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The CFDT Yvelines case on the “*Travailleurs Sans-Papiers*”

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CFDT's strategy at the National Level¹

The 47th annual conference of the CFDT took place in Tours from June 7th until June 11th. At the heart of the debates, the reform of pensions planned by the government, as well as the challenge of global warming and sustainable development. But whereas the topic of the *sans-papiers* issue has been seriously tackled by the CGT (one of the other main French unions) to the point that it had become part of its national strategy, it was barely mentioned during the CFDT conference. “Nobody went on stage to talk about the issue,” explains Maud Billon², disappointed. It was not totally eluded nonetheless. Laurent Berger, CFDT Secretary-general, made one of the two single short interventions on the topic. Though, this silent symbolizes the position of CFDT as regards the *Sans Papiers* issue; this is absolutely not a priority topic. How can we explain it? Maybe because CGT tackled the problem using a strategy and actions that do not correspond to CFDT's methods, but mainly because this is a very sensitive and complex issue even if it is also true that undocumented workers constitute an important potential union members pool.

Historically, immigration was a significant area of interest for the union. In the 70s and the 80s, CFDT was the source of power that was caring out the struggle linked to immigration topics. Towards the end of the 80s, the union refocused its strategy on this issue because of internal debates. Indeed, immigration had gradually turned into the favorite subject of extreme links organizations and at the same time, it became the pet peeve of CFDT in becoming the favorite topic of those who wanted to trap the union. It led inevitably to internal discords.

Moreover, the *Sans-Papiers* issue is a strong element to undermine current employees. It is the same type of relationship that “links” undocumented workers and current employees, and

¹ The actions of CFDT (in Yvelines mainly) told here are based on interviews with a number of participants and observers including Maud Billon and Daniel Richter, who played a leading role in the issue at the local level in Yvelines (78).

² Maud Billon is the Secretary-general of the CFDT Yvelines departmental unit.

temporary workers and employees in place. On the one hand, they are technically “taking” away some of their work, on the other hand in situation of economic crisis undocumented and temporary workers will be the first ones to be laid off, such as they play a role of “pressure relief valve” for employees. That is why for a union, strongly protecting undocumented workers is a great source of conflict, because current members see it with a jaundiced eye. So whereas the public debate is very important and so far the public opinion has been very favorable towards the *sans papiers* in several campaigns, within unions even if it not expressed in these words some members still have this more typical reaction based on the fear of immigrants taking away jobs, especially in this time of crisis.

Nevertheless CFDT has supported the *sans-papiers* and the dismissed asylum seekers during the church occupations in the 90s – *Saint-Ambroise* church’s occupation in 1996 and hunger strike in *Mantes-la-Jolie* in 1991. At that time, we were not talking yet specifically about “undocumented workers” and “labor conflict” but the issues linked to employment were clearly already outlined. Moreover, CFDT has very quickly taken part of the conflict launched by the CGT in April 2008 and to the second wave of strikes that started in October 2009 – “the conflict of the 6,000”.

The *Yvelines* Case

CFDT-*Yvelines* has started to work in depth on the *sans-papiers* issue thanks to partnerships with associations such as *Cimade* (*Comité intermouvements auprès des évacués*), *Réseau Education Sans Frontière* (*RESF*) etc. In the Spring 2008, CFDT-*Yvelines* decided to include the undocumented workers record into its strategy but did not find any support coming from the national level.

The CEFY (*Collectif Etrangers-Français en Yvelines*) a group of unions and associations was created in 1995 to work on immigration issues in the *Yvelines* department. Since the ministerial note of 1997, the CEFY have had office hours almost every day. But because of unclear internal disagreements *Sud* and *CGT* left the CEFY. The events of April 2008 raised lots of questions among the CEFY as regards how to take care of the *sans-papiers* files. When the Departmental Unit of CFDT in *Yvelines* decided to take part of the actions concerning undocumented workers, they directly addressed to the CEFY because it had all the cultural and historical knowledge, experience and networks on the issue. As concern other unions in *Yvelines* they did have and neither time nor material and human resources to take any responsibility on this issue.

