Stop-go policies of governments and employers: from combating discrimination to promoting diversity

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Summary

Since the European Racial Equality Directive (2000/43/EC) came into force, government anti-discrimination policies have tended to be steered by political agendas. The five countries surveyed here – Belgium, Bulgaria, France, Italy and the UK – have introduced legislation and supervisory authorities as the tools for transposing the European Directive at a national level. From a management point of view, these tools show that the approach of tackling situations of racial discrimination in practice is evolving into the promotion of diversity through charters which employers' organizations and businesses have been adopting to varying degrees since 2004. This article explains the benchmarks of government action in France and the employers' initiatives which this has led to, adding examples drawn from the other European countries surveyed in order to shed light on specific aspects. The impact of the financial crisis on the struggle for equality is also examined.

Résumé

Les politiques publiques en matière de lutte contre les discriminations évoluent depuis la directive européenne RED (2000/43/EC) au gré des agendas politiques. Textes de loi et autorités de contrôle forment les outils d'une transposition nationale de la directive européenne dans les cinq pays enquêtés: France, Grande-Bretagne, Belgique, Italie, Bulgarie. Interrogés dans leur expression managériale, les outils révèlent que la prise en charge concrète des situations discriminatoires pour fait de racisme va se muer en une promotion de la diversité encadrée par des chartes qu'organisations patronales et entreprises s'approprieront à des degrés différents, et ce, dès 2004. Cette contribution éclaire les référentiels de l'action publique française et son corollaire, les initiatives patronales,

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tout en les complétant par des éclairages ponctuels tirés des pays européens enquêtés. L'impact de la crise sur la lutte pour l'égalité est également questionné.

Zusammenfassung

Seit Inkrafttreten der Richtlinie zur Gleichbehandlung ohne Unterschied der Rasse (2000/43/EG) entwickeln sich die öffentlichen Antidiskriminierungsmaβnahmen je nach politischer Agenda anders. Gesetzestexte und Aufsichtsbehörden bilden die Grundlage der nationalen Umsetzung der Richtlinie der hier untersuchten fünf Länder: Belgien, Bulgarien, Frankreich, Italien und das Vereinigte Königreich. Auf ihre Bedeutung für das Management hin untersucht, zeigen diese Initiativen deutlich, dass sich die Verfolgung von Rassendiskriminierung im Laufe der Jahre in eine Förderung der Diversität umwandeln wird und zwar mittels Diversity-Chartas, die sich Unternehmerverbände und Unternehmen ab 2004 auf verschiedene Art und Weise zu eigen machen werden. Der vorliegende Artikel beschreibt die Eckpunkte staatlichen Handelns in Frankreich und die daraus folgenden Arbeitgeberinitiativen, ergänzt durch Beispiele aus anderen untersuchten europäischen Ländern, um spezifische Aspekte näher zu beleuchten. Die Auswirkungen der Finanzkrise auf diesen Kampf für mehr Gleichheit werden ebenfalls untersucht.

The following article examines how the European Union serves as a framework for action, and seeks to understand, within that legal and institutional context, the measures that have been developed and applied in France to combat discrimination. Over the last 10 years the European Directive on tackling discrimination (the Racial Equality Directive 2000/43/EC)[1] has gradually been transposed into national legislation in the European Union Member States. Here, we examine the operational scope and effectiveness of this transposition. Focusing on the situation in France, with examples taken from Belgium, Bulgaria, Italy and the UK to shed light on certain specific aspects, the article looks first of all at the development of legal standards and the emergence of bodies tackling the various forms of discrimination (2001–2007). Next, we look at diversity as it exists in France and how it has been used as a benchmark for action, before finally analysing initiatives taken by employers and their organizations, including diversity charters.

We apply political sociology theory in order to examine how tackling discrimination has been included in policy[2], its 'marginalization' and the lack of priority attached to it, but also how employers and their interest groups have taken ownership of a more acceptable term with a much narrower legal scope: diversity. Diversity policy means that 'employers recognise, value and include women and men of different ages, abilities, ethnic origin, religion or sexual orientation' (European Commission, Justice, Tackling discrimination; Lombardo and Forest, 2011). Promoting

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1   The Directive establishes a general legal framework providing protection against direct or indirect discrimination on the basis of race or ethnic origin: 'To this end, any direct or indirect discrimination based on racial or ethnic origin as regards the areas covered by this Directive should be prohibited throughout the Community' (Recital 13). http://eur-lex.europa.eu/LexUriServ/LexUriServ.do? uri=CELEX:32000L0043:en:HTML.

