REPORT
on the Free Movement of Workers in France in 2004

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Abstract

In terms of the free movement of workers, 2004 can be characterised as a time of continuity of movement and of transition.

Transition is relatively important, when one takes into consideration the enlargement of the European Union and the reference by French legislation to the conditions under which free movement is exercised by the nationals of the ten new member states.

Continuity can be measured in different ways. First of all, increased awareness by the French authorities of the considerable backwardness of French legislation in adapting the rules of derived law has led them to make a particular effort in terms of adaptation in 2004, particularly through government edicts, which has produced a significant increase in standards. In addition, the very important question of the opening up of the public sector has been the subject of a bill which will be debated in 2005. Secondly and still at legal level, the imperatives of Community jurisprudence have been heard by internal jurisprudence, particularly regarding pensions and trans-border care.

The main new features in 2004 fall into two categories. Firstly, the principle of non-discrimination has received particular attention from the legislator, with the creation of a "High Authority" responsible for guaranteeing this principle and a marked desire for integration. Secondly, the statistical tools used by the various ministries have obviously devoted particular efforts to the free movement of persons, thereby providing a better understanding of the phenomenon.

Chapter I
Entry, residence, removal

Entry and residence

Current legislation

The right of entry of foreign nationals is governed under French law by *government edict no. 2004-1248 of 24 November 2004*.[1] This relates to the legislative section of the Code governing the entry and residence of foreigners and the right to asylum and its new edition provides clarification concerning the texts relating to foreigners and asylum-seekers. This Code entered into force on 1 March 2005.

Section II of the Code directly concerns the entry and residence of nationals of Member States of the European Union, signatories of the agreement on the European Economic Area and Swiss nationals. It comprises one single chapter and its Article L. 121-1 stipulates:

> "Nationals of Member States of the European Union, of other states that have signed the agreement on the European Economic Area and the Swiss Confederation who wish to establish their usual residence in France are not obliged to hold a residence permit.
> If they apply for a residence permit, the permit will be issued to them subject to the absence of any threat to law and order.
> However, nationals of Member States of the European Union who wish to practise an economic activity in France are still obliged to hold a residence permit during the period of applicability of the transitional measures which may be envisaged in this respect by the accession treaty of the country of which they are nationals and unless otherwise stated in this treaty.
> A decree in the Council of State describes the conditions for application of the present Article".

These provisions which, on the one hand no longer make it compulsory for Community nationals to hold a residence permit and, on the other hand, nonetheless allow for a permit to be issued to them upon application, had been stipulated in two circulars from the Ministry of the Interior and the Ministry of Employment (NOR INT 004 0000 6 C of 20 January 2004 and NOR INT/D/04/00066/C of 26 May 2004).

The latter of these circulars stipulates that nationals of Member States of the European Union and the European Economic Area enjoy a privileged system in terms of residence since their right to reside and work in France is the direct result of the treaties and Community instruments (directives, regulations) enacted for their application.

Within this context, holding a residence permit is of only declaratory and probative value and the regular nature of the residence is not conditional upon it.

Therefore, in order to give full meaning to the principle of the free movement of citizens of the European Union and in an effort to simplify procedures, Article 14 of the law referred to above no longer requires these nationals to hold a residence permit. This measure also benefits nationals of the Swiss Confederation and the parties to the European Economic Area agreement.

Subject to specific provisions envisaged for the nationals of the 8 new Member States (Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia), the abolition of this obligation applies to all categories of nationals, whether working or not, who

1 *French Official Journal* no. 274 of 25 November 2004, p. 19924.

benefit from the free movement of persons, as mentioned in Article 1 of the decree of 11 March 1994, modified … or circular NOR INT 002 001 33 C of 3 June.

These nationals can therefore move about, take up residence and work in France without having to apply for a residence permit and without any other administrative formalities other than possession of a current passport or national identity card which proves their citizenship of the European Union, the European Economic Area or the Swiss Confederation.

Consequently, the following are now exempt from holding a residence permit: nationals of Member States of the European Union, in other words those of the current Member States – Austria, Belgium, Denmark, Finland, Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain, Sweden and the United Kingdom as well as those of the 10 new Member States as of 1 May 2004 (Cyprus, Malta, Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia), with the exception – for the citizens of 8 of them – of those who wish to practise an economic activity as well as the nationals of the other parties to the European Economic Area agreement – Iceland, Liechtenstein and Norway and nationals of the Swiss Confederation.

In addition,

> "if Article 9-1 of government edict of 1 November 1945, modified by the aforementioned law of 26 November 2003 abolishes the formal obligation to hold a residence permit for nationals of the European Union, Iceland, Liechtenstein and Norway and the Swiss Confederation, it also explicitly envisages the possibility for the latter to apply for this to be issued by your offices. *In this case, their applications must be processed, without these nationals facing a point-blank denial*. In fact, if it is no longer compulsory for these nationals to hold a residence permit, holding such a document may still prove useful when it comes to fulfilling certain administrative steps and in particular with a view to obtaining certain social security benefits while waiting for the gradual adaptation of the texts and procedures currently in force".

Jurisprudence

In this case, the French administrative judge has jurisdiction. The Council of State has thus had to deal with the question of the compatibility of a Community national being prohibited from practising a professional activity while at the same time being under house arrest.

The plaintiff, Mr. Spano, who is of Italian nationality, had been placed under house arrest. The Prefect of Pas-de-Calais, in establishing the terms and conditions of this measure, had added an absolute ban on practising any professional activity. The Administrative Court of Appeal of Douai revoked this condition. Referred to by the Minister of the Interior, the Council of State confirmed this judgement, stating

> "that in judging that, under the particular circumstances of the case, the house arrest imposed on Mr. Spano, the indefinite duration of which was clear from the documents from the file submitted to the judges who pronounced on the merits, did not pose an obstacle to the authorisation to practise a professional activity that had been issued to the party in question, the Administrative Court of Douai did not commit an error of law in applying the aforementioned provisions of Article 28 of government edict of 2 November 1945" (Council of State, 14 November 2003, *Minister of the Interior vs. Mr. Spano*, no. 223545).

Moreover, the judge also had to take cognisance the legality of the house arrest measures affecting a Community national. Mr. Y, a Spanish resident, was the subject of an order by the Minister of the Interior, prohibiting him from residing in 28 French *départements* on the grounds that he was linked to an armed, organised group whose activities represent an attack

on law and order on French soil then, on the same grounds, of an order by the Prefect of Tarn et Garonne, confining the area in which he is authorised to reside to the district of Castelsarrasin.

The Administrative Court of Appeal points out that

> "neither Article 39 EC nor the provisions of derived law implementing the free movement of workers prevents a Member State from passing administrative policy measures, with respect to a migrant worker who is a national of another Member State, limiting the right of residence of that worker to an area of national territory on condition that this is justified by reasons of law and order or public security based on his individual behaviour; that, in the absence of this possibility, these reasons may only lead, by virtue of their gravity, to a residence ban or a removal measure covering the entire national territory and that the behaviour which the Member State intends to prevent gives rise, when demonstrated by its own nationals, to deterrent measures or to other real and effective measures intended to combat it" (Administrative Court of Appeal of Bordeaux, 21 December 2004, no. 00BX00278).

Doctrine

A. Lebon, "Immigration et présence étrangère en France" (Immigration and foreign presence in France in 2002), *La Documentation française*, May 2004.

Report by the Prime Minister to Parliament on *Les orientations de la politique de l'immigration* (Trends in immigration policy), first report drawn up in application of Article 1 of the law of 26 November 2003.

Removal

Current legislation

Law no. 2004-204 of 9 March 2004 regarding the adaptation of justice to developments in criminality[2] adapts into French law "the European arrest warrant", a procedure intended to replace the extradition procedure within the European Union by a faster and entirely legalised mechanism. This law introduces a new Chapter IV into Title X, "International judicial cooperation" in Book IV of the Code of Criminal Procedure. This new chapter is entitled, "The European arrest warrant and delivery procedures between Member States resulting from the framework decision of the Council of the European Union of 13 June 2002". Its first article, Article 695-11, defines the European arrest warrant as

> "a judicial decision issued by a Member State of the European Union, known as the issuing Member State, with a view to the arrest and delivery by another Member State, known as the implementing Member State, of a person wanted in connection with the execution of punitive proceedings or for the implementation of a penalty or a safety measure involving the deprivation of freedom".

However, if a Member State does not use this procedure, it still has the possibility of having an individual delivered to it using the simplified extradition procedure, envisaged in Section III of Chapter I of Book X of the Code of Criminal Procedure, which sets forth the content of the Convention regarding the simplified extradition procedure between the Member States of the European Union of 9 and 10 March 1995. The transitional measure in III of Article 214 of

2 *French Official Journal* no. 59 of 10 March 2004, p. 4567.

the law 2004-204 stipulates that the provisions of this law that differ from those of the law of 10 March 1927 be uniquely applicable to extradition requests made after the entry into force of the law.

Circular CRIM 2004-02 CAB[3] was published by the Ministry of Justice on 11 March 2004, setting out the provisions of the law of 9 March 2004 regarding the European arrest warrant and extradition. This circular often simply sets forth the new articles of the Code of Criminal Procedure concerning the European arrest warrant, which often achieve a high level of precision, but it also stipulates the practical methods required to implement the European arrest warrant.

Law no. 2004-1344 of 9 December 2004[4] authorises, with a delay of almost ten years, the ratification of the convention drawn up based on Article K3 of the European Union Treaty, regarding the simplified extradition procedure among Member States of the European Union, signed in Brussels on 10 March 1995. *Law no. 2004-1345 of 9 December 2004*[5] authorises the ratification of the convention drawn up based on Article K3 of the European Union Treaty, regarding extradition among Member States of the European Union, signed in Dublin on 27 September 1996. As far as judicial relations among Member States of the Union are concerned, this text is largely out of date and of no interest with respect to the provisions of the European arrest warrant.

Jurisprudence

An extensive series of decisions by the judicial judge testifies to the implementation of the framework decision concerning the European arrest warrant and to the place this technique is accorded in French practice: Cass. crim., 26 May 2004, Juris-Data no. 2004-024000; Cass. crim., 8 July 2004; Juris-Data no. 2004-024666; Cass. crim., 1 September 2004; Juris-Data no. 2004-024838; Cass. crim., 21 September 2004, Juris-Data no. 2004-025063; Cass. crim., 5 October 2004; Juris-Data no. 2004-025174; Cass. crim., 13 October 2004; C.: Juris-Data no. 2004-025258; Cass. crim., 23 November 2004; Juris-Data no. 2004-026045; Cass. crim., 14 December 2004; Juris-Data no. 2004-026420; Cass. crim., 14 December 2004; Juris-Data no. 2004-026419.

Doctrine

Jean Pradel, "Le mandat d'arrêt européen, un premier pas vers une révolution copernicienne dans le droit français de l'extradition" (The European arrest warrant; the first step towards a Copernican revolution in French extradition law), *Recueil Dalloz* 2004, no. 20, p. 1392;

Lucette de Gentili-Picard, "L'intégration du mandat d'arrêt européen dans la procédure pénale française" (Integration of the European arrest warrant into French criminal procedure), *La Semaine Juridique*, Édition Générale no. 48, 26 November 2003, p. 563.

3 *Official Bulletin of the Ministry of Justice* no. 93 of 1 January 2004 to 31 March 2004.
4 *French Official Journal* no. 287 of 10 December 2004, p. 20876.
5 *French Official Journal* no. 287 of 10 December 2004, p. 20876.

Chapter II
Equal Treatment

Combating discrimination

Current legislation

Law no. 2004-1486 of 30 December 2004[6] created the High Authority to Fight against Discrimination and For Equality (HALDE) in an effort to mark a new stage in French law in terms of public policy against discrimination. Title II of this law moreover adapts Directive 2000/43 of 29 June 2000 in reaffirming the principle of non-discrimination and the equal treatment of individuals

> "in terms of social security, education, access to goods and services, the provision of goods and services, membership of and activity within a trade union or professional organisation including benefits obtained through it as well as access to employment, self-employed and salaried employment and work".

This High Authority has a light-weight collegiate structure, composed of eleven members, appointed by various authorities:

> "the High Authority is composed of a college of eleven members, appointed by decree by the President of the Republic: two members, including the president, appointed by the President of the Republic; two members appointed by the president of the Senate; two members appointed by the president of the National Assembly; two members appointed by the Prime Minister; one member appointed by the vice-president of the Council of State; one member appointed by the first president of the Court of Cassation; one member appointed by the president of the Economic and Social Council. The appointments by the President of the Republic, the president of the Senate, the president of the National Assembly and the Prime Minister help achieve balanced representation between women and men" (Article 2).

It is authorised to take cognisance of all forms of discrimination, whether direct or indirect, that are prohibited by law or by an international agreement to which France is party (Article 1). It is responsible in particular for combating discrimination based on race or ethnic origin and forms the body envisaged in Directive 2000/43, taking its inspiration moreover from British achievements in this area as recommended in the Stasi report, as well as the European Commission against Racism and Intolerance.

It is an independent administrative authority and "anyone who believes himself the victim of discrimination can refer a matter to the High Authority under conditions described by decree in the Council of State". It can also take up cases of direct or indirect discrimination of which it is aware, provided the victim, once identified, has been informed and does not object. The victims of discrimination can also take a matter to the High Authority through a deputy, a senator or a French member of the European Parliament.

Any association registered in the normal way for at least five years at the time of the facts and purporting in its by-laws to combat discrimination or assist the victims of discrimination can appeal to the High Authority jointly with any person who believes himself the victim of discrimination and with that person's consent.

6 *French Official Journal* of 31 December 2004, p. 22567.

Submitting the case to the High Authority neither interrupts nor suspends the deadlines relating to the statute of limitations in civil and penal matters or relating to administrative appeal or submission for legal settlement, by virtue of Article 4 of the aforementioned law.

Article 5 of the law stipulates that,

> "the High Authority gathers all information regarding the facts brought to its attention. To this end, it may request explanations from any physical person or any legal entity under private law involved in the case brought before it. It can also request the forwarding of information and documents regardless of media and hear any person whose cooperation it deems useful."

The persons from whom the High Authority requests explanations in application of the above paragraph may be assisted by the counsel of their choice. An official report of the hearing is drawn up and given to the person heard.

By virtue of Article 11, this Authority also holds another power, that of "formulating recommendations intended to remedy any fact or any practice which it deems discriminatory or to prevent its repetition". It can make its recommendations public and

> "in the absence of a report by the persons in question or if it believes, in view of the report forwarded to it, that its recommendation has not been followed by any effect, [it] can drawn up a special report which is published in the French Official Journal".

The HALDE may inform the Public Prosecutor of the facts brought to its attention constituting a crime or offence; it can be called to present observations by the civil, criminal or administrative jurisdictions informed of the facts relating to discriminations and, finally, it can bring to the attention of the authorities or public figures vested with disciplinary power the facts likely to lead to disciplinary proceedings. *Thus, the High Authority, without being vested with direct power of sanction, possesses several indirect means of sanctioning any form of discrimination*.

The HALDE also takes action by way of communication and information intended to ensure the promotion of equality. At the request of the Prime Minister, it can participate in representing France in international and Community organisations competent in the field of combating discrimination (Article 15).

Title II of law no. 2004-1486 implements the principle of equal treatment among people regardless of ethnic origin and adapts Directive no. 2000/43/EC of 29 June 2000. Finally, Title III provides for "intensification of the fight against discriminatory statements of a sexist or homophobic nature".

Doctrine

Bernard Stasi, Vers la Haute autorité de lutte contre les discriminations et pour l'égalité (Towards the High Authority to Fight Against Discrimination and For Equality), *La Documentation française*, 16 February 2004.

Ministry of Employment, Labour and Social Cohesion, Population and Migration Services, "La politique de lutte contre les discriminations raciales dans le domaine de l'emploi" (The policy for fighting racial discrimination in employment), *Notes et documents* no. 50, May 2004.

Romain Graeffly, "Vers une unification des politiques publiques de lutte contre les discriminations" (Towards unification of public policies to fight against discrimination), *AJDA* 2005, p. 934.

Chapter III
Employment in the Public Sector

Access to the French public sector to nationals of the European Union

Current legislation

A series of complementary texts enables the progressive harmonisation of French law on this subject. This path, which opened up in 2004, should be continued in 2005.

Decree no. 2004-313 of 29 March 2004,[7] *modifying decree no. 2002-50 of 10 January 2002 relating to entry conditions and training programmes at the Ecole Nationale d'Administration*, enabling nationals of Member States of the European Community or of another State party to the European Economic Area agreement who fulfil the conditions set forth in Article 5 bis of the law of 13 July 1983 regarding the rights and obligations of civil servants (enjoyment of civic rights, criminal history compatible with the exercise of duties, regularity of the position with respect to national service obligations of the State where nationality is held, physical aptitude) to compete to enter the Ecole Nationale d'Administration.

Decree no. 2004-798 of 16 July 2004[8] *relating to the mobility and secondment of civil servants of corps recruited through the Ecole Nationale d'Administration* aims to pursue the polity to open up the Ecole and the senior public sector of the State to the outside world. Specifically, this decree stipulates the conditions for classification of the years of mobility spent in a Community department or that of a Member State of the European Union or of the EEA as effective service in the original corps of the public sector.

Moreover, on 2 February 2005, the Minister responsible for the Public Sector and Reform of the State presented to the Council of Ministers a *bill regarding various measures for adapting Community law to the public sector*. This bill includes, in particular, the opening up of the public sector to nationals of the European Community. It also extends to men some provisions reserved for women, in application of the Community non-discrimination principle.

Doctrine

Fabrice Melleray, Vers une extension de l'ouverture de la fonction publique française aux européens? (Towards extending the opening of the public sector to Europeans?), *AJDA*, 22 November 2004, p. 2203

J.M. Lemoyne de Forges, Note under CE, 24 February 2004, *AJDA* 2004, p. 554.

