



European Network Against Racism  
Réseau européen contre le racisme

# ENAR Shadow Report 2012-2013

## ENAR SHADOW REPORT

### **Racism and related discriminatory practices in employment in France**

**Helena Van Aelst  
Emilie Balbirnie  
Emanuela Salvo**

**ICF GHK International**

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network against Racism (ENAR) in Brussels, March 2014, with the support of the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013), the Open Society Foundations, and the ENAR Foundation.

PROGRESS is implemented by the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment, social affairs and equal opportunities area, and thereby contribute to the achievement of the Europe 2020 Strategy goals in these fields. The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA-EEA and EU candidate and pre-candidate countries. For more information: <http://ec.europa.eu/progress>

The Open Society Foundations work to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people. For more information: <http://www.opensocietyfoundations.org/>

The information contained in this publication does not necessarily reflect the position or opinion of the European Commission or of the Open Society Foundations.

ENAR reserves the right not to be responsible for the accuracy, completeness or quality of the information provided in this report. Liability claims regarding damage caused by the use of any information provided, including any information which is incomplete or incorrect, will therefore be rejected.



## Table of contents

<b>Executive summary .....</b>	<b>3</b>
<b>Abbreviations.....</b>	<b>6</b>
<b>1. Introduction .....</b>	<b>8</b>
1.1 <i>Definitions.....</i>	9
1.2 <i>Statistical overview.....</i>	10
<b>2. The context: labour market and legal framework.....</b>	<b>11</b>
2.1 <i>Outlook of the labour market .....</i>	11
2.2 <i>Legal framework.....</i>	17
<b>3. Manifestations of racism and structural discrimination in employment.....</b>	<b>19</b>
3.1 <i>Perceptions of discrimination in employment.....</i>	20
3.2 <i>Incidence of discrimination in employment.....</i>	21
3.3 <i>Patterns of inequality over the course of time .....</i>	22
3.4 <i>Discrimination in access to employment.....</i>	22
3.5 <i>Discrimination in the workplace.....</i>	25
3.6 <i>Economic sectors .....</i>	26
3.7 <i>Geographical areas .....</i>	27
3.8 <i>Relevant actors.....</i>	27
<b>4. Tackling the challenges .....</b>	<b>27</b>
4.1 <i>Public policies .....</i>	27
4.2 <i>Access to effective remedies.....</i>	28
4.3 <i>Civil society initiatives.....</i>	31
4.4 <i>Individual employers' initiatives.....</i>	34
<b>5. Conclusions and recommendations .....</b>	<b>35</b>
5.1 <i>Political and societal developments related to racism and discrimination.....</i>	35
5.2 <i>Conclusions and recommendations.....</i>	37
<b>Bibliography.....</b>	<b>39</b>

## Executive summary

Data in general on the extent and manifestation of racial and religious discrimination in the field of employment in France remain poorly documented, especially with regard to recent official data sources. Non-Governmental Organisations (NGOs) offer a vital alternative data source which comes directly from the experiences of individuals and communities experiencing racism and related discrimination in the field of employment on a regular basis.

The aim of this report is to contribute to knowledge and provide insight from activists and professionals as an advocacy tool. For that purpose, interviews with stakeholders – NGOs, Ombudsman, experts - have been conducted and complement extensive desk research.

The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly in relation to advocacy efforts by anti-racist civil society towards national governments, the European institutions, bodies and the media. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in France for the period of March 2012 to March 2013.

Despite the existence of discrimination in France - in 2012, 35% of private sector employees and 26% of civil servants reported having witnessed ethnic discrimination at work<sup>1</sup> - comprehensive public policies reducing ethnic and religious discrimination in employment are not being implemented. Though public policies are lacking, national legislation plays a greater role in the fight against discrimination – though bringing evidence of discrimination in employment in Court remains almost always impossible due to difficulties to demonstrate concrete evidence that discrimination took place (section 4.2).

## Main findings and recommendations

### Level of discrimination in employment

- In 2009, 60% of second generation immigrants acknowledged having faced discrimination in the labour market during the last five years while only 13% of the total population acknowledged having faced discrimination in employment.<sup>2</sup>
- In 2012, 35% of private sector employees and 26% of civil servants reported having witnessed ethnic discrimination at work.<sup>3</sup>

### Discrimination in access to employment and in the workplace

- Discrimination in the workplace is reported more than discrimination in access to employment. The latter might be under-reported since it is more difficult to identify and demonstrate.<sup>4</sup>

It has been found that having personal networks in the workplace is an asset and those who do not have any are placed in a disadvantaged position which often prevents them from entering the labour market immediately.<sup>5</sup>

---

<sup>1</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

<sup>2</sup> INED. "Les discriminations en France: entre perceptions et expérience." 2010, p.13.

<sup>3</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

<sup>4</sup> Sections 3.4 and 3.5

- The origin of the applicant has been found to be an obstacle to job promotion in both public and private sectors.<sup>6</sup> Religion is also reported to be a ground for discrimination in the workplace – especially for Muslims in the wearing of the headscarf.<sup>7</sup>
- Indicators on diversity of origins among employees should be established to help identify whether discrimination is occurring in the workplace. Since ethnic statistics are prohibited in France, these indicators could collect the nationality of parents and grand-parents in order to cover second and third generation of immigrants. Such data could be collected through online forms that companies increasingly use (or could be requested to use for the purpose of monitoring) in their recruitment processes. A comparison between the diversity of origins among candidates and employees could then be drawn as an indicator of diversity or of potential discrimination. Another indicator could be the repartition of employees of migrant origin within the different levels of the hierarchy to monitor whether they also have access to the higher responsibilities.

### **Data collection issues**

- Up-to-date disaggregated data collection on migration background in France - in general and in the field of employment – is limited, preventing a close monitoring of the natives and second or third generation migrants' positions in employment.<sup>8</sup>
- The government should enter into dialogue with statistical institutes in order to identify the obstacles that currently exist in gathering equality data and to identify solutions for the reduction of such obstacles.
- The government should ensure that studies, such as the INSEE-INED *Trajectories and Origin*, are carried out at least every two years, to allow a closer monitoring of discrimination on the basis of origin or religion in the labour market.
- The government should ensure that all employers collect data disaggregated by gender, age, disability, religion and origin in order to monitor discrimination.

### **Legal framework – Implementation of the Racial and Employment Equality Directives**

- The transposition of these two Directives in the early 2000s strengthened the anti-discrimination legal framework in France.
- Judicial remedies are nevertheless not the most efficient means to fight discrimination due to the difficulties lawyers face when trying to demonstrate that discrimination took place (section 4.2).
- During their education, law students should have access to specific courses in their academic institutions in order to be familiarised with anti-discrimination legislation and how to gather evidence in order to prove their case. Such courses should be delivered by lawyers already addressing this issue in their daily work.
- On an annual basis, practising lawyers should undertake a half to one day training course, provided by the Bar Association, on the developments in anti-discrimination legislation and the practical difficulties encountered. This would assist in the gathering of best practices and lessons learnt by practitioners.

### **Ombudsman**

- While the Council of Europe has stated that the Ombudsman has preserved the functions of the (former) French Equal Opportunities and Anti-Discrimination Commission (HALDE) while

---

<sup>5</sup> Section 2.1

<sup>6</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

<sup>7</sup> Wearing a headscarf was said to be the cause of a number of abusive dismissals, and some employers were reported to have been investigating the religious beliefs and practices of some of their employees.

<sup>8</sup> The most up-to-date official data on immigrants relates to the years 2008 and 2009, when the last INSEE-INED *Trajectories and Origin* study was conducted.

reinforcing its independence and powers, civil society stakeholders have regretted the replacement of the HALDE - which was well-known for tackling discrimination on the basis of origin - as the Ombudsman is considered to be less effective.<sup>9</sup>

- The Ombudsman should launch a public campaign to better inform the general public about anti-discrimination legislation and its missions in this field, along with its free legal support service available to victims.<sup>10</sup> This would enhance public knowledge of the support provided in the area of discrimination, thus helping to tackle the phenomenon. To reach the general public, such campaign should take place online via social media as well as through ads in the traditional media (radio, TV, newspapers). Posters could also be placed in public transports and sent to companies to be placed in the working environment.

### **Public structures, public policies**

- The level of promotion of equality differs between the public and private sectors. While companies seem to have mainstreamed diversity as a performance factor over the last decade<sup>11</sup>, less action has occurred within public structures with no targeted approach having been used.
- France lacks public policies aimed at reducing ethnic and religious discrimination in employment.
- The government should implement a comprehensive strategy to fight all forms of discrimination, including those on the basis of origin or religion. This strategy should be on the basis of specific anti-discrimination policies dedicated to this aspect rather than global policies that touch upon this issue.
- For instance, within the Public Bank of Investment, a department should be dedicated to the support and development of entrepreneurship projects of individuals living in socially disadvantaged areas.<sup>12</sup>
- Besides, each public contract covering socially disadvantaged areas (e.g. for construction, transports, etc.) should have a requirement that the contracting company shall hire a number of unemployed persons living in the area.<sup>13</sup>

### **Good practices**

- Many NGOs and trade unions provide legal advice and individual support to victims of discrimination. Some cooperate together to file complaints of discrimination cases.<sup>14</sup>
- Equality partnerships between *Grande Ecoles* and high schools from socially disadvantaged areas foster diversity and promote equal opportunities among the numerous candidates applying to become students of these selective Universities.

---

<sup>9</sup> ECRI (Council of Europe's European Commission against Racism and Intolerance). "Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France." 2013, .p.6

<sup>10</sup> Recommendation based on ECRI (Council of Europe's European Commission against Racism and Intolerance). "Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France." 2013, p.7

<sup>11</sup> Amoureux, Fabienne, interview by Hélène Van Aelst. *Diversity Manager at MEDEF Haute-Garonne* (2 September 2013).

<sup>12</sup> This was one of the 20 commitments of François Hollande for the socially disadvantaged areas, which was not implemented (Lui Président. "Les 20 engagements de François Hollande pour les quartiers et les territoires délaissés." 27 March 2012. ) and which is recommended by the representative of *Clé Nord Pas de Calais*. The Public Bank of Investment is being implemented but it is not clear whether the department supporting development of entrepreneurship projects of individuals living in socially disadvantaged areas has been implemented (Ministry of Economy and Finances. "La banque publique d'investissement." 19 August 2013).

<sup>13</sup> This was one of the 20 commitments of François Hollande for socially disadvantaged areas, which was not implemented (Lui Président. "Les 20 engagements de François Hollande pour les quartiers et les territoires délaissés." 27 March 2012.), except for renovation (Lui Président. "Les engagements de campagne hors-programme." *Lui Président*. 2013) and which is recommended by the representative of *Clé Nord Pas de Calais*.

<sup>14</sup> Sections 4.3.1 and 4.3.2

- Patronage is also considered a good practice since it raises awareness among the patrons by giving them an opportunity to change their views on the young graduates from disadvantaged areas. It also gives young graduates the opportunity to start their professional network.<sup>15</sup>
- The activities of the ethical recruitment agency Mozaik RH can be classified as a good practice. This particularly relates to the support provided by them for the inclusion into the labour market of young graduates from socially disadvantaged areas by disseminating job opportunities towards Universities located in these areas and by accompanying those young graduates looking for a job.
- Testing is a good practice to monitor the level of diversity within an employer and its results may be brought to Court as evidence of discrimination.<sup>16</sup>
- The diversity label<sup>17</sup> has been recognised by the European Commission as one of the best good practices to fight against discrimination and ensure equal treatment in employment.
  - The diversity label should be mainstreamed by making it accessible to all employers – e.g. those who cannot afford it should be subsidised from a government fund.
  - Later on, the label could be made a requirement for all public and private employers - with incentives such as subsidies to cover the costs of its implementation – in order for equality and diversity to become mainstreamed features of the field of employment in France.

## Abbreviations

**ACSE:** National Agency for Social cohesion and Equal Opportunities

**AFIP:** Association to Support Professional Inclusion

**AJAME:** Association of European Arabic-Muslim Jurists

**CCIF:** Collective Against Islamophobia in France

**Cerèq:** Research Centre on Qualifications

**CNCDH:** Human Rights National Consultative Commission

**CNIL:** National Council of Information and Freedoms

**COPEC:** Joint Committee on Equal Opportunities

**CRI:** Coordination against Racism and Islamophobia

**EU:** European Union

**HALDE:** (former) French Equal Opportunities and Anti-Discrimination Commission

**ILO:** International Labour Organisation

**INSEE:** National Institute for Statistics and Economic Studies

**INED:** National Institute for Demographic Studies

**ISM-CORUM:** Inter Service Migrants – Centre for the Observation and Research of Urban Life and its Development

---

<sup>15</sup> Amiri, Maral. "Emploi: "L'origine reste le premier facteur de discrimination"." *Respect Mag*, September 2012.

<sup>16</sup> For instance, the testing will compare the origin of first names within the candidate's database and the employees' database.

<sup>17</sup> The diversity label is an ISO norm awarded by an interdependent certification organism to which respect and promote diversity principles in all aspects of their activities such as recruitment, service providers or career management. Its implementation is costly since employers have to pay the certification organism to be evaluated.

**LDH:** Human Rights League

**LICRA:** International League Against Racism and Anti-Semitism

**MEDEF:** Movement of Companies of France

**MRAP:** Movement Against Racism and for Friendship between Peoples

**NGO:** Non-Governmental Organisation

**OECD:** Organisation for Economic Co-operation and Development

## 1. Introduction

The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly for anti-racist civil society advocacy towards national governments, the European institutions, bodies and the media. Non-Governmental Organisations (NGOs) offer a vital alternative data source which comes directly from the experiences of individuals and communities experiencing racism and related discrimination in the field of employment on a regular basis. The aim of this report, therefore, is to contribute to knowledge and to provide insight from activists and professionals as an advocacy tool. For that purpose, interviews with stakeholders – NGOs, Ombudsman, experts - have been conducted and complement extensive desk research. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in France for the period of March 2012 to March 2013. The report reviews discrimination on the grounds of nationality, race, ethnic origin and religion in the field of employment. Access to employment, as well as career developments, is examined in detail, throughout all sectors, and including various forms of employment such as vocational training. The results of the report will be used at national level to influence policy developments and will be further compiled into a European comparative report to influence European policies. With improved statistical and comparative data, the Shadow Reports will have a demonstrable impact for changing policy and bringing about necessary policy reforms.

While several stakeholders such as the Ombudsman<sup>18</sup> regret that the numbers of discriminatory cases on the grounds of origin or religious convictions brought to Courts are lower than the reality – due to fear of negative career impacts,<sup>19</sup> discrimination in the field of employment remains a reality for a significant number of immigrants and members of religious or ethnic minorities in France. For instance, in 2012, 35% of private sector employees and 26% of civil servants reported having witnessed ethnic discrimination at work.<sup>20</sup>

Despite the existence of discrimination, France lacks comprehensive public policies aimed at reducing ethnic and religious discrimination in the field of employment. None have been introduced during the past few years nor since a new government entered into office in May 2012.

Though public policies are lacking, French anti-discrimination legislation in the field of employment has been strengthened in the last decade by the transposition of two European Directives<sup>21</sup> dedicated to these issues. Practical implementation is, however, still a key issue when it comes to the manifestation of religious belief through dress or symbols.

An overview of the key definitions (section 1.1) which are used in France is provided next, followed by a statistical overview of the composition of the population in France - defined by migration background and religion, and possibly affected by discrimination in employment (section 1.2). The labour market position of migrant groups and religious minorities in France will then be presented, along with the legislative provisions addressing discrimination and equal treatment in employment (section 2). In order to provide concrete examples of discrimination and racism in the labour market,

---

<sup>18</sup> Lyazid, Maryvonne, interview by Hélène Van Aelst. *Ombudsman's Deputy for discrimination* (31 July 2013) and Jouhannaud, Christine, interview by Hélène Van Aelst. *Social protection and employment Department Director* (31 July 2013).

<sup>19</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013, p.18

<sup>20</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

<sup>21</sup> *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin* (known as the 'Racial Equality Directive') and *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation* (known as the 'Employment Equality Directive').

the manifestations of racism and structural discrimination in employment are then reviewed by looking at facts, evidence and statistical data (section 3). Public policies, NGOs actions and private initiatives which aim to tackle discrimination and racism in the labour market are also examined (section 4). Finally, the political and societal developments relevant to the context of racism and discrimination in France between March 2012 and March 2013 are analysed and followed by conclusions and recommendations (section 5).

## 1.1 Definitions

In France, “an **immigrant** is considered as a person who is born as a foreigner abroad and resides in France”.<sup>22</sup> Immigrant status is permanent, with individuals continuing to belong to the immigrant population even if they acquire French nationality. Persons who were born abroad, have French nationality and live in France are therefore not counted. A migrant is a broader term which includes both the concept of immigrant and emigrant, thereby referring to a person who leaves one country or region to settle in another. In France, the word immigrant is predominantly used rather than migrant.

A distinction needs to be made between the concepts of ‘immigrant’ and ‘foreigner’. A **foreigner** is a person who resides in France and does not possess French nationality, either because they possess another nationality (exclusively)<sup>23</sup> or because they are stateless persons.

Depending on whether French nationality has been acquired, the ‘foreign’ and ‘immigrant’ populations can overlap (as shown in Figure 1). While foreigners born in France are not considered immigrants, foreigners born abroad and who subsequently move to France are included in this category.