2   The sociology used to examine the government measures is taken from the works collected by A Cohen, P Riutort and B Lacroix (2009) and from the socio-history of government action.

diversity in the world of work can go hand in hand with clear and positive support for equal treatment and tackling discrimination; most often this is not the case. Yet these types of help are vital for combating discrimination on grounds of ethnicity or origin. Our work is based on a series of around 30 semi-structured interviews with employers' representatives in the five countries quoted above. The countries were chosen because we wanted to monitor how their national situations have developed since a project conducted 10 years ago[3]; three former colonial countries with very different integration strategies were selected (Belgium, France, UK), and two countries in transition: one from a country of emigration to a country of immigration (Italy), and the other from a closed economy to a country of 'économie de marché' (Bulgaria).

This article, which is based on semi-structured interviews, reviews of academic literature and content produced by the various actors, analyses developments since the European Racial Equality Directive (2000/43/EC, 'RED') and examines the impact of the economic crisis on tackling discrimination. The main questions are these:

- Which are the authorities in charge of discrimination issues post-RED? What scope do they have to take action?
- How has there been a shift from fighting for racial equality to promoting diversity, from legislation to soft law? What about government measures?
- What initiatives have businesses and employers' organizations taken to promote diversity? Has the crisis changed things?
- What role do diversity charters play in Belgium, France and Italy – Bulgaria and the UK have no so-called 'diversity charters' as defined by the EU – in combating discrimination? How are businesses in France taking ownership of them in practice?

A directive which has stimulated national anti-discrimination guidelines

The problem of how to integrate foreign populations in the Member States shows how complex social history is when it comes to national identity. The role played by the state with regard to discrimination based on origin and religion is evident from the administrative and legal divisions between nationals and foreigners, particularly in France and Belgium. In the UK a nation has developed that is based on a state rooted in its history, where populations are integrated as individual communities. In Italy, the disputed usefulness and particularly the more recent arrival (compared with France or the UK) of populations from Africa have provided the far right with an excuse for burgeoning racism. Bulgaria's constitution recognizes its multicultural status as home to various groups and minorities, to which more recent immigration flows have been added. As such, no dedicated Commission has been created in Bulgaria.

The first question in our comparison-based discussion is: what are the processes by which government action has defined and 'grasped' the factors involved in tackling discrimination (ethnic/religious)? European legislation from 2000 (the Racial Equality Directive 2000/43/EC and the Employment Equality Framework Directive 2000/78/EC) created a minimum protection framework within which the Member States developed their own definitions and methods for

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3   The article draws on surveys from the RITU European Commission supported project (2003–2005), as well as the complementary project CRAW (2012) and its case studies developed by each national partner (2013) in the transport, commerce and health sectors (Belgium, Bulgaria, France, Italy and the UK): see http://www.workingagainstracism.org/reports.cfm.

institutionalizing their approach in order to 'adopt or maintain more favourable rules for defending the principle of equal treatment' (Calvès, 2002: 178).

Supranational legal rules established the principle that an authority in charge of discrimination issues should be set up or expanded in each country. Similar structures already existed in some: France had a dedicated group to which victims of discrimination could complain; the UK and Belgium had an organization in charge of tackling discrimination (the UK having three specialized commissions); in other countries like Italy these issues were dealt with by associations. Although the process of transposition was speeded up in at least two countries (France and Italy) as a result of a judgment in a European Union court case, the impact of this implementation phase has varied widely. The political framework and access to the jobs market for foreign immigrant populations have tended to be the determining factors for successful transposition. In the UK, with anti-racism as the backdrop, the role of the transposing legislation has been to recognize already established principles.

In **France** – and clearly in Belgium too – transposition has brought about a very sharp decline in tackling discrimination (even if prior to the Directive the situation was not that forceful in tackling discrimination). The creation in 2005 of the Haute autorité de lutte contre les discriminations et pour l'égalité (HALDE, Equal Opportunities and Anti-Discrimination Commission) in France, which was subsequently brought under the remit of the *Défenseur des droits* (Rights Ombudsman) in 2011, illustrates the problems of using the Directive to combat racism at work. Even though MPs like Jean-Jacques Urvoas recognize HALDE's importance ('This is the first time since 1958 that we have created a constitutional authority'), the many amendments put forward, the vast majority of them rejected, reflect the political differences on the subject:

- the wilful denial of the role that associations can play in combating discrimination: an article from the Labour Code could be used to allow associations to be a party in any judicial or administrative proceedings;
- the focusing of the discussions surrounding the creation of HALDE in 2005 on two major themes: the method of appointment to the body and the scope of its powers.

The method of appointing the president and his or her fellow members is completely different from some of the other Member States studied, where officers of the authority are chosen by the parliament (except in the UK, notably). Socialist opposition MPs said that the method of appointment destroys HALDE's legitimacy and that the wording of the enabling legislation diminishes the democratic guarantees enjoyed by citizens.

