



# Combating Discrimination in the Labour Market

Les notes du conseil d'analyse économique, no 56, June 2020

**D**iscrimination in the labour market is a scourge that is plaguing France. An employer may discriminate against people because he dislikes them, or because he thinks they are less productive. These discriminations are largely the result of cognitive biases: our taste for similar others, but also our tendency to distort reality through negative stereotypes towards people who do not look like us. There are two possible strategies to reduce these biases: the first focuses on the victims of discrimination by empowering them to break free from the stereotypes that target them, while the second focuses on perpetrators.

The first approach is at the heart of the current policy. Recent reports and numerous initiatives in favour of equal opportunities allow identifying priority actions: enabling women to play on an equal footing with men through a better sharing of domestic and family tasks, which would be made possible by extending paternity leave; improving the employability of older people by preventing the risk of obsolescence of their skills; improving the educational and professional integration of people with a migrant background.

Regarding the second approach, France has a wide range of legislation to combat discrimination. Yet, in practice,

actions against the perpetrators of discrimination are rarely brought to court: until now, they have often been confined to one-off punitive measures that did not generate in-depth changes in behaviour (for example, correspondence testing for the purposes of “name and shame”). Thus, making the threat of legal sanctions credible is critical: this requires a better knowledge of the legal framework and the possible remedies in case of discrimination in the labour market, and the presence of trained interlocutors to assist employees in their efforts.

We also propose to use education and positive incentives to combat discrimination. It is essential to better train individuals not to discriminate, both in the workplace and at school. Employers must also be encouraged to implement good practices, beyond the fear of legal sanctions. This objective entails measuring the situation of minority groups in private and public sector organisations in order to value exemplary employers. This statistical monitoring must also be applied to the whole population, for a better evaluation of anti-discrimination programs. The implementation of these policies is urgent because discrimination, which is widespread in France, damages our economy and our national unity.

This Note is published under the sole responsibility of its authors

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## Discrimination: A scourge plaguing France

### The perception of discrimination is much stronger in France than in the rest of the European Union

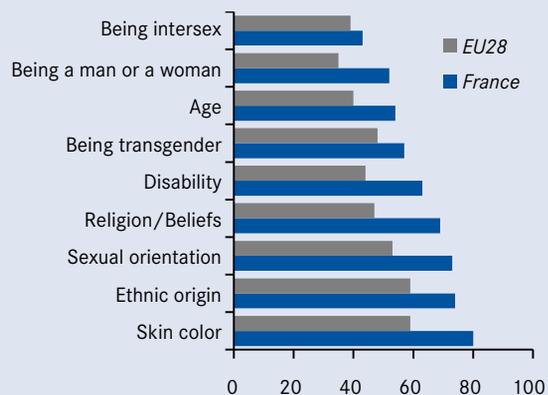
France is one of the European Union countries where discrimination is most acutely felt by the population, as shown in the 2019 edition of the Eurobarometer on Discrimination.

When French people are asked if discrimination based on skin colour, ethnic origin or religion is widespread, nearly eight out of ten say “yes”, compared to just six out of ten Europeans (see graph). Most of French people also think that discrimination against women is common, compared to a third of respondents in the EU. The same is true regarding discrimination against people aged 55 and over. Discrimination against sexual and gender minorities is also perceived as very strong: on average, six out of ten people believe that discrimination against homosexual, transgender and intersex<sup>1</sup> people is widespread – again, one of the highest rates in Europe.<sup>2</sup>

The 10th edition of the *Barometer on the perception of discrimination* carried out in France in 2016 by the Defender of Rights and the International Labour Organisation also reveals that the perception of discrimination is high in France:<sup>3</sup> 40% of respondents said they had been discriminated on the basis of sex, age, origin, skin colour, religion, health, disability or maternity in the five years preceding the survey. This feeling of discrimination is particularly strong for access to employment and professional career, and lower for access to goods and services, education or housing.<sup>4</sup>

The “Trajectories and Origins” (TeO) survey conducted by INED and INSEE at the end of 2008 allows us to go further, thanks to a refined measure of the perception of discrimination. Firstly, it asks whether the individual has already been a victim of discrimination: 13% of the population surveyed living in metropolitan France (and aged between 18 and 50) claimed that they had been discriminated against, whatever the reason. Secondly, this survey asks questions about “factual situations of unfavourable treatment”: the notion of discrimination is not used but people are asked about situations of unfair treatment. The source of this unfair treatment is then investigated in order to determine

Perception of discrimination in France and in the European Union in 2019



Reading: Proportion of individuals considering that discrimination is widespread on nine grounds.

Source: Eurobarometer, 2019.

whether it is related to discrimination or to another ground (congestion of services, errors, skills, etc.). The results of this survey show that 29% of residents in France have already encountered a discriminatory situation in the course of their lives. More generally, discrimination seems to be the strongest in matters relating to work and services, and less important (even if still present) in health, education and housing. Moreover, the perception of discrimination is stronger in access to employment than in the course of professional career.

### Discrimination in the labour market is a reality in France

Although it has limitations (see Carcillo and Valfort, 2020, *op. cit.*), correspondence testing is the most accepted method for measuring discrimination in the labour market. It consists of sending, in response to real job offers, CVs and letters of application from fictitious candidates with equivalent educational and professional backgrounds, but differing according to a ground prohibited by law. This approach allows identifying whether this ground influences the recruiter’s decision. In this context, any difference in the rate of invitation to a job interview between two groups of candidates, one majority, the other minority, is interpreted as the result of discrimination.

The authors would like to thank Claudine Desrieux, Scientific Advisor to the CAE, who followed up on this work, as well as Étienne Fize, Economist at the CAE, who assisted them. They also thank all the people interviewed during the preparation of this Note, notably at INSEE (National Institute for Statistics and Economic Studies), the DGT (Ministry of Labour), the DGEFP (Delegation for Professional training), *Pôle Emploi*, the trade unions CGT and CFDT, and the *Défenseur des droits*.

<sup>1</sup> Intersex people have sexual characteristics (physical, hormonal and/or genetic) that are neither completely female nor completely male and which may, therefore, result in a physical appearance that may lead to rejection: beard in women, breast development in men, etc.

<sup>2</sup> The experience of discrimination by persons belonging to minority groups (as measured by surveys of the European Union Agency for Fundamental Rights) largely corroborates these statistics.

<sup>3</sup> Available at [www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2016-num-20.02.2017\\_1.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2016-num-20.02.2017_1.pdf)

<sup>4</sup> This result is also the one that emerges from the TeO survey conducted by INED and INSEE at the end of 2008, for more information see Carcillo S. and M-A. Valfort (2020): “Un aperçu des résultats des testings sur CV menés en France », *Focus du CAE*, no 043-2020, June.