Qualifications and access to the public sector

Current legislation

Government edict no. 2004-1174 of 4 November 2004[9] *regarding adaptation for certain professions of Directive 2001/19/EC of the European Parliament and the Council of 14 May 2001 concerning the recognition of certificates and professional qualifications* is an important

7 *French Official Journal* no. 77 of 31 March 2004, p. 6180.
8 *French Official Journal* no. 164 of 17 July 2004, page 12883.
9 *French Official Journal* of 5 November 2004, p. 18697.

text since it enables France, on the one hand, to make up for its chronic delay in adapting relevant applicable Community directives and, on the other hand, to draw the conclusions from the jurisprudence of the Court of Justice, particularly concerning the *Burbaud*[10] case.

Firstly, government edict no. 2004-1174 enables the required modifications to be made to the Education Code, aimed at the medical and dental professions. This modification is intended to promote student mobility (by facilitating access to the third cycle of education in France by foreign students), the ability of French and European doctors to change speciality during their professional career, as well as access to specialist qualifications by non-Community foreign doctors. From now on, the specialist training undertaken by the applicant, his professional experience, his additional training and his continuing medical training will be taken into account for medical and dental specialists, within the conditions established by decree in the Council of State.

It should be pointed out that in aiming not only at the experience but also the further and continuing education of the national, the provisions of Directive 2001/19 would thus be adapted, as well as certain provisions of previous sectoral directives which had not been completely adapted. Indeed, the obligation upon the receiving Member States to take into account the initial specialist training undertaken by the candidate in his State of origin is envisaged by Article 6 of Directive 78/686 aimed at the mutual recognition of diplomas, certificates and other titles held by the dental practitioner, and by Article 8 of Directive 93/16 aimed at facilitating the free movement of doctors and the mutual recognition of their diplomas, certificates and other titles, and it had not yet been adapted into internal law. These provisions should be supplemented by regulatory measures. Firstly, this would involve a decree in the Council of State which could refer to both types of training and would stipulate, in particular, the content of the file compiled by the party in question, the duration of processing of the file (the term of four months being an exception to that envisaged in Article 21 of law no. 2000-321 of 12 April 2000 regarding the rights of citizens in their relationships with governments), the creation of a jury responsible for assessing the candidate's file and the methods of exemption from certain tests involved in the diplomas or certificates submitted by the candidate. Finally, some of the texts should be modified, in particular the decree of 4 August 1987 regarding the special "orthodontics" clinical studies certificate.

Moreover, the same text modifies the codes of Public Health and Social Action, covering the following professionals: doctors, nurses, midwives, dental practitioners, pharmacists and social workers (with specific provisions, as has been mentioned previously, for certain Italian professionals).

Jurisprudence

Administrative jurisprudence has continued to apply the current Community regulations. Thus, the administrative jurisdiction sanctions the public authorities in severe terms, for example in the case of the *Council of State, 4 February 2004, no. 225310, Leseine, Warnimont*. In this case, the plaintiffs – Belgian special education teachers – had applied for recruitment to jobs as territorial assistants in order to practise their professions in a French territorial community. They had not been allowed to apply since their Belgian qualifications were not regarded as the equivalent of the State special education diploma required for entry to the intended level of employment. The Council of State stipulates

> "that it follows from the aforementioned provisions of the Directive [no. 92-51 of the Council of 18 June 1992 regarding a second general system for the recognition of professional

10 ECJ, 9 September 2003, *Burbaud*, case C-285/01.

> training], as interpreted by the European Court of Justice, that the Member States had to adopt, before 18 June 1994, the measures required so that a national of another Member State wishing to practise a regulated profession, whether self-employed or as an employee, to which access in the receiving State is conditional upon possession of a diploma, does not find himself, when the similarity between the qualifications awarded by the receiving State and by the State of origin is only partial, facing a refusal to assess whether the knowledge acquired by the party in question, following award of the qualification, within the context of practical experience, sufficiently supplements the knowledge demonstrated by his foreign qualification; […]
> No measures intended to achieve the objective (…) of the above Directive had been taken in France; consequently, since no system was provided to enable experience to be taken into consideration in order to apply for the territorial public sector, the provisions of Article 4 of the decree of 30 August 1994 were not compatible with the objectives of Directive no. 92/51 of the Council of 18 June 1992 regarding a second general system for recognising professional training; consequently, the refusals handed down to the plaintiffs (…) by the commission for the approval of titles in the territorial public sector should, because of this illegality, be revoked".

The Administrative Court of Appeal of Douai also applies Community jurisprudence in a very significant way (*CAA, Douai, 15 April 2004, no. 97DA02205, Isabel Burbaud*):

> "Considering that, in order to contest before the administrative court of Lille the legality of the decision in which the Minister of Health rejected her request for entry into the ranks of hospital management personnel, Ms. X. exceptionally took advantage of the incompatibility of national regulations, in particular the aforementioned decrees of 19 February 1988 and 19 January 1993, with the objectives of Directive 89/48 of 21 December 1998 [regarding a general system for the recognition of higher education qualifications awarded following professional training courses lasting at least three years], which had not been the subject, as of the date of the contested decision, of any adaptation measure in terms of the ranks of hospital management personnel; that in basing its decision on these national regulations without previously having studied the merits of this method, the administrative court marred its judgement with an irregularity such as to lead to its revocation".

The Administrative Court of Appeal recalls the relevant provisions of the aforementioned Directive, in particular those of the decision by the ECJ of 9 September 2003. It stipulates that

> "the European Court of Justice has passed judgement in the same judgement that, when a national of a Member State holds a qualification obtained in a Member State which is equivalent to that required in another Member State for entry into a job in the hospital public sector, Community law does not permit the authorities in the latter Member State to subject the integration of this national into the aforementioned post to passing an entry examination such as the entry examination for the Ecole Nationale de la Santé Publique". […]

> "Considering that it follows from the aforementioned provisions of Directive 89/48, as interpreted by the European Court of Justice, (…) that France had to adopt, before 4 January 1991, the required measures so that a national of another Member State in possession of a qualification equivalent to that awarded by the Ecole Nationale de la Santé Publique in Rennes who wished to take up the post of director in the French hospital public sector could not be required to follow the national rules issued by this institution and to take the examination organised at the end of the course; that the national rules applicable at the time of the disputed decision and in particular the aforementioned decrees against Ms. X. did not envisage any procedure enabling nationals of other Member States in possession of such an equivalent qualification to assert, to the extent of the budgetary vacancies to be filled via the various

> access routes, their vocation to join the ranks of hospital management personnel, which does not come under the exception envisaged in paragraph 4 of Article 39 EC, that these rules were thus neither in accordance with the requirements of [this Article], nor compatible with the objectives of the Directive of 21 December 1988, which should have been adapted, as has been mentioned, no later than 4 January 1991; that they could no longer serve a legal basis for the disputed decision, which should consequently be revoked;
> Considering that it follows from all of the above that Ms. X is justified in requesting the revocation of the decision of 20 August 1993 by the minister responsible for health. […]
> Considering that it emerges from the documents in the file that entry into the Portuguese hospital public sector is reserved for holders of a university degree who have obtained the qualification in hospital administration awarded by the National Public Health School in Lisbon; (…) that, taking into account the duration of the training courses provided in the two institutions, which are comparable, as well as the subjects taught, these training courses should be regarded as equivalent; (…)
> Considering that, in anticipation of the enactment of a national regulation in accordance with the Treaty and compatible with the objectives defined by Directive 89/48, it is now up to the minister responsible for health to examine whether, taking into account the equivalence of titles and qualifications of which she is taking advantage and the job vacancies to be filled via the various access routes, Ms. X. can join the ranks of hospital management personnel and, where applicable, to pronounce on this integration by attaching to it the obligation to complete an adaptation course or to submit to an aptitude test if it appears that differences exist between the subjects taught in the two public health institutions of a nature to justify this; that, under the circumstances of the case, it is appropriate to attach to this injunction a fine of 100 euros per day of delay".

The Council of State also fully applies the *Burbaud* jurisprudence of the ECJ through its decisions. The Council decided in favour of a Belgian special education teacher who referred her case to it when her qualification was refused classification as the equivalent French qualification (*Council of State, 10 December 2004, no. 261974, Jenny Barneaud*). The classification commission had considered, in this case, that the inadequate quality of the courses leading to award of the qualification did not allow its classification and that it should not therefore take into account professional experience acquired following the receipt of this qualification. In revoking this decision, the Council of State draws the conclusions from the jurisprudence of the ECJ by making explicit reference to it:

> "… considering that it follows from this Directive, as it has been interpreted by the judgement passed on 9 September 2003 by the European Court of Justice in case C-285-01, that a regulated profession within the meaning of the Directive of 18 June 1992 comprises any professional activity which is directly or indirectly governed, in terms of its conditions of entry or practice, by legislative, regulatory or administrative provisions imposing the possession of a qualification; that the decree of 26 March 1993 makes admission to the post of special education teacher within the ranks of socio-educational workers in the hospital public sector conditional upon possession of a State qualification as a special education teacher; that the professional activity of special education teacher in the hospital public sector must therefore be regarded as a regulated profession within the meaning of the aforementioned Directive; that in addition, in a judgement of 7 October 2004 passed in case C-402, the European Court of Justice considered that the profession of special education teacher in the hospital and territorial public sector constituted a regulated profession within the meaning of Directives nos. 89/48 and 92/51, that on the date when Ms. X., of Belgian nationality, was refused permission to apply for admission to a job as a special education teacher in the hospital public sector, no measure aimed at achieving the above objective of the aforementioned Directive had been taken in France; that, consequently, in the absence of a system enabling experience to

> be taken into account in order to enter the competitions and examinations in the hospital public sector, the provisions of Article 5 of the decree of 21 July 1994 were not compatible with the objectives of Directive no. 92/51 of the Council of 18 June 1992 regarding a second general system for the recognition of professional training; that, consequently, the refusal handed down to the plaintiff on 17 June 2003 by the commission for the classification of titles in the hospital public sector and the confirmation decision of 3 October 2003 must, as a result of this illegality, be revoked…".

It reproduces this argument in the document *Council of State, 29 December 2004, 265346, Personeni*. The plaintiff has been working since February 2003 as a contractual special education teacher in a regional childhood centre. Wishing to obtain her appointment as a special education teacher, she applied to the commission responsible for the classification of qualifications for admission to the hospital public sector for recognition of her qualification, awarded in Belgium. The Commission rejected her qualification, considering that it demonstrated a significant deficit in the number of months of training compared to French training, which was not compensated by the excess of theoretical training, taking into account the nature of the professional activities to which the qualification grants access. The plaintiff then requested revocation of these decisions in the Council of State on the grounds that the decree of 21 July 1994 on the basis of which they had been taken was contrary to the Directives 89/48 of 21 December 1988 and 92/51 of 18 June 1992.

The Council of State was of the opinion that, following the example of its judgement regarding the professional activity of special education teacher in the territorial public sector (EC, 4 February 2004, Leseine and Warnimont aforementioned), the profession of special education teacher within the hospital public sector was a "regulated profession" within the meaning of the 1992 Directive, where entry and practice are conditional upon the possession of a specific title or qualification, although this profession is not regulated in France since anyone can practise it in the private sector without possessing a qualification. The Council of State did not, as in its judgements of 4 February 2004, confine itself to referring to the Burbaud jurisprudence, but added that the ECJ[11] had had the opportunity to judge explicitly that the profession of special education teacher is, whatever the public sector involved, a regulated profession within the meaning of the Community Directives of 1988 and 1992.

The Council of State then admitted, as the ECJ had decided in its judgement of 7 October 2004, that the decree of 21 July 1994 is incompatible with the 1992 Directive in so far as it does not allow the commission to take into account, when assessing equivalence enabling a person to take the entry examination for the hospital public sector, professional experience acquired beyond the award of the qualification alone. Consequently, the incompatibility of the decree removes the legal basis for the disputed decisions of the commission responsible for the classification of qualifications.

This position by the administrative judge therefore demonstrates the failure of French law to adapt to regulations, which should be stopped by the governmental authorities in order to conform to the jurisprudence of the ECJ by putting an end to the classification system in force since 1994.

11 ECJ, 7 October 2004, *Commission vs. France*, case C-402-02.

Chapter IV
Family Members

Current legislation

The *aforementioned circular of 26 May 2004 (no. NOR INT/D/04/00066/C*) reaffirms the obligation for family members who are nationals of a third-party State to hold a residence permit. Abolition of the obligation to hold a residence permit does not in fact apply to family members who are nationals of a third-party State, who remain obliged to hold a residence permit.

When those involved are nationals of the Member States of the European Union, Iceland, Liechtenstein and Norway, the family members in question are those intended by the provisions of the decree of 11 March 1994, modified. When those involved are Swiss nationals, the family members in question are those intended by circular NOR INT 002 001 33C of 3 June 2002 relating to Swiss nationals residing and working in France.

Nationals of a third-party State who are family members must hold a "European Community" residence permit in accordance with the provisions of decree no. 94-211 of 11 March 1994 modified, or, if the family member is a Swiss national, a residence permit in accordance with the instructions of circular NOR INT 002 001 33 C of 3 June 2002.

In accordance with the above texts, the type of permit issued as well as its period of validity will depend on the permit issued to a national of the European Union, Iceland, Liechtenstein or Norway or the Swiss Confederation.

However, if the national of one of the States referred to in the above paragraph does not personally apply for a residence permit, the family member who is a national of a third-party State, when making his application, will have to provide – in addition to the usual documents he must submit (proof of family tie, proof of legal entry, etc.) – information about the personal situation in France of the beneficiary of the right of residence whose family member he is, in order to justify his admission to reside on French territory. This information will thus be used to determine the category of residence permit he may claim as well as its period of validity.

Depending on the category to which the person accompanied or being joined can be assigned (in applying the provisions of Article 1 of decree no. 94-211 of 11 March 1994 modified and within the framework of the instructions contained in circular DPM/DM4/96/138 of 22 February 1996 concerning the free movement of workers within the European Union or circular NOR INT 002 001 33 C of 3 June 2002 concerning residence and work by Swiss nationals), a "European Community" residence permit bearing the phrase "Family Member" for 1, 5 or 10 years, or the residence document envisaged in circular NOR INT 002 001 33 C of 3 June 2002 will then be issued to the applicant or, where appropriate, a residence permit application receipt.

A national of a third-party State who is the family member of a European national not covered by the obligation to hold a residence permit who does not fall within any of the categories of Article 1 of the decree of 11 March 1994 modified, or those envisaged by circular NOR INT 002 001 33 C of 3 June 2002, does not have the right of residence according to the decree of 11 March 1994 modified or according to the agreement between the European Community and the Swiss Confederation of 21 June 1999. In this case, his application for a residence permit will be denied.

Jurisprudence

Interestingly, the Administrative Court of Appeal of Bordeaux deals with the question (*CAA, 23 March 2004, no. 01BX00907*):

> "Mr. Y., an auxiliary police interpreter, was discharged on 29 November 1950 and a proportional retirement pension was granted to him with effect from 1 December 1950, after fifteen years of effective military service; following his death on 14 November 1998 his wife, née Halima Z., applied for the reversion pension envisaged in Article L. 50 of the Civil and Military Retirement Pensions Code. In a decision dated 13 April 1999, the Minister of Defence rejected this application on the grounds that she had supposedly lost her French nationality on 1 January 1963, following Algeria's independence and that, in any event, the party's marriage had been solemnised on 15 April 1961, in other words after the serviceman had ceased work, so that the precedence conditions for marriage had not been met. (…)
> Considering that, under the terms of Article 1 of the European Convention for the Protection of Human Rights and Fundamental Liberties, ratified by France in application of the law of 31 December 1973 and published in the Official Journal by decree of 3 May 1974: the High Contracting Parties acknowledge the rights and liberties of every person covered by their jurisdiction, as defined in Title 1 of the present Convention; that under the terms of Article 14 of the same Convention: the enjoyment of the rights and liberties acknowledged in the present Convention must be guaranteed with no distinction whatsoever specifically on the basis of sex, race, colour, language, religion, political opinion or any other opinions, national or social origin, membership of a national minority, wealth, birth or any other situation; that by virtue of the provisions of Article 1 of the first additional Protocol to this Convention: all physical persons and legal entities have the right to respect of their property. No-one may be deprived of his property for a public purpose and under the conditions envisaged by the law and the general principles of international law. The preceding provisions do not affect the right held by the States to enforce the laws they shall judge necessary to regulate the use of goods in accordance with the general interest or to ensure the payment of taxes or other contributions or fines;
> Considering that, under the terms of Article L. 1 of the Civil and Military Retirement Pensions Code: the pension is a financial, personal and life-time allowance granted to civil and military officials and, following their death, to legal successors, as payment for services they have provided up to the time of the normal cessation of their activities. The amount of the pension, which takes into account the level, duration and nature of the services provided, guarantees the beneficiary at the end of his career material living conditions consistent with the rank of his position; that, by virtue of the combined provisions of Articles L. 38 and L. 47 of the same Code, the serviceman's non-physically separated surviving spouse can, subject to the reservations and conditions envisaged in these articles, claim 50 percent of the pension obtained by him; that, consequently, the reversion pensions constitute claims which must be regarded as goods within the meaning of Article 1 above of the first additional Protocol to the European Convention for the Protection of Human Rights and Fundamental Liberties;
> Considering that a distinction between persons placed in a similar situation is discriminatory within the meaning of the aforementioned provisions of Article 14 of the European Convention for the Protection of Human Rights and Fundamental Liberties, if it is not accompanied by objective and reasonable justifications, in other words if it does not pursue a public purpose objective or if it is not based on objective and rational criteria in relation to the aims of the law;
> Considering that, for public sector employees, retirement pensions constitute a form of deferred remuneration intended to provide them or their legal successors with material living conditions consistent with the rank of the previous positions of these employees; that, consequently, the collective loss of French nationality affecting pensioners or their legal succes-

sors on the occasion of the independence of states previously linked to France cannot be regarded as an objective or rational criterion in relation to the aims of the pension system for public sector employees that justifies a difference in treatment; that the aforementioned provisions of Article L. 58 of the Civil and Military Retirement Pensions Code cannot therefore be regarded as compatible with the European Convention for the Protection of Human Rights and Fundamental Liberties in so far as they do not exclude, where the application of this Article is concerned, the case of collective loss of nationality on the occasion of the transfer of sovereignty over a particular territory; that, as a result, this Article could not justify the denial handed down by the Minister of Defence of the application for a reversion pension submitted by Ms.;

Considering, moreover, that if Article L. 39 of the Civil and Military Retirement Pensions Code stipulates that the right to a pension, in the cases referred to under a and b, is subject to conditions of precedence of marriage, this article has, in the version currently applicable, a last paragraph applicable to the legal successors of servicemen by virtue of Article L. 47 of the same Code; notwithstanding the precedence conditions envisaged above, the right to a widow's pension is recognised: 1. if one or more children have been born of the marriage; (…); that it follows from the instruction that several children were born of the marriage between the plaintiff and Mr. Y.; that, as a result, the marriage precedence conditions envisaged under a and b of Article L. 39 of the Civil and Military Retirement Pensions Code could no longer form a legal basis for the refusal handed down to the plaintiff;

Considering that it follows from the above that Ms. is justified in maintaining that, in the disputed judgement, the Administrative Court of Poitiers wrongly rejected her application and in requesting revocation of the aforementioned decision of 13 April 1999".

