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## Policy oriented analysis – France

1. **To be mobile is not within everyone’s reach.** As Zygmunt Bauman says “*Mobility climbs to the rank of the uppermost among the coveted values and the freedom to move perpetually, a scarce and unequally distributed commodity, fast becomes the main stratifying factor of our late modern and post modern times*”<sup>1</sup>. The people on the move represent hardly 3% of the total world population which, though increasingly mobile, is still very sedentary. However, despite numerous impediments to the movement of people, human mobility has been and continues to be unavoidably stimulated by the economic and social integration processes of globalisation.

2. **Europe has been confirmed as a continent of immigration and different kinds of mobility**, but the EU as a whole and the European states individually, including France, have been slow in accepting the fact and are reluctant to liberalise the movement of people. In spite of now pervasive recognition that immigration is indispensable from both demographic and economic perspectives, it is still seen as a challenge, as threatening to national sovereignties and identities, as a security issue or a social problem and a burden. This is reflected in recent modifications in French migration policy.

One of the major challenges for Europe is to devise policies that will reconcile the issues of integration and settlement on one hand and those of mobility on the other. More innovative solutions are needed beyond the existing policies aiming at the integration of those already settled and facilitating mobility for the skilled ones while restricting the mobility of others and, leaving them to the risks of “commodification” in increasingly global labour markets and indirectly fuelling the informal sector where their basic human rights are not respected.

3. The former French Minister Lionel Stoleru, whose name is associated with the 1974 labour immigration stop, declared recently<sup>2</sup>, echoing the words of Max Fritsch during the *Guest worker* period, “***that the best migration policy is the one that does not forget that***

<sup>1</sup> Zygmunt Bauman (1998): *Globalization, The Human Consequences*. New York: Columbia University Press.

<sup>2</sup> During the debate at the meeting « Regards croisés sur l’immigration », SSAE, La grande Arche de la Defense, 20.September 2007.

*migrants are first of all human beings*". The reality of policies, and especially their arbitrary implementation and impact, are sometimes in contradiction to the message of this declaration.

The foreign presence in France is very old and has contributed to shaping its population and identity. France's long experience with being an immigration country is usually traced back to the 19<sup>th</sup> century and related to massive inflows of foreign workers provoked by the industrial revolution and demographic deficit. Its migration policy, for a long time "laissez-faire" and increasingly voluntarist, has always oscillated between economic and demographic concerns, and, depending on economic and political conjunctures, gave priority either to employment or to settlement considerations. It is a hybrid model somewhere between settler societies (USA, Canada etc.) and those that privileged the labour market in migration management (Germany, Austria, Switzerland)<sup>3</sup>.

**4. It remains the sovereign right of each State to determine which non-nationals enter into and remain on its territory, for what purpose and under what conditions.**

Selecting and willing to maximize benefits from immigration and (im)migrants, sorting potential arrivals into "good" and "bad" for the French society and economy is neither new nor specifically French. Some foreigners have always been more desirable than others: for instance, the perceived ethnic proximity or distance (which evolved over time) of incoming immigrants have always and everywhere been high in the hierarchies of desirability versus rejection.

In accordance with the EU-wide recognition of the necessity of immigration for the European economy, the new French legislation promotes selected immigration (*immigration choisie*) in specific economic sectors where job supply exceeds demand (construction, catering and in general, "where vacancies exist and difficulties in recruitment are manifest"). France tries to attract skilled workers, facilitate the admission of students and provide jobs and residences for the best among them. Attracting the best should not be to the detriment of the countries of origin, depriving them of their "brains" neither should it imply "de-skilling", non recognition or inadequate recognition of the credentials and know-how of immigrants. The downward social mobility of immigrants - especially of women employed in precarious jobs in typically female occupations in the labour market - remains a blind spot in policy.

