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FLASH REPORT

Country:	France
Title:	Labour Tribunal of Paris 17 December 2019, n° 17/10051
Date:	9 January 2020
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<u>Context</u>	
Issue at stake:	Systemic racial discrimination in employment against undocumented foreign workers on a construction site
Grounds of discrimination:	Racial or ethnic origin, other grounds
Field of application:	Employment
Source:	National court decision
Applicable law:	L1132-1 et seq and L8211-1 of the Labour Code

Content

Case: 25 Malian undocumented construction workers worked for four months performing demolition work in unprotected and dangerous conditions for a construction entrepreneur under the supervision of two site managers of North African origin.

The employer failed to implement safety measures on the construction site, refused to provide assistance and call emergency services to pursue work after two employees were seriously injured and further failed to declare the Malian employees to employment authorities, to issue pay slips and to pay them salaries owed. The employer corporation further abandoned the construction site, disappeared, and eventually filed for bankruptcy.

The Labour inspectorate concluded to criminal dissimulated labour and the physical persons managing of the employer were personally prosecuted and convicted on this charge before the Criminal court.

The 25 Malian workers brought a separate action against the bankrupt construction company before the Paris Labour court claiming backward pay, contract interruption indemnities and damages for systemic discriminations on the ground of origin and nationality.

They also filed a complaint before the Defender of Rights, the French Equality body, requesting that it contribute to the investigation of the claim and intervene in support of their action for damages before the Labour Court.

In light of sociological studies analysing the dynamics at work in the management of construction sites in Paris and the facts of the case, the Defender of Rights concluded that there was evidence of a system of employment and management organized around discriminatory practices creating an ethnic hierarchy of rights and functions on the construction site. This organisation, distributing work on the ground of origin and imposing the most difficult and degrading work to undocumented Malian workers, is at the core of

the work organisation and abuse imposed on the 25 Malian workers and constitutes systemic discrimination.

Decision of the court: In accordance with the decision of the Defender of Rights, the Paris Labour tribunal (*Conseil de prud'hommes*) concluded on 17 December 2019 that abusive treatment of undocumented workers constituted discrimination and that such practices based on racial distribution of work and racist management in the construction industry was the reflection of systemic discrimination.

Key points of analysis: This decision has been received as a very significant jurisprudence for the rights of undocumented migrant workers and for the recognition that organisational working practices of industries relying on their exploitation constitute systemic discrimination.

Internet link:

Decision 2019-108 of the Defender of Rights:

https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=29007&opac_vie_w=-1;

CPH Paris decision:

https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=30907.