Chapter V
Influence of the ECJ

Apart from the aforementioned administrative cases, the influence of Community jurisprudence can be seen in the following case in the Court of Cassation, in a field where the ECJ clearly showed the limits of the prerogatives which French law claimed it continued to hold.

Court of Cassation, Criminal Chamber, Elian Castaing, 23 June 2004, no. 03-85661:

> "In view of Article 39 of the Treaty establishing the European Community…
> Whereas the exception to the principle of the free movement of workers, envisaged with respect to posts in public administration by paragraph 4 of the aforementioned text, assumes that the prerogatives of public authority attributed to their holders are effectively exercised habitually by the latter and do not represent a very reduced share of their activities;
> Whereas, in order to find Elian X… guilty of sailing without the presence on board of a captain or a first mate of French nationality, the disputed judgement finds that the legislator is authorised by paragraph 4 of Article 48, now paragraph 4 of Article 39 of the Treaty, to deviate from the principle of the free movement of workers by virtue of the powers acknowledged as held by captains and first mates in terms of civil status; that the judges add that, weak as it may be, the probability of these officers exercising public authority prerogatives could not be ruled out given the exceptional circumstances that can arise at sea;
> But whereas, in determining thus, the court of appeal ignored the meaning and the scope of the aforementioned convention text and of the principle [of the free movement of workers]".

Chapter VI
Texts, Doctrine and Jurisprudence of a General Nature

The gravity of the French situation with respect to the requirements of loyal cooperation and adaptation of the derived legislation was observed in 2004, with France being placed in second to last position among Member States of the Union in this respect. Apart from the aforementioned use of the technique of government edicts to make up this delay, the persistent delay in this respect led the Council of Ministers to adopt a plan of action on this subject on 15 July 2004.

At administrative level, an interministerial adaptation network will be formed, under the auspices of the general Secretariat General of the Interministerial Committee for issues of European economic cooperation (SGCI) and the secretariat general of the Government and will bring together the senior civil servants responsible for the quality of regulations. Particular attention will be devoted to legal impact studies throughout the process of adopting directives. Within the context of State reform, precise objectives and performance indicators will be drawn up within the ministries in question. At legislative level, priority will be given to the adaptation of directives. Meetings will be better formed beforehand, thanks to the systematic forwarding of the impact studies and a quarterly report by the minister responsible for European affairs. A monthly appointment will be scheduled on the agenda of the meetings to examine the adaptation bills.

The Prime Minister has confirmed this priority for public action via the *circular of 27 September 2004 regarding the procedure for adaptation into internal law of the directives and framework decisions negotiated within the context of European institutions*:[12]

> "Both the security of legal situations and France's credibility with its European partners depend on the quality of adaptation into internal law of the directives and framework decisions negotiated within the context of European institutions.
> […] All provisions likely to prevent the development of the dispute must be taken. In particular, it is important to ensure that the formal notices or well-founded opinions issued by the Commission receive a response within the required deadline.
>
> The practice of meetings known in Community-speak as "package meetings", which allow a regular examination, together with the Commission, of all the matters likely to be contentious in nature, is worth developing. All measures should be taken to ensure that each ministerial department is effectively represented at these meetings".

The *Entry and Residence Code for Foreigners and the Right of Asylum* emerging from government edict no. 2004-1248 of 24 November 2004[13] entered into force on 1 March 2004. Article L. 531-3 of this Code concerns the administrative removal measures taken within the context of the European Union and the Schengen Agreement. It stipulates:

> "When a foreigner who is not a national of a Member State of the European Union has been the subject of a description for the purposes of admission refusal by virtue of an enforceable decision taken by one of the other States party to the agreement signed in Schengen on 19 June 1990 and he is unlawfully on the territory of metropolitan France, the administrative authority can decide that he is to be officially escorted to the border.

12 *French Official Journal* no. 230 of 2 October 2004, p. 16920.
13 *French Official Journal* of 25 November 2004.

> The same is true when a foreigner who is not a national of a Member State of the European Union, who is in France, has been the subject of an enforceable removal decision taken by one of the other Member States of the European Union…"

Circular CGEFP no. 2004-006 of 11 February 2004 regarding the implementation, in the field of unemployment insurance, of EC Regulation no. 859/2003 of the Council of 14 May 2003 aims to extend the provisions of (EEC) Regulation no. 1408/71 and (EEC) Regulation no. 574/72 to nationals of third-party countries who are not already covered by these provisions uniquely because of their nationality. The new Community regulation entered into force on 1 June 2003: since that date, if a national of a third-party State applies for unemployment insurance, any period of insurance or employment completed under the legislation of a Member State, even before this date, is taken into consideration if it is evidence of the end of an employment contract within a period of twelve months preceding registration as a job-seeker; it is of little consequence if the end of the contract is before 1 June 2003. The conditions for application and implementation of the provisions of the regulation are as follows:

- the national must be legally resident in a Member State since the regulation grants no right of entry, residence or access to employment in a Member State. The legality of residence and the location of this residence on the territory of a Member State are therefore a prerequisite. For France, the provisions of Article R.311-3-1, paragraph 3 of the Labour Code must be respected; ASSEDIC must ensure that the document submitted grants access to the labour market;
- the national must be mobile within the Union.

Certificates of periods of insurance for form E 301 must be taken into account so that these periods can be added together. This does not exempt ASSEDIC from ensuring that the residence permit presented by the party in question grants him access to the labour market, since this condition is necessary for registration of the unemployed person on the list of job-seekers. If the person moves about within the territory of the Union, benefits are maintained if the party in question registers as a job-seeker with the employment offices in each of the Member States he visits. These provisions can consequently only be applied to a national of a third-party State in so far as he has the right, where applicable and taking his residence permit into account, to register as a job-seeker with the employment offices of the Member State he visits and to legally carry out employment there.

The *ministerial order of 22 September 2003* modifying the order of 5 November 1984 regarding the registration of vehicles adapted into French law the provisions of Directive 1999/37/EC of 29 April 1999 regarding vehicle registration documents. This envisages Community harmonisation of the content of the registration certificate in order more effectively to combat fraud and the illicit trade in stolen vehicles and to facilitate the re-marketing of vehicles registered in another Member State, particularly those that have been the subject of Community reception. Registration certificates are therefore harmonised at European level *with effect from 1 June 2004*: they include headings which will be compulsory. They will be identified by the same code letters on the certificates of the various European Union countries. In France, therefore, since 1 June, a new harmonised "grey card" is issued to every new registered vehicle and to any re-registered used vehicle. The new certificate contains 45% additional information compared to the old document, so as to harmonise the technical details in particularly.

The *Reception and Integration Contract* concerning immigrant populations expresses quite clearly the trends in French policy, influenced by the Union.

Experimentation with the reception and integration contract commenced on 1 July 2003 and has gradually been implemented in 12 trial *départements*, chosen because of the diversity

of their situations. The initial report of this implementation is encouraging, despite the need for some improvements. Over the first six months, from July to December, 8,027 contracts were signed, in virtually equal proportions by women and men. By the end of July 2004, 20,255 contracts had been signed.

Five countries of origin account for over 60% of signatories: Algeria, Morocco, Tunisia, Turkey and the Congo. However, 114 nationalities are represented, coming from all continents and countries in widely varying locations. The signatories are young, with almost 80% of them aged 40 or under. The spouses of French nationals are the most numerous group (67.5%), refugees, stateless persons and their families represent 10.5% of signatories, holders of a temporary "private and family life" residence permit represent almost 20%; the number of persons whose status has been regularised is below 15%.

The signature rate is 87.9% of persons present, which is evidence that the contract remains acceptable to immigrants. The reasons for refusing to sign, when given, relate to difficulty in following courses (very young children, inappropriate courses), the reticence of the employer, family or group pressure, as well as lack of interest on occasion.

In terms of different training courses (civic and linguistic), effective entry into training remains insufficient: a booster system, which already exists in certain areas, is currently being systematised. Relations with other public services, especially Employment and Education, should also be developed and more clearly formalised.

The extension in 2004 brought the number of départements where the reception and integration contract is being put forward to 26.

During joint reception, as in individual interviews, interpreting has been financed by the International Migration Office (OMI) since 2004. Regarding the individual contract, it is important that it be understood and signed by the person making the commitment and who has to follow the prescribed instructions. The social services interviewers have therefore been requested to make a particular effort, during joint reception, in presenting this individual engagement aspect, by linking it to the subject of male-female equality, also broached during this phase of reception. During an individual interview, the interviewer systematically works out a face-to-face interview time with the female individuals. Equally, the person being received and that person alone takes stock of the linguistic requirements. Except in rare cases, the accompanying person (very often the spouse) accepts the need for this individual interview, without his or her presence.

Since March 2004, the service providers, in addition to a training programme revised with the assistance of the High Council for Integration, have received civic training support. The rate of entry into training, however, is still too low (62%) for this training to be presented as compulsory. The reasons for absence given are related to the date, to childcare, to employers, etc., but need to be more seriously examined. A systematic booster system has now been implemented by the OMI.

The rate indicated for those requiring linguistic training is approximately 33.1%. The rate of entry into training compared to the OMI recommendations is 58.9%. A real effort should be made to make it genuinely understood that this training, once it has been recommended, is regarded as indispensable and will be taken into account since linguistic knowledge is one of the elements of the republican integration condition for access to the residence permit.

In terms of relations with the Ministry of the Interior and the *Préfectures*, the launch of the reception and integration contract has provided an opportunity to review relations, within the sense of providing better service to the user, in this case the foreigner received by the OMI. The methods for issuing the residence permit have thus begun to accelerate.

Chapter VII
EU Enlargement

2004 is the first year of Union enlargement and French law has drawn conclusions from this in terms of the free movement of persons as well as the movement of workers. Moreover, the governmental authorities have made efforts to develop external communication on the subject of enlargement.[14]

The aforementioned circular of 26 May 2004 (*NOR INT/D/04/00066/C*) recalls the implications of this enlargement by mentioning "the transitional provisions" applicable to nationals of the new Member States of the Union.

The treaty of accession to the European Union of Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, the Czech Republic, Slovenia and Slovakia, signed in Athens on 16 April 2003, ratification of which was authorised by law no. 2003-1210 of 19 December 2003 (OJ of 20 December 2003), entered into force on 1 May 2004.

Consequently, all nationals of the new Member States wishing to stay in France for longer than three months are exempt from the extended stay visa with effect from 1 May 2004. After this date, these nationals will enjoy the right of establishment (Articles 43 to 48 of the Treaty establishing the European Community), the free provision of services (Articles 49 to 55) and the right of residence envisaged by Directives nos. 93-96 of 29 October 1003 (students), 90-364 (non-workers) and 90-365 (pensioners) of 28 June 1990.

On the other hand, with the exception of Cyprus and Malta, the free movement of workers envisaged in Article 39 of the Treaty establishing the European Community will only take effect at the end of a transitional period. Indeed, France has decided, taking into consideration the labour market situation, to use the option to maintain the provisions of national legislation regarding access to salaried employment for a transitional period of at least two years. This period may be extended by three years.

During this transitional period, nationals of the 8 new Member States above will still be subject to specific provisions regarding residence and work in France. Generally speaking, the rules relating to family reunification envisaged in Articles 29 and 30 of the government edict of 2 November 1945 no longer apply to nationals of the new Member States. The same is true of the medical examination obligation which remains applicable only to nationals covered by the work authorisation requirement (cf. III-B). Moreover, the system of taxes pertaining to the issue of residence permits and work permits is now no longer applicable to nationals of the new Member States.

Access to residence therefore obeys the following rules, with effect from 1 May 2004.

Nationals of the new Member States who want to practise an economic activity are obliged to hold a residence permit, with the exception of nationals of Cyprus and Malta. As a transitional measure and with the exception of nationals of Cyprus and Malta, the obligation to hold a residence permit will still be applicable, in accordance with the provisions of Article 9-1 of government edict of 2 November 1945 modified, with respect to nationals of the new Member States if they wish to exercise an economic activity during the period of validity of the transitional measures envisaged by the treaty of accession, in other words for the 2-year period commencing on 1 May 2004 (+3 years, if the evaluation reveals disruptions on the labour market at the end of the first stage).

Indeed, it is important to distinguish those persons authorised to exercise an economic activity from those who are not.

14 For example, see the Prime Minister's web site: http://www.premerministre.gouv.fr/thematique/europe_m100/elargissement_m101

The obligation to hold a residence permit applies to the following categories:

- Beneficiaries of free establishment (Directive no. 73-148 of 21 May 1973).
  Nationals of the new Member States who wish to settle in France in order to carry out a non-salaried activity there (liberal, commercial, craft, industrial or agricultural profession) must fulfil the same conditions as those required of nationals (registration on trade and companies register, in trade directory, with a professional association, etc.). They receive a "European Community" residence permit for ten years bearing the words "beneficiary of right of establishment", in confirmation of their right of residence.
  However, they cannot carry out a salaried activity without first having obtained authorisation under the conditions defined below. Members of their family will receive a "European Community" residence permit for the same period as that of the recipient, bearing the words "family member – any professional activity except salaried". They cannot exercise any salaried activity except on condition of having first obtained authorisation, under the conditions defined below.
- Beneficiaries of the free provision of services (Directive no. 73/148 of 21 May 1973).
  Nationals of the new Member States benefit from freedom of movement as providers or recipients of services with effect from 1 May 2004. Companies and physical persons may freely provide services in France and be accompanied by their salaried employees, whether nationals of a new Member State or nationals of third-party countries.
  In this case, in accordance with the rules defined with respect to the secondment of workers by Directive 96/71 of 16 December 1996 and interpreted by the jurisprudence of the European Court of Justice, salaried employees must be employees of the service-providing company or recruited solely in order to participate in providing the service. When they are nationals of third-party countries, they must be habitual salaried employees and be authorised to reside and work regularly in the country in which the company has its head office and be able to prove this with a visa, if required. The service provider, accompanied by his salaried employees, must abide by the provisions of the aforementioned 1996 directive regarding the secondment of workers within the context of the provision of services and Article L. 341-5 of the Labour Code (registration for inspection of work and compliance with conditions of employment and remuneration applicable in France). Salaried employees regarded as habitual are workers holding a job for at least one year in the community service-providing company. Service providers and their salaried employees receive a "European Community" residence permit which is valid for the duration of the service and bears the words, depending on the situation, "provider of services" or "recipient of services" or "salaried employee of a provider of services". Salaried employees of service providers are not subject to the obligation to apply in advance for work authorisation.
  Family members will receive a "European Community" residence card for the same period of validity as that of the recipient, bearing the words, "family member – any professional activity except salaried". They may not exercise salaried activity unless they have previously obtained authorisation to do so, under the conditions defined below.
- Permanent or temporary salaried workers.
  These two categories of person remain obliged to hold a residence permit and work authorisation.
  The obligation to hold a residence permit is abolished for nationals of the new Member States who enjoy the right of residence with effect from 1 May 2004 and who are not exercising an economic activity. This therefore concerns:

- Beneficiaries of the right of residence as non-workers, pensioners or students.
  With effect from 1 May 2004, the abolition of the obligation to hold a residence permit, envisaged in Article 9-1 of government edict of 2 November 1945 modified will be extended to nationals of the ten new Member States, as well as to their family members (unless they are nationals of a third-party country), who benefit from the free movement of persons by virtue of Directives 93/96 of 29 October 1993 (students), 90-364 and 90-365 of 28 June 1990 (non-workers and pensioners), as referred to in paragraphs k, l, m and n of Article 1 of the decree of 11 March 1994 modified. These nationals have resided freely on French territory since 1 May 2004, as long as they register or can prove sufficient resources and insurance covering all the health/maternity risks to which they may be exposed during their residence in France, with no administrative formalities other than possession of a current identity card or passport.
  However, in a situation where these nationals do wish to hold a residence permit, you will handle their applications under the conditions stated under I-B above. However, they cannot exercise any salaried activity without first having obtained the necessary authorisation.
  In this respect, their family members will be issued with a "European Community" residence permit for the same period as the recipient, bearing the words, "all professional activities except salaried".
- Beneficiaries of the right to remain (Regulation 1251/70 of 29 June 1970 – Directive no. 75/34 of 17 December 1974/decree of 11 March 1994, Article 1 paragraphs f, g, h, i, j, n and Article 3).
  The abolition of the obligation to hold a residence permit is also extended to beneficiaries of the right to remain under Regulation no. 1251/70 of 29 June 1970 as well as to their family members who do not carry out any economic activity, as referred to in Article 1, paragraphs f, g, h, i, j and n of the decree of 11 March 1994 modified. If they do however wish to hold a residence permit, particularly in order to practise an economic activity, they then receive a "European Community" residence permit valid for ten years and bearing the words, "beneficiary of the right to remain" or, if they are family members, a residence permit for the same period, bearing the words, "all professional activities". This residence card gives them full access to practise a professional salaried activity in France.

Access to the French labour market by nationals of the new Member States obeys the following rules.