Correspondence testing conducted over the last twenty years reveals that discrimination in the labour market is pervasive in France (see Carcillo and Valfort, 2020, *op. cit.* and Anne *et al.*, 2019).<sup>5</sup> Women are discriminated against during the childbearing age, especially in their access to high managerial positions. With the same CV, the probability of white French people being invited to a job interview is 50 to 100% higher than that of French people from non-white minorities.<sup>6</sup> This is much higher than in other countries where correspondence testing to measure ethnic-based discrimination has been conducted. Correspondence testing also reveals that older people are on average 50% less likely than younger people to be invited to a job interview. They also reveal specific discrimination against Muslims.<sup>7</sup>

Discrimination also occurs during a person's professional careers as shown by studies using representative data from wage surveys.<sup>8</sup> These works attempt to neutralize the effect of productive characteristics (level of education, work experience, etc.) that can explain differences in wages, so that the residual gap between majority and minority groups can be interpreted as the result of discrimination. However, this interpretation remains open to question, as neutralising the effect of all productive characteristics is never fully possible with survey data. Nevertheless, these data reveal often significant differences between majority and minority groups. This is, for example, the case of women in France who suffer an "unexplained" wage penalty of 10% compared to men.<sup>9</sup>

### Discrimination imposes a considerable cost on our economy and our national unity

In addition to being ethically unacceptable, discrimination imposes considerable costs on our economy by reducing the demand for labour from discriminated groups (Carcillo and Valfort, 2018, *op. cit.*). This lower demand decreases the wages of members of these groups and increases their difficulties in accessing employment. It may also confine them to less qualified positions than they might otherwise occupy. These negative consequences are magnified by reactions of

the labour supply. Lower wages reduce incentives to work. The discrimination-induced decrease in the demand for labour also reduces the productivity of LGBTI people who invest less in education and life-long learning because they anticipate low returns. This negative spiral results in production losses that in turn affect public finances, while public expenditure due to unemployment benefits and social transfers to those who are discriminated against increases.

Few studies have evaluated the economic cost of discrimination in the labour market because it is a difficult exercise. But available estimates suggest that the cost is considerable. In the United States, the reduction in discrimination against women and African-Americans between 1960 and 2010 is estimated to be responsible for 20 to 40% of the increase in GDP *per capita* over this period.<sup>10</sup> In France, a small reduction in the employment rate and wage gaps endured by people discriminated based on their gender and ethnic origin would yield 7% of GDP over 20 years, or 150 billion euros.<sup>11</sup>

These figures remain an imperfect assessment of the real costs and do not take into account all the consequences of discrimination. For example, discrimination prevents the economic potential of diversity from being realised. In an inclusive environment, diversity enhances people's creativity and their ability to generate value through the pooling of a richer set of skills and experience. This process more than offsets the greater difficulty in communication and co-ordination that people from different backgrounds may encounter.<sup>12</sup> Discrimination also undermines the mental health of victims, as shown by the rising rates of depression and suicide among the LGBT (lesbian, gay, bisexual and transgender) population in U.S. states that opposed same-sex marriage before it was finally legalized by the Supreme Court in 2015.<sup>13</sup> Discrimination also generates mistrust and can drive discriminated populations into identity retrenchment. For example, Muslims living in American states where anti-Muslim acts increased the most following the September 11, 2001 attacks are, ten years later, displaying a more intransigent practice of their religion. Yet this trend was not at work before the attacks.<sup>14</sup>

<sup>5</sup> Anne D., L. Challe, S. Chareyron, Y. L'Horty, P. Petit and L. du Parquet (2019): Discrimination dans le recrutement des grandes entreprises : une approche multicanal, *Report for the Commissariat général à l'égalité des territoires (CGET)*, March.

<sup>6</sup> Quillian L., A. Heath, D. Pager, A.H. Midtbøen, F. Fleischmann and O. Hexel (2019): "Do Some Countries Discriminate More than Others? Evidence from 97 Field Experiments of Racial Discrimination in Hiring", *Sociological Science*, no 6, pp. 467-496.

<sup>7</sup> Valfort M-A. (2020): "Anti-Muslim Discrimination in France: Evidence from a Field Experiment", *World Development*, forthcoming.

<sup>8</sup> Carcillo S. and M-A. Valfort (2018): *Les discriminations au travail. Femmes, ethnicité, religion, âge, apparence, LGBT*, Les Presses de Sciences Po.

<sup>9</sup> OECD (2018): *Atteindre l'égalité femmes-hommes : un combat difficile*, OECD Publishing Paris.

<sup>10</sup> Hsieh C.T., E. Hurst, C.I. Jones and P.J. Klenow (2019): "The Allocation of Talent and US Economic Growth", *Econometrica*, vol. 87, no 5, pp. 1439-1474.

<sup>11</sup> Bon-Maury G., C. Bruneau, C. Dherbécourt, A. Diallo, J. Flamand, C. Gilles and A. Trannoy (2016): *Le coût économique des discriminations*, Rapport France Stratégie au ministre du Travail, de l'Emploi, de la Formation professionnelle et du Dialogue social et au ministre de la Ville, de la Jeunesse et des Sports, 119 p.

<sup>12</sup> Hoogendoorn S., H. Oosterbeek and M. van Praag (2013): "The Impact of Gender Diversity on the Performance of Business Teams: Evidence from a Field Experiment", *Management Science*, vol. 59, no 7, pp. 1514-1528.

<sup>13</sup> OECD (2019): *Society at a Glance 2019, OECD Social Indicators*, OECD Publishing. Available at [www.oecd.org/social/society-at-a-glance-19991290.htm](http://www.oecd.org/social/society-at-a-glance-19991290.htm)

<sup>14</sup> Gould E.D. and E.F. Klor (2016): "The Long Run Effect of 9/11: Terrorism, Backlash, and the Assimilation of Muslim Immigrants in the West", *The Economic Journal*, vol. 126, no 597, pp. 2064-2114.

This vicious circle is not specific to the United States. In France, a survey of people of Senegalese origin reveals that Muslims' sense of inclusion and their attachment to the host society and its values decreases from one generation of immigrants to the next, while it increases among their Christian counterparts, cf. Adida C.L., D.D. Laitin and M-A. Valfort (2016): *Why Muslim Integration Fails in Christian-Heritage Societies*, Harvard University Press.

## Empowering discriminated groups not to conform to the stereotypes that target them

The first response to discrimination is to focus on the victims by empowering them not to conform to the stereotypes that target them. The results of correspondence testing combined with surveys of employers help to identify some stereotypes that seem to weigh heavily in the recruitment and career advancement decisions of some minorities. This is particularly the case for women, senior citizens and young people from disadvantaged neighbourhoods.

