrants evoke their professional environment. Finally, the discrimination feeling is stronger with immigrant people who arrived in France as children: thus their attitude resembles that of the second generation immigrants. Sensitiveness to manifestations of intolerance is stronger with people with a high level of education.

In their article²⁰, F. Houseaux and C. Tavan, shed light upon the limitations of the *Life Story* survey as regards the analysis of the immigrants’ and their descendants’ evolution, especially considering the small number of persons concerned by the survey.

Based upon data deriving from the Study of Family History survey and the 1999 census, the article²¹ by P. Simon, D. Meurs and A. Pailhé analyses the mobility of the migrants’ descendants, judging from their accessibility to and positions in the job market and comparing them with their parents and with the “natives”. The article highlights the fact that an important part of the immigrants and their descendants are relegated to low-qualified jobs that are often precarious, in sectors where economic fluctuations are important. If professional segregation between generations tends to become indistinct, which is the sign of a growing mobility between generations, the persistency of discrepancies between second generations and natives contradicts forecasts of intergenerational mobility thanks to better education and socialisation in France. The handicap of an “inherited” origin shows evidence of the existence of discriminations that

¹⁸ Algava, E., Beque ; M. (February 2004) « Le vécu des attitudes intolérantes ou discriminatoires : des moqueries aux comportements racistes », in *Etude et Résultats*.

¹⁹ Beque, M. (September 2005) « Le vécu des attitudes intolérantes ou discriminatoires par les personnes immigrées et issues de l’immigration », in *Etude et Résultats*.

²⁰ Houseaux F., Tavan C. (2005), « Quels liens aujourd’hui entre l’emploi et l’intégration pour les l’immigration ? » in *Revue Economique*.

²¹ Simon P., Meurs D., Pailhé A. (2005) « Immigrés et enfants d’immigrés sur le marché du travail : une affaire de génération ? », in Lefèvre C. Filhon A. (Dir.), *Histoires de familles, histoires familiales. Les résultats de l’enquête Famille de 1999*, Cahiers n° 156, Paris : Ined.

essentially weigh upon the evolution of the African and Turkish immigrants as well as those from the Maghreb, including their descendants.

1.3. Most significant reports published in 2005 by public authorities, academic researchers, social partners or NGOs.

Strongly relayed by the media, the authorities' keen interest in questions regarding diversity has been particularly striking in 2005.

Based on a survey²² centring upon the national origin of state employees, the D. Versini²³ report aimed at "diversifying the state service in order to make it more representative of the nation it serves". The functionality of such an integration policy favouring employees "coming from the immigration" was later questioned by the G. Calves²⁴ report.

Beyond the well-known weight of racial discriminations²⁵ upon the professional integration of people coming from the immigration, the Fauroux report²⁶ developed six main issues: development and sharing of the tools favouring awareness; consciousness-raising and training of actors; necessary reform of recruiting and managing of staffs (using, for instance, anonymous résumés and simulation); helping firms and the public concerned get in touch; necessary intervention of the authorities; measuring diversity so as to be more familiar with the people working in a firm²⁷.

²² Fougère D., (CNRS, CREST-INSEE, CEPR et IZA) and Pouget J., (CREST-INSEE et IZA), *L'emploi public s'est-il diversifié ? – Sexe, niveau d'études, origine sociale et origine nationale des salariés de la fonction publique et des collectivités territoriales*, 2004.

²³ *Rapport sur la diversité dans la Fonction Publique*, report presented by Mrs. Dominique Versini to Mr. Renaud Dutreuil, Minister of Public Service and for the State Reform, December 2004.

²⁴ Calves G. (2005) *Renouvellement démographique de la fonction publique de l'Etat : vers une intégration prioritaire des Français issus de l'immigration ?*, Paris :La Documentation française.

²⁵ A recent survey by the CREDOC (the Research Centre for the Study and Observation of Life Conditions) initially focusing on the recruiting difficulties of a building firm remarked a progressive process of growing ethnicity and highlighted its consequences upon indirect discrimination.

²⁶ Fauroux R. (2005) *La lutte contre les discriminations ethniques dans le domaine de l'emploi*, Report for the Ministry of Employment, Social Cohesion and Housing, 2005.

²⁷ This was supervised by the Ministry for Equal Opportunity; it entailed the launching of an experimental survey about the measuring of diversity carried out by the INED (see 1.1).

These proposals echo the firms' growing interest in the awareness of diversity²⁸ (see 2). The survey²⁹ carried out by "IMS-Entrepreneering for the City" with the help of the FASILD tried to publicise the situation, actions and positioning of French firms as regards the topics of non-discrimination and diversity in relation to origins. The IMS met with about fifty firm managers. It confirmed that the anticipation of discriminations based upon origins is still an uneasy topic. The aim of this publication is to trigger off discussions and display the advantages of the firms' involvement in favour of non-discrimination and diversity.

Finally, the Observatory of the National Agency for the Employment published a report³⁰ about the population of foreign applicants in comparison with French applicants (the nationality taken into account was the one recorded at the time of registration). The survey falls into five parts: the foreigners' applications, their profiles, the foreigners' job-hunting, the duration of unemployment and recurrence, the end of unemployment. It turns out that between 1997 and 2004 the proportion of foreigners looking for a job has remained stable (11%); 45% of the applicants come from the Maghreb; 23% of the applicants in and around Paris are foreigners; comings and goings between employment and unemployment are more frequent; finally European job-seekers do not remain unemployed as long as other foreigners.

1.4. Special public bodies that record and process complaints or allegations of racism and/or discriminations in employment.

In France, complaints of racism or discrimination in employment are legally treated by the civil courts. All matters relating to salary, professional life and dismissal of salaried workers of the non public sector are dealt with by the French Labour Court³¹ (Conseil des prud'hommes) whose decisions can be appealed before the Courts of Appeal. Civil servants and employees of the public sector must address their complaints to the administrative courts.

²⁸ Also refer to: Bébéar C., (2004) *Des entreprises aux couleurs de la France. Minorités visibles : relever le défi de l'accès à l'emploi et de l'intégration dans l'entreprise*, Paris : Entreprise et Cité.

²⁹ *Non-discrimination et gestion de la diversité dans les entreprises en France*, Paris, IMS-Entreprendre pour la Cité, 2005, 15 p.

³⁰ Chazal J. (March 2005) *Les demandeurs d'emploi étrangers*, Paris : ANPE, 19 p.

³¹ For more details on these courts see : <http://www.justice.gouv.fr/justorg/csph.htm> (11.10.2005)

In addition, in cases of access to employment, professional training, sanction and dismissal, there are penal recourses available to all categories of employees.

As already mentioned the HALDE is now also competent to record and process complaints of discriminations in employment. According to Louis Schweitzer, president of the HALDE, in his first report to the Prime Minister, half of the 500 complaints that were filed concern the access to employment and more than a third are related to the applicants' origins³².

1.5. Positive measures addressing the needs of religious minority groups at the workplace (space for prayers, recognition of religious holidays, codes of conducts...).

France does not evolve in its relation to cultural diversity. The absence of legislation on the expressions of cultural or religious particularism on places of work is a sign of this fact.

Secularism is a matter that has attracted a lot of attention from authorities and launched the public discussion, especially during years 2003 and 2004, with a report on the issue (Stasi Report) handed over to the President Jacques Chirac on the 11th of December 2003 and the law ruled on 15th March 2004. The report concerned mainly secularity in the school world, but suggested that the labour legislation should be amended to allow for companies to include rules about clothing and religious in their internal policies. In fact, this report and the following law did not really change anything as practises and behaviours did not evolve.

In fact, the majority of the recommendations of the Stasi report has not been taken into account in the Law. In 2005, some official texts defined the limits of the religious identity expression on workplace, especially in public services. For example, on February 2nd 2005, an administrative instruction regarding secularism in public health establishments recalled that the personnel of health must be neutral (prohibition to wear religious signs). It is strictly forbidden to refuse to look after a patient because of his religion. On the contrary, if a patient has the right to choose one's doctor, he/she does not have the right to refuse to be to look after by a doctor for religious purposes³³.

³² See in Annex the table of complains recorded by the Halde in 2005.

³³ Circulaire DHOS/G n° 2005-57 du 2 février 2005 relative à la laïcité dans les établissements de santé <http://www.sante.gouv.fr/adm/dagpb/bo/2005/05-02/a0020035.htm> (14-10-2005)

In addition, the administrative instruction on the authorisation of absence on religious purposes of October 2002³⁴ is not very respected³⁵.

There is no information available about any *positive measures* in regard of religious minorities in the sphere of work. Instead, religion and work seem to lead to *negative outcomes*, such a layoffs of minority members³⁶.

Religion is very rarely taken into consideration by companies' diversity initiatives (the Chart of diversity implemented by companies does not include religious questions), and the majority of the population would seem to adhere to the idea that religion belongs to the private sphere of life³⁷.

1.6. Trade unions

Traditionally the French trade unionism deals with the working condition of the immigrants. To such a degree that the immigrants acquired in the work space some the rights which they do not have in the political society, like the right to vote or to be elected in representative authorities (union delegates, work's council). The most outstanding phenomenon is however the ethnicisation of some tasks or activities in particular in the sector of building trade, but also of cleaning. French trade unions do not feel very comfortable with this tendency, as they see the development of some local unions which also have an ethnic aspect. Nevertheless, it is a fact that some local or sectorial unions are ethnic. From the trade-union point of view, these immigrant trade unionists represent the whole salaries and not only ethnic groups.