HALDE's remit is also said to be incoherent, because it was formed by merging a number of separate administrative authorities. Lastly, MPs have raised the problem of funding ('Should we be worried about a reduction in funding for protecting human rights?'), as well as how to manage the restructuring and the future of the staff involved. These questions have not been answered by the government.

HALDE's creation did, however, mark official acknowledgement of the huge scale of employees' complaints, shattering the image presented by large corporate groups vaunting policies to promote diversity (see below), although the fact remains that the rapid turnover in presidents – Louis Schweitzer (2005–2010) was followed, between December 2010 and September 2014, by Jeannette Bougrab, Eric Molinié, Dominique Baudis and Jacques Toubon – stalled the momentum. What this acknowledgement failed to do, however, was to redefine integration, a policy pursued since 1989 by the Haut conseil à l'intégration (High Council for Integration) and which the

short-lived Ministry for Immigration, Integration, National Identity and Co-development (2007–2010) was unable to remodel.

Ultimately, certain bodies have been kept for show, such as the interministerial committee and delegate to combat racism and anti-semitism, which have little funding or political weight.

In Belgium, the government, in transposing the EU legislation, has paid close attention to tackling racism and discrimination as part of its policy for integrating migrants and their descendants. The transposition of the two Directives at national and regional levels in 2003 and 2007 focused on this aspect. There are three institutions working on this:

- the Institut pour l'égalité des femmes et des hommes (Institute for the Equality of Women and Men) (2002);
- the Centre pour l'égalité des chances et la lutte contre le racisme[4] (Centre for Equal Opportunities and Opposition to Racism) (2003 extension of the Centre set up in 1993); and
- the Plan fédéral d'action contre le racisme[5] (Federal Action Plan Against Racism) (2004).

In the UK too, the legal and regulatory frameworks changed after the transposition of the Directives and continued to do so until very recently (Godhart, 2013): public bodies and private sector businesses have been affected by the new Equality Act which came into force in October 2010, replacing the existing anti-discrimination regulations. The Act codifies and unifies the previous legislation requiring equal treatment in access to jobs regardless of ethnicity, age, etc. The main change came with the creation in 2007[6] of an institution to combat discrimination, the Equality and Human Rights Commission (EHRC), resulting from the merger of the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission.

Lastly, in **Italy**, as in France with its recent Rights Ombudsman, at least until June 2014, the UNAR (Ufficio nazionale antidiscriminazioni razziali, National Office against Racial Discrimination) was designed in 2003 to be an independent agency like the UK model, but is in actual fact not independent at all, since it remains a sub-department of Italy's Ministry for Equal Opportunities. As a result it contains both administrative staff from government departments and a few government-recruited experts, circumventing the Directive on this point. UNAR, which is in charge of tackling discrimination, offers services specifically for victims of discrimination and organizes regular events bringing together employers, workers and the voluntary sector. UNAR compiles statistics on complaints received by its helpline, though these are incomplete, partly because they do not currently include complaints lodged directly with the judicial authorities.

The final point about how institutions have taken on the fight against discrimination is that their political and legal backgrounds and foundations are still the determining factors, including when it comes to the transposition of common legislation (RED). The terms used demonstrate this: racial equality in the UK, fighting against discrimination and for equality in France, fighting against racism and for equality in Belgium, and fighting racial discrimination in Italy. The weakness of the anti-discrimination bodies indicates the secondary or non-urgent nature of the whole issue; that it is highly politicized is clear from how it tends to appear/disappear as political priorities change.

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4 http://www.diversite.be/dun-centre-à-deux-un-avant-goût-de-ce-qui-va-changer-en-2014

5 http://www.diversite.be/politique-internationale

6 http://www.equalityhumanrights.com/about-us/about-the-commission/our-vision-and-mission/previous-commissions

'Diversity' as a benchmark for action?

In **France**, the transposition of the Directive created an opposite dynamic to the Republican, equality-based model which tended to obstruct any critical analysis of inequality and discrimination. French law, which ignored ethnic or religious groups and was almost exclusively coercive, now needed to incorporate EU legislation that was based on partnership. This 'contractualization' of the prevention of discrimination challenged the foundations of a principle that was now open to negotiation (Masclet, 2012: 29).

The many initiatives 'without a stable benchmark' which followed the immediate post-RED transposition period were characterized by 'social compromise and the reclassification of the problem, with less emphasis on legal measures, broader criteria and a wider field of action' (Noël, 2008: 5). It was in this developing situation that the term 'diversity' emerged, which watered down or suppressed the anti-racist message because it 'symbolically eliminated the legal and militant connotations which initially dominated the definition of anti-discrimination' (Bereni, 2009: 97; Doytcheva and Hachimi Alaoui, 2010: 6). While in Canada diversity with its 'visible minorities' and 'reasonable accommodation' approach is based on interaction between cultures, that lever is not applied in France, where the integration of migrants requires them to be assimilated if they are to achieve equality (Davel and Ghadiri, 2008: 384). One only has to look at the Charter for the promotion of equality and combating discrimination in the civil service (2013), which very clearly reaffirms Republican values. Promoting equality involves corporate social responsibility and thus becomes an individual act rather than one adopted by the community at large.