**5. The principle of selection should also not be to the detriment of the admission of those in need of protection,**

who have to be admitted on humanitarian grounds and those who have the right to immigrate as families. These cases have become increasingly undesirable, and while promoting selected immigration, the new legislation tends to limit the so called "endured" (*subie*) immigration. The persons in need of protection are expelled, their family members separated.<sup>4</sup> The rights related to private and family life are restricted, family reunification (but also the stabilisation of immigrants' stay in France) is made more difficult and subjected to additional conditions. Stricter criteria for the recognition of resources and the number of restrictions pertaining to the obtaining and renewal of residence cards as well as for naturalisation are introduced. The waiting periods

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<sup>3</sup> Yann Moulier Boutang and Demetrios Papademetriou (1994), Typology, evolution and performance of main migration systems, In: OECD: *Migration and Development*, pp.19-35.

<sup>4</sup> In spite of numerous public declarations of the President Sarkozy that the persecuted can automatically become French...(Libération, 5 October 2007).

(to bring over family members, to obtain a residence permit, to get naturalised) are extended.

6. The new legislation entails paradoxical tendencies:

- Firstly, there is a **reversal of the logic of integration**, which is a process **posterior** to admission and immigration. It is now instrumentalised for the purpose of admission of reuniting spouses who are asked to provide **beforehand** proof of integration in the form of a contract testifying their knowledge of French and acceptance of French values. The basic right to a family life is thus subjected to a condition of integration even prior to contact with French society.<sup>5</sup>

- Secondly, the **conception of what “family” and “family life”** are seems to be different for French citizens and for would-be immigrants. With the aim of limiting “endured” immigration, legislators, on one hand, deprive immigrant families of family life for years by extending waiting periods, limiting the possibilities of some families to join the spouse in France and *de facto* separating family members, which has detrimental effects on their integration in the country. On the other hand, whereas the institution of family is changing and multiple types of families are recognised in French society<sup>6</sup>, the legislation pushes immigrants to conform to the most traditional type, reducing family to biological family (genetic tests as proof of filiation) and not recognizing the cohabitation and other types of partnerships.

7. **The legislation has gendered effects although it is in essence gender neutral**: it is more detrimental to women because they are, statistically speaking, more likely to be among the “endured immigration” as reuniting spouses and less likely to be among skilled migrants and professionals whose immigration the new legislation wants to promote. By increasing the number of years of marital life as a condition for obtaining the residence card or for obtaining French citizenship, the legislation increases the spouse’s, i.e., primarily women’s, dependent status in the couple. Separation or divorce then become highly risky and unlikely steps.

8. **Rich countries like France remain accessible, whatever measures are taken to curtail migration**. It is important to bear in mind that restrictive policies are largely ineffective and transform migration flows into business opportunities for traffickers and smugglers. Illegal entries have not been stopped in spite of the measures taken – rather migrants tend to rely more and more on professional intermediaries.

Likewise, making family reunification increasingly difficult, restricting access to the labour market of spouses or of asylum seekers feeds directly into alternative circuits and into the informal labour market. It gives rise to precisely those conditions and situations which the advocates of the *fight against illegal immigration* and the underground economy want to abolish.

9. The economic imperatives of the “*trente glorieuses*” in France were such that most workers arrived not via the official recruitment channels of the l’ONI<sup>7</sup>, but as tourists, as workers under “nominal contracts”, and the authorities closed their eyes as long as the workers responded to the immediate needs of the labour market. In France **the**

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<sup>5</sup> « L’évaluation du niveau de français au coeur du texte de loi », *Le Monde*, 20 Septembre 2007.

<sup>6</sup> Recent data show that more children are born in non married couples than in married ones.

<sup>7</sup> L’Office National d’immigration.

**regularisation of legal status after entry was parallel to possibilities of permanently establishing residence in France:** it provided access to a privileged resident permit giving access to jobs in all sectors of the labour market without geographic restriction that was automatically renewable; it also included the possibility to automatically regularise the status after ten years of residence; it facilitated the naturalisation procedure and the inclusion effect of *Jus soli* on the children of immigrants.

