

COMBATING ETHNIC AND  
RACIAL DISCRIMINATION  
AND  
PROMOTING EQUALITY:

TRENDS AND  
DEVELOPMENTS  
2000-2005

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# 1. Executive Summary

Over the 5 last years, discrimination has increasingly been put on the political agenda and has become a major concern for in the social sciences, political debate and society in general. This rise in discrimination as a public issue has been tackled by other major debates concerning anti-Semitism, Islam and islamophobia, colonialism and integration of immigrants. This reflects both France's specific situation as a multicultural country, with a sizeable Muslim population and the largest Jewish community in Europe, and the impact of the international context, especially the Middle East conflict and the growth of extremist Islamic terrorism in the wake of the attacks of 11th September 2001 in the USA. Behind these tensions appears a gradual return of the "immigration debate" creating new conditions for the expression of xenophobic attitudes and discourses.

Since the end of the 1990s, in the context of wide-ranging reforms triggered by EU directives, major changes occurred in anti-discrimination national legislation and policies. In 2005, the European Commission against Racism and Intolerance (ECRI) report that much progress has been made in several domains of the combat against discrimination in France (employment, legislation, education, combat against anti-Semitism). One of the most noticeable evolutions over the period lies in the implementation of two successive public schemes against discrimination, one targeted at ethnic and racial discrimination (the GELD – a body for the study and the struggle against discrimination) and a second one recently established as a result of the 2000 European directive, *the Haute autorité de Lutte contre les Discriminations et pour l'Égalité* (HALDE - High Authority for the Fight Against Discrimination and for Equality). The latter is addressing all motives of discrimination and is an independent body.

Statistics on immigrant groups in the labour market for the last twenty years show that not only do they face higher unemployment than French nationals and that the jobs they get are often either part-time or temporary work, but also that there has been almost no improvement during the period. Exposure to these situations, either calculated by crude rates of unemployment or by statistical differentials, is still at the same level. Other data provided by specific surveys on the "second generation" proved that their situation is also worse than the offspring of French nationals. Here again, no improvements have been registered in 5 years. The first data gathered by the HALDE provide administrative information on discrimination suffered by immigrants and minorities in employment, professional life, and training. Finally, civil society, and notably private employers organisations and the public authorities, have shown a new concern for questions regarding diversity. Campaigns for awareness raising, a charter between public authorities, trade unions and private employers, "charter for diversity" signed by private companies have been implemented during these years, with a peak of activity in 2005.

In the field of housing, all EUMC annual reports on France stress a relative lack of academic research and scarce statistical data available on discrimination and racism experienced by immigrants and their descendants, minorities, asylum seekers and statutory refugees. Available data shows that the proportion of immigrant households living in social housing estates has steadily increased since the 1980s, though the housing situation of immigrants and foreigners still show significant discrepancies with that of French nationals in terms of occupation density, level of comfort, age of buildings, occupancy status, type of dwelling, waiting list for social housing, *etc.* Academic research and recent reports assess that deemed or real origins are at the core of the selection processes of social rent housing applicants. Moreover, as in many other European countries, housing shortages and increasing property prices tend to intensify the mechanisms of spatial segregation which affect socially precarious or low-income groups, and minorities. In this context, the 2003 National Program for Urban Renewal has begun massive demolition of so-called dilapidated estates, which led many NGOs, such as DAL (Droit au logement - Right to Housing), researchers and various others involved in urban planning and housing to criticize the adequacy of this mode of intervention. The ECRI 2005 report states that several of its recommendations have not yet been followed as regards travellers and roms as well as minorities, who are confronted with difficult situations in housing. The commitment of social landlords organisations against discrimination is still low and public authorities have not yet taken any actions comparable to those which have been implemented in the employment sector.

In the field of education, two major issues have been differently addressed these last years. Racist violence in schools has been monitored with the SIGNA software implemented in 2001 by the National Ministry of Education in most primary and secondary State schools. Despite some limits and deficiencies, significant results have been collected and are produced in the present report. Knowledge of potential discrimination against pupils or students in the school system is still very scarce. Furthermore, there are no provisions in the French education system taking into account specific student populations in regard to their origins or religion, apart from policies aiming to facilitate the schooling and linguistic education of newly arrived foreign students, policies which have been reinforced since 2003. Inequalities among pupils according to their origins are persistent at all levels of the schooling system, as shown in descriptive statistics, but there is no consensus between academics on the interpretation of these results. Do they prove discrimination, or at least unequal treatment of pupils with immigrant backgrounds, or do they simply reflect inequalities in the social capital ? In spite of the concerted efforts made by governmental and non-governmental organisations to eliminate inequalities and foster school achievement of students facing difficulties, this report presents convergent academic research and surveys that concur that area-based Priority Education policies set up since 1993 may in fact contribute towards reproducing inequalities and discrimination. As regards the issue of religious symbols at

school, debates have been ongoing in France for several years. It gained in intensity in 2003 – and thus became « an affair », that has echoed far beyond French borders – and in 2005, the first evaluation of the 2004 law has also been highly controversial.

Most of the European Directives in the field of discrimination or immigration have been transposed into French law during the period considered. The report recalls that the French Constitution forbids differential treatment on the basis of origin, race or religion. Mainly through criminal law, the Labour Code, and provisions concerning access to housing, French legislation prohibits discrimination in all aspects of life on grounds of race, gender, ethnic origin, religion, sexual orientation or political opinion. Yet, the effective enforcement of the anti-discrimination legislation remains problematic, although the creation of the HALDE and several provisions aiming to improve anti-discrimination law enforcement may augur well for future improvements. Anti-discrimination action here faces a paradox : the general prohibition of discrimination in the Constitution may have a negative outcome for action striving for effective equality, especially when it comes to developing positive action or to monitor ethnic and racial inequalities. Whereas anti-discrimination legislation is greatly influenced by European law, and a large part of domestic legislation is derived from the Treaty on the European Union and European directives, the recent laws and governmental measures and initiatives on racist crime and violence are largely influenced by domestic politics/conditions, though still in line with the European legislation on the subject.

During the period 2000-2005 the number of racist and anti-Semitic “acts” (serious violence against persons and damage to property) and “threats” (threatening words and behaviour, graffiti; leaflets, slander, or other acts of intimidation) has increased dramatically compared to the ten previous years, with two peaks in 2002 and 2004 (respectively 1317 and 1574 acts and threats, compared to 202 in 1999). The number of people injured also reached a peak of 57 in 2004. However, the occurrence of racial violence seems have decreased in the last three months of 2004. In 2005, this trend was confirmed with 974 racist acts or threats recorded, namely 37 per cent less than the previous year, but still much higher than the pre-2000 records.

## 2. Employment

Statistical data show some major trends in patterns of inequality in the labour market over the last twenty years with regard to immigrants<sup>1</sup>. In 2005 significant changes occurred. For the first time, certain INSEE (French National Institute for Statistics and Economic Studies) general surveys included variables which allow for the identification of the children of immigrants: the annual Employment and Housing surveys (2005) include data on the birthplaces of parents. This information allows further analysis of the situation of ‘second generation’ immigrants in the job market, and of their careers and working conditions. Hence, the observation of those people who are most likely to be exposed to discrimination has significantly developed. Other recent surveys give innovative statistical information on the difficulties encountered by minority groups upon entering the labour market.

### 2. 1 Trends in patterns of inequality in the labour market

#### 2.1.1 Immigrants

##### *a) Unemployment*

The “Immigrants in France” INSEE surveys supply the majority of the statistical information available on the immigrant population, derived from the census and various other specific surveys. They outline the socio-demographic characteristics of immigrants (and, since 2005, their descendants<sup>2</sup>) and present their long-term migratory history.

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<sup>1</sup> Since the 1990 census, the INSEE has created a new category of “immigrant”, which takes into account persons who were born abroad and who live in France. It gives information on the country of origin and the previous nationality of naturalized French citizens.

<sup>2</sup> By “descendants” we are referring to people born in France, whose parents are both immigrants.

Table 1. Immigrant unemployment rate by gender and country of origin 1982-2002

%

Country of origin	1982		1990		1995		1999		2002	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Spain	7	12	9	16	13	11	7	13	n/a	n/a
Portugal	6	11	7	16	8	9	9	7	6	6
Italy	6	12	7	16	12	11	18	26	n/a	n/a
Algeria	16	37	22	41	27	36	30	36	25	30
Morocco	12	28	19	37	29	43	33	46	23	31
Tunisia	14	23	19	31	28	39	24	34	n/a	n/a
Other African countries	17	29	20	39	26	31	25	42	18	23
Turkey	11	30	24	45	29	45	24	44	n/a	n/a
<b>Immigrants</b>	<b>11</b>	<b>17</b>	<b>15</b>	<b>24</b>	<b>17</b>	<b>22</b>	<b>20</b>	<b>23</b>	<b>15</b>	<b>17</b>
<b>Total population</b>	<b>7</b>	<b>12</b>	<b>8</b>	<b>15</b>	<b>9</b>	<b>14</b>	<b>10</b>	<b>14</b>	<b>7</b>	<b>9</b>

Sources: INSEE, Census 1982 and 1990, Employment Survey: 1995, 1999 and 2002.

The 2005 publication<sup>3</sup> paints a picture of the situation of immigrants (economic sector, unemployment rates, status, etc.). It also centres upon their professional and social mobility through comparisons covering the period between 1992 and 2002<sup>4</sup>. It shows that immigrants tend to face unemployment more frequently than the rest of the population (cf. table 1). Regional statistical data<sup>5</sup> confirm the difficulties experienced by immigrants in the local job market and underline that the jobs they take are often part-time and/or temporary.

Women are more affected than men, and, among immigrants from North Africa, sub-Saharan Africa and Turkey, unemployment rates are higher. According to the ILO definition, the unemployment rate among immigrants was 18.4 per cent in 2002 compared to 8.3 per cent for French citizens. Unemployment rates vary according to the acquisition of French citizenship: according to the 1999 census it was respectively 15 per cent and 22 per cent for men and women who had become French citizens, while it rose to 22 per cent and 28 per cent for immigrants with foreign nationality.

### *b) Working conditions*

The 2005 EUMC annual report on France underlines the fact that statistics on industrial accidents do not raise the specific situation of immigrant workers who

<sup>3</sup> *Les immigrés en France*, INSEE REFERENCES, Edition 2005.

<sup>4</sup> INSEE, Employment Surveys, 1992 and 2002.

<sup>5</sup> These studies deal with data from the last national census (1999) in several regions: Poitou-Charentes, Aquitaine, Centre, Provence-Alpes-Côtes d'Azur, Bretagne, Corsica, Auvergne, Languedoc-Roussillon.

are, however, more exposed to dangers (such as the handling of hazardous substances, the lifting and bearing of heavy objects, operation of heavy machinery, night working) than other workers. With the opening up of the labour market to workers of EU Member States, studies on the working conditions of people from the EU and of foreign nationals on assignments in France<sup>6</sup> have developed in recent years, but there is still no study on immigrant workers in general<sup>7</sup>, except for information given by the 2004 *Haut Conseil à l'Intégration* (HCI, High Council on Integration) report on the retirement of immigrants<sup>8</sup>.

The building trade, agriculture, and domestic employee sectors are the principal areas of the labour market where infringements of the Labour Code, collective agreements and the human rights of (often illegal) immigrants, are concentrated. The phenomenon especially concerns migrants of Eastern Europe, such as Romanians, (but also Roms) and workers from sub-Saharan Africa, such as Malians. Difficult working conditions - including the traffic of women and children who are exploited in prostitution networks or in forced domestic work - are discovered to be a consequence of the revival of the policy of the fight against illegal immigration in recent years in France<sup>9</sup>.

The ILO points out the particular situation of Chinese immigrants in France<sup>10</sup>. The report mentions "illicit dyes" which feed the "dissimulated workshops of the clothes industry, the mono-activity and the traffic of labour forces"<sup>11</sup>. "Inhuman conditions of life and employment"<sup>12</sup> are described. The report also highlights the increase in labour law infringements regarding children, whereas these figures remained unknown before 2002, the date of the establishing "of

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<sup>6</sup> France, Direction de la Population et des Migrations (DPM –Population and Migration Department) (26 January 2005), *Conditions d'emploi des salariés ressortissants des pays tiers travaillant en France dans le cadre d'une prestation de service internationale*.

<sup>7</sup> 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*

<sup>8</sup> France, Haut conseil à l'intégration (September 2004), *La condition sociale des travailleurs immigrés âgés*.

<sup>9</sup> « Le négrier de Saint-Trop », in : *Journal du dimanche*, (29.09.2005) ; « Les sans-papiers, travailleurs sans droits », in : *l'Humanité*, (19.07.2005) ; « La police descend dans douze chantiers », in : *le Parisien*, ( 08.06.2005) ; « Le travail forcé, un esclavage moderne », in : *la Croix*, (12.05.2005).

<sup>10</sup> BIT (2005), 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, Genève.

<sup>11</sup> BIT (2005), 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, Genève, p. 7.

<sup>12</sup> BIT (2005), 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, Genève, p. 7.

adequate structures to look after this young population”. It mentions in particular the reception centres of the Red Cross<sup>13</sup>.

### *c) Retirement*

The PRI<sup>14</sup> survey, concerning the retirement of immigrants, was carried out by the CNAV (*Caisse Nationale d'Assurance Vieillesse*) in collaboration with the INSEE<sup>15</sup>. It analyses the living conditions and integration of retired immigrants. The way people experience their retirement is primarily conditioned by their state of health and their income, as is true for all retired persons, immigrant or not. However, as a majority of immigrants belong to disadvantaged socio-professional categories and often experience higher employment precarity, they face specific difficulties. The aforementioned HCI report reconsiders the working conditions of immigrants, taking age into account<sup>16</sup>. The health of these elderly migrants and their difficulty in providing employment history evidence in order to take advantage of their pension rights, constitute the two main indicators of their constant employment instability. The report refers to “early physical strain”<sup>17</sup>, which explains why, at the end of their working lives, many remain in France to benefit from the care they could otherwise be deprived of if they returned to their country of origin<sup>18</sup>.

### *d) Territorial approach*

Territorial approaches also give information on the spatial patterns of inequalities in the labour market. The High Council on Integration in 2003<sup>19</sup> concluded that inner-city youth, often of immigrant descent, experience levels of unemployment that are three times higher than other young people.

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<sup>13</sup> BIT (2005), 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, Genève, p. 57.

<sup>14</sup> Passage à la retraite des immigrés (Immigrants retirement)

<sup>15</sup> 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, pp. 11-47.

<sup>16</sup> Haut conseil à l'intégration (September 2004), *La condition sociale des travailleurs immigrés âgés*.

<sup>17</sup> Haut conseil à l'intégration (September 2004), *La condition sociale des travailleurs immigrés âgés*, p. 25.

<sup>18</sup> Bataille, P. (dir.), *Lille face à ses immigrés âgés : la difficile réparation d'un oubli national*, ISAS, Université de Lille 3.

<sup>19</sup> "Avis du Haut Conseil à l'Intégration (HCI) sur la promotion sociale des jeunes dans les quartiers en difficulté et sur les droits des femmes issues de l'immigration", Paris, HCI, 2 juillet 2003, 24 p. + 45 p. appendix. ("Opinion of the High Council of Integration (HCI) on the Social Promotion of Inner-City Youth and on the Rights of Women of Immigrant Descent")

The study “*Trajectories of the Unemployed-Local Labour Market*”, conducted by the *Direction de l'animation de la recherche, des études et des statistiques* (DARES- Statistics, Studies and Research Unit, Ministry of Employment), reveals that for unemployed individuals living in “Sensitive Urban Areas”<sup>20</sup>, their neighbourhood constitutes a major “handicap”. On average, it takes 10 per cent more time to find employment for residents of these neighbourhoods, regardless of gender, age, national origin, education, or professional experience.<sup>21</sup>

Nevertheless, using data deriving from the 1999 census<sup>22</sup>, M. Okba, F. Lainé and S. Rospabé state that ‘in a similar situation’, foreign nationals that do not belong to the European Union experience higher unemployment in neighbourhoods located in the poorest urban areas. Two hypotheses are raised: on the one hand, a cumulative effect of nationalities and neighbourhoods increases the difficulty for foreign nationals in finding jobs; on the other hand, the most disadvantaged populations are more likely to live in these types of neighbourhood. A 2004 ONZUS report<sup>23</sup> states that employment data clearly show that “living in a ‘Priority Zone’, the lack of qualifications and ethnic origin, have cumulative effects that appear in statistical over-representation in unemployment, instability and low-qualified work”. Moreover, the report stresses the role of discrimination in explaining the high unemployment rates of qualified young people of immigrant background.

## 2.1.2 Statistical evidence of discrimination

Until recently, no official statistical data (nor data produced by NGOs) has expressly reported on racist or xenophobic cases in employment, nor focused on discriminatory situations in relation to the origins of victims. Debates on the combat against discrimination at work have lately been rekindled by a number of reports and surveys. At the present time, in order to fight this kind of discrimination, a number of employers are contemplating policies of internal recruitment and promotion which take into account the diversity of the social or ethnic origins of the French population. This policy will be based on statistics

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<sup>20</sup> As in other European countries, French urban oriented policies to tackle poverty and marginalisation defined these “priority” areas according to statistical criteria (type of housing, unemployment rates etc., and proportion of foreigners)

<sup>21</sup> France, Ministère des affaires du travail et de la solidarité, DARES, “Habiter un quartier défavorisé : quels effets sur la durée?”, in: *Premières informations et premières synthèses*, n° 43.1, October 2003, 8 p. (*Living in Disadvantaged Neighborhoods: What are the Lasting Effects?*) available at: [http://www.travail.gouv.fr/IMG/pdf/publication\\_pips\\_200310\\_n-43-1\\_habiter-quartier-defavorise.pdf](http://www.travail.gouv.fr/IMG/pdf/publication_pips_200310_n-43-1_habiter-quartier-defavorise.pdf) (29.05.2006)

<sup>22</sup> France, Ministère des affaires du travail et de la solidarité, DARES, 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.

<sup>23</sup> Observatoire national des Zones Urbaines Sensibles, Annual Report 2004

measuring ‘the diversity of the origins’ of their staff and job applicants. This interest in the measuring of ethnic diversity led to the launch, at the end of 2005, of an experimental survey organised by the Ministry for Equal Opportunities and the *Institut National d’Études Démographiques* (INED, National Institute for Demographic Studies). Aimed 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 diversity include the gathering of data and allowing the temporary identification of the persons concerned (cf. 4.1 b.).

### a) Recent surveys

Over the last twenty years, overall youth unemployment has been very high in France. Even if educational backgrounds are different, discrepancies between young people of French origin and others remain considerable. A recent survey<sup>24</sup> showed that even when the economic climate is more favourable, trends in young people’s access to the labour market show that difficulties for certain minorities persist, clearly raising the question of discrimination.

Table 2 :Unemployment rate of young people of foreign descent

Young people with at least one parent born in:	Southern Europe		The Maghreb (Northern Africa)		Sub-Saharan Africa		South East Asia		Turkey		Both parents born in France	
	1992	1998	1992	1998	1992	1998	1992	1998	1992	1998	1992	1998
Year of entering labour market												
Unemployment rate												
After 3 years in “active economic life”	14.6	11.8	26.5	20.1	25.3	<i>21</i>	27.4	<i>14.3</i>	33.8	<i>19.6</i>	14.9	10.2
After 5 years in “active economic life”	15.9	12.6	27.3	21.1	24.3	<i>19.4</i>	<i>14</i>	<i>12.9</i>	<i>44.1</i>	<i>26.1</i>	15.2	10.4

*NB: Figures in italics are given for indicative purposes, as they are not fully reliable given the small number of individuals in these categories. Sources : Generation 92 and Generation 98 surveys, Céreq, 2006*

Based upon data deriving from the Study of Family History survey and the 1999 census, P. Simon, D. Meurs and A. Pailhé<sup>25</sup> analyse the labour mobility of

<sup>24</sup> This paragraph summarizes Silberman R. and Fournier I. (Centre Maurice Halbwachs/CNRS) findings in CEREQ (January 2006) "Jeunes issus de l'immigration: une pénalité à l'embauche qui perdure", in: *Bref* n° 226 available at: <http://www.cereq.fr/pdf/b226.pdf> (29.05.2006)

<sup>25</sup> 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*

descendants of immigrants, by considering their accessibility to, and positions in, the job market, and comparing them with their parents and with non-immigrant descendants. The article highlights the fact that a large number of immigrants and their descendants often only have access to low-qualified jobs that are often precarious and in sectors that are very sensitive to economic fluctuations. While the authors note a growing mobility between generations, the persistence of discrepancies between second-generation immigrants and their peers contradicts forecasts of inter-generational mobility through social integration and better education in France. Differentiation by origin shows evidence of the existence of discrimination that essentially affects the social trajectories of African and Turkish immigrants, as well as those of migrants from the Maghreb, including their descendants.

Moreover, a recent survey of the French *Centre d'Etude et de Recherche sur l'Emploi et les Qualifications* (CEREQ – Centre for Research on Education, Training and Employment) brings in innovative statistical information on the difficulties for minorities in the field of employment. On the basis of the “Generation 98” database<sup>26</sup>, which monitored the professional progression of a group of students who obtained the *Baccalauréat* (High School diploma awarded at the age of 18) in 1998, a study<sup>27</sup> analysed the integration of young people of foreign background (North Africa, Spain, Italy, Portugal) into the labour market after leaving university. The results show that young people of North African background experience more difficulty than young people of South European or French background when they enter the labour market, or face unemployment. The study furthermore shows that 44 per cent of women of North African background were unemployed for more than a year as compared to 19 per cent of men. More often than is the case for men, women of North African background are offered jobs for which they are overqualified. In their study<sup>28</sup>, F. Lainé and M. Okba present similar conclusions on the quality of jobs offered to young people of North African origin: they hold unqualified jobs more often than young people born in France or Europe, and they are exposed to a higher risk of social and professional downgrading.

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*familles, histoires familiales. Les résultats de l'enquête Famille de 1999*, Cahiers n° 156, Paris : Ined.

<sup>26</sup> Information about parental origins is not frequent in sources on employment. In that respect, the survey “Generation 98” has an important advantage insofar as it highlights the parental birthplaces and position regarding French nationality: born in France, French nationality acquired, foreign national.

<sup>27</sup> Frickey A., Murdoch J., Primon J-L., Vollenweider-Andresen L. (2004), *Les débuts dans la vie active des jeunes issus de l'immigration après des études supérieures. Enquête "génération 98"*, Marseille: Cereq (February 2004), 37p.

The statistical precision of the method used in this survey should be emphasized, as 2500 questionnaires from "the Generation 98" study that was carried out on 54,000 youths, were re-examined.