In **Belgium**, it was in the mid-2000s that government policy gradually shifted from fighting for equal treatment to promoting diversity. Significant levels of funding and staff were made available, facilitating the creation of services ('diversity' commission and units), tools and posts (advisers, consultants). At a regional level, multiannual initiatives promoted diversity plans focusing on origin (in Flanders), young people and those of foreign origin (Brussels-Capital) and origin, disability and age (Wallonia) in the fields of recruitment, training and employment. However, no measures have been introduced on preventing discrimination, such as through a code of conduct, for example. These powerful political initiatives have let employers' organizations and trade unions know that a taboo has been lifted, awareness has been raised and it is now possible to talk about discrimination at the workplace.

In **Italy**, government support for the fight against discrimination expressly involves the voluntary sector.[7] While diversity provides a semantic framework for multinationals and large corporate groups, the many SMEs have shown hardly any interest. The result has been codes of good conduct without any direct reference to the European Directive and without trade union involvement. These are 'privatized' rules on preventing and tackling discrimination, which are applied by and left to the discretion of the management. By classifying these measures as an element of corporate social responsibility, employees are seen both as beneficiaries of the rights set out in the codes of conduct and as monitors of a system of values and standards laid down by the company. Government action is confined to partial, temporary projects and initiatives, such as the 2005 project 'Work and employment without ethnic and religious discrimination', which promoted the creation of the RITA regional network (networks of local anti-discrimination initiatives), or the LABDI (discrimination at work and equality) initiative in 2011, which looked at the discriminatory practices suffered by migrant workers.

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7   At a regional level, anti-discrimination centres are working with non-governmental organizations and the voluntary sector to develop the monitoring of discrimination and to organize support for victims.

In the early 2000s the **UK** government encouraged public service organizations to set up bodies responsible for managing diversity and, in the Race Relations Act 2000, made it mandatory to promote equality as a set of moral values and a social responsibility. In the private sector, diversity managers put forward similar arguments to those in France, such as that reflecting social diversity is an asset for the company, and that integrating migrant workers helps to increase productivity. Many UK companies bought into this agenda and employed diversity advisers, introduced assessment procedures and developed strategies to promote diversity, with training and awareness-raising programmes for staff, and protection plans to support employees who might face discrimination. However, diversity management has come in for considerable criticism. First of all, it was suggested that the diversity envisaged by managers was losing the fundamental political dimension of equality, with greater emphasis on defending individuals rather than any collective recognition of the factors involved. Another criticism was that minorities were being sidelined, singled out by this policy and treated differently from other groups. Lastly, treating racial discrimination as an individual act meant that there was no state control, even though this is appropriate for issues like this.

The 'multiculturalism versus discrimination' debate has taken a particular form in **Bulgaria**. First of all, it came up as an issue rather later than elsewhere, as did the question of the failure of multiculturalism (Kirov, 2010). Because the government paid no attention to it, discussions tended to be confined to academics and experts, allowing the media to present a populist version of the problem. Unlike in western Europe, discrimination and multiculturalism were not seen as issues relating to migrant populations. The only minority referred to and regarded as a political factor were the 'native' peoples and, in recent years, Muslim communities. Discrimination against the Roma and Bulgarian Turks is not seen as a form of racism in the country.

A general finding was that over the last decade, diversity management has become a central plank of official policy in the sectors studied, but the term 'diversity' does not cover the same social and societal concepts in all countries:

- in the UK, diversity is more focused on individual action;
- in Belgium, it is based on an intercultural approach;
- in France, diversity is a way to smooth out cultural difference;
- in Italy, tackling discrimination means monitoring it; and
- in Bulgaria, the term 'racial discrimination' is not commonly used, or only among politicians and intellectuals. People tend to talk about 'ethnic discrimination' instead.

The semantic shift towards diversity seen in the immediate context of the transposition of the Directive has gone on to become commonplace, edging out the term 'non-discrimination', both among employers' organizations and in businesses.

Marginal commitments: a comparative typology of employers' initiatives

Employers' support for tools promoting diversity

While the momentum generated by the introduction of the European Directive has led to campaigns and projects involving economic stakeholders, the location of industrial sites, storage facilities, shops or warehouses in sensitive urban areas targeted by urban policies has stimulated the involvement of major industrial groups in promoting diversity.