Parallel to this first phenomenon, a second tendency has appeared and has strongly expressed itself in the recent years. On the fringes of work, but referring to it very directly, some associations with ethnic character appear. They assert a better representation of ethnic groups in the activities from which they feel to be kept away³⁸. Thus the work world is placed in the centre of a heavy tendency of the French society where ethnic or community claims

³⁴ Circulaire FP/7 no 2034 du 16 octobre 2002.

³⁵ Katz, C. (2005) « Entreprise et religion : quelle disposition pour une liberté fondamentale ? », in *Hommes et Libertés*, no 129/jan-fev-mars 2005.

³⁶ « Voile : une employée municipale suspendue », *Le Monde* du 19.01.05 ; « Rejet du recours d'un musulman licencié à cause de sa barbe », dépêche AFP 30.05.04

³⁷ Brouard, S. and Tiberj, V. (June 2005) « Rapport au politique des Français issus de l'immigration », CEVIPOF

Point, S. et Singh, V. (2005) « Defining and Dimensionalising Diversity : Evidence from Corporate Websites across Europe », *European Management Journal*, Vol.21, No 6, pp. 750-761, p759.

³⁸ For example : « Fédération des Associations de Solidarité avec les Travailleurs Immigrés » (FASTI) ; « ELELE-Migrations et culture de Turquie » ; « France terre d'asile ».

develop, with some organisations which call for the development of positive actions to fight the logics of discrimination at the time of recruitment. That is especially the fact of some black associations, mixing the foreign identity, especially African, and the French one, like the domiens³⁹.

For its part, the French working and employers' trade unionism does not derogate from the republican rule which refuse to see appearing ethnic identities in the public space. The great confederations adopted, at best, the consensual speech of the necessary fight against racial discriminations, mainly at the time of recruitment⁴⁰, especially CFDT and CGT, but also the MEDEF. These trade unions are also signatories of the charts of the diversity⁴¹, but none of these charts recognises the principle of the acceptance of cultural rights for foreigners⁴².

Thus, at best, the actors of the work space continue to give their support for the immigrant workers⁴³, but on the basis of the defence of the common legal provisions⁴⁴. In the same way, all have now training programmes to racial discrimination with which they sensitise their members⁴⁵, but none takes the step towards the recognition of the cultural rights or do not relay the claim of the affirmative action.

1.7. Official bodies monitoring working conditions. Data or reports regarding the working conditions of immigrants, refugees or asylum seekers.

The two main bodies which have the necessary authority to raise or to better know the working conditions of the immigrants, the Factory inspectorate and the DARES, did not produce recent data on this aspect of their activities in 2005. Nevertheless, it seems that the conditions of reception of the immigrants

³⁹ For example the club « Africagora. Décideurs, cadres et entrepreneurs des diaspora africaines et caribéennes/Black »

⁴⁰ « A Lyon, les transports publics se dotent d'une charte contre la discrimination », Le Monde, 14-04-2005 ; « Lutter contre les discriminations, plus que jamais, une exigence », l'Humanité, 20-06-2005.

⁴¹ « L'entreprise prend des couleurs », *Libération*, dossier emploi, 26-09-2005.

⁴² « La lutte contre les discriminations : initiatives publiques et pratiques d'entreprises », Colloque du 9 décembre 2004, DARES.

⁴³ « Immigration : une politique cynique bénéfique au patronat », *Solidaires*, août 2005.

⁴⁴ « Racial and ethnic minorities, immigration and the role of trade unions in combating discrimination and xénophobie », CNRS/Universités Paris 7 and Nice-Sophia-Antipolis, Work Package 1 : National reports, France, 2003.

⁴⁵ See the web site of CGT : <http://www.cgt.fr/internet/>

CFDT : <http://www.cfdt.fr/>

CGC : <http://www.cfecgc.org>

MEDEF : www.medef.fr

in France improve, thanks in particular to the generalisation of the “Contract of reception and integration” (Contrat d’accueil et d’intégration – CAI) and the maintenance of the linguistic training courses for immigrants, or even the installation of the National Agency of the Reception of Foreigners and Migrations (Agence Nationale de l’Accueil des Etrangers et des Migrations - ANAEM), in particular by opening regional delegations, but there still does not exist specific authorities which would follow the working conditions of the immigrants. In the same way, the statistics on the industrial accidents do not raise the specific situation of the immigrant workers who are however more exposed to dangers (like the handling of dangerous products, the lifting and the bearing of heavy objects, rates of the machines - tools, night working (cleaning of the public places)) than the other workers....

Under the pulse of the opening of the labour market to workers of Member States, studies on the working conditions of people coming from EU or on the foreigners on mission⁴⁶, multiplied in the recent years, but there is still no study on the immigrant workers in general⁴⁷. However, the report of the High Council for Integration in the year 2005 reconsiders the working conditions of the immigrants while treating of their ageing⁴⁸. The health of these old migrants, just as their difficulty of reconstituting their career to take advantage of their right to the retirement, constitute the two main indicators announcing us their constant precariousness in the relation and the organisation of work. The report refers to an "early physical strain"⁴⁹ which justifies, at the end of their professional career, that they remain in France to reach care they would be deprived of if they return to their country of origin⁵⁰.

1.8. Evidence or information regarding trafficking of illegal workers or children to be used as forced labour

On this point France lacks statistical data and knowledge, but the Central Office of fight against illegal work (Office central de lutte contre le travail illegal) set up on May 16th, 2005 would probably solve this lack of information in the years to come. This authority complete the traditional means of the State to

⁴⁶ « Conditions d’emploi des salariés ressortissants des pays tiers travaillant en France dans le cadre d’une prestation de service internationale », DPM, 26 janvier 2005.

⁴⁷ Except this study : Doriès Consultants, DPM (2005) Les conditions d’emploi des salariés ressortissants des pays tiers travaillant en France dans le cadre d’une prestation de service internationale.

⁴⁸ « La condition sociale des travailleurs immigrés âgés », Haut conseil à l’intégration, septembre 2004.

⁴⁹ « La condition sociale des travailleurs immigrés âgés », Haut conseil à l’intégration, septembre 2004, p. 25.

⁵⁰ Bataille, P. (dir.)« Lille face à ses immigrés âgés : la difficile réparation d’un oubli national », ISAS, Université de Lille 3.

control the condition of employment of migrant workers, such as the general inspection of work, the DILTI, the complaints deposited by the workers themselves, the reports of the local government or the descriptions established by associations, the reports of the trade unions, the media, the commissions of access to the citizenship, but until now the information they collect are not gathered in the same place and it is very difficult to access to the data.

Building trade, agriculture, and house employees are the principal branches of industry which concentrate the infringements of the Labour code, of the collective agreements and of the human rights of the immigrants, often clandestine. The phenomenon especially concerns migrants of Eastern Europe; such as Romanians, but also Roms; and of the countries of Black Africa, like the Malians. The difficult working conditions of these immigrants - including the traffic of women and children who are exploited in networks of prostitution or the forced house work - are discovered because of the revival of the policy of fight against clandestine immigration in the recent years in France⁵¹.

But, the ILO especially points out the particular situation of the Chinese immigrants in France⁵². Many cases of abuse are denounced, the lack of organisation of the French labour market enable the traffickers to control the conditions of recruitment and so to exploit the illegal migrants. The report speaks about "illicit dies" which feed the "dissimulated workshops of clothes industry, the mono-activity and the traffic of labour forces"⁵³. "The inhuman conditions of life and employment"⁵⁴ are described. Work is mainly used to refund the debts contracted by people to immigrate, therefore to feed the traffic networks. The report also points out the increase in the infringements which concern children, whereas these figures remained unknown before 2002, date of the installation "of adequate structures to look after this young population". It mentions in particular the reception centres of the Red Cross⁵⁵.

2. Initiatives and good practices against racism and discrimination in employment in 2005

On the governmental level, the year was remembered by the creation of a Ministry in charge of the promotion of equal opportunity⁵⁶, whose Minister

⁵¹ « Le négrier de Saint-Trop », Journal du dimanche, 29-09-2005 ; « Les sans-papiers, travailleurs sans droits », l'Humanité, 19-07-2005 ; « La police descend dans douze chantiers », le Parisien, 08-06-2005 ; « Le travail forcé, un esclavage moderne », la Croix, 12-05-2005.

⁵² Yun, G. and Poisson, V. (2005) *Le trafic et l'exploitation des immigrants Chinois en France*, Programme d'action spécial pour comprendre le travail forcé, BIT : Genève,

⁵³ Ibid, p. 7.

⁵⁴ Ibid, p. 7.

⁵⁵ Ibid, p.57.

⁵⁶ http://www.premier-ministre.gouv.fr/ministere_delegue_promotion_egalite_m582/ (11.10.2005)

Azouz Begab set up employment as a major objective. Regarding this topic, the action of the State also focused on the public servants themselves: the State took part in an EQUAL program called ESPERE which produces training courses for civil servant working in the area of employment in order to sensitise and form them to the fight against discrimination.

But the State also try to encourage the fight against discrimination in private companies. Indeed, the government organized on February 3rd 2005 the first conference for equal opportunities. This conference, part of the social cohesion plan presented in 2004 by the government, must make possible the expansion of new actions in the field of the fight against discriminations. The French Prime Minister chaired this conference and several ministers of the government, several employers' organisations and employees trade unions attended this meeting. The proposals resulting from this conference concern three fields: initial and continuing training, access to employment and professional promotion. Within these three fields, the purpose is to mobilize the social partners and the State. Indeed, the State will implement some pilot actions, in order to set example. During this conference, the first agreement of branch was also signed between the State, the FASILD and the trade union of Temporary Work Companies (SETT). This agreement aims at preventing discriminations and promoting diversity in temporary work companies and near their customer companies. The objective is to undertake a study and to diffuse the tools already tested in the field of the fight against discriminations, in particular within the framework of the European project (EQUAL...)⁵⁷

Parallel to these actions, the mobilisation of the actors of private companies, and in particular large private companies, was very important in 2005.