### Promoting equality between women and men

Women suffer from the persistence of traditional gender norms that predestine men for paid work and women for domestic and family work. In France, for example, women do almost three-quarters of domestic work (cleaning, cooking, laundry) and almost two-thirds of family work (childcare).<sup>15</sup> This imbalance is not specific to France: it prevails in a very large majority of OECD countries. Women in particular are under-represented in high managerial positions and this situation seems to stem in part from the fact that a woman of childbearing age is, on average, objectively less likely than her male counterpart to be able to fully assume a demanding working life, due to unfavourable social norms.<sup>16</sup>

In order to limit this gender-based discrimination, a social norms change is needed. To achieve this objective, it seems critical to gradually increase the proportion of parental leave devoted to fathers, currently set at eleven days in France.<sup>17</sup>

In Europe, there is a trend towards longer paternity leave. Indeed, many studies have shown that fathers who take sufficient leave become more involved in their children's lives and share daily tasks more equally, which in turn improves women's ability to return to work quickly (see Almqvist and Duvander, 2014, in Sweden, Patnaik, 2018, in Quebec and Tamm, 2019, in Germany).<sup>18</sup> France is no exception. The introduction of paternity leave has had a positive effect on the sharing of family tasks that lasts up to the child's

second birthday<sup>19</sup> (and is expected to continue well beyond that, according to the only study examining the long-term effects of longer paternity leave based on Canadian data, see Patnaik, 2018, *op. cit.*).

Anticipating the benefits of such a reform in terms of professional equality between women and men, 105 company directors and managers domiciled in France recently introduced a paid "second parent leave" for a minimum period of one month.<sup>20</sup> The 2018 report of the *Inspection Générale des Affaires Sociales* (IGAS) recommends extending the total length of leave granted to fathers upon the birth of a child to four weeks. The cost of this extension could be shared between the *Caisse Nationale des Allocations Familiales* (CNAF) and employers. The IGAS proposes to finance the additional cost to employers through a reduction –negotiated by collective agreement– in the number of days granted for marriage or PACS (*Pacte Civil de Solidarité*).<sup>21</sup>

**Recommendation 1.** Extend paternity leave to four weeks.

### Strengthening the employability of seniors

Senior citizens in employment face a triple challenge. They generally have weaker basic skills than the younger generations because they have not benefited on average from as good an education as the latter (cohort effect). In addition, their skills are subject to a risk of obsolescence in many sectors which is only imperfectly compensated by accumulated experience (age effect). France is among the OECD countries with the lowest level of adult numeracy, literacy and problem-solving skills (PIAAC, Programme for the International Assessment of Adult Competencies). This is largely due to the backwardness of the over-45s. Finally, senior citizens are perceived rather negatively by employers (discrimination effect): they are much more likely to describe the over-50s as "less motivated", "less flexible", "less able to learn" than to praise their experience and their ability to transmit knowledge to the younger generations.<sup>22</sup> Employees

<sup>15</sup> Kandil L. and H. Perivier (2017): "La division sexuée du travail dans les couples selon le statut marital en France. Une étude à partir des enquêtes Emploi du temps de 1985-1986, 1998-1999, et 2009-2010", *OFCE-Sciences Po Working Paper*, no 2017-03.

<sup>16</sup> Meurs D., E. Vilar and C. Lucifora (2019): « Having a Child? Here is the Bill. Parenthood, Earnings and Careers in an Internal Labor », *EconomiX Working Paper*, no 2019-13, Paris-Nanterre University.

<sup>17</sup> Since its creation in 2002, paternity leave has been a right open to all employees in France, regardless of seniority, activity or status. Compensation for paternity leave meets the same conditions as those for maternity leave. In 2017, seven out of ten eligible fathers took their paternity leave, a rate of take-up similar to that of other European countries, which have also introduced well-paid paternity leave (Denmark, Finland, Norway, Portugal, Spain, Sweden, etc.).

<sup>18</sup> Almqvist A.L. and A.Z. Duvander (2014): "Changes in Gender Equality? Swedish Fathers' Parental Leave, Division of Childcare and Housework", *Journal of Family Studies*, vol. 20, no 1, pp. 19-27; Patnaik A. (2018): "Reserving Time for Daddy: The Consequences of Fathers' Quotas", *Journal of Labor Economics*, vol. 37, no 4, pp. 1009-1059; Tamm M. (2019): "Fathers' Parental Leave-Taking, Childcare Involvement and Labor Market Participation", *Labour Economics*, no 59, pp. 184-197.

<sup>19</sup> Pailhé A., A. Solaz and M. Tô (2018): "Can Daddies Learn How to Change Nappies? Evidence from a Short Paternity Leave Policy", *INED Working Paper*, no 240.

<sup>20</sup> See Les Échos (2020): *Congé rémunéré second parent : 105 entreprises s'engagent*, February 5.

<sup>21</sup> Such a measure could make it possible to neutralise the financial impact of the extension of childbirth leave for businesses. The additional cost to the CNAF, compared with the current arrangements to which a takeup rate of 75% would be applied, would be EUR 331 million.

<sup>22</sup> In Sweden, see Carlsson M. and S. Eriksson (2019): "Age Discrimination in Hiring Decisions: Evidence from a Field Experiment in the Labor Market", *Labour Economics*, vol. 59, pp. 173-183. In France, see the practical guide Scharnitsky P. (2015): *Les stéréotypes sur les générations. Comprendre et agir dans les entreprises*, IMS Entreprendre pour la cité and Valeurs et Développement (eds).

who never train and have not evolved in their skills may be judged as lacking adaptability and motivation to remain in employment. In fact, in France, the training rate for adults, especially senior citizens, is among the lowest (only one senior citizen in eight receives training in a year, OECD, 2018).<sup>23</sup>

In order to reduce the risks associated by employers with senior citizens, it is therefore necessary to focus above all on maintaining skills in the second half of the career, as recommended in the report “*Favoriser l’emploi des travailleurs expérimentés*” (Boosting employment of experienced workers) submitted to the French Prime Minister on 14 January 2020.<sup>24</sup> In this area, France already has some tools for evaluating the situation of employees in companies and proposing measures to remedy their lack of employability. But it deserves to be strengthened.

In 2010, an agreement for senior workers was created in parallel with the pension reform.<sup>25</sup> This mechanism was abolished in favour of the *Contrats de Génération* in 2013 (themselves abolished in 2017). The only thing that remains is the general obligation to negotiate on the management of jobs and career paths in companies with at least 300 employees, as well as the biennial professional interview. However, there is nothing obliging the social partners to include a senior component in their management of jobs and skills. In 2015 and 2016, only one in two employees who have been with the company for more than two years benefited from the professional interview assessing their skills. In order to strengthen the effort of continuing training in the second half of a career, the presence of a senior component in job and skills management agreements should be made compulsory and, in the absence of an agreement, a unilateral action plan on this subject should be drawn up. This obligation should also be linked to the 2018 reform of vocational training, which provides for the creation of a career counselling service and the creation of the personal training account. The training credit limit on the personal training account should be removed for those over 45 years of age provided the social partners have negotiated agreements providing for qualification/reconversion training for this group. At the same time, a free skills assessment for senior workers meeting qualifying standards could be introduced as part of the new guidance service.

