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FAMILY MIGRATION POLICIES IN FRANCE

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January 2010

**WP5: Gendered patterns of migration: Empirical developments &
WP6: Comparative legal and policy analysis**

About the project

Family related migration has been the dominant legal mode of entry in Europe for the past few decades, but has become increasingly contested in recent years. Granting migrants the right to family reunion has traditionally been considered as promoting the integration of migrants into receiving societies. However, in current debates over the ethnic closure of migrant communities and the alleged “failure” of integration, the “migrant family” is increasingly seen as an obstacle to integration – as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages. As a result, family related modes of entry have been increasingly subject to restrictions, while the existing conditionality has been tightened up.

The research project analysed family migration policies in nine European countries from two angles. First, the project analysed policies and policy-making in regard to family related migration in a “top-down” perspective through the analysis of legislation, public debates, as well as through expert interviews. Secondly, the project analyses family migration policies from a “bottom-up” perspective, by investigating the impact of conditions and restrictions on migrants and their families and the responses and strategies migrants adopt to cope with these and to organise their family lives.

This project was financed under the programme New Orientations for Democracy in Europe (NODE, www.node-research.at) which is committed to exploring the future democratic development of Europe and its effects on citizens as well as politics. Within the perspective of the NODE-Research, the project on Civic Stratification, Gender and Family Migration Policy in Europe aimed at:

- Providing an empirically grounded analysis and evaluation of family migration policies in a broad range of immigration countries in Europe, including Eastern Europe;
- investigating how family migration policies create civic stratification;
- providing empirical evidence for the consequences of stratified rights for migrants immigrating for family related reasons;
- analysing how migrants challenge and cope with the constraints imposed by family migration policies;
- analysing the relationship between “civic integration” and social and political integration, and conversely, relationship between civic stratification and social and political exclusion;
- applying a gender based analysis both to the analysis of family migration policies and the impact of these policies on migrants; and
- developing basic principles that might help governments to design and implement fairer immigration legislation.

Table of contents

1. Introduction	3
1.1. International Migration to France since WWII	3
2. Policies and Discourses on Immigration	4
2.1. Immigration Policies in the 1940s	4
2.2. Immigration Policies in the 1950s – 1970s	4
2.3. Immigration policies in the 1970s and 1980s	4
2.4. Policies from the 1980s and 1990s.....	5
2.5. Immigration Policies Since 2000	6
3. Labour Migration	7
4. New Institutional Landscape	7
5. Regularisation	8
6. Family Migrations	9
6.1. Family migrations since 2000	11
6.1.1. Family reunification	12
6.1.2. Family members of French citizens	12
6.1.3. Private Life and Family Permit.....	16
7. Recent Changes and Current Situation in Family Migration	17
7.1. Family reunification	18
7.2. Beneficiaries and family reunification procedure.....	19
8. Recent Significant Issues	22
8.1. Integration	22
8.2. Forced Marriages	23
8.3. Grey Marriages	25
Appendix 1: Evolution of Binational Marriages in France (1996-2007).....	26
Appendix 2: Immigration Laws	26
Bibliography	29

1. Introduction

Migration policy has been a major political topic in the past few decades in France. In the last presidential elections this has certainly been one of the deciding factors. Nicolas Sarkozy and Ségolène Royal took different positions regarding immigration policies. As minister of the interior, Sarkozy tried through the 2006 law proposal (known as Sarkozy Law II) to limit family migration, encourage the highly-skilled migration stop the illegal flows, and promote integration into the French society. The socialist candidate Royal took a moderate stance on immigration, showing herself willing to regularise irregular migrants who have stayed in France for more than 10 years. (Tanaka 2007: 6-8)

As this paper illustrates, immigration has been one hot topic of the French political debate in the past few decades. The report provides an overview of French migration policies since the Second World War with a focus on family migration. Firstly, it presents statistics on migration flows and foreigners admissions from 1940s until 2005. Secondly, it outlines the history of French migration policies since the WWII and the political discourses around it. Finally, it presents the recent changes and the current situation in French migration policy.

This paper is based on literature research, on reports released by official institutions (government, advisory bodies, parliament), as well as on other sources referring to the legal and policy developments, such as international reports, legislation texts, internet publication, press releases etc. The migration flows analysis is based on official data from censuses or official reports.

1.1. International Migration to France since WWII

During the years of economic reconstruction after the WWII, immigration flows for the purpose of work increased from 325,200 between 1944-55 to more than one million people in the 1956-67 (the numbers do not include seasonal workers – see Table 1). The immigration flows decreased by the early 1970s when the economic crisis generated a low employment rate.

Table 1. Immigration into France 1946-95 (Thousands)

	1946-55	1956-67	1968-73	1974-80	1981-87	1988-92	1993-95
1. Workers	325.2	1,205.9	801.3	192.9	195.1	118.6	55.8
Rate/year	32.5	109.6	133.6	27.6	27.9	23.7	18.6
% (of immigration)	49%	44%	39%	14%	17%	20%	21%
2. Seasonal workers	247.6	1,126.9	821.9	857.3	664.2	258.5*	31.0*
Rate/year	24.8	102.4	137.0	122.5	94.9	51.7	10.3
%	37%	41%	40%	61%	59%	43%	12%
3. Family members	91.7	404.2	423.2	351.0	260.6	169.9	68.8
Rate/year	9.2	36.7	70.5	50.1	37.2	34.0	23.0
%	14%	15%	21%	25%	23%	28%	26%
Total immigration	664.4	2,737.1	2,046.5	1,401.2	1,120.0	601.1**	269.0**
Rate/year	66.4	248.8	341.1	200.2	160.0	120.2	89.7
%	100%	100%	100%	100%	100%	100%	100%

*From 1992 Spanish and Portuguese workers are no longer counted as seasonal workers

**Since 1998 total immigration includes other groups (ie. refugees), not listed here

Source: SOPEMI, André Lebon, *Immigration et Présence Etrangère en France* (Paris: La Documentation Française) (Hollifield 1999: 62)

2. Policies and Discourses on Immigration

In this section we outline the main periods in the development of immigration policies from the post-war period until the present day. Since the stoppage of mass migration, family forms of migration have dominated flows. Humanitarian flows have become more significant but official labour migration has remained relatively low. Family migrants and asylum seekers have contributed to the expansion of the labour force.

2.1. Immigration Policies in the 1940s

After the Second World War, immigration into France was ruled by the “Ordinance no 45-2658 from November 2nd, 1945 regarding the entrance and residence of foreigners in France and the establishment of the National Immigration Office”. This Ordinance was the first legal act through which the state coordinated immigration into its territory. (Weil 2004: 79) An official body – the National Immigration Office (ONI) – was created in order to recruit and place foreign workers in certain areas of the French economy. In the post war period the immigration policies were influenced by two major groups – planners (represented by the General Planning Commission (CGP)) and demographers. However the economic plans between mid-1940s and mid-1970s made by the CGP and ONI’s recruitment could not satisfy the great demand of workers in the labour market. (Freedman 2004:11, Hollifield 2004:189). Therefore, private companies, circumventing the state’s control in the matter, got workers from the colonies. These workers were usually only later “regularised” (Freedman 2004:12). This mode of bringing foreign workers and avoid both the external and internal control of state’s institutions has become known as “immigration from within (*immigration interne*)” (Hollifield 1999: 61, 2004: 189).

2.2. Immigration Policies in the 1950s – 1970s

During the *Trente Glorieuses*, which followed the Second World War, immigration policies were strongly determined by three major factors: the economic reconstruction, the desire to increase the French population, and the belief that French society has the capacity to integrate new comers, based on the strong republican tradition¹. After the independence of the Maghreb countries, workers were still coming in great numbers to France, especially from Algeria, because of their “quasi-citizens” status. Three major reasons – the need for a labour force, the unclear status of citizens of former colonies and the respect for the civil and human rights – led to a relatively open immigration policy in France until the mid-1970s. Immigration grew from 66,400 individuals per annum in the 1946-1955 to almost 250 thousand in the 1956-1967 (Table 1). The economic crisis that followed the oil price shock led to a rise in unemployment and waves of xenophobia. French citizens were seeing the immigrants as the main cause for the lack of working places, and politicians start acting in the direction of stopping immigration. Consequently, the immediate measure was to stop recruiting foreign labour. Additionally, external and internal controls were introduced – visas and work permits respectively. (Hollifield 2004: 189-191) However, immigration from former colonies continued through family reunification.