Since May 2008 the coalition CEFY-CFDT *Yvelines* has been regularly submitting regularization files to the *Yvelines* prefecture in order to obtain legal documents and work permits for undocumented immigrant workers. The first wave occurred in May 2008 with the submission of

400 files whereof 187 acceptable ones according to the prefecture. At first the *collectif* and the union always skimmed the *sans-papiers* files before submission. They did not present a case if there was not enough pay stubs, tax form or years of employment. Since the 2007 legal changes and regularization now primarily depending on work, the issue has been refocused on the workplace and thus also on negotiating with the local government.

In general, the CFDT-*Yvelines* has a less adversarial approach than the CGT. The first step is to submit complete files and then to negotiate when there is debate on some cases. And through these negotiations, the ultimate goal is to put pressure on the prefecture to implement a clear and defined process that may facilitate the next applications deposit. So the strategy is to go step by step and little by little. They only launch a conflict when it is necessary but the precondition is that there are enough undocumented workers in a firm that could present good cases for regularization. When the workers are too isolated there is an understandable fear of a lay-off. Moreover CFDT *Yvelines* work most of the time far away from the media and in trying to respect a confidentiality policy.³ Its method is to cooperate very closely with the undocumented workers. The CGT at the national level has shown a complete different approach, especially since the beginning of the second wave of strikes in October 2009. According to Daniel Richter (member of the CFDT and permanent representative responsible for the undocumented workers issue in the *Yvelines* unit), CGT's strategy was based on their belief that they would be able to mobilize enough workers and could count on the public opinion plus the support of intellectuals, artists, especially film directors to make the government capitulate. Indeed well known French film directors such as Laurent Cantet, Agnes Jaoui or Jacques Audiard took part in the debate in shooting a 3 minutes and a half short film called “ On bosse ici! On vit ici! On reste ici!” (“We work here! We live here! We stay here!”) about undocumented workers. This manifesto has been signed by 305 film directors and is screened on the Internet since the end of February 2010. (http://www.dailymotion.com/video/xcbvuw_on-bosse-ici-on-vit-ici-on-reste-i_news).

That is why they launched this second large-scale conflict. They decided they would submit the applications altogether as soon as the government would release a new and improved legislation.

As said previously, since the legislation has always been blurry as regards who could pretend to be regularized, CFDT *Yvelines* has tried to negotiate with the local government in order to define clear criteria to work with at the local level. Indeed it was totally impossible to understand which types of positions were concerned because the ministerial note of January 2008 was so imprecise. For example in the catering industry, a “polyvalent” worker could submit a regularization dossier whereas a “commis de cuisine” (kitchen assistant) or a “plongeur” (dishwasher) could not. The

³ Fourcade, Delphine. 2008. “ LA CFDT engagée.” *Solidaires*, June.

caring professions (children, elderly, housecleaning) and the temporary workers were completely blocked from presenting case to the prefecture. The negotiation process has been very difficult and chaotic, with lots of mail exchanges and follow-up reunions. The whole communication between the two parties was plunged into a tense atmosphere. The first significant progress that CFDT got from the prefecture was related to the *Cerfa* form that employers have to fill out in order for an undocumented worker to have a complete file. CFDT obtained the non-obligation to provide the *Cerfa* form in the regularization file at the time of submission. Negotiating with the employer to get the *Cerfa* filled out constitutes the following step. This procedure would have theoretically simplified negotiations with employers and at first much of CFDT's work was aimed at convincing employers – using their fear of bad publicity. Nevertheless some employers refused to fill out the form even if the prefecture had expressed itself in favor of one's regularization and this led to absurd and unsolvable situations.