With regard to **ethnic minorities**, the term “*minorités visibles*” tends to be used in French. According to the National Institute for Demographic Studies (INED),<sup>24</sup> minorities include immigrants and their children, but also people born in the French Overseas Departments and their children. When talking only about their children, the term **second generation immigrant** is used.

The **mainstream population** (“*population majoritaire*”) relates to French people who are neither immigrants nor children of immigrants or of people born in the Overseas Departments. This group includes French people born abroad and their children, as well as the grandchildren of immigrants.<sup>25</sup> This latter group can also be referred to as **third generation immigrants**.

For the purposes of this report, it is also important to examine whether definitions exist for national minorities. Since no national minorities are recognised in France, no differentiation is made between ethnic minorities with a migrant background and ethnic minorities without a migrant background. French people from Overseas Department are considered as immigrants as explained above.

A definition does exist, however, for **minorities**. They can be defined as groups “*characterized by their own national, ethnic, linguistic or religious identity, which differs from that of the majority population.*”<sup>26</sup> This definition could be applied in the context of ethnicity and religion. An ethnic

---

<sup>22</sup> This definition was established in 1992 by the High Council for Integration.

<sup>23</sup> Persons of French nationality who also possess another nationality (or several nationalities) are considered in France as French.

<sup>24</sup> INED. « Les discriminations : une question de minorités visibles ». 2010, p.2

<sup>25</sup> INED. « Les discriminations : une question de minorités visibles ». 2010, p.2

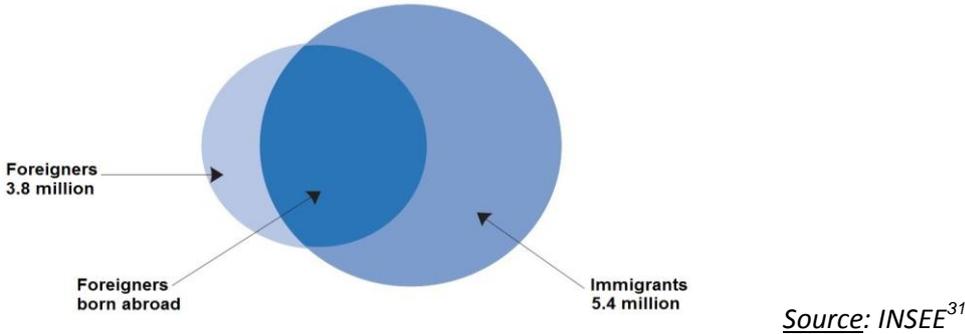
<sup>26</sup> There is no internationally agreed definition as to which groups constitute minorities. It is often stressed that the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (including that individuals must identify themselves as members of a minority) (...) The term minority (...) usually refers to national or ethnic, religious and linguistic

minority would be a group whose ethnic identity differs from that of the majority population, while religious minorities would be considered to be groups whose religious belief differs from that of the majority population. However, the gathering of ethnic and religious statistics in France is prohibited thus there is no reason for an official definition of these two groups. Article 8 of the Act of 6 January 1978 on Data Processing, Data Files and Individual Liberties state that “The collection and processing of personal data that reveals, directly or indirectly, the racial and ethnic origins, the political, philosophical, religious opinions or trade union affiliation of persons, or which concern their health or sexual life, is prohibited.”<sup>27</sup> However, the National Council of Information and Freedoms (CNIL) has introduced exceptions to this principle in 2007.<sup>28</sup> Since then, it has been possible to collect data on the country of birth and the nationality of the parents, including within census. Data collection on physical appearance, including skin colour, is also authorised in the framework of scientific studies covering how discrimination are felt.

**1.2 Statistical overview**

In 2009,<sup>29</sup> there were 3.8 million foreigners in France, 5.9% of the total population (64.7 million), and 5.4 million immigrants (8.4% of total population). While the number of male immigrants used to be slightly higher than the number of female immigrants for the past decades, their respective share in the total population is now similar.<sup>30</sup>

Figure 1. Foreigner and immigrant populations in France, 2009



minorities, pursuant to the United Nations Minorities Declaration. All States have one or more minority groups within their national territories, characterized by their own national, ethnic, linguistic or religious identity, which differs from that of the majority population. Office of the High Commissioner for Human Rights. “Minorities under international law.” *United Nations Human Rights*. 2013

<sup>27</sup> Act of 6 January 1978 (article 8) : “The collection and processing of personal data that reveals, directly or indirectly, the racial and ethnic origins, the political, philosophical, religious opinions or trade union affiliation of persons, or which concern their health or sexual life, is prohibited.”

<sup>28</sup> National Council of Information and Freedoms. “Mesure de la diversité et protection des données personnelles.” Mai 2007..

<sup>29</sup> The most up-to-date data available relates to the year 2009 in INSEE. “Tableaux de l'économie française.” 2013, p.37

<sup>30</sup> In 2009, both immigrant women and men accounted for 8.4% of the total population, e.g. 5.4 million individuals together, in INSEE. “Fiches thématiques, Population immigrée: Immigrés et descendants d’immigrés en France.” 2012.

<sup>31</sup> INSEE. “Fiches thématiques, Population immigrée: Immigrés et descendants d’immigrés en France.” 2012.

With regard to geographical origin, one third of all immigrants (1.8 million) in 2009 were born in one of the 27 Member States of the EU. Portugal, Italy and Spain are the main countries of origin for these European immigrants, who tend to be older due to their migration to France in the sixties (Spain, Italy) and early eighties (Portugal). The remaining two thirds of the migrant population originate from Africa, Asia, America and Oceania. A total of 2.3 million migrants (42.7%) originated from Africa, with most coming from Algeria (13.3%) and Morocco (12.2%). Half of all African migrants moved to France between the ages of 14 and 28 years. Immigrants from Asia account for 14.2% of the immigrant population, with the main countries of origin being Turkey (4.5%) and Cambodia, Laos and Vietnam (3% all together). America and Oceania only account for 5.4% of the immigrant population in France.<sup>32</sup>

Data on religion is not available due to the prohibition of religious statistics being collected by the official census. However, survey data is available on this matter.<sup>33</sup>

Within the total population, Catholicism remains the main religion with 11.5 million people (43%) aged 18-50 reporting being of the Catholic faith. Muslims are considered as the first minority religion with 2.1 million followers.<sup>34</sup> Other minority religions are Protestantism with less than 500,000 followers, Buddhism (150,000 followers) and Judaism (125,000 followers). Results also show that 75% of first and second generation immigrants declare that they belong to a religion. Within first and second generation immigrants, Islam is the main religion, while immigrants of Catholic faith are a minority.<sup>35</sup>

## 2. The context: labour market and legal framework

This section provides an overview of the labour market position of different groups in France by comparing the positions in employment of natives with foreigners, as well as between first and second generation immigrants (section 2.1). This section also outlines the legislative provisions addressing discrimination and equal treatment in employment (section 2.2).

### 2.1 Outlook of the labour market

The French economy is diversified across all sectors and in 2012, its GDP per capita was 31.100€, ranking 10<sup>th</sup> among the 28 EU Member States.<sup>36</sup> GDP growth was equal to 0% in 2012, due to the on-going effects of the global economic crisis.<sup>37</sup>

In 2012, the activity rate – i.e. the percentage of people aged between

Figure 2. Activity rate for natives and foreigners, 2012<sup>39</sup>

---

<sup>32</sup> The source for this paragraph is INSEE. "Tableaux de l'économie française." 2013, p.37

<sup>33</sup> This data is considered to be reliable since the surveys are based on representative samples of the population, though are of course not as reliable and precise as census data. Public research institutes like the INED and the INSEE are also allowed to collect such data under specific conditions and with the approval of the National Council of Information and Freedoms (CNIL), in Vampouille, Thomas. "France : comment est évalué le nombre de musulmans." *Le Figaro*, April 2011.

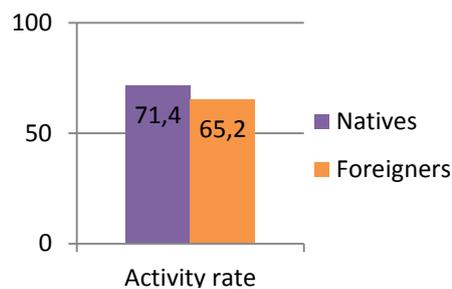
<sup>34</sup> The most recent data on religious diversity come from INSEE and INED in "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

<sup>35</sup> The source for this paragraph is: INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

<sup>36</sup> "Statistics." *Eurostat*. 2013

<sup>37</sup> INSEE. "Vue d'ensemble, L'économie française." 2013.

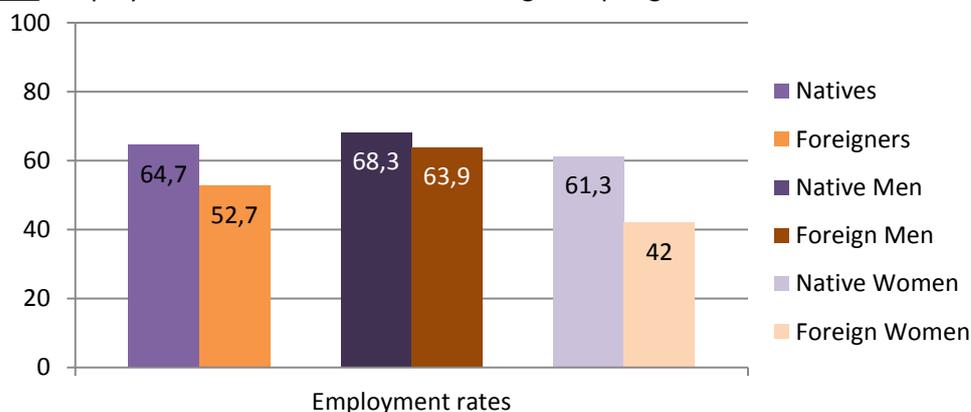
15 and 64 active on the labour market, being employed or registered as unemployed – reached 71%, ranking France 15<sup>th</sup> amongst the 28 EU Member States. A slightly higher proportion of the native population (71.4%) is active than the foreign-born population (65.2%).<sup>38</sup>



Over the same period, the total employment rate - i.e. the percentage of people aged between 15 and 64 at work (either as employee or as self-employed) - was 63.9%, ranking France 13<sup>th</sup> among the 28 EU Member States. This rate reached 64.7% for the native population, while for the foreign-born it was more than 10% lower, reaching 52.7%.<sup>40</sup>

From a gender perspective, employment rates for foreign-born men (63.9%) were lower than for native men (68.3%). This difference was even more pronounced amongst women, with 42% of foreign-born women being employed against 61.3% for native born women.<sup>41</sup>

**Figure 3.** Employment rates for natives and foreigners, per gender, 2012<sup>42</sup>



Among men, second generation immigrants with lower employment rates are those with parents from Algeria (69%), Turkey (67%), South-East Asia (60%), Morocco and Tunisia (53%), and Sub-Saharan Africa (53%). The employment rate is clearly higher when looking at second generation immigrants from Southern Europe, e.g. Portugal (82%), Spain and Italy (86%) or the rest of the EU (81%), with a rate comparable to the national average (81%). For women, second generation immigrants with lower employment rates are those with parents from Turkey (33%), Algeria (48%), Morocco and Tunisia (49%). Similarly for the male population, the highest employment rates can be observed among second generation immigrants from Southern Europe and the rest of the EU.<sup>43</sup>

In the last quarter of 2012, the total unemployment rate reached 10.5% (9.9% among the native population and 19.3% amongst the foreign-born population). From a gender perspective, this rate

<sup>39</sup> Eurostat. "Labour Force Survey, Activity Rates by sex, age and nationality." Eurostat. 2013.

<sup>38</sup> Eurostat. "Labour Force Survey, Activity Rates by sex, age and nationality." Eurostat. 2013.

<sup>40</sup> The source for this paragraph is Eurostat. "Labour Force Survey, Employment Rates by sex, age and nationality." Eurostat. 2013.

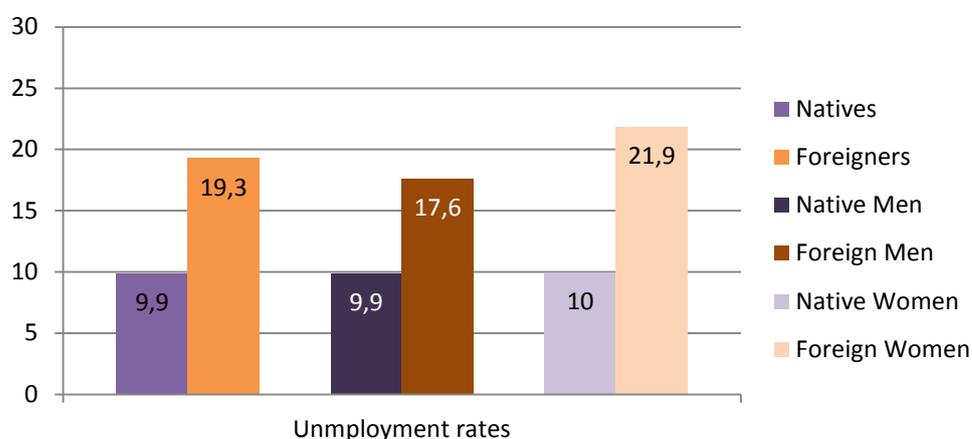
<sup>41</sup> Eurostat. "Labour Force Survey, Employment Rates by sex, age and nationality." Eurostat. 2013.

<sup>42</sup> Eurostat. "Labour Force Survey, Activity Rates by sex, age and nationality." Eurostat. 2013.

<sup>43</sup> The most recent data relating to the position of migrant groups in employment and the source for this paragraph is INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

was higher for foreign-born men (17.6%) than for native men (9.9%), and higher for foreign-born women (21.9%) than for native born women (10%).<sup>44</sup>

Figure 4. Unemployment rates for natives and foreigners by gender, 2012<sup>45</sup>



Unemployment rates of immigrants from Algeria, Morocco, Tunisia and sub-Saharan Africa are particularly high (from 12% to 17%) compared to the national average (8%), and they are even higher for second generation immigrants (from 20% to 21%)<sup>46</sup>. This is of course understandable, given the low rate of employment for these nationalities (as described above). When looking at men and comparing unemployment rates of first and second generation immigrants, the results for Portugal, Spain, Italy, Algeria, Morocco, Tunisia, Sub-Saharan Africa, Turkey and South-East Asia show that for a given origin, second generation immigrants have higher unemployment rates than first generation immigrants.<sup>47</sup> On the other hand, when looking at women, this trend is reversed. Second generation immigrants have lower unemployment rates to immigrants (12% against 16%), except for those whose parents originated from Italy, Spain (8% against 6%) or Turkey (34% against 18%).<sup>48</sup>

The unemployment risk<sup>49</sup> – e.g. the probability of being unemployed according to his/her origin - is clearly higher for some migrant groups than for natives. For instance, in 2009, second generation immigrants from Algeria are 1.8 times more likely to be unemployed than French natives. The risk is 1.7 for sub-Saharan Africa, 1.6 for Morocco and Tunisia, and 1.3 for Turkey.

With regard to occupational level - i.e. the employed labour force according to different levels of qualifications (e.g. unskilled/semi-skilled/highly skilled) - the most recent data available reveals an over-representation of low-skilled migrants in sectors such as agriculture, hotels and restaurants, cleaning and domestic work.

In 2009, non-EU migrants were three times more likely to work in the hospitality sector (i.e. hotels, restaurants and cafés) or in the cleaning sector, than the mainstream population. Moreover, while the proportion of non-EU migrant men worked less frequently in the agriculture and industrial sectors than native men - 14% of non-EU migrant men (117,600 individuals) against 25% of native men (2,785,000 individuals). The proportion of non-EU migrant men was found to be greater in the

<sup>44</sup> Eurostat. "Labour Force Survey, Unemployment Rates by sex, age and nationality ." Eurostat. 2013.

<sup>45</sup> Eurostat. "Labour Force Survey, Activity Rates by sex, age and nationality ." Eurostat. 2013.

<sup>46</sup> The most recent data relating to the position of migrant groups in employment is available in INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

<sup>47</sup> In 2008-2009, the unemployment rate of Portuguese immigrants was 4% and 8% for second generation immigrants. For Spain and Italy, these rates were respectively 3% and 7%. For Algeria: 16% and 20%. For Morocco and Tunisia: 12% and 22%. For Sub-Saharan Africa: 17% and 21%. For Turkey: 11% and 22%. For South-East Asia: 12% and 16%.

<sup>48</sup> Migration Policy Group. "Immigrant Citizens Survey." 2012.

<sup>49</sup> INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

construction sector than the native male workers - 16% of non-EU migrants (34,400 individuals) were working in this sector against 11% of native men (1,225,400 individuals).<sup>50</sup> With regard to women, female migrants tended to work much more than non-migrant women in the area of domestic work. Indeed, 11% of non-EU migrant women and 16% of EU migrant women worked in this sector, compared to 3% of the native female population.<sup>51</sup> Therefore, it can be concluded that there is a higher representation of foreigners than natives in lower skilled professions.