Indeed, 231 companies signed a "chart of diversity"⁵⁸ aiming "to support pluralism and to seek diversity through the recruitments and management of the careers" conceived like "a factor of progress for the company". These initiatives were at the origin of a discussion on the measurement of diversity in the company and gave place to a positioning of the CNIL (Commission Nationale Informatique et Libertés - national commission dealing with data processing and freedom) on the subject. Concurrently to this mobilization of the companies, which remain limited to the largest ones, whereas the French economy essentially consist of by small and medium-sized companies (PME – petite et moyenne entreprises) and very small companies (TPE – Très petites entreprises); some initiatives were taken in order to objectify recruitment, which the place where the "discriminatory risk" is very high : the method by simulation (method of the abilities) or the experiments on the CVs anonymity have been developed. Finally the law on the "formation throughout the life"⁵⁹ by

⁵⁷ <http://www.sett.org> (11.10.2005)

⁵⁸ Faure, S. et Platat, S. (2005) « L'entreprise prend des couleurs », in Libération (26.09.2005)

<http://www.liberation.fr/page.php?Article=326355>

⁵⁹ France/2004-391, (05.05.2004)

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCX0300159L>
(10.10.2005)

making possible to register the control of the language in the training courses can be regarded as a capital gain in term of equality in employment.

Education

1. The situation regarding racism and xenophobia in education

1.1. New sources of data and information regarding racism and discrimination and the situation of immigrants, refugees, asylum seekers and minorities in education

For 2005 there are no new data sources available concerning the situations of immigrants, refugees, asylum seekers and minorities in education

1.2. Most significant official and non-official data available in 2005. Current trends on the basis of a comparison with statistical data from previous years.

Even though the Direction of Evaluation and Prospective at the Ministry of National Education regularly publishes the data gathered from secondary schools thanks to the application program called SIGNA (Signalement des actes de violence par les établissements du second degré, i. e. Description of violent acts by the public secondary schools), at the time this report was being written few data were available for the year 2005. Only the period covering January and February 2005 has been the object of an official publication⁶⁰.

The proportion of schools which signalled at least one incident was inferior in January-February 2005 to what it was in January-February 2004: 63 % of the schools which responded to the survey as opposed to 65.5% the year before. The average number of descriptions gathered from schools that declared at least one incident also decreased from 4.6 in January-February 2004 to 4.3 in January-February 2005. The most significant decrease was registered in middle schools, from 4.8 to 4.4, while figures almost stayed stable in technical schools. Schools signalled 355 racist acts and 94 anti-Semitic acts in January-February 2005. Racist acts have diminished by 20% in comparison with January-February 2004, whereas the number of anti-Semitic acts has remained the same.

⁶⁰ Signalement des actes de violence par les établissements publics du second degré, synthèse pour la période janvier-février 2005, MENESR DEP C2, March 2005.

Over the same period of time, among the anti-Semitic acts, one should also note the large proportion (nearly 30%) of “other serious facts”⁶¹, i. e. facts that are not explicitly mentioned in the list.

The Family Survey⁶² by the Ministry of National Education was completed in 2002 through surveys made around young people in the light of three main axes (how they experienced their secondary schooling, their professional and university projects, their self-image); but no official report has been published yet⁶³.

The academic centres for the education of the newly-arrived and gypsy children (CASNAV⁶⁴, Centre Académique pour la Scolarisation des Nouveaux Arrivants et des enfants du Voyage) publish yearly statistical surveys concerning the specific classes who integrate those children (but data are not yet available for the year 2005).

⁶¹ The 2003 IGEN report about factors influencing situations of violence in schools shed light upon the deficiencies of the application program SIGMA and concluded as follows: “*how to reason soundly on uncertain grounds?*”. The report underlined the “*ambiguities of the descriptions*” deriving from SIGMA: census is based upon subjective criteria since they concern acts which were signalled and which had important repercussions on the school community – elements whose evaluation depends on the personal logic of the persons in charge and on the context. The IGEN also indicated that “*some school principals consider signalling as a risk of stigmatisation of their schools; hence they do not signal acts of violence.*” It also referred to the posture of a principal whose declarations “*take into account the probable impact of acts of violence upon the public opinion (the press, the parents, the local authorities) rather than the actual seriousness of the incident*”, which suggests that the way a violent act in school is meditated depends on the intensity of the news.

⁶² The Family Survey, based upon the study of a selection of pupils followed throughout their schooling, brought into relief information about the pupils’ family environments that are usually not well known by the principals (i. e. the size of the family, the time spent in France, the language spoken at home), as well as the parents’ expectations and their involvement in their children’s education.

⁶³ Besides a communication by J.-P. Caille, « Perception du système éducatif et projets d’avenir des enfants d’immigrés sept ans après l’entrée en sixième », DEP Ministère de L’Éducation Nationale, in « L’insertion scolaire & professionnelle des jeunes issus de l’immigration », *Colloque du 18 mars 2005*, Dares / Ined.

⁶⁴ Their missions are focusing on the school integration of the newly-arrived (who do not know enough about the French language and the French school programs) by helping teachers and educators.

1.3. Most significant reports published in 2005 by public authorities, academic researchers, social partners or NGOs.

All the children of migrants recently arrived in France are obliged to go to school⁶⁵. This implies that schools must welcome and integrate the new pupils either within specific reception classes or in ordinary classes offering extra teaching in French. But very often, funds are lacking and the pupils' competencies are not satisfactorily evaluated; hence their registration in middle or secondary schools is delayed, even more so for the older ones. Two surveys⁶⁶ published in 2005⁶⁷ and mentioned earlier (see *National Annual Report 2004*, Raxen 5 Programme, EUMC), which are both to be found in the report entitled "school reception of the firstly-arrived in France", tried to give an account of those difficulties.

In the course of the 2003-2004 school year, 35, 600 newly arrived pupils that were not French speakers were integrated in primary and secondary schools: 82% entered specific classes or were now and again offered extra-teaching. They make up 0.43% of the total primary school pupils and 0.37% of the total middle and secondary school pupils in metropolitan France⁶⁸.

The publication of the book entitled *Apartheid in schools*⁶⁹, which continues surveys published in 2002 and 2003⁷⁰ on the question of ethnic segregation in middle schools, evoked the fact that from the viewpoint of research and "official" data concerning education, the ethnic issue remains invisible⁷¹. To

⁶⁵ Circulaire relative aux : « modalités d'inscription et de scolarisation des élèves de nationalités étrangères des premiers et seconds degrés » du 20 mars 2002 (C. n° 2002-063 du 20-3-2002).

⁶⁶ *Émigrer en France à l'âge du collège*, De Zoia, Geneviève - Visier, Laurent. Montpellier : IUFM, 2003 et *Non scolarisation, déscolarisation et scolarisation partielle des migrants - Les obstacles institutionnels à l'accès des enfants et des adolescents nouvellement arrivés en France à une scolarité ordinaire*, De Schiff, Claire - LAPSAC (Université Bordeaux 2) - CADIS (EHESS).

⁶⁷ Rapport réalisé pour le Fasild dans le cadre du programme de recherche interministériel « Cultures, villes et dynamiques sociales ».

⁶⁸ Source : DEP, Ministère Education Nationale, Enquête sur les élèves non francophones, 2003-2004.

⁶⁹ *L'Apartheid scolaire, enquête sur la ségrégation ethnique au collège*, de Georges Felouzis, Françoise Liot, Joël Perroton, Editions du Seuil, Octobre 2005.

⁷⁰ *École, ville, ségrégation. La polarisation sociale et ethnique des collèges dans l'académie de Bordeaux*, Georges Felouzis, Françoise Liot et Joëlle Perroton, CADIS-LAPSAC, Université de Bordeaux 2, Juin 2002 et *La ségrégation ethnique au collège et ses conséquences*, Revue française de sociologie, n°4, 2003.

⁷¹ Reminder : files gather all the students registered in secondary schools, but they do not supply direct information about the pupils' cultural origins. They do not include the parents' birthplaces and nationalities and information about the pupils' nationalities is not enough to tackle that question.

bypass this difficulty, the authors chose to consider the pupils' first names⁷² as the expressions of their cultural origins. The first conclusions highlight the fact that 10% of the totality of middle schools concentrate 40% of the pupils coming from the immigration, whether they are French or not.

This highlighting of ethnic segregation in schools (especially in middle schools) was echoed by the evaluation survey concerning priority education zones (ZEP, Zones d'Éducation Prioritaire)⁷³, which, besides the relative efficiency of this policy (the creation of priority education zones did not improve the pupils' success rates), pinpointed a stigmatising effect which is illustrated by the avoidance strategies of parents who consider the ZEP signal as negative and prefer to put their children in different schools.

For the first time in France, with the survey "Young diploma-holders coming from the immigration: professional integration or discrimination"⁷⁴, which was carried out for the action fund for the integration and fight against discriminations (FASILD, Fonds d'Action et de Soutien pour l'Intégration et la Lutte contre les Discriminations), research on discriminations tackled the situation of diploma-holders. Resting on both a quantitative survey, the statistical exploitation of the CEREQ survey (i. e. the identification for a specific level of education of the difficulties met by young people coming from the immigration by comparing their accessibility to jobs and their integration according to their geographical or national origins registered on the basis of their parents' origins: France, southern Europe, the Maghreb), and a qualitative survey (interviews of social workers concerned with this problem), this study – backed up with figures – showed that despite a successful education, young people coming from the Maghreb are disadvantaged as regards professional integration.