The Sepur conflict⁴

In February 2009, 26 undocumented workers – about 15 full time workers and the rest composed of temporary workers - from *Sepur*, a waste-collecting firm decided to go on strike. They blocked the rubbish collect in *Plaisir* and surrounding towns in order to put pressure on the management team to support their regularization. CFDT had been following the case since the previous spring and CGT 78 and SUD joined the conflict as well to help convincing the employer. For each worker, the management has to fill out a form, write down a job offer and pay 890 Euros. The same day CGT and SUD signed a draft agreement saying that workers would suspend the strike and go back to work while waiting for the return of the Chief Executive Officer. CFDT and Daniel Richter did not totally support this strategy. “We start from scratch. Everybody closes his eyes on those situations. The management did not take all the steps needed to figure out if these people were in an undocumented situation or not. Neither did the government services. What would be necessary is for the local government in *Yvelines* to be allowed to deliver a temporary work permit for the period of time when their files are in process.” The outcome of the movement was positive overall since most of the workers obtained work papers.

The Mureaux Conflict⁵

⁴ Beaugrand, Véronique. 2009. “Thivernal-Grignon - Les éboueurs en grève ” *Le Parisien*, February 4.

⁵ Delerín Damien, 2009. « Les Mureaux : Occupation d'une maison quartier ». <http://www.nouvelles-des-deux-rives.com/article237.html> February 19.

The conflict that was launched at the *Maison de Quartier Gérard Philippe* (Neighborhood House) was different. On February 7th 2009, 400 undocumented workers decided to launch a calm and pacific sit-in, strongly supported by the CEFY and CFDT, in order to demand for a settling on their work authorization situation. They chose this specific location because of the well-known high tolerance of the town mayor and because of the high number of African immigrants living in *Les Mureaux*. Mainly the *Sans-papiers* criticized the extreme slowness as regards the regularization process. Indeed after submitting a file, it could take months or sometimes years to figure out the outcome of the examination. Very often it ends with a negative answer that sends them back to their clandestine lives or even worse that leads to an arrest at the counter. After negotiations, the prefecture of *Yvelines* accepted a list of 391 *sans-papiers* files for examination. More than 10 previously dismissed files were re-examined and won their case. The new element is that, this time, the *Direction départementale du Travail, de l'Emploi et de la Formation professionnelle (DDTEFP)* (direction of the local labor department) took in charge of asking for the *Cerfa* forms directly to employers. They had very few failures on these actions.

After negotiations, they obtained from the prefecture that from now on all the *sans-papiers* applications would be submitted first to the DDTEFP without any pre-screening.

*The Versailles conflict*⁶

A new action was launched on November 13th 2009 in *Versailles, Yvelines* at the *Centre Huit*, an ecumenical center. After eleven days of sit-in, the 300 striking undocumented workers all submitted their applications, supported by the CEFY. The plan was therefore to use the same process where the DDTEFP is in charge of receiving the files while CFDT and CEFY would take care of the listing and classifying of these files. Unfortunately the prefecture did not respect its commitments towards the process that had been implemented so far. It is to be noticed that the main representative of the prefecture, the Secretary-general, who was closely negotiating with the associations and unions on the issue since the beginning, changed of position in December 2009.

According to Daniel Richter, it might be possible that the new Secretary-general received instructions from the Ministry of Labor to prevent this kind of simplified procedure to spread out all over the country, which could lead to get too many undocumented workers regularized.

⁶ Lepetit Bérangère, 2009. « Versailles - Déjà onze jours d'occupation pour les sans-papiers », *Le Parisien*. November 25th

In the end the outcome of this action was pretty much the same as the previous movements. Each time, about half of the applications win their case whereas the other half loses it and there is no logical explanation for this fact. It seems like a lottery, describes Daniel Richter and mostly a way to show that the government will not allow any massive regularization movement.