2.3. Immigration policies in the 1970s and 1980s

The governments from the mid-1970s and 1980s tried to stop immigration through different measures. During the d’Estaing presidency the imposed end of immigration led to a growth

¹ The republican tradition – steaming from the French Revolution – is based on egalitarian ideology that stands for popular sovereignty, citizenship and human rights. However, republicanism is also regarded as a mean of justifying certain decisions and not always as a ground for different actions (Gomes 2004:216).

in the settlement and family reunification processes, as the “liberal naturalization policies were not changed”. (Hollifield 1999: 63). By stopping immigration, the foreign population was determined to stay in place, so the migration through family reunification increased considerably. In the same line of stopping immigration, the Chirac and Barre governments wanted to stop family reunification by denying visas and expelling family members. The Mauroy government had a different approach, making everyone who came to France before January 1981 eligible for a temporary resident permit. This was aimed to give them time to apply for regularisation. Moreover, an internal control was instituted through “*inspecteurs du travail*” that made unexpected work checks and had the power to sanction employers if any illegal employee was found. Charles Pasqua, as minister of the interior in the Chirac government, dealt with the problem through the border police – he increased the power of the “*Police de l’Air et des Frontières*” to undertake border controls, to detain and deport. (Hollifield 1999: 65-66)

2.4. Policies from the 1980s and 1990s

In the early 1980s, immigration became a major political issue with the rise of the National Front and growing challenges by the second generation from North Africa. The anti-immigration discourse was not just propounded by the Far Right but also by the mainstream right, for example, Jacques Chirac, who argued in 1991 that France had too many (an overdose) of the wrong kind (Muslims and Blacks) and that they were able to live off social benefits given the size of their families. Hence what was needed was a moratorium on family migration. The First Pasqua Law on immigration proposed in 1986 was drastic, trying to prevent the naturalizations and integration of African immigrants, and increasing the waiting period from one to two years for the non-national husbands and wives of French citizens before they could apply for naturalization. The effects of these policies are seen in the 1990s, when less than 100,000 people migrate yearly to France between 1993 and 1999. This was one of the lowest rates since the 1950s. Consequently, there was an increase in the number of undocumented immigrants, as more than 12,000 people were apprehended when trying to enter the country illegally. (Hollifield 2004: 200)

The Second Pasqua Law, in order to discourage immigrants from settling, tried to withhold several social rights such as health care or the possibility to appeal the decisions regarding asylum. After the Constitutional Council ruled some provisions unconstitutional, the amended Bill – still imposing restrictive procedures for asylum applications – passed in 1994. The Debré Law proposal from 1996 addressed issues such as “French-born children of illegal immigrants and the foreign spouses of French citizens”. The final version of the bill required African visitors to bring proof of appropriate accommodation and financial resourced for their staying in France as well as for their returning way. (Hollifield 2004:205-205, Weil 2004:240-241) All these measures, even after the introduction of external controls through visas, had no provisions regarding quotas, in the same spirit of the republican tradition that imposes an equal treatment for all citizens of developing countries. (Hollifield 2004:205-206)

The next prime-minister, Lionel Jospin, showed himself willing to reconsider both the Pasqua and Debré laws and to loosen the immigration policy. Therefore, the Guigou Law allowed for all people born on French territory to apply for naturalisation, including the eighteen years old children of foreign parents, children that became citizens if they resided in France at least five years after the age of eight. The Chevènement Law amended the Ordonnance of 1945 imposing measures that underline the importance of the family in the French law – residence permits for minors entering the country for family reunification, for foreign spouses of French citizens and foreign parents of French children. (Hollifield 2004: 207-209) Some of these amendments of the 1945 Ordonnance are still in force in the today’s legislation. Thierry Mariani, deputy from the party Rally for the Republic (*Rassemblement pour la République* – RPR), commented in June 1993 that the constant use of family reunification puts in danger social equilibrium of certain communities. Five years later, in April 1998, he

considered that France must take in whom she wants and who wants to come, as that is part of French sovereignty. In response to the Chevenement Laws in 1998, Charles Pasqua, former Minister of the Interior, proclaimed that these would make the country a haven for all the unfortunate of the earth.

2.5. Immigration Policies Since 2000

Nicolas Sarkozy, as Minister of the Interior, had already stated in 2003 before the first of his changes in immigration legislation later that year, that legal immigration consisted only of those forms France is forced to accept – family and asylum – and he went on to complain about the low proportion of selective immigration. He floated the idea of quotas and a point system but this was unlikely in France to be accepted (Lochak 2006).

By 2005 Sarkozy was emphasising the “*détournements de procédure systématiques*” of the past few years, such as baseless asylum applications (*bidon*), sham marriages (*mariages blancs*)², and out-of-date tourist visas. He stated that “it should be understood that if France wants to remain a generous and welcoming country, it must demonstrate its firmness to those who abuse and undermine its generosity (11 June 2005 to the executive of the UMP). In the same vein, “it’s up to the government, the legislator, to decide under what circumstances the right to personal and family life applies in France (having previously incorporated this from the ECHR Article 8 into French legislation). “There will not be an absolute and unconditional right for all the families of the world to settle in France, without plans for integrating, without work, without proper housing, without a future. It is within this perspective that I see the reform of family reunification”. (Interview with Sarkozy in the journal *Réforme*, 4 May 2006)

Moreover the recent changes in French immigration laws (2003, 2006, 2007) have reflected the desire to shift policies away from family migrations which have in recent years been steadily growing (see Table 2). The growth was due to the creation in 1998 of a new permit based on personal and family life which was a response to both Article 8 of the ECHR on the right to family and personal life and the continuing increase in the number of mixed marriages between French citizens, many of them of migrant origin, with non-French citizens.

The government presented the latest law as the third in a series of laws beginning in 2003 that would improve the conditions under which family reunification takes place. Up to this point, statistical analysis indicates that the number entering to join those with French citizenship and settled status has decreased but that visitors have increased dramatically. The number of marriages conducted abroad has increased, rather than the ones officialised in France, which would indicate that for the moment the problem is being displaced. The figures may also have declined because new accession countries no longer need a short-term residence permit although they do need an authorization to work.

The shift away from what has been called *immigration subie* (endured or imposed migration) to *immigration choisie* (selective in France’s economic interests) follows from low levels of economic migration. At 7% of total immigration in 2005, France has one of the lowest levels of labour migration in Europe. Following the riots of October-November 2005, young migrants were also accused, in particular by the Right, of causing problems, especially delinquency. The argument is that France should not place itself at one of two extremes – either zero migration or a generalised opening of its borders. Instead it should seek to adopt

² The term of “*mariages blancs*” came into use in the 1980s when authorities became suspicious of mixed marriages being used as a means of acquiring French citizenship. So too have mixed marriages and those celebrated in the country of origin been seen in this light and hence resulted in hardening of immigration regulations and emergence of associations challenging and fighting restrictive legislation and its inhumane application.

managed migration (*maitrise du flux d'immigration*) to take account of its capacity to integrate migrants.

3. Labour Migration

Unlike the United Kingdom, Ireland and Sweden, France did not open its labour markets to Eastern Europeans immediately after the 2004 enlargement, but it only opened up in selected shortage areas. Figures are not yet available for this restricted opening but prior to this development legal Eastern European immigration had not been particularly extensive.

A series of other measures have been implemented in order to increase the number of those entering for employment purposes. The intention is to push this to 50% (not clear whether this is of non-European migrants which will be much more difficult than if European were taken into account (4th report 2007). In effect about 60% of those getting permits for work are already in France for another reason e.g. students or visitors.

The following measures were put in place in 2007-8:

1. Administrative process eased for highly skilled
2. Skills and expertise permit created in 2007
3. Labour market opened up partially for new accession countries with 61 occupations and now increased (February 2008) to 150. These are primarily in skilled trades, computing and nursing assistants and domestic help. Largely male occupations.
4. Similarly possibility of being regularized for those with specified skills (varies according to region) and with a long-term job offer. Fairly limited and mainly in computing skilled building trades.

However, we should be wary about constructing a clear distinction between economic (*choisie*) and non-economic (*subie*) immigration given that large numbers of family and other migrants enter the labour force. Since 1996 the DPM (*Direction de la Population et des Migrations*) has maintained statistics on entry by migrants into the labour market which is divided into 3 categories:

1. **Direct** – those who enter for employment purposes
2. **Indirect** – those who enter for other purposes but enter the labour market in the same year as their entry e.g. family reunification spouses and parents of French nationals, refugees and family members, and those under 18 who enter on a personal and family life permit and join the labour force
3. **Delayed** – those who are in France on 1 January of a particular year but who did not previously join the labour force.

From 1990 to 1997 the number of new entrants fell but since 1997 they have risen to 116,000 in 2003 of whom over half were classified as indirect. The increase in indirect entrants since 2000 is due to the increase in family migration which is thus the principal source of active migrants (Regnard 2006). Most of them are young and amongst those from non-EU countries 60% male. It is estimated that of the 88,000 migrants entering the labour force in 2005, only 10,000 were economic migrants and 78,000 were family migrants and students. Furthermore between 1995 and 2005, 35 % of migrants in employment had a higher degree or twice the percentage of the French (17%) (Faure 2008).