<sup>28</sup> Lainé F., Okba M. (April 2005) *L'insertion des jeunes issus de l'immigration : de l'école au métier*, CEREQ available at:

<http://www.cereq.fr/pdf/Net-Doc-151.pdf> (29.05.2006)

Using the “Generation 98” survey, several studies have centred upon discrimination in the job market: considering two factors – origin<sup>29</sup> and gender – contributions from O. Joseph and S. Lemièr<sup>30</sup> analyse the phenomena of discrimination at the level of the jobs that young people hold three years after leaving education. Three aspects of their professional situations are tackled: first, salaries and risk of salary discrimination; secondly, the structure of jobs and its influence on salary discrepancies between jobs in the same or different categories; thirdly, access to employment. The analysis confirms that there is salary discrimination according to origin, even if moderate (it predominantly concerns women). Their results stress the cumulative effects of gender and origin (especially when it comes to finding work) which is confirmed by two other local<sup>31</sup> surveys<sup>32</sup>.

Finally, another study seizes on the differences in access to employment in the public sector for young people of immigrant background, whether they originate from “third countries” or from EU countries.<sup>33</sup>

## *b) Special public bodies data*

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<sup>29</sup> The origins that are analysed here are foreign origins in general, i.e. people coming from north-western Africa and from southern Europe.

<sup>30</sup> Joseph O., Lemièr 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 available at:

<http://www.cereq.fr/pdf/Net-Doc-12.pdf> (29.05.2006)

<sup>31</sup> Santelli Emmanuelle (2003), *Du quartier à l'entrée dans la vie adulte : les trajectoires socioprofessionnelles d'une cohorte de jeunes adultes français d'origine maghrébine*, Université Lyon II, Groupe de recherche sur la socialisation, Lyon, (January 2003), 231p. (with the support of the DPM and FASILD).

The study analyses the careers of 200 young adults of North African background, aged between 20 and 29 years old, who have lived in the suburban neighbourhoods of Lyon for at least ten years. It shows that in spite of the fact that the women are more successful at school than men, they often go through longer periods of unemployment later.

<sup>32</sup> Roulleau-Berger L., Lanquetin M.-T. (dir.) (2004), *Femmes d'origine étrangère : travail, accès à l'emploi, discrimination de genre*, Paris: La Documentation Française, 175p.

Published at the initiative of the Service for Women's Rights (SDFE), this analyses their specific situation of double discrimination. This report was produced in the framework of a three-year agreement between the SDFE, DPM and the FASILD signed on 4.12.2003 and aimed at promoting access to rights in health, housing, education and the prevention of violence.

<sup>33</sup> Peres H., Jourda M.-T., Attou K., Dedieu O., Fonbonne G., (April 2004) *L'accès aux fonctions publiques des jeunes d'origine immigrée*, Montpellier: Faculté de droit, 250p.

Financed by the DPM, it focuses on a specific phase of the competitive examinations of "category A civil servants". Hundreds of interviews were held with candidates, careers advisers, and teachers in three cities (Montpellier, Grenoble and Bordeaux) and questionnaires were handed out to all students preparing for the competitive examination in preparatory training centres.

Data from the 114 telephone hotline, gathered between 16.05.2000 and 15.05.2002 confirm that cases of discrimination in employment, professional life and training concern 60 per cent of calls (professional life 26.7 per cent, access to employment 26.7 per cent and professional training 7 per cent). The first complaints addressed to the HALDE<sup>34</sup> confirm these preliminary results: half of the 500 complaints registered concern access to employment and more than a third are related to the applicants' origins. In the near future, the Monitoring Centre on Immigration and Integration, recently created by the Minister of Employment, the Labour and Social Cohesion Department and the Secretary of State for Integration, will deliver statistical information. The Centre will report annually to Parliament and will also supply information to the European Commission.

France has not used the method of testing very often, but recently this has been improving. The French Observatory of Discrimination (*Observatoire des Discriminations*), created at the University of Paris I<sup>35</sup> in December 2003, published a survey<sup>36</sup> concerning 258 jobs offers. Significant differences in the success rates of job applicants were brought to light. It appeared that a man of Moroccan origin received five times fewer positive answers than a reference applicant. Similarly, job applicants of African background, applicants from disadvantaged neighbourhoods and women, were also given fewer notifications to attend interviews. Finally, the authors consider the sending of CVs and selection on the basis of CVs constitutes the main obstacle to employment.

The DARES also asked the ILO to conduct a test according to the Bovenkerk<sup>37</sup> methodology that has been applied in several countries<sup>38</sup>. This testing will be carried out in the course of the first half of 2006 and will provide new information.

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<sup>34</sup> Haute Autorité de lutte contre les discriminations et pour l'égalité.

<sup>35</sup> The Centre d'Etudes et de Recherches sur la Gestion des Organisations et des Relations Sociales or CERGORS (Research Centre on Organisation and Social Relations Management) initiated this monitoring centre in order to develop studies and research in the field of all forms of discrimination. Its research activities focus on assessing the evolution of equality of opportunity in the labour market.

<sup>36</sup> *Discriminations à l'embauche : de l'envoi du CV à l'entretien* (April 2005) Study realised by Adia/ Paris I University,.

<sup>37</sup> This method is based upon 'couple audit', also known as testing. The ILO produced a brochure on how to use this method of testing discrimination 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. The only difference between their applications 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. Statistical results prove to be representative. In France, six cities will be tested.

<sup>38</sup> This testing was carried out in collaboration with the ILO in five countries (Belgium, the Netherlands, Spain, Germany and Italy) and it was carried out autonomously in Denmark and Switzerland.

### *c) Understanding discriminating processes*

Few general studies were made before the 1990s, except on specific populations (women, young foreigners, French people from overseas territories). A report published in 1994 by academic researchers pioneered the understanding of the discriminating processes in the workplace<sup>39</sup> in France. This was followed by a study focusing on discriminating processes in the public sector<sup>40</sup>.

To further the understanding of discrimination in the workplace<sup>41</sup> a research programme was launched in 2003 by the DARES, the *Fonds d'action et de soutien pour l'Intégration et la lutte contre les discriminations* (FASILD – Action and Support Fund for Integration and the Fight Against Discrimination<sup>42</sup>), and the *Groupe d'Etude et de Lutte contre les Discriminations* (GELD – Group for the Study and Struggle against Discrimination<sup>43</sup>). Its two objectives are to study discrimination in the workplace by studying its effects on the progress of professional careers, and deal with these issues by analysing institutional attitudes in conjunction with the impact of victim's experience of discrimination.

### *d) The experience of racist behavior and discrimination*

Most of the studies mentioned above underline that a significant proportion of the respondents had the feeling of being underestimated and misused, and denounced discrimination in employment. The study “Life Story” conducted by the INSEE<sup>44</sup>, which was carried out on 8,403 adults aged eighteen or older,

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<sup>39</sup> De Rudder V., Tripier M., Vourc'h, F. (Urmis : CNRS/Université de Paris 7/Université de Paris 8) (1994) "La prévention du racisme dans l'entreprise", Study for the European Foundation for the Improvement of Living and Working Conditions. Also refer to “Rapport URMIS sur les discriminations. Repérer les discriminations ethniques et raciales dans le domaine du travail et de l'emploi” (April 1998) in: *Etudes et recherches*, N° 165, Paris: ISERES Ed., 99 p. and Bataille P. (1997) *Le racisme au travail*, Paris : La Découverte.

<sup>40</sup> Morice A., Poiret C., De Rudder V., Vourc'h, F. (June 1998) “Racisme et comportements professionnels dans les administrations des Finances (Impôts, Trésor, Douanes)”, (Racism and Professional Conduct in Financial Administrations in France (Treasury, Taxation, Customs)), ISERES, CGT fédération des finances.

<sup>41</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation Française, 2003, pp. 117-118.

<sup>42</sup> Unofficial translation

<sup>43</sup> Unofficial translation

<sup>44</sup> The preliminary results of this INSEE study, carried out between 17.02.2003 and 25.04.2003, prepared and financed by the INED, the DRESS, the DARES, the DEPL Culture and the DIV, in collaboration with the INSERM and the GELD published in Direction de la Recherche des Études de l'Évaluation et des Statistiques (Drees) (2004), "Le vécu des attitudes intolérantes ou discriminatoires : des moqueries aux comportements racistes, in: *Etudes et resultants*", n° 290, (February 2004), 12p.

showed that immigrants and individuals of foreign descent are more targeted than others: 39 per cent claim to have undergone negative treatment, often in relation to their origin, the colour of their skin, their name, or their manner of speaking. These negative forms of treatment *increase* with their levels of qualification<sup>45</sup>. Young people (aged eighteen to twenty-four) appear to be particularly vulnerable<sup>46</sup>.

Another survey<sup>47</sup> shows that, faced with discrimination, young graduates turn to interim employment, try to start their own business or apply for work in sectors which are said to be protected from racism, such as artistic professions, social work or community work.

## 2. 2. A growing awareness of the need for policies to address employment discrimination

In France, 1998 was a turning point for the combat against employment discrimination. Strongly relayed by the media, there has been a considerable increase in the interest shown by the authorities and private sector employers in questions regarding diversity over the period considered, and this was particularly striking in 2005.

### 2.2.1 Awareness by national authorities

For French national authorities, 1998 was indeed a turning point: employment discrimination appeared on the agenda for the first time. After the HCI report<sup>48</sup> to the Prime Minister on the matter on 20.10.1998, a round table was organised with Trade Unions and employers' organizations, (May 1999), which led to the so-called 1999 "Grenelle declaration on racial discrimination, and the Citizenship Convention". Yet, partners still disagreed on the modification of legislation (especially the shift in the burden of proof, and the possibility for Labour Inspectors to sanction racial discrimination in the workplace): the employers' organisation (MEDEF) was opposed to "new repressive measures in

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*(Experiencing intolerant and discriminatory attitudes: from mockery to racist behaviour)*

<sup>45</sup> Algalva, E., Beque ; M. (February 2004) « Le vécu des attitudes intolérantes ou discriminatoires : des moqueries aux comportements racistes », in *Etude et Résultats*.

<sup>46</sup> Houseaux F., Tavan C. (2005), « Quels liens aujourd'hui entre l'emploi et l'intégration pour les l'immigration ? » in *Revue Economique*.

<sup>47</sup> Frickey, A. (dir.) (2003) *Identification des discriminations dans l'accès à l'emploi des diplômés du supérieur issus de l'immigration : de part et d'autre de la barrière, le discours des jeunes et des DRH*, Paris: Urmis, 295 p. (*Identification of Discrimination in Employment of Higher Education Graduates of Immigrant Descent: On One side of the Barrier or the Other*)

<sup>48</sup> Jean-Michel Belorgey « Lutter contre les discriminations : faire respecter le principe d'égalité » march 1999

the Labour Code”, and trade unions were not unanimous. On 18.03.2000, the Citizenship and Fight against Discrimination Meetings (*Assises de la citoyenneté et de la lutte contre les discriminations*) were organized to start a new policy against discrimination. The recent establishing of HALDE, which came after a first public scheme 2000-2004 (cf. 4.1.a.), also derives from this growing awareness by national authorities of the need for policies to address employment discrimination.

The Interministerial Committee on Integration of 10.04.2003<sup>49</sup> outlined various plans of action focused on employment: supporting the creation of enterprises by individuals of foreign origin, and mobilizing large economic networks for social and professional promotion. On November 13<sup>th</sup> and 14<sup>th</sup>, 2003, the DPM, the Economic and Social Council, the GELD, the British Embassy and the British Council organized a Franco-British conference on discrimination. The presence of six British and French Ministers, showed the commitment of the French government to transnational exchanges.

Regarding State employee recruitment policy, the 2004 D. Versini<sup>50</sup> report aimed at “diversifying public services in order to make them more representative of the nation they serve”, was based on a survey<sup>51</sup> screening the national origin of state employees. The functionality of such an integration policy favouring employees “of immigrant origin” was later questioned by the G. Calves<sup>52</sup> report.

Yet, the debate opened by the first GELD report<sup>53</sup> in 2000 that underlined structural inequalities in the labour market due to “reserved jobs [for French nationals]”, has somehow been evaded. Some 7 million positions (over a quarter of the work force) remain closed to some, or all, foreigners. The GELD report

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<sup>49</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Annual Report 2003, Paris: La Documentation Française, p. 108.

<sup>50</sup> *Rapport sur la diversité dans la Fonction Publique* (2004) report presented by Mrs. Dominique Versini to Mr Renaud Dutreuil, Minsitre du Service Public et de la Réforme de L'Etat (Minister for the civil service and State reform).

<sup>51</sup> Fougère D., (CNRS, CREST-INSEE, CEPR et IZA) and Pouget J., (CREST-INSEE et IZA) (2004), *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*, Paris: La Documentation Française, 60 p. available at: <http://www.ladocumentationfrancaise.fr/rapports-publics/054000049/index.shtml> (29.05.2006)

<sup>52</sup> 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 available at: <http://www.ladocumentationfrancaise.fr/rapports-publics/054000104/index.shtml> (29.05.2006)

<sup>53</sup> GELD (2000) "Une forme méconnue de discrimination : les emplois fermés aux étrangers (secteur privé, entreprises publiques, fonctions publiques)", note n°1, (March 2000) Paris: GIP-GELD-114 available at: <http://www.gisti.org/doc/presse/2000/ged/note.pdf> (29.05.2006)

also stressed the ways in which the scale of reserved employment (a) legitimized discrimination in general, and (b) favoured indirect discrimination to the detriment of French citizens of non-European origin.

At the governmental level, 2005 is notable for the creation of a department in charge of the promotion of equal opportunity<sup>54</sup>, whose Minister, Azouz Begab, set employment as a major objective.

Beyond the now well-established effects of racial discrimination upon the professional integration of immigrants and minorities, the 2005 Fauroux report<sup>55</sup> developed six main issues: development and sharing of the tools promoting awareness; awareness raising and training; reform of recruitment and management of staff (using, for instance, anonymous résumés and simulation); helping firms and the public concerned to communicate; intervention by the authorities; measuring diversity so as to be more familiar with firm employees<sup>56</sup>.

### 2.2.2 Awareness by trade unions

Traditionally, French trade unionism has concerned itself with the working conditions of immigrants to such a degree that immigrants have acquired several rights in the workplace that they do not have in other domains, such as the right to vote or be elected to representative authorities (union delegates, work councils). The Confédération Générale du Travail (CGT) showed early interest in the matter by funding different research projects on discrimination in the 1990s. The Confédération française démocratique du travail (CFDT) workers Union took up the issue of racial discrimination in its work plan for 2003-2006 through a European “EQUAL” project entitled, “*The Fight Against Discrimination: Reinforcement of Union Practices*”. All trade unions confederations have now adopted a consensual discourse of the fight against racial discrimination, particularly the CFDT and the CGT, as well as the employers organisation (MEDEF). Trade unions are also signatories of “diversity charters”<sup>57</sup> and all now have training programmes on racial discrimination with which they raise member awareness<sup>58</sup>. In practice however, at best, many of the ‘key players’ in the workplace continue to give their

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<sup>54</sup> [http://www.premier-ministre.gouv.fr/ministere\\_delegue\\_promotion\\_egalite\\_m582/](http://www.premier-ministre.gouv.fr/ministere_delegue_promotion_egalite_m582/) (29.05.2006)

<sup>55</sup> Ministry of Employment, Social Cohesion and Housing (2005), Fauroux R., *La lutte contre les discriminations ethniques dans le domaine de l'emploi*, Report.

<sup>56</sup> This was supervised by the Ministry for Equal Opportunity; it entailed the launching of an experimental survey on the measuring of diversity, carried out by the INED (see 2.1.2).

<sup>57</sup> « L’entreprise prend des couleurs », *Libération*, dossier emploi, 26-09-2005.

<sup>58</sup> See the CGT web site: <http://www.cgt.fr/internet/>

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

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

MEDEF : [www.medef.fr](http://www.medef.fr)

support to immigrant workers<sup>59</sup> on the sole basis of the defence of common legal provisions<sup>60</sup>. The EU funded “Trade Unions Against Racism” conference was held at the University of Paris 7 on 20.10.2005 and 21.10.2005. It presented the results of a 3-year comparative research project looking at “racial and ethnic minorities, immigration and the role of trade unions in combating racism” (RITU). The research was undertaken by an international team from Belgium, Bulgaria, Italy, France<sup>61</sup> and the UK who have worked closely with workers and their trade unions in the following sectors: health, retail, public transport and naval engineering, white goods manufacture, tobacco, textiles and construction.

A phenomenon that stands out is the “ethnicisation” of certain areas of the labour market, in particular in the building trade, but also cleaning sectors. Many French trade unions are uncomfortable with this tendency. With certain local unions gathering a growing number of members from ethnic minority groups, trade union leaders are concerned that trade union representation of all members could shift to representation of members from minority groups.

In the meantime, a new tendency has arisen and become strongly apparent in recent years. Various new ethnic minority associations have appeared. On the fringes of the employment sector, but closely associated to it, they assert a better representation of ethnic groups in activities from which they feel to be excluded<sup>62</sup>. Thus, the issue of discrimination in employment has become central in certain sections of French society, with some organisations calling for the development of positive action to combat discriminatory attitudes in recruitment. This is especially true for certain Black associations which mainly comprise African immigrants, French citizens with immigrant background, and French Overseas Departments (DOM) citizens<sup>63</sup>.

### 2.2.3 Changes in policies against discrimination

Over the period, several employers initiatives have developed around the *Institut Montaigne* (IM), created in 2000 and chaired by Claude Bébéar, former chairman of Axa France’s Surveillance Council. For instance in 2002,

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<sup>59</sup> “Immigration : une politique cynique bénéfique au patronat”, in : *Brochure Solidaires*, January 2006, 68 p.

<sup>60</sup> *Racial and ethnic minorities, immigration and the role of trade unions in combating discrimination and xenophobia*, Urmis (CNRS/Universités Paris 7[VII] and Nice-Sophia-Antipolis) Work Package 1 : National reports, France, 2003.

<sup>61</sup> Three recent URMIS reports are available on the French case : “Public Transport” November 2004; “Retailing” July 2005; “Health” December 2005.

<sup>62</sup> For example : “Fédération des Associations de Solidarité avec les Travailleurs Immigrés” (FASTI) ; “ELELE-Migrations et culture de Turquie”; “France terre d’asile”.

<sup>63</sup> For example the club « Africagora. Décideurs, cadres et entrepreneurs des diasporas africaines et carribéennes »

discrimination in hiring practices was specifically addressed through a campaign “ça va être possible”<sup>64</sup>. Initiated by SOS Racism and IM, a partnership with major companies (Axa, Schneider Electric, MacDonald’s, Michael Page, and others) has been established<sup>65</sup>.

On 28.05.2004, the Prime Minister met with a committee of company directors, chaired by Claude Bébéar. The company directors committed themselves to sign a Charter for a national strategy for equal opportunities. The Montaigne Institute report<sup>66</sup> recommends that a programme of equal access to employment should be established by implementing the “Diversity Charter”, signed by companies, by promoting the training of young people and equal opportunities in schools and by making the prevention of ghettoisation a national cause. The Charter states that specific measures should be taken for migrant women. The involvement of private companies, in particular large private companies, with this Charter was very important in 2005. Indeed, 231 companies signed the “Diversity Charter”<sup>67</sup> aiming “to support pluralism and to seek diversity through recruitment and management of careers” conceived as “a factor of progress for the company”.

This widely publicised mobilization of companies however remains limited to the largest ones, whereas the French economy essentially consists of small and medium-sized companies (*PME – petites et moyennes entreprises*) and very small companies (*TPE – Très petites entreprises*). Some initiatives were taken in order to objectify recruitment in places where the “discriminatory risk” is very high: the method by simulation (method of abilities) and CV anonymity have been experimented.

At governmental level, the political commitment to fighting discrimination in access to employment by the public authorities was pursued in 2004, mainly through the “Social Cohesion Plan”<sup>68</sup>, in four directions that are summarised as follows in a memorandum published by the DPM<sup>69</sup>:

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<sup>64</sup> “It is going to be possible” from a song by famous French pop music group Zebda about discrimination whose chorus includes an ironic expression members of minority groups regularly hear in all domains of everyday life : “it is *not* going to be possible”

<sup>65</sup> They agreed on the following procedure: the associations send them young graduate CVs and the firms commit themselves to interview them. They received 2000 CVs from engineers, IT and marketing specialists. Five hundred persons have been hired through these procedures. The campaigns continued in 2004. Pierre et Vacances, L’Oréal, Schneider and other large companies joined the operation.

<sup>66</sup> Sabeg Y., Méhaignerie L. (January 2004), *Les oubliés de l’égalité des chances*.

*Participation, pluralité, assimilation ... ou repli ?*, Paris: Institut Montaigne, 269p.

<sup>67</sup> Faure, S. et Platat, S. (2005) “L’entreprise prend des couleurs”, in: *Libération* (26.09.2005)

<sup>68</sup> France, Ministre de l’Emploi, du Travail et de la Cohésion Sociale, *Plan de cohésion sociale*, Paris, 30.06.2004, 45 p.

<sup>69</sup> Aubert P., Boubaker N. (May 2004), *La politique de lutte contre les discriminations raciales dans le domaine de l’emploi*, Notes et documents, N°50, Ministère de l’Emploi, du Travail et de la Cohésion sociale, DPM: Paris, 19 p. available at:

- the production of knowledge
- the diffusion of information on discrimination to the key economic players
- partnerships with key players in the labour market
- training and supporting institutional players at a local level

Government action also focused on civil servants themselves: the State took part in an EQUAL programme, ESPERE, which produces training courses for civil servants working in the area of employment in order to raise awareness and train them in the fight against discrimination.

Following the area-based policy development that has evolved for the last 25 years in France, additional measures have led to the implementation of territorial plans to fight discrimination in employment<sup>70</sup> and to the launch of such plans in ten new sites in 2004, six in 2005 and ten in 2006.

#### 2.2.4 "Diversity management"

A survey<sup>71</sup> carried out by *IMS-Entrepreneurship for the City*, with FASILD support, tried to publicize the situation and the actions and positioning of French firms on the issues of non-discrimination and diversity in relation to origin. The IMS met with approximately fifty company managers. It confirmed that the discrimination based upon origins is still a sensitive issue. The aim of this survey is to trigger discussions and emphasize the advantages of companies' involvement in promoting non-discrimination and diversity.

On February 3<sup>rd</sup> 2005 the government organized the first conference for equal opportunities. This conference, part of the social cohesion plan presented in 2004 by the government, should enable the expansion of new action in the field of anti-discrimination. The proposals resulting from this conference relate to three areas: initial and continuing education, access to employment and professional promotion. During this conference, the first branch agreement was also signed between the State, the FASILD and the trade union of Temporary

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<http://www.social.gouv.fr/htm/dossiers/dpm/publications/notesdoc/50/notdoc50.pdf>  
(29/05.2006)

<sup>70</sup> These plans were experimented with in 2002-2003 by the DIV, the DPM, the DGEFP and the FASILD on six sites.