Are these initiatives disseminated by representative organizations? Do employers' organizations collectively promote these messages and measures? Or are they the result of isolated decisions taken by 'bosses' who are better informed, more perceptive or just more aware because of their specific personal or family backgrounds?

In response to the requirement to take action contained in the European legislation, businesses in **France** have developed an approach which promotes diversity and equal opportunities, and this has brought twofold benefits: managers have become more open to recruitment geared towards the locality, and companies have been promoted by having a positive, integrating brand image. The main argument as far as employers were concerned was that diversity acted as a performance lever: in the MEDEF (France's largest employers' organization), the Diversity Committee within the economic forecasting cluster gives as one of its objectives 'making diversity policies a competitiveness factor for businesses; showing that equal opportunities policies have an impact on competitiveness'. The Committee has grown in power, as can be seen from its involvement in studies and conferences on the issue, particularly as joint author of a 2013 report on the perception of equal opportunities among the MEDEF's managers.

However, it is not known what impact these strategies have had; competition between businesses and sectors tends to feed off images of diversity, with communication campaigns and contributions to funding for surveys, such as the Randstad group's involvement in the 2014 survey by I.E.P (Political sciences) Rennes on religion at work.[8]

These demonstrations of support for diversity are, however, offset by a lack of unity among employers, with the result that decisions and initiatives tend to be thinly spread. Guides such as 'Managing religious diversity at work' or the 'Guide to secularism' are produced by human relations managers to 'clarify the management position defined by the Group and expected of managers, and provide information on religious practices, while reminding everyone of the applicable legal provisions on non-discrimination' (Casino Group, retail and distribution), but often no provision is made for applying them in practice. Likewise, the position of diversity officers in company organigrams reflects the marginalization of the issue.

Lastly, in the business world commitment to diversity tends to come from prominent figures in employers' circles, who have had atypical careers or who come from a mixed or 'different' background. Managers who support diversity tend to form networks, drawn together by shared interests (economic and commercial) as much as by shared values. They meet and run groups within structures like the Association française des managers de la diversité (AFMD, French Association of Diversity Managers), the Association nationale des directeurs des ressources humaines (ANDRH, National Association of Human Resources Managers, which produced the 'diversity journal' in 2014), or foundations and institutes belonging to major companies or the media.

The situation in France is thus characterized by rather vague collective attitudes and a lack of clear principles for action. On the one hand, the organizations tend to define their positions on the basis of the size of companies they represent: the CGPME (General Confederation of Employers in Small and Medium-sized Enterprises) prefers multi-sector social dialogue rather than statements or labels, while the MEDEF prefers action plans and labels. Social dialogue bodies, on the other hand, tend to support diversity in general, with origin usually competing with age, gender and disability. Consequently, diversity agreements, which have been signed by several hundred industrial groups, are not enough to implement a practical policy for employees.

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8   See   http://www.grouperandstad.fr/espace-presse/actualite/linstitut-randstad-et-lofre-presentent-leur-deuxieme-etude-sur-le-fait-religieux-en-entreprise/.

Management is being put to the test by diversity, and seems to avoid consulting experts or interest representatives from the organizations. The sectoral federations also seem to be making no progress here. The employers as a social actor, just like the trade unions, have lost members since the start of the economic crisis, with managing employment and planning for change having pushed social issues and equal rights off the agenda.

In **Belgium**, as far as the employers' organizations are concerned, awareness of ethnic discrimination at the workplace has changed direction, with the issue now having a more dramatic and stigmatizing dimension. Diversity has become an essential element of corporate image and, in a number of sectors, a commercial reason for recruiting from particular areas. Two inter-trade agreements concluded in the mid-2000s laid the legal foundations for the development of positive measures in certain sectors and companies, and led to a code of conduct for recruitment and selection designed to ensure that candidates have equal opportunities. These sectoral measures mainly target recruitment and training on the basis of origin and gender, among other things. The 2007–2008 inter-trade agreement led to the amendment of a whole raft of inter-sectoral and sectoral collective labour agreements.

Lastly, in **Italy** and the **UK**, the employers' organizations act as consultative bodies. Having viewed the Directive as a positive compensation tool as well as a penalizing instrument, the Italian social partners, including Confindustria and Confartigianato, recently concluded a joint memorandum on the promotion of anti-discrimination measures at the workplace. The employers' organizations in the UK play an advisory role in the legislative process. The Confederation of British Industry (CBI) was consulted about the implementation of the Directive and broadly supported it, as did the Institute of Personnel and Development, the main federation of human resources managers. There are few collective agreements which deal with the question of equal rights, and their scope tends to be confined to company level.

In comparative terms, unity among employers appears to be something of an illusion, since local contexts, political configurations and balances within work units tend to dictate management practices. The fact remains that, nationally, there is still nervousness about issues that are seen as taboo (France, Belgium) or instead as a matter for collective action, and, with little active support, for social dialogue (UK).