In addition to these efforts to maintain skills in the second half of a career, the hiring of unemployed senior citizens should be subsidised. The incidence of long-term unemployment is indeed much higher for this category of jobseekers and the cost to public finances –both in terms of unemployment

insurance and the disability schemes that can replace it– is very significant. A subsidy proportional to the wage offered –representing, for example, the equivalent of employer contributions– could be paid by the unemployment insurance to any employer hiring a person over 50 years of age who is long-term unemployed on a fixed-term contract or permanent contract of more than six months. This subsidy could be paid as long as the unemployment benefit entitlements last, i.e. almost two years for senior long-term unemployed jobseekers.

**Recommendation 2.** Introduce a senior component in job and skills management agreements. Remove the training credit limit on the personal training account for those over 45 years of age if they benefit from qualification/reconversion training negotiated by the social partners. Create a hiring subsidy for unemployed seniors who have been looking for work for more than 12 months.

### Empowering young people with a migrant background to succeed

A number of stereotypes are rooted in the lack of means available to certain groups to realize their potential. This is particularly the case for youth of non-European immigrant origin living in socially and economically disadvantaged neighbourhoods. Employers’ perception of these young people is particularly negative: stereotypes mainly refer to a lack of “know-how” and of “mastery of company codes”, which makes them “difficult to manage” (Scharnitsky, 2014).<sup>26</sup> Moreover, these populations’ education level is lower than that of young people who live outside disadvantaged neighbourhoods.

Many policies are already being implemented to improve equal opportunities. In particular, the Priority Education Networks (PENs) and the Reinforced Priority Education Networks (REN+) make it possible to increase the resources of the schools that are part of them. At the same time, the *PaQte avec les quartiers pour toutes les entreprises*, a program initiated in 2018, creates multiple bridges between young people and the business community.

These measures must be reinforced by educational support measures. This objective implies first of all improving the acquisition of socio-behavioural skills, which generate a double benefit: they play a central role in the ability to learn,

<sup>23</sup> See OECD (2018): *Getting Skills Right*, OECD Publishing, and OECD (2017): *Getting Skills Right: France*, OECD Publishing.

<sup>24</sup> Bellon S., O. Meriaux and J-M. Soussan (2020): *Favoriser l’emploi des travailleurs expérimentés*, Report to the French Prime Minister, January 14.

<sup>25</sup> Specific to each company (with more than 50 employees) or professional branch, an agreement and action plan for seniors had to make at least three proposals in terms of recruitment, career development, hardship, training, transition to retirement or knowledge transmission.

<sup>26</sup> Scharnitsky P. (2014): *Les stéréotypes sur les origines. Comprendre et agir dans l’entreprise*, IMS Entreprendre pour la cité and Valeurs et Développement (eds).

thus improving educational achievements, but they are also conducive to success in the labour market, in a context where companies are increasingly demanding these skills.<sup>27</sup> Ensuring equal opportunities for youth from disadvantaged neighbourhoods also means improving their aspirations. For a given academic performance, the aspirations of these young people are, in fact, lower than those of their counterparts from more privileged backgrounds<sup>28</sup> because they are not always aware of fields of excellence and they often have less confidence in their ability to succeed. The “*Cordées de la réussite*” and the “*Parcours d'excellence*” are the two main schemes aimed at increasing the educational ambition of junior and senior high school students of disadvantaged backgrounds, many of whom live in the city’s priority neighbourhoods (called QPV for *Quartiers de la Politique de la Ville*). These schemes are based on partnerships with institutions of higher education and include mentoring activities. This type of initiative has proven particularly effective in the United States.<sup>29</sup> The only evaluation available in France shows more mixed results. The program “*Cordées de la réussite*” seems to benefit mainly to the best students. The extra-curricular time set aside for this scheme reduces the time devoted to homework, which is detrimental to the success of other pupils, who are yet selected on the basis of criteria of excellence and motivation.<sup>30</sup> To limit this perverse effect, interventions on school time aimed at improving pupils’ aspirations and self-esteem should be stepped up. To this end, consideration should be given to generalizing the use of “role models” showing that success is possible even when one comes from underprivileged neighborhoods. This type of intervention has indeed been successful in combating gender stereotypes: in France, a one-hour intervention of women scientists in secondary school increases by 30% the chances of girls to enter a scientific field.<sup>31</sup> It is also important to make teachers and guidance counsellors aware of their biases, often unconscious, that affect their appreciation of the potential of certain pupils, in a context where these biases have a strong self-fulfilling power (*cf.* Carcillo and Valfort, 2018, *op. cit.*). Such awareness has greatly boosted the educational pathway of young people with an immigrant background in Italy.<sup>32</sup>

**Recommendation 3.** Strengthen school time interventions aimed at improving students’ aspirations and self-esteem.

### Insufficient knowledge of the legal framework and of the remedies available in the event of discrimination in the labour market

The second response is to focus on the perpetrators and incentivize them not to discriminate. The labour market is the area where the feeling of discrimination is the strongest, but also the area where individuals are the least inclined to denounce the discrimination they feel they are victims of. 80% of people claiming to be discriminated against have taken no action to defend their rights: the non-recourse rate reaches 93% in cases of discrimination in hiring.<sup>33</sup> The reasons given for this non-recourse are mainly related to the ignorance of the procedures to be followed. This situation is surprising because France has an extensive legal framework for combating discrimination, particularly in access to employment and during the course of a person’s professional career. However, discrimination cannot be fought against if the threat of legal sanction remains uncredible.<sup>34</sup>

### Important legal measures for combating discrimination in the labour market

The French legal framework is characterized by the exhaustiveness of the grounds of discrimination that are prohibited by law. Act no 2008-496 of 27 May 2008 adapting Community law prohibits discrimination in access to employment and in the course of a professional career –i.e. with regard to remuneration, training, working conditions, promotion, dismissal, etc.– relative to more than 20 grounds. The prohibited grounds include those underpinned by international human rights standards and used in the Eurobarometer 2019. Only the ground of “sexual characteristics” is missing, which makes it impossible to protect intersex people. The European Union and the Council of Europe advocate the introduction of this ground (or the explicit mention that the ground of sex is not limited to the distinction between women and men but also includes the distinction between intersex and non-intersex people) in anti-discrimination laws. This is a recommendation that the French legislation should implement without delay in order to complete the list of discrimination grounds in the labour market, as Australia, Finland, Germany, Greece, Iceland, the Netherlands, Portugal and Spain have already done.<sup>35</sup>

<sup>27</sup> See the recommendations of the CAE on this subject, Algan Y., É. Huillery and C. Prost (2018): “Trust, Cooperation and Autonomy: Towards a 21<sup>st</sup> Century School”, *Note du CAE*, no 48, October.