<sup>71</sup> *Non-discrimination et gestion de la diversité dans les entreprises en France*, Paris, IMS-Entreprendre pour la Cité, 2005, 15 p. 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 : La Documentation Française, 144 p. available at:

<http://www.ladocumentationfrancaise.fr/rapports-publics/044000573/index.shtml>  
(29.05.2006)

Work Companies (SETT). This agreement aims at preventing discrimination and promoting diversity in temporary work companies and their client companies. The objective is to undertake a study and to inform about the tools already tested in the field of the fight against discrimination, in particular within the framework of the European project (EQUAL)<sup>72</sup>.

## 2. 3. The role of EU policy

Regarding the combat against employment discrimination, the role of EU policies has been determining and manifold, especially in raising awareness of national authorities, trade unions and employers of the need for policies to address employment discrimination. The EU funding of research certainly helped in furthering knowledge on discrimination and racism and steered the ongoing interest of French trade unions.

Large companies played an important part in the process, whereas small and medium-sized and companies are still lagging behind. Under the EU drive, the progressive commitment of the State in the combat against discrimination led to the creation of an independent body that many French NGOs had campaigned for earlier.

Over 2000-2006 EQUAL programmes contributed to the operation of the combat against discrimination (FSE funding for France amounts to 320 million euros), especially in the following domains of access to employment. However, it seems that the European Social Fund's slow administrative and financial procedures on the programme that ended in 2004, has deterred several new potential applicants from reapplying for EQUAL funding. The number of partnerships in the Development Partnership within EQUAL for both rounds (2002 and 2005) amounts to 450, and is split as follows<sup>73</sup> :

- 1A. Employability - reintegration into labour market : 138
- 1B. Employability- combating racism : 43
- 2C. Entrepreneurship - business creation : 44
- 2D. Entrepreneurship - social economy : 46
- 3E. Adaptability - life long learning : 65
- 3F. Adaptability - adaptation to change and NIT : 63
- 4G. Equal opportunities - reconciling family and professional life : 39
- 4H. Equal opportunities - Reducing gender gaps and desegregation : 0
- 5. Asylum seekers : 12

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<sup>72</sup> <http://www.sett.org> (11.10.2005)

<sup>73</sup> <https://equal.cec.eu.int/equal/jsp/index.jsp>.

## 3. Housing

### 3. 1. Trends in housing disparities

In France, there are no official statistical data (nor data produced by NGOs) on racism, xenophobia or discrimination in housing. Special studies and annual EUMC reports stress that in recent years, the subject of racial discrimination in the housing sector has been given little attention, either regarding statistical data, research, or action programmes carried out by public authorities or associations. The statistics concerning complaints of discrimination in the housing sector from the 114 helpline indicate that they represent 11 per cent of the complaints registered between 01.01.2004 and 30.06.2004<sup>74</sup>.

On 14.04.2005, 22 people died in a fire at a Paris hotel which took in asylum seekers in disadvantaged and unstable situations. That same year, on 25.08.2005, 17 people, including 14 children, died in a fire at an unsanitary building in Paris. These tragedies raised the question of immigrant housing conditions. Indeed, in both cases, the victims were Africans nationals, legally residing in France for several years. Associations denounce the lack of social housing in France and the absence of any real policy on housing. They underline the fact that many immigrant families are placed in unsanitary buildings and that further accidents are to be feared.

#### 3.1.1 Patterns and processes of segregation

In the 1970s, immigrants gained access to social rented housing when the State launched a policy against “shanty towns”. At the same time, the French middle classes began to leave post-war neighbourhoods, mainly consisting of social rented housing.

According to the 2005 publication of *Immigrants in France*<sup>75</sup> (based on statistical data deriving from the 2002 housing survey<sup>76</sup>) the proportion of immigrant households living in social housing had steadily increased: in 2002 they represented 17.3 per cent of tenants against 13.2 per cent in 1992. Yet, immigrant households still have fewer opportunities to access this type of housing. In 1996<sup>77</sup>, 855,000 households declared that they had applied for social

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<sup>74</sup> Sources : GIP GELD, September 2004.

<sup>75</sup> *Les immigrés en France*, INSEE REFERENCES, 2005 Edition

<sup>76</sup> INSEE, Enquête logement 2002.

<sup>77</sup> Boëldieu J., Thave S. (August 2000) "Le logement des immigrés en 1996", in: *INSEE Première*, n°730 available at:

<http://www.vie-publique.fr/documents-vp/ip730.pdf> (29.05.2006)

rented housing: among them 200,000 immigrants, amounting to 23 per cent of all applications. The Housing Survey shows that immigrants face much longer delays in the processing of their applications for social housing. Among households that recently moved into this type of housing, 40 per cent obtained their accommodation, on average, within three months of their application, and 75 per cent within six months. Among immigrants, only 58 per cent obtained accommodation within six months: 42 per cent waited at least one year, and 19 per cent waited less than 3 years (against 8 per cent for all households). These delays do not only depend on family size. Moreover, inequalities are still important in the type and location of the accommodation obtained<sup>78</sup>: for instance, three-quarters of immigrant households live in the oldest buildings (built before 1975).

The *Immigrants in France*<sup>79</sup> publication also pinpointed the fact that immigrant households, especially those originating from the Maghreb, were more frequently faced with situations of overpopulation (28 per cent and 40 per cent, as opposed to 5 per cent of non-immigrant households). The residential mobility of immigrants is comparable to that of other households, but data show that this mobility is limited in other ways. Figures show that 56 per cent of immigrant households that moved between 1997 and 2002 stayed in the same neighbourhood, as opposed to 38 per cent of non-immigrant households, and that only one in five immigrant households in private rented accommodation left their homes to become the owners of their new homes, compared to one third of non-immigrant households.

The State has considerably reduced the pace of social housing construction. In the meantime, the high level of unemployment has led to a growing number of applications for low-cost housing (1.5 million applicants in 2002, 20 per cent more than in 1996), and rents have seen an extremely sharp increase since 1988, especially in dwellings owned by private landlords. In 2004, close to three million people were affected by 'poor housing', some even having no home of any kind<sup>80</sup>. As in most other European countries, housing shortages and increasing property prices tend to intensify the mechanisms of spatial segregation that affect minority and other vulnerable groups.

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<sup>78</sup> Simon P., Chafi M., Kirszbaum T. (2001) *Les discriminations raciales et ethniques dans l'accès au logement social*, Paris: Groupe d'étude et de lutte contre les discriminations; 83 p. available at: <http://www.ladocumentationfrancaise.fr/rapports-publics/014000437/index.shtml> (29.05.2006)

<sup>79</sup> *Les immigrés en France*, INSEE REFERENCES, 2005 Edition.

<sup>80</sup> Conseil Economique et Social (2004), Prud'homme N., *Accès au logement, droits et réalités*, Paris, 272 p. available at: <http://www.ces.fr/rapport/docton/04011402.PDF> (29.05.2006)

An extensive piece of research published on the housing of low-income families, based on INSEE surveys from 1988 and 2002<sup>81</sup>, establishes that on average these families are younger than in the past and frequently live in low-cost housing, either rented from the public authorities (32 per cent in 2002), or from private landlords (24 per cent in 2002). Although this study does not distinguish low-income households according to their origin or nationality, one can nevertheless presume that the housing conditions described particularly concern immigrant groups in France, as these are heavily represented among low-income families. This study highlights persistent problems of overcrowding, with a high proportion of large families (their low income makes it impossible to adapt the size of the home to the size of the family). The net financial rent burden on income increased from 13 per cent to 16 per cent between 1988 and 2002.

In 2003, the Council of Economic Analysis published a report stating that the phenomenon of urban segregation is a real hindrance to the process of social integration<sup>82</sup>. Three conclusions stand out. There is a sustained existence of social imbalances in urban settings. This polarization is the legacy of a long period of persistent unemployment. Finally, that this dynamic has spread within the framework of “systematic urban segregation”, which is defined as a form of permanent social inequality. Immigrant populations are particularly subject to urban segregation<sup>83</sup>.

This analysis is strengthened by the first report<sup>84</sup> of the *Observatoire National des Zones Urbaines Sensibles*<sup>85</sup> (ONZUS, National Observatory of Urban Priority Zones). Foreigners nationals households are twice as present in Priority Zones as they are in other urban areas. Among the poorer households living in

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<sup>81</sup> Driant J.-C. et Rieg C. (2004), "Les conditions de logement des ménages à bas revenus", in: *Insee Première*, N°950, February 2004, 4p.

<sup>82</sup> Fitoussi J.P., Eloi L., Maurice J. (2003) *Ségrégation urbaine et intégration sociale*, Paris: La Documentation française, 137p. (= *Urban Segregation and Social Integration*)

<sup>83</sup> Among the proposed ways to favour social diversity is the introduction of a legal obligation to include a certain percentage of social housing in all new building projects and calls for a larger involvement of associations and local officials in the field of social urban development.

<sup>84</sup> Observatoire national des zones urbaines sensibles- ONZUS, Annual report 2004, La Les Editions de la DIV : Plaine Saint Denis, 254 p. available at: <http://www.ville.gouv.fr/pdf/editions/observatoire-rapport-2004.pdf> (29.05.2006)

Also refer to : Délégation Interministérielle à la Ville (DIV), Mission Observation, veille scientifique, évaluation, *Le logement des immigrés et des étrangers dans les Zones Urbaines Sensibles*, note d'information, 8 décembre 2003, 4 p. (= *The Housing of immigrants and foreigners in Urban Priority Zones*)

<sup>85</sup> Created by the 01.08.2003 Act, the role of the National Observatory of Urban priority zones is to measure social inequalities and development discrepancies in each urban priority zone (ZUS); as well as to monitor public policies carried out with respect to these and measure the specific means of these policies. Last, it is to assess effects of these policies in comparison with the objectives and indicators mentioned by the 01.08.2003 orientation and programming Act for city and urban renovation.

Priority Zones, the over-representation of households whose respondent is a foreign national is patent, irrespective of the occupancy status. This is even more accentuated in the private housing stock than in the social housing stock. Together with partner organisations and institutions, this report further highlights that very few data specifically concerning young people with an immigrant background are available.

Table 3. The Housing of Immigrants in Sensitive Urban Areas, 1999

	Proportion of the population living in Sensitive Urban Areas (ZUS) in the population of each country of origin			Composition of the population according to the country of origin	
	Mainland France	ZUS	%	Mainland France %	ZUS %
Total population	58 513 700	4 462 851	7.6		
Immigrant population	4 308 527	817 691	19	100	100
<i>Country of origin :</i>					
Spain	316 544	27 823	8.8	7.3	3.4
Italy	380 798	30 058	7.9	8.8	3.7
Portugal	570 243	66 504	11.7	13.2	8.1
Other EU	363 744	13 499	3.7	8.4	1.7
Algeria	575 740	176 060	30.6	13.4	21.5
Morocco	521 059	164 415	31.6	12.1	20.1
Tunisia	201 700	47 998	23.8	4.7	5.9
Turkey	175 987	62 937	35.8	4.1	7.7
Other non EU countries	1 202 712	228 397	19	27.9	27.9

### 3.1.2 Local context

In the first six months of 2004, several regions published statistical data concerning the situation of immigrant populations.<sup>86</sup> The data show important variations in the housing situation of the immigrant population due to the local context, and to years of presence of these populations in each region. In regions where there are few or, recently arrived immigrants, immigrant and French populations have very similar housing situations.

<sup>86</sup> INSEE (March 2004), *Atlas des populations immigrées de la région Poitou-Charentes*, p44 ; INSEE (April 2004), *Les populations immigrées en Aquitaine*, Insee Aquitaine, 2004, n°48, p 30 ; INSEE (June 2004), "Immigrés : le Portugal et le Maroc, principaux pays d'origine des immigrés résidant dans la région Centre", in: *Insee Centre info*, n° 124, 4p. ; INSEE (2004), *Les populations immigrées en Provence-Alpes-Côte d'Azur*, p 20 ; INSEE (April 2004), *Atlas des immigrés en Bretagne*, p41 ; INSEE (May 2004), *Atlas des populations immigrées en Corse*, INSEE, p 23

## 3. 2. Policy measures on housing exclusion and discrimination

### 3.2.1 The scope of housing-related measures targeting immigrants

The National Action Plan Against Racism policies have not yet been implemented in France.

#### *a) Legal provisions*

The Urban Orientation law of 1991 seeks to ensure the right of urban residency to all citizens, while the SRU law (*Solidarité et Renouvellement Urbain* – Urban Renewal and Solidarity) emphasizes social cohesion and the combat against segregation. Since January 2002, it requires municipalities with populations of more than 5,000 to provide that social housing forms 20 per cent of the total housing stock.

The National Programme of Urban Renewal planned, in Orientation and programme for the cities and urban renewal Act<sup>87</sup> of 01.08.2003 to develop several measures on housing. Nevertheless, the programme primarily plans the prior massive demolition of so-called dilapidated buildings<sup>88</sup>, which has led many NGOs, such as DAL (Droit au logement - Right to Housing), researchers and different key social players involved in urban planning and housing, to question the adequacy of this mode of intervention in post-war neighbourhoods in the context of a dramatic housing shortage<sup>89</sup>. The *Conseil National des Villes* also stressed this risk<sup>90</sup>.

In its report on access to housing, the Economic and Social Council offered various proposals in order to try to solve the problem of “poor housing” in

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<sup>87</sup> Unofficial translation for Act n° 2003-710 dated 1 August 2003 "d'orientation et de programmation pour la ville et la rénovation urbaine" (also known as the Borloo law)

<sup>88</sup> It plans the demolition of 200,000 social rented or private housing units, i.e. an average of 40,000 demolitions a year. This means a important acceleration in demolitions, as their number between 1999 and 2002 amounts to between 6,400 and 8,100.

<sup>89</sup> « Position générale du DAL (droit au logement) sur les démolitions de logements sociaux Renouvellement urbain et politique de la Ville », 26.05.2004, Rencontre organisée par l'Adels (Association pour la démocratie et l'éducation locale et sociale). NGOs, elected officials and professional also questioned the accessibility of newly built housing to the most vulnerable households.

<sup>90</sup> « Note et avis du CNV à M. J.-L. Borloo, Ministre délégué à la ville et à la rénovation urbaine, sur les démolitions et le renouvellement de l'offre de logements sociaux. », (13.03.2003), Conseil National de la Ville (*Memo and opinion of the City National Council on demolitions and renewal of available social housing*).

France.<sup>91</sup> Housing allowances should be adapted to the specific needs of families, in order to help groups that suffer from specific difficulties. Families' incomes should be taken into account, both concerning the proportion of their budget spent on rent, and the means that the family has to help younger and older family members. The Council also proposed the creation of a public service on housing and the annual construction of 320,000 dwellings by 2014, of which at least 120,000 should be low-cost housing.

The Social modernisation Act of January 17, 2002<sup>92</sup> transposed directive 2000/43. It strengthens the measures taken to fight discrimination by creating a right of appeal in civil courts against a refusal to let housing for residential purposes, for mixed purposes, or property rented as an accessory to the principal residence. It is, indeed, forbidden to refuse to let housing to a person on the basis of origin, family name, physical appearance, belonging or non-belonging to a real or alleged ethnic group, nation, race, or religion. This ban applies to private as well as social housing.

Moreover, administrative law guarantees equality of rights and treatment by the civil service, among others the equality of rights to social housing (equality of treatment of applications at the prefectures, municipalities, and council housing institutions), as well as equal access to private housing in the face of the pre-emptive rights<sup>93</sup> of town councils. In case of conflict or failure to reach an out-of-court settlement, the administrative courts will take over the case in order to put an end to the offence by re-establishing the rights of the victim.

## *b) Asylum seekers*

In the framework of National Asylum Seekers Reception Program ("*Dispositif national d'accueil*"<sup>94</sup>) there are two categories of reception centres for asylum seekers :

- 1- Reception Centres for Asylum Seekers (CADA, Centres d'Accueil pour Demandeurs d'Asile<sup>95</sup>) which are a specific category of emergency centre

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<sup>91</sup> Conseil Economique et Social (2004), Prud'homme N., *Accès au logement, droits et réalités*, Paris, 272 p.

<sup>92</sup> Loi n°2002-73 du 17 janvier 2002 de modernisation sociale, Journal officiel, 18 janvier 2002, pp. 1008-1052. (PUBFR0244). Article 1 of the "Mermaz" Tenants Act (loi n°89-462 du 6 juillet 1989).

<sup>93</sup> According to French law, town councils have the right to make the first offer to buy a property when on sale.

<sup>94</sup> DPM (2004) "La prise en charge des demandeurs d'asile dans le cadre du Dispositif National d'accueil".

<sup>95</sup> Legal provisions :

- circulaire n°DPM/91-22 du 19 décembre 1991 relative à la réorganisation du Dispositif national d'accueil ;
- circulaire n° DPM/CI3 99/399 du 8 juillet 1999 relative aux procédures d'admission dans le Dispositif national d'accueil des réfugiés et des demandeurs d'asile ;

(CHRS<sup>96</sup>). Between 1999 and 2004, its reception capacity increased from 3,781 places to 15,460<sup>97</sup>.

2- The Centre for Isolated Minors (CAOMIDA, *Centre d'Accueil et d'Orientation pour Mineurs Isolés Demandeurs d'Asile*), that takes in minors (age 14-17) for a maximum duration of 12 months. Located in Boissy-Saint-Léger, it opened in 1999.

Table 4 Asylum Seekers Reception Centres Capacity

Asylum Reception Centres :	Capacity
222 CADA	15 460
2 Transit Centers <sup>98</sup>	186
1 CAOMIDA	33
<b>TOTAL</b>	<b>15 679</b>

Apart from the National Asylum Seekers Reception Centres, other Asylum Seekers Reception Programmes exist within reception centres opened to other persons.

Table 5 Reception capacity within other Asylum Seekers Reception Programs

Programme :	Capacity in 2004
Asylum Seekers Emergency reception programme ( <i>AUDA - accueil d'urgence des demandeurs d'asile</i> <sup>99</sup> ) (from 2000)	1 200
Temporary Emergency Programme for Asylum Seekers <sup>100</sup> (from 2003)	1 195
Other reception capacities <sup>101</sup> such as immigrant hostels	close to 15 000
<b>TOTAL</b>	<b>17395</b>

Temporary Reception Centers (*CPH-Centres provisoires d'hébergement*)<sup>102</sup> are reserved for statutory refugees, since the official creation of the CADA.

- loi n° 2002-2 du 2 janvier 2002 rénovant l'action sociale et médico-sociale.

<sup>96</sup> Reception and Social Rehabilitation Centres (CHRS, *Centres d'Hébergement et de Réinsertion Sociale*).

<sup>97</sup> With the reform of insertion allowances, if an asylum seeker refuses admission to a CADA, he or she loses the right to the insertion allowance (which amounts to 290.67 euros per month for a maximum of 12 months.)

<sup>98</sup> Two transit centres provide temporary housing before admission to a CADA. One was created in 1975 and is located in Créteil (Paris urban area) and the other in 1997 in Villeurbanne (Lyon urban area).

<sup>99</sup> managed by the SONACOTRA (Société Nationale de Construction pour les Travailleurs).

<sup>100</sup> Managed by SONACOTRA and AFTAM.

<sup>101</sup> Opened by the Directions départementales des affaires sanitaires et sociales (DDASS)

<sup>102</sup> Temporary Reception Centres (for refugees) (CPH, Centres Provisoires d'Hébergement – pour réfugiés).

Nevertheless, the NGO *Forum Réfugiés* underlines the limits of the capacities of CPH (1,068 places for 5,185 statutory refugees in 2004) and time limitation (6 months) that very partially fulfill overall insertion objectives.

### *c) The 2004 "Plan on social Cohesion"*

The 2004 "Plan on social Cohesion" includes measures to increase low-cost housing availability, to reinforce emergency support and to improve the housing situation of discriminated groups in France.

It strengthens the emergency reception policy by increasing the quantity of accommodation and by establishing a priority criterion of access to low-cost housing. Articles 84 and 86 modify article L441-2 of the construction and occupancy code. The social cohesion Act gives priority access to social housing to people coming from reception and social rehabilitation centres (*CHRS, Centre d'Hébergement et de Réinsertion Sociale*). The code now establishes that "*priority in the attribution of flats must be given to people with disabilities or the households of disabled persons; to poorly accommodated or disadvantaged people; to people who encounter specific difficulties in finding accommodation for financial reasons or for reasons related to their living conditions, or to people that are momentarily taken in by transitory reception centres*".

This article thus put refugees coming from CHRS such as the CADA or CPH on an equal footing with French nationals that are taken in by such centres.

### *d) Lead poisoning in children*

A report made by the General Inspection of Social Welfare deals with the problem of lead poisoning in children in relation to unfit habitation in three *départements*<sup>103</sup> of the Ile-de-France region (Paris, Seine-Saint-Denis, Hauts-de-Seine).<sup>104</sup> Evaluation of the measures taken to assess the problem of lead poisoning in children led to three recommendations based on the Prime Minister's Environmental Health Plan in June 2004, namely, conducting of a nation-wide survey on lead poisoning in children, detection programmes in priority zones, the exemption of patients' financial contribution for detection tests, and the replacement of lead plumbing.

### *e) Information brochure on discrimination in housing*

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<sup>103</sup> Administrative subdivision between the region and the town (commune).

<sup>104</sup> Inspection Générale des Affaires Sociales (2004), Rousseau-Giral A-C., Tricard D., Crepey G., *La lutte contre le saturnisme infantile lié à l'habitat indigne*, Report, n°2004 034, March 2004, 238p.

In 2003, the SOS Racism NGO published a report on discriminatory practices in access to private housing<sup>105</sup>. It highlights the complicity of agencies; discriminatory methods; discriminatory practices and the production of evidence of discrimination admissible in Court. Its contribution helped to increase the awareness of national authorities: the Ministry of Housing published an information brochure on discrimination in housing<sup>106</sup> produced by SOS Racism. It offers practical and legal advice concerning housing search in private and public sectors.

### 3.2.2 Monitoring housing discrimination at local and national levels

The first relevant studies on housing discrimination date from the 1960s, but work completed before the 1990s is scarce. One of the main recent studies on the subject was carried out by the GELD<sup>107</sup> and deals with social housing. This contributed to a better understanding of discrimination in housing in France as well as helping to raise awareness of the different key social players involved in urban planning and housing, and also of the wider public. The housing situation of immigrants and foreigners shows significant discrepancies with that of French nationals in terms of occupation density, level of comfort, age of buildings, occupancy status, type of dwelling, waiting list for social housing, etc. A study funded by the FASILD<sup>108</sup> on difficulties of access to housing for young people with immigrant backgrounds states that deemed or real origins are at the core of the selection processes of social rented housing applicants.

Discrimination in access to housing can take multiple forms (indirect, direct and institutional) and can come into play at different points of the process. Cases collected by the 114 hotline particularly relate to private owners, real estate agencies, lessors, municipal workers or elected people.