Diversity charters tested out by company measures

Diversity charters, which were introduced in 2004 in France, 2005 in Belgium and 2009 in Italy[9], illustrate the shift away from tackling discrimination, formalized in the European Directive, towards promoting cultural, ethnic and social diversity.

At the time when it was launched in 2004, the French diversity charter was the result of an initiative by a few senior heads[10] of CAC 40 (Paris stock exchange) companies rather than the French government, unlike the Belgian charter, which was launched jointly in December 2005 by the Ministry of Employment and the Economy, in cooperation with the Union des entreprises de Bruxelles (UEB, Union of Brussels Enterprises) and the Brussels Capital Region. Italy followed suit in October 2009, on the initiative of UNAR, the Ministry of Employment, the Sodalitas foundation and a steering committee of promoter members.

The purpose of the charters is to mobilize companies to take action to promote diversity; they are soft law instruments, providing encouragement and focusing on voluntary measures. Although they

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9   European Commission. Justice. Tackling discrimination.
10   The French charter, initiated by Claude Bébéar and Yazid Sebag, is now managed by IMS Entreprendre, which promotes the charter and creates tools for practical use in companies.

act 'by capillarity' and involve a rather undefined commitment, they identify targets for action (awareness-raising and training, strategic workforce planning, social dialogue, communication, assessment), the primary lever being to 'reflect diversity in society, particularly its cultural and ethnic diversity, at the various skills levels'. The charters formalize the need for shared action which is identified and identifiable by the business world, society and the media. Comparing the French, Belgian and Italian charters highlights features they have in common and features that set them apart.

The differences between the charters[11] are accounted for by specific national considerations relating to the countries' political history, dominant concept of integration and social dialogue situation:

In the French charter:

- no introduction of a diversity action plan,
- no monitoring or evaluation,
- undertaking to provide information on measures taken in the annual report.

In the Belgian charter:

- no monitoring or evaluation,
- communication specifically with the competent authorities,
- introduction of a diversity plan with the help of a consultant provided by the Brussels Region authorities.

In the Italian charter:

- no reference to diversity in civil society,
- no undertaking in terms of social dialogue,
- undertaking to evaluate diversity measures regularly.

In a preliminary progress report in France in 2007 it was found that there had been no recruitment, training or specific measures to promote access to management posts for the most discriminated-against groups, that almost all company heads were unaware of the social partners' rights and how much they could do in tackling discrimination, and that some even thought it was not their responsibility (Maresca et al., 2007: 30). Others regretted the lack of a diversity action plan and the small number of companies openly calling for discrimination to be tackled and for appropriate strategic workforce planning that encouraged social dialogue.

The charters do not designate any particular person in the company to be responsible for diversity management. In France, the Association nationale des directeurs des ressources humaines held discussions on this issue, which resulted in 2008 in the creation of the Afnor diversity label[12], in cooperation with the trade unions, employers and the government (Van De Walle and Mordret, 2008). This label 'testifies that the organization awarded the label applies all the items on the list of requirements for the label assiduously and efficiently.'

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11 The impact of charters depends also on the numbers of signatory companies and of employees covered. In France, the diversity charter was signed by 3223 firms with a total workforce of just over 4 million. In Italy the number of signatory firms was 875 and the number of employees affected around 700,000 (European Commission, 2014: 11, 14).

12 http://www.afnor.org/profils/centre-d-interet/dd-rse-iso-26000/archives-actualites/le-label-diversite-un-engagement-concret-et-efficace-en-faveur-de-la-prevention-des-discriminations.

Table 1. Diversity charters in France, Belgium and Italy.

France	Belgium	Italy
1. Awareness-raising and education		
Raise awareness of non-discrimination and diversity issues among top management and staff involved in recruitment, training and career development and educate them in these matters.	Raise awareness of non-discrimination and diversity issues for managers and staff involved in recruitment, training and career development and educate them in these matters.	• Raise awareness and provide education at all levels of the organization about the value of diversity and how to deal with it. • Define and implement company policies which involve all managers from the top down, in accordance with the principle of neutrality and equal treatment in the professional context.
2. Non-discrimination and strategic workforce planning (SWP)		
Respect and promote the application of all aspects of the principle of non-discrimination at every stage of human resources management, in particular in the recruitment, training, promotion and career development of employees.	Promote and respect the application of all aspects of the principle of non-discrimination at every stage of human resources management, in particular in the recruitment, training, skills assessment and career development of members of staff.	• Incorporate the process of equality in dealing with staff and in HR. • Support decisions on mobility, promotion, career development and training based on individual skills and potential.
3. Reflect social diversity		
Endeavour to reflect the diversity of French society particularly in its cultural and ethnic dimension at every level of our workforce.	Endeavour to reflect the diversity of Brussels society, particularly its cultural and ethnic dimension, in the staff at every level. This approach should be adapted to the specific needs of the company and be based on objective criteria relating to the requirements of the post.	*No undertaking.*
4. Introduce a diversity plan		
No undertaking.	Implement diversity policy within the company in line with its specific needs by introducing a diversity plan, drawn up if appropriate with the help of a diversity consultant provided by the Brussels Region.	Identify practical tools and introduce appropriate professional and contractual policies to promote the reconciliation of work and private life, matching supply and demand in work flexibility, in cooperation with the local authorities and public/private partnership agreements.