4. New Institutional Landscape

At the same time the institutional landscape has been completely redrawn, merging those institutions which were more autonomous such as the SSAE, a private association funded by

the state, with state institutions at the centre of state power and control. Thus the SSAE (*le Service social d'aide aux émigrants*) was taken over by the *Office des Migrations Internationales* in April 2005 to become the ANAEM (*Agence nationale de l'accueil des étrangers et des migrations*). SSAE's mixed status (associative and public service) gave it a certain room for manoeuvre and ability to vary its policies in different contexts (*Plein Droit* no. 72 March 2007). In October 2006, *le Fonds d'action et de soutien pour l'intégration et la lutte contre les discriminations* (Fasild) (originally set up in 1958 during the colonial period to work with migrant workers) also disappeared to become the *l'Agence nationale pour la cohésion sociale et l'égalité des chances* (Acsé). It represents, however, more than a change of name for many of the activities of the *Délégation interministérielle à la ville* (Div) related to deprived urban areas have been transferred to it as well as activities to combat illiteracy (*l'Agence nationale de lutte contre l'illettrisme* – ANLCI). Thus reception of new arrivals and integration of established populations are clearly separated.

L'OFPRA (*Office français de protection des réfugiés et apatrides*) has been transferred from the Foreign Affairs Ministry to the new *Ministère de l'Immigration, de l'Intégration, de l'Identité nationale et du Codéveloppement* which was created on 1 June 2007 shortly after Sarkozy came to power.

5. Regularisation

A distinctive feature compared to other Northern European countries has been the use of several large-scale regularization programmes. Regularisation refers to the process through which an irregular migrant becomes a legal status in a foreign country of residence. The irregular status can be the result of entering the country without authorisation or with an authorization which is no longer valid due to a change in the situation of the migrant or to overstaying after the expiration date. (Sohler 2009: 1-2). Regularisation programmes are part of the French policies aimed at preventing and limiting irregular immigration. Since 1973 there have been six such programs in the subsequent years – 1973, 1980, 1981-1982, 1991, 1997-1998, 2006. The most important in terms of the number of regularised migrants is the one from 1981-1982. It addressed the foreign workers who have entered France before 01.01.1981, political refugees, trainees, apprentices, seasonal and temporary workers, and foreigners who became unemployed when asked their employers for regularisation. With 130,000 regularised migrants out of 150,000 applications, this programme had a 86,7% regularisation rate. (Sohler 2009: 6, 39)

Family migration becomes an area addressed by the regularisation programmes in the 1990s, when the criteria for regularisation became stricter, excluding from the programme the family members who entered the country illegally. Although these members were exempt from deportation in terms of their right to family life, they were not able to regularise their status. The programme from 1997-1998 addressed the situation of family members and long-established families, foreigners without family dependants, refused asylum seekers, ill persons, and students. Therefore, this programme was particularly aimed to clear the situation of those “trapped” with an irregular status. Out of 135,000 applications, 87,000 were granted a renewable, temporary residence and work permit for one year. This translates into a regularization rate of 64%. (Sohler 2009: 3, 9, 39) Regarding nationalities of immigrants regularised during the 1997-1998 programme, one third was composed by nationals of the Maghreb countries and one quarter by nationals of different sub-Saharan African countries. These programmes can provide an explanation for the increasing number of the immigrants from Algeria, Morocco and Tunisia in the censuses from 1982, 1990 and 1999 (Table 5)

Table 5. Immigrant population by origin

	1982		1990		1999	
	Total	%	Total	%	Total	%
Total population	54,295,612		56,651,955		58,518,395	
Immigrants	4,037,036	7.4	4,165,955	7.4	4,306,232	7.4
Algeria	597,644	14.8	555,715	13.3	574,208	13.4
Morocco	367,897	9.1	457,456	11.0	522,504	12.1
Tunisia	202,564	5.0	207,127	5.0	201,561	4.7
Sub-Saharan Africa	122,392	3.0	275,182	6.6	400,000	9.3
Italy	570,104	14.1	483,695	11.6	378,649	8.8
Spain	471,968	11.7	397,126	9.5	316,544	7.3
Portugal	638,492	15.8	599,661	14.4	571,874	13.2
EU Total	2,014,148	49.9	1,782,598	42.8	1,629,094	37.1
Turkey	121,212	3.0	168,359	4.0	174,160	4.1
Southeast Asia	124,420	3.1	158,075	3.8	159,750	4.0
Other	820,344	20.3	863,599	20.7	997,249	23.1

Source: INSEE, 1982, 1990, and 1999 Censuses (Simon 2003: 1095)

The regularisation programme from 2006 targeted families with one or more children enrolled in school and with at least one parent who lived in France for at least two years. Out of 33,538 applications, 6,924 were regularised, which resulted in a regularisation rate of 20.6. (Sohler 2009: 39, 20) A major difference between the 1997-1998 and 2006 programmes, apart from the decreased regularisation rate, was the condition for return assistance. In the former programme immigrants could apply for regularisation and then, if applicable, for return assistance. In 2006, the migrants had to give up the assistance for voluntary return before they applied for regularisation. Moreover, the financial support was doubled in 2006 in order to encourage irregular migrants to opt for voluntary return rather than for regularisation. This measure, and also the communication of the results (only 6,924 regularisations from 33,538 applications) had a political message addressing the unwillingness to legalize irregular migrants, with the exception of humanitarian cases. (Sohler 2009: 21, 22)

6. Family Migrations

We have outlined the development of immigration policies in France from the post-war period until the recent years. The distinctiveness of French post-war immigration policy was its encouragement of family migration, which fitted with the desire of the state for migrants to contribute to demographic growth (Granotier 1979). No single policy applied to all foreigners, rather there was a bewildering array of regulations. Until 1962 Algeria was considered part of France but even after independence any Algerian with an identity card could enter France without needing a residence or work permit. So too until 1974-5 could those from its former colonies in Africa. Internal migration was also encouraged from its overseas departments in

the Caribbean to fill labour market shortages, particularly in the lower echelons of the public service.

Family migration increased in the 1960s, from 41,000 per annum in 1960-4 to 55,000 per annum from 1965 to 1969. It varied considerably across nationalities, being high amongst Italian, Spanish and later among Portuguese migrants. Labour and family migration both peaked in 1971 with 177,377 and 81,496 respectively. It then decreased in 1972-3 when over 70,000 entered as family migrants annually but became the dominant source of migrants with the stoppage of mass labour recruitment in 1974 (Dumon 1976).

As immigration laws changed several times in the 1990s, so too did the numbers of immigrants under the title of family migration. The decree from the 1993 increased the waiting time before one could apply for family reunification. Therefore, the numbers decreased after this year, to increase again in the 1998 when a new permit for “Private and Family Life” was created. This contributed to the rise in the total number of immigrants under the title of family migration. (Table 2)

However, policies towards family migration fluctuated enormously from one Secretary of Immigration to another. In 1976 Paul Dijoud declared that the government wanted to facilitate family migration. The following year the new Secretary announced its suspension for three years. The attempted curtailment of family reunification was rejected by the State Council (*Conseil d’Etat*) after a case brought by the *Groupe d’information et de soutien des travailleurs immigrés* (GISTI), a leading organization campaigning for migrant rights (Kofman et al. 2000).

It declined considerably in the 1990s and then rose rapidly such that between 1995 and 2002 it almost doubled before stabilizing. Present flows are shaped by past flows though not in a mechanical fashion but in relation to the characteristics of their entry, for example differences between those who enter single compared to those who enter with their family. The reproduction of families cannot be studied with existing statistical evidence which monitors outcomes but not the relationship of current migrations with preceding ones (Thierry 2007). Amongst the family reunification applications made between 1993 and 2005, only 30% formed their families in their country of origin before settling in France. The rest migrated as adults (40%) or as children (30%).

Table 2. Family migration 1995 – 2005

Year	Family Reunification	Family member of a French citizen	Family member of a refugee/ stateless	Personal and family ties
1995	14,360	16,458	749	-
1996	13,889	15,641	864	-
1997	15,535	14,419	1,102	-
1998	21,690	15,598	991	-
1999	21,762	27,396	943	3,314
2000	21,404	36,012	1,120	5,093
2001	23,081	42,567	1,422	5,564
2002	27,267	52,995	1,475	7,123
2003	26,768	61,489	1,249	10,643

2004	25,420	61,625	1,628	13,989
2005	22,978	56,609	1,583	14,219

Source: ANAEM, OFPRA, Ministry of Justice, Ministry of the Interior

Total permanent migration flows increased after the 1997 regularisations (Table 3 - Other): from 48,410 in 1996 to 74,455 in 1997 and to 110,728 in 1998. In 1999 there was a drop in permanent migration to 82,753, and it gradually increased every year up to 141,561 individuals in 2004.