<sup>28</sup> See Guyon N. and É. Huillery (2020): “Biased Aspirations and Social Inequality at School: Evidence from French Teenagers”, *Economic Journal*, forthcoming.

<sup>29</sup> Carcillo S. (2016): *Des compétences pour les jeunes défavorisés. Leçons américaines*, Presses de Sciences Po.

<sup>30</sup> Ly S.T., E. Maurin and A. Riegert (2020): “A Pleasure That Hurts: The Ambiguous Effects of Elite Tutoring on Underprivileged High School Students”, *Journal of Labor Economics*, vol. 38, no 2, pp. 501-533.

<sup>31</sup> Breda T., J. Grenet, M. Monnet and C. Van Effenterre (2020): “Do Female Role Models Reduce the Gender Gap in Science? Evidence from Classroom Interventions in French High Schools”, *IZA Discussion Paper*, no 13163.

<sup>32</sup> Alesina A., M. Carlana, E.L. Ferrara and P. Pinotti (2018): “Revealing Stereotypes: Evidence from Immigrants in Schools”, *NBER Working Paper*, no w25333.

<sup>33</sup> See Défenseur des droits (2016): *Rapport annuel d'activité 2016*.

<sup>34</sup> The threat of legal sanction substantially limits discriminatory behaviour. See Chareyron S., Y. L'Horty, S. Mbaye and P. Petit (2019): *Mesurer l'impact d'un courrier d'alerte sur les discriminations selon l'origine*, Rapport final du Défenseur des droits au ministre de la Cohésion des territoires, 24 June.

<sup>35</sup> OCDE (2020): *Over the Rainbow? The Road to LGBTI Inclusion*, OCDE Publishing.

The legal framework proposes many tools to facilitate the proof of discrimination. Firstly, in civil matters, there is an adjustment of the burden of proof.<sup>36</sup> Moreover, the legal framework and case law allow for a variety of evidence concerning both discrimination in recruitment and discrimination during the course of a professional career. With regard to discrimination in recruitment, the plaintiff may, in particular, use:

- The disclosure of a discriminatory hiring (or refusal to hire) ground in the wording of the job offer or in any communication with the employer;
- The results of a *judicial* correspondence *tesing* (recognised as a means of proof since 2006): unlike scientific correspondence testing, which relies on fictitious candidates, a judicial correspondence testing involves real people –for example, by testing the employer’s response when the job seeker resubmits his/her CV after having changed his/her first and/or last name so that it indicates a French origin (instead of a non-European one);
- The mandatory register kept by the Human Resources service: this register may show that, for a given qualification, people from a minority group are never hired, or that they are only hired on an interim or fixed-term contract, or only in positions involving little or no contact with customers, etc.

With regard to discrimination in the course of an employee’s professional career, the plaintiff may, in addition to any written or voice messages received from the employer, make use of performance reviews by the employer and/or use the comparison panel method:<sup>37</sup> this method consists of comparing the professional trajectory of an employee who considers himself to be a victim of discrimination on the basis of a characteristic prohibited by law, with that of employees in a comparable situation but who do not share that characteristic with the complainant.<sup>38</sup>

Finally, the legal framework allows an individual who considers himself to be a victim of discrimination to turn to several interlocutors to help him/her start a judicial procedure –the *Défenseur des droits* (the French equality body) and his 501 volunteer delegates spread on the French

national territory, but also the members of the “*Comité social et économique*” (CSE, a committee notably composed of staff representatives), the trade unions and the Labour Inspectorate.<sup>39</sup>

### A general lack of knowledge of the legal framework and of the possible remedies

The judicial procedures to combat discrimination in the labour market are largely ignored, by both individuals and stakeholders who are supposed to help victims compile their discrimination case.

This ignorance needs to be addressed. This objective requires first of all a campaign in order to inform the general public of the illegality of discrimination in the labour market and the means of proving such discrimination, especially when it takes place at the hiring stage. This last dimension is essential to counter a potential perverse effect of anti-discrimination laws: because they increase the cost of dismissing people from the groups they protect, these laws are indeed likely to reduce the hiring of these groups if the risk of sanction in case of discrimination in hiring is not reinforced.<sup>40</sup> For example, it is essential to remind candidates of the rules to be followed when conducting a judicial correspondence testing so that the results of this testing can be recognized as evidence in legal proceedings. Making the threat of legal sanction credible also implies training employees’ representatives, trade union delegates and labour inspectors on how to assist employees who consider themselves to be victims of discrimination. The content of the awareness-raising campaign and training could be defined by the *Défenseur des droits*.<sup>41</sup>

**Recommendation 4.** Launch an awareness-raising campaign directed at the general public on the illegality of discrimination in the labour market and on the possible remedies, especially during the recruitment stage. Introduce mandatory training for employees’ representatives, trade union delegates and labour inspectors on how to assist employees.

<sup>36</sup> In criminal law, it is for the complainant to prove discrimination, because of the presumption of innocence enjoyed by the accused. In civil law, however, under the impetus of Community law, which is concerned to establish equality between the parties, the complainant benefits from a principle of adjustment of the burden of proof since the Act of 16 November 2001 on combating discrimination.

<sup>37</sup> This strategy is also known as the “Clerc method”, named after François Clerc, its designer in charge of the fight against discrimination at the CGT.

<sup>38</sup> These comparison criteria have been defined by the Court of Cassation in several rulings of principle. For more information, see, *Défenseur des droits* (2019): *La lutte contre les discriminations syndicales dans l’emploi privé*, Mimeo, September.

<sup>39</sup> The French Ministry of Labour produces and continuously updates a data sheet on protection against discrimination in the workplace which details all the points mentioned, available at <https://travail-emploi.gouv.fr/droit-du-travail/egalite-professionnelle-discrimination-et-harcèlement/article/la-protection-contre-les-discriminations>

<sup>40</sup> The negative effect of an increase in the cost of layoffs for a given group on the hiring of people from that group has been well documented in the context of the Delalande contribution. This tax, in force from 1987 to 2008, was paid by employers who laid off employees over 50 years of age. See Behaghel L., B. Crépon and B. Sédillot (2008): “The Perverse Effects of Partial Employment Protection Reform: The Case of French Older Workers”, *Journal of Public Economics*, vol. 92, no 3-4, pp. 696-721.

<sup>41</sup> Thus, in 2016, the *Défenseur des Droits* launched an information campaign on his areas of competence. In addition, in 2012, it developed e-learning modules for the general public, education stakeholders and employers dedicated to the fight against discrimination, stereotypes and prejudices.

## Training not to discriminate

Awareness of the legal framework in case of discrimination in the labour market is a necessary but not sufficient condition to make the threat of legal sanction fully credible and thus to put an end to discrimination. Many job applicants rejected by the employer will continue to ignore whether they have been discriminated to the extent that they are unable to observe the profile of successful candidates. Similarly, many employees will remain unable to prove that their career path is hindered by discrimination, for lack of counterparts to whom to compare themselves “all things being equal”. This is why it is necessary to go further, by training employers not to discriminate, i.e. to control the biases that would otherwise lead them to discriminate.<sup>42</sup> This training must target HR (Human Resources) staff and managers, but also, for a thorough transformation of behaviour, the educational system.