(continued)

Table 1. (continued)

France	Belgium	Italy
5. Social dialogue, social partners		
Make the development and implementation of the diversity policy the subject of dialogue with employees' representatives.	Develop and implement the diversity plan in dialogue with employees or their representatives.	*No undertaking.*
6. Internal communication		
Communicate our commitment to non-discrimination and diversity to our staff, and inform them about the practical results of this commitment.	Communicate the commitment to non-discrimination and diversity, the measures put in place, internal procedures and the results achieved both within the company and to the competent authorities.	Communicate with staff about the company's commitments to internal mobility and about practices in these fields, including the practical outcomes achieved.
7. External communication		
Insert a chapter in the annual report describing our commitment to non-discrimination and diversity including details of the measures implemented, our internal procedures and the results achieved.	Communicate the commitment to non-discrimination and diversity, the measures put in place, internal procedures and the results achieved both within the company and to the competent authorities.	Promote external mobility, monitor the policies adopted and progress achieved in a collective effort, which genuinely commits the company as a whole to show responsibility and solidarity.
8. Evaluation		
No undertaking.	*No undertaking.*	Monitor equal opportunities initiatives regularly and encourage the development of good practice.

Two case studies: Casino Group and RATP

The charters draw attention to the possible ways of supporting diversity policy, but what have businesses done in practice to carry out the initiatives suggested in the charters? Case studies of the Casino Group (retail and distribution) and RATP (urban) can shed light on measures taken in France. Casino signed up to the diversity charter in 2004, and then obtained the AFNOR diversity label in 2009, renewed in 2012. Its website states the following: 'As part of its almost 20-year commitment to combating all forms of exclusion and discrimination, the Casino Group has designed a proactive policy for promoting diversity. The policy aims to encourage recruitment of applicants from a wide range of backgrounds and to promote equality at every level and across all company operations.' After this came the creation of a Diversity Department with a network of 56 facilitators and the inclusion of the Group Ethics Charter (introduced in 2005) in training programmes on the 'Managerial Attitudes and

Behaviours' expected of new employees. The Casino Group's Solidarity Department has been especially active in highlighting the issue of discrimination within the Group. Genuine progress has been made, but cases of discrimination persist. Take the case of a Casino store in the 'Chinese' district of Paris. Some Chinese employees (fairly recent immigrants) appear to have suffered degrading treatment from one of their line-managers, herself an immigrant. The situation (which is obviously not unique) was explained by the person interviewed as the result of a clash between people who do not speak French and do not know their rights on the one hand, and a line-manager who behaved in an authoritarian and disrespectful manner towards her subordinates on the other.

The issue here is not so much to do with the genuine and sincere commitment of the diversity and human resources departments and the merits of the measures introduced (Doytcheva et al., 2008), as with the effectiveness of a way of implementing these measures which still involves instructions going out from headquarters to a decentralized network of stores where there are clear contrasts when it comes to discrimination issues (in terms of job markets, minorities and management methods). In other words, there can be major discrepancies between what headquarters recommends and what local stores actually do, despite helplines, awareness-raising meetings and audits. The charters help to develop social dialogue, but leave staff who are the victims of discrimination in a weak legal position. This is one target that is missing from the French charter.

The ideas of territorial recruitment and positive discrimination have led senior management to design and implement clear, high-profile anti-discrimination measures and programmes, as was the case with RATP (Paris transport) in the 1990s. The security of users/customers and employees became a priority for the company management, which subsequently recruited young people from some of the troubled suburbs. The company signed up to the diversity charter from its introduction in 2004 and was very open about its diversity measures. Its commitment to diversity reads as follows 'Partnership with the cities and areas served by RATP with pre-qualification or recruitment preparation training programmes for various groups. Particular attention is paid to people from 'urban policy' neighbourhoods and those who are under-represented in certain jobs: women among drivers and maintenance staff, disabled workers, young people (access to youth training schemes), older workers (integration policies or because of their experience).' Those responsible for recruitment receive training on the legal framework for non-discrimination and on diversity issues. The chairmen of RATP were largely responsible for this integration policy, but their commitments to diversity have not prevented middle management from feeling rather discouraged because they see themselves as ill equipped. Others condemn discrimination, whether traditional or reverse. Religion has added another dimension to diversity, to which the management response has been the very recent (spring 2014) production and distribution of a guide to secularism.