Table 3. Permanent Migration Flows of Non-EEA Nationals between 1995 and 2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Family	31,567	30,394	31,056	38,278	53,415	63,629	72,634	88,860	100,149	102,662	95,389
Work	6,145	4,753	5,237	5,427	6,280	6,403	9,244	7,979	6,906	7,041	8,920
Visitor*	6,352	8,905	15,127	16,889	8,538	8,424	8,968	9,985	7,616	5,731	4,825
Refugee	4,742	4,344	4,112	4,342	4,951	5,570	7,587	8,700	9,916	11,420	13,770
Other**	16	14	18,923	45,773	9,569	7,849	8,430	8,728	11,807	14,707	12,986
Total	48,822	48,410	74,455	110,728	82,753	91,875	106,863	124,252	136,394	141,561	135,890

*noncitizen, with a resident permit for at least one year and who can support him/herself without working in France

**regularisations from 1997, private and family life permits (for other reasons than family migration or asylum), work accident annuity holders, noncitizens with medical conditions, other resident permits granted without a medical check.

Source: ANAEM, OFPRA, Ministry of Justice, and Ministry of the Interior. (Tanaka 2007: 2, Régnard 2007)

6.1. Family migrations since 2000

Family migration is a term applied to all foreigners who hold their first residence permits as a result of a family reason. It may be for family reunification strictly speaking i.e. joining a primary migrant, or a family member with French citizenship or having a refugee or stateless status. It also applies to those whose personal and family links with France are such that to refuse them the right to reside would undermine their right to private and family life disproportionately (article 12 bis alinea 7 of 1945 regulation modified article L. 313.11 of CESEDA). Thus, family migration includes the following categories:

- family reunification
- family members of French citizens
- family members of refugees or stateless individuals
- personal and family ties (which is a type of "Private and Family Life" (VPF) residence created in 1998)

6.1.1. Family reunification

Regarding family reunification, it can be argued that there are three distinctive periods of immigration – 1969-1973, 1979-1980, and 1987-1989 – which are still influencing this type of immigration today. Foreigners who have entered France some decades ago have maintained family connections with individuals from their home countries, in behalf of whom they apply for family reunification residency. Between 1999 and 2003 there was a fourth period of immigration under family reunification reasons. This can be explained through increasing migration between 2000 and 2003, which also corresponds to the regularizations from this period.

Family reunification was relatively stable between 2002 and 2005, with numbers around 22,000 residence permits per year (Table 2). One of the major changes has been the sharp decrease in family reunification in its strict sense to immigration of family members of French citizens. In 2002 27,267 individuals came in under family reunification, dropping to 22,978 in 2005, and halving to 14,371 in 2006 (GISTI 2008). (Table 2)

However, the number of residence permits under the title of “Private and Family Life” increased from 6,864 in 2002 to 10,931 in 2003, to reach 22,194 in 2006 (Table 4). This progressive augmentation was caused by the regularisation of parents of children enrolled in a French school. (*Secrétariat Général du Comité Interministériel de Contrôle de l’Immigration 2007: 78*)

6.1.2. Family members of French citizens

The number of residence permits offered to family members of French citizens increased from 34,713 in 2000 to 40,961 in 2001 and to 59,251 in 2003. It decreased progressively in 2004 to 57,779, in 2005 to 55,379 and in 2006 to 54,695. (Table 4) This constant decrease in the number of permits for family members of French citizens can be explained through the application of the law regarding the validity of marriages. The preoccupation with fraud and sham marriages led to the law 14 November 2006 (*1376 relative au contrôle de la validité des mariages*) which imposes the same conditions for marriages abroad as for those in France. Article 79 of the 24 July 2006 Law had already extended the period of conjugal life from 2 to 4 years in order to obtain French citizenship. Article 5 had made the integration contract compulsory which would be taken into account when a person applied for 10 year permit. Since MISFEN (2003) the migrant joining the sponsor no longer gets the same permit but a temporary one year permit. The migrant needs 2 years residence or to be the parent of a French child to get a 10 year permit. Special permits apply to Algerians, in line with the French-Algerian agreement from 27 December 1968, modified on 11 July 2001. The modification seeks to apply the RESEDA law of 11 May 1998 regarding the different types of residency, such as “scientist”, “artistic and cultural profession”, “private and family life”. The eligibility criteria for these permits did not apply to Algerian nationals until 2003. This explains the drop in the number of permits under the “visitor” or “salaried” titles for Algerian nationals. (*Secrétariat Général du Comité Interministériel de Contrôle de l’Immigration 2007: 79-80*)

One should note that children under 18 are not counted in the family migration statistics unless they are 16 or 17 and are seeking to work. Parents and other family members are included as visitors but one cannot separate them out. Family members of a French citizen may receive different residence permits. The following may be given a long-term permit (CR):

1. A foreigner married for at least 2 years with a French citizen and on condition that the spouse has kept her/his French citizenship.
2. A foreign child of a French national under 21 years where the parent is responsible for the child.

3. A father or mother of a French child resident in France as long as they are at least partially responsible or providing for the needs of the child

Table 4. Admission of residence of Third Country Nationals (*Secrétariat Général du Comité Interministériel de Contrôle de l'Immigration 2007: 75*)

		2000	2001	2002	2003	2004	2005	2006
Economic	1 - Skills and talents							
	2- Self employed	1353	917	1035	329	284	323	382
	3 - Scientist	1156	1338	1197	1205	1171	1202	1312
	4 - Artist	195	172	219	302	241	288	183
	5 - Salaried	8569	11380	14055	6199	5274	5149	4613
	6 - Temporary	3570	4378	4450	4422	4328	4135	4221
	Total	14843	18185	20956	12457	11298	11097	10711
Students		45099	49466	54936	52317	49305	46294	44900
Family	1 - Family of French Citizen	34713	40961	45502	59251	57779	55379	54695
	2 - Family reunification	21258	21718	23283	23423	23310	22994	19495
	3 - Personal and Family	6999	5922	6864	10931	13295	14195	22195
	Total	62970	68601	75649	93605	94384	92568	96385
Diverse	1 - Visitor	8202	8577	7522	6540	6410	6012	6470
	2 - Minor	3241	2592	2277	1977	2521	2639	2780
	3 - After 10 yrs residence	3166	2806	2871	3815	3073	2674	2673
	4 - Work accident	74	76	203	120	74	41	66
	5 - veteran	419	383	332	392	448	292	240
	6 - Illness	1996	3414	4183	5524	7455	7191	6440
	7 - Retired	403	404	551	1481	2380	2465	2280
	8 - Diverse	3130	1711	2548	1168	907	718	440
	Total	20631	19963	20487	21017	23268	22032	21389
	Refugees	1 - Refugee and stateless persons	6032	7933	8841	11282	13370	14796
2 - Territorial asylum and subsidiary protection		407	318	209	147	225	347	370
Total		6439	8251	9050	11429	13595	15143	10190
Total		149982	164466	181078	190825	191850	187134	183575

The period of marriage before arriving in France also results in different permits – long or short-term. After 2003 the former fell substantially while the latter has become the dominant permit (see Table 5).

Table 5. Duration of Permits

	2000	2001	2002	2003	2004	2005
Long-term	15,992	28,765	21,120	16,228	8,037	7,895
Short-term	20,020	23,802	31,975	45,261	53,588	48,714
Total	36,012	42,527	52,995	61,489	61,625	56,629

Marriage status can determine the model of family migration which incorporates variables such as the age of family members or the size of the family. Patterns of family migration are also very different according to time of immigration and nationality. Those from Africa and Asia, who are more recent, include few who arrived as children. 80% came as adults and 50% had already formed a family before migrating. Amongst North Africans, applications for family members are often made by those who came as children (30% compared to 7% for Africans). However it's amongst the Turkish that this is the highest, as many children who arrived before the age of 16 go back in their country of origin to marry a conational. If this is the case for "three quarters of Turkish migrants", only "one third of Algerian or Moroccan" does so. (Thierry 2007: 92)

The duration of residence before a migrant submits an application is very long. Only 34% do so within the first 10 years of their stay, half within 15 years and 15% have been in France over 30 years. Women have lived in France for much shorter periods before making an application and they are more likely to join their husband and then bring their children (Thierry 2007). Regarding the length of the stay before applying for family reunification, this varies between men and women and according their marital status. Married migrants wait on average 7,1 years before filling in a request for family reunification, while the migrants arrived before the age of 18 wait more than 18 years before doing so. Married men apply for family reunification after an average of 10,1years, while married women only after 4,3. (Table 6)

Table 6. Total length of stay between the migration and the application for family reunification

	Family status		
	Arrived before 18	Arrived after 18 as:	
		Single	Married
Men	19,7	19,1	10,1
Women	17,2	10,3	4,3
Both sexes	18,7	17,1	7,1

Source: Ministry of Interior, Residence permit database. Statistical extraction achieved by INED
 Coverage: All first application submitted in 1993-2005 (Thierry 2007: 103)

A temporary residence permit is available for foreigners who want to visit France, for students, scholars, artists or individuals who come to France for personal or familial reasons. This permit is valid for one year and can be renewed if the requirements are still met. The reason for residing in France has to be specified on the permit, and it requires that:

1. the “visitor” must prove sufficient financial resources in order to live in France without any economic activity
2. the foreigner who wants to be “salaried” in France must provide evidence for meeting the requirements for the particular professional or commercial activity
3. the residence under the title “personal and family life” is given to foreigners who stay in France on account of their personal and family ties
4. the residence under the title “student” is given to foreigners who are enrolled in a higher education institution in France and have resources for daily life
5. “scientists” are engaged in a research or teaching activity in France
6. the residence under the title “artistic and cultural profession” is assigned to foreigners who are contracted by appropriate organisations (Secrétariat Général du Comité Interministériel de Contrôle de l’Immigration 2007: 77-78)

The number of residence permits issued for members of families of French citizens has remained one of the largest (after the one issued for students) each year between 2002 and 2006 (Table 7).