Since access to the practise of a salaried activity in France is subject to transitional provisions through the treaty of accession, with the exception of Cyprus and Malta, the principle of the free movement of workers does not immediately benefit the nationals of the 8 other Member States.

In order to exercise a professional salaried activity in France, nationals of Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia and the Czech Republic must thus be holders, for the entire duration of the transitional period, of the work authorisation envisaged in Articles L 341-2 and R 341-1 of the Labour Code.

This work authorisation is issued upon production of an employment contract stamped favourably by the foreign labour department under the conditions envisaged in Article R 341-4 of the labour code. It is marked:

- either with the words, "all professional activities" affixed to the ten-year residence permit;
- or with provisional work authorisation intended in Article R 341-7 of the Labour Code;

- or with the seasonal employment contract which has been favourably stamped. The employers of salaried workers without work authorisation are liable to the sanctions envisaged under Articles L 341-7 and L 364-2 and following of the Labour Code.

The situation of nationals of the 8 new Member States, permitted to exercise a salaried activity with effect from 1 May 2004, is as follows. The various categories of salaried employees affected are:

- permanent workers authorised to hold a salaried post for a period equal to or longer than 12 months, as well as members of their family, receive a "European Community" residence permit valid for 10 years and bearing the words, "all professional activities – Regulation 1612/68";
- temporary workers authorised to work for periods of employment of less than one year receive a "European Community" residence permit valid for the duration of the employment, if this is longer than three months, bearing the words "temporary worker – see APT (Temporary Work Authorisation)". Family members receive a residence permit for the same period which does not give them the right to exercise a salaried activity. This category also covers seconded workers, made available to a French company by an entity established on the territory of a new Member State and belonging to the same group;
- seasonal workers: until the end of the transitional period, the provisions applicable to seasonals covered by the general regime are applicable. The employment situation remains opposable and the stamped seasonal employment contract serves as a work permit. A provisional residence authorisation is issued to holders of a contract for more than three months;
- the particular case of students exercising a half-time salaried activity is governed by prior acquisition of a provisional work authorisation from the offices of the DDTEFP (regional French employment and professional training department), under the conditions of common law. In this case, in parallel they must also hold a "European Community" residence permit valid for at least one year, under the conditions envisaged by the decree of 11 March modified, in accordance with the provisions of Article 9-1 of the aforementioned government edict of 1945.

Access to work by family members depends on the system applicable to the workers in question.

The family members intended under §1 a) of Article 10 of Regulation 1612/68 (spouses and descendants aged under 21 or dependents) of a national of one of the 8 new Member States admitted permanently to the French labour market for a period of employment longer than or equal to 12 months, benefit from free access to employment and will be issued with a "European Community" residence permit valid for 10 years, bearing the words, "all professional activities – Regulation 1612/68".

Subject to the provisions referred to in the paragraph above and with the exception of family members of the beneficiary of the right to remain (cf. above), the family members of nationals of the new Member States, if they themselves hold the nationality of a new Member State subject to the transitional period or if they are nationals of third-party countries, are not by law authorised to exercise a salaried activity.

Nationals of a new Member State who are the spouses of French nationals must, if they wish to practise a salaried or non-salaried economic activity, apply for a "European Community" residence permit valid for 10 years and bearing the words, "all professional activities", authorising them by law to exercise a salaried activity in their sole capacity as spouse of a

French national. This card is issued to them under the conditions defined by the decree of 11 March 1994 modified, applicable to this category of persons.

Residence permits and work authorisations held by nationals of Cyprus or Malta as of 1 May 2004 remain valid until their expiry date. Their residence permits can be renewed taking into account the provisions applicable to other nationals who benefit from the free movement of persons, as stipulated by the decree of 1 March 1994 modified.

Residence permits and work authorisations issued before 1 May 2004 to nationals of Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia and the Czech Republic remain valid until their expiry date. Workers who are nationals of the new Member States who were admitted for residence before the date of accession, covered by a temporary residence permit valid for one year and granting access to the labour market (salaried employee, scientist, artist, private and family life) or a residence permit, as well as members of their family (spouses and descendants aged under 21 or dependents) receive – when the residence permit they hold expires – a "European Community" residence permit valid for 10 years, bearing the words, "all professional activities". This provision does not apply to workers admitted to practise a salaried activity in France for a period of less than twelve months (temporary or seasonal workers).

Regarding the particular case of nationals of the new Member States of the European Union, technical modifications are being made in order to enable specific residence permits to be produced, linked to the transitional period, more specifically involving family members who are not authorised by law to exercise a salaried activity and temporary workers. In the mean time, you will provide the parties in question with an acknowledgement of application for the residence permit for the entire processing period of their application, taking care only to grant the right to work to persons who would already be so entitled or who are eligible by law to practise such activity.

Finally, since residence in France by nationals of the new Member States is now covered by the rules governing the free movement of Community nationals, subject to specific provisions linked to the transitional period, the administrative situation of these persons will be reconsidered; before 1 May 2004 these persons were liable to be given notice by your services of a measure to escort them to the border for having violated the legislation regarding the entry and residence by foreigners in France, via the repeal of measures regarding escort to the border which could have applied to them prior to 1 May 2004.

By way of information, on 1 July 2004 the leaflet entitled, "*l"Europe s'élargit: comment la France accueillera les ressortissants des nouveaux Etats membres?*" (Europe is enlarging: how will France welcome nationals of the new Member States?), published a few weeks before the accession date of 1 May 2004, contains updated information on two points:

- Salaried workers in sectors suffering from a shortage of skilled or unskilled labour.
  The most favourable provisions for foreign IT engineers referred to in this paragraph have recently been repealed and these persons are now considered in the same way as the other categories of salaried workers. The employment situation is again opposable (circular DPM/DM12 of 13/01/2004 regarding the recruitment of foreign IT engineers).
- Students
  The joint circular from the Ministries of the Interior, Internal Security and Local Liberties and from the Ministry of Employment, Labour and Social Cohesion of 26 May 2004 stipulates that, if they are working part-time during their studies, nationals of the eight new Member States (with the exceptions of Cyprus and Malta) will be issued with provisional work authorisation by the services of the DDTEFP under the conditions of common law (circular DPM/DM13/2004/249/DLPAJ/ECT/AB/no. NOR/INT/D/04/00066/C of 26 May 2004 regarding the system applicable to nationals of the European Union, the

European Economic Area and the Swiss Confederation in terms of admission for residence and work).

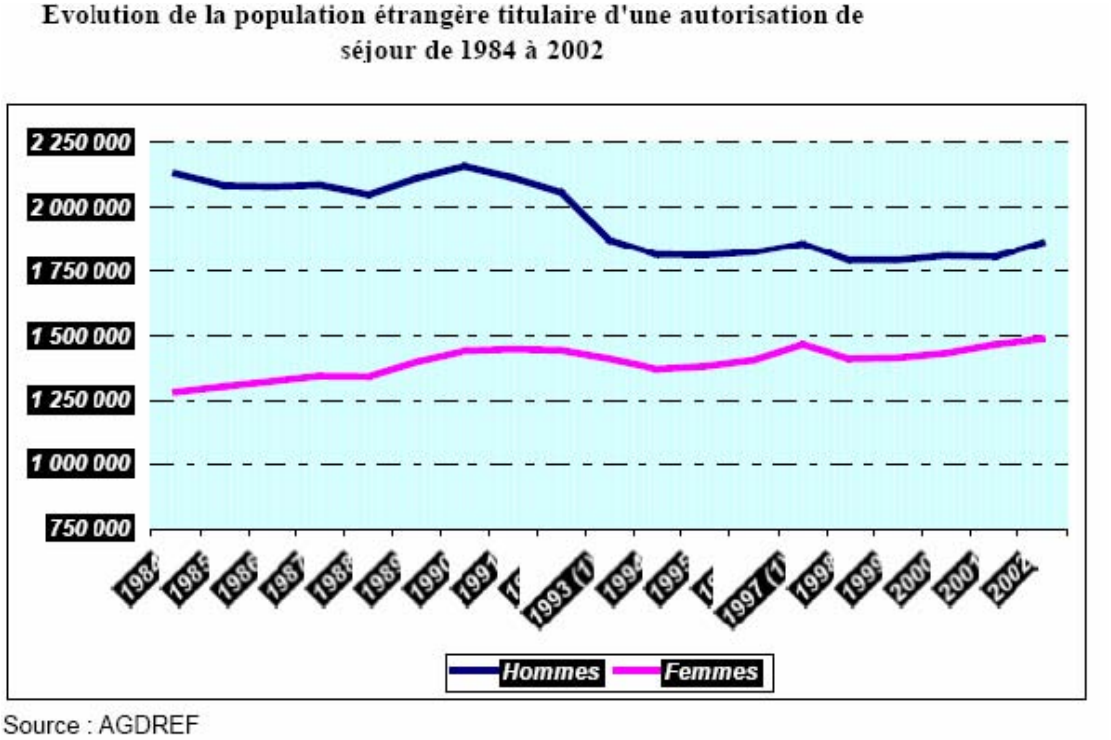
More generally, letter no. 58 of December 2004 from the Directorate for Population and Migration (DPM) of the Ministry of Employment, Labour and Social Cohesion stipulates that the DPM invited the offices of regional directorates of labour, employment and professional training to forward to it at the end of each quarter, starting on 30 September 2004, information available concerning the migratory flows from the new Member States of the European Union. Specifically, any decision to extend by three years the current two-year transition period will be taken in the light of this information; this period applies to new Member States and access by their nationals to the labour market of the existing Member States.

Chapter VIII
Statistics

The production of statistics concerning the free movement of workers within the Union was facilitated in 2004 by the availability of a report from the Ministry of the Interior to the Parliament concerning immigration in France. This report therefore contains systematised information about the presence of Union citizens on French territory.

The presence of citizens of the European Union

Trends in the foreign population holding a residence permit, 1984-2002

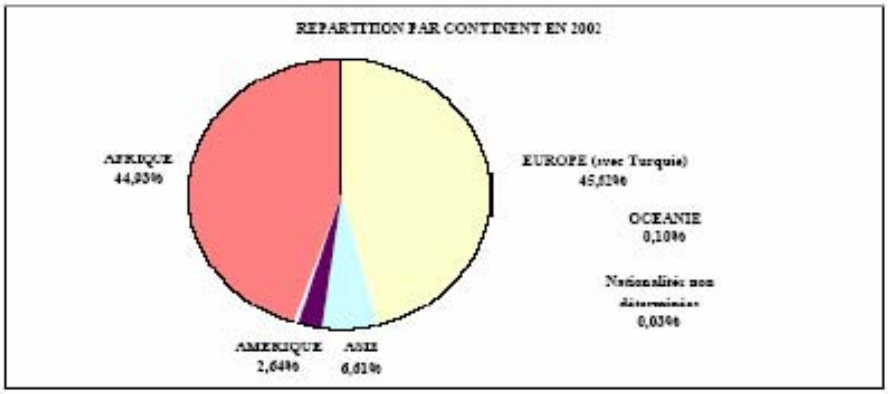


Source : AGDREF
Source: Ministry of the Interior

Distribution by continent of the number of foreigners holding a residence permit currently residing in metropolitan France

Répartition par continent du nombre d'étrangers titulaires d'un document de séjour en cours de résidence en France métropolitaine en

Continent	2000	%	2001	%	2002	%
Nationalités non déterminées	1 433	0,04%	1 254	0,04%	1 018	0,03%
EUROPE (avec Turquie)	1 519 102	46,9%	1 516 840	46,4%	1 529 215	45,6%
ASIE	204 231	6,3%	210 112	6,4%	221 728	6,6%
AMERIQUE	81 363	2,5%	85 308	2,6%	88 588	2,6%
AFRIQUE	1 433 147	44,2%	1 452 837	44,4%	1 505 913	45,0%
OCEANIE	3 091	0,1%	3 261	0,1%	3 446	0,1%
Total	3 242 367	100%	3 269 612	100%	3 349 908	100%



Evolution par continent de 1997 à 2002 du nombre d'étrangers titulaires d'une autorisation de séjour en cours de validité en résidence en France métropolitaine

Continent et pays	1997	1998	1999	2000	2001	2002	% EVOLUTION 2002 / 2001	% EVOLUTION 2002 / 1997
Union Européenne (*)	1 260 629	1 231 374	1 213 960	1 201 206	1 187 166	1 183 543	-0,3%	-6,1%
Norvège Islande	2 544	2 660	2 672	2 600	2 569	2 545	-0,9%	0,0%
S/total Espace Economique Européen	*1 263 173*	*1 234 034*	*1 216 632*	*1 203 806*	*1 189 735*	*1 186 088*	*-0,3%*	*-6,1%*
ex-pays de l'URSS	12 588	13 906	16 436	19 883	24 730	30 877	24,9%	145,3%
Europe de l'est	108 089	102 575	104 260	105 433	108 339	111 914	3,3%	3,5%
Autres Europe dont Turquie	178 583	182 498	185 545	189 980	194 036	200 336	3,2%	12,2%
EUROPE	**1 562 433**	**1 533 013**	**1 522 873**	**1 519 102**	**1 516 840**	**1 529 215**	**0,8%**	**-2,1%**
Maghreb	1 140 757	1 148 125	1 146 425	1 156 760	1 156 214	1 184 027	2,4%	3,8%
Afrique subsaharienne anciennement sous administration française	159 259	173 879	174 805	196 546	212 020	230 425	8,7%	44,7%
Autres pays d'Afrique	63 460	70 832	82 536	79 841	84 603	91 461	8,1%	44,1%
AFRIQUE	**1 372 476**	**1 392 836**	**1 403 764**	**1 433 147**	**1 452 837**	**1 505 913**	**3,7%**	**9,7%**
Moyen Orient	39 408	37 674	36 457	35 868	36 445	37 855	3,9%	-3,9%
Cambodge, Laos et Vietnam	59 214	56 183	53 626	51 370	49 500	49 160	-0,7%	-17,0%
Autres pays d'Asie	90 582	100 774	110 049	116 984	124 167	134 704	8,5%	48,7%
ASIE	**189 204**	**194 631**	**200 132**	**204 231**	**210 112**	**221 728**	**5,5%**	**17,2%**
AMERIQUE	**73 286**	**75 707**	**77 922**	**81 363**	**85 308**	**88 588**	**3,8%**	**20,9%**
OCEANIE	**2 660**	**2 875**	**2 992**	**3 091**	**3 261**	**3 446**	**5,7%**	**29,5%**
Nationalités non déterminées & apatrides	2 775	1 612	1 420	1 433	1 254	1 018	-18,8%	-63,3%
TOTAL	3 202 834	3 200 674	3 209 103	3 242 367	3 269 612	3 349 908	2,5%	4,6%

The main nationalities

As of 31 December 2002, the foreign population residing in France was made up principally of:

- 35.3% of persons from a European Union (EU) country;
- 35.4% of persons from a North African country;
- 10.3% of persons from a European country (including Turkey) outside the EU;
- 6.9% of persons from an African country formerly under French administration;
- 6.6% of persons from an Asian country.

The trend in immigration sources by continent compared to 2001 reveals a gradual stagnation in European immigration (+0.8%), versus more dynamic progress by African nationalities (+3.7%), America (+3.8%), Asia (+5.5%) and the South Sea Islands (+5.7%).

Of the 182 nationalities represented, 145 have seen their numbers rise or remain stable and 37 have decreased in number compared to 2001. The most significant increases in absolute terms and in percentage terms involve nationals from the following countries:

Europe:

Former Soviet states:	+24.9% (+6.147), of which Russians +21% (+2.135)
Georgia:	+52.3% (+947), Armenians +28.1% (+766+ and Ukrainians +19.5% (+736)
Romania:	+11.6% (+1.372)
Britain:	+5.2% (+3.613)
Turkey:	+3.4% (+5.901)
Belgium:	+2.5% (+1.5).

The most significant decreases in population involve the following nationalities:

Europe	
Portuguese:	-0.6% (-4.543)
Italian:	-1.9% (-3.798)
Spanish:	-1.5% (-2.437).

Permanent Community national card

MOTIFS DE DELIVRANCE	CEE & EEE						
	2003	2002	2001	2000	1999	1998	1997
1 - MOTIFS FAMILIAUX	**9 041**	**8 210**	**8 812**	**9 160**	**9 348**	**10 369**	**10 979**
FAMILLE DE FRANCAIS	2 000	1 913	2 102	2 419	2 627	2 879	3 114
MEMBRE DE FAMILLE	7 041	6 297	6 710	6 741	6 721	7 490	7 865
2 - MOTIFS DE TRAVAIL	**21 183**	**20 079**	**21 444**	**22 211**	**21 545**	**21 071**	**19 902**
ACTIF NON SALARIE	999	927	959	1 018	905	902	353
ENGAGEMENT DE TRAVAIL < 1 AN	7 186	6 866	7 786	8 732	8 818	8 077	8 807
SALARIE	12 998	12 286	12 699	12 461	11 822	12 092	10 742
3 - AUTRES MOTIFS	**19 460**	**18 933**	**20 726**	**23 710**	**26 541**	**26 173**	**24 674**
ETUDIANT & STAGIAIRE	8 281	10 004	11 678	14 879	18 363	18 408	16 362
RETRAITE OU PENSIONNE	4 317	3 450	2 946	2 821	2 568	2 609	2 541
VISITEUR	6 859	5 467	6 077	5 989	5 569	5 074	5 658
MOTIF NON DETERMINE	3	12	25	21	41	82	113
Total	**49 684**	**47 222**	**50 982**	**55 081**	**57 434**	**57 613**	**55 555**

Le tableau fait apparaître une légère augmentation du nombre de titres de séjour délivrés aux ressortissants communautaires en 2003 après une diminution en 2002.

Globalement, depuis 1998, le nombre de titres de séjour délivré aux ressortissants communautaires tend à diminuer ce qui s'explique notamment par une application anticipée des dispositions de la loi MISEFEN du 26 novembre 2003 instituant la suppression de l'obligation de détenir un titre de séjour.

The table shows a slight increase in the number of residence permits issued to Community nationals in 2003, following a decrease in 2002.