With regard to self-employment, only a small proportion (6%) of non-EU migrants was self-employed in France in 2010.<sup>52</sup>

Concerning the quality of work, in 2010 22% of employed migrants were working part-time, compared to 18% of non-migrant workers. Furthermore, non-EU migrants – both men and women - were almost three times more likely to be under-employed compared to native men and women. While 6% of non-EU migrant men (16% for women) were under-employed, 3% of non-migrant men (and 9% of non-migrant women) were in the same situation.<sup>53</sup>

With regard to ethnic labour market segmentation - i.e. when ethnic/religious minorities or migrants are over-represented in certain sectors, for instance more precarious jobs - no recent and national data is presently available to ascertain this particular aspect, however a set of data from 2006 highlighted that it was a feature of the French labour market.<sup>54</sup>

The *Trajectories and Origin* study results therefore show that the migrant groups with the most unfavourable position in employment are second generation immigrants from Algeria, Morocco, Tunisia, sub-Saharan Africa and Turkey , since these groups experience both higher unemployment rates (20% to 21%) and lower employment rates (53% to 69%) than the national averages (8% and 81% respectively).

More recent studies can complement the findings from 2008/2009. A study undertaken by the Céreq institute between 2011 and 2012 in the *Provence-Alpes-Cote d'Azur* (PACA) region examined discrimination faced by young graduates in possession of an Advanced Technician's Certificate<sup>55</sup> wishing to enter the labour market. Through the testing method,<sup>56</sup> the study showed that young graduates with North-African family names were invited to fewer interviews than those with a family name considered to be of French origin. This result was particularly significant for positions with direct contact with clients such as salespersons, while it was less frequent for young graduates with qualifications relevant to the industrial sector, where technicians were needed.<sup>57</sup>

A number of underlying factors exist in relation to different employment positions of non-EU migrant and religious minority groups compared to native mainstream European citizens.

With regard to naturalisation, the results of the Migration Policy Group's Immigrant Citizens Survey 2011 showed that acquiring citizenship only helped in getting a job in a limited manner on the labour market. While 17.9% of the respondents declared that it "helped a little" for their job to be

---

<sup>50</sup> INSEE. "Fiches thématiques, Population immigrée: Immigrés et descendants d'immigrés en France." 2012.

<sup>51</sup> INSEE. "Fiches thématiques, Population immigrée: Immigrés et descendants d'immigrés en France." 2012.

<sup>52</sup> OECD. "International Migration Outlook." 2013.

<sup>53</sup> INSEE. "Fiches thématiques, Population immigrée: Immigrés et descendants d'immigrés en France." 2012.

<sup>54</sup> European Working Conditions Observatory. "Occupational promotion of migrant workers." *European Working Conditions Observatory*. May 2009.

<sup>55</sup> In French: "*Diplôme professionnel de niveau intermédiaire : Brevet de Technicien Supérieur (BTS)*"

<sup>56</sup> In that case, 1,000 CVs were tested by sending their "doubles" to the same recruiter with the only change being the family name.

<sup>57</sup> CERECQ. "EVADE – Entrée dans la Vie Active et Discriminations à l'Embauche." 2012. The study looked at the various specialisations existing in the course, depending on whether the foreseen positions were requiring face-to-face relations with the customers or not. The research institute used the testing method to analyse the discrimination these graduates could face.

naturalised, 13.4% considered it “did not help at all”, while only 11.1% recognised it “helped them a lot”.<sup>58</sup>

According to the Migration Policy Group, “the law still limits foreigners’ opportunities to enter a career that matches their skills. French eligibility provisions are the second least favourable of all 34 countries [covered by the study]”.<sup>59</sup> While some European countries provide non-EU residents with full access to the private sector and self-employment opportunities, as well as conditional access to the public sector, France implements a more restrictive approach: “Immigrants without French citizenship or degrees are denied legal access to more jobs than in all MIPEX countries. Past estimates of around seven million excluded jobs (or 30% of all jobs in France) include public sector jobs (e.g. permanent civil servants), 50 professions in the private sector and from starting a business in many regulated professions.”<sup>60</sup>

The current economic crisis seems to have had a specific impact on migrant groups. Since the workforce supply at the moment is higher than the demand, recruiters have a broader choice of candidates. It means they have plenty of choice between candidates with a ‘mainstream’ educational and/or professional background and candidates with a non-typical educational and/or professional background. According to Estelle Barthelemy, Deputy Director of the recruitment agency Mozaik RH, recruiters may choose the first group of candidates with a classical background, since they appear to be more reliable.<sup>61</sup> Moreover, if an employer is not in a position to be recruiting anyone because of the crisis, he/she cannot diversify his/her workforce. Furthermore, in periods of financial crisis, companies lack the necessary resources to implement an equal opportunities policy within their human resources department. For instance, the implementation of the diversity label (section 4.4) is costly and not all companies can afford it.<sup>62</sup>

Regional and local dynamics also play an interesting role. For instance, the region *Provence-Alpes-Cote d’Azur* (PACA) in the South of France – targeted by the research institute Céreq for a Study on the entry of young graduates in the labour market who hold an Advanced Technician’s Certificate – is an area with a strong presence of second generation immigrants and high unemployment rates. The combination of these two factors compounds the impact of the crisis.

A study by the public research centre CERECQ<sup>63</sup> (including a testing<sup>64</sup> by ISM-CORUM) also highlighted the impact of personal networks and the role they play. Having strong personal networks will help a young graduate, deprived of any professional connections, to get their first few jobs. A young graduate from a poorer social background will be deprived of these connections and will face more difficulties in finding the first few jobs. Essentially, the complete lack of first professional experiences will be detrimental to the entry in the labour market of this person.

Finally, the *Trajectories and Origin* study reveals that differences in education qualifications between the mainstream population and immigrants are less important for second generation workers than for first generation workers. While 76% of immigrants who arrived in France before 1974 and were

---

<sup>58</sup> The source for this paragraph is Migration Policy Group. “Immigrant Citizens Survey.” 2012.

<sup>59</sup> Migration Policy Group. “MIPEX, Paving the way for Integration: the Pathways to Citizenship in France and the United States.” 2013. The Migrant Integration Policy Index (MIPEX) covers the 28 member states of the EU and Norway, Serbia, Switzerland, Australia, Canada, and the United States.

<sup>60</sup> Migration Policy Group. “MIPEX, Paving the way for Integration: the Pathways to Citizenship in France and the United States.” 2013.

<sup>61</sup> Barthelemy, Estelle, interview by Hélène Van Aelst. *Mozaik RH Deputy Director* (9 August 2013).

<sup>62</sup> Amoureux, Fabienne, interview by Hélène Van Aelst. *Diversity Manager at MEDEF Haute-Garonne* (2 September 2013).

<sup>63</sup> CERECQ. “EVADE – Entrée dans la Vie Active et Discriminations à l’Embauche.” 2012.

<sup>64</sup> Testing is a methodology which allows demonstrating the existence of discrimination in access to a given area (jobs, housing, goods or services, etc.). In the field of employment, a testing means that identical CVs – except for the family names which differ on their origin – are sent to recruiters. Given the identical competences detailed in the two CVs, if the recruiter only selects for an interview the CV with a native name, there is evidence of discrimination.

over 17 years old were not qualified, only 40% of those who arrived after 1998 and were over 17 years old were not qualified. The number of University graduates has also increased between these generations from 11% (before 1974) to 34% (after 1998). Even though there is still a gap in the level of qualifications between the second generation and the mainstream population, this gap keeps decreasing as time goes by.<sup>65</sup>

With regard to the travelling community, access to employment remains problematic for several reasons. It may be seen as non-compatible with the need for flexibility and adaptability induced by nomadism. But travellers are also victims of direct and indirect discrimination in the labour market due to the prejudice induced by the circulation notebook.<sup>66</sup>

Concerning the Roma community, Amnesty International estimates that there are about 2 million French people with a Roma origin who are now sedentary. They are quite difficult to identify and not necessarily discriminated against. About 15,000 Roma are considered nomads from Romania, Bulgaria, Czech Republic, Slovakia, Hungary, Moldavia or ex-Yugoslavia countries. Romania and Bulgaria entered the EU in 2007 but facultative transitional provisions applied strictly in France and almost prevented them to access the labour market. Such provisions have been lifted in October 2012 but heavy administrative measures still make it difficult for Roma to access employment.<sup>67</sup>

Up-to-date collection of equality data on migration background and ethnic origin in France - in general and in the field of employment – is limited. Indeed, as outlined above, the most up-to-date official data on immigrants relates to the years 2008 and 2009, when the INSEE-INED *Trajectories and Origin* study was conducted. This lack of up-to-date data is obviously problematic in being able to closely monitor the respective positions of natives and immigrants in employment, thereby explaining why some stakeholders have been lobbying over recent years for the introduction of ethnic statistics.

However, as previously stated, ethnic and religious statistics are prohibited under French law. Though ethnic statistics are not gathered, the INSEE and INED already produced the *Trajectories and Origin* study which includes questions on the national origin of employees (place of birth of the parents), allowing them to study specifically the situation of the labour market as regards to second generation immigrants.

The debate on ethnic statistics has been on and off in France since the late nineties, and the 2007 decision of the Constitutional Council, which stated that ethnic statistics would not be in conformity with the French Constitution, has yet to close the file.<sup>68</sup> While very few stakeholders such as experts or NGOs like the Association to Support Professional Inclusion (AFIP) were supporting as of May 2007 the introduction of ethnic statistics, the CNIL and most of the stakeholders were against.<sup>69</sup>

Stakeholders have diverging opinions regarding the introduction of ethnic statistics. The Chair of the French ENAR Member *Clé Nord Pas de Calais* supports their introduction within private and public structures since they are considered necessary to measure the real scope and gravity of the situation.<sup>70</sup> Another stakeholder, Eric Cédiey from the non-profit institute ISM-CORUM, considers that discussions in France on “ethnic statistics” as a tool for monitoring discrimination have been misguided, mainly because:

---

<sup>65</sup> The source for this paragraph is INSEE and INED. “Trajectoires et Origines, Enquête sur la diversité des populations en France.” 2010.

<sup>66</sup> Défenseur des droits. “Gens du voyage .” 2012.

<sup>67</sup> Amnesty International. “Les Roms en France”. 2012.

<sup>68</sup> Constitutional Council. “Décision n° 2007-557 DC du 15 novembre 2007 .” *Constitutional Council*. 15 November 2007

<sup>69</sup> CNIL (National Council of Information and Freedoms). “Mesure de la diversité et protection des données personnelles.” 2007.

<sup>70</sup> Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

- discrimination lie in choices and practices (including recruitments) occurring within organisations, therefore national (or any territorial) census statistics, or labour market statistics, cannot detect and monitor discriminations accurately;
- ethno-racial discriminations depend on the others' perceptions regarding how people look and how their names sound, not on where their parents were born, nor on their self-defined identity (the two classical "ethnic statistics" categories);
- adequate statistics on recruitments and Human Resources databases, with adequate categories of foreign-sounding and native-sounding first names, for instance, are already possible with some legal conditions fulfilled, and are routinely produced by ISM-CORUM. Regarding discrimination in recruitments, testing is another accurate method (see section 4.4 on Individual employers' initiatives).

## 2.2 Legal framework

Prior to outlining the legislative provisions addressing discrimination in employment, it is important to present the anti-discrimination provisions cited in the French Constitution, which form the basis for anti-discrimination legislation. Article 1 states that France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion.<sup>71</sup>

In the years leading up to the 21st century, there was a French anti-discrimination framework. However this was not considered to be fully implemented.<sup>72</sup> The transposition of two European Directives in the early 2000s strengthened the French legal framework and enabled its full implementation. These Directives are *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*<sup>73</sup> (known as the 'Racial Equality Directive') and *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation*<sup>74</sup> (known as the 'Employment Equality Directive').

Several legislative Acts transposed these two Directives into French legislation and banned discrimination on grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation.

The *Act of 16 November 2001 on the Fight Against Discrimination, Act 2001-1006*, changed the labour code for the private sector and the law of July 1983 for the public sector.<sup>75</sup> This Act already prohibited discrimination in access to training within the enterprise, as well as in access to employment prior to the transposition of the Directive. Two criteria related to discrimination on the basis of origin were introduced, namely: physical appearance and family name.<sup>76</sup>

The *Act of 26 July 2005* introduced several new dispositions in public sector law in order to fight against discrimination with regard to vocational education and working conditions.

---

<sup>71</sup> French Republic, "Constitution of 4 October 1958." *Legifrance*

<sup>72</sup> Latraverse, Sophie, interview by Hélène Van Aelst. *Ombudsman's Expertise and Judicial Affairs Departement's Director* (3 September 2013).

<sup>73</sup> European Union. "Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin." *Official Journal L 303*, 02/12/2000 P. 0016 - 0022. 2000.

<sup>74</sup> European Union. "Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation." *Official Journal L 180*, 19/07/2000 P. 0022 - 0026. 2000.

<sup>75</sup> ISM CORUM. "Anti-discrimination dans le contexte juridique français." n.d., p.2

<sup>76</sup> ISM CORUM. "Anti-discrimination dans le contexte juridique français." n.d., p.2

The Act of 31 March 2006 created a National Agency for Social cohesion and Equal Opportunities (Acsé) and recognised the testing method as a way to present penal evidence of discrimination.

The Act of 27 May 2008 on the Adaptation of National Law to Community Law in Matters of Discrimination, Act 2008-496 rearranged the non-discrimination provisions within the Labour Code and expressly prohibited direct and indirect discrimination.

Finally, the Act of 29 March 2011 no. 2011-333 created the Ombudsman. Its missions are presented in section 4.2.2.1 below.

## **Transposition of the Employment Directive**

### **Grounds**

The grounds covered by French legislation are broader than in the Racial and Employment Equality Directives – which cover racial or ethnic origin, religion or belief, disability, age and sexual orientation in the field of employment. Race and ethnic origin are elaborated in a more detailed manner in French law, with the following concepts included: “origin”, “physical appearance”, “family name”, “belonging, or non-belonging, real or alleged, to an ethnic group (a nation) or a race”<sup>77</sup>. The criterion of “religion” is also covered. All these criteria - and the others related to gender or disability for instance - apply in the field of employment.

Manifestation of religious belief through dress or symbols (physical appearance) is one of the key issues in the practical implementation of the Directives. The Court of Appeal’s decision in *Baby Loup*<sup>78</sup> ruled that the principle of freedom of religion could not undermine the principles of secularism and neutrality. The dismissal of the employee who had refused to remove her veil in accordance with in-house regulations and the nature of the duties carried out was then deemed lawful.<sup>79</sup> However, in March 2013, the Court of Cassation<sup>80</sup> cancelled this decision and the dismissal, considering that the principle of secularism (“*laïcité*”) did not apply to private sector employers. The Court of Cassation therefore considered that the dismissal of this employee based on her religious convictions constituted discrimination.

### **Direct discrimination**

France has adopted legislation that reflects exactly the definition of direct discrimination found within the Directives<sup>81</sup>:

- the need to demonstrate less favourable treatment;
- a requirement for a comparison with another person in a similar situation but with different characteristics (e.g. ethnic origin, religion, sexual orientation);
- the possibility to use a comparison from the past (e.g. a previous employee);<sup>82</sup>
- a statement that direct discrimination cannot be justified.<sup>83</sup>

---

<sup>77</sup> Act of 27 May 2008 on the Adaptation of National Law to Community Law in Matters of Discrimination, Article 1

<sup>78</sup> Versailles Court of Appeal decision no. 10/05642 in *Baby Loup*, 27 October 2011

<sup>79</sup> Migration Policy Group. “Developing Anti-Discrimination Law in Europe.” 2012

<sup>80</sup> The Court of Cassation is the French Superior Court

<sup>81</sup> Articles 2 (2) a) of both Directives consider that “*direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1*”.

<sup>82</sup> While the Directives state the possibility to make hypothetical comparison in addition to a comparison from the past, France does not cover this hypothetical comparison.

### **Indirect discrimination**

France has introduced a definition of indirect discrimination compliant with the definition adopted in the Directives<sup>84</sup>. The *Act of 27 May 2008 on the Adaptation of National Law to Community Law in Matters of Discrimination* introduced a provision defining indirect discrimination as an apparently neutral provision, criterion or practice which would put persons having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary” (Article 1).<sup>85</sup>

### **Exception on the basis of nationality**

Like other EU Member States, France has applied an exception within national legislation which justifies a difference of treatment, in limited circumstances, where a characteristic related to racial or ethnic origin constitutes a genuine and determining occupational requirement, when the objective is legitimate and the requirement is proportionate.<sup>86</sup>

Treatment based on nationality does not fall within the scope of the Directive (Article 3(2)). While some Member States have included the grounds of protecting nationality in anti-discrimination law, no such provision exists in France.

## **3. Manifestations of racism and structural discrimination in employment**

The monitoring of discrimination and racism in the labour market is not possible by simply examining labour market indicators, as described in section 2, since such indicators only show rough differences between global target groups and the national average. This section therefore aims to describe, in detail, discrimination existing in employment by looking at facts, evidence and statistical data, thereby showing the incidence of labour market discrimination on the basis of origin or religion. Perceptions of discrimination in employment are analysed (section 3.1) before looking at the incidence of discrimination in employment (section 3.2), as well as the patterns of inequality over the course of time (section 3.3). Discrimination in access to employment and the workplace are also investigated (sections 3.4 and 3.5) before examining discrimination across economic sectors (section

---

<sup>83</sup> Migration Policy Group. “Developing Anti-Discrimination Law in Europe.” 2012, p.40

<sup>84</sup> “Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons unless:

(i) that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary, or

(ii) as regards persons with a particular disability, the employer or any person or organisation to whom this Directive applies, is obliged, under national legislation, to take appropriate measures in line with the principles contained in Article 5 in order to eliminate disadvantages entailed by such provision, criterion or practice.”