The INED symposium on the school and professional integration of young people coming from the immigration⁷⁵ highlighted researchers' ongoing interest in this problem.

Other works, which appear to be more monographic as the one by F. Lorcerie⁷⁶, explore the secondary school pupils' social identities through questions

⁷² Even if ambiguities are frequent, first names appeared to them as significant markers regarding religion and the country of origin. Together with nationality, those indicators allowed them to distinguish the "natives" from "the foreigners" among the 144,000 pupils of the 333 south-western public and private schools concerned by the survey.

⁷³ « Zones d'Éducation Prioritaire : Quels moyens pour quels résultats ?, R. Bénabou, F. Kramarz, C. Prost, *Économie et Statistique*, Septembre 2005.

⁷⁴ Jeunes diplômés issus de l'immigration : insertion professionnelle ou discriminations ?, A. Frickey, V. Bprgono, J.-L. Primon, L. Vollenweider-Andersen, *Collection « Études et recherches » (FASILD), La Documentation française*, 2005.

⁷⁵ L'insertion scolaire et professionnelle des jeunes issus de l'immigration, *Colloque du 18 mars 2005 (Dares / Ined)*.

involving the social categorisation of collective identities, such as Islam, integration, racism, immigration, citizenship, etc., and highlighting the attitudes associated with such feelings of belonging.

1.4. New developments in 2005 regarding state provisions for minority and multicultural education in your country

In the French national education system there are no main state provisions for minority education or multiculturalism since the very notion of “minority” is prohibited by the universal values of the republican model. So, there are no specific State provisions for minority and multicultural education in France.

1.5. How the issue of religious symbols in schools is addressed in France

On March 15th 2004 was adopted the law on the application of the principle of secularity in public schools⁷⁷. It forbids the « [...] wearing of signs or clothes by which students ostensibly manifest a religious belief ». The wearing of discreet religious signs remains authorised. The law further instructs each school to adopt a house regulation and put in place internal procedures for the school year 2004-2005 that should help manage the enforcement of the law by processes of mediation and dialogue with the student, eventually followed by disciplinary measures. As this new law raised a certain number of debates, an evaluation of the results of the enforcement of the law was due in September 2005.

In June 2005, Hanifa Chérifi, general inspector of the National Education and former member of the Stasi Commission, submitted to Gilles de Robien, Minister of National Education, the first evaluation report on the application of the law⁷⁸. Mrs. Chérifi draws up a positive assessment of the law: for the school year September 2004-june 2005, the Ministry of National Education listed 639 religious signs (two big crosses, 11 Sikh turbans, 626 Islamic veil, that is to say

⁷⁶ F. Lorcerie, *Cités cosmopolites : sur les identités sociales des lycéens marseillais*, Ireman, 2005.

⁷⁷ Law France 2004-228, (15-03-2004) encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=MENX0400001L>

⁷⁸ This report was published in June 2005 by the Agency for Education and Training (Agence éducation et formation – AEF), but the access to the report is paying. So we could not consult the report in full.

Bronner, L. (2005) “Un rapport dresse un bilan positif de la loi sur le voile à l’école”, in *Le Monde* (27-08-2005)

50 per cent less than the previous year. Most of these religious signs (82 per cent) were listed in regions in six educational districts where the rate of immigrated population is very high (Strasbourg – 208 signs, Lille – 118, Créteil – 70, Montpellier – 38 and Lyon 32).

The majority of the pupils (496) agreed to withdraw their religious sign. Among the 143 refusals, 47 led to final exclusions of the school by a decision of the disciplinary board (44 for the wearing of veils, 3 for Sikh turbans) and 96 pupils decided voluntarily to leave the public school, they are now registered in private schools or follow courses by correspondence⁷⁹. Detailed figures of registration in private schools or at the CNED (Centre national d'éducation à distance – National centre for distance education) are not available. Nevertheless, 28 excluded pupils claimed for an appeal in front of the courts. In July 2005, the first twelve given judgements confirmed the decisions of expulsion.

In her report, Hanifa Chérifi, asserts that “on the basis of information directly received from the chiefs of establishment and those transmitted by the academic correspondents, a number of girls and parents lived the application of the law like a release”. But the general inspector remains careful on the future implementation of the law: “It is obviously advisable not to regard as definitively regulated the question of the religious signs at school, and more specifically that of the Islamic veil”. The report raises in particular that, “some pupils do not wear their veil anymore, some others still wear it as soon as they have left the school”. An astonishing comment insofar as the law does not have vocation to apply outside the school.

Regarding the school year 2005-2006, in September the Ministry of National Education only listed 12 cases of pupils wearing a religious sign and in October only three cases remained problematic.

This positive assessment of the law is disputed by a co-operative named “Une école pour tous” (A school for everybody), which gathers several associations, among them the Centre d'études et d'initiatives de solidarité internationale (Cedetim - Centre of studies and initiatives of international solidarity). In a black book of the law anti-veil, to be published at the beginning of 2006, it draws up its own assessment of the school year 2004-2005. The collective insists on the fact that it is necessary to add to the official figures of exclusions and the resignations, the “quiet exclusions”: “These invisible victims (...) simply did not present themselves at school in September, they are not able to plan to withdraw the veil and not wish to be subjected to the humiliating ceremony of the disciplinary board” From extrapolations, the co-operative estimates that this phenomenon would at least relate to “200 or 300 pupils, to the maximum 700 to 800 pupils”. It qualifies consequently as “indecent” the assessment established by Hanifa Chérifi. The application of the law raises a last problem. Its article 4 provided that it would be the subject of an evaluation “one year after its

⁷⁹ For example, in Strasbourg, 11 young girls asked the school inspectorate the authorization of being registered to the CNED (Centre national d'éducation à distance).

application". However the only evaluation, carried out by Mrs. Chérifi, was not transmitted to the members of Parliament.⁸⁰

In a report published in March 2005⁸¹, the Comité contre l'islamophobie en France (CCIF – Committee against Islamophobia in France) also denounces the harmful effects of the law: abandonment of schooling, schooling in private schools, schooling in schools abroad. It also denounces an abusive and illegal extension of the application of the law to the users of the public services and to the employees in general. The report lists all the cases of exclusion and brings testimonies of several pupils.

2. Initiatives and good practices against racism and discrimination in education in 2005

The National Education is very little mobilised on the question of racism and discrimination in the school itself. Few initiatives are listed to fight against discrimination at school: the actions are often disparate and seldom carrying effects. Local actions or initiatives are more efficient, but they are not taken into account by the institution.

Nevertheless, in 2005 several initiatives were led in order to facilitate the access to the “Grandes Ecoles” (very selective university schools such as Sciences Po, ESSEC or Polytechnique) for people coming from immigration or popular districts. Francois Fillon, Minister for Education, school and research, Jean-Louis Borllo, Minister for Social Cohesion and Nelly Olin, delegate minister to Integration, Equal opportunity and Fight against exclusion signed on January 17th the “charte de l'égalité des chances et des formations d'excellence”⁸² (the Chart for Equal opportunities and trainings of Excellency) with the Conférence des Présidents d'Universités, the Conférence des Grandes Ecoles and the Fédération des Ecoles Supérieures d'Ingénieurs et de Cadres. The text makes possible to support the access to the “Grandes Ecoles” of the young people coming from popular districts in difficulty. This chart generalises the experiment of the ESSEC school "une prépa pourquoi pas moi?"⁸³ which develop the close support of the pupils and sponsorship. Since the installation of

⁸⁰ Bronner, L., Ternisien, X., Fortier, J. (2005) “Les signes religieux ostensibles ont pratiquement disparu des écoles”, in *Le Monde* (30.09-2005)

See also the website of the CEDETIM : http://www.reseau-ipam.org/rubrique.php3?id_rubrique=291 (10-10-2005)

⁸¹ CCIF (2005), *Le bilan de la loi du 15 mars 2005 et de ses effets pervers*, http://www.oumma.com/IMG/pdf/CCIF- Bilan_loi_du_15_mars_et_effets_pervers.pdf (10-10-2005)

⁸² The text of the chart is available on the following website : http://www.education.gouv.fr/actu/2005/charte_egalite.pdf (10-10-2005)

⁸³ http://www.education.gouv.fr/actu/2005/essec_egalite.pdf (10-10-2005)

the “Convention Education Prioritaire” in September 2001, the selective school of political science – Sciences Po has welcomed 189 students (57 in 2005) coming from 23 high schools located in socially underprivileged districts.⁸⁴

Nevertheless, if the fight against racism and discrimination in school is not very developed, there are very numerous actions to fight against racism in the society in general.

For more than 20 years in France, a national co-operative organise the “week of education against the racism” on March 21st, world day against racism. Year after year, this demonstration became considerable extensive, gathering a majority of schools as well as multiple local operators supported by several institutional partners.

In 2005, Alsace region, confronted with serious racist and anti-Semitic incidents, created in March a new device entitled “le mois de l’autre”⁸⁵ (the Month of the Other) whose objectives are to develop education and sensitising with tolerance, respect, good citizenship and the fight against all forms of racism, integrism, anti-Semitism and xenophobia. Also supported by the National Education, this initiative allowed the launching of numerous projects in the whole region aiming at the respect of the differences. 51 schools in Alsace proposed one or more actions with their pupils during March. All obtained a financial support of the Regional Council. More than 60 000 euros on the whole were devoted by the Regional Council to this project which initiates an exceptional mobilisation.