In December 2009 after the change of the Secretary-general, the behavior of the local government changed as well, as explained earlier. The prefecture sent twenty-four refusals with an obligation to leave the country, what did not happen during the *Mureaux* conflict. Currently the associations and the CFDT that are supporting the undocumented workers are facing a legal conflict in trying to obtain an annulment of these obligations. The first hearing occurred on June 11th 2010. There are two legal issues that are at stake. The first one concerns the application process at the local level. Indeed the normal procedure when a file is submitted individually is to interview the applicant. As regards collective files submission, it falls under a legal derogation that prevents the applicants from being interviewed.

The second issue concerns the legal status of the “ministerial circular”. Is it imperative or not? This issue makes the link with the debate on regularization at the national level. During negotiations to find a compromise on an application procedure, the associations in Yvelines mentioned several points of previous circulars: the list of the 150 positions, number of worked hours for temporary workers, or the fact that the applications should be submitted to the DDTEFP. The attitude of the *Yvelines* prefecture was to stay deaf to those arguments and explained that circulars were not statutory so could not be used by associations as valid reasons. But from the point of view of associations it sounds hypocrite and absurd since the circulars are supposed to be made to harmonize as much as possible implemented regularization procedures among all the prefectures. That was all the more surprising in the *Yvelines*. Indeed when Philippe Vigne was appointed Secretary General of the *Yvelines* Prefecture early December 2009, he organized a specific reunion with unions and sans papiers associations on the November circular. This ministerial circular was delivered by the government to prefectures on November 24th 2009. The criteria for regularization – which actually are only leads, indications - did not fundamentally change but the range of jobs for which it would be possible to get working documents was broaden: the *Direction départementale du Travail, de l'Emploi et de la Formation professionnelle (DDTEFP)* (direction of the local labor department) can show that in specific industrial sectors there is a lack of labor force. It means that the list of jobs is going to differ in time and space, according to each region. It widened the possible job range to certain main sectors such as cleaning, human services or catering industry... but always with the agreement of the DDTEFP. Moreover, prefectures

have to deliver a temporary work authorization of one month (renewable) while the file of an undocumented worker is still under examination. The employer receives a receipt testifying that the sans-papiers worker has submitted an application for papers, that is to say that during this period of time the employer does not have to lay-off his employee anymore. But he will have to do it if the application turns out to be dismissed. In conclusion, the local governments keep a high flexibility to interpret the law at their own convenience.

So the unclear legal status of ministerial circulars explains all the more the confusion of unions and associations towards the ambiguity of the governmental authorities' attitude. As things stand now, the support of CFDT *Yvelines* is going towards the 24 workers that received a refusal and the results of the hearings.

To come back to the National Level, the CFDT *Yvelines* seems to be the most implicated CFDT-UD (UD stands for Departmental Unit) in the undocumented workers issue. For now there is barely any communication between UD's aiming at observing and learning about what is happening in other regions. And each UD seems to have also its own strategy. In *Ile de France*, Maud Billon who is the one representative caring the issue on the political scene explains that CFDT in Paris is only submitting the files of their members. In the *Haut de Seine* department (92), the CFDT was interested in getting involved but they could not find anybody to take responsibility on the case. In the *Seine-Saint-Denis* department (93), they only recently started with a few sans-papiers cases, whereas at the National level only two or three UD are working on the issue.

CFDT *Yvelines* in collaboration with the CEFY decided to take care of any undocumented worker without asking them either to be or to become a member of the union. The truth is that sans papiers workers are mostly very confused about organizations they are working with. The CGT is the main union leading the movement at the national Level while CFDT is a follower but at the same time CFDT-UD at the local level in *Yvelines* is a lot more visible and involved than CGT 78. According to Daniel Richter, the undocumented workers react more to a specific personality than to a specific union. So even if the CFDT is helping an undocumented worker getting regularized, in the end the same worker might take become an active member at Sud or CGT if he does not trust the CFDT representative within his company. That is why the work done by CFDT is not especially fruitful as regards recruiting new members. The goal is before all to help a group of workers to know their rights and to help them navigate throughout a complex and unclear legal framework.

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