10. The **right to automatic regularisation after ten years of residency in France no longer exists**, nor is the ten-year residence permit automatically renewable. Currently, regularisations are not envisaged as a possibility of reform except, according to the most recent legislation, in cases of occupations where difficulties of recruitment locally persist. This is regarded with suspicion by the *sans-papiers* organisations and by the NGO immigrant and other support organisations, which fear that the authorities would use this as a “trap” to locate undocumented immigrants and their work premises, detain them and expel them from France.

These fears are not unfounded: the government, with in the frame of its objective to fight illegal immigration, has implemented a quota of annual expulsions of undocumented immigrants: it was 25,000 for 2007.

11. **Concerning integration**, one has to underscore that France is today a *de facto* multicultural society in which the ideology of republican universalism, in the tradition of French revolution, remains very strong: *la République* knows only French citizens without distinction of race, origin or religion, and expects the others - foreigners, newcomers - to assimilate. The principle of equality and political priorities that republican universalism implies have influenced the policies and even more the action in the areas of immigration, integration or fighting discrimination. As Patrick Weil says, “*each time the Republic is confronted with its diversity, it is the principle of equality that comes to the fore as the best response*”.<sup>8</sup>

Legislation guided by universalistic principles can, however, create discriminatory situations which are aggravated when gender, class and ethnic divisions intersect. For instance, the implementation of *contracts of integration* for immigrants (with the latest law applying even before they enter the country - as a condition of entry), is guided by this universalist tradition - suspicious of ethnic communities and focusing on the individual only - prevents some categories of migrants from even reaching the status that would entitle them to claim equal access to rights.

12. In the public imagery in France, **the focus is more on immigrants as social problems, on the “failure of their integration”**, rather than on positive outcomes of migration and on immigrants’ multiple and outstanding contributions to social, cultural, economic, scientific and political life in France over a long period of time. A historical view of the social perception of immigration suggests caution should be used in the political treatment of this matter. Previous experiences have revealed that racism is not a matter of cultural distance, as the sources of “integration problems” have evolved constantly. In the fifties, the Italians and Spanish were rejected for their incapacity to assimilate to French society.

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<sup>8</sup> Weil, Patrick (2005). *La république et sa diversité. Immigrations, intégrations, discriminations*. Paris , Seuil.

In the name of this universalist principle the HALDE (Haute Autorité de lutte contre les discriminations et l’exclusion) declared the latest French migration law discriminatory.

In the middle of the nineteenth century, French Bretons migrating to the French town of Nantes were held responsible for delinquency and insalubrity, which were once again attributed to cultural habits<sup>9</sup>. It seems that the social difficulties of the poorest are often, in public opinion, confused with cultural distance when the two intersect. In the context of substantial low-skilled immigration, new European immigrants could therefore soon be the next to be designated as facing “problems of integration”. This is especially likely if the social dimensions of immigration are continued to be neglected in migratory policies.

**13. Integration of immigrants is primarily conceived of as integration into a nation.**

This is understandable given that immigrants are mostly non-nationals and receive different treatment than nationals (do not vote, can be expelled, cannot have access to all jobs, etc). They are, as Aristide Zolberg used to say, an anomaly from the point of view of the nation state. Those who eventually stay permanently have the possibility to become “naturalised” - become French nationals, and their children born in France will also become French, unless they decide otherwise. France has a record of facilitated naturalisation, compared to some other European countries where, despite long-term settlement, becoming a part of the receiving nation is extremely difficult (Switzerland) or where *jus soli* does not apply or did not apply until recently (Germany).

The focus of both integration studies and public policies focusing on integration has been on those who stay in France – and these have been, according to various sources in different historical periods, between 50-60%. Those who returned to their country of origin after a short stay or passed through were neither the focus of studies on integration nor targeted by public policies. Once gone, they did not integrate and did not become the part of the nation. Nevertheless, the fact that approximately 40-60% of migrants do not stay should temper the affirmations about the inevitability of the transformation of temporary migration into long-term settlement: true indeed, but for those who remain.