(Article 2(4), Directives 2000/43/EC and 2000/78/EC)

<sup>85</sup> “Constitue une discrimination indirecte une disposition, un critère ou une pratique neutre en apparence, mais susceptible d’entraîner, pour l’un des motifs mentionnés au premier alinéa, un désavantage particulier pour des personnes par rapport à d’autres personnes, à moins que cette disposition, ce critère ou cette pratique ne soit objectivement justifié par un but légitime et que les moyens pour réaliser ce but ne soient nécessaires et appropriés” (*Act of 27 May 2008 on the Adaptation of National Law to Community Law in Matters of Discrimination*, Article 1)

<sup>86</sup> Migration Policy Group. “Developing Anti-Discrimination Law in Europe.” 2012, p.66

3.6) and geographical areas (section 3.7). The roles played by some actors in the discrimination in employment are also analysed (section 3.8).

### 3.1 Perceptions of discrimination in employment

According to a survey carried out in December 2012 by the survey institute CSA, French society is broadly well aware of discrimination and the fight against it is considered a major issue. In December 2012, 60% of interviewed people<sup>87</sup> supported a strong fight against discrimination. This is an increase of 1 point from the previous year.<sup>88</sup>

Discrimination paradoxically is perceived to be an important issue by the mainstream population than by immigrants themselves. Between 2008 and 2009, within the mainstream population, 43% of men and 60% of women stated that people are “often” discriminated against in France because of their origin or skin colour. It is striking to see that within the immigrant population, only 42% of men and 43% of women agree with the same statement. Discrimination therefore seems to be more of a problem in France by people who are *a priori* not concerned.<sup>89</sup>

When looking at labour market discrimination, second generation immigrants acknowledge having faced more discrimination in access to employment than in the actual workplace. Second generation immigrants also acknowledge having faced discrimination in the labour market much more (60%) than the total population (13%) during the last five years.<sup>90</sup>

These perceptions can be associated with developments in the political and public discourses. At the political level, the discourse of the far-right on immigrants and employment seems to have changed. While the *Front National's* programme has moved towards a more subtle line, following the replacement of Jean Marie Le Pen with Marine Le Pen as its leader, the core of their political programme continues to be targeting the immigrant population using economic, security and cultural threats. While Marine Le Pen renamed the programme “national preference” to a programme of “national priority”, the priorities remain similar: keeping jobs, social benefits and housing only for the French people.<sup>91</sup> While a part of the Conservative party (UMP) has been criticised for using and/or legitimising some elements of the FN discourse,<sup>92</sup> the Socialist party (PS) remains quiet except for the Minister of the Interior Manuel Valls who has acknowledged the link between irregular migration and unemployment.<sup>93</sup>

Public perceptions also seem to have been affected by the economic crisis. While unemployment remains the main fear within French society<sup>94</sup>, an increasing number of people believe there are too many immigrants in France today, with 69% of respondents considering this to be the case in 2012 (an increase of 10 points compared to 2011). Among these individuals, 70% believe that the rise in the number of immigrants make the life of people living in France harder. Here the context of the

---

<sup>87</sup> National representative sample of 1029 individuals aged 18 or more, surveyed between 6 and 12 December 2012.

<sup>88</sup> CSA Survey Institute. “Xénophobie, Antisémitisme, Racisme, Anti-racisme et Discriminations en France.” 2012, p.8.

<sup>89</sup> INSEE and INED. “Trajectoires et Origines, Enquête sur la diversité des populations en France.” 2010.

<sup>90</sup> INED. “Les discriminations en France: entre perceptions et expérience.” 2010, p.13.

<sup>91</sup> CNCDH (Human Rights National Consultative Commission), “La lutte contre le racisme, l’antisémitisme et la xénophobie.” 2012, p.47

<sup>92</sup> Le Figaro. “À l’UMP, «la ligne Buisson a pu légitimer le discours FN».” *Le Figaro*, March 2013.

<sup>93</sup> Le Monde. “Manuel Valls : “Etre de gauche, ce n’est pas régulariser tous les sans-papiers”.” *Le Monde*, June 2012.

<sup>94</sup> CSA Survey Institute. “Xénophobie, Antisémitisme, Racisme, Anti-racisme et Discriminations en France.” 2012, p.4

economic crisis is clearly reflected, since many respondents believe that newcomers are a threat to their access to employment or housing.<sup>95</sup>

Even though racism and discrimination in the labour market have not been at the core of political and public debates between March 2012 and March 2013, the crisis and the fear of unemployment have become steady features of the French society, and an increasing number of persons seem to use immigrants as scape-goats.

### 3.2 Incidence of discrimination in employment

Following stakeholder interviews, it seems that barriers exist in access to employment for minority and migrant groups due to discriminatory treatment and prejudices.

Three of the French ENAR members interviewed<sup>96</sup> stated that immigrants of Arabic origin and/or Muslim religion faced discrimination in employment due to their origin, religion, and also, in some cases, due to their postal address (e.g. poorer suburbs of Paris or Lyon, among other cities). Sections 3.4 and 3.5 present court cases related to discrimination on the basis of the above mentioned grounds.

In addition, the AJAME and the *Clé Nord Pas de Calais*,<sup>97</sup> which provide legal consultation to migrants, as well as associations on the roam looking for homeless people in Lille, have met an increasing number of people with the same profile: young graduates of Arabic origin and/or Muslim religion being unemployed and sometimes even homeless despite their excellent qualifications.

Over the reporting period, the most notorious incident regarding labour market discrimination took place in March 2013.

#### Box 1. Baby Loup: discriminatory dismissal on the grounds of religion

In March 2013, the Court of Cassation<sup>98</sup> cancelled the dismissal of a private childcare centre employee which had taken place in 2008 for the reason that she refused to remove her headscarf at work. The Court of Cassation considered that the principle of secularism (“*laïcité*”) did not apply to private sector employers. The Court of Cassation therefore considered that the dismissal of this employee was discrimination due to her religious convictions.

The Court decision became immediately controversial after a declaration by the Minister of the Interior, Manuel Valls, who regretted the Court decision and the questioning of the secularism principle. Several stakeholders such as Members of Parliament or associations then considered that it was inappropriate for a Minister to comment on a judicial decision.<sup>99</sup> This debate, as well as the differing court decisions,<sup>100</sup> demonstrates the differences in opinion in France on this matter.

---

<sup>95</sup> The source for this whole paragraph is CNCDH (Human Rights National Consultative Commission), “La lutte contre le racisme, l’antisémitisme et la xénophobie.” 2012, p.22

<sup>96</sup> Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013) and Chaambi, Abdel Aziz, interview by Hélène Van Aelst. *Coordination against Racism and Islamophobia Chair* (19 July 2013) and Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>97</sup> Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013) and Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>98</sup> Baby Loup. No. 536 (11-28.845) -- ECLI:FR:CCASS:2013:SO00536. Cour de Cassation – Chambre sociale. 19 March 2013.

<sup>99</sup> Libération. “La justice annule le licenciement de l’employée voilée de la crèche Baby-Loup.” *Libération*, March 2013.

<sup>100</sup> Baby Loup. No. 10/05642. Versailles Appeal Court. 27 October 2011 and Baby Loup. No. 536 (11-28.845) -- ECLI:FR:CCASS:2013:SO00536. Cour de Cassation – Chambre sociale. 19 March 2013

### 3.3 Patterns of inequality over the course of time

A shift in discrimination, overall, has been identified by a number of stakeholders over recent years. Two of the interviewed ENAR members<sup>101</sup> agree that since 9/11, racism in France has shifted from anti-Arabic racism to anti-Muslim racism. For them, the discourse against Islam and Muslims kept rising during the past decade. Both also criticise the mandate of Nicolas Sarkozy, during which himself and his Ministers regularly stigmatised Muslims, in particular during the debate on national identity. For instance, Nadine Morano, member of the government at that time, declared that she did not want young Muslims to speak backward slang or wear their caps back to front.<sup>102</sup> Such discourse indeed promoted negative stereotypes and prejudices against Muslims, as condemned in 2011 by Robert Badinter, former Minister of Justice.<sup>103</sup>

With regard to discrimination in the workplace, this seems to have been somewhat addressed by companies over recent years. According to the French ENAR member, Association to Support Professional Inclusion (AFIP), during the past decade, France has stopped denying the existence of discrimination in the workplace.<sup>104</sup> The promotion of diversity has been rather mainstreamed as a key strategic factor for ensuring the performance of a company.

Despite these developments, the AFIP considers that the fight against discrimination within most French companies remains a taboo.<sup>105</sup> However, several stakeholders<sup>106</sup> share the opposite view that companies are more advanced/advancing more on the promotion of equality and the fight against discrimination on the basis of origin and religion compared to the government or local authorities.

Though perceptions have become more negative, it is difficult to find evidence of these patterns in the labour market situation. This may also be due to the lack of up-to-date data allowing an ex ante/ex post comparison of the impact of the crisis. Several stakeholders<sup>107</sup> nevertheless stated that the crisis made it more difficult for immigrants to find a job, since it brought them even further in the queue for employment.

### 3.4 Discrimination in access to employment

The French Ombudsman notes that discrimination on the ground of ethnic origin in employment occurs most often during the recruitment of staff with indefinite contracts or within the framework of career development, remuneration and promotion exercises. Among the 80,000 complaints related to discrimination during the recruitment process, 29% were identified by the complainants as being due to their origin.<sup>108</sup>

60% of the complaints received by SOS Racism in 2012 were related to discrimination in the field of employment, similar to previous years. Within these complaints, 16% were related to access to employment (compared to 22% in 2011). These trends are consistent with those reported by the Ombudsman.<sup>109</sup> While the number of discriminatory actions in access to employment is unlikely to

---

<sup>101</sup> Chaambi, Abdel Aziz, interview by H el ena Van Aelst. *Coordination against Racism and Islamophobia Chair* (19 July 2013) and Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013)

<sup>102</sup> Le Nouvel Observateur. "Morano sous le feu des critiques apr es ses propos sur les jeunes musulmans." *Le Nouvel Observateur*, December 2009.

<sup>103</sup> Badinter, Robert, interview by Patrick Cohen. (7 March 2011).

<sup>104</sup> Amiri, Maral. "Emploi: "L'origine reste le premier facteur de discrimination"." *Respect Mag*, September 2012

<sup>105</sup> Amiri, Maral. "Emploi: "L'origine reste le premier facteur de discrimination"." *Respect Mag*, September 2012

<sup>106</sup> Amoureux, Fabienne, interview by H el ena Van Aelst. *Diversity Manager at MEDEF Haute-Garonne* (2 September 2013).

<sup>107</sup> Barthelemy, Estelle, interview by H el ena Van Aelst. *Mozaik RH Deputy Director* (9 August 2013) and Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013).

<sup>108</sup> The source for this whole paragraph is D efenseur des droits. "Annual Report." 2012

<sup>109</sup> See section 4.2.2.1 Ombudsman or equality body.

have decreased, the number of complaints has. This is considered to be due to the difficulty in identifying discrimination when the demand for jobs is lower than usual.<sup>110</sup>

In 2012, half of the complaints received by the Ombudsman were related to employment, and 10% of the total number of complaints was related to discrimination in the field of employment on the basis of origin.<sup>111</sup> The Ombudsman does not have further data on which migrant group is the most concerned, but the subjective and personal feelings of its employees, are that the complaints, regarding discrimination in the field of employment on the basis of origin are mainly filed by people of North-African origin and also from sub-Saharan Africa. Some of the applicants may be French nationals, but some may also be foreigners.<sup>112</sup>

In the 2008-2009 *Trajectories and Origin study*, 7% of male and 9% of female respondents declared having faced an unfair refusal of a job. These rates are higher among non-European immigrants and within second generation non-European immigrants. The highest rates can be found within the first and second generations of African immigrants, with rates between 25% and 30%.<sup>113</sup>

Two stakeholders mentioned evidence of direct discrimination, for instance, if candidates are selected on the basis of their origin. Indeed, information on origin can be guessed from a CV. Several testing have shown that candidates with North-African names are less likely to be invited for an interview.<sup>114</sup> A complementary selection may also occur on the basis of the candidate's area of residence given that their personal address and the location of the secondary school and/or university are mentioned on the CV. The representatives of AJAME and Mozaik RH stated that young graduates from socially disadvantaged areas are less likely to be invited for an interview on the basis of their place of residence.

Two Court cases highlight discrimination in access to employment due to origin and nationality.

### **Box 2. Airbus: discrimination on the grounds of origin<sup>115</sup>**

In January 2012, the Court of Cassation confirmed the condemnation of Airbus for racial discrimination, following a complaint from a previous specialised worker employed on a short-term basis, who claimed Airbus had refused him a permanent contract because of his origin. After two short-term contracts, this employee had applied for a permanent contract, but another temporary employee of French descent was selected. The complainant presented a claim before the French Equal Opportunities and Anti-Discrimination Commission (HALDE) and before the Labour Court. He claimed racial discrimination alleging that persons of North African origin were hired for temporary contracts but practically never for permanent contracts. Both Courts used HALDE's enquiries regarding the list of persons employed indicating that among employees hired under permanent contracts, almost none had a last name of North African origin.<sup>116</sup>

### **Box 3. La Poste: discrimination on the basis of nationality**

---

<sup>110</sup> The source for this paragraph is SOS Racism contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012, p.153

<sup>111</sup> Défenseur des droits. "Annual Report." 2012, pp. 30

<sup>112</sup> Lyazid, Maryvonne, interview by Hélène Van Aelst. *Ombudsman's Deputy for discrimination* (31 July 2013) and Jouhannaud, Christine, interview by Hélène Van Aelst. *Social protection and employment Department Director* (31 July 2013).

<sup>113</sup> The source for this paragraph is INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

<sup>114</sup> CEREQ. "EVADE – Entrée dans la Vie Active et Discriminations à l'Embauche." 2012.

<sup>115</sup> Airbus France. No. 1864. Cour de Cassation – Chambre sociale. 13 November 2008.

<sup>116</sup> Le Nouvel Observateur. "Airbus condamné pour discrimination raciale à l'embauche." *Le Nouvel Observateur*, January 2012.

In 2012, Mr M. filed a complaint claiming that the postal company had refused to hire him because of his nationality. After the selection process, Mr M. had an interview during which his tasks had been outlined and the manager started the paperwork. However, the latter stopped when Mr M. mentioned that he had Cameroonian nationality, alleging that he could not recruit foreigners. Following an investigation by the Ombudsman, the latter concluded that the decision made by the enterprise not to hire Mr M. was discriminatory.<sup>117</sup>

Direct and indirect discrimination also exists on the grounds of religion, as illustrated by the two following court cases.

#### **Box 4. Indirect discrimination on the grounds of religion**

Mrs K. filed a complaint to the HALDE in 2009 and claimed she had not been selected for professional training because of her halal food habits, directly linked with her religious beliefs. After having applied for professional training in the UK, Mrs K. was selected for an interview. Prior to her interview, she was asked to fill a form, with some questions on food habits of candidates, since successful candidates would be hosted in families. Having mentioned that she was eating only halal meat, her interview only lasted 5 min – compared to 15 minutes for the other candidates – and most of the questions focused on her food habits rather than her competences and motivation. Following an investigation by the HALDE and then by the Ombudsman, the latter concluded that indirect discrimination took place during the selection process which led to the non-selection of Mrs K. on the basis of her religious convictions.<sup>118</sup>

The CCIF confirmed in their 2012 annual report that an increasing number of employers were also investigating the religious practices of their employees in order to find out whether they were praying, eating halal and fasting.<sup>119</sup>

#### **Box 5. Discriminatory prohibition to wear the headscarf**

On 5 November 2010 the Administrative Tribunal of Paris found that the exclusion of an intern wearing the headscarf from an English course organized by the GRETA (network of public and adult educational centres) in a public high school was discriminatory.

On 8 June 2010 the Appeal Court of Paris found that the prohibition to wear the headscarf enforced by a vocational training institution (CFA) was discriminatory.<sup>120</sup>

Interviews with stakeholders such as the AJAME, along with the CCIF annual report, have confirmed that wearing the headscarf may be a barrier to being hired or following a professional training.<sup>121</sup>

Indirect discrimination may occur through the job postings phase, for instance if the job posting is only disseminated among closed networks, such as the former student networks of the current employees of a given enterprise. Education networks therefore play a key role in reinforcing discrimination patterns.

Foreign qualifications are recognised in France by the ENIC-NARIC Centre.<sup>122</sup> It is the only organisation able to deliver academic and professional recognition of foreign diploma and it does so

---

<sup>117</sup> Défenseur des droits. "Décision du Défenseur des droits LCD /2011-58." 2011.

<sup>118</sup> Défenseur des droits. "Décision du Défenseur des droits LCD n°2011-53." 2011.