To also note during the year the 2005, the significant number of actions for the commemoration of the release of the camps, the National Education has worked over again on this occasion its educational and teaching programs (sometimes unsuited) devoted to the Holocaust.

Many debates also emerged in France on the history of colonisation, particularly compared to its teaching in the schoolbooks. These debates were reinforced by the reports (submitted to the Prime Minister on April 12th 2005)⁸⁶ and proposals of the new Committee for Memory of Slavery preaching a better taken into account of the history of the slave trade in the French teaching and the research⁸⁷.

⁸⁴ <http://www.sciences-po.fr/presse/zep/index.htm> (10-10-2005)

⁸⁵ http://www.ac-strasbourg.fr/sections/actualites/actualites_des_mo/decembre_2004/le_mois_de_lautre_1/view (11.10.2005)

⁸⁶ http://www.comite-memoire-esclavage.fr/rubrique.php?id_rubrique=8 ((27-09-2005)

⁸⁷ <http://www.comite-memoire-esclavage.fr/> (27-09-2005)

<http://toutesegaux.free.fr/> (27-09-2005)

http://toutesegaux.free.fr/article.php3?id_article=191 (27-09-2005)

France soir « La mémoire de l’esclavage rassemble les Français d’origine française ou antillaise mais... le pouvoir black n’est pas pour demain », 11-05-2005, pp.2-5

Le Point « La montée des minorités », 12-05-2005, pp. 36-44

Lastly, two itinerant operations were born with: the "Caravan of Courage against all forms of discrimination" aiming to educate pupils of colleges and high schools with the citizenship; and the "Caravan of Diversity" having for objective to increase the value of the young graduates coming from minorities.

Legislation

1. Legislative provisions addressing racism and xenophobia

1.1. Legal provisions, introduced in 2005, transposing Directives 200/43/Ec and 2000/78/EC

The Directive 2000/43/EC is now completely transposed in French law. In December 2004, the Law n°2004-1486⁸⁸ creates the High Authority to fight against all discriminations and for equality. The HALDE is an independent administrative body competent for all discriminations, direct and indirect, that are forbidden by the laws of the Republic or “by an international engagement ratified by France”, which allows it to adapt to future legal evolutions. It will cover discrimination on the grounds of actual or supposed race or origin, sex, handicap, age, health, religion, sexual orientation, opinions, appearance, union activities, in all domains regulated by the law. The HALDE was concretely created in March 2005 with the nomination of its president, Louis Schweitzer and of the ten personalities composing the board of directors.

In July 2005, the Law n°2005-843⁸⁹ transposes various measurements of the Community legislation to the public office.

The Directive 2000/78/EC has been partially transposed in French law, particularly with respect to employees covered by the labour code and civil servants. In February 2005, the Law n° 2005-102⁹⁰ on the equality of rights and opportunities, participation and citizenship of handicapped persons provides handicapped persons with a right to compensation and right to access to education and employment by adapting the work place. The right to compensation for the consequences of the handicap is stipulated for the benefit of any handicapped person with stable and regular residency in the territory. In

⁸⁸ Law France 2004-1486 (30-12-2004) portant création de la haute autorité de lutte contre les discriminations et pour l'égalité

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCX0400130L>

⁸⁹ Law France 2005-843 (26-07-2005) portant diverses mesures de transposition du droit communautaire à la fonction publique

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=FPPX0400293L>

⁹⁰ Law France 2005-102 (11-02-2005) pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SANX0300217L>

July 2005, the Law n°2005-843⁹¹ transposes various measurements of the Community legislation to the public office.

1.2. Legal provisions transposing Council framework Decision on combating trafficking in human beings (2002/629/JHA)

The Council Framework Decision on combating trafficking in human beings (2002/629/JHA) of July 19th 2002, and the Directive Council Directive 2002/90-EC of November 28th 2002 defining the facilitation of unauthorised entry, transit and residency were transposed in French law according to the Law 2003-1119 of November 26th 2003 related to the control of immigration, the residency of foreign people and the nationality⁹². This law modifies several previous French laws in order to implement the European directives and to reinforce the legal provisions to combat trafficking in human beings and the sexual exploitation of children.

1.3. Legal provisions transposing Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

For the moment, the Council Directive 2004/38/EC is not transposed into the French Law. But France is not late, as according to the Council the deadline for transposition in the Member States is April 30th 2006.

⁹¹ Law France 2005-843 (26-07-2005) portant diverses mesures de transposition du droit communautaire à la fonction publique

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=FPPX0400293L>

⁹² Law France 2003-1119 (26-11-2003) relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=INTX0300040L>

1.4. Legal provisions transposing Council Directive 2003/9/EC laying minimum standards for the reception of asylum seekers

The Law 2003-1119 of November 26th 2003 related to the control of immigration, the residency of foreign people and the nationality⁹³ implements partially the Council Directive 2003/9/EC as it sets out the reception conditions for applicants for asylum.

The Order 2005-1051 of the State Council⁹⁴, adopted on August 23rd 2005, modifying the Order n°46-1574 (30-06-1946) sets out entry and residency in France for foreign people, it ensures asylum seekers a dignified standard of living and limits secondary movements to another Member State.

Nevertheless, in France the reception conditions for applicants for asylum are not yet very good and dignified standards of living are not ensured by the State to asylum seekers or refugees. In its 3rd report, published on February 15th 2005, ECRl worries about the treatment of refugees and asylum seekers and it notes the persistence of complaints relative to bad treatments against members of minority groups, in particular in the waiting areas. These complaints blame police officers and prison warders. France is also condemned for the non-ratification of several international treaties on the protection of minorities, the civil equal rights or the European convention on nationality...⁹⁵

1.5. Legal provisions and administrative regulations regarding the operation and legal status of the most important religious congregations

In France, the Home Office is in charge of the cults according to the Law of December 9th 1905 which states the separation of Church and State.

In accordance with this principle, religious practice should be developed in the private sphere. Public manifestations of religious affiliation are considered to jeopardize the unity of the French people and to create divisions within French society.

⁹³ Law France 2003-1119 (26-11-2003) relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=INTX0300040L>

⁹⁴ State Council Order France 2005-1051 (23-08-2005), modifiant le décret n° 46-1574 du 30 juin 1946 réglementant les conditions d'entrée et de séjour en France des étrangers

<http://www.legifrance.gouv.fr/WAspad/Visu?cid=737816&indice=1&table=JORF&ligneDeb=1>

⁹⁵ http://www.coe.int/T/E/Human_Rights/ECRI/1-ECRI/2-Country-by-country_approach/France/France%203e%20rapport%20%20-%20cri05-3.asp#TopOfPage

The Law stipulates that the Republic ensures the freedom of conscience. It guarantees the free exercise of the worships. The Republic does not recognize, does not pay nor does not subsidise any worship.

Nevertheless, there are some formal representative bodies of religious congregations; they serve as a negotiation partner for the government on issues related to the practice of religion in France, including the construction of houses of worship, the regulation of feasts and ritual slaughters... Catholic, Protestant and Jewish communities have had formal representative bodies for a long time, a body representing the French Muslim community was only recently established in 2003. The Catholic representative body is the “Conférence des Evêques des France”⁹⁶; the Protestant one is the “Fédération protestante de France”⁹⁷, the Jewish one is the “Constitoire central de France” and the Muslim one is the “Conseil français du culte musulman (CFCM). Regarding financial benefits, the Muslim cult has a specific structure the foundation for the works of Islam. Indeed, as in France the Muslim cult encounters two main difficulties (which other congregations do not encounter):

- The number of worship places is too small in comparison with the size of the community (1.685 versus 2.500 in Germany where the Muslim population is slightly less important, around three millions) and 20% of these places are not well suited for religious offices.
- There is no university training for the imams and 30% of them do not speak French (there are 1.200 imams officially registered by the Home Office, most of them come from Egypt and the Gulf countries)

As the 1905 Law does not enable the State to finance religious cults, the Home Office has made a proposal to create an ad hoc legal tool to raise funds for the Muslim cult and improve the conditions of religious practices.

On March 20th 2005, was created the foundation for the works of Islam in France (Fondation pour les oeuvres de l’Islam en France)⁹⁸, which is a private institution financed by private donations and whose financial management will be ensured by the “Caisse des Dépôts” (a major public financial institution). The funds collected by the foundation will allow for mosques building and French imams training. Before the effective creation by the Foundation of a specific training for French imams, the Home Office decided, in February 2005, to set up a training in French to improve the language competencies of the imams to quickly learn French⁹⁹.

The only exceptions to this principle of secularism are the regions Alsace, Lorraine and Moselle where there is a Concordat between the State and the

⁹⁶ <http://www.cef.fr/>

⁹⁷ <http://www.protestants.org/fpf/general/index.html>

⁹⁸ Official statement of the Home Office (21.03.2005)

http://www.interieur.gouv.fr/rubriques/c/c2_le_ministere/c21_actuelite/2005_03_21_CF_CM (04.05.2005)

⁹⁹ Official statement of the Home Office (09.02.2005)

For more detail, see also the French rapid Response on Islamophobia, EUMC 2005

religious congregations¹⁰⁰. According to the Concordat, the priests, bishops, rabbis and pastors are paid on the general budget of the State. The State subsidises the construction of the places of worships. The houses of worship belong to the congregations. Courses of religion can be dispensed in the public schools. In spite of some attempts in 1924 and 1925, this particular statute was not repealed; no government planned to do it since

1.6. "Readmission" agreement or protocols between your country and non-EU Member States; data on deportations and voluntary repatriation.

