

## Call for contributions for a thematic issue of the review *Travail et emploi*: *Questions Concerning Anti-Union Discrimination*

**Coordinating Committee: Thomas Amossé (CEE), Jean-Michel Denis (UPEM / Latts)**

The issue of discrimination due to gender, geographic or ethnic origin, political or religious opinions, etc. has received growing attention in public debate. While sanctioned by law, practices that can be described as discriminatory remain and reveal the persistence of inequality of treatment in our societies. At the same time, sensitivity to this reality has increased with the creation, for example, of institutions such as the Halde,<sup>1</sup> now part of the perimeter of the Défenseur des Droits [Rights Defender], or the transposition into French law in the 2000s of several European directives prohibiting discrimination in the workplace. These developments indicate an awareness that goes beyond the sphere of law, the issue of discrimination now irrigating the social sciences as well as public policy. This work addresses discrimination from different angles: tools used in measuring the reality of this phenomenon, individual awareness and collective mobilization, effects of preventive or remedial devices, and the use (or non-use) of judicial procedure (Monso, Thevenot 2010<sup>2</sup> or recent issues of the reviews *Politix*<sup>3</sup> and *Économie and Statistique*<sup>4</sup> devoted to this subject).

The review *Travail et Emploi* is devoting a thematic issue to a particular form of discrimination, that exercised in companies, government administrations or in the labour market against workers because of their membership or responsibilities in a trade union. While union membership is a constitutional right and union rights are enshrined in the Labour Code in France with the specific status of “protected employee”, anti-union discrimination seems to be a very real phenomenon, reflected in a large body of case law since the 1990s (Spire, 2006<sup>5</sup>) and the first econometric studies (Breda, 2014<sup>6</sup>). However, this practice, like most practices which could be described as discriminatory, is difficult to identify or systematize, perhaps even more so in this case than in others:<sup>7</sup> because of obscure employer practices at the frontiers of legal and illegal activities, social opinion may be less severe against union activity, which is “chosen”, legal sanctions may be less of a deterrent, or a methodology utilising panel data analysis of careers may be developed making it very difficult to exploit data in sectors of precarious employment (Chappe, 2013<sup>8</sup>).

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1 Haute autorité de lutte contre les discriminations [High Authority in the Struggle against Discrimination].

2 O. Monso, L. Thévenot (2010), “Les questionnements sur la société française pendant quarante ans d’enquêtes *Formation et Qualification Professionnelle*”, *Économie et Statistique*, n°431–432, pp. 12–36.

3 *Politix* (2011), “Discriminations et droit”, n°94.

4 *Économie et Statistique* (2014), “Inégalités et discriminations : questions de mesure”, n°464–466.

5 R. Spire (2006), “Agir contre la discrimination syndicale au travail : le droit en pratique”, *Le Droit ouvrier*, n°693, pp. 171–218.

6 T. Bréda (2014), “Les délégués syndicaux sont-ils discriminés ? ”, *Revue économique*, n°2014–0 (prepublication).

7 Although litigation is particularly abundant in this area (F. Guiomard [2012], “Constituer une typologie des actions relatives aux discriminations”, *Colloque Le droit social, l’égalité et les discriminations*, Université Paris Ouest-Nanterre La Défense), trade union activities represent only 10% of complaints handled by legal advocates in the field of the fight against discrimination (*Rapport d’activité du Défenseur des droits 2013, 2014*, p. 26).

8 V.-A. Chappe (2013), “Dénoncer en justice les discriminations syndicales : contribution à une sociologie des appuis conventionnels de l’action judiciaire”, *Sociologie du travail*, n°55, pp. 302–321.

Since social dialogue is sometimes held up as a model which could help France and Europe out of their economic difficulties, it seems particularly useful to develop a better understanding of this phenomenon and to clarify its mechanisms and foundations (economic, social, and ideological): to identify where it takes place, the forms it takes, any compensation that might be part of the process, and the actors who might be particularly affected by it. In analysing the extent of discrimination, we might ask whether these practices have not increased due to the rise in unemployment over the last forty years, the movement towards the increasing fragmentation of productive organizations, and the development of professional and social precariousness.

Although these practices are particularly difficult to identify, we will attempt to specify those categories and resources used by social sciences or in judicial procedures in order to qualify and certify their existence, to specify in what areas and through which mechanisms they are implemented. As part of broader anti-union strategies, discriminatory practices can be individual or collective, formal or informal, preventive or repressive. They may involve going to court or be entirely outside the legal prism (Rimbert and Crespo, 2004<sup>9</sup>). In this regard, is union involvement in France stigmatized and repressed by employers more or less than in other countries, both European and non-European, where unionization rates vary widely?

Conversely, businesses, governments and even whole sectors of the economy can exist where union activity and expression by the workers may be accompanied by benefits, whether in wages or other forms. We can also address the “inverted forms” of discrimination and union repression, for example supporting non-combative forms of unionism, devices supporting a particular list in professional elections and during collective bargaining, attempts to purchase social peace, and, occasionally, corruption (Pénissat [ed.], 2013<sup>10</sup>). Since the French law on representativeness [of unions] of 2008<sup>11</sup>, lawmakers apparently want to act: companies have been encouraged to negotiate agreements recognizing the experience of activists in the exercise of their duties, but the number of these agreements, their content and their practical effects are still unknown.

The review would like this issue to establish the state of knowledge on this subject through a **multidisciplinary panorama** with predominantly empirical analyses. We particularly hope for contributions from **economists, jurists, historians and sociologists**.

Starting with statistical data such as monographs, contributions could try to show the extent and identify the boundaries of the phenomenon, highlighting its main forms, identifying the industries, companies or jurisdictions where it is most prevalent and how unions are responding. An outline of the economic mechanisms accompanying discrimination could be proposed as well as an analysis of recent cases decided in the courts, presenting the decisions and explanations, attempting to identify the evidence on which they rest and the employers’ strategies in challenging them. Studies with a historical perspective could usefully add to the issue by, e.g., giving a detailed analysis of past cases of discrimination or of the evolution of public debate on this issue.

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9 P. Rimbert and S. Crespo (2004), “Devenir syndicaliste ouvrier. ‘Journal’ d’un délégué CGT de la métallurgie”, *Actes de la recherche en sciences sociales*, n°155, pp. 34–75.

10 É. Penissat (ed.) (2013), “Réprimer ou domestiquer : stratégies patronales”, *Agone*, n°50.

11 Thus the article L 2141-5 of the Labour Code says that there will be “an agreement to determine the measures to be implemented in reconciling work with a union career ...”

### **Applications and timetable:**

Contributors are invited to initially propose a plan (either in French or in English, for native speakers of either of these two languages) for an article of approximately 5,000 to 7,000 characters (three to four pages), clearly presenting the research question investigated, the materials and methods used for the collection of these materials, the analytical tools mobilized, and, to the degree that the material has been exploited, the expected results.

Plans for an article should be sent by email, as an attachment file, to the review's editors at [travail.emploi@dares.travail.gouv.fr](mailto:travail.emploi@dares.travail.gouv.fr) and copied to [thomas.amosse@cee-recherche.fr](mailto:thomas.amosse@cee-recherche.fr) and [jean-michel.denis@u-pem.fr](mailto:jean-michel.denis@u-pem.fr) by **12 January 2015** at the latest.

The auteurs whose projects have been selected will then send their completed article in Word (or equivalent) by **4 May 2015**.

For more details on the stylistic norms used, please read the article "[Normes graphiques](#)" on the review's website.

Articles will be evaluated by referees in line with the procedures adopted by the review's editorial board (see "[Procédure d'évaluation](#)").