Overall, since 1998 the number of residence permits issued to Community nationals has tended to decline, which can be explained in particular by the premature application of the provisions of the MISEFEN law of 26 November 2003, abolishing the obligation to hold a residence permit.

Distribution by nationality of first residence permits issues in 2002 (compared to 2001)

REPARTITION PAR NATIONALITE DES PREMIERS TITRES DE SEJOUR DELIVRES EN 2002 (comparaison avec 2001)

Sexe / Nationalité	2002			2001			2002 / 2001 en %
	Femmes	Hommes	TOTAL	Femmes	Hommes	TOTAL	
Allemands	4 083	3 012	**7 095**	4 390	3 533	**7 923**	-10,5%
Autrichiens	346	230	**576**	417	229	**646**	-10,8%
Belges	2 239	2 323	**4 562**	2 290	2 481	**4 771**	-4,4%
Britanniques	4 948	4 489	**9 437**	4 960	4 295	**9 255**	2,0%
Danois	387	287	**674**	421	331	**752**	-10,4%
Espagnols	2 756	1 912	**4 668**	2 951	2 118	**5 069**	-7,9%
Finlandais	336	148	**484**	449	176	**625**	-22,6%
Grecs	282	234	**516**	337	266	**603**	-14,4%
Irlandais	525	324	**849**	563	344	**907**	-6,4%
Italiens	2 695	2 822	**5 517**	2 883	3 053	**5 936**	-7,1%
Luxembourgeois	86	126	**212**	118	128	**246**	-13,8%
Néerlandais	1 085	1 057	**2 142**	1 150	1 132	**2 282**	-6,1%
Portugais	3 206	4 837	**8 043**	3 491	5 321	**8 812**	-8,7%
Suédois	762	425	**1 187**	981	534	**1 515**	-21,7%
Sous Total Union Européenne	*23 736*	*22 226*	*45 962*	*25 401*	*23 941*	*49 342*	*-6,9%*
Islandais	33	11	**44**	29	21	**50**	-12,0%
Liechtensteinois		1	**1**	2	1	**3**	-66,7%
Norvégiens	333	178	**511**	320	208	**528**	-3,2%
Sous Total Espace Economique Européen	*24 102*	*22 416*	*46 518*	*25 752*	*24 171*	*49 923*	*-6,8%*
Arméniens	204	129	**333**	179	151	**330**	0,9%
Azerbaïdjanais	72	79	**151**	48	53	**101**	49,5%
Biélorusses	222	63	**285**	186	50	**236**	20,8%
Estoniens	72	7	**79**	68	20	**88**	-10,2%
Géorgiens	108	108	**216**	115	87	**202**	6,9%
Kazakhs	86	29	**115**	72	26	**98**	17,3%
Kirghiz	34	9	**43**	26	6	**32**	34,4%
Lettons	79	21	**100**	62	23	**85**	17,6%
Lituaniens	129	36	**165**	133	54	**187**	-11,8%
Moldaves	174	116	**290**	131	71	**202**	43,6%
Ouzbeks	34	25	**59**	38	22	**60**	-1,7%
Russes	1 618	634	**2 252**	1 411	616	**2 027**	11,1%
ex-Soviétiques	67	13	**80**	58	17	**75**	6,7%
Tadjik	2	4	**6**	3	3	**6**	0,0%
Turkmènes	6	1	**7**	9	2	**11**	-36,4%
Ukrainiens	616	215	**831**	610	195	**805**	3,2%
Sous Total ex-URSS	*3 523*	*1 489*	*5 012*	*3 149*	*1 396*	*4 545*	*10,3%*
Albanais	160	120	**280**	146	117	**263**	6,5%
Bosniaques	215	232	**447**	155	147	**302**	48,0%
Bulgares	656	434	**1 090**	638	322	**960**	13,5%
Croates	95	223	**318**	114	90	**204**	55,9%
Hongrois	345	310	**655**	391	302	**693**	-5,5%
Macédoniens	80	62	**142**	81	73	**154**	-7,8%
Polonais	1 937	1 344	**3 281**	1 884	1 030	**2 914**	12,6%
Roumains	1 437	975	**2 412**	1 379	1 086	**2 465**	-2,2%
Slovaques	243	107	**350**	298	119	**417**	-16,1%
Slovènes	36	29	**65**	34	38	**72**	-9,7%
ex-Tchécoslovaques	57	30	**87**	64	38	**102**	-14,7%
Tchèques	363	208	**571**	290	190	**480**	19,0%
Yougoslaves	765	764	**1 529**	1 040	1 180	**2 220**	-31,1%
Sous Total Pays de l'Est	*6 389*	*4 838*	*11 227*	*6 514*	*4 732*	*11 246*	*-0,2%*
Autres Europe			**0**		2	**2**	-100,0%
Chypriotes	26	17	**43**	33	15	**48**	-10,4%
Maltais	8	8	**16**	3	5	**8**	100,0%
Suisses	1 047	874	**1 921**	932	850	**1 782**	7,8%
Turcs	3 365	4 546	**7 911**	3 238	4 120	**7 358**	7,5%
Sous Total Autres Europe	*4 446*	*5 445*	*9 891*	*4 206*	*4 992*	*9 198*	*7,5%*
TOTAL EUROPE	**38 460**	**34 188**	**72 648**	**39 621**	**35 291**	**74 912**	**-3,0%**

First residence permits for longer than 1 year issued in 2002
Distribution by nationality and grounds

1ers TITRES DE SEJOUR D'UNE DUREE SUPERIEURE A 1 AN DELIVRES EN 2002
REPARTITION PAR NATIONALITE ET MOTIF

	MOTIF DE DELIVRANCE 2002											
NATIONALITE	ACTIF NON SALARIE	ANCIEN COMBATTANT	FAMILLE DE FRANCAIS	MEMBRE DE FAMILLE	MOTIF NON DETERMINE	REFUGIE & APATRIDE	RENTE ACCIDENT DU TRAVAIL	RETRAITE	RETRAITE OU PENSIONNE	SALARIE	VISITEUR	TOTAL
ALLEMANDE	90	7	316	459					233	1 197	1 300	**3 602**
AUTRICHIENNE	4		17	24		1			4	93	35	**178**
BELGE	137	1	297	568					536	1 251	790	**3 580**
BRITANNIQUE	157	8	388	873	1				1 669	1 703	1 458	**6 259**
DANOISE	11		23	66					97	148	90	**435**
ESPAGNOLE	81	2	189	224	2				85	1 242	339	**2 164**
FINLANDAISE	1		8	19					12	71	25	**136**
GRECQUE	5		24	15		1			5	95	26	**171**
IRLANDAISE	4		31	35					18	172	56	**316**
ITALIENNE	167	1	258	366					186	1 598	527	**3 103**
LUXEMBOURGEOISE	2		13	22					11	17	40	**105**
NEERLANDAISE	74		87	259					333	498	347	**1 598**
PORTUGAISE	117	7	229	1 813	10				167	3 717	325	**6 385**
SUEDOISE	12	2	25	75					79	185	77	**455**
S/TOTAL EUROPE CEE	862	28	1 905	4 818	13	2			3 435	11 909	5 435	**28 487**
ISLANDAISE	1		1	1						4		**7**
LIECHTENSTEINOISE										1		**1**
NORVEGIENNE	2	2	18	18					15	55	32	**142**
S/TOTAL EUROPE EEE	3	2	19	19					15	60	32	**150**
ARMENIENNE			2	39	9		78					**128**
AZERBAIDJANAISE				2	3		72					**77**
BIELORUSSE			7	6	4		15	1				**33**
ESTONIENNE					3							**3**
EX-SOVIETIQUE				4	5		6					**15**
GEORGIENNE				1	2		75					**78**
KAZAKHE				4	2		25					**31**
KIRGHIZ				1			1					**2**
LETTONE			1	1	7		2					**11**
LITUANIENNE			5	3	4	1	2					**15**
MOLDAVE			1	3	5	2	27					**38**
OUZBEK			1	6	1		14					**22**
RUSSE			20	44	56	4	310	1				**435**
TADJIK				1			1					**2**
TURKMENE				1								**1**
UKRAINIENNE			13	22	20		55					**110**
S/TOTAL EX URSS			52	138	121	7	681	2				**1 001**
ALBANAISE				11	8	1	66					**86**
BOSNIAQUE			1	7	18	3	291					**320**
BULGARE			7	13	28		5	1				**54**
CROATE			2	7	14	1	8					**32**
HONGROISE			10	7	9	2	3					**31**
MACEDONIENNE				5	18	1	3					**27**
POLONAISE			26	86	106	15	4	1				**238**
ROUMAINE			15	57	43	6	9	1				**131**
SLOVAQUE			3	7	7		8					**25**
SLOVENE			1	2	2							**5**
TCHECOSLOVAQUE			1	3	2							**6**
TCHEQUE			2	15	3	1						**21**
YOUGOSLAVE				61	143	10	366	3	6			**589**
S/TOTAL EUROPE DE L'EST			68	281	491	40	763	6	6			**1 565**
MALTAISE				2	1							**3**
SUISSE				226	140	20	1	2				**389**
TURQUE			5	394	2 346	134	726	40	29			**3 694**
S/TOTAL EUROPE AUTRES			5	622	2 507	154	727	42	29			**4 086**
TOTAL EUROPE	**865**		**155**	**2 965**	**7 866**	**214**	**2 173**	**50**	**35**	**3 450**	**12 049**	**5 467**	**35 289**

First residence permits for less than or equal to 1 year issued in 2002
Distribution by nationality and grounds

1ers TITRES DE SEJOUR D'UNE DUREE INFERIEURE OU EGALE A 1 AN DELIVRES EN 2002
REPARTITION PAR NATIONALITE ET MOTIF

	MOTIF DE DELIVRANCE 2002													
NATIONALITE	ACTIF NON SALARIE	ARTISTE	ASILE TERRITORIAL	ENGAGEMENT DE TRAVAIL < 1 AN	ETRANGER MALADE	ETUDIANT & STAGIAIRE	FAMILLE DE FRANCAIS	MEMBRE DE FAMILLE	SALARIE	SCIENTIFIQUE	VIE PRIVEE ET FAMILIALE	VISITEUR	AUTRES MOTIFS	TOTAL
ALLEMANDE	6			961		2 461		34	22			9		3 493
AUTRICHIENNE	2			122		262		8	3			1		398
BELGE	3			540	1	382		40	10			6		982
BRITANNIQUE	21			1 466		1 577	1	79	29			5		3 178
DANOISE				60		171		4	3			1		239
ESPAGNOLE	9			788		1 655		38	14					2 504
FINLANDAISE	1			74		261		9	3					348
GRECQUE	3			64		275			3					345
IRLANDAISE	3			145		371		6	7					533
ITALIENNE	9			934		1 400	1	42	27			1		2 414
LUXEMBOURGEOISE				15		92								107
NEERLANDAISE	2			203		296		26	13			4		544
PORTUGAISE	4			1 333		228		85	5		1	2		1 658
SUEDOISE	1			113		610		4	3			1		732
S/TOTAL EUROPE CEE	64			6 819	1	10 041	2	375	142		1	30		17 475
ISLANDAISE				1		35		1						37
LIECHTENSTEINOISE														
NORVEGIENNE	2			46		315	1	5						369
S/TOTAL EUROPE EEE	2			47		350	1	6						406
ARMENIENNE		3	2		5	56	62	8	13	2	34	19	1	205
AZERBAIDJANAISE	2				4	50	2		3		11	2		74
BIELORUSSE		2			2	98	92	2	18	3	9	26		252
ESTONIENNE						56	11					9		76
EX-SOVIETIQUE	1	1			1	12	27		3	7	5	7	1	65
GEORGIENNE		1			6	71	10	1	15	1	17	16		138
KAZAKHE						40	25		3		5	11		84
KIRGHIZ						27	12		1		1			41
LETTONIE						39	13	1	6	2		17		89
LITUANIENNE					1	95	19	1	6	2	4	22		150
MOLDAVE	3	18	2		15	113	46	4	15	6	15	14	1	252
OUZBEK	1				1	17	11	1	2		1	3		37
RUSSE	6	36	1		14	686	505	51	120	127	60	210	1	1 817
TADJIK							1				2	1		4
TURKMENE						4	2							6
UKRAINIENNE	4	24	7		4	234	249	15	71	25	23	62	3	721
S/TOTAL EX URSS	17	85	12		53	1 609	1 089	84	276	175	187	417	7	4 011
ALBANAISE			3		7	87	40	2	8		23	24		194
BOSNIAQUE	1		2		5	19	40	5	23	1	25	6		127
BULGARE		3	1		8	670	88	12	49	15	21	167	2	1 036
CROATE					2	42	37	5	167	2	8	23		286
HONGROISE	3	9				334	41	1	169	18	6	43		624
MACEDONIENNE	1	1			5	29	40	8	9		12	9	1	115
POLONAISE	42	18			15	1 405	318	79	679	43	104	340		3 043
ROUMAINE	5	22	1		60	1 019	447	49	297	55	108	216	2	2 281
SLOVAQUE	5					188	53	4	37	5	4	29		325
SLOVENE						35	3		9	4	2	7		60
TCHECOSLOVAQUE	2				2	45	7		7	5	2	11		81
TCHEQUE	1	5			1	388	54	4	46	9	7	35		550
YOUGOSLAVE	11		1		22	124	335	92	124	5	147	78	1	940
S/TOTAL EUROPE DE L'EST	71	58	8		127	4 385	1 503	261	1 624	162	469	988	6	9 662
CHYPRIOTE					1	38	1		1			2		43
MALTAISE	1					4	1	1	2			4		13
SUISSE	20	7	1			255	97	17	113	11	18	993		1 532
TURQUE	6	1	1		36	327	2 515	412	309	9	466	135		4 217
S/TOTAL EUROPE AUTRES	27	8	2		37	624	2 614	430	423	20	484	1 134		5 805
TOTAL EUROPE	**181**	**151**	**22**	**6 866**	**218**	**17 009**	**5 209**	**1 156**	**2 467**	**357**	**1 141**	**2 569**	**13**	**37 359**

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Trends in first residence permits issued to foreign students from 1998 to 2002

Evolution des premiers titres de séjour délivrés à des étrangers en qualité d'étudiant de 1998 à 2002

année & % évolution / Nationalité	Nombre d'étudiants en 2002	2001	2000	1999	1998	% évolution 2002 / 1998	% évolution 2002 / 2001	Part des étudiants sur l'ensemble des 1ers titres en 2002	Total 1ers titres 2002
Allemande	2 461	2 566	3 291	3 990	4 128	-40,38%	-4,09%	34,69%	7 095
Autrichienne	262	318	377	428	446	-41,26%	-17,61%	45,49%	576
Belge	382	408	527	560	668	-42,81%	-6,37%	8,37%	4 562
Britannique	1 577	1 859	2 443	3 057	3 307	-52,31%	-15,17%	16,71%	9 437
Danoise	171	201	278	306	364	-53,02%	-14,93%	25,37%	674
Espagnole	1 655	1 920	2 460	2 901	2 867	-42,27%	-13,80%	35,45%	4 668
Finlandaise	261	319	337	386	367	-28,88%	-18,18%	53,93%	484
Grecque	275	328	467	693	645	-57,36%	-16,16%	53,29%	516
Irlandaise	371	380	496	620	561	-33,87%	-2,37%	43,70%	849
Italienne	1 400	1 512	1 781	2 251	2 193	-36,16%	-7,41%	25,38%	5 517
Luxembourgeoise	92	113	161	274	297	-69,02%	-18,58%	43,40%	212
Néerlandaise	296	381	440	612	584	-49,32%	-22,31%	13,82%	2 142
Portugaise	229	226	283	348	369	-37,94%	1,33%	2,85%	8 043
Suédoise	610	851	1 122	1 441	1 347	-54,71%	-28,32%	51,39%	1 187
Sous Total Union Européenne	***10 042***	***11 382***	***14 463***	***17 867***	***18 143***	***-44,65%***	***-11,77%***	***21,85%***	***45 962***
Islandaise	35	24	43	32	46	-23,91%	45,83%	79,55%	44
Liechtensteinoise		3	3	1	1	-100,00%	-100,00%		1
Norvégienne	315	302	391	458	375	-16,00%	4,30%	61,64%	511
Sous total Norvège Islande	***350***	***329***	***437***	***491***	***422***	***-17,06%***	***6,38%***	***62,95%***	***556***
Arménienne	56	62	53	39	43	30,23%	-9,68%	16,82%	333
Azerbaïdjanaise	50	41	36	22	17	194,12%	21,95%	33,11%	151
Biélorusse	98	70	118	56	49	100,00%	40,00%	34,39%	285
Estonienne	56	65	40	24	22	154,55%	-13,85%	70,89%	79
Géorgienne	71	60	56	34	30	136,67%	18,33%	32,87%	216
Kazakhe	40	40	45	43	24	66,67%		34,78%	115
Kirghiz	27	19	14	1	3	800,00%	42,11%	62,79%	43
Lettone	50	52	36	31	30	66,67%	-3,85%	50,00%	100
Lituanienne	95	107	93	52	66	43,94%	-11,21%	57,58%	165
Moldave	113	94	78	42	23	391,30%	20,21%	38,97%	290
Ouzbek	17	26	21	22	23	-26,09%	-34,62%	28,81%	59
Russe	686	587	558	543	472	45,34%	16,87%	30,46%	2 252
ex-soviétique	12	20	37	22	13	-7,69%	-40,00%	15,00%	80
Tadjik		1	1		1	-100,00%	-100,00%		6
Turkmène	4	8	3	5		#DIV/0!	-50,00%	57,14%	7
Ukrainienne	234	219	216	172	121	93,39%	6,85%	28,16%	831
Sous total ex-URSS	***1 609***	***1 471***	***1 405***	***1 108***	***937***	***71,72%***	***9,38%***	***32,10%***	***5 012***
Albanaise	87	54	67	68	71	22,54%	61,11%	31,07%	280
Bosniaque	19	25	26	11	31	-38,71%	-24,00%	4,25%	447
Bulgare	670	639	610	437	486	37,86%	4,85%	61,47%	1 090
Croate	42	42	54	52	32	31,25%		13,21%	318
Hongroise	334	373	346	290	265	26,04%	-10,46%	50,99%	655
Macédonienne	29	34	23	27	32	-9,38%	-14,71%	20,42%	142
Polonaise	1 405	1 243	1 024	835	773	81,76%	13,03%	42,82%	3 281
Roumaine	1 019	850	888	721	618	64,89%	19,88%	42,25%	2 412
Slovaque	188	223	207	190	142	32,39%	-15,70%	53,71%	350
Slovène	35	33	25	27	13	169,23%	6,06%	53,85%	65
Tchécoslovaque	45	55	40	38	46	-2,17%	-18,18%	51,72%	87
Tchèque	388	270	202	173	148	162,16%	43,70%	67,95%	571
Yougoslave	124	135	142	135	143	-13,29%	-8,15%	8,11%	1 529
Sous total Europe de l'Est	***4 385***	***3 976***	***3 663***	***3 004***	***2 800***	***56,61%***	***10,19%***	***39,06%***	***11 227***
Chypriote	38	39	30	39	42	-9,52%	-2,56%	88,37%	43
Maltaise	4		1	2	3	33,33%		25,00%	16
Suisse	255	221	165	214	212	20,28%	15,38%	13,27%	1 921
Turque	327	392	338	241	220	48,64%	-16,58%	4,13%	7 911
Autres nationalités d'Europe			2	1	1	-100,00%			
Sous total autres pays d'Europe	***624***	***652***	***536***	***497***	***478***	***30,54%***	***-4,29%***	***6,31%***	***9 891***
Total Europe	***17 010***	***17 810***	***20 504***	***22 967***	***22 780***	***-25,33%***	***-4,49%***	***23,41%***	***72 648***