Readmission agreements¹⁰¹

Country	Date	Type of agreement
Argentina	01.02.1995	Readmission and transit of the people in irregular situation
Brazil	28.05.1996	Readmission
Bulgaria	29.05.1996	Readmission and transit of the people in irregular situation
Chile	23.06.1995	Readmission and transit of the people in irregular situation
Costa-Rica	16.06.1998	Readmission and transit of the people in irregular situation
Croatia	27.01.1995	Readmission and transit of the people in irregular situation
El Salvador	26.06.1998	Readmission and transit of the people in irregular situation
Ecuador	16.10.1998	Readmission and transit of the people in irregular situation
Guatemala	11.11.1998	Readmission and transit of the people in irregular situation
Honduras	20.11.1998	Readmission and transit

¹⁰⁰ First, the Concordat was only signed with the Catholic church in 1801, then it was extended to the Protestant religion in 1802 and then to the Jewish religion in 1808). In the recent years, some people, and in particular the bishop of Strasbourg proposes to extend the Concordat to the Muslim religion

¹⁰¹ Source : Ministry of Foreign Affairs

		of the people in irregular situation
Macedonia	08.10.1998	Readmission and transit of the people in irregular situation
Mexico	06.10.1997	Readmission and transit of the people in irregular situation
Nicaragua	20.04.1999	Readmission and transit of the people in irregular situation
Panama	30.04.1999	Readmission and transit of the people in irregular situation
Paraguay	10.04.1997	Readmission and transit of the people in irregular situation
Romania	12.04.1994	Readmission and transit of the people in irregular situation
Swiss	28.10.1998	Readmission and transit of the people in irregular situation
Uruguay	05.11.1996	Readmission and transit of the people in irregular situation
Venezuela	25.01.1999	Readmission and transit of the people in irregular situation

Legislation on repatriation and available statistics¹⁰²

In France, the procedure of deportation takes the following forms: escort back over the border, the expulsion of the territory and the prohibition of the territory.

1. Escort back over the border is a decision taken by the prefect or the police prefect of Paris against a foreigner who entered or who remains irregularly in France. A foreigner can be escorted back over the border if he is not citizen of an European Member State and if he cannot prove to have entered regularly to France. The concerned foreigner can deposit proceedings for annulment in front of the administrative court and if the court does not cancel the decision, he can appeal to the State Council. If a person backs out of a decree of escort back over the border or if he/she communicates inaccurate information on his/her identity, he/she can be condemned to a three years prison sentence.

Law references:

¹⁰² For more details, you can consult the GISTI website <http://www.gisti.org/droit/textes/eloignement/>

- Order France n°45-2658 (02-11-1945) relative aux conditions d'entrée et de séjour en France des étrangers et créant l'office national d'immigration (Chapters 4 and 5 bis)¹⁰³
- Law France 2003-1119 (26-11-2003) relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité¹⁰⁴

2. A decree of expulsion against a foreigner whose presence constitutes a serious threat as regards the French law and order can be pronounced by the prefect, the police prefect of Paris or, in case of emergency, by the Minister of Interior. The decree can be repealed by the authority which pronounced it at any time. The foreigner who is the subject of a measurement of expulsion and who cannot leave the French territory immediately, can be maintained in administrative retention.

Law references:

- Order France n°45-2658 (02-11-1945) relative aux conditions d'entrée et de séjour en France des étrangers et créant l'office national d'immigration (Chapters 5 and 5 bis)¹⁰⁵
- Law France 2003-1119 (26-11-2003) relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité¹⁰⁶

3. Prohibition of the French territory is a sanction imposed by the penal jurisdictions against a foreigner, it prohibits him to enter or to stay in France. This sanction can be applied against foreigners having family or social ties in France only by a decision especially justified as regards the gravity of the infringement.

Law references: French Penal Code article 131-30

According to the Order n°45-2658 (02-11-1945) relative aux conditions d'entrée et de séjour en France des étrangers et créant l'office national d'immigration (Article 25)¹⁰⁷ some categories of people are protected from deportation measurement : people who are parents of a minor child who has the French nationality; people who are married to a French citizens for at least two years; people who can justified that they regularly live in France since ten years (without a student residency permit); people holding a pension of industrial accident or occupational disease pied by a French organisation and whose rate of permanent disability is equal or higher than 20 %

It is very difficult to find available statistics on deportation and voluntary repatriation. In February 2005, the Observatoire des statistiques de l'immigration et de l'intégration (Observatory of the statistics of immigration and integration) installed by Jean-Louis Borllo, Minister of Social Cohesion, in

¹⁰³ <http://www.legifrance.gouv.fr/texteconsolide/MBFAA.htm>

¹⁰⁴ <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=INTX0300040L>

¹⁰⁵ <http://www.legifrance.gouv.fr/texteconsolide/MBFAA.htm>

¹⁰⁶ <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=INTX0300040L>

¹⁰⁷ <http://www.legifrance.gouv.fr/texteconsolide/MBFAA.htm>

summer 2004, published its first report¹⁰⁸. According to this report, using the figures of the Ministry of Interior, in 2003 55.900 procedure of deportation were pronounced in 2003, among them 80% were escorted back over the border procedures. In 2002, the figures of procedure of deportation was 55.700. Only 38 per cent of the procedure were effectively executed (that means that more than 34.000 illegal foreigners remained in France, despite the deportation decree).

Regarding asylum seekers, according to the annual report of the "Office français des protection des réfugiés et apatrides" (OFPRA - French office of the protection of the refugees and stateless people)¹⁰⁹, in 2004, 65.600 people asked for asylum in France, only 16,6 per cent of them were allowed to stay in France. On June 30th 2005, the OFPRA published the list of safe countries for France¹¹⁰. A country is considered as safe "if it takes care of the respect of the principles of freedom, democracy and the State of right, as well as human rights and fundamental freedoms" (Article L 741-4 of the code of the entry and residency of foreign people and right of asylum). The inscription on the list implies that people coming from these countries will be refused the asylum right in France and it makes possible the Office to rule in priority on these cases. However, "taking into account the safe character of the country of origin cannot make obstacle to the individual examination of each request" (art. L741-4 of the code). The following countries were retained: Benin, Bosnia; Cape Verde; Croatia; Georgia; Ghana; India; Mali; Maurice; Mongolia; Senegal; Ukraine.

1.7. Legislative and administrative provisions limiting health services access to immigrant groups, asylum seekers and refugees

The principle of solidarity is one of the bases of the French system of health protection. Thus, any foreigner in regular situation living on the French territory has access to a minimal protection: the general sickness insurance. There are also emergency solutions for the applicants of asylum who do not profit yet from the general sickness insurance. Like French citizens, foreigners in regular situation can have a complementary health insurance, this complementary insurance can be a private one or a State one (CMU-C – Couverture Maladie Universelle Complémentaire, which is) if the person has no job or too little income and cannot afford a private insurance.

Law references:

¹⁰⁸ Groupe permanent chargé des statistiques de l'Observatoire des statistiques de l'immigration et de l'intégration (2005) Rapport 2002-2003, Paris : Observatoire des statistiques de l'immigration et de l'intégration - HCl, 63 p

¹⁰⁹ OFPRA (2005), rapport d'activité 2004, Fontenay-sous-bois : OFPRA

¹¹⁰ http://www.ofpra.gouv.fr/annonce.html?dtd_id=16&xmld_id=2429

- Articles L.380-1 and following of Social Security Code (CSS) which define the CMU and the affiliation to the general sickness insurance according to the residency in France;
- Article L.311-5 Social Security Code (CSS) ;
- Article L.861-5 of CSS;
- Article R.380-1 of CSS ;
- Article L.187-3of the Family Code (CF);
- Articles L.862-1 and following of CSS which create the CMU fund and define the complementary CMU;
- Article L. 254-1 of Social Action and Families (CASF);
- Administrative instruction DSS/2A/99/701 of December 17th.

Illegal immigrant, people who do not have a residency permit could benefit from the medical aid of State – AME, if they fulfilled the income criteria. Thanks to this aid, 100 per cent of the medical care is assumed by the State and people do not have to advance medical expenses. But two decrees¹¹¹ of the government published in July 2005 complicate the medical aid for foreign people in social difficulty. They force the foreigners without papers to bring the proof that they have been on the French territory for at least 3 months to have the right to access the medical aid of State (AME). Humanitarian associations, health organizations and defence of immigrant people associations protest against these two decrees as their provisions exclude from the access to the care those who, in the French society, are more in difficulty as regards the disease. Several of them signed a petition addressed to the French government in order to suppress these decrees¹¹².

1.8. Legislative provision in place for immigrant, refugees and asylum seekers from non-EU Member States regarding voting rights in municipal elections

According to the French electoral code, only French citizens and EU Member States citizens residing in France have the right to vote in municipal elections. Only immigrant people who obtained the French citizenship can vote in municipal elections.

Nevertheless, several foreigners or migrants associations militate in favour of voting right for non-national living and working in France for several years. It was also one of the propositions of the former French President François

¹¹¹ Decree France-2005-860 (28-07-20050) related to the methods of admission of the requests for medical aid of the State.