From 1990, the debate surrounding housing and urban policies against segregation has been centred around the principle of “social diversity”. Legislation and people concerned officially refer to “social mix”, as

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<sup>105</sup> Thomas, S. (2003) *Bilan d'activité de SOS Racisme contre les discriminations dans l'accès au logement privé*, Paris: SOS Racisme, available at: <http://www.sos-racisme.org/> (29.05.2006)

<sup>106</sup> Direction générale de l'Urbanisme, de l'Habitat et de la Construction (2003) *La location sans discrimination*, available at: [http://www.logement.equipement.gouv.fr/publi/locaces/doc\\_pdf/guide\\_logt.pdf](http://www.logement.equipement.gouv.fr/publi/locaces/doc_pdf/guide_logt.pdf) (22/04/04)

Over 200,000 copies of the brochure have been distributed by Court Houses and judicial access schemes.

<sup>107</sup> GIP GELD (May 2001), *Les discriminations raciales et ethniques dans l'accès au logement social*. Memo. 83 p.

<sup>108</sup> Barou J. dir., Maguer A. (April 2003) "Les difficultés d'accès au logement des jeunes immigrés ou issus de l'immigration : identification des discriminations" Paris: La Documentation française. For a synthetic note, refer to "Migrations Etudes", n° 105, February 2002.

referring to “ethnic mix” remains either illegal or controversial, while in public debates the fear of “ethnic enclaves” is quite explicit. However, the objective of reaching a better “social mix” is highly problematic, as local studies and the GELD circular demonstrate that its practical application in selecting social rented housing applicants leads to direct discrimination. The analysis of the processes brought to light evidence that North African, sub-Saharan African and French Overseas Departments applicants, as well as young people of immigrant background, suffer the most from this type of discrimination.

Discrimination that affects the foreign (or considered to be foreign) middle class is not often analysed. A recent 2003 survey carried out analysis on the types of discrimination towards foreigners, migrants, or French individuals of foreign descent wishing to access housing in the private sector<sup>109</sup> in two neighbourhoods in Lyon and Paris. The study reveals the importance of practices of indirect or hidden discrimination by way of requests for security bonds or requests for a guarantor. The study advocates an improvement of legal action but also action to spread the knowledge of Community law and the creation of an ethical Charter against discrimination, which should be adopted by letting agencies.

A 2006 report<sup>110</sup> recently confirmed 1999 ECRI statements<sup>111</sup> concerning Roma/Gypsy housing exclusion. Part of the Roma/Gypsy population of France is not permanently sedentary. Although a 1990 law imposes on municipalities with a population of over 5,000 that they provide a place where travellers can stop, implementation of this law is reported to be unsatisfactory, as many municipalities have not provided such spaces or the spaces provided are not suitable. This results in Roma/Gypsies settling in areas from which they are often evicted<sup>112</sup>. The denial of travellers' rights to stop also has important repercussions on their employment and education opportunities. In this report, ECRI “urged the French authorities to address these questions” and consider

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<sup>109</sup> Chignier Riboulon, F. (dir), Belmessous (F. et H.), Chebbah-Malicet (L.) (2003) *Les discriminations quant à l'accès au logement locatif privé des catégories sociales moyennes étrangères ou perçues comme étrangères*, CERAMAC, Université de Clermont-Ferrand. (=Discrimination in Access to Private Housing for Middle Class Foreigners or Those Perceived as Foreign)

<sup>110</sup> Triby, H. (February 2006) "Discrimination et droit au logement en Europe", FEANTSA (European Federation of national organisations working with homeless) available at: [http://www.feantsa.org/files/housing\\_wg/Husing%20WG%20Prague%202006/Discriminationsetdroitaulogement%20termin%C3%A9%20sans%20logo1.pdf](http://www.feantsa.org/files/housing_wg/Husing%20WG%20Prague%202006/Discriminationsetdroitaulogement%20termin%C3%A9%20sans%20logo1.pdf) (29.05.2006)

<sup>111</sup> European Commission against Racism and Intolerance (ECRI) "Second report on France adopted on 10.12.1999"

<sup>112</sup> Also refer to European Roma Rights Centre, "Always somewhere else, anti-gypsyism in France", in: *Country report Series*, n°15 November 2005.

that “in this respect, the National Consultative Commission on Travellers established in August 1999 could play an important role”<sup>113</sup>.

### 3. 3. Changes in significant good practices

The Social Union of Housing developed an EQUAL programme<sup>114</sup> to propose a plan to prevent discrimination in public housing. The project aims at improving conditions of access by taking into account the housing needs of tenants of foreign origin (concerning the quality of services and residential mobility). It also reinforces the requirement for employees of administrative bodies of public housing to adapt to the expectations of migrant families. This project is supported by a staff training-action program which includes learning analytic methods for dealing with discriminatory situations, and research elements for resolving problems and maintaining professional standards.

The Regional Union of the CFDT trade unions of Ile-de-France (URSIF C.F.D.T.) led a project within the framework of the EQUAL programme named ATECCOD. This project is directed towards foreign women or women of foreign origins who face even more difficult situations than men. This project put forward the “residences link” (*logements passerelles*) for single 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 for social integration.

This project is innovative: first of all because of the process itself and also because of the nature of its initiators. Indeed, the trade unions and NGOs joined forces in order to set out a strategy to face racial discrimination by linking education, employment and housing.

### 3. 4. The role played by EU policy

The Council of Europe, through the European Commission against Racism and Intolerance (ECRI) reports that much progress has been made in several domains of the combat against discrimination in France (legislation, education, combat against anti-Semitism). Yet the ECRI 2005 report<sup>115</sup> states that several

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<sup>113</sup> European Roma Rights Centre, "Always somewhere else, anti-gypsyism in France", in: *Country report Series*, n°15 November 2005.

<sup>114</sup> The “Preventing Discrimination in Social Housing”, Social Union for the Inhabitant, Project is driven by the partnership with the National Centre of the Functions of Public Territories (CNFPT), the Funding for Action and Support for Integration and the Fight Against Discrimination (FASILD) and other structures of the HLM: The French Association for Insertion Through Housing (AFFIL), AFPOLS, IFMO.

<sup>115</sup> ECRI (2004), Third ECRI report on France, (made public on 25.02.2005) available at:

[http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/France/France\\_CBC\\_3.asp#TopOfPage](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/France/France_CBC_3.asp#TopOfPage) (29.05.2006)

of its recommendations have not yet been followed as regards travellers and Roms, as well as minorities, who are confronted by difficult situations, especially in housing.

As in other domains, EQUAL programmes contributed to the implementation of the combat against discrimination over the period considered.

## 4. Legislation

### 4. 1. Legislation addressing racial and ethnic discrimination

#### 4.1.1 Changes in legal procedures regarding discrimination

The French constitution forbids differential treatment on the basis of origin, race or religion. In its 1999 case law, the *Conseil Constitutionnel* recognized only the existence of a French people, regardless of origin, race or religion, and the law has consistently refused to admit such criteria as legal or administrative categories<sup>116</sup>. Thus, no section of the French population may claim to be a “people”, a “minority”, or a “group”, with cultural or other rights attached to such statuses<sup>117</sup>. The law grants to all individuals, and to their beliefs and allegiances, its uniform and impartial protection, but does so solely to them as individuals.

Mainly through criminal law, the Labour Code, and provisions concerning access to housing<sup>118</sup>, French legislation prohibits discrimination on the grounds of race, sex, ethnic origin, religion, sexual orientation or political opinion in all aspects of social life.

The law of 29.07.1881 (modified in 1982, 1986 and 1990) defines a number of offences deriving from the verbal (oral or written) and non-verbal expression of various forms of racism, specifically: racial defamation; racial insult; incitement to racial discrimination, hatred, or violence; denial of, or apology for, crimes against humanity.

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<sup>116</sup> Article 1 of the Constitution of the 5<sup>th</sup> Republic (1958) and France/ Conseil Constitutionnel/ DC 99-412 relative à la Charte européenne des langues régionales ou minoritaires (15.06.1999) (*decision of the Constitutional Court on the European Charter for Regional or Minority Languages*)

<sup>117</sup> Article IV of the *Déclaration des droits de l'homme et du citoyen*, and France/ Conseil constitutionnel/ DC 91-290/ *Loi portant statut de la collectivité territoriale de Corse* (14.05.1991) *Journal officiel*, p. 6350 (*decision of the Constitutional Court on the Act defining the legal status of Corsica*).

<sup>118</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Annual report 2004, p.71.

Public action against racism and discrimination have undergone major transformations since the end of the 1990s, partially due to the implementation of the anti-discrimination EU directives in national legislation<sup>119</sup>.

Two laws passed in 2001 and 2002, in the context of wide-ranging reforms triggered by EU directives, made significant changes to the Labour Code and the Criminal Code: the Anti-Discrimination Act of 16.11.2001<sup>120</sup> and the Social Modernization Act of 17.01.2002.<sup>121</sup> The Anti-Discrimination Act was initially intended to transpose Directive 97/80 of 15.12.1997 relating to the burden of proof in sexual discrimination cases. It also provided an opportunity to transpose some features of Directive 2000/ 43 and to give a statutory basis to the 114 / CODAC scheme (see below). The Act extends the scope of anti-discrimination policy and it institutes, for the first time, uniform legal treatment of all forms of discrimination, thereby removing certain inequalities in legal protection. With respect to racial discrimination, the Act extends the discriminatory criteria defined in article L122-45 of the Labour Code to real or ascribed origin, physical appearance and name; age and sexual orientation are also covered in the same way. The area where discrimination is illegal is extended to internships and all other aspects of working life. Furthermore, the law enshrines provisions already established in case law<sup>122</sup>, specifically by protecting complainants against dismissal (article L122-45-2) and providing parallel protection against victimization and dismissal for witnesses. The Act also creates new opportunities for trades unions and anti-racist organizations to sue on behalf of victims, subject to their consent (L122-45-1). More recently, in July 2005, the Law n°2005-843<sup>123</sup> transposed various measures of European Union legislation to public office.

### *a) The creation of an independent national body against discrimination*

The first public scheme aiming to tackle discrimination was established in different steps after 1998. Until 2004, it had three major components :

1. The *Commission Départementale d'Accès à la Citoyenneté-CODAC* was established in 1999 by the Ministry of the Interior through an administrative

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<sup>119</sup> Transposition of European directives 97/80 1997 December, 15th and 2000/43 of 29.06.2000 in French law. Cf. France, GIP GELD, Latraverse S. (2001) *L'approche française en matière de lutte contre le racisme, la xénophobie et les discriminations*, Legal Memorandum drafted in the framework of the Raxen project.

<sup>120</sup> France/ Loi no. 2001-1066 relative à la lutte contre les discriminations (16.11.2001) (JORF no. 267 du 17 novembre 2001, p. 18311) (*Act on combating discrimination*)

<sup>121</sup> France/ Loi no. 2002-73 de modernisation sociale (17.01.2002) (JORF no. 15 du 18 janvier 2002, p. 1088) (*Social modernisation Act*).

<sup>122</sup> France/ Cass.soc, *Harba*, Dr. Soc. 2001, 315, note Gérard Couturier (28.11.2000) (*Decision from the Civil Supreme Court, Social Chamber*)

<sup>123</sup> France/ Loi no. 2005-843 portant diverses mesures de transposition du droit communautaire à la fonction publique, (26-07-2005) (*Act transposing various EU measures to civil service*)

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

instruction on January 18<sup>th</sup> 1999. Under the supervision of prefects and prosecutors, it was in charge of the development and implementation of local policy against discrimination on the one hand, and of litigation of discrimination cases on the other. These structures brought together state departments, local elected officials, national job centres, welfare organisations, Chambers of Commerce and Industry, employer organisations, trade unions and anti-racist organisations.

2. The *Groupe d'Etude et de Lutte contre les Discriminations*-GELD was created in the second half of 1999. Its objectives consisted in conducting thematic studies on discrimination and management of the 114 telephone hotline. Since its creation the GELD has had coordinated working groups on the following issues: professions and employment barred to non-nationals, the use of law in the fight against discrimination, access to public housing, racially motivated violence, the training of security forces, and the discriminatory barriers encountered by certain groups in accessing employment.

3. The 114 telephone hotline was opened to victims of discrimination. It was to be a source of information, a place to talk and listen, an orientation platform and a public service for reporting acts of discrimination.

In spite of the difficulties encountered in giving appropriate responses to victims, the 114 telephone hotline helped “to reveal the importance of everyday discrimination and of the diversity of the needs and expectations of those who face discrimination”<sup>124</sup>.

The CODAC audit came to the conclusion that it did not obtain the expected results. The good intentions of the Secretary-Generals and the training they received, did not compensate for the structural inadequacy of the scheme:

- Advice and support to victims turned out to be inadequate.
- Indirect discrimination has not been dealt with.
- The initial ambition of a mobilization of public authorities and civil society did not occur.
- Legal proceedings – criminal and civil – remain scarce.

The limited results achieved by the scheme led to its transformation. In June 2003, the President of the Republic nominated Bernard Stasi, Ombudsman of the Republic<sup>125</sup>, to oversee the consultation and preparation of propositions

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<sup>124</sup> France, GIP GELD (2002) *La lutte contre les discriminations. Bilan critique de deux années de fonctionnement du dispositif 114-CODAC*

<sup>125</sup> Since its creation in 1973, the institution of the Ombudsman of the French Republic (*Médiateur de la République*) has been dedicated to improving relations between the French government and citizens. The Ombudsman of the French Republic has three major responsibilities: a) amicably resolve disputes between citizens and government departments or bodies with a public service role. b) propose reforms to the government and civil service departments. c) actively participate in the international promotion of human rights. Before the creation of the HALDE, referral to the Ombudsman of the

regarding the creation of an independent authority to fight all forms of discrimination. Mr Stasi's report<sup>126</sup> was presented to the Prime Minister on 11.02.2004.

In order to further complete the transposition of Directives 2000/43 and 2000/78, of 15.07.2004, the government presented a Bill before Parliament creating the HALDE. The HALDE is an independent administrative body competent to handle all discrimination, direct and indirect, and which is forbidden by the laws of the Republic or "by any international engagement ratified by France", allowing it to adapt to future legal evolutions. It covers discrimination on the grounds of actual or supposed race or origin, gender, disability, age, health, religion, sexual orientation, ideology, appearance, union activities, in all domains regulated by the law. The HALDE began operating<sup>127</sup> in 2005 with the nomination of its president, Louis Schweitzer and of the ten members composing the board of directors.

#### *b) The measurement of diversity and the Data-processing and Freedom law*

One of the tools identified to register discrimination in the workplace is the measurement of diversity. However, measuring diversity initially requires the collection of data relating to the ethnic origin of employees. The French Data-processing and Freedom law<sup>128</sup> on 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 opinions, trade-union membership of the individual, or are related to health or sexual orientation*" (our translation). The CNIL however recalls, in a recommendation of 9.07.2005, that the Data-processing and Freedom Law does not prevent the "temporary" collection of certain information related to ethnic origin if the purpose of this work is to combat discrimination. With the condition however that a certain number of precautions are taken :

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French Republic could be used in cases of discrimination involving public services, though access is not direct: citizens have to go through the intermediary of a member of parliament, deputy or senator.

<sup>126</sup> France, Stasi, B. (2004) *Vers la haute autorité de lutte contre les discriminations et pour l'égalité : rapport au Premier ministre*, Paris: La Documentation française, 116 p. (Toward a high authority against discriminations and for equality: report to the Prime Minister) Available at:

<http://www.ladocumentationfrancaise.fr/brp/notices/044000074.shtml> (29.05.2006)

<sup>127</sup> See the Annex for the table of complaints recorded by the Halde in 2005

<sup>128</sup> France/ Act n° 2004-801 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, (06-08-2004) (Protection of private persons as regard personal data Act) available at:

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0100026L> (29.05.2006)

1. To collect and use data in accordance 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 collection processes begin;
3. The data processing must remain confidential;
4. The statistics must relate to a groups of more than 10 people;
5. The individual data files use to provide statistics must be destroyed once the statistics are produced;
6. To inform the CNIL by lodging a “normal declaration” with its services.

This recommendation is a significant advance in France, since it will make it possible to gather, to a certain extent, data on discrimination and diversity in the work place.

### *c) Access to health*

There are emergency solutions for the applicants for asylum who do not yet benefit from general health insurance. As with French citizens, legally resident non-nationals are entitled to complementary health insurance, this complementary insurance can be private or State provided (CMUC – *Couverture Maladie Universelle Complémentaire*) if the person is unemployed or has a low income and cannot afford private health insurance<sup>129</sup>.

Illegal immigrants, people who do not have a residency permit can benefit from State medical aid – AME, if they fulfill the income criteria. Through this aid, 100 per cent of medical care costs are covered by the State and people are not required to advance medical expenses. However, two governmental decrees<sup>130</sup>

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<sup>129</sup> Law references:

- Articles L.380-1 and in pursuance of the Social Security Code (CSS) which defines the CMU and the affiliation to general sickness insurance according to 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.187-3 of the Family Code (CF);
- Articles L.862-1 and in pursuance of the CSS which creates the CMU fund and defines the complementary CMU;
- Article L. 254-1 of Social Action and Familles (CASF);
- Administrative instruction DSS/2A/99/701 of December 17th.

<sup>130</sup> France/ Décret n°2005-860 relatif aux modalités d'admission des demandes d'aide médicale de l'Etat (28.07.2005) (decree relating to processing requests for State medical aid) available at:

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCA0422024D>  
(29.05.2006)

France/ Décret n° 2005-859 relatif à l'aide médicale de l'Etat (28.07.2005) (*decree relating to State medical aid*) available at:

published in July 2005 complicate medical aid for non-nationals in need of healthcare. They require illegal immigrants to provide proof that they have been on the French territory for at least 3 months in order to have the right to access State medical aid (AME). Humanitarian associations, health organizations and associations for the defence of immigrant's rights protest that the provisions of these two decrees exclude access to care to those who, in French society, are more vulnerable to ill-health. Several of these signed a petition addressed to the French government calling for it to annul these decrees<sup>131</sup>.

*d) Integration policy and changes in immigration rules and procedures (conditions for entry and stay)*

*Law for social cohesion – third section: Equal opportunity*<sup>132</sup>

The objective of the law for social cohesion adopted on 18.01.2005 is: "To break the vicious circle of exclusion, of unemployment and discrimination". To achieve this goal, the so-called Borloo law proposes to act on employment (title I), housing (title II) and 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 origin. Thus the law creates the "Agence Nationale de l'Accueil des Etrangers et des Migrations" (ANAEM - National Agency for the Reception of Foreigners and Migrations). This agency was established on 20.04.2005 by Decree 2005-381<sup>133</sup>. ANAEM will be in charge of receiving foreigners who hold a residency permit. It will propose the "contract of reception and integration" to migrants 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 in France for the first time.
- Equality between children and teenagers by the implementation of devices for achieving educational success in certain difficult urban zones or schools in priority education zones. These devices of

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<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCA0422023D>  
(29.05.2006)

<sup>131</sup> <http://www.gisti.org/doc/actions/2005/ame/non.pdf> (29.05.2006)

[www.icare.to/icare-francais/actualite.html](http://www.icare.to/icare-francais/actualite.html) (29.05.2006)

<sup>132</sup> France/ Act n° 2005-32 de programmation et d'orientation pour la cohésion sociale (18.01.2005) – Titre 3 : Promotion de l'égalité des chances

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SOCX0400145L>  
(29.05.2006)

<sup>133</sup> <http://www.social.gouv.fr/hm/actu/anaem/sommaire.htm>

France/ Décret n°2005-381 relatif à l'Agence nationale de l'accueil des étrangers et des migrations et modifiant le code du travail (20.04.2005) (*decree setting up the National Agency for the Reception of Foreigners and Migrations and amending the Labour Code*)

educational success provide for action for the guidance of pupils and their families, in the educational, extra-scholar, cultural, social or medical fields.

The law for social cohesion gives a legal base to the Immigrant Populations Integration Regional Programs (PRIPI - *Programme régional d'intégration des populations immigrées*) launched on 10.04.2003 by the *Comité Interministériel à l'Intégration*. The administrative regulation DPM/ACI1 n° 2003/537 issued on 24.11.2003 aims at the extension and generalisation of a) public reception service, b) of local plans for newly arrived migrants (*plans départementaux d'accueil des nouveaux arrivants*) c) regional programmes for the integration of immigrants. The latter are run with local communities and determine action that will enhance social, cultural and professional promotion of immigrants.

#### *Asylum seekers*

Legal provisions transposing Council Directive 2003/9/EC setting minimum standards for the reception of asylum seekers: The Law 2003-1119 of 26.11.2003 related to the control of immigration, the residency of foreign people and nationality<sup>134</sup>. This partially implements the Council Directive 2003/9/EC as it sets out the reception conditions for applicants for asylum.

The *Conseil d'Etat* decree<sup>135</sup>, adopted on 23.08.2005, modifying decree n°46-1574 (30.06.1946) sets out entry and residency conditions in France for foreign people, it ensures asylum seekers a dignified standard of living and limits secondary movements to other Member States. Nevertheless, in France the reception conditions for applicants for asylum are not yet adequate and a dignified standard of living is not ensured to asylum seekers or refugees by the State. In its 3<sup>rd</sup> report, published on February 15<sup>th</sup> 2005, ECRI is concerned about the treatment of refugees and asylum seekers and it notes the persistence of complaints relative to poor treatment of members of minority groups, in particular in the 'waiting' areas. These complaints often concern police officers and prison warders. France is also blamed for the non-ratification of several international treaties on the protection of minorities, civil equal rights or the European convention on nationality.<sup>136</sup>

According to the annual report of the "*Office français des protection des réfugiés et apatrides*" (OFPRA - French office for the protection of the refugees

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<sup>134</sup> France/ Act n° 2003-1119 relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité (26.11.2003)  
<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=INTX0300040L>  
(29.05.2006)

<sup>135</sup> France/ Décret en Conseil d'Etat/ n° 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

<sup>136</sup> [http:// www.coe.int](http://www.coe.int) / T / E / [Human Rights](#) / [ECRI](#) / [1-ECRI](#) / [2-Country-by-country approach](#) / [France](#) / (29.05.2006)

and stateless people)<sup>137</sup>, in 2004, 65,600 people applied for asylum in France, only 16.6 per cent of these were allowed to stay in France.

#### *Deportation and voluntary repatriation*

An administrative regulation on holding centres, issued on 30.05.2005, aims at giving precision on the composition and organisation of the national consultative commission of control of holding centres and 'waiting' areas, which will examine the conditions of detention of foreigners in these zones. Several NGOs question the provisions of this administrative regulation, notably the increase of the reception capacity of these centres, which will officially be able to receive families with children, whose presence in these kinds of zones is unsuitable. The French NGO CIMADE mentions the "dehumanisation of these places" and adds: "should we call them 'holding centres' or has the time come to call them 'camps' ?"

It is very difficult to find readily available statistics on deportation and voluntary repatriation. In February 2005, the *Observatoire des statistiques de l'immigration et de l'intégration* (Observatory of statistics on immigration and integration) established in summer 2004 by Jean-Louis Borloo, Minister for Social Cohesion, published its first report<sup>138</sup>. According to this report, using Ministry of the Interior figures, 55,900 deportation procedures were reported in 2003, among them 80 per cent were procedures for escort back over the border. In 2002, the figure for deportation procedures was 55,700, 38 per cent of which were effectively carried out.