### Training HR staff and managers not to discriminate

The French Act of 27 January 2017 on “Equality and Citizenship” requires all staff in charge of recruitment to undergo training in “non-discrimination in recruitment”, in companies with more than 300 employees. This amendment is a step in the right direction. A recent study conducted in France has shown that multi-establishment companies that select candidates for recruitment *via* a centralised HR department where the staff are trained are much less likely to discriminate than multi-establishment companies where selection is made at the level of the establishment concerned by the job offer.<sup>43</sup>

It is surprising, however, that this training obligation concerns only non-discrimination in the field of recruitment and not in the management of existing staff. Moreover, the companies are not provided support to identify the right training service providers. There are many non-discrimination training programs but the content is very heterogeneous and does not necessarily provide the keys to making recruitment and management of teams non-discriminatory.

Rigorous impact evaluations of such training programs remain scarce, and need to be enriched. The call for projects launched in 2018 by the Ministry of Labour’s *Directorate for the Promotion of Research, Studies and Statistics* (DARES) in order to assess the impact of “recruiting without discrimination” training on the diversity of recruitments

is a welcomed first step.<sup>44</sup> However, the current state of knowledge makes it possible to begin to determine what an effective non-discrimination training is. Such a training should first allow explaining to participants the biases that give rise to discriminatory behaviours. This training should then make individuals aware of their own biases and inform them of techniques for keeping these biases under control.<sup>45</sup> These techniques have the common aim of reducing the perceived distance between the ingroup (the group to which one belongs) and the outgroup (the group to which one does not belong). They aim to question the positive perceptions of the ingroup and the negative perceptions of the outgroup. They also aim to help participants understand members of the outgroup in their individuality so as not to reduce them to the group to which they belong. Finally, they seek to induce empathy from the participants, that is their capacity to put themselves in the shoes of members of the outgroup and take their perspective (Carcillo and Valfort, 2018, *op. cit. cit.*).

In addition to teaching individuals how to control their biases, non-discrimination training should familiarize HR staff and managers with the tools to objectively recruit and manage existing staff. These tools are well identified. For example, with regard to recruitment, they include the followings:

- Drafting a job profile that clearly defines the skills required for the duties of the position;
- Select applications based on an assessment grid that focuses on the competencies described in the position profile;
- Formalise the conduct of the job interview.<sup>46</sup>

This formalisation implies that the same questions should be asked to all candidates, and in the same order, with the sole aim of identifying whether the candidate has the required skills. In the absence of a homogeneous interview protocol, recruiters tend to let their biases become self-fulfilling. Several studies show that a homogeneous interview protocol is the guarantee of competency-based recruitment.<sup>47</sup>

**Recommendation 5.** Extend the non-discrimination training requirement to the management of existing staff. Label training firms that comply with a set of terms of reference, updated on the basis of the results of rigorous impact evaluations.

<sup>42</sup> The existence of anti-discrimination laws may contribute in part to this self-monitoring, even in the absence of efforts to ensure the implementation of such laws. Indeed, research in social psychological shows that individuals perceive legal changes as changes in the norm that they are willing to comply with. Recent research thus confirms that the legalization of same-sex marriage has improved acceptance of homosexuality in Europe and the United States, see OECD (2020), *op. cit.*

<sup>43</sup> Berson C., M. Laouénan and E. Valat (2020): “Outsourcing Recruitment as a Solution to Prevent Discrimination: A Correspondence Study”, *Labour Economics*, March.

<sup>44</sup> The results of this evaluation, which is currently underway, should be known by 2021.

<sup>45</sup> Devine P. G., P.S. Forscher, A.J. Austin and W.T. Cox (2012): “Long-Term Reduction in Implicit Race Bias: A Prejudice Habit-Breaking Intervention,” *Journal of Experimental Social Psychology*, vol. 48, no 6, 1267-1278.

<sup>46</sup> Advocate (2019): *For recruitment without discrimination*. Available at [www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-recrutsdaccess-03.07.19.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-recrutsdaccess-03.07.19.pdf)

<sup>47</sup> Bohnet I. (2016): *What Works: Gender Equality by Design*, Harvard University Press, March.

## Training not to discriminate from school onwards

In order to bring about deep changes in behaviour, the school should be a place where people learn to respect others. Moral and civic education (EMC), which has been compulsory since the start of the 2015 school year from primary to secondary school, is designed to convey the values of the Republic, including the fight against all forms of discrimination: sexist, racist, LGBTphobic, religious, etc.

This mission meets a real need. Victimization and school climate surveys conducted by the “*Direction de l'Évaluation, de la Prospective et de la Performance*” (DEPP) of the Ministry of Education reveal that one pupil in ten claims to be harassed, i.e. a victim of repeated violence: 14% of primary school pupils, 12% of middle school pupils and 2 to 3% of high school pupils.<sup>48</sup> Even though secondary school students are less exposed to violence, those who say they are victims of discriminatory insults represent a significant proportion in relation to the size of the groups targeted by these insults within the total population: 10.5% of secondary school students say they have been subjected to sexist insults, 7.1% to insults linked to their origin or skin colour, 3.9% to homophobic insults and 3.1% to insults linked to their religion.<sup>49</sup>

The effective implementation of the EMC is essential to counter such violence. It rests on three main pillars:

- The training of teaching staff on EMC as part of the initial training provided by the “Schools of Teacher Education” (ESPE) and in-service training;
- Educational resources available on *Eduscol*, a portal of the French Ministry of Education, or on the Canopé network;
- Partnerships in the educational system with associations approved by the Ministry of Education that offer educational activities during or outside school time that complement EMC, such as *Femmes Solidaires*, the International League against Racism and Anti-Semitism (LICRA), SOS Homophobia or ENQUÊTE.

Current action plans to combat discrimination put particular emphasis on intensifying these partnerships. This is the case of the Interministerial Convention for Equality between Girls and Boys, Women and Men in the Education System

2019-2024, the national plan to combat racism and anti-Semitism 2018-2020, and the mobilization plan against anti-LGBT hatred and discrimination launched in 2017. This intensification implies an increase in public subsidies granted to associations working in the field of education for citizenship and living together.