Table 7. Initial (temporary) residence permits

	2002	2003	2004	2005	2006
1 - Family of French citizen	26945	32448	38407	36824	35826
2 - Family reunion	1770	2632	6089	5724	5435
3 - Personal and family links	6914	8838	10898	11765	18646
1 - Self employed	407	354	278	302	356
2 - Scientist	1392	1377	1263	1307	1393
3 - Artist	292	397	308	326	226
4 - Salaried	7210	6404	5408	5235	4636
5 - Seasonal/temporary worker	5444	5245	4651	4470	4413
1 - Visitor	8019	7623	6201	5721	6163
2 - Student and trainee	55168	51873	47622	44917	43191
3 - Minor	1747	1689	2276	2370	2540
4 - After 10 yrs residence	2872	3550	2771	2316	2435
5 - Work accident	7	7	9	11	13
7 - Refugee and stateless person	85	46	61	63	79
8 - Illness	4152	4522	6105	6037	5540
10 - Territorial protection/subsidiary protection	65	67	121	287	333
11 - Various reasons		1		1	
Total	122489	127073	132468	127694	131225

Another indicator for the number of admissions of family members is the number of visas issued. The difference between numbers of visas obtained for family reasons and the numbers of medical visits with the purpose of getting these visas is to be explained through the medical appointments which do not correspond with the issuing dates for the visas. This difference leads to either more visas or more medical visits in a certain year. (Table 8) (*Secrétariat Général du Comité Interministériel de Contrôle de l'Immigration* 2007: 88-89)

Table 8. Visas for Family Reasons

	2003	2004	2005	2006
<i>Visas obtained for family reasons</i>				
Family of French Citizen	60747	59140	56646	55875
Family reunion	23808	23744	23502	20005
Personal and family links	11289	13724	14542	22900
Total	95844	96608	94690	98780
<i>Medical visit in order to obtain visa for family reasons</i>				
Family of French Citizen	59944	59991	54831	56352
Family reunion	26620	25378	23025	18270
Personal and family links	10020	13364	13641	21600
Total	96584	98733	91497	96222
<i>Visits minus visas</i>				
Family of French Citizen	-803	851	-1815	477
Family reunion	2812	1634	-477	-1735
Personal and family links	-1269	-360	-901	-1300
Total	740	2125	-3793	-2558

6.1.3. Private Life and Family Permit

This permit was created by the 11 May 1998 law (RESEDA) seeking to incorporate into French legislation article 8 of the ECHR for the respect of private and family life. It was slightly modified by the Law MISEFEN 26 November 2003 (*loi du 20 novembre sur la maîtrise de l'immigration, le séjour des étrangers en France et la nationalité*). However, the latest modification occurred in the Law of 20 November 2007 regarding immigration, integration and asylum. The private life and family permit is granted to the following categories:

- 1) A foreigner, in the year following his /her eighteen birthdays or who falls under the provisions of the art. L.311-3³ and:
 - a. whose at least one parent has a temporary or residence permit

³ This article of the CESEDA Law was modified by the 24 July 2006 Law on immigration and integration. It stipulates that foreigners between the ages of sixteen and eighteen who want to undertake a remunerated professional activity are entitled to a temporary resident permit, under certain conditions.

- b. who proves to have lived constantly in France with at least one of his/her legal parents (genetic or adoptive) after the age of thirteen
 - c. is under sixteen years old and in the care of social services
 - d. whose at least one parent has a temporary residence under the title of “competences and talents” or “salaried in mission”
- 2) A foreigner, except those in polygamous relationships:
- a. married with a French national, and if married overseas, for the marriage to be registered in France
 - b. married to a foreign national who has a temporary residence under the title of “scientist” / scientific residence
 - c. who is the father or mother of French citizen child on condition that they contribute to the maintenance of the child
 - d. who don't come under the following categories or of family reunification but whose personal and family links in France would be harmed disproportionately by being refused residence
- 3) Foreigner born in France who has lived continuously for at least 8 years in France and been in a French school for at least 5 years since the age of 10. S/he must request the permit between the ages of 16 and 21
- 4) A foreigner who has compensation for work injury or professional illness awarded by a French organisation and whose level of incapacity is at least 20%
- 5) A foreigner who has been granted a stateless status with regard to Law no. 52-893 25 July 1952, as well as spouse and their dependent children
- 6) A foreigner usually residing in France whose state of health who requires medical treatment, which lead to serious consequences without, and on condition that the treatment cannot be obtained in the country of origin

(*Code de l'entrée et du séjour des étrangers et du droit d'asile*, article L313-11 modified by the Law no 2007-1631 from 20 November 2007 on the management of immigration, integration and asylum).

7. Recent Changes and Current Situation in Family Migration

Setting up annual quotas (not applicable to asylum seekers or by ethnicity) in relation to the needs and capacity of incorporating migrants was one of the two main issues examined by the Commission on the Constitutional Framework of Immigration headed by Pierre Mazeaud. Its report of 11 July 2008 concluded, however, that quotas for family migration and asylum were contrary to human rights principles and against national and European legislation (Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification). Family reunification in the European directive cannot be restricted by quotas. Marriage for all, French and foreigner alike, too was a right. In addition, imposing quotas on labour migration was not useful and was ineffective in relation to irregular migration. It pointed out that, given only 5.8% of immigration in 2006 consisted of labour migration, increasing this component to 50% would have the undesirable effect of allowing unqualified migrants to enter simply to make up numbers.

The 2006 legislation represented a turning point in the French immigration policy, by stating explicitly for the first time the integration responsibilities of migrants. Both access to legal residence and citizenship were conditioned by explicit requirements of integration. Moreover, immigrants had to sign a “reception and integration contract” (*contrat d'accueil et d'integration* - CAI) and attend French language classes and civic courses. Moreover, the 2006 law was structured around four main objectives: 1) limiting access to residence permits and citizenship; 2) recruiting skilled workers; 3) facilitating foreign students' stay; and 4) tightening the rules on family reunification. (Murphy 2006)

“Skills and talents” visas for three years were granted to qualified workers who are of interest for French employers. Moreover, workers had to demonstrate their will to contribute to the development of both France and their countries of origin. In order to do this, ‘co-development’ agreements between qualified migrant workers and France were signed, according to which workers agreed to return to their countries of origin within six years.

Masters or higher degree foreign students were granted a six-month renewable visa in order to search for jobs in France. Like skilled workers, students were allowed to pursue a (first) professional experience that would contribute to the development of both France and their countries of origin (Murphy 2006).

7.1. Family reunification

Regarding family reunification, the 2006 legislation reshaped this provision around 3 key principles: 1) respect for basic Republican principles; 2) capacity to support the needs of the family exclusively through employment and not through social benefits; and 3) having housing that corresponds to the size of the family. Specifically, the sponsor can apply for family reunification after 18 months of legal residence in France, instead of 12, and all family members must respect the principles of family life in France (recognition of the secular state, equality between men and women and monogamy). Moreover, in order to obtain a 10-years residence permit, spouses of a French citizen must wait three years (instead of two) and in order to obtain the citizenship, they must have been married for at least four years (Murphy 2006).

The 2007 Law⁴ on management of immigration, integration and asylum replaces the law of 24 July 2006. The new law makes important and contested changes regarding family reunification. First, foreigners between 16 and 64 years old have to pass a language test (in the country of origin or in France) that verifies their knowledge of French. In case this test reveals that the level is insufficient, French courses which do not exceed two months must be organized, at the end of which a new evaluation takes place. (Art. L411-8 of CESEDA modified by Law n°2007-1631 of 20 November 2007).