### 4.1.2 New forms of legal assistance to victims

#### *a) NGOs*

Since the end of the 1990s, of the anti-racist organisations, the *Mouvement Contre le Racisme et pour l'Amitié entre les Peuples* (MRAP – Movement Against Racism and for Friendship between Peoples) and *SOS Racisme* have accomplished a new approach towards anti-discrimination by adding new expertise to their usual actions against racism and anti-Semitism. Empowerment strategies and different forms of support for victims of racial discrimination – such as assistance in resolving cases or legal help, advice and assistance when processing cases through courts – are some aspects of the fight against discrimination that have recently been implemented<sup>139</sup>.

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<sup>137</sup> OFPRA (2005), Annual report 2004, Fontenay-sous-bois : OFPRA available at: <http://www.ladocumentationfrancaise.fr/rapports-publics/054000265/index.shtml> (29.05.2006)

<sup>138</sup> Groupe permanent chargé des statistiques de l'Observatoire des statistiques de l'immigration et de l'intégration (2004), Report 2002-2003, Paris : Observatoire des statistiques de l'immigration et de l'intégration - HCI, 63 p

<sup>139</sup> EUMC *Organisations supporting victims of discrimination* France, July 2005

### *b) The HALDE procedure to help victims of discrimination (from June 2005)*

The Halde set up a new telephone helpline for victims : 08 1000 5000. Callers can obtain information on their rights, French legislation and on the procedure for submitting cases to the HALDE. The helpline is open from Monday to Friday, 9.00 to 19.00 and local call rates apply. Any person considering themselves to have experienced discriminatory practices can refer their case directly to the HALDE in writing.

Any anti-racist NGO established for at least five years can bring a case to the HALDE in support of victims of discrimination, under the condition that the victim consents.

Any person considering themselves to have experienced discriminatory practices can also refer to the HALDE through the intermediary of a Member of Parliament, a Senate member, or a French Member of the European Parliament.

The HALDE can directly handle cases of direct or indirect discrimination that it is aware of, under the condition that the victim, when identified, has been informed and does not oppose to the procedure.

#### 4.1.3 Did the Race Equality Directive change success rates in litigation ?

Article 17 of the Bill for the creation of the HALDE<sup>140</sup> states that in these areas each has a right to equality of treatment independently of his or her deemed or real origin, and benefits from the presumption and transfer of the burden of proof provided for in the EU directive. However, it also creates an exception in criminal matters, and provides for a judge with investigative powers in these cases.

However, the concept of indirect discrimination, though introduced in French legislation<sup>141</sup>, is still very restrictively understood, or even misinterpreted, when it comes to litigation. For instance, an Industrial Tribunal case involving seven employees from the Renault company, several of them retired, relates to allegations of racial discrimination in the course of their careers. An inquiry was opened, and an expert investigation of the company's files was ordered in order

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140 Bernard STASI « Vers la Haute Autorité de Lutte contre les Discriminations et pour l'Égalité : rapport au Premier ministre » Premier ministre - février 2004

<sup>141</sup> GELD Note n°2 (2000) The use of the law in the fight against discrimination: the burden of proof

to allow a comparative analysis of the development of their careers.<sup>142</sup> This case thus applies the comparative analysis method, inspired by EU anti-discrimination law and recognised by the *Court de Cassation* in trade union discrimination matters, to discrimination on grounds of origin.<sup>143</sup> Paradoxically, the 12.12.2005 Industrial Tribunal judgement acknowledges “salaries, careers and salary scales discrepancies” between African-origin plaintiffs and their colleagues. Nevertheless, the company was found not guilty of discrimination in “the context at the time”, also arguing “neither the organisation, nor facts, aimed at marginalising these workers”. The CGT Trade Union and the MRAP will appeal against this decision.

In the meantime, with the support of GIP-GELD and FASILD, the Paris departmental branch of the CFDT has developed a training module for their members elected to the Paris labour court and for employee representatives covering discrimination law and procedural strategy to implement the shift in the burden of proof in accordance with EU Law. This module should ensure the training of all their judicial personnel in 2004 and 2005.

#### 4.1.4 Changes in the legal understanding and approach to racial harassment

*See section 6*

#### 4.1.5 Annual number of legal proceedings regarding racial or ethnic discrimination<sup>144</sup>

Over the period considered, the effective enforcement of anti-discrimination legislation remains problematic.

In spite of existing legislation, enforcement figures are still very low. In 2002, statistics list 162 convictions for racist offences relating to all categories of racist acts. Indications for 2003 confirm that, despite a slight increase, litigation remains derisory compared to the actual number of racist acts of violence and discrimination. The sentences handed down are also generally light (nine offenders were sentenced to prison and fifty-one received suspended sentences or fines)<sup>145</sup>.

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<sup>142</sup> « Renault accusé de discrimination raciale par un cadre d'origine tchadienne » 23/06/2004

<sup>143</sup> Cour de cassation chambre criminelle 14/06/2000 CFDT Interco N°99-81.108

<sup>144</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation Française, 2003, 2004, 2005 and 2006.

<sup>145</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation Française, 2003, pp. 73-79 and annex 2

In particular, there are very few rulings in which the accused is found guilty of discrimination as provided in article 225-2 of French criminal law: yet the number is slowly increasing : from 3 in 1997, to a maximum of 29 in 2002 (cf. Table 6 and 7), whereas 564 cases of discrimination were registered in 2005.

CNCDH<sup>146</sup> note that statistical data from the Ministry of Justice improved in 2005 but still question persisting shortfalls (in the collection of monthly data) and a lack of coherence (if compared with data from the Ministry of Home Affairs). A major change occurred in 2005 : monthly statistics from the criminal judicial system now allow an evaluation of the number of cases relating to racist offences, whereas previously only anti-Semitic cases were registered. In other words, statistical data available for 2005 are not comparable with previous annual data (except for anti-Semitic cases).

For 2005, CNCDH report a high rate of racist and anti-Semitic cases in the criminal courts.

Table 6. Cases registered by the prosecutors' office, 2005

	Prejudice to dignity <sup>147</sup>		Prejudice to persons		Prejudice to possessions		Discrimination		Abuse and slander		TOTAL	
	Number of cases	Of which perpetrators are identified	Number of cases	Of which perpetrators are identified	Number of cases	Of which perpetrators are identified	Number of cases	Of which perpetrators are identified	Number of cases	Of which perpetrators are identified	Number of cases	Of which perpetrators are identified
Racism	47	34	256	186	139	42	524	394	1908	1479	2874	2135
Anti-religion	11	3	13	11	43	7	22	9	18	18	123	48
Anti-Semitism	12	3	30	14	183	20	18	9	230	128	473	174
Total	70	40	299	211	365	69	564	412	2172	1625	3470	2357

Racism represents a large majority of all racist, anti-Semitic and anti-religion related registered cases in 2005: 2874 cases registered in 2005, being 83.83 per cent of all registered cases. The number of racist offences is six times higher than that of anti-Semitic offences.

Nevertheless, the CNCDH report notes a significant number of anti-Semitic related cases registered in 2005 : 473 in 2005 against 430 in 2004. The rate of legal response (the proportion of cases prosecuted to all cases which could have

<sup>146</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation Française, 2006

<sup>147</sup> « prejudice to dignity » reports infringements of violation of graves and prejudice to the integrity of a corpse.

been prosecuted) nevertheless decreased : 74 per cent in 2005 against 95 per cent in 2004.

The total rate of legal proceedings based on racist, anti-Semitic or anti-religion offences is 43.3 per cent in 2005, which is inferior to the general rate (46.3 per cent). It mostly depends on identification of the perpetrators : in 2005, from a total of 3470 cases, at least one of the perpetrators was identified in 2357 cases, *i.e.* 67.9 per cent. There is a discrepancy between cases in this respect: perpetrators are identified in 74.3 per cent of racist cases whereas only 36.8 per cent of perpetrators are identified in anti-Semitic cases.

Among perpetrators, the overall proportion of minors is 11.1 per cent (which is above their proportion in all legal cases: 8.6 per cent). It is higher in anti-Semitic related offences, where 25.5 per cent of identified perpetrators are minors.

This has consequences on the type of penalties imposed: in 2005 alternative modes of conflict resolution represented 38.8 per cent of cases, including pedagogical responses when minors are involved.

Table 7. Number of penalties according to the type of offence<sup>148</sup> (1998/2004)

	Year	1998	1999	2000	2001	2002	2003	2004
	Total	<b>114</b>	<b>111</b>	<b>132</b>	<b>154</b>	<b>162</b>	<b>218</b>	<b>296</b>
Law on Freedom of the Press 1881		96	104	116	138	133	195	270
Discrimination criminal code article 225-2		15	7	16	16	29	20	15
Other cases		3					3	11

Source : casier judiciaire DAC G/Pôle Etudes et Evaluation

## 4. 2. The role of EU policy

EU directives have clearly driven major changes in existing national anti-discrimination legislation, especially regarding the implementation of two successive public schemes against discrimination, leading to the recent creation of an independent body, the HALDE.

Some changes are specific to the French context. Recent laws and programmes described above illustrate the return to an integrationist perspective in France (cf. section 7). Changes in legal understanding of racial harassment – that led to the aggravation of penalties – have been driven by French public authorities.

<sup>148</sup> Legal categories and existing relatively heterogenous data have been simplified for readability: the figures obtained are given for indicative purposes. Please report to CNCDH annual reports over the period considered for detailed data.

In the meantime, restrictive immigration rules and procedures (*i.e.* conditions for entry and stay), that lead to direct and indirect discrimination against foreigners and their children regarding working conditions, access to health, the right to family life, and even personal safety, depend both on European migration policies and on on-going national debates on the matter.

## 5. Education

### 5. 1. Data collection mechanisms for incidents of racism and discrimination

The Ministry of Education's Direction of Development and Programmes, in charge of collecting statistical data related to schools, does not collect data concerning the ethnic or racial origin of students. Nevertheless, the data of the Minister of the Interior for 2003 led the CNCDH to conclude that: "while two different communities were driven to publicly denounce the physical or verbal aggression taking place within or in close proximity to their schools, the Jewish community is, as in previous years, targeted more than others by violence in educational environments: records show that 23 violent acts in relation to racism and xenophobia out of a total of 224 took place in schools - 10.26 per cent, and 95 acts related to anti-Semitism, out of a total of 581, took place in schools - 16.36 per cent.<sup>149</sup> In addition, the data show that 21 "anti-North African" racist or xenophobic threats or acts of violence, out of a total of 137 in 2003, took place in or around schools: twelve instances of racist graffiti, eight verbal or phone threats directed at students or teachers of foreign descent, and one case of distribution of anti-Arab and anti-African tracts at a high school.<sup>150</sup>

#### 5.1.1. A new source of data : the SIGNA software

The SIGNA software implemented in 2001 by the National Ministry of Education in most primary and secondary State schools is to be used as a tool for collecting data on serious acts of violence that take place in State schools and institutions. At present, 30 per cent of State schools do not have access to the software. Since January 2004, the racist or anti-Semitic motive of each single act can be monitored<sup>151</sup>. Hence, it is not possible to compare data collected from January 2004 onwards to results from previous years. Since January 2004, some 1,030 acts with a racist motive, and 230 acts with an anti-Semitic motive have been registered by education institutions (primary schools, technical colleges, educational training colleges, Regional Establishments for

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<sup>149</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Annual Report 2003, La Documentation française, p.35

<sup>150</sup> France, CNCDH, *La lutte contre le racisme et la xénophobie*, Annual Report 2003, La Documentation française, p.47

<sup>151</sup> When created, the SIGNA acts nomenclature consisted of 27 entries. In this nomenclature, a single entry referred specifically to racist acts : "insults with racist character". Certain acts, such as physical violence, thefts, or tags could be motivated by racist attitudes, but the survey did not allow to distinguish between acts that were not motivated by such considerations.

Adapted Teaching (EREA)), amounting to 3 per cent of all reported acts. Yet incidents are geographically concentrated in approximately 10% of the establishments.

Acts of violence in schools in January and February 2005 have been the object of an official publication<sup>152</sup>. The proportion of schools that reported at least one incident was lower in January-February 2005 than in January-February 2004: 63 per cent of schools (which responded to the survey) as opposed to 65.5 per cent the previous year. The most significant decrease was registered in secondary schools (from 4.8 to 4.4), while figures largely remained stable in technical schools. Schools reported 355 racist acts and 94 anti-Semitic acts in January-February 2005. Racist acts have diminished by 20 per cent in comparison with January-February 2004, whereas the number of anti-Semitic acts has remained the same. Over the same period, among the anti-Semitic acts, one should also note the large proportion (nearly 30 per cent) of “other serious factors”<sup>153</sup>, i.e. factors that are not explicitly mentioned in the list.

### 5.1.2 Newly arrived foreign students

In the French education system, there are no provisions to take into account specific student populations in regard to their origins or religion, apart from specific receiving classes developed to facilitate the schooling and linguistic education of newly arrived foreign students. These were created for students coming to France within the context of reuniting families, as foreign members of French families, or as children of families with refugee status. The welcoming of newly arrived young persons into academic institutions is managed by departmental educational authorities for both non-francophone school-aged children in primary schools (CLIN) and secondary schools (CLA). There is also an independent academic institution, GRETA, for newly arrived students over the age of sixteen (a growing category). According to the

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<sup>152</sup> Signalement des actes de violence par les établissements publics du second degré, synthèse pour la période janvier-février 2005, MENESR DEP C2, March 2005 (*Recorded acts of violence in public secondary schools over the January-February 2005 period*)

<sup>153</sup> The 2003 IGEN report on factors influencing situations of violence in schools sheds light upon the deficiencies of the application program SIGNA and concluded as follows: “*how to reason soundly on uncertain grounds?*”. The report underlined the “*ambiguities of the descriptions*” deriving from SIGNA: data are based upon subjective criteria since they concern acts which were reported and which had important repercussions on the school community – elements whose evaluation depends on the opinion of persons in charge and on the context. The IGEN also indicated that “*some school principals consider reporting as a risk of stigmatisation of their schools; hence they do not report acts of violence.*” It also referred to the position of a principal whose declarations “*take into account the probable impact of acts of violence upon public opinion (the press, parents and the local authorities) rather than the actual seriousness of the incident*”, which suggests that the way a violent act in school is reported in the media depends on the intensity of the news.

Ministry of National Education, for the 2002-2003 school year, close to 65 per cent of the 38,000 newly arrived students in France were enrolled in these types of programmes.<sup>154</sup>

A policy document issued in April 2002, reiterated and redefined the national priority of facilitating the integration and schooling of newly-arrived learners and children from the travelling community. In this regard, the 22 former CEFISEM (Information and Training Centres for the Schooling of Children of Migrants) were re-named CASNAV (*Centre Académique pour la Scolarisation des Nouveaux Arrivants et des enfants du Voyage*)<sup>155</sup>.

Two surveys<sup>156</sup> published in 2005<sup>157</sup> which are both to be found in the report entitled “school reception of the newly-arrived in France”, aim at giving an account of the difficulties children of migrants recently arrived in France meet<sup>158</sup>, either within specific receiving classes or in ordinary classes offering extra teaching in French.

### 5.1.3 From education to employment ?

The CNRS/Nice University survey “Young diploma-holders with immigrant background: professional integration or discrimination”<sup>159</sup>, which was carried out for the FASILD, tackled the situation of diploma-holders. Based on previous studies, (the aforementioned CEREQ survey<sup>160</sup> and another qualitative

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<sup>154</sup> ADRI (2002), *Guide Pratique de l'intégration*, La Documentation française, pp. 137-153

<sup>155</sup> The CASNAV (academic centres for the education of the newly-arrived and traveller children) publish yearly statistical surveys concerning the specific classes that receive these children.

<sup>156</sup> De Zoia, G. - Visier, L. (2003), *Émigrer en France à l'âge du collège*, Montpellier : IUFM et De Schiff, C., *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*, LAPSAC (Université Bordeaux 2) - CADIS (EHESS).

<sup>157</sup> Rapport réalisé pour le Fasild dans le cadre du programme de recherche interministériel « Cultures, villes et dynamiques sociales ».

<sup>158</sup> Also refer to Schiff C, Lazaridis M., Octave C., Barthou E., Chauprade B., Delorme A., *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*, LAPSAC-CADIS, Université Victor Segalen, Bordeaux II, 2003, 157p.

<sup>159</sup> Frickey, A., Borgono, V., Primon, J.-L., Vollenweider-Andersen, L., "Jeunes diplômés issus de l'immigration : insertion professionnelle ou discriminations?", in: *Collection "Études et recherches"* (FASILD), La Documentation française, 2005.

<sup>160</sup> For this particular study, authors identified, for a specific level of education, the difficulties met by young people with immigrant background by comparing their accessibility to jobs and their integration according to their geographical or national

survey) this study – backed up with figures – showed that despite a successful education, young people coming from the Maghreb are disadvantaged as regards to professional integration<sup>161</sup>. Recently, the INED symposium on the schooling and professional integration of young people with immigrant background<sup>162</sup> highlighted researchers' ongoing interest in this problem.

There is almost no statistical data available on the educational attainment of immigrants or minorities nor on drop out rates in French Universities. The above mentioned CNRS/Nice University study shows that 33.6 per cent of young people of immigrant background give up university before their second year, compared to 16.3 per cent of students of French background.

## 5. 2. Policies and practices discriminating against vulnerable groups

### 5.2.1 Access to education and drop out rates<sup>163</sup>

Priority Schools, created in 1993, and Educational Priority Networks (REP) in 1997, continue to define Priority Education in terms of target sites where the population is most at risk of schooling difficulties, failure or drop out, as well as violence and other crimes.

According to the data published in *Repères et Références Statistiques – 2002 sur les enseignements, la formation et la recherche* (Ministry of Youth, National Education and Research (MJENR))<sup>164</sup>, at the start of the 2001 school year, France had 706 Priority Education Zones (ZEP) and 808 Priority Education Networks (REP), comprising a total of 8,551 State schools or establishments. The number of ZEP or REP schools varies significantly between local education authorities<sup>165</sup>. In the same year, 675,000 pupils (21.5%)

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origins registered on the basis of their parental origins: France, southern Europe, the Maghreb.

<sup>161</sup> Also refer to early conference and publications on the matter : Aubert, F., Tripier M. et Vourc'h F., (1997) *Jeunes issus de l'immigration. De l'école à l'emploi*, Paris, L'Harmattan.

<sup>162</sup> L'insertion scolaire et professionnelle des jeunes issus de l'immigration, *Colloque du 18 mars 2005* (Dares / Ined).

<sup>163</sup> Franchi V., ADRI, (2003) Raxen 4 NFP Analytical report on education in France, November 2003.

<sup>164</sup> All statistical data was obtained from the MJENR web site : (<http://www.education.gouv.fr/stateval/rers/repere.htm#12>)

<sup>165</sup> Within the whole of Priority Education (EP), the percentage of schools ranges from 5.1% in the local education area of Caen to 32.7% in Paris and 26.9% in Créteil. The percentage of lower secondary schools in ZEP or REP ranges from 6.4% in Limoges to more than a third of all schools in the areas of Aix-Marseille, Corsica, Créteil, Lille and

were schooled within Priority Education secondary schools, as compared to 17.9% in 1999. These figures are 17.3% and 15.2% respectively if one considers only ZEP establishments.

The studies reviewed in more recent literature<sup>166</sup> concur that inequalities persist among French-origin and immigrant-origin school-goers (in terms of achievement, length of schooling, mainstream or vocational direction, likelihood of involvement in behaviour such as juvenile crime, truancy, drop-out). In spite of the concerted efforts made by governmental and non-governmental organisations to eliminate inequalities and foster educational achievement of these populations, the very policies implemented to address these problems may in fact be part of the root causes of the types of problems that are becoming common-place in priority education today (for instance violence, disciplinary problems, teacher burn-out, and the mobility of teachers)

<sup>167</sup>

Table 8. Type of Population Schooled: A comparison of Priority Education (EP) versus non-Priority-Education (Non-EP) schools

	EP	Non-EP	Total
<b><i>Social Environmental Indicators</i></b>			
Proportion of 6 <sup>th</sup> graders (with SEGPA) whose parents are unskilled workers or inactive.	62.8%	39.9%	44.7%
Proportion of 6 <sup>th</sup> graders (not in SEGPA) whose parents are unskilled workers or inactive.	62.1%	39.2%	44%
<b><i>Learning Lags or Repeated Years</i></b>			
Proportion of pupils lagging behind at the beginning of the 3 <sup>rd</sup> cycle	26%	14.7%	16.7%
Proportion of pupils lagging behind at the end of the 3 <sup>rd</sup> cycle	30.8%	18.1%	20.3%
Proportion of pupils repeating a year among 6 <sup>th</sup> graders	11.3%	9.3%	9.7%
Proportion of pupils having repeated two years or more in 6 <sup>th</sup> Grade	7.4%	4.1%	4.8%
Proportion of pupils repeating a year among general 3 <sup>rd</sup> graders	8.1%	7.8%	7.9%
Proportion of pupils having repeated two years or more in 3 <sup>rd</sup> Grade	12%	6.6%	7.7%
<b><i>Early Schooling</i></b>			
Children schooled at 2 years of age in the public sector	37.9%	30.7%	32%

Rouen. As compared to mainland France, where 13.6% of all secondary schools fall within priority education and 10.9% in ZEP, these figures were much higher for the overseas French departments (DOM) (34.9% and 24.1%, respectively). Since the overall reform of the priority education map in 1999, there is little reported change in the number of EP schools from one year to the next. Only 30 secondary schools either entered or left EP.

<sup>165</sup> These had been implemented in 1998 as a way of rationalising extra-school help by integrating existing measures under one single umbrella measure.

<sup>166</sup> ADRI, Raxen 4 NFP (November 2003) Analytical report on education in France.

<sup>167</sup> See for example, Payet J.-P. (2000, Nov.). *Civilité et ethnicité à l'école. Une sociologie morale des mondes scolaires disqualifiés*. Habilitation à diriger des recherches, Université Lumière Lyon 2 ; Payet J.-P. (1999), "Dérives éthiques dans les relations enseignants-parents", in: *Cahiers Pédagogiques*, n° 5 ; Payet J.-P. (1992). *Civilités et ethnicité dans les collèges de banlieue. Enjeux, résistances et dérives d'une action scolaire territorialisée*. *Revue Française de Pédagogie*, n° 101.