<sup>119</sup> CCIF (Collective Against Islamophobia in France). "Annual Report 2012." Paris, 2012, p.20

<sup>120</sup> Amnesty International. "Choice and Prejudice - Discrimination against Muslims in Europe." 2012, p.69;

<sup>121</sup> CCIF (Collective Against Islamophobia in France). "Annual Report 2012." Paris, 2012, p.20

according to Directive 2005/36/EC on the recognition of professional qualifications of 7 May 2005, which does not provide for an automatic system of foreign qualifications' recognition.<sup>123</sup>

An individual who wishes to have their foreign qualifications recognised must send their files to the ENIC NARIC Centre, and the latter will be processed within three to four months. An expert will study the request and will evaluate if the ENIC-NARIC Centre can produce an academic or professional certificate of recognition.

Depending on the sector, the process is not exactly the same. If the profession for which the qualifications recognition is requested has been regulated, the qualification recognition must be addressed to another specific official structure, also depending on whether France has specific agreements with non-EU countries.

According to the ENIC-NARIC website, it is not mentioned that the recognition of foreign qualifications in France would enable a person to work in another EU country without needing to renew the process of recognition.

With regard to skills mismatch, while unemployment reached 10% of the working-age population, a survey released by the government employment agency at the end of May 2012 showed that about 43% of companies were unable to recruit the workers they need – which was five points higher than the previous year. In some industries, two thirds of the companies encountered difficulties hiring.<sup>124</sup> It remains however difficult to assess whether these skills mismatch negatively affect first or second generation immigrants or religious minorities.

In the private sector, the restrictions related to the wearing of religious symbols at work may only come from safety or health reasons, or from the nature of the task given to the employee. Being in contact with the customers is not recognised as a valid reason to ask an employee to remove her headscarf for instance, and the company internal rules and regulations cannot put a general ban on the wearing of religious symbols at work.<sup>125</sup> On the other hand, for civil servants, it is prohibited to wear any religious or political symbols in the exercise of their function.<sup>126</sup>

### 3.5 Discrimination in the workplace

According to the number and nature of complaints received by SOS Racism in 2012, 83% were related to discrimination in the workplace (against 77% in 2011).<sup>127</sup>

Lack of job promotion on the basis of migrant origin also takes place in the public sector and affects some second generation immigrants and persons from the Overseas Department who are civil servants.<sup>128</sup>

#### **Box 6. Gendarmerie: discrimination on the basis of origin and religion**

---

<sup>122</sup> ENIC - NARIC France. *ENIC - NARIC France*. 2013.

<sup>123</sup> European Union. " Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications."

<sup>124</sup> Reference for this paragraph is Beaupuy, Francois de. "A Skills Mismatch Makes French Unemployment Worse." *Bloomberg Business Week, Global Economics*. 19 July 2012.

<sup>125</sup> Labour Code, Article L. 1121

<sup>126</sup> Le Figaro. "Signes religieux et mission de service public: ce que dit la loi." *Le Figaro*, November 2010

<sup>127</sup> SOS Racisme contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012, p.153

<sup>128</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

Six gendarmes filled a complaint in 2009, claiming they had been victims of discriminatory harassment on the basis of their origin and religion from the Captain of their unit, along with other colleagues.

They suffered from racist and humiliating statements and behaviours on account of their Arabic origin and Muslim religion.

Following its investigation, the Ombudsman concluded that the behaviour of the Captain violated equality and non-discrimination principles and led to a deterioration of the plaintiffs' working conditions which jeopardised their career development.<sup>129</sup>

In addition, wearing a headscarf is still the cause of a significant number of unfair dismissals, as outlined in the Baby Loup case (Box 1).<sup>130</sup>

Besides, the CCIF condemns the tendency of some employers to investigate the religious beliefs and practices of their employees of alleged Muslim faith. According to its 2012 annual report, many employers try to find out if their employees pray or fast, and many also question the clothing of women in particular.<sup>131</sup>

The CRI representative also highlighted incidents of indirect discrimination in relation to the appearance of Muslim men having a beard.<sup>132</sup> Some Muslim employees who had a beard, for instance, were told that they should shave it. According to the stakeholders, such situations are dealt with on a case by case basis, but can lead to indirect discrimination, as in some cases the employee was required to work in the storehouse rather than be allowed to have contact with the customers.

The scope of such discrimination is difficult to measure, but it seems that immigrants of sub-Saharan or North-African origin and/or of Muslim faith - and among them women in particular - suffer from discrimination in the workplace.

### 3.6 Economic sectors

Discrimination may also take place more often in some economic sectors than others. Some professionals<sup>133</sup> state that it is very difficult for young graduates, from the more socially disadvantaged areas, to enter into sectors like human resources, communication, marketing or advertisement because these sectors mainly recruit through their networks. The AJAME representative also highlighted that there seem to be a deliberate blockage of access for people with foreign origin to elected representative positions in unions and political parties.<sup>134</sup>

Though the mapping of "discriminatory" sectors can provide useful information, it does not seem to be appropriate in the French context. Indeed, what seems to matter the most is the enterprise culture. For instance, if one can say that Anglo-Saxon companies tend to be more open to a diverse workforce, it remains difficult to see any trends for any other type of businesses.<sup>135</sup>

In addition, the fifth survey on discrimination in employment published by the survey institute Ifop, the Ombudsman and the ILO, showed that 16 % of employees in the private sector and 9 % of civil

---

<sup>129</sup> Défenseur des droits. "Décision du Défenseur des droits n° MLD 2012-53." 2012.

<sup>130</sup> CCIF (Collective Against Islamophobia in France). "Annual Report 2012." Paris, 2012, p.20

<sup>131</sup> CCIF (Collective Against Islamophobia in France). "Annual Report 2012." Paris, 2012, p.20

<sup>132</sup> Chaambi, Abdel Aziz, interview by Hélène Van Aelst. *Coordination against Racism and Islamophobia Chair* (19 July 2013)

<sup>133</sup> Barthelemy, Estelle, interview by Hélène Van Aelst. *Mozaik RH Deputy Director* (9 August 2013)

<sup>134</sup> Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013) and Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>135</sup> Barthelemy, Estelle, interview by Hélène Van Aelst. *Mozaik RH Deputy Director* (9 August 2013)

servants reported experiences of ethnic discrimination, while 35 % of private sector employees and 26 % of civil servants reported having witnessed ethnic discrimination at work.<sup>136</sup>

### 3.7 Geographical areas

Several stakeholders acknowledged that manifestations of labour market discrimination tend to be concentrated in large cities (Paris, Lyon, Marseille, Toulouse, Lille), and in particular, in some of their suburbs where many first and second generations immigrants live. When it is clear from a CV that a candidate comes from these areas, they are very likely to be discriminated against because of the prejudices against the young people from socially disadvantaged areas who are often seen as petty criminals.<sup>137</sup>

### 3.8 Relevant actors

Several actors play a key role in discrimination in employment, including employers and recruiters. According to Estelle Barthelemy, Deputy Director of Mozaik RH, some company recruitment processes keep them away from excellent candidates. For instance, some companies will have a tradition in recruiting their employees from the same schools than the current employees and lead managers have attended. This of course hinders diversity and strengthens social reproduction. Intermediaries such as universities, job agencies and the national employment agency may also play a role in structural discrimination in employment by not fostering, as much as they could, entry into the labour market of migrant groups with their level of qualifications. Finally, candidates themselves may play a role in structural discrimination by self-censoring themselves to apply for positions in the most prestigious companies.<sup>138</sup>

## 4. Tackling the challenges

This section aims to examine the way discrimination and racism on the labour market is being tackled in France. This section reviews existing current policies along with judicial and non-judicial remedies. Civil society initiatives such as NGO actions as well as individual employers' initiatives are also presented.

### 4.1 Public policies

At national level, public policies aiming to reduce discrimination in the field of employment on the basis of origin are not at the top of the agenda of the new government which entered into office in May 2012. None of the 60 commitments of the political platform directly named or demonstrated an intention to tackle the issue, while two were dedicated to the fight against discrimination on the basis of disability and gender.<sup>139</sup>

One measure has been implemented, however, in early 2013 and can be linked to the fight against discrimination on the basis of origin, to the extent that this measure aims to support the employment of people aged between 18 and 30 who have been unemployed for at least two years

---

<sup>136</sup> Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

<sup>137</sup> Idrissi-Ezzahiri, Aumar, interview by Helena Van Aelst. *Law Consultant and Secretary General of AJAME* (19 July 2013) and Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>138</sup> Barthelemy, Estelle, interview by Hélène Van Aelst. *Mozaik RH Deputy Director* (9 August 2013)

<sup>139</sup> Socialist Party. "Le projet de François Hollande." *Socialist Party*. 2013.

and who live in a Sensible Urban Area.<sup>140</sup> Companies who hire such profiles will be financially supported by public funding, receiving up to 5,000€ per hire.<sup>141</sup> While the government aims to reach the number of 100,000 tax free jobs by the end of 2013, as of August 2013, two thirds of the contracts still had to be signed and made effective.<sup>142</sup>

Though measures are in place, they cannot be considered as a concrete policy against discrimination in the field of employment on the basis of origin. The fight against discrimination actually tends to be dissolved within urban policy and this measure is a concrete example of this trend.

At regional level, some structures are in charge of the fight against discrimination in the field of employment. For instance, in some departments, the Joint Committee on Equal Opportunities (COPEC)<sup>143</sup>, under the aegis of the State representative, fosters dialogue between companies, social partners, local authorities and other key actors in the field of employment in order to fight against discrimination and promote diversity.<sup>144</sup> Some of these regional structures can then introduce some specific initiatives such as the COPEC of the *Loire Atlantique* department which produced a guide to the attention of companies to help them build their diversity policy while fighting against discrimination.<sup>145</sup> But all public (as well as private) budgets to tackle discrimination have decreased in the last five years.<sup>146</sup>

At local level, municipalities used to be able to voluntarily seek funding towards the National Agency for Social cohesion and Equal Opportunities (ACSE) to implement a diversity policy at their level with the support of external consultants, such as ISM-CORUM. But again, the ACSE has been reorganised in line with budget cuts.<sup>147</sup>

Overall, the civil society stakeholders who were interviewed regretted the absence of a real action against discrimination on the basis of origin. The replacement of the HALDE, which was well-known for tackling discrimination on the basis or origin, by the Ombudsman, which is seen as less concerned and effective, is perceived by almost all of them as a step back.

## 4.2 Access to effective remedies

Access to justice and effective remedies are critical in order to enforce the non-discrimination obligations imposed on Member States. A remedy is the means by which the violation of a right is prevented, redressed, or compensated. It can be of a judicial nature, e.g. action or suit, or non-judicial, for instance through the Ombudsman and mediation. In this section, due to the duration of judicial and non-judicial remedies, the period of research has been extended to the last three years, i.e. between March 2010 and March 2013.

---

<sup>140</sup> In French: “*Zone Urbaine Sensible (ZUS)*”. These areas are neighbourhoods with the highest poverty and unemployment rates.

<sup>141</sup> Lui Président. “Mise en place d’emplois francs.” *Lui Président*. 3 August 2013.

<sup>142</sup> Chastand, Jean-Baptiste, and Alexandre Pouchard. “Emplois d’avenir : l’Île-de-France à la traîne.” *Le Monde*, July 2013.

<sup>143</sup> Commission for the Promotion of Equal Opportunities and Citizenship (*Commission pour la Promotion de l’Égalité des Chances et de la citoyenneté*)

<sup>144</sup> COPEC Loire-Atlantique. “Loire-Atlantique – Publication du guide « Construire sa politique diversité et lutter contre les discriminations ».” *COPEC Loire-Atlantique*. 4 March 2013.

<sup>145</sup> COPEC Loire-Atlantique. “Loire-Atlantique – Publication du guide « Construire sa politique diversité et lutter contre les discriminations ».” *COPEC Loire-Atlantique*. 4 March 2013.

<sup>146</sup> Cediey, Eric, interview by Hélène Van Aelst. *ISM CORUM Director, Employment anti-discriminations policies expert* (30 July 2013).

<sup>147</sup> Cediey, Eric. *ISM CORUM Director, Employment anti-discriminations policies expert*, interview by Hélène Van Aelst. 30 July 2013.

### 4.2.1 Judicial remedies

Victims claiming discrimination against a private employer must bring their case before labour courts. The time limit for filing a claim is five years and the plaintiff has to be represented by a lawyer. An employee (in the private sector or contractual agent of an industrial or commercial public service) must bring his/her claim before the Labour Court (Prud'Hommes). The plaintiff must be represented by a lawyer at the appeal stage only. All cases relating to access to goods and services are brought before the District Court or Regional Court depending on the amounts involved or claimed. The plaintiff must be represented by a lawyer. The time limit for filing a claim is ten years.<sup>148</sup>

As a result of the inherent difficulties in proving discrimination, the Racial and Employment Equality Directives lay down that people who feel they have faced discrimination must only establish before a court or other competent authority facts from which it may be presumed that there has been discrimination.<sup>149</sup>

There are different types of evidence for plaintiffs to establish facts from which it may be presumed that there has been direct or indirect discrimination, including situation testing not before civil courts or inferences drawn from circumstantial evidence, such as, in France, a foreign physical appearance or a foreign surname. These were accepted as means of proof in discrimination cases on grounds of racial or ethnic origin – as highlighted in the cases of *Airbus* and *La Poste* (section 3.4).<sup>150</sup> Statistics resulting from the comparative situation of employees of a common employer are also commonly used in labour law and repeatedly recognised by the Cour de cassation.<sup>151</sup>

Evidence of discrimination in employment – especially during the hiring process – remains however “difficult”<sup>152</sup> to demonstrate and rely on explicit evidence. Evidence of discrimination may be demonstrated in some cases, but they require months to years of investigation. To that extent, a key challenge to the effective implementation of the anti-discrimination legislation in France remains the education of lawyers in anti-discrimination procedures.<sup>153</sup>

Furthermore, if judicial remedies are deemed to be crucial in the implementation of anti-discrimination legislation, in reality they are far from being the best way to fight against discrimination, since it is so difficult to demonstrate that discrimination took place.

### 4.2.2 Non-judicial remedies

#### 4.2.2.1 Ombudsman or equality body

The French equality body is the Ombudsman. It was established in March 2011 and took over the mission of the HALDE which had begun its mission in 2005.<sup>154</sup> The mandate of the HALDE is included completely in the new Ombudsman – which also took over the missions of three other independent

---

<sup>148</sup> Latraverse, Sophie. “Country Report France on measures to combat discrimination.” 2011.

<sup>149</sup> Article 8 of the Racial Equality Directive and Article 10 of the Employment Equality Directive

<sup>150</sup> Migration Policy Group. “Developing Anti-Discrimination Law in Europe.” 2012, p.91.

<sup>151</sup> Latraverse, Sophie. “Country Report France on measures to combat discrimination.” 2011.

<sup>152</sup> Latraverse, Sophie, interview by H el ena Van Aelst. *Ombudsman's Expertise and Judicial Affairs Departement's Director* (3 September 2013).

<sup>153</sup> Latraverse, Sophie, interview by H el ena Van Aelst. *Ombudsman's Expertise and Judicial Affairs Departement's Director* (3 September 2013).

<sup>154</sup> Act no. 2011-333 of 29 March 2011 creating the Ombudsman.

authorities<sup>155</sup> - one of the three deputies is dedicated specifically to the fight against discrimination and the promotion of equality.<sup>156</sup>

The Ombudsman fights against discrimination in the fields of employment, housing, education and access to goods and services, on the basis of the 19 criteria prohibited by the law, among them the grounds of ethnicity, nationality, race, religion, and origin. The Ombudsman provides assistance to victims and produces independent recommendations, reports and surveys.

The Ombudsman is not a quasi-judicial body and therefore its decisions are not binding. However, the Ombudsman can investigate complaints of discrimination before adopting a deliberation which may include proposals for judicial decisions, suggestions for mediation or it can present its observations to the courts.<sup>157</sup>

A complaint can be filed in person,<sup>158</sup> by phone, by online form (on the Ombudsman's website) or in writing by sending a letter and accompanying document to the postal address of the Ombudsman.

If it is admissible, the Ombudsman contacts the plaintiff to get a better understanding of the situation. After the investigation phase, the Ombudsman can help to reach an out-of-the-court settlement and/or provide recommendations to the employer to settle the case.

In 2012, 50% of the complaints related to the field of employment.<sup>159</sup> Complaints regarding discrimination in the workplace were reported more frequently than access to employment. This trend is consistent with what had been reported by SOS Racism<sup>160</sup> and may be explained by a certain self-censorship by victims since these types of discrimination are more difficult to identify and demonstrate, with victims therefore not choosing to report them.

In 2012, 10% of the complaints were related to discrimination in the field of employment on the basis of origin.<sup>161</sup> The Ombudsman does not have further data on which migrant groups seem to be the most concerned, but the subjective and personal feeling of its employees is that discrimination in the field of employment on the basis of origin are mainly brought primarily by people of North-African origin and then by people from sub-Saharan Africa. Some of them may be French, but some may also be foreigners.<sup>162</sup>

The Ombudsman is also active in the field of discrimination-prevention via thematic working groups, where relevant actors identify and promote good practices. Other actions are carried out by the Ombudsman, such as the promotion of conventions with private employers and the promotion of an Equality Charter for the public sector, as well as online awareness-raising training modules.<sup>163</sup>

The Ombudsman has, for instance, published guidebooks for the attention of local authorities<sup>164</sup> and employers<sup>165</sup> to help them prevent discrimination and promote equality by evaluating themselves and implementing good practices in recruitment and career management.