Second, a family reunification application also requires a proof of financial resources proportional with the size of the family (Art. L411-5 of CESEDA modified by Law n°2007-1631 of 20 November 2007).

Finally, a reception and integration contract must be signed by the parents of the children accepted under family reunification provisions. This contract (*contrat d'accueil et d'intégration pour la famille* - CAIF) obliges them to receive training regarding the rights

⁴http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=AC3A0BB5478880F63DB33CF0D10113B0.tpdjo04v_3?idSectionTA=LEGISCTA000006088118&cidTexte=JORFTEXT000000524004&dateTexte=20091126

and duties of parents in France, as well as to engage themselves in educating their children. (SOPEMI 2008) (Art. L311-9-1 of CESEDA modified by Law n°2007-1631 of 20 November 2007).

The 2007 immigration law made obligatory, for those who sign a “reception and integration contract”, the fulfilment of a report attesting his/ her professional competences. This report is carried out in one day (lasting maximum 3 hours) on an individual basis. The following are exempted from this report: the minor foreigner of 18 years old, since he/ she is enrolled in a school program; foreigner over 55 years old; the foreigner who resides in France under one of the provisions mentioned by art. L. 313-8, 313-9, and 313-10 of CESEDA; the foreigner who declares that he/ she does not search for a working place, since he/ she undertakes already a professional activity. The professional competences report is initiated as of 1 December 2008. (*Bulletin Officiel du 30 mars 2009*: 3)

The completely new amendment to the immigration law is the DNA test which is supposed to prove the biological family relation. (Thierry, Eremenko 2009: 44) This provision was highly criticised by both the civil society and parliamentary opposition, as it would “violate the fundamental principles of the republic which do not define family and affiliation by biology”⁵. This amendment, introduced in the 2007 immigration law, would enter into force as of end of 2009, but under so many conditions that would make it almost impossible to use. However, the executive has an obligation to sign this law into application, as the leader of the UMP party in the National Assembly, Jean-François Cope, noted⁶. In September 2009 the Minister of Integration, Eric Besson, made public his decision to not sign this decree,⁷ evoking administrative issues such as the lack of doctors in the French consulates where the DNA tests would be carried out and thus the difficulty of meeting the legal requirement regarding “the confidentiality and security of the collected data”⁸.

7.2. Beneficiaries and family reunification procedure

Currently, family reunification involves the applicant’s spouse over 18 years old and the under-18 children of at least one of them. Family reunification recognises only one spouse of the applicant, in case of polygamous families, as this would contravene with the republican principle of monogamy. Even if the other spouse has been deprived of parental rights, in case of polygamous families, only one spouse can join the applicant under family reunification. Moreover, children considered for family reunification, if they are not the legal children of both applicant and his/ her spouse, must not have another legal parent in the country of origin.

The applicant must fulfil the following criteria:

- 1) Regularised stay in France of at least 18 months under the following provisions: temporary residence (*carte de séjour temporaire*) for less than one year, temporary residence authorisation (*autorisation provisoire de séjour*), receipt of

⁵ <http://www.newser.com/story/10130/france-passes-controversial-dna-immigration-bill.html> (11.12.2009)

⁶ <http://www.dw-world.de/dw/article/0,,4686259,00.html> (11.12.2009)

⁷ <http://www.france24.com/fr/20090913-France-eric-besson-signera-pas-decret-application-test-adn-regroupement-familial> (24.11.2009)

⁸ <http://andysalcedo.wordpress.com/2009/09/13/minister-besson-calls-for-delay-in-dna-test-laws-application/> (11.12.2009)

- the application for a first or a renewed residence permit (*récépissé d'une demande de première délivrance ou de renouvellement d'un titre de séjour*), receipt of an asylum application (*récépissé d'une demande d'asile*) (GISTI 2008: 11)
- 2) Titular of a residence permit of at least one year (*titre de séjour*): residence certificate (*carte de résident*) for Algerians , residence permit (*carte de séjour*) with one of the titles: «visitor», «employed», «student», «scientific», «artistic and cultural profession» or «private and family life», «competences and talents» or «freelancer» (industrial, commercial, artisanal, agricultural etc.)
 - 3) The applicant, together with his/ her spouse, must prove to be the beneficiaries of a stable income which covers the needs of the reunified family.
 - a. Are taken into consideration the following types of resources: the stable⁹ income of the applicant; the stable income of the spouse (joining the applicant in France through family reunification) which are earned in France or which are going to be earned by the spouse even if he/ she is leaving his/ her country of origin; non waged revenues such as pensions or rents which constitute a regularly income.
 - b. The amount of these resources must be proportional with the size of the family and equal with the minimum wage (*moyenne mensuelle du salaire minimum de croissance – SMIC*) for a family of two or three members. The income has to be equal with this wage plus a tenth for a family of four or five members and plus one fifth for a family of six members or more.¹⁰ Are excepted from this the families in which the applicant receives a disability allocation. This provision does not apply to Algerian citizens, for whom the French-Algerian agreement (from 27 December 1968) applies.

The spouse who joins the applicant under the provisions of family reunification must meet the following criteria:

- 1) Legal relation with the applicant: according to CESEDA, family reunification comprises the spouse of the applicant (marriage officialised in France or in a foreign country.)
- 2) Family life: The residence permit (*titre de séjour*) neither is nor granted or it is withdrawn if the common life is broken up (from other reasons than death of one of the partners) within three years from the date of admission in France under the provision of family reunification.
- 3) Other ways of obtaining the residence by taking into consideration the personal ties with someone who resides in France.
 - a. The foreigner who does not live in polygamy, but who is neither the spouse of the applicant, nor the parent of a child who resides in France can receive a residence permit (*carte de séjour*) if this is justified by the

⁹ If employee, the applicant has to provide for a working contract or an activity certificate from his/ her employer, the salary slips for the twelve months prior to the application date, his/ her last income tax notice (*dernier avis d'imposition sur le revenu*) as well as his/ her income declaration.

¹⁰ *Circulaire du 7 janvier 2009 relative au regroupement familial (art. L. 411-5 du code de l'entrée et du séjour des étrangers et du droit d'asile [CESEDA]): condition de ressources (Bulletin Officiel du 30 janvier 2009)*

stability and the length of the relationship with someone who resides in France. (Art. L. 313-11, 7° of CESEDA as modified by the Law n°2007-1631 of 30 November 2007¹¹)

- b. The civil pact of solidarity (*pacte civil de solidarité* - PCS) is not comprised by the provision of family reunification. However, this pact carried out among two foreigners can be taken into consideration for a residence (*titre de séjour*) under the title '*vie privée et familiale*', when the personal ties with France are being evaluated. (Art. 12 of Law n°99-944 of 15 November 1999¹²)

The child who joins one of his/ her parents in France under family reunification provision must also fulfil certain legal criteria:

- 1) Age: the child has to be 18 years old or younger by the time the application is being filed.
- 2) Legal relationship: Are included in the family reunification provision the legal children of the couple or of one of the spouses (when the other parent is deceased or has been deprived of parental responsibilities). The applicants' children from a previous relationship, whose custody has been entrusted to the applicant, can join the applicant through the family reunification procedure only if the other parent had consented and this consent has been authenticated in accordance with the law of the country of residence (of the child) or by the French competent consulate. In case of adoption, a quasi-systematic verification is undergone in order to establish whether the adoption was carried out in accordance with the international agreements. The family reunification request cannot be rejected before the result of this verification is being known. (GISTI 2008: 9)
- 3) Children born in Morocco and included in '*adoulaire*' kafala are excluded from family reunification, since kafala does not recognise adoption as a type of family relation. However, children included in the Algerian judiciary kafala can come in France under family reunification provision, in accordance with the 1985 amendment to the 1968 French-Algerian agreement. The '*préfecture*' must verify whether a decision under the Algerian kafala has been made in the interest of the child and, if necessary, can ask the consulate to provide information regarding the situation of the child and the reasons of the applicant regarding the request of family reunification. (GISTI 2009: 9-10)

Refusals of delivering the visa for a child in order to enter France under family reunification provision can be justified by certain special conditions: the child is enrolled in school in the country of origin, restrictions caused by the health of the child, or by the housing conditions. (GISTI 2008: 10)

The application file for family reunification has to be deposited personally by the sponsor either to a bureau of ANAEM (*L'Agence nationale de l'accueil des étrangers et des migrations*) or to DDASS (*Direction départementale des affaires sanitaires et sociales*) of the future place of residence of the unified family. This file has to contain documents

¹¹http://www.legifrance.gouv.fr/affichCode.do;jsessionid=3F568991E96DF39D2BAAB00EA7EA7B26.tpdjo13v_1?idSectionTA=LEGISCTA000006180199&cidTexte=LEGITEXT000006070158&dateTexte=20091124

¹²<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000761717&dateTexte=20080225&fastPos=1&fastReqId=1600540131&oldAction=rechTexte>

proving the legal status of the family members who are coming to France under family reunification provision (marriage certificate in order to prove the legal relationship with the spouse and birth certificates of the children in order to prove the legal filiation). In case of a child of only one of the spouses, documents attesting either that the other parent is deceased or that he/ she has no parental rights over the child must be provided for. Moreover, proof of sponsor's legal residence in France as well as proof of appropriate accommodation and a stable income has to be provided for.