Source: MEN, Direction of Schooling, Direction of Programming and Development (DPD) (<http://cisad.adc.education.fr/icotep/> November 2003)

Table 9. Educational Achievement : A comparison of EP versus non-EP schools

	EP	Non-EP	Total
<b>Access Rates</b>			
Access rate from 3 <sup>rd</sup> grade to General and Technological 2 <sup>nd</sup> grade	49%	60%	57%
From 3 <sup>rd</sup> grade to Vocational 2 <sup>nd</sup> grade	37%	24%	27%
From 3 <sup>rd</sup> grade to 2 <sup>nd</sup> grade	85%	84%	84%
From 6 <sup>th</sup> grade to Vocational 2 <sup>nd</sup> grade	26%	18%	20%
From 6 <sup>th</sup> grade to 2 <sup>nd</sup> grade	61%	63%	62%
<b>Future of 3<sup>rd</sup> grade pupils by the end of General and Technological 2<sup>nd</sup> Grade</b>			
1 <sup>st</sup> S (Scientific)	20.5%	29.1%	27.6%
1 <sup>st</sup> L (Literary)	9.7%	10.9%	10.7%
1 <sup>st</sup> ES (Economic and Social)	12.4%	15%	14.6%
1 <sup>st</sup> SMS or STS	18.7%	12.8%	13.9%
1 <sup>st</sup> STL or STI	7.1%	6.6%	6.7%
1 <sup>st</sup> BTN Specific	0.2%	0.4%	0.4%
BEP or CAP	4.4%	2.7%	3%
Repeat year	22%	17.4%	18.2%
Other	5%	5%	5%
<b>Future of 3<sup>rd</sup> grade pupils at the end of Vocational 2<sup>nd</sup> Grade</b>			
Terminale BEP or second year of CAP	80.3%	83.8%	82.9%
Reorientation (transfer to other subject area) or repeat year	6.9%	4.8%	5.4%
Other	12.7%	11.3%	11.6%

Source: MEN, Direction of Schooling, Direction of Programming and Development (<http://cisad.adc.education.fr/icotep/>, November 2003)

## 5.2.2 Segregation and Priority Education

Many of the schools which fall within priority education areas or networks cater for an overly high proportion of immigrant children and French children of immigrant descent. Nevertheless, the recently published book *Apartheid in schools*<sup>168</sup>, which continues surveys published in 2002 and 2003<sup>169</sup> on the question of ethnic segregation in secondary schools, notes the fact that from the perspective of research and “official” data concerning education, the ethnic issue remains invisible<sup>170</sup>. To bypass this difficulty, the authors chose to consider pupils’ first names<sup>171</sup> as an indication of their cultural origins. The

<sup>168</sup> Felouzis, G; Liot, F.; Perroton, J. (October 2005)., L'Apartheid scolaire, enquête sur la ségrégation ethnique au collège, Editions du Seuil.

<sup>169</sup> Felouzis, G; Liot, F.; Perroton, J., École, ville, ségrégation. La polarisation sociale et ethnique des collèges dans l'académie de Bordeaux, CADIS-LAPSAC, Université de Bordeaux 2, Juin 2002 et "La ségrégation ethnique au collège et ses conséquences", in : *Revue française de sociologie*, n°4, 2003.

<sup>170</sup> NB : Files gather all the students registered in secondary schools, but they do not supply direct information about pupils’ cultural origins. They do not include parental birthplaces or nationalities and information on pupils’ nationalities is insufficient.

<sup>171</sup> Even if ambiguities are frequent, first names appeared to the authors as significant markers regarding religion and country of origin. Together with nationality, these

first conclusions highlight the fact that 40 per cent of pupils with immigrant background, whether they are French or not, are concentrated in 10 per cent of all secondary schools.

This highlighting of ethnic segregation in schools (especially in secondary schools) was echoed by the 2003 Raxen report<sup>172</sup>, which underlines the fact that a recent series of evaluations was undertaken to assess the impact and success of priority education over the past 20 years. While inequalities among learners are persistent at all levels of the schooling system, priority education may in fact contribute towards producing and reproducing inequalities and discrimination.

The most recent evaluation survey concerning priority education zones<sup>173</sup> in 2005, besides underlining the poor efficiency of this policy (the creation of priority education zones did not improve pupils success rates), pinpointed a stigmatising effect which is illustrated by the avoidance strategies of parents who consider the ZEP as a negative signal and prefer to put their children in different schools. Furthermore, authorizations of school transfers are granted more frequently when requested by French parents than their immigrant counterparts. At the same time, the overrepresentation of parents of immigrant pupils among those requesting such authorizations is a clear indicator of the strong school mobility of this population<sup>174</sup>.

### 5.2.3 Mother tongue instruction

On 7.05.1999, the French Minister of Foreign affairs signed 39 provisions out of 95 of the Charter of Regional or Minority Languages of the European Council, and added several exceptions. On 20.05.1999, the President of the Republic submitted the case to the *Conseil Constitutionnel* [Constitutional Council], which considered that some provisions of the Charter were contrary to the French Constitution in a decision of 15.06.1999. The ECRI report, adopted on 25.06.2004<sup>175</sup>, underlines that the Charter has not yet been ratified by France.

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indicators allowed them to distinguish the “natives” from “the French of foreign origin” among the 144,000 pupils of the 333 public and private schools in the South West of France concerned by the survey.

<sup>172</sup> ADRI, Raxen 4 NFP analytical report on education in France, November 2003.

<sup>173</sup> Bénabou, R.; Kramarz, F.; Prost C., (2005), "Zones d'Éducation Prioritaire : Quels moyens pour quels résultats ?", in: *Économie et Statistique*, September 2005.

<sup>174</sup> See Arnaud, D.. "Du Val-Fourré à la bonne école", in: *Libération*, (15.02.2001), p. 15, the story of a father who fought to have his son re-admitted into a class in a school for which he had not initially been zoned. He was motivated by the strong belief that only access to quality schooling would protect his children from social problems and facilitate their mobility and integration.

<sup>175</sup> CNCDH, Annual report 2005, *La lutte contre le racisme et la xénophobie*, Paris: La Documentation française.

Five so-called 'non-territorial' languages were added to the regional languages and those of the DOM (overseas departments), as well as North African Arabic, oriental Armenian, Berber, Romany, Spanish-Jewish, Yiddish, that were all migrant languages originally, but that are now considered as the languages of French citizens.

Eight modern languages are taught in primary schools (English, German, Portuguese, Spanish, Italian, Arabic, Russian, Chinese) in addition to the regional languages. Fifteen modern foreign languages are taught in secondary schools: in alphabetic order: Arabic (literary), Chinese, Danish, Dutch, English, German, modern Greek, modern Hebrew, Italian, Japanese, Melanesian languages, Polish, Spanish, and Turkish; likewise the regional languages: regional languages of Alsace, Basque, Breton, Catalan, Corsican, Langue d'Oc, regional languages of the Gallic, Mosel and Tahitian regions). 22 languages can be the subject of non-optional exams for the *Baccalauréat*, and 45 the subject of optional exams.<sup>176</sup>

Yet the UN CERD<sup>177</sup> (Comitte on the Elimination of Racial Discrimination) observes the insufficiency of the teaching of certain languages of several ethnic groups - such as Arabic, Amazigh or Kurd in education.

### 5. 3. Debates and legislation on religious symbols at school

Debates around the issue of religious symbols at school have been ongoing in France for several years. The debate gained in intensity in 2003– and thus became “an affair”, that has echoed far beyond French borders<sup>178</sup> – and in 2005, the first evaluation of the 2004 law has also been highly controversial.

Until 2003, in principle, the wearing of religious emblems in school was not considered by the *Conseil d'Etat* (High Administrative Court), to be incompatible with the principle of secularity in itself. Between 1989 and 1997, it rendered three decisions regarding Islamic headscarves: a first in 1989, a second in 1995 regarding the legality of the Bayrou circular prohibiting the wearing of the Islamic headscarves at school, and in 1997 a decision aiming for regulation of religious emblems in school.

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<sup>176</sup> See : BOEN n°6 du 5 février 2004.

<sup>177</sup> Observation finales du comité pour l'élimination de la discrimination raciale (66<sup>ème</sup> session, 21 février-11 mars 2005) reported in CNCDH, Annual report 2005, *La lutte contre le racisme et la xénophobie*, Paris: La Documentation française.

<sup>178</sup> Lorcerie, F. (dir.) (2005) *La politisation du voile en France, en Europe et dans le monde arabe*, Paris: L'Harmattan. This book gathers contributions from specialists of the Arabic and Turkish worlds and of Islam in Europe : Fabienne Brion, François Burgat, Larbi Chouika, Franck Frégosi, Vincent Geisser, Eric Gobe, Gérard Groc, Saïd Haddad, M'hammed Idrissi Janati, Gilles Manceron, Simona Tersigni et Nicola Tietze.

Therefore, the wearing of Islamic headscarves could be the object of a general ban imposed by way of administrative regulation and had to be addressed by school principals on a case by case basis in accordance with the following guidelines resulting from the aforementioned decisions: students were free to express and manifest their beliefs in school in accordance with the principles of pluralism and in respect of the freedom of others, as long as they did not proselytise or undermine teaching activities or the content of programmes and that they respected the obligation of regular attendance.

The year 2003 was marked by an intense debate on this issue, widely covered in the media, in relation to the work of the Committee of Reflection on the Application of the Principle of Secularity in the Republic that was presided by Bernard Stasi, Ombudsman of the Republic. On 11.12.2003, this Commission presented a report concluding that “peace” in school required the regulation of the conditions relating to the wearing of religious emblems in school and that it could only be made done by way of the legislative process. It therefore proposed that Parliament adopt a law on the wearing of religious symbols in schools. This law was adopted on 15.03.2004, and while it does not prohibit the wearing of religious emblems, it forbids, in State primary and secondary schools, all ostentatious religious signs and clothing by which students can assert their religious obedience. The administrative instruction of 18.05.2004, on the conditions of enforcement of the above mentioned law, which has been redrafted three times, was published on 22.05.2005<sup>179</sup>. It states that “the prohibited emblems and clothes are those by which, whatever they be called, one is immediately identified by his or her religious beliefs, such as Islamic headscarves, the Kippa or a cross of manifestly excessive dimension.” (our translation). In 2005, according to the ministry of education, 1,200 girls attended school wearing the Islamic headscarf<sup>180</sup> on the first day of this law coming into effect.

As this new law raised a certain number of debates, an evaluation of the results of the enforcement of the law was done in 2005. In June 2005, Hanifa Chérifi, general inspector of 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 law<sup>181</sup>. Ms .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 emblems (two large

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<sup>179</sup> France/ Circulaire relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 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, (18.05.2004) (JORF n°118 du 22 mai 2004 page 9033)  
[www.education.gouv.fr/bo/2004/21/MEN0401138C.htm](http://www.education.gouv.fr/bo/2004/21/MEN0401138C.htm) (29.05.2006)

<sup>180</sup> "Un lendemain de rentrée calme sur le front du voile", in: Libération, (03.09.2004)

<sup>181</sup> This report was published in June 2005 by the Agency for Education and Training (Agence éducation et formation – AEF).

Bronner, L. (2005) “Un rapport dresse un bilan positif de la loi sur le voile à l’école”, in : *Le Monde* (27.08.2005)

crosses, 11 Sikh turbans, 626 Islamic headscarves), that is to say, 50 per cent fewer than the previous year. Most of these religious signs (82 per cent) were listed in regions in six educational districts where the immigrant population is very high (Strasbourg – 208, 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 from the school by a decision of the disciplinary board (44 for the wearing of Islamic headscarves, 3 for Sikh turbans) and 96 pupils decided voluntary to leave the State school, they are now registered in private schools or follow courses by correspondence<sup>182</sup>. Detailed figures of registration in private schools or at the CNED (*Centre national d'éducation à distance* – National Centre for Distance Learning) are not available. Nevertheless, 28 excluded pupils appealed to the courts. In July 2005, the first twelve judgements given confirmed the decisions of expulsion.

In her report, Hanifa Chérifi, asserts that “on the basis of information directly received from the heads of establishments or transmitted by academic correspondents, a number of girls and parents felt “the application of the law was a relief”. But the general inspector remains careful on the future implementation of the law: “It is obviously advisable not to regard the question of religious signs, and more specifically that of the Islamic headscarf, at school as definitively regulated”. The report notes in particular that, “some pupils no longer wear the headscarf, others still wear it as soon as they are outside school”. An astonishing comment insofar as the application of the law does not extend to ‘outside’ school. Regarding the academic year 2005-2006, in September the Ministry of National Education listed only 12 cases of pupils wearing religious emblems 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 brings together several associations, among them the *Centre d'études et d'initiatives de solidarité internationale* (Cedetim - Centre of Studies and Initiatives for International Solidarity). In a “black book of the anti-headscarf law”, to be published at the beginning of 2006, it draws up its own assessment of the school year 2004-2005. The co-operative insists on the fact that it is necessary to add to the official figures of exclusions and withdrawals, the “quiet exclusions”: “These invisible victims (...) simply did not present themselves at school in September, they are not able to plan to remove the headscarf and do not wish to be subjected to the humiliating procedure of the disciplinary board”. From extrapolations, the co-operative estimates that this phenomenon would at least relate to “200 to 300 pupils, to 700 to 800 pupils”. It qualifies consequently as “indecent” the assessment established by Hanifa Cherifi. The application of the law raises a final problem : Article 4 provided that it would be the subject of an

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<sup>182</sup> For example, in Strasbourg, 11 young girls asked the school inspectorate for authorization to be registered at the CNED (Centre national d'éducation à distance).

evaluation "one year after its application". However the only evaluation, carried out by Ms. Chérifi, has not been submitted to the members of Parliament.<sup>183</sup>

In a report published in March 2005<sup>184</sup>, the *Comité contre l'islamophobie en France* (CCIF – Committee against Islamophobia in France) also denounces the harmful effects of the law: abandoning 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 employees in general. The report lists all the cases of exclusion and includes testimonies of several pupils.

## 5. 4. Initiatives

More recent policies and legislation regarding education for migrants, minorities, non-nationals and learners of so-called immigrant origin include a National Council and initiatives for combating violence in schools (implemented as of January 2000); reinforcing and rationalising extra school help through the creation of the[a] local contract for extra school help (June 2000), a single programme to replace the former Extracurricular Educational Activities Program (AEPS), the School Solidarity Networks (RSE), and the first generation Local Contracts for Extra School Help (CLAS); and, strengthening of already existing programs catering for the educational needs of newly-arrived learners from foreign countries<sup>185</sup>.

On 10.04.2003, the Interministerial Committee for Integration<sup>186</sup> adopted numerous new measures for immigrant pupils including welcoming and educational projects, designed for newly arrived students between the ages of sixteen and eighteen with insufficient prior schooling in their home country, and additional training programmes for the personnel of Academic Centres for the Schooling of Newly Arrived and Traveller (Rom) Children-(CASNAV).

The convention<sup>187</sup> between The Ministry of Education, the Ministry of Employment, the FASILD and the *Office National d'Information sur les Enseignements et les Professions* (ONISEP / National office of Information on Education and Professions) signed for a duration of two years on 13.07.2004

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<sup>183</sup> 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](http://www.reseau-ipam.org/rubrique.php3?id_rubrique=291) (29.05.2006)

<sup>184</sup> 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> (29.05.2006)

<sup>185</sup> A Contract for Executives was signed on the 7<sup>th</sup> of March 2001 by the Direction of Populations and Migrations (DPM), the FAS and the Ministry of National Education

<sup>186</sup> *Actualités Sociales Hebdomadaires*, N° 2307, (18.04.2003), pp. 15-20

<sup>187</sup> "Convention cadre relative à la mise en œuvre dans le champ de l'éducation des actions arrêtées dans le cadre du comité interministériel à l'intégration", 13.07.2004.

implements these objectives : it aims to facilitate the orientation and adapted schooling of newly-arrived learners, to develop the “integration role of school”, to adapt schooling and professional orientation and to develop additional training programmes for teachers and careers advisers.

#### 5.4.1 Awareness raising

On 9.12.2003<sup>188</sup>, the Minister of Youth, National Education and Research, presented an outline of the “Republican Booklet”. Published in January 2004, it consists of a number of programmes intended to modernise civic instruction in primary and secondary school. The first part is a bibliography and pedagogical films, including one on the history of the Shoah. The second part is an activity-based guide for teachers and education workers designed to allow them to formulate adapted responses to instances of racism or anti-Semitism.

Measures were also taken in 2004 in order to install software filters in school computers that automatically block access to internet sites that may contain racist or anti-Semitic material.

Every year for more than 20 years in France, national co-operatives organise the National Anti-Racism Education Week coordinates a multitude of local initiatives (concerts, debates, lectures, competitions, etc.) organised by academic institutions, local authorities and anti-racist NGOs. This event became considerably extensive, involving a majority of schools and many local players, supported by several institutional partners.

During 2005, with the significant number of events for the commemoration of 60th anniversary of the liberation of the Nazi concentration camps, the National Education has worked over on this occasion its educational and teaching programmes (sometimes unsuited) devoted to the Holocaust.

Also in 2005, two itinerant operations were created : the "Caravan of Courage against all forms of discrimination" aiming to educate pupils of colleges and high schools in citizenship, and the "Caravan of Diversity" whose objective was to increase the value of young graduates coming from minorities.

Many debates also emerged in France on the history of French colonization, and particularly its teaching in school textbooks. These debates were reinforced by the reports (submitted to the Prime Minister on 12.04.2005)<sup>189</sup> and proposals of the new Committee for the Remembering of Slavery, advocating a better taking into account of the history of the slave trade in French teaching and research<sup>190</sup>.

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<sup>188</sup> Communiqué du Premier ministre (2003), available at:

<http://www.premier-ministre.gouv.fr/fr/> (29.05.2006)

<sup>189</sup> [http://www.comite-memoire-esclavage.fr/rubrique.php?id\\_rubrique=8](http://www.comite-memoire-esclavage.fr/rubrique.php?id_rubrique=8) (29.05.2006)

<sup>190</sup> <http://www.comite-memoire-esclavage.fr/> (29.05.2006)

<http://toutesegaux.free.fr/> (29.05.2006)

In March 2005, the Alsace region, confronted with serious racist and anti-Semitic incidents, created a new tool entitled “*le mois de l’autre*”<sup>191</sup> (the Month of the Other), whose objectives are to develop education and awareness of tolerance, respect, good citizenship and the fight against all forms of racism, integrism, anti-Semitism and xenophobia.

#### 5.4.2. Pupil support

The Interministerial Committee for Integration called for the extension of the “Open School” programme (launched in 1991, it allows school opening during holidays or weekends, with a wide range of activities to for students that are unable to go away on holiday) and stressed the importance of both schooling support programmes and parental involvement.

On 30.06.2004, the Plan for Social Cohesion announced by the Minister of Employment, Labour and Social Cohesion presented an important recommendation on education. This Plan will give rise to the creation of 750 educational teams within primary schools in the Educational Priority Networks, making it possible to follow-up the schooling of children in difficulty, as well as their families, either individually or in groups. 150 educational platforms and boarding schools should be created in order to help non-attendant secondary school pupils or pupils with major difficulties.<sup>192</sup>

#### 5.4.3 Teacher support

As mentioned in the Ministry of Education, Ministry of Employment, FASILD and ONISEP 2004 convention, CASNAV will develop training programmes for teachers and partners of support programmes, such as NGOs.

#### 5.4.4 Parental support

Parental support is addressed through “*dispositif des réseaux d’écoute, d’appui et d’accompagnement des parents*» (REAAP<sup>193</sup>/Networks of Listening and

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[http://toutesegaux.free.fr/article.php3?id\\_article=191](http://toutesegaux.free.fr/article.php3?id_article=191) (27-09-2005)

"La mémoire de l’esclavage rassemble les Français d’origine française ou antillaise mais... le pouvoir black n’est pas pour demain" (2005), in: *France soir* (11.05.2005), pp.2-5

"La montée des minorités" (2005), in: *Le Point*, (12.05.2005), pp. 36-44

<sup>191</sup>[http://www.ac-strasbourg.fr/sections/actualites/actualites\\_des\\_mo/decembre\\_2004/le\\_mois\\_de\\_laut\\_re\\_1/view](http://www.ac-strasbourg.fr/sections/actualites/actualites_des_mo/decembre_2004/le_mois_de_laut_re_1/view) (11.10.2005)

<sup>192</sup>Ministre de l’Emploi, du Travail et de la Cohésion Sociale (2004), *Plan de cohésion sociale*, Paris, 30 juin 2004, 45 p.

<sup>193</sup> <http://www.familles.org/>

Legal provisions :

Parental support) mainly to reinforce parental involvement and facilitate relations between parents and schools.

#### 5.4.5 Financial aid for pupils

The Interministerial Committee for Integration also created a vocational training support system for young French people of foreign descent. This programme consists of 10,000 merit scholarships and of a tutoring programme by an educational team, and an individual sponsor for scholarship recipients.

#### 5.4.6 Affirmative action

Several initiatives were led in order to facilitate access to the “*Grandes Ecoles*” (very selective higher education schools such as Sciences Po, ESSEC or Polytechnique) for people with immigrant backgrounds or living in disadvantaged neighbourhoods, and so increase the number of individuals of foreign origin in high office. The Minister for Education, Schools and Research, the Minister for Social Cohesion and delegate minister to Integration, Equal opportunity and Fight against exclusion signed, on 17.01.2005, the “*Charte de l'égalité des chances et des formations d'excellence*”<sup>194</sup> (Equal Opportunities and Training Excellence Charter) 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 it possible to support access to the “*Grandes Ecoles*” for young people from disadvantaged districts. This Charter generalises the experiment of the ESSEC school “*une prépa, pourquoi pas moi?*”<sup>195</sup>, which develops the close support of pupils and sponsorship. Since the “*Convention Education Prioritaire*” in September 2001, the selective school of political science – Sciences Po, has received 189 students (57 in 2005) from 23 high schools located in socially underprivileged districts.<sup>196</sup>

#### 5.4.7 Anti-segregation measures

Please report to section 5.2.2.

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France/ Circulaire interministérielle relative aux réseaux d'écoute, d'appui et d'accompagnement des parents (9.03.1999) ;

France/ Circulaire interministérielle relative à la mise en place d'un dispositif unique de l'accompagnement scolaire (22.06.2000) ;

France/ Circulaire DIV-DPT-IEDF n° 2000-231 relative à la mise en place des adultes, relais dans le cadre de la politique de la ville, (26.04.2000)

<sup>194</sup> The text of the charter is available on the following website :

[http://www.education.gouv.fr/actu/2005/charte\\_egalite.pdf](http://www.education.gouv.fr/actu/2005/charte_egalite.pdf) (29.05.2006)

<sup>195</sup> [http://www.education.gouv.fr/actu/2005/essec\\_egalite.pdf](http://www.education.gouv.fr/actu/2005/essec_egalite.pdf) (29.05.2006)

<sup>196</sup> <http://www.sciences-po.fr/presse/zep/index.htm> (29.05.2006)

#### 5.4.8 Measures to establish/improve data collection

In the near future the SIGNA software will be further rolled out to all State and private schools.

### 5. 5. The role of EU policy

Priority Zones and measures favouring schooling and integration of newly arrived students are mainly driven by national policies. Though the issue has a European dimension, legal provisions on religious symbols at school, the specific debates on secularism and on the Islamic headscarf appear to be a “French affair”.