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCA0422024D>

Decree France-2005-859 (28-07-2005) related to the medical aid of the State

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCA0422023D>

¹¹² <http://www.gisti.org/doc/actions/2005/ame/non.pdf>

www.icare.to/icare-francais/actualite.html

Mitterrand in 1981, but it had never been concretised. Moreover, we can note that according to some opinion polls, French public opinion is more and more in favour of a voting right for non-nationals.

Opinion polls realised by the field institute CSA since 1994

Question : The citizens of EU Member States residing in France have now the right to vote in local and European elections. Personally would you be very favourable, rather favourable, rather opposite or very opposite with the extension of the voting rights in local and European elections to the foreign people living in France but not citizen of an EU Member State?

(Percentages)	April 2004	Sept 2003	Oct 2002	Nov 2001	June 2000	Oct 1999	Oct 1998	April 1997	April 1996	April 1995	April 1994
Very favourable	13	15	15	13	17	15	18	14	10	8	10
Rather favourable	32	30	39	27	38	37	26	25	18	22	22
Total favourable	45	45	54	40	55	52	44	39	28	30	32
Rather opposite	30	24	24	25	22	28	22	22	28	24	25
Very opposite	23	14	16	32	21	17	29	31	41	42	38
Total opposite	23	38	40	57	43	45	51	53	69	66	63
No answer	2	5	6	3	2	3	5	8	3	4	5
TOTAM	100	100	100	100	100	100	100	100	100	100	100

2. Initiatives and good practices against racism and discrimination in legislation in 2005

The measurement of diversity and the Data-processing and Freedom law

One of the identified tools to register discriminations on work places seems to be the measurement of diversity. However, to measure diversity initially requires to collect data relating to the ethnic origin of the employees. The French Data-processing and Freedom law¹¹³ on the personal data states in Chapter 2, Section 2 “Provisions specific to certain categories of data” article 8 that *“it is forbidden to collect or disseminate data which reveal, directly or indirectly, racial or ethnic origins, political, philosophical or religious*

¹¹³ Law France n° 20004-801 (06-08-2004) relative à la protection des personnes physiques à l'égard des traitements de données à caractère personnel et modifiant la loi n° 78-17 du 6 janvier 1978 relative à l'informatique, aux fichiers et aux libertés <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0100026L>

opinions, trade-union membership of the individual, or are related to the health or the sexual preferences” (our translation). It is based on the fact that there does not exist any national reference frame of “ethno racial” type which would allow the comparison of the data of a company with the national data for example. Thus there would be no interest a-priori to collect this type of information. The CNIL however recalls, in a recommendation of July 9th 2005, that the Data-processing Law and Freedom do not set obstacles with the "temporary" collection of certain information related to the ethnic origin if this work aims to take an action of fight against discriminations. With condition however that a certain number of precautions are taken:

1. To collect and use data in direct bond with the objectives laid down by the company
2. To inform the people concerned by the processing of these data as well as the representative authorities of the personnel (before the installation of the tools)
3. The data processing must remain confidential
4. The statistics must relate to a group higher than 10 people
5. The individual data files having allowed the statistics must be destroyed once the produced statistics
6. To inform the CNIL by lodging a "normal declaration" with its services.

This recommendation is a great projection in France, since it will at last make possible to have, to a certain extent, some data on discriminations and diversity in work places; it will be possible to conduct more precise surveys.

Law for social cohesion – Borloo Law – third section: Equal opportunity¹¹⁴

"To break the vicious circle of exclusion, of unemployment and discrimination", it is the objective of the law for social cohesion adopted on January 18th 2005. To achieve this goal, the so-called Borloo law proposes to act on employment (title I), housing (title II) and the equal opportunity (title III).

By equal opportunity, last section of the Borloo law, the government wants to promote:

- Equal opportunity between the people of any origins. Thus the law creates the “Agence Nationale de l’Accueil des Etrangers et des Migrations” (ANAEM - National Agency of the Reception of Foreigners and Migrations). This agency was installed on April 20th 2005 with the Decree 2005-381¹¹⁵. ANAEM will be in charge of welcoming foreigners who hold a residency permit. It will propose to the migrants the "contract of reception and integration" and will ensure its follow-up. The law generalises the contract of reception and integration and gives it a legal base. This contract is proposed individually and in a language which is understandable for the foreign person admitted to remain for the first time in France.

¹¹⁴ Law France 2005-32 (18-01-2005) de programmation et d’orientation pour la cohésion social – Title 3 : Promotion de l’égalité des chances

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCX0400145L>

¹¹⁵ <http://www.social.gouv.fr/htm/actu/anaem/sommaire.htm>

Decree France 2005-381 (20-05-2005)

- Equality between children and teenagers by the installation of devices of educational success in some difficult urban zones or schools in priority education zones. These devices of educational success provide for actions of accompaniment of the pupils their families, in the educational, extra-scholar, cultural, social or medical fields.

Housing

1. The situation regarding racism and xenophobia in housing

1.1. New sources of data and information regarding racism and discrimination and the situation of immigrants, refugees, asylum seekers and minorities in employment.

The fact that no statistics are available on the questions of discrimination and racism experienced by immigrants and their descendants, minorities asylum seekers and statutory refugees in housing shows evidence of France's urgent need for new data sources.

1.2. Most significant official and non-official data available in 2005. Current trends on the basis of a comparison with statistical data from previous years.

The 2005 publication of the work entitled *Immigrants in France*¹¹⁶, starting from statistic data deriving from the 2002 housing survey¹¹⁷ pinpointed the fact that immigrant households, especially those originating from the Maghreb, were more frequently faced with situations of overpopulation (28% and 40% as opposed to 5% of non-immigrant households). The residential mobility of immigrants is comparable with that of other households, but it is circumscribed within a more restricted perimeter (56% of the immigrant households that moved between 1997 and 2002 stayed in the same parish as opposed to 38% of the non-immigrant households) and it more scarcely involves a change in the status of occupancy (only one out of five immigrant households renting accommodation from the private housing stock left their place to become the owners of their new place, while it is the case of one third of the non-immigrant households).

¹¹⁶ *Les immigrés en France*, INSEE REFERENCES, Edition 2005.

¹¹⁷ INSEE, Enquête logement 2002.

1.3. New provisions for reception centres for asylum seekers not mentioned in the 2004 report. Reports by official bodies or NGOs regarding these facilities published in 2005.

Within the framework of a convention with the organisation France, Land of Welcome (FTDA, France Terre d'Asile), the Direction of Population and Migrations (DPM) at the Ministry financed the 2004 "RELOREF" action with a view to helping the statutory refugees taken in by reception centres for asylum seekers (CADA, Centre d'Accueil des Demandeurs d'Asile) have access to the private housing stock. Initially conceived as an experimentation in a limited number of departments, this plan of action is now expanding to the whole territory. It now involves 23 departments. On October 31st 2004, this convention thus allowed the capturing of 66 private flats (from a total of 108 flats) for 102 refugee households. We need to add that only 40% of those flats entailed the signatures of direct leases (see footnote n°3).

Moreover, in the articles 84 and 86, which modify the article L441-2 of the construction and occupancy code, the social cohesion act gives priority to the people coming from reception and social rehabilitation centres (CHRS, Centre d'Hébergement et de Réinsertion Sociale) in the access to social housing. The code now establishes that "*priority in the attribution of flats must be given to handicapped people or families in charge of a handicapped person; to people that are poorly accommodated or disadvantaged; to people who meet specific difficulties in finding accommodation for financial reasons or for reason related to their living conditions or to people that are momentarily taken in by transitory reception centres*".

This article thus gives priority to the refugees coming from centres (CHRS) such as the reception centres for asylum seekers (CADA) or transitory reception centres (CPH, Centres Provisoires d'Hébergement) on an equal footing with the French that are taken in by such centres.

The social cohesion act is also planning to increase the centres' capacities as follows:

- 2005: increase in the CADA's capacity by 2,000
- 2006: increase in the CADA's capacity by 1,000
- 2007: increase in the CADA's capacity by 1,000
- 2008-2009: no increase.

In 2007 the total capacity of reception centres for asylum seekers and transitory reception centres should come up to 20,500.

In November 2004, the delegate secretary in charge of integration, equal opportunities and fight against exclusion assessed that the permanent reception capacity of the national plan of action called "Social emergency and integration" was of 90,000, splitting up as follows:

“Emergency” capacity open to everybody	18,800
CHRS ¹¹⁸	30,330
Transitory centres	1,899
Social housing	3,300
CADA ¹¹⁹	15,440
CPH ¹²⁰	1,100
“Emergency” capacity for asylum seekers	19,000

According to a note by the International Migrations Office (OMI, Office des Migrations Internationales) dating from December 13, 2004, after leaving reception centres for asylum seekers, in the course of January to August 2004, the refugees divided up as follows:

- 50% of them had access to common law flats
- 12% had access to common law housing such as social housing and reception and social rehabilitation centres
- 15% had access to specialised housing in temporary reception centres
- 25% found individual solutions or were not registered.

In 2004, still according to this note, 18% of the statutory refugees coming from reception centres for asylum seekers found private accommodation and 59% of them had access to social housing, i. e. council flats (HLM, Habitats à Loyers Modérés).

1.4. Significant reports regarding racism and discrimination in housing published in 2005 by public bodies, academic researchers or NGOs.

¹¹⁸ Reception and Social Rehabilitation Centres (CHRS, Centres d’Hébergement et de Réinsertion Sociale).

¹¹⁹ Reception Centres for Asylum Seekers (CADA, Centres d’Accueil pour Demandeurs d’Asile).

¹²⁰ Temporary Reception Centres (for refugees) (CPH, Centres Provisoires d’Hébergement – pour réfugiés).