Apart from ANAEM and DDASS, other institutions are also directly involved in the procedure and have a major role in deciding whether the file is approved or not. Several checks impose: ANAEM verifies the appropriateness of the accommodation; the mayor of the future residence's area verifies the validity and the amount of revenues; finally, the prefect makes the final decision regarding the validity of the family reunification requirement and informs the applicant, the mayor of the receiving community, the ANAEM and the consular authority about this decision.

Although the final decision of the prefect has to be legally made within 6 months, all these checks usually take much longer. In the case of a family reunification in which the decision was delayed three years, time during which the children involved were placed in improper conditions, the French authorities decided that a monetary compensation of 4,000 Euros was compulsory.

8. Recent Significant Issues

Several issues that have become the object of immigration control and social policy in recent years as concern about the nature of cultural practices of migrant groups and their incorporation into French society have come to the fore.

8.1. Integration

This becomes more significant such that an integration contract for those who want to settle (i.e. obtain a long-term residence permit) in France has become compulsory. The *loi de programmation pour la cohésion sociale* (January 2005) gives a legal status to the reception and integration which had been implemented on a trial basis in 12 departments and which the 24 July 2006 law made compulsory. The key elements of integration policy, as defined by the *Haut Conseil à l'intégration* (HCI), created in 1989, are as follows:

1. Positive action in relation to socio-economic, training and educational inequalities for the most disadvantaged as defined in the Legislation on social cohesion (*loi de programmation pour la cohésion sociale*) of 18 January 2005,
2. The fight against discrimination and recognition of diversity as exemplified in the establishment of the High Authority against discrimination and for Equality (*Haute Autorité de lutte contre les discriminations et pour l'égalité* – HALDE) in the law of 30 December 2004,
3. Encouragement to participate in the activities of the city (*vie de la cite*, for example in the school, socio-professional organizations, work councils etc.),
4. Access to full citizenship through the acquisition of French citizenship.

With the adoption of the 24 July 2006 law, the reception policy for new arrivals who must agree right from the beginning of their stay to participate in integration measures and respect basic republican principles.

The reception and integration contract which came into force on 1 January 2007 for all new arrivals is signed for a year and renewable once. It was signed by 95 693 persons in 2006. It is the condition for obtaining a renewal of the temporary permit and eventually a 10 year resident permit which requires a minimum of 5 years regular presence. Prefects will ask mayors to give their assessment whether applicants have integrated and their respect of the obligations laid out in the contract. The HCI suggested in 2007 some practical improvements, such as harmonization of linguistic groups, a single module for civic training and life in France, sanctions for those who do not follow language courses and extension to those with French citizenship.

In 2007, the newly elected president Nicolas Sarkozy created the Ministry of Immigration, Integration, National Identity and Co-Development, as announced in his electoral campaign. As its first minister Brice Hortefeux declared, the objectives of the new institution include the “control [of] immigration by countering illegal immigration and action in favour of the development of countries of origin to ensure successful integration of immigrants in the national community”¹³. The ministry has been regarded with scepticism, and eight members of the National Centre of Immigration History (CHNI) resigned, manifesting reservations in regard to an institution which associates “immigration” and “national identity” in the French executive.

8.2. Forced Marriages

Apart from sham marriages, marriages that are deemed alien to French practices of equality and gender relations have also been the subject of immigration and social policy. Polygamy was permitted in France following the Montcho case in 1980 when the second wife had her status regularized. Thus, for over a decade until 1993, polygamous relationships were recognised as valid as part of international private law. Stopping the immigration of more than one spouse in 1993 however, has not resolved the legal status and social rights of spouses and families and the plight of divided families (Kofman et al. 2000). Wives living under polygamous arrangements are not covered by social security for which they need to divorce or demonstrate that they no longer live together. Even in the past when it was legal, men often did not have the resources to be able to bring in a second spouse officially and so many women who entered on tourist visas remained undocumented. Some managed to get themselves regularised as mothers of children born in France (Poiret 1996). It is impossible to say how many there are and for some it is difficult to provide any documentation to access benefits and services (Clément and Baldy 2007).

Forced marriages have recently become a major issue taken up by government bodies, the media and academics (Neyrand 2007). The *Commission Nationale Consultative des Droits de l'Homme* (National Consultative Commission for Human Rights) had noted its concern in 1992. A number of Paris-based associations such as *Voix d'Elles-Rebelles*, *Voix de Femmes*, GAMS (*Groupe des Femmes pour l'Abolition des Mutilations Sexuelles*), Elele and Nanas Beurs had begun in the 1990s to speak out about forced marriages. More recently the issue has been aired in a much more alarmist manner by the *Haut Conseil à l'Intégration* (High Council for Integration) in 2003 under the theme of

¹³ <http://www.humaniteinenglish.com/spip.php?article614> (07.12.2009)

violence against women of immigrant background. This theme covers genital mutilation, polygamy, honour crimes and forced marriages. However, also as elsewhere, there is no real knowledge of how many forced marriages occur but the use of scare-mongering figures based on calculations of populations “at risk” to grab media and public attention. Thus the director of GAMS estimated that there were 70,000 girls of migrant origin who were threatened with forced marriage in France (Etiemble 2005). It assumes that cultural practices are simply transposed with the migration of particular populations and the number of girls between the ages of 10-18 years. Thus 60% of African-origin girls are at risk, 90% of Turkish and 25% of North African.

It is also not easy to distinguish, in reality, forced and arranged marriages and to be clear what consent means and the real wishes of those concerned (Rude-Antoine 2005). There may therefore be no indication that they do not wish to marry the person chosen for them. Forced marriage is by no means the exclusive experience of women (Petek 2001) but many of the associations argue that men do not face rape and physical violence (Minces 2004). Though not a specific offence, forced marriage can be dealt with under penalties for the various forms of criminal activity involved. Hence it can be treated as unwanted sexual penetration or rape punishable by 15 years of criminal imprisonment (Rude-Antoine 2005: 43). A number of measures have been implemented to detect forced marriages. Registrars have to conduct an interview with intending spouses before the marriage is celebrated. Age of marriage for women was increased from 15 to 18 years in March 2005.

Some researchers have criticised the emphasis on violence experienced by migrant women due to the ethnicisation and culturalisation (Bouamama 2004) of such practices and the demarcation of frontiers between the majority and minority population in relation to sexist practices (Hamel 2005). It imputes the causes of sexism to the internal dynamics of these groups and their refusal of modernity (Juteau 1999). These practices are then refracted through a broader political framework based on migration, integration and national security and the stigmatisation of African and North African populations (Collet et al. 2008). Most significantly the use of a fictive figure and its entrenchment in the media and political debate has led to a hardening of immigration policy and much greater difficulties for mixed nationality couples.

France has thus moved from being one of the most liberal countries in relation to family migration to being one of the toughest. The tightening of regulations and clarification of the European directive on family migration has drawn attention to the widening gap between the rights of French citizens and the right to bring in non-EU family members and that of EU citizens exercising their EU mobility rights. The statement by the EU on 25 July 2008 that the right to live as a family upon marriage is guaranteed for these EU citizens whatever the place or date of their place and however they entered (i.e. even if undocumented). Thus, 13 mixed couples (French-foreigner) belonging to the Association Amoureux au ban public and covering a range of situations and nationalities submitted in September 2008 a claim of discrimination to the HALDE. The initiative was supported by a number of well known academics such as Patrick Weil, Hervé Le Bras, Gérard Slama and Gérard Noiriel.¹⁴

In July 2008 several migrant and human rights organisations submitted a case against France to the European Commission for violating Community law on the right to residence of EU citizens and their families on grounds that their rights are rights are not

¹⁴ <http://www.france24.com/fr/20080917-treize-couples-franco-etrangers-saisissent-halde-immigration-discrimination-amoureux-banc-public>

being applied by French authorities. In particular this concerns those who have been the subject of discrimination, such as Bulgarian and Romanian Roma, and family members from developing countries.

8.3. Grey Marriages

The newest concept addressing binational marriages (see on the evolution of binational marriage appendix 1) is the term 'grey marriages' (*'mariages gris'*), raised in the context of the debate on national identity launched by the president Nicolas Sarkozy. As opposed to white marriages (*'mariages blancs'*), where the partners agree to officialise a union in order for one of them to obtain the residence permit, the grey marriages are defined as sentimental frauds with a migration purpose (*'escroquerie sentimentale à but migratoire'*), a situation in which the partner having the residence or the citizenship is not aware of this purpose of the marriage. In November 2009, Eric Besson, the minister of Immigration, Integration and National Identity, officially launched the fight against grey marriages, estimating "thousands of victims of this phenomenon"¹⁵.