European action in education policies is notably developed by FSE Objective 3, which covers the French metropolitan territory (mainland France). The overall objective of this programme is to support the adaptation and modernisation of European and national policies on employment, education and training. One of its objectives supports the “*dispositif ‘nouvelles chances*<sup>197</sup>” ( ‘another chance’) scheme of the Ministry of Education that aims at offering personalized support to young learners facing schooling difficulties or failure<sup>198</sup>. It also supports action on training implemented at a local (regional) level.

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<sup>197</sup> <http://www.education.gouv.fr/bo/1999/21/ensel.htm>

<sup>198</sup> Statistical data on the number of existing projects over the period considered is not yet available.

## 6. Racist Violence/Crime

### 6. 1. Trends of racist violence and crime

- **Table 10: Numbers of racist and anti-Semitic acts between 2000 and 2005**

	Racist and xenophobic acts of violence *		Anti-Semitic acts of violence*	Total
	Violence against people of North African origin	Total		
2000	20	30**	119***	149
2001	21	39	32	71
2002	73	119	197	316
2003	59	92	127	219
2004	131	169	200	369
2005	64	88	98	186

\* Acts resulting in bodily harm or other serious consequences

\*\* 2 of these violent acts were reactions to the Israeli-Palestinian conflict.

\*\*\* 111 of which were reactions to the Israeli-Palestinian conflict after 28 September 2000.

**Source: Ministry of Home Affairs/ National Commission for Human Rights**

- **Table 11: Racist, xenophobic and anti-Semitic threats**

	Racist and xenophobic threats		Anti-Semitic threats	Total
	Threats against people of North African origin	Total		
2000	58	129	625	754
2001	115	166	187	353
2002	169	262	739	1001
2003	108	140	474	614
2004	306	431	774	1205
2005	266	382	406	788

**Source: Ministry of Home Affairs/ National Commission for Human Rights**

- **Table 12: Victims of racism; xenophobia and anti-Semitism (acts of violence and threats combined) between 2000 and 2005**

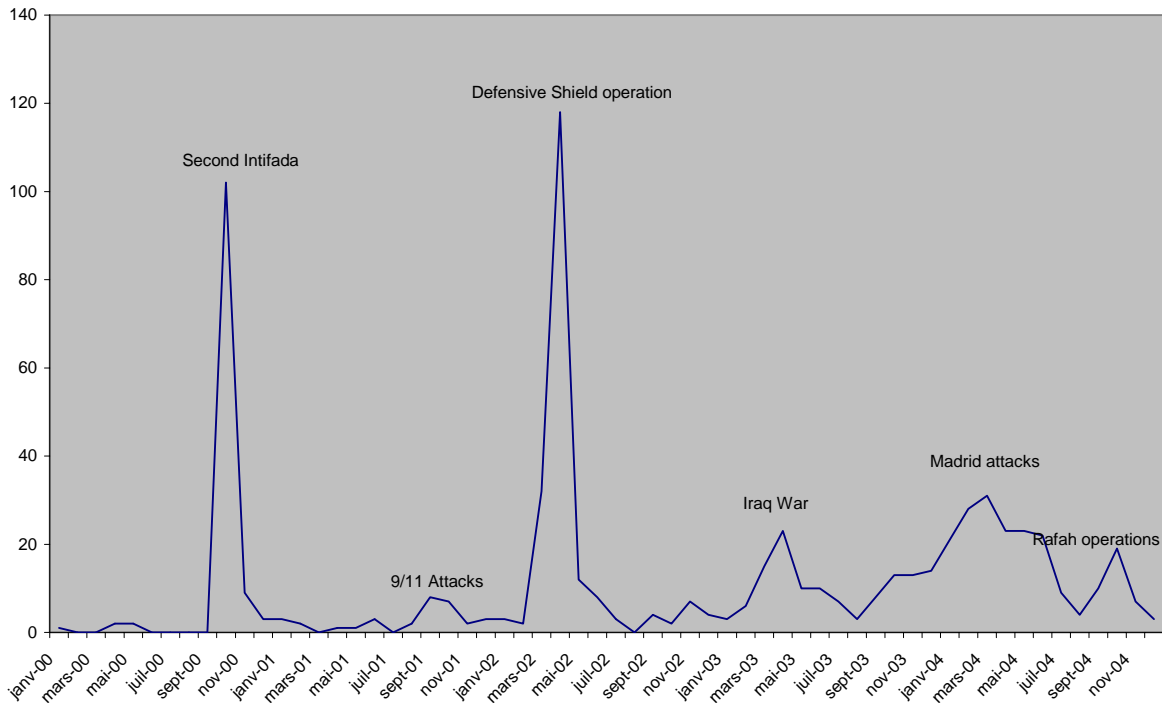
	Victims of racism and xenophobia		Victims of anti-Semitism		Total	
	Deaths	Injuries	Deaths	Injuries	Deaths	Injuries
2000	0	5	0	11*	0	16*
2001	0	6	0	1	0	7
2002	1	21	0	18	1	39
2003	0	11	0	22	0	33
2004	0	21	0	36	0	57
2005	0	22	0	26	0	48

\* People injured following violent reactions to the Israel Palestine conflict

Source: Ministry of Home Affairs/ National Commission for Human Rights

- **Graph 1: Anti-Semitic acts of violence**

Graph 1. Antisemitic acts (2000-2004)

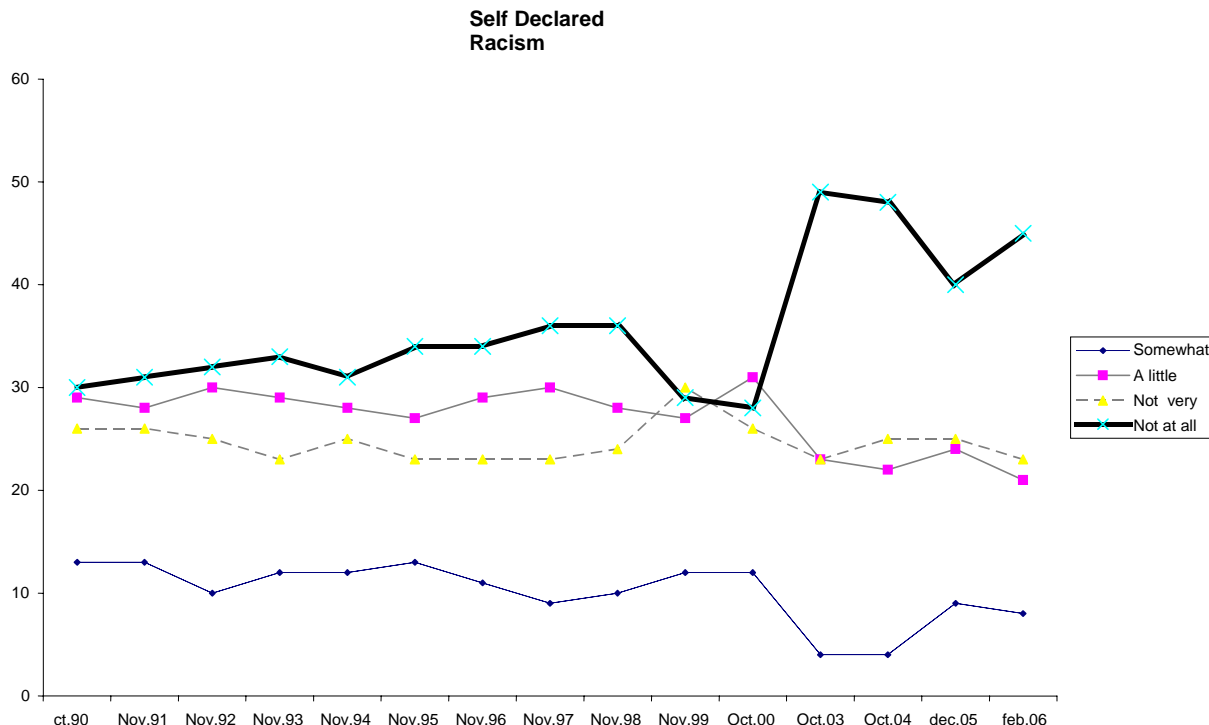


### 6.1.1. Overall trends

Over period 2000-2005 the number of racist and anti-Semitic “acts” (serious violence against persons and damage to property) and “threats” (threatening words and behaviour, graffiti; leaflets, slander, or other acts of intimidation) increased dramatically compared to the previous ten years, with two peaks in 2002 and 2004 (respectively 1,317 and 1,574 acts and threats compared to 202 in 1999). The number of injured people reached a peak of 57 in 2004. However, the occurrence of race-related violence seems to have decreased in the last three months of 2004. In 2005, this trend was confirmed with 974 racist acts or threats recorded, 37 per cent lower than the previous year, but still higher than the pre-2000 records.

The internet is increasingly being used to spread racist propaganda. Racist sites have boomed in number, and their content has grown ever more violent and hateful. The CNCDDH has drawn the government’s attention to this growing phenomenon<sup>199</sup>.

- **Graph 2: Self-perception of French citizens regarding racism and anti-Semitism between 2000 and 2005 (percentage).**



Source: BVA/ CNCDDH annual opinion poll / Nonna Mayer, CEVIPOF

<sup>199</sup> CNCDDH, "Special study on racist, xenophobic and anti-Semitic propaganda over the internet", in *Annual Report 2004*, pp 235-308

However the perpetrators of acts of violence are a small minority. The annual surveys of the CNCDH show that French public opinion condemns these acts of violence in increasing proportion. The levels of anti-Semitic and xenophobic opinions in the long run are steadily declining. Although self-declared racism, which is an indicator of the 'legitimacy' of such opinions, went up slightly after the urban riots of November 2005, with one third of the sample claiming to be "somewhat" or "a little racist", it has gone down again since public sentiment receded (29 per cent of self declared racists, close to the 25 per cent of 2004). The most obvious trend is the increasing proportion of respondents who firmly deny ("not at all") being racist, from 28 per cent in 2000 to 49 per cent in 2003, to 45 per cent again in February 2006, some time after the riots of November 2005 (graph 2).

#### 6.1.2. Evolution of the role of extreme right-wing groups or other groups in the manifestation of racist violence and crime

Perpetrators of racist acts no longer exclusively belong to far-right extremist movements. In the 90s extreme right activists could be held responsible for over 90 per cent of racist and anti-Semitic acts, whereas in 2000 they have been involved in less than 30 per cent, and less than 10 per cent in 2002 and 2003. A distinction should be made though according to the nature of these acts. As far as anti-Semitic attacks are concerned, a growing proportion of offenders since 2000 has come from Muslim and Arab backgrounds and acted in the name of anti-Zionism. For instance in 2004, they comprised 104 out of the 209 people arrested for anti-Semitic incidents. In 2005, they were held responsible for 41 per cent of these acts, while 10 per cent of these (mostly cemetery desecrations) were perpetrated by far right activists, and 47 per cent by unidentified perpetrators. It is often found that young and predominantly male individuals who are not linked to any political party may act on an impulse.

Most of the arrested people come from disadvantaged neighbourhoods, and most anti-Semitic attacks take place in such areas. People placed in custody on anti-Semitic grounds, in most cases young offenders known to the authorities and living in these neighbourhoods, are not linked to any political or ideological group. But they share the same hostility towards Israel, which is heightened by wide media coverage of the Israeli-Palestinian events, combined with a feeling that the situation in Israel mirrors the exclusion and failure they face in France.

As far as racist and xenophobic (excluding anti-Semitic) acts are concerned, the case of Corsica must be singled out. Here, some 36 000 people of North African origin have settled and are regularly the target of nationalist movements. Racism from Corsicans is grounded on the rejection of anyone not Corsican. From 2000 to 2004 over half of the reported racist acts in France were perpetrated in Corsica, and this was still 27 per cent in 2005.

The involvement of the extreme right in perpetrating racist (excluding anti-Semitic) offences, whether they be ultra-nationalists, paganists, nationalist-revolutionaries, skinheads or neo-Nazis, went down from 39 per cent in 2004 to 22 per cent in 2005. A small proportion are due to ultra-Zionist extremist movements such as the League of Jewish Defence (8 per cent in 2004, 3 per cent in 2005). The remainder (some 40 per cent of offences) are not clearly attributable.

One should emphasize the critical influence of the international context on both racist and anti-Semitic acts and threats. These multiplied with the intensification of the Israeli-Palestinian conflict, and the spread of Islamic terrorism, in the wake of the September 11 attacks on New York and Washington. The link is particularly clear in the case of anti-Semitic acts which reached a peak in autumn 2000, just after the beginning of the second Intifada, then again in April 2002 in reaction to the entrance of Israeli troops in Jenin (see graph 1), with smaller peaks after the American intervention in Iraq, the Madrid (March 2003) and London (July 2005) attacks, and the Israeli operations in the Rafah sector.

Growing awareness of the existence of racism and anti-Semitism in the classroom began in 2000. They are now recorded by the police. Since the academic year 2001-2002, the Ministry of Education has set up a database of violent incidents, which also lists racist incidents (SIGNA)<sup>200</sup>. The trends are the same for both racism and anti-Semitism as for all violent crime. Racist insults in schools have increasingly been reported: from 4 incidents in 1998, to 94 in 2003. Anti-Semitism in schools represented over 16 per cent of anti-Semitic acts or threats. In 2004, serious acts of violence and threats in schools accounted for 12 per cent of all racist incidents. Anti-Semitic acts tripled between 2003 and 2004. In 2005, the Ministries of Home Affairs and Education reported a drop in racist acts. Statistics probably do not accurately reflect the actual situation, which is likely to be worse, considering not that all incidents are systematically reported.

### 6.2.2. Main victim groups

During the 1990s immigrants and French citizens of North African descent were by far the main targets of racism, whereas violence against the Jews, their property, places of worship, community schools, or businesses, was regularly decreasing, amounting to less than 10 per cent of the total acts of racist violence after 1995. The trends completely reversed after 2000 with the resumption of the Israel-Palestine conflict. Since then, the majority of all acts and threats reported have been directed against Jews, amounting to 82 per cent of the total in 2000, when the Israeli-Palestinian conflict was widely covered by the

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<sup>200</sup> See part 5.1.1 of this special study

media<sup>201</sup> (post-October), 52 per cent in 2001, 71 per cent in 2002, 72 per cent in 2003, then 62 per cent in 2004 and 52 per cent in 2005). Since 2000, Jews have been the first targeted community, although only 1 per cent of the French population defines itself as Jewish. Furthermore, violent acts have become more serious, with a growing number of people injured every year, until 2005 where the number declined.

Other racist (not anti-Semitic in nature) actions are essentially directed against people of North African origin, or their property, which represent a growing share of the total number of racist acts ( from 54 percent in 2001 to 64 percent in 2003, 78 percent in 2004 and 72 percent in 2005). If on the whole, France remains relatively spared from waves of attacks against Muslim places of worship, organisations or people, unlike other EU member States, there is a clear increase in specifically “islamophobic” actions and a growing confusion between North African immigrants and Muslims. There was a peak of 123 actions and threats recorded in 2004 (versus 35 in 2003 and 47 in 2002), with 13 acts of profanation targeting mosques and Muslim graveyards.

## 6. 2. Developments in policy responses to racist violence and crime

### 6.2.1. Initiatives combating racist violence and crime

Government measures and NGO initiatives are detailed below (sections c and d)

### 6.2.2 Promotion of improved data collection

Official statistics released by the Ministry of Home Affairs are incomplete, yet they are a useful tool for comparing trends and changes from one year to the next. However, they have their limitations.

Statistical data on racism have been collected since 1978 by the Central Board of the security branch of the French police<sup>202</sup> force of the Ministry of Home Affairs (“*Direction Centrale des Renseignements Généraux*”, DCRG). Such collection aims at giving the government information on racist phenomena and their evolution, in order to prevent social unrest. The method used thus remains empirical, as it consists in gathering all the data that can be identified by the regional departments of the DCRG across France, from fatal racist attacks to racist graffiti. The number of Anti-Semitic acts is also recorded. This

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<sup>201</sup> 85 per cent of the anti-Semitic threats in 2000 occurred during the last quarter of the year. A majority of them were slight damage to buildings and graffiti, the rest being spoken or written threats and leaflet distribution.

<sup>202</sup> Unofficial translation

information is ranked in two categories, which shows that the data collection is not exhaustive:

- acts that have serious consequences (for example, assault resulting in bodily harm or otherwise deemed serious), are defined as “actions”;
- acts that are not particularly prejudicial (such as insults), which are defined as threats<sup>203</sup>.

Assessment of serious acts of violence may be close to reality, since public authorities are necessarily aware of them. Threats are much more difficult to assess with specificity. Victims do not necessarily report them to the police. They are even less likely to bring a complaint to court. Police station registers are not included in the data. In addition, lengthy delays and low sentencing rates may deter victims from ever taking cases to court. Furthermore, many racist incidents do not get media attention. Volunteered or solicited testimonies by associations or community associations may be a good indication of the phenomenon. Some independent bodies may compile their own statistical data. For instance the *Conseil représentatif des institutions juives de France* (CRIF)- Council of Jewish Institutions in France<sup>204</sup> - has its own monitoring system of anti-Semitic actions thanks to the volunteers of the SPCJ (*Service of protection of the Jewish community*) who work in cooperation with the police.

There is a lack of other comparable official statistical data. Unfortunately, the statistics for racist acts and threats from the Ministry of Home Affairs and from the Ministry of Justice cannot be compared, as they were established using different criteria. The new anti-discrimination legislation adopted in France in the past five years should have been coupled with statistical data evidencing indirect racial or ethnic discrimination. However, these needs conflict with the prevailing legal and philosophical principle in French law that the categories necessary for such statistics are by their very nature illegitimate.

### 6.2.3 Victim-focused, offender-focused and/or community focused initiatives

In January 2004, a working group to combat anti-Semitic acts was set up. This brings together representatives from the Prosecution offices of different cities, Jewish movements and representatives from the Home Affairs and Defence Ministries. A sub-committee closely monitors dissemination of anti-Semitic material over the Internet.

Following the publication of two reports in 2003, one on the many sites connected to *SOS-Racaille*, the other pointing to the ideologists of anti-Arab

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<sup>203</sup> See EUMC (2005), *Policing racist crime and violence. A comparative analysis*, by Dr Robin Oakley on behalf of the EUMC, September 2005, p 16 available at: <http://eumc.eu.int/eumc/material/pub/PRCV/PRCV-Final.pdf> (29.05.2006)

<sup>204</sup> Unofficial translation

racism, the Minister of Foreign Affairs asked the *Mouvement contre le racisme et pour l'amitié entre les peuples* or MRAP, a French NGO against racism, to become a key player in the fight against racism on the internet in international organisations, such as the OSCE.

#### 6.2.4. Legislation, policy documents, action plans and concrete practical initiatives.

##### a) Legislation

The dissemination of racist ideas is mainly regulated by the 29 July 1881 Act on Freedom of the Press, whose scope extends to the free communication of ideas and opinions, and to a lesser extent by the Penal Code, in its revised version of 1994. The 1881 Act, now also applicable to messages with a racist content circulating over the Internet, defines offences, liabilities and victims and provides for civil remedies.

In view of the growing number of attacks related to origin or religion, the 3 February 2003 Act<sup>205</sup> ((Article 132-76 of the Penal Code) –JORF n°29 of February 4 2003) increased criminal penalties when acts of murder, assault or damage to property were committed on racial or religious grounds. In addition, the law created a new offence of destruction of property with respect to places of worship, schools and educational or leisure facilities, or vehicles for child transportation (article 322-3, 2 of the Penal Code).

The 9 March 2004 Act broadened the category of offences for which a racist motive was an aggravating circumstance in theft, extortion and threats, and extended the statute of limitations to prosecute racist statements, incitement to racial hatred, and denial of crimes against humanity to one year. A citizenship course (“*stage de citoyenneté*”) was introduced as an alternative to proceedings or to a criminal sentence.

Furthermore, a *Comité interministériel de lutte contre le racisme et l'antisémitisme*- Inter-ministerial Committee against racism and discrimination<sup>206</sup> (C.I.L.R.A.) was created by a presidential decree of 8 December 2003 in response to the dramatic increase in racist and anti-Semitic acts which began in 2000. The Committee, composed of the Ministers of Home Affairs, Justice, Foreign Affairs, Social Affairs, Education, Youth and the City and chaired by the French President, met regularly in 2004, but only once in 2005, to discuss policy orientations and initiatives on security, justice,

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<sup>205</sup> France/ Loi n°2003-88 visant à aggraver les peines punissant les infractions à caractère raciste, antisémite ou xénophobe (Act aimed at increasing the severity of sentences for racist, anti-Semitic, or xenophobic offences (03.02.2003)

<sup>206</sup> Unofficial translation

education, social cohesion, communication and foreign affairs. The Committee coordinates the activities of the involved Ministries. In December 2003, referral judges were established in order to liaise with the Jewish community and with NGOs combating racism and anti-Semitism, and to monitor the adequacy of judicial response. A June 2004 OSCE conference on the Relationship between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crime originated in a CILRA initiative. In 2004, the Minister of Justice underlined the need for actual publicity of judicial activity as regards punishing racist and anti-Semitic acts.

Concerning education, instruction n°2004-163 of 13 September 2004 set up units within the Ministry of Education and in every education authority, which monitor and follow up on racist and anti-Semitic incidents in the schools. Academic liaison officers were appointed to coordinate prevention and repression of racism. The same instruction details other measures designed to prevent and report racist and anti-Semitic acts and to punish offences.

#### *b) Policy documents*

A ministerial instruction was released on 13 August 2004 concerning destruction of graves and memorials on racist or religious motives.

Many penal policy guidelines designed to combat racism and anti-Semitism were addressed to public prosecutors by the Minister of Justice: On 1 March 2003, he called for the utmost vigilance and severity with regard to the prosecution of racist crimes. Moreover, on November 18<sup>th</sup>, 2003, he asked each public prosecutor's office to appoint a judge in charge of coordinating the appropriateness of the criminal response given to individual claims and liaising with NGOs on the subject. Training sessions are organised by the National School for Judges on a regular basis. A conference on this topic was co-organized with the CNCDH in January 2004.

In that same context, two instructions from the Justice Ministry were released to prosecution offices in April 2002 calling for a firm response to such acts upon identification of the perpetrators and for provision of information on legal proceedings to victims and relevant local voluntary bodies.

### 6.2.5. Influence of EU, national and local policy

Whereas anti-discrimination legislation is greatly influenced by European law, and a large part of domestic legislation is derived from the Treaty on the European Union and European directives, the recent laws and governmental measures and initiatives on racist crime and violence are largely influenced by domestic positions, though in line with the European legislation on the subject. According to Article 29 of the TEU, one of the Unions' objectives is to provide

citizens with a high level of security within an area of freedom, security and justice by developing common action between the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia. The Council adopted in 1996 a joint action plan (96/443/JHA) on the basis of Article K.3 of the Treaty on European Union concerning action to combat racism and xenophobia. Its main objective is to ensure effective legal cooperation between Member States in combating these. It sets out a list of racist and xenophobic behaviour and activities which the Member States agree to treat as criminal offences. The goal of the joint action was to prevent perpetrators from moving from one country to another on the grounds that the country of relocation has more lenient legislation.