These examples show that the fight against racial discrimination cannot be confined to promoting diversity. The needs of middle management are not covered by the charters, nor is religion, which is regarded as a private matter in the French concept of secularism, while managers have to deal with the challenges of everyday life.

The charters have formalized the stance adopted by Casino and RATP and shaped the measures they have taken, though similar initiatives are slow to come in organizations which have not signed up to the charters, such as public hospitals in the Paris region. Here Republican values and new multicultural realities have prevented the creation of a joint forum for discussion, particularly as the absence of any clearly stated policy from the management and trade union action which has little support among middle management have prevented any collective approach to diversity issues and particularly tackling discrimination.

Conclusion

The view which employers have had of diversity has tended to be defined by the economic health of their businesses and the changes in society which they have personally experienced, combined with the beliefs of their employees and managers, their lives outside work, and the need to take account of their situations. There have been few dramatic changes, but a gradual evolution as businesses have taken on more responsibilities and commitments.

While the term 'discrimination' describes an act which is an illegal offence and distinguishes victims and perpetrators, diversity 'is not covered either by the accusatory register of anti-discrimination law or the objective register of social sciences' (Masclet, 2012: 6), so that its legal scope is rather more blurred. Businesses and their representative organizations have taken this on board: under the banner of diversity businesses have become players in government policy, and company bosses have become players in a social/societal struggle. There were clear advantages in doing this for industrial groups and some companies between 2007 and 2011. However, changes of presidential and parliamentary power in France have marked a turning point here, and tackling discrimination could once again become a legal issue and 'risk to be covered' for employers.

It was in the voluntary sector that anti-racism began to change, from 2000 onwards, into a fight against discrimination, rooted in businesses and employers' organizations 'where discrimination is most rife'. The diversity charters and the attitudes adopted by the employers' organizations described earlier reflect the same trend: we are seeing a semantic shift from non-discrimination to diversity[13], and people accept that social change is much more effective than legislation.

The European Racial Equality Directive led to different initiatives in each country, depending on its legislation and how it handles the issue of visible minorities. The empowerment of employers followed the same path, as they reinterpreted the Directive and adapted it to the needs of their companies, the social catchment and the local labour market. Since the economic crisis, initiatives to tackle discrimination have tended to tail off in each country. The 2000 Racial Equality Directive has clearly been a catalyst for change, even if its scope has changed in the course of transposition.

The same may be said of the French 2004 charter, insofar as it was drawn up in a climate of struggle against discrimination affecting a particular category in terms of age, origin and geographical location – i.e. young inner-city immigrants and children of immigrants – that is of less relevance to the present context. The Belgian and the Italian charters as shown earlier had the same initial goal. This evolution is picked up by the study on the management of diversity (European Commission, 2014: 7) when it shows that French and Italian signatory firms today devote no more than 28 per cent and 10 per cent, respectively, of their initiatives to the struggle against racial or ethnic discrimination as against 43 per cent and 65 per cent that are focused on gender equality. It would be of interest to conduct further research along these lines.

Translation from the French by Julie Barnes

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13 Masclet, 2012: 6: 'We are seeing much greater government pressure on businesses to make the occupational integration of disabled workers and occupational equality for men and women a reality in practice. By contrast, equal opportunities programmes for ethnic minorities still tend to form part of a territorial and social equality approach focusing on urban policy neighbourhoods.'

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Glossary

AFMD – Association française des managers de la diversité (French Association of Diversity Managers)

ANDRH – Association nationale des directeurs des ressources humaines (National Association of Human Resources Managers)

BIA – Bulgarian Industrial Association

CBI – Confederation of British Industry

CGPME – Confédération générale des petites et moyennes entreprises (General Confederation of Small and Medium-Sized Enterprises)

CRAW – Challenging Racism at Work

EHRC – Equality and Human Rights Commission

HALDE – Haute autorité de lutte contre les discriminations et pour l'égalité (Equal Opportunities and Anti-Discrimination Commission)

LABDI – Laboratorio Discriminazione, Istituzioni e Azioni Positive (Workshop on Discrimination, Institutions and Positive Actions)

MEDEF – Mouvement des entreprises de France (French Business Confederation)

RATP – Régie autonome des transports parisiens (Paris Transport Autonomous Authority)

RED – Racial Equality Directive

UEB – Union des entreprises de Bruxelles (Union of Brussels Enterprises)

UNAR – Ufficio Nazionale Antidiscriminazioni Razziali (National Office against Racial Discrimination)