In a context of limited public funds, it seems important to condition this increase in public subsidies (1) to targeting schools with the most deleterious school climate, and (2) to evaluating the impact of the subsidised programs on students' attitudes and behaviour in order to select the most effective. Some interventions can indeed be counterproductive. Current evaluations show that two popular strategies have uncertain effects: enjoining people not to discriminate, and humorously insisting on the prejudice or negative stereotype that one wishes to deconstruct. The psychologists Abdelatif Er-rafiy and Markus Brauer have compared these approaches to the above-mentioned approaches of reducing the perceived distance to the outgroup. They confirm that they are much less effective.<sup>50</sup>

Prioritizing the schools with the most deleterious school climate requires collecting information on this climate at the level of each school. However, local school climate surveys are currently optional. It is therefore important to generalize them. Moreover, making the increase in grants to associations involved in education for citizenship and living together conditional on evaluations requires funds to finance these evaluations. As of today, these subsidies are allocated, in dribs and drabs, by multiple actors, including the National Agency for Territorial Cohesion and the Interministerial Delegation for the Fight against Racism, Anti-Semitism and Anti-LGBT Hatred (DILCRAH). This fragmentation hinders economies of scale and large-scale policies. It also makes it difficult for associations to access funding. Bringing together in a single entity the competences of these administrations concerning training of young people in non-discrimination and the related funding would then be useful. The DILCRAH, by its interministerial nature and its territorial network, could be the sole actor in charge of financing and evaluating these actions. The DILCRAH's evaluation mission could be structured around an experimental fund for fighting discrimination, similar to those observed for many years in the United States to identify and deploy the most effective

<sup>48</sup> See the article *Le Monde* (2017): *Harcèlement scolaire : un élève sur dix est concerné*, 9 November.

<sup>49</sup> Direction de l'évaluation, de la prospective et de la performance (DEPP) (2018): “Résultats de l'enquête de climat scolaire et victimation auprès des lycéens pour l'année scolaire 2017-2018 », *Note d'Information de la DEPP*, no 18.33, December.

<sup>50</sup> Er-rafiy A. and M. Brauer (2013): “Modifying Perceived Variability: Four Laboratory and Field Experiments Show the Effectiveness of a Ready-to-Be-Used Prejudice Intervention”, *Journal of Applied Social Psychology*, vol. 43, no 4, pp. 840-853.

In the fight against discrimination, other interventions have proven to be counterproductive. This is particularly the case with anonymous CVs. In addition to the difficulty of ensuring that all CVs received by recruiters are fully anonymous – and the risk that this practice will only result in the discrimination that normally occurs in the sorting of CVs being postponed until the job interview – an evaluation revealed a further limitation of this system: it is detrimental to candidates in companies wishing to introduce diversity into their workforce, see Behaghel L., B. Crépon and T. Le Barbanchon (2015): “Unintended Effects of Anonymous Summaries”, *American Economic Journal: Applied Economics*, vol. 7, no 3, pp. 1-27.

<sup>51</sup> See Carcillo S. (2016): *Des compétences pour les jeunes défavorisés*, Presses de Sciences Po and Adam Baïz A., S. Debu, R. Desplatz, P-H. Bono, C. Lacouette-Fougère and A. Trannoy (2019): “Évaluation d'impact des politiques publiques : que peut apprendre la France des pays les plus avancés ?”, *Note de Synthèse de France Stratégie*, December.

approaches.<sup>51</sup> This fund would be responsible for financing the evaluation of non-discrimination training in schools and during extracurricular activities, on the basis of calls for projects aimed at selecting the most rigorous evaluation protocols, but also the most innovative actions.<sup>52</sup>

**Recommendation 6.** Increase subsidies for non-discrimination training in schools and during extracurricular activities, while making them conditional on rigorous impact evaluations. Target schools with the most deleterious school climate, following the generalization of local school climate surveys.

## Measuring the situation of minority groups in the workplace and in the total population

Training HR staff and managers not to discriminate is an essential step in the fight against discrimination in the labour market, but employers must be encouraged to implement these good practices, beyond the fear of legal sanctions. This means being able to measure the situation of minority groups in private and public sector organisations in order to highlight employers who are exemplary in their diversity and inclusion –and to encourage others to follow these examples.

The measurement of the situation of minority groups should also concern official statistics. Indeed, while differences between majority and minority groups in access to employment, wages, health or the perception of discrimination are not irrefutable evidence of discrimination, they are nonetheless indications of it. Analysing these gaps and their evolution over time, based on survey data representative of the entire French population, is essential for informed management of the fight against discrimination.

### French law does not prohibit measuring diversity and inclusion

Since the publication of their guide “Measuring for progress towards equal opportunities” in 2012, the *Commission Nationale de l’Informatique et des Libertés* (CNIL) and the *Défenseur des Droits* have been recalling that analysing the situation of minority groups in the workplace and in the total population is the keystone of an effective anti-discrimination policy.

Admittedly, the collection and processing of personal data, i.e. data that directly or indirectly identify an individual, are regulated. However, the law defines a series of exceptions to the principle of prohibition of the collection and processing of personal and sensitive data, which are recalled in Article 9 of the GDPR (General Regulations on Data Protection). Following the decision of the Constitutional Council of 15 November 2007, such collection is still prohibited, even in the case of explicit consent of the individual, if it is based on the use by the investigator of an ethno-racial reference system enabling him or her to categorize the origin of individuals. This decision is only apparently binding because it *de facto* authorises indirect measures of ethnic or racial origin, such as objective data relating to the surname of individuals, their geographical origin, their nationality prior to French nationality, or subjective data relating to their “feeling of belonging”.<sup>53</sup>

### Measuring the situation of minority groups in the workplace

Once the explicit consent is collected, the legal framework allows surveys to be conducted among employees of private and public sector organisations to measure possible disparities on the basis of different grounds of discrimination prohibited by law.

On a voluntary basis, companies that wish to have their level of diversity assessed could invite their employees to respond to a survey based on a standardised protocol defined by the public authorities. This survey would be used to create a “Diversity and Inclusion” index. An index was created in 2019 concerning gender equality in the workplace in companies with more than 50 employees, but it has several limitations.<sup>54</sup> First, the companies themselves calculate their index, which represents a significant administrative cost but also a risk of manipulation. Second, the calculation methods are questionable. For example, for the part of the index devoted to wage gaps, all groups with fewer than three women (or fewer than three men) are excluded, which may provide an incentive not to hire women (or men) but also makes the index incalculable for male-dominated (or female-dominated) sectors where gender equality actions would nevertheless be a priority. Adding the gender composition of the workforce as a whole (and not only among the ten highest paid, as it is currently the case) to the number of dimensions measured by the index would help counter this perverse effect. Finally, this index focuses on a single ground of discrimination. This is a problematic inequality in the protection of groups at risk of discrimination.

<sup>52</sup> Such funds already exist in France. The Experimentation Fund for Youth created in 2008 finances and evaluates programmes aimed at promoting the academic success of pupils, contributing to equal opportunities and improving the sustainable social and professional integration of young people under 25 years of age ([www.experimentation-fej.injep.fr/](http://www.experimentation-fej.injep.fr/)). In addition, the Skills Investment Plan for those furthest from employment created in 2018 is based on calls for projects aimed at innovation through experimentation (<https://travail-emploi.gouv.fr/IMG/pdf/pic-brochure241018-web-pagepage.pdf>).