## 6. 3. Developments in the area of policing racist violence and crime

### 6.3.1. Data

In addition to statistics from the Ministry of Home Affairs recording serious acts of racist violence, racist threats, information on victims, with a particular focus on anti-Semitism and racism against Arab Muslims, and statistics from the Ministry of Justice on convictions on racist grounds, the creation in 2001 of the SIGNA tool listing racist acts of violence in schools should be noted. However, as mentioned before, this is not sufficient to get a full picture of racist violence in France.

### 6.3.2 Police

Racism among police forces is a reality. The National Security Ethics Commission<sup>207</sup> or CNDS (Commission Nationale de Déontologie de la Sécurité), which is an independent administrative authority in charge of monitoring compliance with ethics rules by law-enforcement officers (police, gendarmerie, prison warders...) devotes some chapters of its annual reports to racism in the police forces. In the annual report for 2004<sup>208</sup>, the CNDS

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<sup>207</sup> Unofficial translation

<sup>208</sup> See the reports on <http://www.cnds.fr/>

Two other reports have already underlined this problem of racism in the French police:  
- Ligue des Droits de l'Homme (2004), *Citoyens- Justice- Police. Commission nationale sur les rapports entre les citoyens et les forces de sécurité, sur le contrôle et le traitement de ces rapports par l'institution judiciaire* (rapport d'activité : juillet 2002 - juin 2004), Paris: LDH, 37p. available at:

<http://www.ldh-france.org/media/actualites/rapportcjp.pdf> (29.05.2006)

- Amnesty International (2005), *France: pour une véritable justice. Mettre fin à l'impunité de fait des agents de la force publique*, Paris : Amnesty International, available at:

denounced racism and acts of racist violence within the police force, such as racial insults, excessive use of force or handcuffing people under arrest to humiliate them. An analysis of the referrals to the CNDS showed that foreigners, immigrants and non-white French people were sometimes victims of discriminations from police officers.

No real attempt is made by the police to encourage the representatives of associations of vulnerable social groups to increase the number of complaints filed. Indeed, the French republican principle prohibits public services from granting special treatment to certain users in view of their origins, cultural group, religious beliefs or nationality<sup>209</sup>.

In-service training did not include the issues of racist crime and violence. Education of law-enforcement authorities in these fields was one of the recommendations made by Amnesty International<sup>210</sup>. Following the increase in racist acts, a specialist training programme for police on combating racist crime had been ordered, which had not been established by the end of 2005. Racism in the police is still considered a sensitive issue. However, a few police training schools provide sessions on racism.<sup>211</sup>

In France, no concrete action is taken to publicise police initiatives and guidelines for working with victims of racist crime and violence<sup>212</sup>.

Nevertheless, the French police routinely work with anti-racism and human rights NGOs, who have the capacity to provide legal advice and to assist victims in bringing cases to court, particularly with the CRIF. The CODAC seemed to be the main forum for discussion between the State, local partners and associations<sup>213</sup>.

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[http://www.amnesty.fr/index.php?/amnesty/agir/actions\\_en\\_cours/france/principaux\\_documents/rapport\\_pour\\_une\\_veritable\\_justice](http://www.amnesty.fr/index.php?/amnesty/agir/actions_en_cours/france/principaux_documents/rapport_pour_une_veritable_justice) (29.05.2006)

Also refer to Wihtol de Wenden, C. et Body-Gendrot, S., *Police et discriminations raciales : le tabou français*, Paris: Les éditions de l'atelier, 2003, 189 p.

<sup>209</sup> See EUMC (2005), *Policing racist crime and violence. A comparative analysis*, by Dr Robin Oakley on behalf of the EUMC, September 2005, pp 36-37 available at: <http://eumc.eu.int/eumc/material/pub/PRCV/PRCV-Final.pdf> (29.05.2006)

<sup>210</sup> Amnesty International (2005), *France: pour une véritable justice. Mettre fin à l'impunité de fait des agents de la force publique*, Paris : Amnesty International, recommendation 34.

<sup>211</sup> See EUMC (2005), *Policing racist crime and violence. A comparative analysis*, by Dr Robin Oakley on behalf of the EUMC, September 2005, pp 27-29 available at: <http://eumc.eu.int/eumc/material/pub/PRCV/PRCV-Final.pdf> (29.05.2006)

<sup>212</sup> See EUMC (2005), *Policing racist crime and violence. A comparative analysis*, by Dr Robin Oakley on behalf of the EUMC, September 2005, p 41 available at: <http://eumc.eu.int/eumc/material/pub/PRCV/PRCV-Final.pdf> (29.05.2006)

<sup>213</sup> Ministère de la Justice, Direction des Affaires Criminelles et des Grâces (April 2004), *les dispositions pénales en matière de lutte contre le racisme, l'antisémitisme et les discriminations* available at:

<http://www.justice.gouv.fr/publicat/guideracisme.pdf> (29.05.2006)

### 6.3.3 Court activity

The number of convictions is still low, although the effectiveness of sanction has increased within recent years.

In practice, most convictions relating to racism derive from the provisions of the law of 29 July 1881 Act and were due to the powerful support of anti-racist associations. There were 3 convictions for racial defamation in 1999 and 2 in 2000; 82 for public racial insult in 1999 and 89 in 2000; 2 in 1999 and 2 in 2000 for denial of crimes against humanity. In 2001, 146 convictions were made by tribunals on racial discrimination cases. In 2002, 162 convictions (154 in 2001) were issued, including 103 (109 in 2001) for racial insult on grounds of race, religion or origin.

As regard cases of anti-Semitism, in 2004, on the 387 cases recorded by the Ministry of Justice, a verdict was issued in only 68 of them. 319 cases of discrimination never went to court, either because the perpetrator was not identified, or because they were settled out of court. That same year, the Commission did not receive any data concerning judicial proceedings on other grounds of discrimination.

It should be noted that there is a trend towards heavier sentences. Nevertheless, offenders are rarely sentenced to jail in racial discrimination cases. Deprivation of civil rights or closing down of businesses are not imposed in such cases. The suits against corporate entities remain extremely rare.

New measures adopted in 2004 have had a positive impact on judicial activity in 2005. Furthermore, alternate proceedings and out-of-court settlements applied to 32.8 per cent of cases, with a view to educate perpetrators, especially juvenile offenders.

## 7. The public debate

During the five last years, discriminations have been suddenly put on the political agenda and has become a major concern for the scientific arena, the political debate and the civil society. This rise of discriminations as a public issue has been challenged by other major debates regarding anti-Semitism, Islam and islamophobia, colonialism and integration of immigrants. They reflect both France's specific situation as a multicultural country, with the largest Muslim population and the largest Jewish community in Europe, and the impact of the international context, especially the Middle East conflict and the development of Islamic terrorism in the wake of 9/11 attacks. Behind these tensions appears a slight return of the "immigration debate" which creates new conditions for the expression of xenophobic attitudes and discourses.

The classical "french model of integration" has encountered a new crisis, with the persistence of so-called "ethnic penalties" not only against immigrants, but more and more against their descendants. After a long and repeated obfuscation of everyday racism and discriminations in the French society, there is a widespread conviction that unequal treatments on the ground of ethnic origins are frequent in all domain of social life. The public authorities have acknowledged the existence of discrimination in 1998 and tried to go beyond the "integration" paradigm. There was since a growing need to reframe the "model of integration" for taking into account multiculturalism and ethnic diversity, until then often seen at odds with the integrative and assimilationist republican tradition. The new motto has never the less been challenged by a sharp backlash of the integrationnist perspective, after the come back of the conservative right to the government. After the implementation of the "contract for integration" in 2002, the public debate has revolved around duties (to be integrated and respect the set of norms and values of the French society) and rights (of not being discriminated against).

The transposition of the 2000 European directives has created incentives and a strong support for anti-discrimination strategies. The European agenda is still influential in the national debate, on political and legal levels. In the aftermath of the new legal scheme against discrimination, the need for statistics to measure and understand ethnic diversity in France, and the discrimination they suffer from, have fostered a large debate between social scientists, activists and policy makers. The mobilization of companies and their commitment ethnic diversity (see the Chart for diversity, section) has brought more incentives to monitor ethnic and racial discriminations with statistics. But the statistical organisation, on one side, and the data protection commission<sup>214</sup>, on the other, are still very reluctant to produce so-called ethnic statistics unless public

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<sup>214</sup> See the recommendations of the Data protection commission (CNIL) about ethnic statistics in working places, July 5 2006.

authorities give clear requests on this issue. On the policy side, a debate on “positive discrimination”, a French neologism for “affirmative action”, and the use of quotas, is opposing large sections of the political scene and civil society. The minister of interior, Nicolas Sarkozy, has taken firm positions in favour of immigration “quotas” and affirmative action procedures, whereas the president Chirac and his Prime minister Villepin are defending the republican” way of soft anti-discrimination policy. The example of Sciences Po, with its “ZEP conventions”, offering special admission procedures to students from disadvantaged neighbourhoods to give them access to its higher education programmes, after facing strong oppositions and law suits in the name of equality of treatment, has been successful and copied by several “grandes écoles”. And French public opinion has gradually accepted the principle of giving the right to vote to non European foreigners, which Nicolas Sarkozy has also pleaded for.

The Second Intifada (fall 2000) has brought about an unprecedented rise of violence against French Jews, their schools, their synagogues (see section 6), arousing fear and insecurity. Emotion reached a climax with the recent murder, by the so-called “Gang of Barbarians” and its leader Youssouf Fofana (January-February 2006), of the young Ilan Halimi, targeted because he was a Jew and his kidnappers thought “Jews have money”, then tortured, and killed. These events have started a heated debate on the return of anti-Semitism in France and its changing nature, kindled by the provocative comments of Ariel Sharon urging French Jews to leave a France labelled as anti-Semitic. Is there a “new” anti-Semitism as theorised by Pierre André Taguieff<sup>215</sup>, different from the traditional anti-Semitism of the extreme right, developing at the same time among radical Islamic milieus and among anti imperialist extreme left circles, in the name of anti Zionism? Is ordinary anti-Semitism developing, among the immigrant-born population, especially from the Maghreb, transposing in France the Israeli Palestinian conflict and turning against a community they see as more wealthy and more established? Do the media underestimate anti-Semitism, as claimed by the anti-racist organisation SOS-racisme and the UEJF (French Union of Jewish Students)<sup>216</sup> ? Or do they exaggerate it, as in the “RER B” affair, July 2004, too hastily presented as a particularly horrible anti Semitic aggression (a young woman, Marie Leblanc, invented the whole story pretending she had been attacked with her baby in a suburban train by a gang of six Blacks and Arabs, carving swastikas on her belly)? If the police statistics show that part of these anti-Semitic actions come from children of immigrants living in the disadvantaged neighbourhoods of the suburbs, they are born from socio economic frustration more than ideology. As shown by a recent study (Brouard, Tiberj, *Français comme les autres?*, 2005), an overwhelming majority of the French population, including those of immigrant descent, from

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<sup>215</sup> Taguieff, P.-A. (2002), *La nouvelle Judéophobie, Mille et une nuits*; (2004) *Prêcheurs de haine. Traversée de la judéophobie planétaire, Mille et une Nuits.*

<sup>216</sup> SOS Racisme (2002) *Les Antifeujs. Le livre blanc des violences antisémites depuis novembre 2000*, Paris: Calman-Lévy.

Africa and North Africa, reject anti-Semitic stereotypes, the scores on an anti-Semitism scale being just a little higher among the latter, especially among practicing Muslims. And in the French public at large (CNCDH surveys), the main trends are an increasing condemnation of these acts and the rejection of anti Jews stereotypes.

A parallel debate has developed around the place of Islam in French society and the rise of “islamophobia” as a specific rejection of Islam and its values, disguised as a fight in the name of secularity and republican values (Geisser). The debate cristallised around the “Islamic scarf” and the right for young Muslim girls to keep it in the class room. The issue divides even the Muslim community, for it is mixing conflicting considerations (feminism, religious freedom, neutrality and secularity etc). Associations have developed such as “Une Ecole pour tou-te-s” mobilizing against exclusion and for the right of women to wear the scarf. While others fight against it like “Ni putes ni soumises” (Neither whores nor submissive), movement close to the socialist party created in 2003 after the March of women against ghettos and for equality, born in reaction against the murder of a young girl, Sohane Benziane, burnt alive by an angry boyfriend. The law of 2004 prohibiting the wear of conspicuous religious signs in public schools did not end the debate. It was perceived as an anti Muslim law and it was often interpretated in an excessive fashion (mayors refusing to marry a Muslim woman wearing a headscarf, employers forbidding them to wear the scarf at the workplace etc). Besides the 9/11 attacks and the surge of Islamic terrorism has brought about a suspicion of Muslims in general, kindled by the extreme right. The “bagagiste de Roissy” affair in December 2002 (a young franco- Algerian baggage handler the airport of Roissy, *Abderazak Besseghir*, was suspected of terrorism, weapons were found in his car, he was arrested and put to prison but finally innocented, it was a set up born from a family feud) is symbolic of this psychosis. Police statistics show a rise of specifically anti Islam actions targeting Muslim cemeteries, monuments, and mosques. Surveys show a more contrasted public opinion : if only a minority (35%) have a positive image of Islam, the majority having no opinion, the recognition of the rights of Muslims (right to practice their religion, would not care if one’s children married a Muslim, if a Muslim mayor was elected) is slowly but steadily in progress.

A third debate has developed about colonialism and the debt of France towards the people of its former colonies, in North Africa, Sub Saharan Africa, West Indies. The damaging effects of slavery have been recalled, the Taubira-Delannon law (10 May 2001) labelling slavery and slave trade as a crime against humanity marks a first step in this recognition and leading to todays solemn commemorations of the abolition of slavery (10 May 1848). Then the vote of the Mekachera law of 23 February 2005, aiming at the recognition of the contribution of French repatriates from North Africa (les “pieds noirs”) started a scandal, because of its article 4 asking official history programs to give the place it deserves to “the positive role played by the French presence overseas, especially in North Africa”. Finally retrieved after a petition of historians and a

large mobilization against this rehabilitation of the colonial past. The controversy has opened a larger debate on the “memorial” laws, imposing an official truth to historians, not only this specific one but also the Taubira law of 2001 making of slavery a crime against humanity, the Gayssot law (13 July 1990) creating the offence of « negationism » of the Holocaust, and the law of January 2001 recognising the Armenian genocide repatriates. A new petition of historians, “Liberty for History” has asked for the cancellation of these memorial laws (December 2005). The debate is not closed, UMP deputies asking for the Taubira law to be retrieved.

In the meantime there has been an increasing mobilization of the “victims” to ask for recognition and respect, and fight against discrimination, as shown by the creation of the movement “Les indigenes de la république” (*We are the natives of the republic*, January 2005)) and the CRAN (,November 26, 2005 representative council of black associations), uniting some 60 associations for the defense of colored people. Claims for recognition of the legacy of slavery and colonial times and their persistent consequences in the so-called post-colonial society are connected with denunciation of discriminations. The idea of being more present in elections and presenting “black” candidates is also developing, with the candidacy of Christiane Taubira (Guyana) in the 2002 and perhaps 2007 presidential election and the candidacy of the humorist Dieudonné in the 2007 presidential election. But it arouses also controversies on the “risk of these ‘ethnic’ mobilizations” and the “danger of a competition” between communities and memories. For instance it generates resentment against French Jews and the importance given to the Holocaust, sometimes taking an anti-Semitic turn as in the sketches of the humorist Dieudonné calling the Jews “the greatest nigger traders of history”.

The urban violences of November 2005, triggered by the death of two young boys electrocuted in a transformer, although presented in confidential police reports (November 23) as a result of lack of integration and despair, also started a fierce debate on the place of young people from immigrant origin. The riots were framed by many politicians and intellectuals in ethnic and sometimes insulting terms. For instance Nicolas Sarkozy made comments about getting rid the “scum” of the “cites” and washing them with a karcher (disinfectant), the philosopher Alain Finkelkraut in a interview to an Israeli newspaper *Haaretz* (17 November 2005) qualified the incidents of « ethno-religious revolt », H  l  ne Carr  re d’Encausse, Perpetual secretary of the Academy, saw their main cause in the « polygamy » of African families and the UMP deputy Jacques Myard called for the creation of « disciplinary bataillons » to curb these « young people, French against their will, from arabo-african descent » (*Lib  ration*, 29 november 2005). These riots however have been clearly interpreted in France as a sign of the fact that discriminations and social inequalities have not received the policy relevance that they deserve. The ambiguities of the political discourses on the lack of integration, more on the racism and discriminations that explain high unemployment or segregation, have heightened the resentment of the young people living in deprived neighbourhoods.

Table 13. Opinions *about giving foreign immigrants the right to vote*

“One should give the right to vote in local elections to non European foreigners who have been living in France for a while”

% Agrees:	Nov.1999	Oct.2000	Nov.2001	Dec.2002	Dec.2003	Dec.2004	Nov.2005
Absolutely	13	2	14	23	27	29	18
Somewhat	26	24	30	27	27	27	26
<b>Agree</b>	<b>39</b>	<b>36</b>	<b>44</b>	<b>50</b>	<b>54</b>	<b>56</b>	<b>43</b>
Somewhat not	21	21	18	16	14	15	18
Not at all	36	38	35	30	28	24	34
<b>Disagree</b>	<b>57</b>	<b>59</b>	<b>53</b>	<b>46</b>	<b>42</b>	<b>39</b>	<b>52</b>
No answer	4	5	3	4	4	5	5

CNCDH annual surveys

## 8. Conclusions

As regard unemployment, statistics on immigrant groups in the labour market show that there has been no improvement over the last twenty years. More precisely, women are more affected than men, and, among immigrants from North Africa, Sub-Saharan Africa and Turkey, unemployment rates are consistently higher. Overall youth unemployment is particularly high in France and specific surveys show discrepancies between children of immigrant and young 'natives' remain considerable, even when conditions are more favourable. A survey on the situation of young diploma-holders shows that despite a successful education, young people coming from the Maghreb are disadvantaged as regards professional integration.

In the field of housing, an extensive research published on the housing of low-income families establishes that on average these families are younger than in the past and that they frequently live in low-cost housing, either rented by the public authorities (32 per cent in 2002) or by private landlords (24 per cent). Three quarter of immigrant households living in oldest social rent housing buildings and surveys also pinpointed the fact that immigrant households, especially those originating from Maghreb, were more frequently faced with situations of overpopulation. Migrant populations are particular victims of urban segregation : foreign households are twice more present in Priority Zones than they are in other urban areas. Discrimination in access to housing can take multiple forms (indirect, direct and institutional) and can come into play at different points in the process. Cases collected by the 114 particularly relate to private owners, real estate agencies, lessors, municipal workers or elected people. North African, Subsaharan African and French Overseas Departements applicants, as well as young people of immigrant background suffer the most from this type of discrimination.

This report describes patterns of ethnic segregation in schools. From the viewpoint of "official" data concerning education, the ethnic issue remains invisible. The first conclusions of a survey considering pupils' first names to bypass this difficulty highlight the fact that approximately 10 per cent of the totality of secondary schools concentrate 40 per cent of the pupils with immigrant background. A recent series of evaluations were undertaken to assess the impact and success of priority education over the past 20 years : besides underlining the poor efficiency of this policy (the creation of priority education zones did not improve the pupils' success rates), several pinpointed its negative effect on school avoidance.

A sound retrospective analysis of the overall trends concerning discrimination and racist incidents between 2000 and 2005 would have required standardised indicators allowing to compare initial state with the present situation. Under EU drive, some changes occurred concerning data on employment discrimination,

which are largely due to the fact this issue has been brought to public authorities attention since the end of the 1990s and then enshrined in national legislation. The combat against discrimination in employment has been put on the agenda of NGOs, Trade Unions, employers and national authorities : their existence is no longer widely denied. Some of the discriminatory processes in employment have been early analysed, but relevant statistical evidence of their extent and patterns are still scarce and partial.

The mobilisation of all actors in the combat against discrimination in employment is still hindered by the problem of collecting data. Official data collection rules concerning ethnic and “racial” origins have been discussed and criticized. In a recent recommendation, the CNIL clarifies its position, recalling that the Data-processing and Freedom Law<sup>217</sup> 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 and has urged public authorities to elaborate an ethnic and “racial” statistical standard to monitor “diversity and discriminations”. This call is still remaining without any effect, even if the collection of data on the descendant of immigrants are developing. The same question can apply about the other domains, such as housing, leisure, health and education. EU policy may have a significant role to play in fostering these developments and their extension to other domains.

Hence, French approach, policies and legislation of racial discrimination have undergone major changes over the period considered, which led to the creation of an independent specialised body against discrimination. Yet, this report points out several national policies and laws have a direct or indirect structural impact on discrimination processes. In employment, the 7 million “restricted [sc. to French nationals] jobs”, have a structural impact on inequalities on the job market. In housing as in education, early, serious and converging analysis stress some aspects of the very policies (Priority Education ; massive demolition of dilapidated estates of the 2003 Urban Renewal program) and mottos (“social mix” in social rent housing applicant selection) addressing schooling failures, discrimination or segregation paradoxically contribute to reproducing inequalities.

This report brings evidences on the ways restrictive migrations policies (conditions for admission and stay), often considered as a separate issue, nevertheless directly weigh on discrimination mechanisms in working conditions, housing and access to health (including on French nationals with immigrant background) and support the development of expression of xenophobic attitudes and discourses. In 2005, the Minister of the Interior has

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<sup>217</sup> France, Loi n° 2004-801 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 (06-08-2004) <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0100026L> (29.05.2006)

announced publicly his intention to make the repression of illegal immigration harsher, multiplying charter planes and escort back to the borders, meanwhile 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 has also announced, in sharp opposition with the Prime Minister, that he was in favour of “affirmative action” (opposed to “equal opportunities”) and quotas of immigrants, reasserting a vastly harmful distinction between « desirable » and « undesirable » migrants.

## Annex

### Complaints registered by the HALDE January-September 2005

	Age	Genre	Orientation sexuelle	Handicap	Origine	Activités syndicales	Religion	Autres motifs	Total	per cent
Emploi	41	17	8	52	119	41	5	32	315	46,05 per cent
Biens et services	3	4	5	11	18	0	2	8	51	7,46 per cent
Services publiques	3	10	2	20	42	0	2	82	161	23,54 per cent
Logement	2	0	1	7	23	0	3	7	43	6,29 per cent
Education	0	2	0	4	9	0	1	8	24	3,51 per cent
Autres	1	4	5	3	26	0	2	49	90	13,16 per cent
Total	50	37	21	97	237	41	15	186	684	
per cent	7,31 per cent	5,41 per cent	3,07 per cent	14,18 per cent	34,65 per cent	5,99 per cent	2,19 per cent	27,19 per cent		