In its first report¹²¹, the national observatory of problem urban areas¹²² gave an account of the situation of the problem urban areas (ZUS, Zones Urbaines Sensibles), which globally puts into relief the accumulation of the social and urban problems with which those areas are faced as well as their important heterogeneity. This report supplied information about foreigners and housing that proved particularly useful: despite a decrease that is due to a strong movement of acquisition of the French nationality, the foreign population is still over-represented in problem urban areas. Foreign households are twice more present in those areas than they are in urban units. This tendency, which can be accounted for by a higher occupancy of council housing estates (51,5% of the foreign households leaving in council flats leave in problem urban areas as opposed to 31,7% of the French households) and by their over-representation in the private housing stock of problem urban areas, is going on (between 1990 and 1999, the number of foreign households, in comparison with French households, increased in problem urban areas more than it did in the rest of the agglomeration). Among the poor households who live in problem urban areas, the over-representation of households whose referential person is foreign can be verified no matter what the flat's occupancy status is. It is even more accentuated in the private housing stock than it is in the social housing stock. Together with partner organisations and institutions, this report, which further highlights that very few data specifically concerning young people coming from the immigration are available (although their integration in housing and employment is often a problem as they suffer from direct and indirect¹²³ discriminations), argues in favour of the creation of specific modalities of monitoring and analysis, resting on indicators that take into account their particularities (for instance by asking about their parents' birthplaces).

The discrimination regarding the question of renting that weighs upon the foreign (or viewed as foreign) middle class is not often analysed: yet it was the object of a recent survey¹²⁴. This survey, which was carried out in various

¹²¹ Observatoire national des zones urbaines sensibles (2004) *Rapport 2004 de l'Observatoire national des zones urbaines sensibles*, La Plaine Saint Denis : Observatoire national des zones urbaines sensibles, 252 p.

¹²² Created by the August 1st 2003 act, the national observatory of problem urban areas is meant to measure the evaluation of social inequalities and development discrepancies in each problem urban area (ZUS) ; it is also meant to monitor the public policies carried out in their favour and to measure those policies' specific means; finally it is meant to assess those policies' effects in comparison with the objectives and indicators mentioned by the August 1st 2003 orientation and programming act for the city and urban renovation.

¹²³ In its report, the Economic Analysis Council (Conseil d'Analyse Économique) wrote that the HALDE should encompass not only discrimination linked to national or ethnic origin, but also discrimination on the basis of urban origin or any other grounds. *Ségragation urbain et intégration sociale*, JP Fitoussi, E. Laurent, J. Maurice, Documentation Française, 2004.

¹²⁴ , Chignier-Riboulon Franck (dir.), Belmessous Fatiha, Belmessous Hacène, Chebbah-Malicet Laure-Leyla (August 2004), *Les discriminations à l'encontre des*

districts in Paris and Lyons, tried to measure the extent of racial or ethnic discriminations experienced by people looking for rented accommodation and fulfilling the financial requisites. Its aim was to define the characteristics of the most discriminated publics in housing as well as the consequences of those discriminations in terms of living conditions and obstacles to residential mobility. If need be, the method of testing was used to show evidence of such discriminations.

The annual report on the state of “poor accommodation”¹²⁵ by the Abbé Pierre Foundation (which encompasses the living conditions of the homeless, uncomfortable or insalubrious accommodation and the situations of temporary accommodation that last longer than they should), points to the fact that to the list of poor households and poor workers, one should add the young people who have to cohabit with their families as well as the foreign populations and the populations coming from the immigration. The latter, who prove to be much poorer than the average because of their low levels of professional qualification, are also prey to discriminations that relegate them within the most degraded and less attractive areas in public as well as in private housing stocks.

2. Initiatives and good practices against racism and discrimination in housing in 2005

On April 14th 2005, 22 people died in the arson of an hotel in Paris which took in asylum seeker in very bad and insecure conditions. Few months later, on August 25th 2005, 17 people, including 14 children, died in the arson of an unhealthy building in Paris. These tragedies raised the question of housing conditions of immigrant people. Indeed, in both cases, the victims of the arsons were African people, who legally lived in France for several years. Associations denounce the lack of social housing in France, the absence of a real policy of housing. They underline the fact that several immigrant families are placed in unhealthy buildings and that other accidents are to be feared. On the request of the Home Office, the prefecture of Paris intends to carry out the evacuation of the most dangerous buildings. "My fear, it is that in the name of safety, people will be put in the street", worries Paris Mayor as no solution of re-housing is envisaged. Associations also denounce this decision because it will not solve the housing problem. Several associations such as DAL (Droit au logement – Right of housing), Emmaüs and SOS racisme proposed the vote of a law which would enable the expropriation of the unhealthy owners of residences. It would be then the responsibility of the State to entrust the rehabilitation of these buildings to the various social financial backers.

catégories moyennes étrangères ou perçues comme étrangères sur le marché du locatif privé, in Migrations Etudes, n°125.

¹²⁵ Fondation Abbé Pierre (2005) Rapport annuel de l'état du mal-logement

At the end of July 2005, the manager of an estate agency was given a suspended prison sentence of eight months for discrimination and had to pay an 8.000 euros fine. Indeed, during years, she refused to submit offers of housing to foreign candidates. On the request of 250 owners, she used in the files the mention "P.E - Pas d'étranger" (no foreigner), to turn down the foreign candidates.

According to S.O.S Racism, which lodged a complaint against the estate agency in 2003, this judgment is an important progress which is proof that French courts has become aware of the gravity of the phenomenon of discrimination in housing.

The Regional Union of the trade unions of Ile-de-France CFDT (URSIF C.F.D.T.) led a project within the framework of the Equal program launched named ATECCOD. This project intends for foreign women or women of foreign origins who live, in addition, a situation even more difficult than the men. They are doubly discriminated, initially as a woman, then because of their ethnic origin. This project put forward the "residences link" (logements passerelles) for unmarried mothers, living alone with their children. The social support , which will be carried out by an association, will help them to stabilise their situation and to define a professional project as this step is essential with a social integration. This project is innovating: first of all because of the process itself and because of the nature of its initiators. Indeed, the trade-union world and the associative world joined in order to set out a strategy to face racial discriminations by linking education, employment and housing.

Racist Violence and Crimes

In France, the Ministry of Interior and the Direction Générale des Renseignements Généraux are in charge to systematically collect and register all the complaints lodged with the police. So we are used to analyse and study official figures, which are quite good as the Ministry of Interior has a long experiences of collecting data on racism and anti-Semitism. NGO's and association in France agree on the fact that this statistics are relevant. Nevertheless the statistics are not exhaustive; indeed, the facts which have occurred are not necessarily signalled to the police or to the various competent organisations, because the victims do not declare them or because they were not the subject of the media attention, particularly as regards incivilities. So we can suppose the existence of "black figures" which remain unknown.

In 2005, there is no new sources of data and information available in France concerning racist violence and crime. The HALDE did not collect data on violence and crime, it will probably use the same data as the CNCDH, that is to say the data of the Ministry of Interior.

Despite our demand (oral and written) this year we could not obtain the figures of the Direction Général des Renseignements Généraux, it refused to answer our request. So, unfortunatelly, we are not able, yet, to provide EUMC with data, we will have to wait until January 2006.

Regarding data collected by NGOs or association (LDH, SOS Racisme, MRAP, LICRA), for the year 2005 they are not available yet...

The only information available concern anti-Semitism.

On July 25th 2005, Nicolas Sarkozy received Roger Cukierman, president of the CRIF (Conseil Représentatif des Institutions Juives de France) and declared that during the first semester of 2005, anti-Semitic acts decreased, compared to the same period in 2004. 290 anti-Semitic acts were register between January and June 2005, that is 48 per cent less that in 2004. The violent actions such as attacks with explosive and attempts, arsons, degradations and violence decreased the most strongly: 49 acts against 148 for the same period of 2004. The number of threats, category gathering graffiti, small degradations, leaflets, insulting demonstrations and threatening remarks or gestures, passed to 241 against 413.¹²⁶

The CRIF also published its own figures, data and information are collected by the SPCJ (Service de Protection de la Communauté Juive – Jewish Community

¹²⁶ See the Press communiqué on the Minsitry of Interior website : http://www.interieur.gouv.fr/rubriques/a/a5_communiques/2005_07_25_antisemite

Protection Service)¹²⁷. According to their statistics between January and June 2005, there were:

- 3 anti-Semitic letters addressed to organisations
- 23 anti-Semitic graffiti
- 27 anti-Semitic insults
- 5 threats
- 16 degradations of buildings or properties
- 1 desecration
- 18 physical aggressions
- 1 stone jet against pupils of a Jewish school
- 2 arsons

¹²⁷ <http://www.crif.org/index.php?dossier=1&menu=5>

Annex

COMPLAINTS REGISTERED BY THE HALDE

January - September 2005

	Age	Gender	Sexual orientation	Health Handicap	Origin	Trade Union activity	Religion	Other criteria	Total	%
Employment	41	17	8	52	119	41	5	32	315	47,79%
Privates goods and services	3	4	5	11	18	0	2	8	51	7,73%
Public services	3	10	2	20	42	0	2	82	134	20,33%
Housing	2	0	1	7	23	0	3	7	43	6,52%
Education	0	2	0	4	9	0	1	8	24	3,64%
Others	1	4	5	3	26	0	2	49	92	13,96%
Total	50	37	21	99	237	41	15	159	659	
%	7,58%	5,61%	3,18%	15,02%	35,96%	6,22%	2,27%	24,12%		