<sup>53</sup> INSEE thus indicates on its site what official statistics have the right to do and what it does on the subject of ethnic statistics, see [www.insee.fr/fr/information/2108548](http://www.insee.fr/fr/information/2108548).

<sup>54</sup> Breda T., P. Dutronc-Postel, J. Sultan and M. Tô. (2020): “Inégalités femmes-hommes au sein des entreprises : que mesure l’index de l’égalité professionnelle?”, *Note de l’IPP*, no 52, March.

We therefore propose the creation of a “Diversity and Inclusion” index to measure:

- The composition of the workforce according to different grounds of discrimination prohibited by law, by socio-professional category;
- The career path of individuals since joining the organization, based on these grounds;
- The experience of possible discrimination on the basis of these grounds.

As an example, this index could include the proportion of employees who have completed their schooling in a priority education network and/or who live in *Quartiers de la Politique de la Ville* (QPV, see above). This is indeed an indirect way of measuring diversity. For example, half of the students who have completed their schooling in priority education do not always speak French at home (compared with 18% of the other students).<sup>55</sup> Moreover, the proportion of foreigners in the QPV population is more than three times higher than that of the general population.<sup>56</sup> In practice, this index should be calculated as follows.

Firstly, the survey of employees of voluntary enterprises could be conducted on a public platform managed, for example, by the *Secrétariat d’État chargé de l’Égalité entre les femmes et les hommes et de la Lutte contre les discriminations* (French Ministry for Equality between Women and Men and the Fight against Discrimination). It should be based on a protocol for collection and homogeneous treatment defined by the CNIL and the *Défenseur des droits*.

Second, the publication of the indices associated with each employer should follow a “name and praise” rather than a “name and shame” logic. In other words, only employers whose index exceeds a certain threshold would be classified by performance category. The others would appear as “participants”, without any indication of their exact performance (a way of praising their desire for progress without the risk of stigmatizing them), or, if they prefer, as “anonymous”, waiting until they have performed well enough to be able to emerge from the shadows. This strategy of emulation has proven to be effective. One example is the *Workplace Equality Index* in Australia, which has attracted a steadily increasing number of employers over the years. Valuing the good performance of ranked employers could be enhanced by a website that allows job applicants to easily identify the most inclusive employers, by region and industry or professional sector. Finally, the publication of the index could be accompanied by a report highlighting the good HR practices of top-performing employers, in order to show others the way forward.

This could be a first step towards requiring all companies with more than 50 employees to participate in the calculation of the “Diversity and Inclusion” index.

**Recommendation 7.** Create a “Diversity and Inclusion” index based on a protocol defined by the public authorities to value the most diverse and inclusive employers according to different discrimination grounds. This index could include, for example, the proportion of employees who have completed their schooling in a priority education network and/or who live in districts known for their economic and social disadvantages.

### Measuring the socio-economic situation of discriminated groups in the total population

The French National Institute for Statistics and Economic Studies (INSEE) is active in the collection of representative data on the origin of persons. As early as 1999, official statistics included a question on the country of birth of the person surveyed and his or her parents (“Family History Study” survey). Since then, several major regular INSEE surveys contain questions not only on the country of birth of the respondent and his/her parents, but also on their nationality of birth. This is notably the case of the “Employment” survey since 2003 and the “Family and housing” survey in 2011. In addition, the census now contains questions on the country of birth, the nationality of foreigners and the previous nationality of the French by acquisition.

However, these questions only allow us to study the trajectory of a fraction of the racial or ethnic minorities in our country. For example, they exclude from the analysis people whose ancestors of non-European origin have been living in France for more than two generations. Admittedly, the INSEE-INED “Trajectories and Origins” survey of 23,000 people, which includes questions on religious affiliation and practice as well as on perceived origin, makes it possible to improve knowledge of the social trajectories and living conditions of migrants and their descendants in France. Thanks to a rigorous methodology, this survey over-represents non-European immigrants, people born in the overseas departments and people who are sons or daughters of them. This survey is a significant step forward. But the scope of the analysis would benefit from being extended beyond the second generation of migrants, as is currently being tested in the new wave of the TeO survey.

<sup>55</sup> Stéfanou A. (2017): “Éducation prioritaire. Scolarité des élèves au collège de 2007 à 2012”, *Éducation et Formations*, no 95, December.

<sup>56</sup> Renaud A. and F. Sémécurbe (2016): “Les habitants des quartiers de la politique de la ville”, *INSEE Première*, no 1593, May.

Furthermore, INSEE does not collect information on the sexual orientation and gender identity of individuals, which would allow studying the socio-economic situation of LGBT people and its evolution. The way in which this population is currently measured, i.e. by identifying same-sex persons living in couples, is not satisfactory. It only allows the analysis of a sub-group of the LGBT population and also generates biases that make the analysis uninformative.<sup>57</sup> Even if direct questions would be present in regular national surveys on employment or living conditions, for example, the issue of sample size and representativeness becomes acute when looking at minority groups such as the LGBT population (around 5% of the total population, *cf.* OECD, 2019, *op. cit.*). One way of improving the statistical system could be, initially, to extend the list of grounds for discrimination in the TeO survey in the “situational” measures and to add the ground of sexual orientation to those already considered (age, gender, origin, disability) in the *ad hoc* module of the 2021 “Employment” survey that aims to measure experiences of discrimination in the labour market.

The best solution to study the situation of minority populations would be to introduce questions on perceived origin, but also on sexual orientation and gender identity in the major regular INSEE surveys, as several countries already do (*cf.* OECD, 2019, *op. cit.*). The United Kingdom is even in a test phase to include questions on sexual orientation and gender identity in the 2021 Census, which would allow the matching of this information with other representative surveys and thus a comprehensive study of the socio-economic situation of minority groups (*cf.* OECD, 2020, *op. cit.*). According to the Eurobarometer 2019 on discrimination, a large majority of French people (70%) are in favour of revealing sensitive personal information in a census or representative national survey, such as their ethnic origin, skin colour or sexual orientation, for anti-discrimination purposes.

**Recommendation 8.** Include in the census or in a census-based survey –such as the “Family and Housing” survey– questions on the perceived origin of individuals, their sexual orientation and gender identity.

In a context where the Covid-19 pandemic is plunging our economy into an unprecedented recession, the fight against discrimination is more necessary than ever. This fight involves short-term measures, such as increasing hiring subsidies for the most vulnerable populations, but also requires, as this *Note* shows, an ambitious long-term policy, making it possible to deal with the problem of discrimination as a whole. ●

<sup>57</sup> See Valfort M. (2017): “LGBTI in OECD Countries: A Review”, *OECD Working Papers: Social, Employment and Migration Issues*, no 198, OECD Publishing, Paris.

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