**14. Integration into a society is, however, always a multilevel and multiform sort of participation,** and integration at the national level, automatically central when dealing with immigrants, is both too general and not always the most adequate framework for appreciating the reality of their participation and in devising appropriate policies. While immigration policy is often determined, designed and funded at the national level, the integration of immigrants is a policy area where a **local approach** is critical. Language learning, training and re-training, recognition of know-how and skills, and encouragement of labour market participation including ethnic entrepreneurship are examples wherein different initiatives may benefit from one another by targeting a wide range of persons, including immigrants. It is also politically easier to encourage political participation at a local level than at the national level. Other forms of civic participation also mostly take place at the local level.

15. Another level where integration takes place and is important to consider in our globalized world is at the **transnational level**.

Before they settle in another country, most people tend to circulate between their place of origin and the country or countries of work. Others, for different reasons, never settle, but commute for a considerable portion of their lifetimes (“settle in mobility”) before

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<sup>9</sup> Guyvarc'h, D. 1996. "Un manifeste de 1851 contre les immigrés bretons (An 1851 manifesto against Breton immigrants)." *Genèses* (24):137-144.

“returning” or starting another move (multiple migrants). Empirical evidence increasingly suggests that a stable status (permanent residence, naturalisation), generally seen as a strategy of integration into the nation, can be, in the context of globalisation, a strategy of **integrating transnationally**, one which enables people to connect easily across borders and develop different practices such as cross-border businesses which can have an integrative function: circulatory migration has been, in many ways, a regional dynamising factor. There is also evidence that legalised or stabilised foreigners often return to take up residence in their home country, but use their status to travel back and forth for work or other purposes at various intervals.

For these people, settling permanently is obviously not an attractive option, but they acquire stable status as a security measure in the absence of other options that would procure and guarantee rights and opportunities (including free circulation) that are otherwise unattainable. This is a **challenge for state policies to innovate**:

*“Facilitating the back-and-forth movements, according to the regimes adapted to each situation – for skilled workers, but also for seasonal ones, will be one of the major tasks of the migration policies in the 21<sup>st</sup> century. The inert 20<sup>th</sup> century state was fond of stable populations...[it] wanted the immigrant to be either here or there, permanently and under control. The 21<sup>st</sup> century state should regulate immigration rather than try to “control” [it] with rigid and inadequate tools. It has to get used to managing the rights and the statutes of the nationals abroad and foreigners on its territory, in short, besides sedentary immigration, the migrants on the move.”<sup>10</sup>*

This would require interstate and/or regional cooperation and could imply multiple entry or long-term visas and the free movement of persons within the framework of regional integration processes or that of the development of the regions of origin.

16. By **way of conclusion** I would like to quote colleagues whose work has been inspiring for many migration scholars and who spell out the concerns that many of us share.

*“Forecasting about migration is a delicate exercise if it does not also take into account political parameters: none of the potentialities of evolution should be neglected, while at the same time one has also to be able to detach oneself with from the specificities of the moment”<sup>11</sup>.*

*“One cannot expect too much from migration policy. The most to be expected of migration policy is that it be consistent with programmes to reduce inequality and improve employment. Even the strictest migration policy – with effective control and enforcement on admission and thereafter - in industrialised countries would have no genuine impact on the fundamental factors giving rise to emigration. Only co-operation and development programmes can be effective at the source of international migratory movements which reflect a refusal to accept economic and political under-development”<sup>12</sup>.*

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<sup>10</sup> Patrick Weil (op.cit. p.46).

<sup>11</sup> Georges Photios Tapinos (1992), L’immigration en Europe et l’avenir des populations étrangères, *Commentaire*, Volume 15, N°59, pp.581-590.

<sup>12</sup> Yann Moulier Boutang and Demetrios Papademetriou (op.cit. p.31).