---

<sup>155</sup> The role of the Ombudsman can therefore be summarised into four main missions. First, it defends the individual rights and liberties within the framework of the relations with administrations. Second, it defends and promotes the rights of the child. Thirdly, it fights against discrimination and promotes equality. Finally, it promotes ethics in relation to security issues.

<sup>156</sup> ECRI (Council of Europe's European Commission against Racism and Intolerance). "Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France." 2013, p.5

<sup>157</sup> Migration Policy Group. "Developing Anti-Discrimination Law in Europe." 2012, p.110

<sup>158</sup> Plaintiffs can meet one the 450 Ombudsman representatives present across the metropolitan territory and the Overseas Departments.

<sup>159</sup> Défenseur des droits. "Annual Report." 2012, pp. 30

<sup>160</sup> Sections 3.4 Discrimination in access to employment and 3.5 Discrimination in the workplace.

<sup>161</sup> Défenseur des droits. "Annual Report." 2012, pp. 30

<sup>162</sup> Lyazid, Maryvonne, interview by Hélène Van Aelst. *Ombudsman's Deputy for discrimination* (31 July 2013) and Juhannaud, Christine, interview by Hélène Van Aelst. *Social protection and employment Department Director* (31 July 2013).

<sup>163</sup> Défenseur des droits. "Annual Report." 2012, pp. 119, 127, 129.

<sup>164</sup> Défenseur des droits. "Gestion des ressources humaines dans les collectivités territoriales : prévenir les discrimination et garantir l'égalité ." 2009.

As mentioned above, several of the interviewed stakeholders regard the Ombudsman as less powerful and less dedicated to discrimination on the basis of origin than the HALDE. Yet, the European Commission against Racism and Intolerance (ECRI) - a human rights body of the *Council of Europe* composed of independent experts – monitored the implementation of the Ombudsman and concluded that the law which established it “*preserved the employees and the functions of the HALDE while reinforcing the status, the independence and the powers of the independent authority in charge of the fight against racism and racial discrimination.*”<sup>166</sup>

However, the Deputy in charge of Discrimination acknowledged that the Ombudsman has not yet convinced the public about its missions on discrimination issues. The replacement of the HALDE and the lack of communication surrounding the Ombudsman regarding its position as the new authority in charge of discrimination has had negative effects on its visibility and therefore has had an effect on the number of individual complaints filed as well.<sup>167</sup>

The Ombudsman is well aware of this phenomenon and aims to better communicate its mission to remove this self-censorship.

#### **4.2.2.2 Mediation or conciliation**

When a complaint is filed, the Ombudsman can suggest mediation as a way to resolve the conflict. The mediator will be chosen and mandated by the Ombudsman to meet and listen to the victim and the defendant. The mediation cannot last for more than 3 months and can be renewed once.<sup>168</sup>

#### **4.2.2.3 Labour inspectorate**

Labour inspectorates are responsible for enforcing employment law, including equal treatment provisions. Labour inspectors can request to be provided with any document or information which could be useful to establish discrimination in the field of employment. Labour inspectors can impose various sanctions, from observations (notice of an infraction without any judicial consequences in the first place), to indictment and notices. Ultimately, the labour inspector can also refer to judges hearing applications for interim relief in order to constrain the employer to implement specific measures.<sup>169</sup>

### **4.3 Civil society initiatives**

Civil society actors such as trade unions, NGOs, employers and other bodies are also active in tackling discrimination in the field of employment on the grounds of origin or religion. Their actions complement judicial and non-judicial remedies, but suffer from the lack of a comprehensive anti-discrimination strategy in order to be considered greatly effective.

#### **4.3.1 Trade Unions**

The CGT-FO (General Confederation of Labour - Workers' Force) focused in 2012 on awareness-raising activities and trainings towards its members on discrimination, diversity and immigration issues. The CGT-FO is also a board member of the Diversity label which reviews applications made by companies to be awarded the label. The CGT-FO stressed that the applicants must have a wide scope

---

<sup>165</sup> Défenseur des droits. “Mesurer pour progresser vers l'égalité des chances.” 2012.

<sup>166</sup> ECRI (Council of Europe's European Commission against Racism and Intolerance). “Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France.” 2013, p.6

<sup>167</sup> ECRI (Council of Europe's European Commission against Racism and Intolerance). “Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France.” 2013, p.6

<sup>168</sup> French administration. *Discrimination*. 03 June 2013.

<sup>169</sup> Ministry of Labour. *La protection contre les discriminations*. 24 May 2013.

of actions which include equal opportunity as broadly as possible, i.e. beyond the sole grounds of gender or disability. This is clearly a good practice as it ensures that the companies which receive the Diversity label have an equal opportunity strategy, including anti-discrimination on the grounds of origin.<sup>170</sup>

The CGT-FO also increasingly provides individual support and legal assistance, mainly to foreigners on issues related to discrimination in employment. This is also a good practice for trade unions; to fight against discrimination in employment through legal and individual support, as cases may be brought to Court which can have the effect of reinforcing the application of the current anti-discrimination legislative framework.<sup>171</sup>

#### 4.3.2 NGOs activities

The main active NGOs providing **legal advice and individual support to victims** of discrimination at national level are *SOS Racism*, the Movement Against Racism and for Friendship between Peoples (MRAP) and the International League Against Racism and Anti-Semitism (LICRA). These NGOs – along with the LDH (Human Rights League) - work together, especially to file complaints in order to get judicial sanctions against discrimination as well as against racist behaviours or statements.<sup>172</sup>

*SOS Racism* often supports victims during the investigation phase (mainly using testing), but also if they go to court. *SOS Racism* reports that they feel they have received victims of discrimination who would have applied to the HALDE, if the latter still existed. Victims seem to have gone to *SOS Racism* for assistance rather than the successor of the HALDE, the Ombudsman, because the latter lost a lot of its visibility, as acknowledged by many other actors.<sup>173</sup>

Most of the cases (61%) brought to Court by the LICRA related to publically made racist statements, but also include cases related to discrimination in the field of employment, such as the Natixis bank case, described below.

#### **Box 7. Licra c/ Natixis: discrimination against a bank executive**

The LICRA supported a bank executive during his trial at the *Prud'hommes* against his former employer - the Natixis bank. The employee had evidence showing that a promotion was refused to him on grounds of his origin. Both the HALDE and the *Prud'hommes* concluded that there had been racial discrimination and the bank was forced to pay the executive damages and compensation for the financial harm caused by the loss of a deserved promotion.<sup>174</sup>

These NGOs also carry out awareness-raising activities and campaigning. The LICRA's awareness-raising activities focus on interventions at the Justice academy or in middle schools and through the publication of a guidebook on the legislation.<sup>175</sup> *SOS Racism* is also carrying out a campaign in favour of the unsigned CV.

---

<sup>170</sup> The reference for this paragraph is CGT-FO contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012.

<sup>171</sup> The reference for this paragraph is CGT-FO contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012.

<sup>172</sup> The Law of 16 November 2001 provides the possibility for representative trade unions and NGOs which have been in existence for over five years to take part in the action. Article 31 of the New Code of Civil procedure recognises the legal status before the civil courts of any person who has a legitimate interest in the dismissal or granting of the action.

<sup>173</sup> *SOS Racism* contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012, p.418.

<sup>174</sup> LICRA pour CNCDH rapport 2012 p.39

<sup>175</sup> LICRA pour CNCDH rapport 2012 p.39

Other associations and their representatives such as the CCIF, the Indivisibles or the AFIP are very active and are becoming more well-known by the general public thanks to their actions such as campaigns (CCIF, AFIP), street events (CCIF) or humorous events to raise awareness of racism (Indivisibles).

SOS Racism's campaign supports the general use of the unsigned CV as a good practice. The *Equal Opportunity Act of 2006* contained a provision to mainstream the unsigned CV for companies of more than 50 employees.<sup>176</sup> However, the provision never entered into force because the social experimentation of the measure requested by the government to the national employment agency revealed negative – if not counter-productive – outcomes.<sup>177</sup>

So far, this decision has not been questioned by the new government which entered into office in May 2012. Yet, SOS Racism still supports this measure through its campaign.

Several stakeholders such as ISM-CORUM, the Ombudsman and SOS Racism have also promoted testing as a good practice to bring evidence of discrimination – in recruitments, among other fields. Testing therefore appears as a good practice since it is “*both legal and effective*”<sup>178</sup>, to the extent that it reveals discrimination and is recognised by French Courts.

#### 4.3.3 Employers' organisations

The main organisation responsible for representing the interests of employers in France is the Movement of Companies of France (MEDEF). Some of its local sections carry out several actions to support diversity within companies. For instance, between 2004 and 2007, the MEDEF of the Haute-Garonne department trained 400 entrepreneurs and Human Resources managers on the fight against discrimination.<sup>179</sup> Since 2006, the MEDEF Haute-Garonne has also undertaken the following:

- Facilitating exchanges between its members about good practices related to diversity in their companies;
- Raising awareness and promoting diversity in employment towards companies in general thanks to their position on various boards related to the fight against discrimination.
- Implementing a Diversity Charter, signed in 2011.
- 

#### 4.3.4 Other civil society initiatives

The FACE Foundation carries out several good practices in order to fight discrimination in the field of employment, such as patronage,<sup>180</sup> first summer student job or support to entrepreneurs.<sup>181</sup> A good practice of FACE which is also recommended by the French ENAR member AFIP is patronage. This enables awareness-raising among the employees who act as patrons by giving them an opportunity to change their views about some young graduates. This practice also gives the opportunity to young graduates to become aware of the companies realities and start their own network.<sup>182</sup>

Education and discrimination in the field of employment are strongly linked. The discrimination faced in employment may indeed often be a continuity of the inequality experienced at school.

---

<sup>176</sup> French Republic. “Act n° 2006-396 du 31 mars 2006 for equal opportunities.” 31 March 2006. *Legifrance*.

<sup>177</sup> Le Monde. “Le CV anonyme ne sera finalement pas généralisé.” *Le Monde* (2011).

<sup>178</sup> Migration Policy Group. “Proving Discrimination Cases, the Role of Situation Testing.” 2009.

<sup>179</sup> The source for this paragraph is Amoureux, Fabienne, interview by Héléna Van Aelst. *Diversity Manager at MEDEF Haute-Garonne* (2 September 2013).

<sup>180</sup> In French: “parrainage”.

<sup>181</sup> FACE (Foundation Act Against Exclusion). *Le grand mouvement social et sociétal des entreprises*

<sup>182</sup> Amiri, Maral. “Emploi: “L’origine reste le premier facteur de discrimination”.” *RespectMag*, September 2012

The Institute of Political Studies of Paris has developed a programme, since 2001, which aims to foster diversity and equal opportunities among the numerous candidates applying to become students of this very selective University. The programme has achieved its goal by establishing partnerships with high schools located in “priority areas”, i.e. with difficult and/or poor social backgrounds. Such partnerships allow the best students of these high schools to pass the selective entrance examination of Sciences-Po Paris, even though they might never have considered doing so because of self-censorship and/or financial constraints.<sup>183</sup>

Several other “*Grandes écoles*”, such as business schools, have also developed similar programmes which can be qualified as good practice to the extent that they foster diversity and equal opportunities.<sup>184</sup>

#### 4.4 Individual employers’ initiatives

Employers have also developed by themselves some good practices to tackle discrimination in employment. In this section, two of these initiatives which have a national scope - the Diversity label and the Diversity Charter – are presented, as well as the testing method which is sometimes used by companies to evaluate their diversity.

The Diversity label and the Diversity Charter have been initiated by employers to promote diversity, though they differ in their implementation. While employers must first sign the Charter and then implement some actions, they are firstly required to satisfy several criteria before being awarded the label.<sup>185</sup> The Diversity Label therefore seems to be stricter in its application.

The Diversity Charter was elaborated in 2004 by a group of researchers and company executives. It was first signed by companies belonging to the CAC 40 and by Small and Medium-size Companies, but also by local authorities as of 2007. More than 2,000 companies have signed the Charter. The aim of the Charter is to raise awareness among all these employers regarding diversity issues. The representative of Clé Nord Pas de Calais, an NGO which assists companies and local authorities who wish to implement the Charter, made a balanced assessment of the impact of the Charter.<sup>186</sup> For instance, among the 18 grounds of discrimination prohibited by law, only 4 are measurable, like gender equality or inclusion of disabled people. Besides, there is no monitoring of the implementation of the Charter, thus having ratified the Charter does not mean that a given enterprise or public authority will be exempt of discrimination. For instance, Airbus signed the Diversity Charter but was also condemned for racial discrimination.<sup>187</sup>

With regard to the Diversity label, as of August 2012, 364 diversity labels had been awarded to a variety of employers – Ministers, large cities, industrial groups, medium-sized companies - covering more than 830,000 employees. The European Commission recognised the diversity label as being one of the best good practices at national level to fight against discrimination and restore equal treatment.

Some companies, such as Adecco, Casino, LVMH, Michael Page, have themselves mandated research institutes such as ISM-CORUM, to conduct testing on their own recruitments. This can be considered

---

<sup>183</sup> The source for this paragraph is Jacqué, Philippe. “Dix ans après, démocratisation en demi-teinte pour Sciences Po Paris.” *Le Monde*, September 2011.

<sup>184</sup> Jacqué, Philippe. “Dix ans après, démocratisation en demi-teinte pour Sciences Po Paris.” *Le Monde*, September 2011.

<sup>185</sup> Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>186</sup> Bourabaa, Madjid, interview by Hélène Van Aelst. *Chair of Clé Nord Pas de Calais* (18 July 2013).

<sup>187</sup> The source for this paragraph is Héraud, Béatrice. “Airbus condamné pour discrimination raciale.” *Novethic*, March 2010.

very good practice. Such testing allows companies to assess and supervise their recruitment methods and practices, and to eventually implement antidiscrimination strategies if necessary.

Positive action measures do not seem to be widely implemented in France. However, the recruitment agency Mozaik RH helps some employers to broaden their recruitment scope. This ethical recruitment agency supports the inclusion onto the labour market of young graduates from socially disadvantaged areas, in particular the suburbs of Paris and Lyon.<sup>188</sup>

To do so, Mozaik RH publishes job opportunities within Universities located in these areas and accompanies young graduates during their application process, for instance with trainings dedicated to video resume<sup>189</sup> and public speaking. Mozaik RH has also established partnerships between Universities located in these areas and companies such as SFR, GDF or the *Credit Agricole*. Mozaik RH then recruits the appropriate candidates within their databases for these companies. So far 900 of these young graduates have been hired by these companies, and every year Mozaik RH convinces new companies to recruit some of their employees through their agency.

The strategy of Mozaik RH can be classified as a good practice in itself because it supports the employment of young graduates from socially disadvantaged areas and it promotes diversity on the basis of social and ethnic origin within companies. In the long-term, these young graduates will hopefully become executives, having the possibility to mainstream such diversity recruitment policies.

## 5. Conclusions and recommendations

This section aims to highlight recent developments in France in relation to racism and discrimination (section 5.1) before presenting the report's conclusions and recommendations (section 5.2).

### 5.1 Political and societal developments related to racism and discrimination

Several developments have been identified with regard to racism and discrimination in France.

First, a radicalisation trend can be identified, with the Merah Case in March 2012, but also some xenophobic and racist political discourses during and after the presidential campaign, along with some elements of xenophobia by the public throughout the period.

The Merah case refers to the three killings perpetrated by Mohammed Merah, a Franco-Algerian aged 23, in Montauban and Toulouse between 11 and 19 March 2012, leading to the death of three sergeant's parachutists and one Jewish professor, his two daughters and another student from a Jewish secondary school. Before being killed by the police who was trying to capture him, Merah explained that he was killing militaries in France because they were killing "his brothers" in Afghanistan, and that he was killing Jewish people in France because [they] were killing innocents in Palestine. Converted to Islam in 2008, Merah claimed he perpetrated these murders as a jihadist.<sup>190</sup> Following the case, Muslim communities and immigrants were targeted by xenophobic discourses and acts.<sup>191</sup> Marine Le Pen claimed that Muslims were not well-integrated in France,<sup>192</sup>

---

<sup>188</sup> Barthelemy, Estelle. *Mozaik RH Deputy Director*, interview by H el ena Van Aelst. 9 August 2013.

<sup>189</sup> A *video resume* is a short video created by a candidate for employment and uploaded to the Internet for prospective employers to review.

<sup>190</sup> Defranoux, Laurence and Patricia Tourancheau. "L'affaire Merah en 23 dates." *Lib eration* (2012)

<sup>191</sup> CCIF (Collective Against Islamophobia in France). *Annual Report 2012*.