The National Association of Victims of Insecurity (*Association Nationale des Victimes de l'Insecurité – ANVI*)¹⁶ has raised the issue of gray marriages by collecting declarations of self declared victims of such marriages and presenting them to the minister Eric Besson. With this purpose, ANVI provides on its website an application form¹⁷ that such victims can use to ask the minister of Integration to take legal and administrative action against the foreigners that married them for immigration purposes. Moreover, the Association intends to launch a prevention campaign regarding grey marriages, based on the model of campaigns addressing different topics such as violence against women or the A influenza. In its Bulletin from December 2009, ANVI acknowledged the importance of the working group established by the minister of Integration in order to qualify this type of fraud and to consider appropriate legal sanctions.

¹⁵ <http://www.liberation.fr/societe/0101603699-apres-les-mariages-blancs-besson-lance-l-offensive-contre-les-mariages-gris> (07.12.2009)

¹⁶ Association Nationale des Victimes de l'Insecurité, http://www.anvi-france.org/index.php?option=com_frontpage&Itemid=1

¹⁷ http://www.anvi-france.org/images/lettre_mariage_gris.pdf

Appendix 1: Evolution of Binational Marriages in France (1996-2007)

Year	All marriages	Both spouses French citizens	Both spouses foreign citizens	Bi-national couples Total	Binational couples male spouse French, wife foreigner	Binational couples male spouse foreigner, wife French
1996	280 072	251 158	4 868	24 046	10 783	13 263
1997	283 984	254 020	5 237	24 727	10 916	13 811
1998	271 361	239 704	5 658	25 999	11 604	14 395
1999	286 191	250 252	5 897	30 042	13 638	16 404
2000	297 922	256 787	6 550	34 585	15 387	19 198
2001	288 255	241 129	7 281	39 845	17 397	22 448
2002	279 087	226 758	7 892	44 437	18 822	25 615
2003	275 963	220 598	8 565	46 800	19 539	27 261
2004	271 598	220 649	8 326	42 623	18 505	24 118
2005	276 303	225 425	8 382	42 496	18 710	23 786
2006	267 260	220 644	8 303	38 313	17 263	21 050
2007	267 194	223 246	8 110	35 838	16 326	19 512

Source: INED / INSEE

http://www.ined.fr/fr/pop_chiffres/france/mariages_divorces_pacs/mariages_mixtes/ (accessed on 25.6.2009)

Appendix 2: Immigration Laws

There were three major pieces of legislation which regulating family reunification prior to the 1990s: - Chapter 4 of the Ordinance n° 45-2658 of 2 November 1945; Decree of 29 April 1976 and the Decree of 4 December 1984. These excluded:

- Foreigners covered by international conventions (EC states (11) plus EEA (5) and Togo)
- Member of the family of a French citizen
- Family members of a refugee
- Algerians, Tunisians and Moroccans.

The table below gives the major conditions applicable after the legislation implemented in 1993/4 and subsequent changes introduced in the legislation passed in 1998, 2003 and 2006 and 2007.

Law no 93-1027 24 August 1993 and Decree 7 November 1994

Conditions for sponsor	Conditions for eligible person	Steps to be undertaken	Residence permits	Withdrawal of permits
Regular residence 2 years and more for those having a permit of more than 1 year or	Spouse or children of couple 18 years or less or of one person if other partner has died or lost parental rights except if a	Verification by OMI of resources and housing Opinion of mayor	Residence permit depends on the permit of the sponsor Right to work	Breakdown of shared life in year following residence permit

temporary (visitor, salaried, student) Stable and sufficient resources to support family - > SMIC without family allowances Housing of normal standard for comparable French family	threat to public or health order Except for those already resident in France (in country reunification exceptional) For polygamous families, reunification only for one spouse and their children. Other spouses and children excluded	Decision by prefect		De facto family reunification Sponsor requesting more than one spouse
No 98-349 11 May 1998				
> 1 year residence	Possible for a parent where other no longer exercises parental authority following a judgement			
No. 2003- 1119 26 November 2003				
	Residence permit requires knowledge of French and republican principles.	Verification of resources by the mayor. Opinion of mayor so OMI can proceed to verification. Assessment of cohabitation and decision of prefect. Marriage of convenience becomes an offence. Mixed marriages outside of France to present themselves to embassy or consulate	Temporary permit Nationality for those married to French citizen obtained by declaration after 2 years of marriage or 3 years of residence if foreign spouse cannot prove they have lived continuously in France for at least a year following the marriage	Break down of cohabitation within 2 years of residence permit except in case of domestic violence
No. 2006- 911 24 July 2006				
More than 18 months residence Stable and sufficient resources for				If shared life breaks down within 3 years of residence permit

<p>family i.e. equal or more than SMIC without social allowances Normal housing for a comparable French family living in the same geographical region</p> <p>Respect fundamental republican principles</p>				<p>except in cases of domestic violence or if child is born and holds 10 year permit and proves that they contribute to maintenance and education of child</p>
<p>No. 2007-1631 20 November 2007</p>				
<p>Resources depend on size of family up to the minimum plus a fifth i.e. between 1000 and 1200 euros net per month*</p> <p>Parental contract (contrat d'accueil et d'intégration pour la famille) to ensure children behave properly</p> <p>Voluntary DNA test (18 month trial) limited to mother to prove familial relationship. Reimbursed if visa granted**</p>	<p>Applicants for long-term visa with exception of those over 65 years will have to demonstrate adequate knowledge of French, failing which they will have 2 months to make up deficiency.</p>			

* *Circulaire du 7 janvier 2009* (published in BO du 30 janvier 2009) specifies that conditions imposed on minimum income should not be applied to applicants who receive supplementary allocation of invalidity or similar allowances.

** Eric Besson had made public in September 2009 his intention of not signing this *decree*.

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Amoureux au banc public (Mouvement de couples mixtes pour la défense du droit de mener une vie familiale) emerged with a dozen members through the support of CIMADE in June 2007. It now has over 1000 members, and apart from legal and political campaigns and actions, it organizes various cultural events such as balls throughout France.

<http://amoureuxauban.net>

CIMADE (Comité Inter-Mouvements Auprès Des Evacués) was created on 18 October 1939 to help the approximately 200,000 populations evacuated from Alsace-Lorraine. Its roots lay in anti racist Protestant youth circles in the 1930s who were concerned about anti Semitism in Germany. It supports and defends asylum seekers and migrants in France. It is one of the largest and publishes *Causses Communes*

The **Coordination Européenne pour le droit des étrangers à vivre en famille** was formed in 1994 on the initiative of several French associations and originally located in Paris and then transferred to Brussels. The primary goal of the association, which is a non-profit-making organisation, is to see that, on the level of the European Union, measures are taken to guarantee the right to family life for foreigners living in one of the states of the Union. Its second objective is to take part in constructing a democratic and social Europe where members of immigrant families find their place as citizens without discrimination.

www.coordeurop.org

Elele - Migrations et Cultures de Turquie has since 1984 undertaken actions for the integration of people from Turkey. It is very active in relation to women's issues.

Femmes de la Terre was set up in 1992 from three organizations (Accueil et promotion, Relais 59, Solidarité Français Migrants) and seeks to enable migrant women to obtain a legal status, work, to be housed properly and to pursue a normal and dignified life.

GAMS (Groupe des Femmes pour l'abolition des Mutilations Sexuelles) was set up in 1982 and is recognised as the French section of the Inter-African Commission.

GISTI (Groupe d'information de Soutien des Immigrés) was founded in the 1970s and provides legal information and training to professionals and militants. It publishes *Plein Droit*.

<http://www.gisti.org/index.php>

GRAF (Groupe Asile Femmes) was created in 2004 to support asylum seekers persecuted as women for whom they are seeking a refugee status.

Observatoire de l'assemblée des régions d'Europe sur les femmes migrantes (OAREFM) was set up in 2007 with the objective of creating a network of regional elected officials, experts and NGOs working in this field and establish an internet portal with a data base of good practices.

http://www.midipyrenees.fr/pagesEditos.asp?IDPAGE=833&sX_Menu_selectedID=m2Economie_579E5855

RAJFIRE (Réseau pour l'autonomie des femmes immigrées et réfugiées) is a feminist collective set up in 1998 which fights for the rights of foreign, migrant and refugee women. Its objectives are for the autonomy, equality, freedom and international solidarity of all women.

<http://rajfire.free.fr>

RESF (Réseau d'éducation sans frontières) was set up by teachers and parents in 2004 to provide help and solidarity to children of undocumented migrants threatened with deportation

<http://www.educationsansfrontieres.org>

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