TIT / AGE	CR	CRA 2 & 10 ans	CEE & EEE 10 ans et titre permanent	CEE & EEE 5 ans	RETRAITE	S/TOTAL > 1 AN	% TRANCHE D'AGE	CEE & EEE 1 an	CRA 1 an	CST	S/TOTAL 1 AN	% TRANCHE D'AGE	TOTAL 2002	% TRANCHE D'AGE
16-17 ans	1 631	236	231	53		2 151	3,0%	42	36	624	702	0,5%	2 853	1,4%
18 ans	5 990	1 178	1 507	140		8 815	12,3%	310	211	5 522	6 043	4,4%	14 858	7,2%
19 ans	1 844	372	806	82		3 104	4,3%	585	164	5 556	6 305	4,6%	9 409	4,5%
20-24 ans	4 358	1 191	2 650	402		8 601	12,0%	9 419	1 871	31 196	42 486	31,2%	51 087	24,6%
25-29 ans	5 647	2 025	3 472	710		11 854	16,6%	3 427	4 335	24 373	32 135	23,6%	43 989	21,2%
30-34 ans	4 321	1 868	3 048	867	1	10 105	14,2%	1 541	3 363	14 740	19 644	14,4%	29 749	14,3%
35-39 ans	2 608	1 071	2 530	965	1	7 175	10,0%	936	2 042	8 819	11 797	8,7%	18 972	9,1%
40-44 ans	1 757	518	1 643	820	1	4 719	6,6%	596	1 162	5 039	6 797	5,0%	11 516	5,6%
45-49 ans	1 080	374	1 042	717	1	3 214	4,5%	374	584	2 877	3 835	2,8%	7 049	3,4%
50-54 ans	707	365	842	968	4	2 886	4,0%	253	331	1 595	2 179	1,6%	5 065	2,4%
55-59 ans	444	233	559	1 301	18	2 555	3,6%	139	187	1 046	1 372	1,0%	3 927	1,9%
60-64 ans	410	160	329	1 347	119	2 365	3,3%	36	162	804	1 002	0,7%	3 367	1,6%
>64 ans	840	185	648	1 864	329	3 866	5,4%	21	448	1 300	1 769	1,3%	5 635	2,7%
TOTAL	**31 617**	**9 776**	**19 307**	**10 236**	**474**	**71 410**	**100%**	**17 679**	**14 896**	**103 491**	**136 066**	**100%**	**207 476**	**100%**

Distribution by socio-professional category of holders of first residence permits issued in 2002

REPARTITION PAR CATEGORIE SOCIO-PROFESSIONNELLE DES TITULAIRES DE PREMIERS TITRES DE SEJOUR DELIVRES EN 2002

TITRE / C.S.P.	CR.	CRA 2 & 10 ans	CEE & EEE 10 ans et titre permanent	CEE & EEE 5 ans	RETRAITE	S/TOTAL > 1 AN	%	CEE & EEE 1 an	CRA 1 an	CST	S/TOTAL 1 AN	%	TOTAL 2002	%
AGRICULTEUR	2	1	75			78	0,11%			19	19	0,01%	97	0,05%
ARTISAN - COMMERCANT - CHEFS D'ENTREPRISE	10	4	433			447	0,63%		29	224	253	0,19%	700	0,34%
CONTREMAITRE & TECHNICIEN	3		69	1		73	0,10%	24	3	21	48	0,04%	121	0,06%
EMPLOYE	20 415	6 237	9 170	6		35 828	50,17%	5 452	8 212	4 '00	18 164	13,35%	53 992	26,02%
ENSEIGNANT	3	1	56	1		61	0,09%	402		515	917	0,68%	978	0,48%
ETUDIANT - ELEVE	1		1	1		3	0,00%	9 998	4 445	45 377	59 820	43,96%	59 823	28,83%
FEMME DE MENAGE - GENS DE MAISON	51	64	147	1		263	0,37%	17	59	14	90	0,07%	353	0,17%
INGENIEUR CADRE SUPERIEUR	52	16	970			1 038	1,45%	591	23	1 060	1 674	1,23%	2 712	1,31%
JOURNALISTE			9			9	0,01%			36	36	0,03%	45	0,02%
MANOEUVRE	65	339	149			553	0,77%	52	371	66	489	0,36%	1 042	0,50%
MEMBRE DU CLERGE	3		3			6	0,01%		24	217	281	0,21%	287	0,14%
OFFICIER STAGIAIRE-GDE ECOLE MILITAIRE									3	148	151	0,11%	151	0,07%
OUVRIER - MINEUR - MARIN	1 721	592	1 084			3 397	4,76%	459	622	410	1 511	1,11%	4 908	2,37%
PROFESSION ARTISTIQUE ET CULTURELLE	4	2	10			16	0,02%		1	303	304	0,22%	320	0,15%
PROFESSION LIBERALE	134	3	227			364	0,51%	1	2	41	44	0,03%	408	0,20%
PROFESSION MEDICALE			5			5	0,01%	1		12	13	0,01%	18	0,01%
RETRAITE & PENSIONNE	119	19	32	3 450	455	4 075	5,71%	1	7	97	105	0,08%	4 180	2,01%
SALARIE AGRICOLE	5		92			97	0,14%	119		469	588	0,43%	685	0,33%
SANS PROFESSION DECLAREE OU INACTIF	9 004	2 493	6 733	6 776	19	25 025	35,04%	521	1 054	44 428	46 003	33,81%	71 028	34,23%
SCIENTIFIQUE			9			9	0,01%			1 139	1 139	0,84%	1 148	0,55%
SPORTIF PROFESSIONNEL			2			2	0,00%			115	135	0,10%	137	0,07%
STAGIAIRE	10		3			13	0,02%		16	1 202	1 318	0,97%	1 331	0,64%
STAGIAIRE PROFESSIONNEL			18			18	0,03%	40	1	60	101	0,07%	119	0,06%
TRAVAILLEUR SAISONNIER OU TEMPORAIRE	1	4	2			7	0,01%		24	2 627	2 651	1,95%	2 658	1,28%
AUTRES CSP	14	1	8			23	0,03%	1		201	202	0,15%	225	0,11%
TOTAL	31 617	9 776	19 307	10 236	474	71 410	100%	17 679	14 896	103 491	136 066	100%	207 476	100%

Distribution by registered marital status of holders of first residence permits issued in 2002

REPARTITION PAR STATUT MATRIMONIAL DECLARE DES TITULAIRES DE PREMIERS TITRES DE SEJOUR DELIVRES EN 2002

TITRE / STATUT	CR.	CRA 2 & 10 ans	CEE & EEE 10 ans et titre permanent	CEE & EEE 5 ans	RETRAITE	S/TOTAL > 1 AN	%	CEE & EEE 1 an	CRA 1 an	CST	S/TOTAL 1 AN	%	TOTAL 2002	%
CELIBATAIRE	12 606	1 824	10 140	2 826	30	27 426	38,41%	15 463	5 753	64 322	85 538	62,87%	112 964	54,45%
MARIE	18 295	7 914	8 366	6 118	430	41 113	57,57%	1 998	8 568	37 364	47 930	35,23%	89 042	42,92%
DIVORCE	165	17	473	649	1	1 305	1,83%	164	222	849	1 235	0,91%	2 540	1,22%
SEPARE	16	2	60	114	1	193	0,27%	31	27	78	136	0,10%	329	0,16%
VEUF	545	19	268	529	12	1 373	1,92%	23	326	877	1 226	0,90%	2 599	1,25%
NON PRECISE										1	1	0,00%	1	0,00%
TOTAL	31 617	9 776	19 307	10 136	474	71 410	100%	17 679	14 896	103 491	136 066	100%	207 476	100%

Distribution by age category and presumed date of entry into France of holders of first residence permits issued in 2002

REPARTITION PAR TRANCHE D'AGE & DATE PRESUMEE D'ENTREE EN FRANCE DES TITULAIRES DE PREMIERS TITRES DE SEJOUR DELIVRES EN 2002

TITRE / AGE & ENTREE	CR	CRA 2 & 10 ans	CEE & EEE 10 ans et titre permanent	CEE & EEE 5 ans	RETRAITE	S/TOTAL > 1 AN	% ENTREE / TRANCHE D'AGE	CEE & EEE 1 an	CRA 1 an	CST	S/TOTAL 1 AN & =	% ENTREE / TRANCHE D'AGE	TOTAL 2002	% ENTREE / TRANCHE D'AGE	*1ere ENTREE en France = 12 ans*
16-17 ans	**1 631**	**216**	**231**	**53**		**2 151**	100%	**42**	**36**	**624**	**702**	100%	**2 853**	100%	*2 853*
< 1985															
1985 / 1990	316	55	72	8		**451**	21,0%	4	2	68	**74**	10,5%	**525**	18,4%	*525*
1991 / 1996	317	44	59	9		**429**	19,9%	6	2	100	**108**	15,4%	**537**	18,8%	*537*
1997 / 2002	998	117	100	36		**1 271**	59,1%	32	32	456	**520**	74,1%	**1 791**	62,8%	*1 791*
18 ans	**5 990**	**1 178**	**1 507**	**140**		**8 815**	100%	**310**	**211**	**5 522**	**6 043**	100%	**14 858**	100%	*9 935*
< 1985	289	91	180	4		**564**	6,4%	4	6	103	**113**	1,9%	**677**	4,6%	*677*
1985 / 1990	1 814	372	414	16		**2 616**	29,7%	11	15	439	**465**	7,7%	**3 081**	20,7%	*3 081*
1991 / 1996	1 505	243	529	48		**2 365**	26,8%	14	18	467	**499**	8,3%	**2 864**	19,3%	*2 864*
1997 / 2002	2 382	472	384	72		**3 270**	48,7%	281	172	4 513	**4 965**	82,2%	**8 236**	55,4%	*3 313*
19 ans	**1 844**	**372**	**806**	**82**		**3 104**	100%	**585**	**164**	**5 556**	**6 305**	100%	**9 409**	100%	*2 798*
< 1985	120	29	83	3		**235**	7,6%	1	4	82	**87**	1,4%	**322**	3,4%	*322*
1985 / 1990	333	80	143	2		**558**	18,0%	7	5	244	**256**	4,1%	**814**	8,7%	*814*
1991 / 1996	309	49	174	14		**546**	17,6%	12	9	261	**282**	4,5%	**828**	8,8%	*828*
1997 / 2002	1 082	214	406	63		**1 765**	65,9%	565	146	4 969	**5 680**	90,1%	**7 445**	79,1%	*834*
20-29 ans	**10 005**	**3 116**	**6 122**	**1 112**		**20 455**	100%	**12 846**	**6 206**	**55 569**	**74 621**	100%	**95 076**	100%	*3 939*
< 1985	60	25	108	6		**197**	1,0%	14	2	136	**152**	0,2%	**349**	0,4%	*349*
1985 / 1990	98	11	76	3		**188**	0,9%	8	15	347	**370**	0,5%	**558**	0,6%	*558*
1991 / 1996	168	3	116	15		**307**	1,5%	53	83	991	**1 127**	1,5%	**1 434**	1,5%	*638*
1997 / 2002	9 679	3 174	5 822	1 088		**19 763**	106,4%	12 771	6 106	54 095	**72 972**	97,8%	**92 735**	97,5%	*365*
30-39 ans	**5 929**	**2 639**	**5 578**	**1 332**	**2**	**17 250**	100%	**2 477**	**5 405**	**23 559**	**31 441**	100%	**48 722**	100%	*264*
< 1985	26	6	117	4	1	**154**	0,9%	6	14	74	**94**	0,3%	**248**	0,5%	*248*
1985 / 1990	124	14	81	4		**223**	1,3%	5	101	1 132	**1 238**	3,9%	**1 461**	3,0%	*81*
1991 / 1996	167	25	155	22		**369**	2,1%	40	404	1 907	**2 351**	7,5%	**2 720**	5,6%	
1997 / 2002	6 612	2 594	5 225	1 802	1	**16 234**	105,4%	2 426	4 886	20 446	**27 758**	88,3%	**44 292**	90,9%	
40-49 ans	**2 817**	**892**	**2 695**	**1 537**	**2**	**7 933**	100%	**970**	**1 745**	**7 916**	**10 632**	100%	**18 565**	100%	*184*
< 1985	52	29	177	4	1	**263**	3,3%	8	36	152	**196**	1,8%	**459**	2,5%	*184*
1985 / 1990	73	1	50	2		**133**	1,7%	6	62	707	**775**	7,3%	**908**	4,9%	
1991 / 1996	52	14	72	26		**164**	2,1%	14	107	714	**835**	7,9%	**999**	5,4%	
1997 / 2002	2 640	841	2 386	1 505	1	**7 373**	101,4%	942	1 541	6 343	**8 826**	83,0%	**16 199**	87,3%	
50-59 ans	**1 151**	**595**	**1 401**	**2 269**	**22**	**5 441**	100%	**392**	**518**	**2 642**	**3 551**	100%	**8 992**	100%	*72*
< 1985	52	16	205	21	16	**310**	5,7%	8	14	52	**74**	2,1%	**384**	4,3%	*72*
1985 / 1990	20		26	12	1	**60**	1,1%	8	17	149	**174**	4,9%	**234**	2,6%	
1991 / 1996	19	4	31	45		**99**	1,8%	10	25	157	**192**	5,4%	**291**	3,2%	
1997 / 2002	1 060	577	1 139	2 191	5	**4 972**	97,1%	366	462	2 283	**3 111**	87,6%	**8 083**	89,9%	
60 ans & >60 ans	**1 250**	**345**	**977**	**3 211**	**448**	**6 231**	100%	**57**	**610**	**2 104**	**2 771**	100%	**9 002**	100%	*62*
< 1985	80	41	337	85	133	**676**	10,8%	1	10	36	**47**	1,7%	**723**	8,0%	*62*
1985 / 1990	25	1	20	21	3	**71**	1,1%		7	44	**51**	1,8%	**122**	1,4%	
1991 / 1996	15	1	29	92		**138**	2,2%	2	13	47	**62**	2,2%	**200**	2,2%	
1997 / 2002	1 130	360	591	3 013	312	**5 346**	92,0%	54	580	1 977	**2 611**	94,2%	**7 957**	88,4%	
TOTAL	**31 617**	**9 776**	**19 307**	**10 236**	**474**	**71 410**	100%	**17 679**	**14 896**	**103 491**	**136 066**	100%	**207 476**	100%	*12 108*
< 1985	679	215	1 207	127	151	**2 369**	3,4%	42	86	635	**763**	0,6%	**3 162**	1,5%	*1 886*
1985 / 1990	2 803	543	882	68	4	**4 300**	6,0%	49	224	3 130	**3 403**	2,5%	**7 703**	3,7%	*5 859*
1991 / 1996	2 552	459	1 165	271		**4 447**	6,2%	151	661	4 644	**5 456**	4,0%	**9 873**	4,8%	*4 867*
1997 / 2002	25 583	8 169	16 053	9 770	319	**60 294**	84,4%	17 437	13 925	95 082	**126 444**	92,9%	**186 738**	90,0%	*6 303*

Equal treatment between men and women

Source: Ministry of Employment, Labour and Social Cohesion, Department of Research, Studies and Statistics (DARES), www.travail.gouv.fr (Studies and Statistics page)

Tableau 1
Les dix familles professionnelles comptant le plus de femmes (1992-2002)

FAP84		Effectifs féminins en 2002	Variation de l'emploi féminin 1992-2002	Taux de féminisation en 2002 (en %)	Variation du taux de féminisation 1992-2002 (en points)
T4	Agent d'entretien	798 000	8 000 *	74	-6
W0	Enseignant	716 000	100 000	64	2
T2	Assistant maternel	656 000	309 000	99	-1
L0	Secrétaire	651 000	-79 000	97	-1
P0	Employé administratif de la Fonction publique (Cat. C)	650 000	51 000	72	0
R1	Vendeur	555 000	-100 000	69	-4
L2	Employé administratif en entreprise	460 000	82 000	76	-3
V1	Infirmier, Sage-femme	374 000	67 000	87	-1
V0	Aide-soignant	369 000	91 000	91	-2
V4	Professionnels de l'action sociale, culturelle et sportive	341 000	145 000	65	-3
Total		**5 570 000**	**674 000**	**77**	**-1**

** - Données peu significatives en raison de l'échantillon.*

Source : enquête emploi Insee ; calculs Dares.