<sup>192</sup> Voy-Gillis, Ana is, interview by H el ena Van Aelst. *Chair of the Extremes' Observatory* (18 July 2013).

and portrayed immigrants as a threat, wondering how many Merah-type individuals there were in the boats and planes filled with immigrants coming to France every day, and among the children of non-assimilated immigrants.<sup>193</sup>

A number of violent actions against Muslim institutions and Muslim women, men and children have also been reported in 2012. For instance, in September 2012 in Nantes when a fully-veiled woman accompanying her children to a funfair was violently forced to unveil in public.<sup>194</sup>

With regards to Roma and Travellers, it should be first highlighted that the media and probably the public opinion tend to mix these two groups. Anti-Roma and anti-travellers sentiment is widespread with 77% of a representative panel of French population considering Roma as a segregated group within French society and 74% of the same panel considering travellers the same way.<sup>195</sup> A report of Amnesty International highlighted the numerous human rights violations related to the forced evictions of Roma, with about 9,000 Roma people having been evicted in the first nine months of 2012.<sup>196</sup>

With regard to public opinion, the French ENAR member Extremes' Observatory considers that the media contributed to mainstream discriminatory discourse. Weekly magazines like *Le Point* or *L'Express* have published front pages with stigmatising titles such as "This careless Islam", or "The real cost of immigration"<sup>197</sup> with a picture of a woman wearing a burka. The above-mentioned cases – and many others - have been highlighted by the media and show that Islam and Muslims have increasingly been targeted over the period. This confirms the analysis of several French ENAR members who consider that, since 9/11, the anti-Muslim sentiment has increasingly grown next to an old anti-Arab racism. The above-mentioned discourses obviously stigmatised Muslims since they portrayed them as a segregated group not integrated within French society who are a burden – if not a threat – to France. It is however too early to say whether these developments reflect a lasting trend or are just an echo of the 2012 presidential race discourses.

Following the presidential elections in 2012, a Socialist President and Assembly were elected in May and June 2012. For some stakeholders, such as the AJAME, this development marks a rupture from the previous Conservative government. But to what extent has the new government managed to have a progressive impact on racism, anti-discrimination or migration and asylum policies?

With regard to migration and asylum policies, a number of changes have been implemented which seem to address some of the current obstacles and issues existing in immigration policy. The circulars of 31 May 2011 and of 12 January 2012 which limited access to the labour market for foreign students who graduated in France.<sup>198</sup> The circular of 31 May 2012<sup>199</sup> encouraged prefects to consider more flexibly, and on a case-by-case basis, applications from foreign students for a change of status.<sup>200</sup> This allowed employers to stop renouncing to hire foreign graduates – some of them had become irregular at the time of the implementation. The circular of 28 November clarified the regularisation conditions of irregular migrants.<sup>201</sup> A law dated 31 December 2012 changed the ways in which foreigners in an irregular situation may be detained, and modified the offence of facilitating

---

<sup>193</sup> Le Nouvel Observateur. "Le Pen : "Combien de Merah dans les bateaux qui arrivent en France ?"." *Le Nouvel Observateur*, March 2012.

<sup>194</sup> CCIF (Collective Against Islamophobia in France). *Annual Report 2012*.

<sup>195</sup> CSA Survey Institute. "Xénophobie, Antisémitisme, Racisme, Anti-racisme et Discriminations en France." 2012, p.5.

<sup>196</sup> Amnesty International. "Chassés de toute part – Les expulsions forcées de Roms en Île-de-France." 2012.

<sup>197</sup> Le Huffington Post. "La Une du magazine Le Point sur "cet islam sans gêne" fait polémique." *Le Huffington Post* (2012).

<sup>198</sup> French Republic. "Circular on access to labour market of foreign graduates." 31 May 2011. *Legifrance*.

and French Republic. "Circular on taxes related to immigration and citizenship acquisition." 12 January 2012.

<sup>199</sup> French Republic. "Circulaire relative à l'accès au marché du travail des diplômés étrangers." 31 May 2012. *Legifrance*.

<sup>200</sup> OECD. "International Migration Outlook." 2013, p.252

<sup>201</sup> European Migration Network. "Annual report 2012 on immigration and asylum policy in France." 2012, p.9

unauthorised residence to exclude humanitarian and disinterested actions.<sup>202</sup> The circular of 6 July 2012 recalled that families with children were only kept in detention as a measure of last resort.<sup>203</sup> However, some NGOs such as *la Cimade* consider that the migration and asylum policy of the new government is a continuity of the previous government's restrictive policies,<sup>204</sup> with a similar – if not higher – number of expulsions of irregular migrants,<sup>205</sup> along with the continued pursuit of Roma camp dismantling.<sup>206</sup> One of the key commitments of Francois Hollande, which was to grant long-term foreigners the right to vote at local election, seems also to be compromised.<sup>207</sup> As mentioned previously, no comprehensive policies addressing discrimination, including those on the basis of origin or religion in general or in the field of employment, were implemented.

## 5.2 Conclusions and recommendations

A number of conclusions and recommendations can be drawn after examining the current situation in France.

As of September 2013, the only measure tackling indirectly discrimination in employment is the *emplois d'avenir*,<sup>208</sup> but its impact will only be evident in a couple of months since it is currently in the initial stages of implementation. It is also worth highlighting that working groups have been brought together by the government in July 2013 to rethink French integration policy.<sup>209</sup> These groups should deliver their recommendations by the end of September 2013, and the government intends to use them as a basis to define a new long-term integration strategy. No working groups focus on anti-discrimination issues as such, but one of them is dedicated to education, employment and training issues. A closer look should be given to their conclusions to see if they express the need for comprehensive anti-discrimination policies in employment, tackling all grounds – including origin and religion - through targeted measures.

## Recommendations

### Discrimination in access to employment and in the workplace

- Indicators on diversity of origins among employees should be established to help identify whether discrimination is occurring in the workplace. Since ethnic statistics are prohibited in France, these indicators could collect the nationality of parents and grand-parents in order to cover second and third generation of immigrants. Such data could be collected through online forms that companies increasingly use (or could be requested to use for the purpose of monitoring) in their recruitment processes. A comparison between the diversity of origins among candidates and employees could then be drawn as an indicator of diversity or of potential discrimination. Another indicator could be the repartition of employees of migrant origin within the different levels of the hierarchy to monitor whether they also have access to the higher responsibilities.

### Data collection issues

- The government should enter into dialogue with statistical institutes in order to identify the obstacles that currently existing in gathering equality data and to identify solutions for the

---

<sup>202</sup> European Migration Network. "Annual report 2012 on immigration and asylum policy in France." 2012, p.9

<sup>203</sup> European Migration Network. "Annual report 2012 on immigration and asylum policy in France." 2012, p.10

<sup>204</sup> La Cimade. "Hollande, un an après, toujours pas de rupture." 2013.

<sup>205</sup> Le Point. "Manuel Valls se veut ferme mais transparent sur l'immigration." *Le Point*, March 2013.

<sup>206</sup> Saulnier, Julie. "Roms: Manuel Valls fait-il du Sarkozy?" *L'Express*, March 2013.

<sup>207</sup> Lui Président. "Droit de vote des étrangers." *Lui Président*. May 2013.

<sup>208</sup> Lui Président. "Mise en place d'emplois francs." 3 August 2013. *Lui Président*

<sup>209</sup> Cediey, Eric. *ISM CORUM Director, Employment anti-discriminations policies expert*, interview by Hélène Van Aelst. 30 July 2013.

reduction of such obstacles.

- The government should ensure that studies, such as the INSEE-INED *Trajectories and Origin*, are carried out at least every two years, to allow a closer monitoring of discrimination on the basis of origin or religion in the labour market.
- The government should ensure that all employers collect data disaggregated by gender, age, disability, religion and origin in order to monitor discrimination.

### **Legal framework – Implementation of the Racial and Employment Equality Directives**

- During their education, law students should have access to specific courses in their academic institutions in order to be familiarised with anti-discrimination legislation and how to gather evidence in order to prove their case. Such courses should be delivered by lawyers already addressing this issue in their daily work.
- On an annual basis, practising lawyers should undertake a half to one day training course, provided by the Bar Association, on the developments in anti-discrimination legislation and the practical difficulties encountered. This would assist in the gathering of best practices and lessons learnt by practitioners.

### **Ombudsman**

- The Ombudsman should launch a public campaign to better inform the general public about anti-discrimination legislation and its missions in this field, along with its free legal support service available to victims.<sup>210</sup> This would enhance public knowledge of the support provided in the area of discrimination, thus helping to tackle the phenomenon. To reach the general public, such campaign should take place online via social media as well as through ads in the traditional media (radio, TV, newspapers). Posters could also be placed in public transports and sent to companies to be placed in the working environment.

### **Public structures, public policies**

- The government should implement a comprehensive strategy to fight all forms of discrimination, including those on the basis of origin or religion. This strategy should be on the basis of specific anti-discrimination policies dedicated to this aspect rather than global policies that touch upon this issue.
- For instance, within the Public Bank of Investment, a department should be dedicated to the support and development of entrepreneurship projects of individuals living in socially disadvantaged areas.<sup>211</sup>
- Besides, each public contract covering socially disadvantaged areas (e.g. for construction, transports, etc.) should have a requirement that the contracting company shall hire a number of unemployed persons living in the area.<sup>212</sup>

---

<sup>210</sup> Recommendation based on ECRI (Council of Europe's European Commission against Racism and Intolerance). "Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France." 2013, p.7

<sup>211</sup> This was one of the 20 commitments of François Hollande for the socially disadvantaged areas which was not implemented (Lui Président. "Les 20 engagements de François Hollande pour les quartiers et les territoires délaissés." 27 March 2012.) and which is recommended by the representative of *Clé Nord Pas de Calais*. The Public Bank of Investment is being implemented but it is not clear whether the department supporting development of entrepreneurship projects of individuals living in socially disadvantaged areas has been implemented (Ministry of Economy and Finances. "La banque publique d'investissement." 19 August 2013).

<sup>212</sup> This was one of the 20 commitments of François Hollande for socially disadvantaged areas which was not implemented (Lui Président. "Les 20 engagements de François Hollande pour les quartiers et les territoires délaissés." 27 March 2012.), except for renovation (Lui Président. "Les engagements de campagne hors-programme." *Lui Président*. 2013) and which is recommended by the representative of *Clé Nord Pas de Calais*.

## Good practices

- The diversity label should be mainstreamed by making it accessible to all employers – e.g. those who cannot afford it should be subsidised from a government fund.
- Later on, the label could be made a requirement for all public and private employers - with incentives such as subsidies to cover the costs of its implementation – in order for equality and diversity to become mainstreamed features of the field of employment in France.

## 6. Bibliography

### European Union

European Migration Network. “Annual report 2012 on immigration and asylum policy in France.” 2012. 5 September 2013. <<http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do;jsessionid=D0B9EE309705740AD85F92D80F324C5D?entryTitle=01.%20Annual%20Policy%20Report%202012>>.

European Union. “ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.” 2005. *http://eur-lex.europa.eu*. 1 September 2013. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005L0036:20110324:EN:PDF>>.

European Union. “Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.” 2000. *Official Journal L 303 , 02/12/2000 P. 0016 - 0022*. 5 September 2013. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>>.

European Union. “Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.” 2000. *Official Journal L 180 , 19/07/2000 P. 0022 - 0026*. 5 September 2013. <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>>.

European Working Conditions Observatory. “Occupational promotion of migrant workers.” May 2009. *European Working Conditions Observatory*. 10 August 2013. <<http://www.eurofound.europa.eu/ewco/studies/tn0807038s/index.htm>>.

Eurostat. “Labour Force Survey, Activity Rates by sex, age and nationality .” 2013. *Eurostat*. 2 August 2013. <[http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database)>.

Eurostat. “Labour Force Survey, Employment Rates by sex, age and nationality.” 2013. *Eurostat*. 2 August 2013. <[http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database)>.

Eurostat. “Labour Force Survey, Unemployment Rates by sex, age and nationality.” 2013. *Eurostat*. 14 August 2013. <[http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database)>.

Eurostat. “Statistics.” 2013. *Eurostat*. 12 August 2013. <[http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database)>.

### **International organisations**

ECRI (Council of Europe's European Commission against Racism and Intolerance). "Conclusions de l'ECRI sur la mise en oeuvre des recommandations faisant l'objet d'un suivi intermédiaire adressées à la France." 2013.

OECD. "International Migration Outlook." 2013.

Office of the High Commissioner for Human Rights. "Minorities under international law." 2013. *United Nations Human Rights*. 10 August 2013. <<http://www.ohchr.org/EN/Issues/Minorities/Pages/internationallaw.aspx>>.

### **Governmental sources**

CNCDH (Human Rights National Consultative Commission). "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012.

COPEC Loire-Atlantique. "Loire-Atlantique – Publication du guide « Construire sa politique diversité et lutter contre les discriminations »." 4 March 2013. *COPEC Loire-Atlantique*. 26 August 2013. <<http://www.afnor.org/atlas/europe/france/pays-de-la-loire/loire-atlantique-publication-du-guide-construire-sa-politique-diversite-et-lutter-contre-les-discriminations>>.

Défenseur des droits. "Annual Report." 2012.

Défenseur des droits. "Décision du Défenseur des droits LCD /2011-58." 2011.

Défenseur des droits. "Décision du Défenseur des droits LCD n°2011-53." 2011.

Défenseur des droits. "Décision du Défenseur des droits n° MLD 2012-53." 2012.

Défenseur des droits. "Gens du voyage ." 2012.

Défenseur des droits. "Gestion des ressources humaines dans les collectivités territoriales : prévenir les discrimination et garantir l'égalité ." 2009.

Défenseur des droits. "Mesurer pour progresser vers l'égalité des chances." 2012.

Défenseur des droits, Ifop, ILO. "Baromètre sur la perception des discriminations dans le travail." 2013.

ENIC - NARIC France. *ENIC - NARIC France*. 2013. 18 August 2013. <<http://www.ciep.fr/enic-naricfr/>>.

High Council for Integration. "Mots de l'intégration." 2013. *High Council for Integration*. 10 August 2013. <<http://www.hci.gouv.fr/-Mots-de-l-integration-.html#l>>.

INED. "Les discriminations en France: entre perceptions et expérience." 2010.

INSEE and INED. "Trajectoires et Origines, Enquête sur la diversité des populations en France." 2010.

INSEE. "Fiches thématiques, Population immigrée: Immigrés et descendants d'immigrés en France." 2012. 10 August 2013. <[http://www.insee.fr/fr/ffc/docs\\_ffc/ref/IMMFRA12\\_g\\_Flot1\\_pop.pdf](http://www.insee.fr/fr/ffc/docs_ffc/ref/IMMFRA12_g_Flot1_pop.pdf) >.

INSEE. "Tableaux de l'économie française." 2013. 2 August 2013. <<http://www.insee.fr/fr/ffc/tef/tef2013/tef2013.pdf>>.

INSEE. "Vue d'ensemble, L'économie française." 2013. 31 July 2013. <[http://www.insee.fr/fr/ffc/docs\\_ffc/ref/ECOFRA13b\\_VE.pdf](http://www.insee.fr/fr/ffc/docs_ffc/ref/ECOFRA13b_VE.pdf)>.

Ministry of Economy and Finances. "La banque publique d'investissement." 19 August 2013. 26 August 2013. <<http://www.economie.gouv.fr/banque-publique-dinvestissement>>.

Ministry of Interior. "Le label diversité." 12 March 2013. *Website of the Ministry of Interior*. 26 August 2013. <<http://www.immigration.interieur.gouv.fr/Integration/Emploi-et-promotion-de-la-diversite/Le-label-diversite>>.

Ministry of Labour. *La protection contre les discriminations*. 24 May 2013. 26 August 2013. <<http://travail-emploi.gouv.fr/informations-pratiques,89/fiches-pratiques,91/egalite-professionnelle,117/la-protection-contre-les,12789.html>>.

National Council of Information and Freedoms. "Mesure de la diversité et protection des données personnelles." Mai 2007. *CNIL*. 6 October 2013. <<http://www.cnil.fr/fileadmin/documents/approfondir/dossier/diversite/RapportdiversiteVD.pdf>>.

#### **National legislation and case law**

Airbus France. No. 1864. Cour de Cassation – Chambre sociale. 13 November 2008. 06 October 2013. <[http://www.courdecassation.fr/jurisprudence\\_2/chambre\\_sociale\\_576/07\\_60.469\\_11961.html](http://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/07_60.469_11961.html)>.

Baby Loup. No. 10/05642. Versailles Appeal Court. 27 October 2011. 10 August 2013. <[http://www.chronique-ouvriere.fr/IMG/pdf/CA\\_Versailles\\_27\\_Octobre\\_2011.pdf](http://www.chronique-ouvriere.fr/IMG/pdf/CA_Versailles_27_Octobre_2011.pdf)>.

Baby Loup. No. 536 (11-28.845) -- ECLI:FR:CCASS:2013:SO00536. Cour de Cassation – Chambre sociale. 19 March 2013. 06 October 2013. <[http://www.courdecassation.fr/jurisprudence\\_2/chambre\\_sociale\\_576/536\\_19\\_25762.html](http://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/536_19_25762.html)>.

Constitutional Council. "Décision n° 2007-557 DC du 15 novembre 2007 ." 15 November 2007. *Constitutional Council*. 10 August 2013. <<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2007/2007-557-dc/decision-n-2007-557-dc-du-15-novembre-2007.1183.html>>.

French Republic. "Circulaire relative à la mise en œuvre de l'assignation à résidence prévue à l'article L.561-2 du CESEDA, en alternative au placement des familles en rétention administrative sur le fondement de l'article L.551-1 du même code." 6 July 2012. *Legifrance*. 6 September 2013. <[http://circulaire.legifrance.gouv.fr/pdf/2012/09/cir\\_35851.pdf](http://circulaire.legifrance.gouv.fr/pdf/2012/09/cir_35851.pdf)>.

French Republic. "Circulaire relative à l'accès au marché du travail des diplômés étrangers." 31 May 2012. *Legifrance*. 6 September 2013. <[http://circulaires.legifrance.gouv.fr/pdf/2012/06/cir\\_35409.pdf](http://circulaires.legifrance.gouv.fr/pdf/2012/06/cir_35409.pdf)>.