Tableau 2
Évolution de la féminisation des métiers de cadres (1992-2002)

En pourcentage

FAP84		Taux de féminisation en 2002	Variation du taux de féminisation 1992-2002 (en points)	Variation de l'emploi féminin des cadres 1992-2002	Variation de l'emploi masculin des cadres 1992-2002
W0	Enseignant	64	2	16	6
U0	Professionnel de la communication et de la documentation	58	9	46	34
W1	Formateur, recruteur	49	-1	78	79
P3	Professionnel du droit	45	9	42	3
L5	Cadre administratif, comptable et financier	43	12	65	20
V2	Médecin et assimilé	43	4	10	-7
U1	Professionnel des arts et des spectacles	39	4	18	-8
P2	Cadre de la Fonction publique	37	9	52	12
Q2	Cadre de la banque et des assurances	33	5	27	5
R4	Cadre commercial et technico-commercial	25	10	90	3
M0	Informaticien	20	-4	35	72
N0	Personnel études et recherches	20	6	49	31
Total		**40**	**3**	**32**	**16**

Source : enquête emploi Insee ; calculs Dares.

Tableau 3
Féminisation des cadres (1992-2002)

En pourcentage

FAP84		1992		2002	
		35 ans ou moins	Plus de 35 ans	35 ans ou moins	Plus de 35 ans
W0	Enseignants	65	60	67	62
W1	Formateurs, recruteurs	60	41	56	47
U0	Professionels de la communication et de la documentation	56	56	64	54
P3	Professionnels du droit	49	33	58	41
V2	Médecins et assimilés	49	34	62	38
L5	Cadres administratifs, comptables et financiers	41	33	49	40
U1	Professionnels des arts et des spectacles	38	29	45	35
P2	Cadres de la Fonction publique	34	30	43	36
M0	Informaticien	27	19	20	19
Q2	Cadres de la banque et des assurances	25	30	56	28
N0	Personnel études et recherches	24	14	27	15
R4	Cadre commercial et technico-commercial	21	13	35	20

Source : enquête emploi Insee ; calculs Dares.

Tableau 4
Évolution des professions d'ouvrières non qualifiées (1992-2002)

FAP		Effectifs féminins en 2002	Taux de féminisation en 2002 (en %)	Variation de l'emploi féminin 1992-2002
C0	Ouvrier non qualifié électricité, électronique	36 000	60	ns*
D0	Ouvrier non qualifié enlèvement ou de formage du métal	18 000	29	ns*
D3	Ouvrier non qualifiés mécanique	46 000	22	ns*
E0	Ouvrier non qualifié industries de process	152 000	40	ns*
F0	Ouvrier non qualifié textile et cuir	47 000	73	-72 000
J0	Ouvrier non qualifié de l'emballage et manutentionnaires dans le transport et le tourisme	133 000	34	20 000
Total**		**447 000**	**30**	**-45 500**

** - Données non significatives en raison de la taille de l'échantillon.*

*** - Y compris les métiers non présentés dans le tableau.*

Source : enquête Emploi, Insee ; calculs Dares.

Tableau 5
Évolution de quelques professions d'ouvrières qualifiées (1992-2002)

FAP		Effectifs féminins en 2002	Taux de féminisation en 2002 (en %)	Variation de l'emploi féminin 1992-2002
E1	Ouvrière qualifiée des industries de process	102 000	23	29 000
F1	Ouvrière qualifiée textile et cuir	84 000	67	-36 000
G0	Ouvrière qualifiée maintenance	27 000	8	17 000 *
J1	Ouvrière qualifiée manutention	46 000	11	13 000 *
Total**		**543 000**	**11**	**42 500**

** - Données peu significatives en raison de la taille de l'échantillon.*

*** - Y compris les évolutions de professions non présentées dans le tableau.*

Source : enquête Emploi, Insee ; calculs Dares.

Tableau 6
Évolution des principales familles professionnelles d'employées non qualifiées (1992-2002)

FAP 224		Effectifs féminins en 2002	Variation de l'emploi féminin 1992-2002	Taux de féminisation en 2002 (en %)
T260	Assistantes maternelles	651 000	300 000	99
T160	Employées de maison	257 000	65 000	98
S261	Serveurs de cafés-restaurants	159 000	21 000	62
T060	Coiffeurs, esthéticiens	150 000	25 000	85
R061	Caissiers	147 000	20 000	94
R162	Vendeurs sport, loisirs, équipements. personnels	90 000	-62 000	79
R060	Employés de libre de service	80 000	31 000	34
T360	Concierges	42 000	-12 000 *	61
R165	Vendeurs en produits culturels et ludiques	25 000	-20 000	50
Total**		**1 451 000**	**343 000**	**76**

* - *Données peu significatives en raison de la taille de l'échantillon.*

Source : enquête Emploi, Insee ; calculs Dares.

7 La part des femmes dans l'encadrement du secteur privé, en 2003

Guide de lecture : 19,2 % des chefs d'entreprise de 50 salariés et plus sont des femmes.

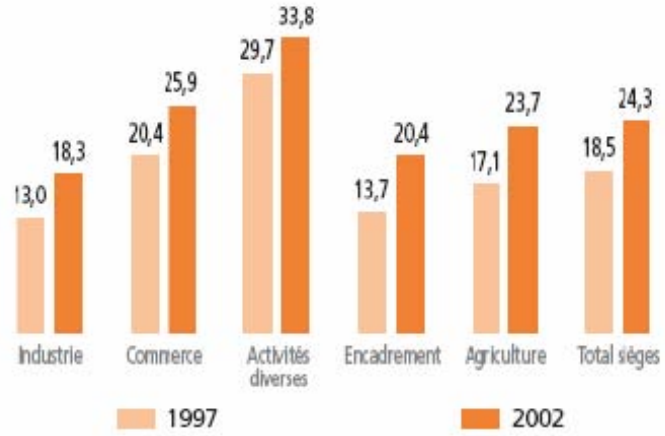
Source : Insee, enquête Emploi de 2003. Résultats en moyenne annuelle.

8 La part des femmes parmi les dirigeants de société, en 2001

Champ : les dirigeants de société salariés, hors agriculture, services domestiques, activités extra-territoriales, travaillant à temps complet.

Source : F. Brouillet, « Une dirigeante de société gagne un tiers de moins que son homologue masculin », *Insee Première*, n° 951, mars 2004.

9 La part des femmes dans les conseils de prud'hommes, par section, en 1997 et 2002 (en %)



Champ : établissements du secteur marchand non agricole ayant organisé des élections sur le cycle électoral 2000-2001, collèges salariés et employeurs confondus.

Source : A. Hege et Ch. Dufour, *La place des femmes dans les prud'hommes* – Ires, 2004.

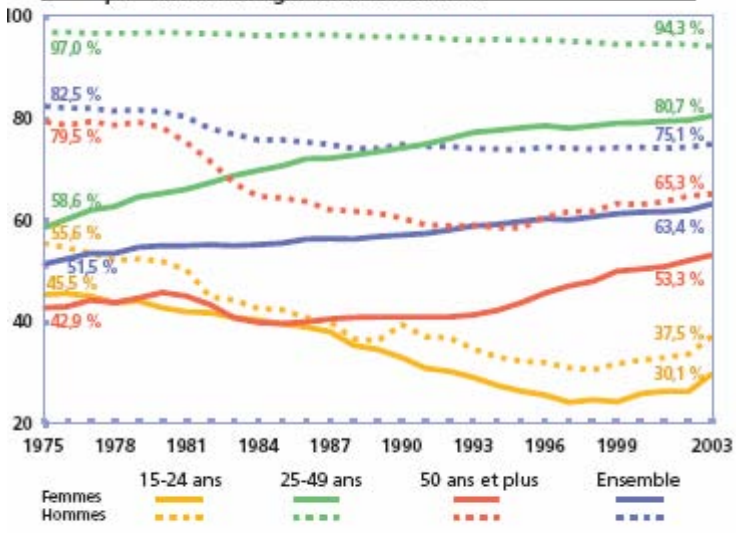
11 Les emplois de direction et d'inspection de la fonction publique d'État : part des femmes dans les effectifs au 31/12/2002 et dans les nominations en 2002 (en %)

Emplois de direction d'administration et de juridictions	Effectifs	Nominations
Emplois de direction centrale		
Directeurs d'administration centrale et assimilés [1]	19	19
Chefs de service, directeurs-adjoints, sous-directeurs [2]	23	27
Dirigeants des juridictions nationales [3]	9	22
Chefs de services d'Inspection générale	12	0
Total des emplois centraux	21	24
Emplois de direction déconcentrée		
Chefs de service déconcentrés [4]	10	11
Préfets	6	4
Recteurs	26	27
Trésoriers payeurs généraux	7	0
Chefs titulairesayant rang d'ambassadeur	10	9
Dirigeants des juridictions judiciaires territoriales [5]	15	17
Présidents de TA et CAA [6]	5	0
Présidents de chambres régionales des comptes	12	0
Total des emplois déconcentrés	10	12
Total des emplois centraux et déconcentrés	13	16

1/ Directeurs, Secrétaire général du gouvernement, Délégués interministériels
2/ Autres emplois de direction des administrations centrales
3/ Cour de cassation, Conseil d'Etat, Cour des comptes
4/ Hors préfets, recteurs, trésoriers payeurs généraux, ambassadeurs
5/ Responsables du siège et du parquet des tribunaux de grande instance et cours d'appel
6/ Présidents des tribunaux administratifs et de cours administratives d'appel

Source : DGAFP, bureau des statistiques, des études et de l'évaluation - enquête sur les emplois de direction et les corps supérieurs d'inspection.

19 Le taux d'activité des hommes et des femmes par tranche d'âge, de 15 à 64 ans



Note : taux d'activité en mars de chaque année, sauf celles du recensement (janvier 1990 et 1999), jusqu'en 2002, taux d'activité en moyenne annuelle pour 2003 (changement de série).
Champ : individus de 15 à 64 ans. Source : Insee, enquêtes Emploi, in Insee, *Regards sur la parité*, édition 2004.

21 La population active occupée selon le statut des emplois (en %)

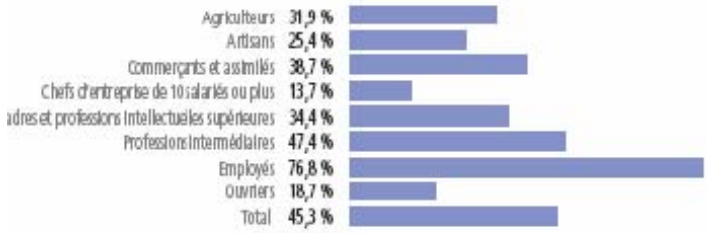
	Femmes	Hommes
Non salariés	8,1	14,2
Salariés	91,9	85,8
dont intérimaires	1,2	2,2
dont apprentis	0,7	1,4
Secteur privé	61,7	66,0
dont CDD [1]	5,6	3,2
dont stagiaires et contrats aidés [2]	1,5	1,0
dont autres salariés	54,7	61,8
Secteur public	28,2	16,2
dont CDD [1]	3,1	1,3
dont stagiaires et contrats aidés [2]	1,2	0,7
dont autres salariés	23,9	14,2
Ensemble	100,0	100,0

1/ Hors stagiaires et contrats aidés.
2/ Certains sont à durée déterminée, d'autres non.
Champ : population active occupée.
Source : Insee, enquête emploi, 1er trimestre 2003, in Insee, *Regards sur la parité*, 2004.

22 Le temps partiel

Champ : individus de 15 à 64 ans.
Source : Insee, enquête Emploi de 2003. Résultats en moyenne annuelle.

23 La part des femmes dans chaque catégorie socioprofessionnelle, en 2003



Champ : individus de 15 à 64 ans.
Source : Insee, enquête Emploi de 2003. Résultats en moyenne annuelle.

Chapter IX
Social Security

Current legislation

The gradual disappearance of form E111 which was used to provide cover for French nationals when they travelled to another Member State, but which was too complex to handle. *Circular DSS/Daci 2004/220 of 12 May 2004* takes into account the trend towards the disappearance of form E111, which requires complex administrative formalities and which will gradually be replaced by the European health insurance card.

Article 29 of law no. 2003-775 of 21 August 2002[15] modified several articles of the Social Security Code, these modifications taking effect on 1 January 2004.

Articles L. 351-14-1, L. 634-2-2 and L. 723-10-3 which incorporate, when calculating retirement pensions, periods of study which led to the award of a qualification, where admission into the Grandes Ecoles and second-level preparatory classes for these schools are similar to the acquisition of a qualification, as well as periods of study leading to the award of an equivalent qualification issued by a Member State of the European Union.

In terms of trans-border care, *Article 5 of government edict no. 2004-329 of 15 April 2004 and Article 58 of law no. 2004-810*[16] of 13 August 2004 have also led to modification of the Social Security Code by introducing a new Article L.332-3. The latter stipulates:

> "subject to international regulations and agreements and Article L. 766-1, when care is provided outside France to insured parties and their beneficiaries, the corresponding health and maternity insurance allowances are not paid.
> A decree in Council of State establishes the conditions under which deviations can be made from the principle put forward in the previous paragraph in cases where the insured or his beneficiaries unexpectedly become ill during a stay outside a Member State of the European Union or a party to the European Economic Area agreement or when the patient cannot find the appropriate care for his condition in France. This decree also establishes the adaptation necessary for reimbursement of the cost of the care when it is provided in a Member State of the European Union or a party to the European Economic Area agreement".

15 *French Official Journal* of 22 August 2003.
16 *French Official Journal* no. 190 of 17 August 2004, p. 14598.

Chapter X
Establishment, Provision of Services, Students

Freedom of establishment

France has still not adapted the Directive regarding European society. On the other hand, jurisprudence continues to put into effect the requirements of Community law.

Court of Cassation, 2nd Civil Chamber, 20 January 2004, *Caisse autonome de retraites des chirurgiens-dentistes* (Independent retirement fund for dental surgeons) *versus Mrs. Schonfelder*: following an appeal by the French retirement fund for dental surgeons, which accused this practitioner of refusing to pay contributions for the basic and supplementary pensions, the Court of Cassation decided in her favour. Indeed, since she continued to make compulsory contributions to the German system, she did not have to join the scheme in France.

The solution chosen avoids duplicate contributions being paid. However, since basic scheme contributions are concerned, it overlooks the conflict ruling as a result of Regulation 1408/71, under which it is the place of work which determines the applicable social security legislation, including for contributions. On the grounds that the German system applies extra-territorially (possible because this system is explicitly excluded from Regulation 1408/71), the solution also leads to dismissal of the principle of territoriality, applicable in French law.

Finally, this decision can generate a breach of equality between insured persons based in France: the majority will have to contribute in France while others will have a choice of membership institution and may possibly choose the least expensive system.

Provision of services

Legislation

The Social Security Code has been modified with regard to access to cross-border care by a new Article L332-3, introduced by *Article 5 of government edict no. 2004-329 of 15 April 2004 and Article 58 of law no. 2004-810*[17] *of 13 August 2004*. This article states:

> "subject to the international regulations and agreements and Article L. 766-1, when care is given outside France to insured parties and their beneficiaries, the corresponding health and maternity insurance allowances are not paid.
> A decree in Council of State establishes the conditions under which deviations can be made from the principle put forward in the previous paragraph in cases where the insured or his beneficiaries unexpectedly become ill during a stay outside a Member State of the European Union or a party to the European Economic Area agreement or when the patient cannot find the appropriate care for his condition in France. This decree also establishes the adaptation necessary for reimbursement of the cost of the care when it is provided in a Member State of the European Union or a party to the European Economic Area agreement".

Circular DSS/Daci 2003/286 of 16 June 2003 made the conditions for reimbursement of trans-border care more flexible. Moreover, the European Court of Justice had noted the failure by the French Republic on 16 March 2004 on the grounds that, "in ruling out any reimbursement of expenses for medical biological analyses conducted by an medical biological analysis

17 *French Official Journal* no. 190 of 17 August 2004, p. 14598.

laboratory based in another Member State, the French Republic was in breach of the obligations imposed on it by virtue of Article 49 EC"[18] since this measure prevented the establishment in France of foreign medical biological analysis laboratories.

The European Commission decided, in a formal notice, to remind France of its obligation to conform to this jurisprudence by modifying its legislation and threatened it with requesting the Court to impose a daily fine upon France. In order to conform to Community jurisprudence, Article 154 of *Law no. 2004-806*[19] *of 9 August 2004 regarding public health policy* inserts Article L. 6211-2-1 into the Public Health Code. This article stipulates:

> "laboratories based in another Member State of the European Community or a party to the European Economic Area agreement can conduct biological medical analyses within the meaning of Article L. 6211-1 on behalf of patients resident in France.
> The performance of these activities is subject to:
> 1. A prior declaration made by the laboratories, certifying that their operating conditions are in accordance with the provisions applicable in the Member State or part of their establishment and that the staff practising there hold the diplomas, certificates or other qualifications required for this activity;
> 2. Administrative authorisation granted following verification that their operating conditions are the equivalent of those defined in the present book".

After the first paragraph of Article L. 6214-2 of the same Code, a paragraph is inserted which stipulates:

> "The same fines are imposed on a laboratory referred to under Article L. 6211-2-1 committing the offence of conducting medical biological analysis on behalf of patients residing in France without having made the declaration or having previously obtained the administrative authorisation envisaged in this article".

The Ministry of Health stated that two decrees were being prepared, one to determine the appropriate authorisation system and taking equivalences into account and the other linking the reimbursement of analyses by Social Security to the receipt of this authorisation.

Jurisprudence in civil matters

As regards the free movement of patients, the Social Chamber of the Court of Cassation (*25 May 2004, CPAM of Montpellier versus Gérone*) was of the opinion that a primary health insurance fund is obliged to reimburse care given to an insured party admitted to hospital in an emergency during a temporary stay in Spain. Not having obtained any reimbursement of expenses locally since he had mislaid his form E111, the party in question was entitled to a reimbursement of expenses from his insurance fund since "the fund in the place of membership is obliged to reimburse medical expenses according to the rate applicable for identical care given in France".

The Court of Cassation (2nd Civil Chamber, 16 November 2004, *Guy-Randon vs. CPAM of Montpellier*, no. 03-17089) also judged the case of a French person with social security insurance who wished to have in vitro fertilisation performed by egg cell donation in Greece.

In view of her age, the plaintiff asserted that she would receive treatment more quickly by going to this country. She filed a prior application for authorisation with her primary health insurance fund on 11 July 2000 before the medical procedure was carried out in Greece

18 ECJ, 11 March 2004, *Commission vs. France*, case C-496/01 point 95.
19 *French Official Journal* no. 185 of 11 August 2004, p. 14277.

10 days later. In September, CPAM refused the prior authorisation. The appeal against this decision, brought before the Social Security Affairs Court (TASS), was denied on the grounds that the care was provided prior to the refusal decision. This refusal decision was confirmed by the Court of Cassation on the basis of Article 22 of Regulation 1408/71 and Articles 49 and 50 of the Treaty. The Court of Cassation emphasised, firstly, that the prior authorisation procedure is in accordance with Community law "since the instruction procedure is easily accessible and intended to guarantee the interested parties that their application will be handled within a reasonable period". It then confirmed the decision of the judge in the first instance, before whom "it was not alleged that the CPAM was not in a position to give a response within a reasonable period" and which had therefore believed that, in carrying out the procedure only 10 days after submission of her application for authorisation without receiving a response from the fund, the insured party could not claim her reimbursement.

Commentators[20] are of the opinion that "even if it is reasonable to think that in vitro fertilisation conducted in the Greek clinic should be classified as hospital care and, as a result, be subject to prior authorisation for reimbursement (this care is not likely also to be given by a practitioner in his surgery, according to the criterion used by the ECJ to define hospital care, ECJ, 13 May 2003, case C-385/99, *Müller-Fauré*), one may on the other hand wonder about the refusal to entertain the request for reimbursement". Indeed, if it is true that prior authorisation should, by definition, be given before the care, there is nothing to prevent this from being given subsequently provided the conditions were met at the time of the application and this was submitted before the care was given.

In the *Vanbraekel*[21] jurisprudence, the ECJ judged that, when the insured party has met with a refusal of prior authorisation and that this refusal is then considered unfounded, the insured party is entitled to reimbursement. In this case, the Court of Cassation is strictly interpreting the *Vanbraekel* judgement: "the insured party should have received a refusal of prior authorisation before the care for her to be able to claim subsequent investigation of her application".

Jurisprudence in administrative matters

With regard to the free provision of services, the Council of State recalls, in its *2005 Report*,[22] having examined

> "three articles of the finance bill for 2005 concerning, respectively, the reform of the system applicable to life assurance contracts invested in shares, the opening up of the share savings plan (PEA) to company securities or shares in UCITS located in Member States of the European Economic Area and the adaptation of capital risk fiscal incentive measures. The Council of State gave its opinion on their compatibility with Articles 36 and 40 of the agreement on the European Economic Area, prohibiting any restriction on the free provision of services and the movement of capital. At issue was a provision which makes the opening up to company securities and shares in UCITS located in Member States of the European Economic Area other than those in the European Community conditional upon these States having reached a tax agreement with France containing an administrative assistance clause, aimed at combating fraud and tax evasion.
>
> If this condition has the effect of excluding from eligibility for the tax measures in question the securities or shares in companies or UCITS when they are based in Liechtenstein, a

20 Jean-Philippe Lhernould, "Soins transfrontaliers: tour d'horizon de la jurisprudence française" (Cross-border care: summary of French jurisprudence), *Liaisons sociales Europe* no. 119, 6-19 January 2005, pp. 4-5.

21 ECJ, 12 July 2001, *Vanbraekel*, case C-368/98.

22 P. 67.

country which has not reached such an agreement with France, the Council of State was of the opinion that this exclusion was not an illegal infringement of the principles of the free provision of service or the free movement of capital since this country, which is on the list of non-cooperative tax havens published by the OECD, refuses to practise an exchange of information for tax purposes and that, consequently, the tax service will not be in a position to check the eligibility of the taxpayer's investment for the tax measure under which he intends to be covered".

Students

Administrative jurisdiction has had to take cognisance (Council of State, 15 July 2004, no. 245357, *David X.*) of the grants awarded to students of the European Union. The plaintiff, of Belgian nationality, made an application for a higher education grant based on social criteria for the year 2002-2003, which was denied him by the rector of the Academy of Nice on the grounds that he did not satisfy the conditions imposed by the circular from the Minister for National Education of 20 February 2002. The Council of State found in his favour.

Firstly, the Council of State was of the opinion that the criteria employed by the disputed circular cannot be regarded as an attack on the freedom to come and go. It then recalled the content of Articles 12 and 18 of the EC Treaty as well as the terms of Directive 93/96/EEC of 29 October 1993, regarding students' right of residence, where Article 3 stipulates that "the present directive does not form the basis of a right to payment, by the receiving Member State, of maintenance grants to students who enjoy a right of residence".

"Considering that it follows from the provisions of Article 3 of the Directive of 29 October 1993, as interpreted by the European Court of Justice, that the conditions for awarding higher education grants based on social criteria to students benefiting from the right of residence in a Member State do not, in principle, fall within the scope of the Treaty establishing the European Community; that the Minister of National Education has thus been able, without ignoring the provisions of Article 12 of this Treaty, to exclude from receipt of the grants in question students who are nationals of a Member State of the European Union who could not claim the status of migrant worker nor child of a migrant worker; that these provisions are in any event not of a nature as to jeopardise the fulfilment of the aims of the Treaty, within the meaning of its Article 10".

After having recalled the content of Article 39 of the Treaty, the judge was of the opinion that higher education grants based on social criteria should be regarded as a social benefit within the meaning of the provisions of Article 7 of Regulation 1612/68 of 15 October 1968 when they are paid to a worker receiving professional training or to his children who are receiving training.

"Thus, the Minister of National Education could not exclude from the benefit [of these grants] persons meeting the Community definition of a migrant worker or child of a migrant worker; this definition, if it envisages that the salaried activity be genuine and effective and rules out activities that are reduced to the extent that they can be seen as purely marginal and accessory, does not however include any condition linked to the permanent nature of the post occupied. Consequently, the minister could not legally (…) make receipt of the grants in question, for foreign nationality students holding the nationality of a Member State of the European Union, additionally conditional upon them having held a permanent job in France during the reference year. The plaintiff is therefore justified in requesting revocation of the disputed circular in so far as it imposes this condition".

Chapter XI
Miscellaneous

Bienvenue en France

Vous avez été admis à résider sur le territoire de la République française, Etat membre de l'Union européenne.

Chaque année, près de 100 000 étrangers s'installent en France venant de pays, de cultures différentes. Comme vous, depuis plus de cent ans, d'autres y sont venus et y ont construit leur vie.

Ils ont participé à son développement et à sa modernisation. Certains, parfois au prix de leur liberté ou de leur vie, ont défendu son sol par les armes.

La France et les Français sont attachés à une histoire, à une culture et à certaines valeurs fondamentales. Pour vivre ensemble, il est nécessaire de les connaître et de les respecter. C'est pourquoi dans le cadre du contrat d'accueil et d'intégration nous vous proposons de suivre une journée d'information pour mieux comprendre le pays dans lequel vous allez vivre.

La France, une démocratie

La France est une république indivisible, laïque, démocratique et sociale.

Le pouvoir repose sur la souveraineté du peuple, exprimée par le suffrage universel ouvert à tous les citoyens français âgés de plus de 18 ans.

Sur de nombreux bâtiments publics, vous verrez gravée l'inscription "Liberté, Égalité, Fraternité". Cette devise est celle de la République française.

La France, un pays de droits

La Déclaration des Droits de l'Homme et du Citoyen proclame que tous les hommes naissent libres et égaux, quelles que soient leur origine, leur condition et leur fortune.

La France garantit le respect des droits fondamentaux qui sont notamment :

- la liberté qui s'exprime sous plusieurs formes : liberté d'opinion, liberté d'expression, liberté de réunion, liberté de circulation... ;
- la sûreté qui garantit la protection par les pouvoirs publics des personnes et des biens ;
- le droit personnel à la propriété.

Les étrangers en situation régulière ont les mêmes droits et les mêmes devoirs que les Français, sauf le droit de vote qui reste attaché à la nationalité. Qu'elle sanctionne ou qu'elle protège, la loi est la même pour tous, sans distinction d'origine, de race ou de religion.

La France, un pays laïque

Chacun peut avoir les croyances religieuses de son choix ou ne pas en avoir. Tant qu'elles ne troublent pas l'ordre public, l'État respecte toutes les croyances et la liberté de culte. Aucune ne domine les autres.

L'État est indépendant des religions et veille à l'application des principes de tolérance et de liberté.

En France, la religion relève du domaine privé.

La France, un pays d'égalité

Le principe de l'égalité entre les hommes et les femmes est un principe fondamental de la société française. Les parents sont conjointement responsables de leurs enfants. Les femmes ont les mêmes droits et les mêmes devoirs que les hommes. Ce principe s'applique à tous, Français et étrangers. Les femmes ne sont soumises ni à l'autorité du mari, ni à celle du père ou du frère pour, par exemple, travailler, sortir ou ouvrir un compte bancaire. Les mariages forcés sont interdits, tandis que la monogamie et l'intégrité du corps sont protégées par la loi.

Apprendre le français

La connaissance du français est le premier atout de votre intégration.

Pour vous aider à vivre en France, nous vous proposons de suivre des cours de français.

Ainsi, il vous sera plus facile d'entreprendre les démarches administratives, d'inscrire les enfants à l'école, de trouver un travail et de participer à part entière à la vie de la cité.

L'école est la base de la réussite professionnelle de vos enfants. En France, l'école publique est gratuite. Publique ou privée, l'école est obligatoire de 6 à 16 ans. Garçons et filles étudient ensemble dans toutes les classes.

Contrat d'accueil et d'intégration

LIBERTÉ - ÉGALITÉ - FRATERNITÉ

Préambule

L'intégration de populations différentes exige une tolérance mutuelle et le respect par tous, Français comme étrangers, des règles, des lois et des usages.

Choisir de vivre en France, c'est avoir la volonté de s'intégrer à la société française et d'accepter de respecter les valeurs fondamentales de la République.

Si tel est votre choix, nous vous invitons à signer ce contrat d'accueil et d'intégration.

Article 1

Le présent contrat est conclu entre l'Etat, représenté par le Préfet du département

Et Madame - Mademoiselle - Monsieur .....

.....

Article 2

L'Etat assure l'ensemble des prestations suivantes :

- une réunion d'accueil collectif ;
- la visite médicale permettant la délivrance du titre de séjour ;
- un entretien individuel avec un auditeur social permettant un repérage social et linguistique ;
- en tant que de besoin :
  - un bilan linguistique
  - un entretien avec un travailleur social, qui peut donner lieu si nécessaire à l'établissement d'un diagnostic social, et la mise en œuvre d'un appui social individualisé ;
- une journée de formation civique présentant les droits fondamentaux et les grands principes et valeurs de la République, ainsi que les institutions de la France ;
- une formation linguistique adaptée aux besoins du nouvel arrivant ;
- une information spécifique sur l'accès au service public de l'emploi et à la formation professionnelle ;
- une journée d'information sur la vie en France en fonction des besoins et des demandes sous formes de modules sur les thèmes de la santé, de l'école, du logement, et de la formation et de l'emploi ;
- un suivi et une évaluation du parcours et des problèmes rencontrés (formation, logement, écoles, santé).

Article 3

M./Mme/Mlle .....

..... s'engage

- à participer à la journée de formation civique ;
- à suivre la formation linguistique qui lui a été prescrite ;
- à se rendre aux entretiens qui lui seront éventuellement fixés pour permettre le suivi du présent contrat.

Article 4

Le présent contrat est conclu pour une durée de un an renouvelable une fois si nécessaire à compter de la date de signature, soit à la demande de l'intéressé, soit du référent du contrat en fonction des besoins repérés.

La nature et la durée de la formation linguistique, ainsi que les modalités de l'accompagnement social éventuel feront l'objet de prescriptions complémentaires (cf annexes jointes).

Article 5

La réalisation du contrat fait l'objet d'un suivi administratif et d'une évaluation par l'Office des migrations internationales. Cette évaluation permet d'infléchir en tant que de besoin les formations suivies et de faire le point sur les autres problèmes d'intégration.

Article 6

Le suivi des formations civique et linguistique donne lieu :

- pour la formation civique à la remise d'un certificat attestant la participation à la journée de formation ;
- pour la formation linguistique à la délivrance éventuelle, en fonction du parcours individuel, d'une attestation ministérielle validant le niveau de compétences acquises en matière d'apprentissage du français.

N° de contrat : .....

Fait à ..... le .....

Le Préfet du département

Monsieur
Madame
Mademoiselle

Ministère des affaires sociales, du travail et de la solidarité
Office des migrations internationales

Addendum report France

Comments by the Commission

France

- Equal treatment
  - this chapter deals with the equal treatment of immigrant workers, compared to national workers, with respect to access to employment, employment conditions and social benefits (possible difference in treatment based on nationality – direct or indirect discrimination); on the other hand, this chapter contains a great deal of information about male/female equality which is not the subject of the report – if the reporter still thinks it is interesting to include this information (including statistics) in the report, it is suggested that this information be incorporated into the "Miscellaneous" or "Texts, doctrine and jurisprudence of a general nature" chapters;
  - is the High Authority to Fight Against Discrimination and for Equality responsible for dealing equally with discrimination based on nationality (including immigrant workers)?
  - little information is given about the equal treatment of immigrant workers compared to national workers in terms of access to employment, employment conditions and social benefits. On the other hand, problems do exist, such as the Gradual Cessation of Activity (professional experience acquired in another Member State is not taken into account in order to grant the right to this employment condition), etc.; it would be worthwhile also including this type of information.

Response to comments:

The High Authority to Fight Against Discrimination and for Equality (HALDE) was created on 30 December 2004 and is also tasked with handling discrimination based on nationality. Since its creation on 23 April 2005, approximately 400 complaints have been lodged, half of which concern employment. The main source of discrimination cited is ethnic origin, according to its president.

The HALDE recognises discrimination based on the nationality of immigrant workers by virtue of Article 19 of Law 2004-1486 of 30 December 2004, creating it. It implements the principle of equal treatment between persons without distinction of ethnic origin and adapts Directive no. 2000/43/EC of 29 June 2000. This Article stipulates:

> "in terms of social protection, health, social benefits, education, access to goods and services, the provision of goods and services, membership and education in a trade union or professional organisation, including the benefits acquired by it, as well as access to employment, self-employed or non-salaried employment and work, everyone is entitled to equal treatment, regardless of national origin, actual or assumed membership or non-membership of an ethnic group or race.
>
> Any person who believes himself the victim of direct or indirect discrimination in these fields establishes before the competent jurisdiction the facts which enable presumption of this discrimination. In the light of these elements, it is the responsibility of the defendant to prove that the measure in question is justified by objective elements beyond any discrimination.
>
> The previous paragraph does not apply before criminal jurisdictions".

The 2005 report will update this information.

As far as the gradual cessation of activities is concerned, nothing of note in 2004.

- Public sector
  - Nationality condition: the project to reform the nationality clause is mentioned – it would be a good idea to provide additional information (what will be the principal changes with respect to the general rules; which bodies should be opened up based on these new rules which are currently still restricted to French nationals, etc.; it would be important to have a list of bodies that are currently still restricted – in this way, the Commission could closely follow the results of the new rules);
  - Consideration of professional experience acquired in another Member State (in particular to determine social benefits, including salary): this subject is not currently discussed in the report, despite the hundreds of migrant workers affected; three new decrees have been adopted since October 2002 and, since the autumn of 2004, an equivalence commission has been drawing up a re-evaluation of the cases of migrant workers; it would be important to provide information about developments in this area (application of new rules in practice, judgements, etc.);
  - Repercussions of Burbaud judgement: it is proposed that information be provided about the repercussions of this judgement for the French authorities regarding the profession of hospital administrator in general (information about the individual case of Mrs. Burbaud is already provided in the report; question: according to the information from the Commission, the French State has appealed against the judgement of the Administrative Court of Appeal of Douai – if this is the case, it is proposed that this information be included) and with respect to other professions concerned; state of the reform, etc..

Response to comments:

The comments about updating are accurate but they encroach upon the 2005 report since they would lead otherwise to information relative to 2005 being dealt with in 2004. The 2005 report will thus be largely devoted to the French legislative reform of 2005 on this point and the recent jurisprudence of the Council of State on the Burbaud judgement will also be covered (Council of State, judgement of 16 March 2005, no. 268718, Minister of Health and Social Security). Moreover, the report gives an account of the application of the Burbaud jurisprudence by the legislator.

In terms of the consequence of the legislative reforms and because of the particular features of the legislative procedure (amendment work by members of parliament, in particular), it seems very difficult and not very realistic to analyse the projects before the beginning of the parliamentary work since, between the time when the information would be provided by the report and handled by the Commission, it would often be likely that things would be out of date.

In terms of the consideration of professional experience via the equivalence commissions relating to qualifications, in reality several commissions exist for many trade associations but none has general competence, which makes follow-up very difficult.

- Nationality condition for access to the position of ship's captain
  - It would be interesting to provide information on the state of discussions on the required follow-up to the judgements of the Court on this subject (Anker and Anave) (abolition of the nationality condition, at least for some ships).

Response to comments

The ECJ judgement dated October 2004 (C-402/02) and its consequences will be analysed in the 2005 report.

Page 25: question – does the reception and integration contract also affect migrant workers and their family members? If so, in what way – voluntary or compulsory?

Response to comments

These workers will be affected by the Reception and Integration Contract if they so wish, since this contract is not restrictive under the current situation in French law.

A large number of texts adopted in 2005 provide a legal basis and implement this contract and they will be developed in the report on 2005. Indeed, for the year 2004, this contract was uniquely tested in some départements and was not generalised until 2005.