French Republic. "Circulaire relative à maîtrise de l'immigration professionnelle." 31 May 2011. *Legifrance*. 6 September 2013. <[http://circulaire.legifrance.gouv.fr/pdf/2011/06/cir\\_33321.pdf](http://circulaire.legifrance.gouv.fr/pdf/2011/06/cir_33321.pdf)>.

French Republic. "Circulaire relative aux taxes liées à l'immigration et à l'acquisition de la nationalité." 12 January 2012. *Legifrance*. 6 September 2013. <[http://circulaire.legifrance.gouv.fr/pdf/2011/06/cir\\_33321.pdf](http://circulaire.legifrance.gouv.fr/pdf/2011/06/cir_33321.pdf)>.

French Republic. "Code du Travail." 8 August 2013. *Legifrance*. 6 September 2013. <<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006072050&dateTexte=20130908>>.

French Republic. "Constitution du 4 Octobre 1958." n.d. *Legifrance*. 1 September 2013. <<http://legislationline.org/documents/action/popup/id/8808/preview>>.

French Republic. *Discrimination*. 03 June 2013. 26 August 2013. <<http://vosdroits.service-public.fr/particuliers/F19448.xhtml>>.

French Republic. "Loi n° 2005-843 du 26 juillet 2005 portant diverses mesures de transposition du droit communautaire à la fonction publique ." 26 July 2005. *Legifrance*. 2 September 2013. <<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000265767>>.

French Republic. "Loi n° 2006-396 du 31 mars 2006 pour l'égalité des chances." 31 March 2006. *Legifrance*. 10 September 2013. <[http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=A49106EF0C35C0F379E30D73D3901100.tpdjo04v\\_2?cidTexte=JORFTEXT000000268539&dateTexte=>](http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=A49106EF0C35C0F379E30D73D3901100.tpdjo04v_2?cidTexte=JORFTEXT000000268539&dateTexte=>)>.

French Republic. "Loi n° 2008-496 du 27 mai 2008 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations." 27 May 2008. *Legifrance*. 10 August 2013. <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783>>.

French Republic. "Loi n° 2012-1560 du 31 décembre 2012 relative à la retenue pour vérification du droit au séjour et modifiant le délit d'aide au séjour irrégulier pour en exclure les actions humanitaires et désintéressées." 31 December 2012. *Legifrance*. 6 September 2013. <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026871211&dateTexte=&categorieLien=id>>.

French Republic. "Loi n° 78-17 du 6 janvier 1978 relative à l'informatique, aux fichiers et aux libertés." 2013. *Legifrance*. 2 August 2013. <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068624&dateTexte=20110405>>.

French Republic. "Loi no 2001-1066 du 16 novembre 2001 relative à la lutte contre les discriminations." 16 November 2001. *Legifrance*. 2 August 2013.

<<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000588617&dateTexte=&categorieLien=id>>.

French Republic. "Loi organique n° 2011-333 du 29 mars 2011 relative au Défenseur des droits." 29 March 2011. *Legifrance*. 5 September 2013. <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023781167>>.

### **Non-governmental organisations**

Amnesty International. "Chassés de toute part – Les expulsions forcées de Roms en Île-de-France." 2012.

Amnesty International. "Choice and Prejudice - Discrimination against Muslims in Europe." 2012.

Amnesty International. "Les Roms en France". 2012.

CCIF (Collective Against Islamophobia in France). *Annual Report 2012*. Paris, 2012.

CEREQ. "EVADE – Entrée dans la Vie Active et Discriminations à l'Embauche." 2012.

CGT-FO contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012. 6 August 2013. <<http://www.cncdh.fr/fr/publications/rapport-dactivite-2012>>.

FACE (Foundation Act Against Exclusion). *Le grand mouvement social et sociétal des entreprises*. n.d. 26 August 2013. <<http://www.fondationface.org/faceframe/index.php>>.

ISM CORUM. "Anti-discrimination dans le contexte juridique français." n.d. 2 September 2013. <[http://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDEQFjAA&url=http://ses.ens-lyon.fr/servlet/com.univ.collaboratif.util.LectureFichiergw%3FID\\_FICHER%3D1213357391298%26ID\\_FICHE%3D2091%26INLINE%3DFALSE&ei=HE0XUsLDBoXnswaLhID4Dg&usg=AFQjC](http://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDEQFjAA&url=http://ses.ens-lyon.fr/servlet/com.univ.collaboratif.util.LectureFichiergw%3FID_FICHER%3D1213357391298%26ID_FICHE%3D2091%26INLINE%3DFALSE&ei=HE0XUsLDBoXnswaLhID4Dg&usg=AFQjC)>

La Cimade. "Hollande, un an après, toujours pas de rupture." 2013. 5 September 2013. <[http://cimade-production.s3.amazonaws.com/presse\\_documents/contents/4418/original/dossier\\_presse\\_1\\_an\\_apresDEF.pdf?1368525810](http://cimade-production.s3.amazonaws.com/presse_documents/contents/4418/original/dossier_presse_1_an_apresDEF.pdf?1368525810)>.

Latraverse, Sophie. "Country Report France on measures to combat discrimination." 2011.

Migration Policy Group. "Developing Anti-Discrimination Law in Europe." 2012.

Migration Policy Group. "Immigrant Citizens Survey." 2012. 6 August 2013. <[http://www.immigrantsurvey.org/downloads/ICS\\_ENG\\_Full.pdf](http://www.immigrantsurvey.org/downloads/ICS_ENG_Full.pdf)>.

Migration Policy Group. "MIPEX, Paving the way for Integration: the Pathways to Citizenship in France and the United States." 2013. 7 July 2013. <<http://www.france-terre-asile.org/images/stories/publications/mipex-france-usa-2013.pdf>>.

Migration Policy Group. "Proving Discrimination Cases, the Role of Situation Testing." 2009. 5 September 2013. <[http://www.migpolgroup.com/publications\\_detail.php?id=230](http://www.migpolgroup.com/publications_detail.php?id=230)>.

SOS Racism contribution in CNCDH (Human Rights National Consultative Commission), "La lutte contre le racisme, l'antisémitisme et la xénophobie." 2012. 6 August 2013. <<http://www.cncdh.fr/fr/publications/rapport-dactivite-2012>>.

## Media reports

Amiri, Maral. "Emploi: "L'origine reste le premier facteur de discrimination"." *Respect Mag* (2012). 16 August 2013. <<http://bit.ly/O4JYRz>>.

Badinter, Robert. Interview. Patrick Cohen. 7 March 2011. 16 August 2013. <<http://www.youtube.com/watch?v=wTbeQHQN80>>.

Beaupuy, Francois de. "A Skills Mismatch Makes French Unemployment Worse." 19 July 2012. *Bloomberg Business Week, Global Economics*. 5 August 2013. <<http://www.businessweek.com/articles/2012-07-19/a-skills-mismatch-makes-french-unemployment-worse>>.

Chastand, Jean-Baptiste and Alexandre Pouchard. "Emplois d'avenir : l'Ile-de-France à la traîne." *Le Monde* (2013). 16 August 2013. <[http://www.lemonde.fr/politique/article/2013/07/01/hollande-confirme-33-000-emplois-d-avenir-signes\\_3439789\\_823448.html](http://www.lemonde.fr/politique/article/2013/07/01/hollande-confirme-33-000-emplois-d-avenir-signes_3439789_823448.html)>.

Defranoux, Laurence and Patricia Tourancheau. "L'affaire Merah en 23 dates." *Libération* (2012). 5 September 2013. <[http://www.liberation.fr/societe/2012/12/06/l-affaire-merah-en-dates\\_864823](http://www.liberation.fr/societe/2012/12/06/l-affaire-merah-en-dates_864823)>.

Héraud, Béatrice. "Airbus condamné pour discrimination raciale." *Novethic* (2010). September 2013. <[http://www.novethic.fr/novethic/entreprise/ressources\\_humaines/discrimination/airbus\\_condamnee\\_pour\\_discrimination\\_raciale\\_embauche/128407.jsp](http://www.novethic.fr/novethic/entreprise/ressources_humaines/discrimination/airbus_condamnee_pour_discrimination_raciale_embauche/128407.jsp)>.

Jacqué, Philippe. "Dix ans après, démocratisation en demi-teinte pour Sciences Po Paris." *Le Monde* (2011). 5 September 2013. <[http://www.lemonde.fr/education/article/2011/09/06/dix-ans-apres-democratisation-en-demi-teinte-pour-sciences-po-paris\\_1568358\\_1473685.html](http://www.lemonde.fr/education/article/2011/09/06/dix-ans-apres-democratisation-en-demi-teinte-pour-sciences-po-paris_1568358_1473685.html)>.

Le Figaro. "À l'UMP, «la ligne Buisson a pu légitimer le discours FN»." *Le Figaro* (2013). 16 August 2013. <<http://www.lefigaro.fr/politique/2013/03/26/01002-20130326ARTFIG00459--l-ump-la-ligne-buisson-a-pu-legitimer-le-discours-fn.php>>.

Le Figaro. "Signes religieux et mission de service public: ce que dit la loi." *Le Figaro* (2010). 10 August 2013. <<http://www.lefigaro.fr/actualite-france/2010/11/08/01016-20101108ARTFIG00708-signes-religieux-et-mission-de-service-publicce-que-dit-la-loi.php>>.

- Le Huffington Post. "La Une du magazine Le Point sur "cet islam sans gêne" fait polémique." *Le Huffington Post* (2012). 5 October 2013. <[http://www.huffingtonpost.fr/2012/10/30/la-une-du-magazine-le-point-islam-polemique\\_n\\_2045907.html](http://www.huffingtonpost.fr/2012/10/30/la-une-du-magazine-le-point-islam-polemique_n_2045907.html)>.
- Le Monde. "La mosquée de Montauban profanée avec des têtes de porc." *Le Monde* (2012). 5 September 2013. <[http://www.lemonde.fr/societe/article/2012/08/01/la-mosquee-de-montauban-profanee-avec-des-tetes-de-porc\\_1741143\\_3224.html](http://www.lemonde.fr/societe/article/2012/08/01/la-mosquee-de-montauban-profanee-avec-des-tetes-de-porc_1741143_3224.html)>.
- Le Monde. "Le CV anonyme ne sera finalement pas généralisé." *Le Monde* (2011). 26 August 2013. <[http://www.lemonde.fr/societe/article/2011/08/17/le-cv-anonyme-ne-sera-finalement-pas-generalise\\_1560612\\_3224.html](http://www.lemonde.fr/societe/article/2011/08/17/le-cv-anonyme-ne-sera-finalement-pas-generalise_1560612_3224.html)>.
- Le Monde. "Manuel Valls : "Etre de gauche, ce n'est pas régulariser tous les sans-papiers"." *Le Monde* (2012). 2 September 2013. <[http://www.lemonde.fr/societe/article/2012/06/27/manuel-valls-etre-de-gauche-ce-n-est-pas-regulariser-tous-les-sans-papiers\\_1725068\\_3224.html](http://www.lemonde.fr/societe/article/2012/06/27/manuel-valls-etre-de-gauche-ce-n-est-pas-regulariser-tous-les-sans-papiers_1725068_3224.html)>.
- Le Nouvel Observateur. "Airbus condamné pour discrimination raciale à l'embauche." *Le Nouvel Observateur* (2012). 18 August 2013. <<http://tempsreel.nouvelobs.com/societe/20120102.OBS7869/airbus-condamne-pour-discrimination-raciale-a-l-embauche.html>>.
- Le Nouvel Observateur. "Le Pen : "Combien de Merah dans les bateaux qui arrivent en France ?"." *Le Nouvel Observateur* (2012). 5 September 2013. <<http://tempsreel.nouvelobs.com/election-presidentielle-2012/20120325.OBS4544/le-pen-combien-de-merah-dans-les-bateaux-qui-arrivent-en-france.html>>.
- Le Nouvel Observateur. "Morano sous le feu des critiques après ses propos sur les jeunes musulmans." *Le Nouvel Observateur* (2009). 16 August 2013. <<http://tempsreel.nouvelobs.com/contre-debat-sur-l-identite-nationale/20091215.OBS0754/morano-sous-le-feu-des-critiques-apres-ses-propos-sur-les-jeunes-musulmans.html>>.
- Le Point. "Manuel Valls se veut ferme mais transparent sur l'immigration." *Le Point* (2013). 5 September 2013. <[http://www.lepoint.fr/politique/manuel-valls-se-veut-ferme-mais-transparent-sur-l-immigration-13-03-2013-1639541\\_20.php](http://www.lepoint.fr/politique/manuel-valls-se-veut-ferme-mais-transparent-sur-l-immigration-13-03-2013-1639541_20.php)>.
- Libération. "La justice annule le licenciement de l'employée voilée de la crèche Baby-Loup." *Libération* (2013). 5 August 2013. <[http://www.liberation.fr/societe/2013/03/19/la-justice-annule-le-licenciement-de-l-employee-voilee-de-la-creche-baby-loup\\_889683](http://www.liberation.fr/societe/2013/03/19/la-justice-annule-le-licenciement-de-l-employee-voilee-de-la-creche-baby-loup_889683)>.
- Libération. "Y a-t-il encore des enfants en centre de rétention ?" *Libération* (2013). 5 September 2013. <[http://www.liberation.fr/societe/2013/01/11/y-a-t-il-encore-des-enfants-en-centre-de-retention\\_873099](http://www.liberation.fr/societe/2013/01/11/y-a-t-il-encore-des-enfants-en-centre-de-retention_873099)>.
- Lui Président. "Droit de vote des étrangers." May 2013. *Lui Président*. 5 September 2013. <<http://www.lui-president.fr/engagement/droit-vote-des-etrangers-77>>.

Lui Président. “Les 20 engagements de François Hollande pour les quartiers et les territoires délaissés.” 27 March 2012. 16 August 2013. <<http://www.scribd.com/doc/104203318/Les-20-engagements-de-Francois-Hollande-pour-les-quartiers-et-les-territoires-delaisses>>.

Lui Président. “Les engagements de campagne hors-programme.” 2013. *Lui Président*. 26 August 2013. <[www.luipresident.fr/engagements-oraux?page=1](http://www.luipresident.fr/engagements-oraux?page=1)>.

Lui Président. “Mise en place d'emplois francs.” 3 August 2013. *Lui Président*. 18 August 2013. <<http://www.luipresident.fr/engagement/mise-en-place-demplois-francs-406>>.

Mauriac, Laurent. “Indignation après l’occupation de la mosquée de Poitiers.” *Rue89* (2012). 5 September 2013. <<http://www.rue89.com/2012/10/21/reconquista-generation-identitaire-sur-la-mosquee-de-poitiers-236381>>.

Saulnier, Julie. “Roms: Manuel Valls fait-il du Sarkozy?” *L'Express* (2013). 5 September 2013. <[http://www.lexpress.fr/actualite/societe/roms-manuel-valls-fait-il-du-sarkozy\\_1232123.html](http://www.lexpress.fr/actualite/societe/roms-manuel-valls-fait-il-du-sarkozy_1232123.html)>.

Vampouille, Thomas. “France : comment est évalué le nombre de musulmans.” *Le Figaro* (2011). 10 August 2013. <<http://www.lefigaro.fr/actualite-france/2011/04/05/01016-20110405ARTFIG00599-france-comment-est-evalue-le-nombre-de-musulmans.php>>.

#### **Other sources**

CSA Survey Institute. “Xénophobie, Antisémitisme, Racisme, Anti-racisme et Discriminations en France.” 2012.

Socialist Party. “Le projet de François Hollande.” 2013. *Socialist Party*. 16 July 2013. <<http://www.parti-socialiste.fr/dossier/le-projet-de-francois-hollande>>.

#### **List of stakeholders and experts interviewed**

Amoureux, Fabienne. *Diversity Manager at MEDEF Haute-Garonne*, interview by Héléna Van Aelst. 2 September 2013.

Barthelemy, Estelle. *Mozaik RH Deputy Director*, interview by Héléna Van Aelst. 9 August 2013.

Bourabaa, Madjid. *Chair of Clé Nord Pas de Calais*, interview by Héléna Van Aelst. 18 July 2013.

Cédiey, Eric. *ISM CORUM Director, Employment anti-discriminations policies expert*, interview by Héléna Van Aelst. 30 July 2013.

Chaambi, Abdel Aziz. *Coordination against Racism and Islamophobia Chair*, interview by Héléna Van Aelst. 19 July 2013.

Idrissi-Ezzahiri, Aumar. *Law Consultant and Secretary General of AJAME*, interview by Héléna Van Aelst. 19 July 2013.

Jouhannaud, Christine. *Social protection and employment Department Director*, interview by Héléna Van Aelst. 31 July 2013.

Latraverse, Sophie. *Ombudsman's Expertise and Judicial Affairs Departement's Director*, interview by H el ena Van Aelst. 3 September 2013.

Lyazid, Maryvonne. *Ombudsman's Deputy for discrimination*, interview by H el ena Van Aelst. 31 July 2013.

Voy-Gillis, Anais. *Chair of the Extremes' Observatory*, interview by H el ena Van Aelst. 18 July 2013.



European Network Against Racism  
Réseau européen contre le racisme

## ENAR Shadow Report 2012-2013