France: industrial relations profile

Facts and Figures

Area: 547,030 suare kilometres
Population: around 65.5 millions
Language: French
Capital: Paris
Currency: Euro

Economic background

	[2012]
GDP per capita (in PPS, Index: EU27=100)	106.6
Real GDP growth - % change on previous year	+1.7%
Inflation % (Annual average rate of change)	2.3%
Average monthly labour costs, in EUR	4109.4 (2008)
Average labour productivity, in EUR	45.4 (per hour workerd, 2011)
Gross annual earnings, in EUR	19 270€
Gender pay gap (in %)	24.5%
Employment rate (age 15-64) in %	63.8% (2012)
Female employment rate (age 15-64) in %	60%
Unemployment rate (age 15-64) in %	10.2%
Monthly minimum wage	1,425.67 € (July 2012)

Industrial relations characteristics, pay and working time

	[Country]
Trade union density in %[1]	around 8% (5% in the private sector) [2](2005)
Employers' organisation density in %[3]	Between 45% and 75%[4]
Collective bargaining coverage in %[5]	90%[6]
Number of working days lost through industrial action per 1,000 employees	316 (2010)[7]
Collectively agreed pay increase, in % (annual average 2010–2011)	2.1% (2011)
Actual pay increase, in % (annual average 2010-2011)	
Collectively agreed weekly working hours	35.6
Actual weekly working hours	35

[1] Union members as percentage of all employees in dependent employment

[2] DARES, 'Le paradoxe du syndicalisme français: un faible nombre d'adhérents, mais des syndicats bien implantés', Premières Synthèses, n° 16.1, April 2008.

[3] Employees employed by companies who are member of an employer organisation, as percentage of all employees in dependent employment.

[4] A recent study ('Les organisations patronales – continuités et mutations des formes de représentation', Rapport de recherche n°70, Centre d'étude de l'emploi – IRES, Février 2012), stresses the lack of data on Employers' organisation density. The REPONSE survey 2004–2005 highlights that 46% of private companies with more than 19 employees are members of an employers' organisation. According estimations made by researchers (F. Traxler, 'Employers and employer organisations in Europe: membership strength, density and representativeness', *Industrial Relations Journal*, 31:4, 2000, p.309-310 / D. Zervudacki, *Patronats dans le monde*, Paris, PUF, 1999), quoted in a DARES publication (DARES, Document d'études, 'revue de littérature: organisations patronale en France et en Europe', M. Rabier, n°130, December 2007), estimates the rate between 70% and 75%.

[5] Employees covered by collective agreement as percentage of all employees in dependent employment.

[6] 'Rapport sur la négociation collective et sur les branches professionnelle', Repport au Premier ministre, Jean-Frédéric Poisson, La Documentation Française, 28 avril 2009. Dares, *Premières Synthèses,* no 46.2, novembre 2006.

[7] Ministère du Travail, 'Bilan de la négociation collective 2011', June 2012, p. 596,

Background

Since some years now, the economic context has been characterised by a global financial and economic crisis. Growth has been low since summer 2011, and dropped to zero in the first quarter 2012. The unemployment rate increased (it reached 10% of the workforce in the first quarter 2012). Far from being an obstacle vis-à-vis conventional activity, the difficult economic context has instead strengthened collective bargaining as a means of regulating social relations. At all levels, negotiators have had to set up meetings in order to articulate quick responses required by the economic situation and plan reforms of medium or long term. Unemployment compensation, supplementary pensions, youth employment, vocational training or wage agreements concluded over the last several years have, to some extent, cushioned the negative effects of this economic crisis.

Political context

2011 was an election year, the French voting for both the presidential and legislative elections. It was characterised by the presidential elections and the victory of Francois Hollande – candidate of the socialist party – in the presidential elections while a new National Assembly (Parliament law Chamber) gave a clear majority to the Socialist and left wing parties. The new government held a social conference in July 2012 (FR1205031I) bringing together representatives of employer organisations and trade unions; for the latter, both trade unions considered representatives by law were invited as were those who are not (yet) considered as representative (e.g. UNSA) but should become so in 2013, when the new law on representativeness will apply.

French industrial relations have always been tense and dominated by the strong involvement of the state and the law. In fact, the **social dialogue** in France seems unable to exist without conflicts. In 1884, the law recognised the freedom of association and the first laws relating to collective bargaining were passed in 1919, it was universal by law in 1950, establishing the industry as the main level for bargaining. In 1971, collective bargaining at 'inter-sectoral (cross-industry) level was also established. Finally, the 'Auroux laws' of 1982 developed collective bargaining at workplace or company level, establishing also an annual obligation to negotiate wages and working time.

There is a traditional lack of mutual recognition between the social partners, and it can explain the interventionist role of the state in industrial and social matters. But many changes occurred in the last thirty years. The sharp break with the period of the 'Trente Glorieuses' (the 30-year post-war 'boom') challenged the relevance of old patterns. The state is losing its influence as a regulator in a global economy.

French trade unionism ('syndicalisme') is characterised by three important features: trade unions are politically positioned, fragmented and divided. These last ten years have revealed a deep crisis, characterised by a fall in the number of active members: according to the Sofres survey the rate of workers affiliated with a trade union in 1981was 44% in the public sector and 18% in the private sector, and nowadays, the proportion is around 25% in the public sector and 5–7% in the private sector. New trade unions have emerged: the Independent Union – Solidarity, Unity, Democracy (Solidaire, Unitaire, Démocratique, **SUD**), which has a radical position, or the National Federation of Independent Unions (Union nationale des syndicats autonomes, **UNSA**).

In recent decades, the system of industrial relations changed remarkably. A decentralised bargaining system has been developed, giving companies more autonomy from both labour legislation and collective agreements. The industrial relations agenda shifted to a large extent from wages to employment and production issues. The French social partners have been committed to taking initiatives for reducing the effects of the global economic crisis on the national social and economic situation.

The French state remains a central actor in the ongoing development of the industrial relations system. Two laws are particularly important because they have led to profound upheavals of the system of industrial relations in France.

The 2004 Act

A common position signed in July 2001 by the social partners led to a deep reform of collective bargaining which materialised in 2004 **(FR0404105F)**. In France, statute law is at the basis of the structure and scope of collective bargaining: if no special dispensation is permitted under statute, collective bargaining must comply with the minimum requirements set by the law. The legislator holds the exclusive competence to determine the fundamental principles of trade union law and of collective bargaining.

Traditionally, the articulation between the different levels of bargaining has been regulated by the principle of 'favourability' to the employees ('principe de faveur'), which provides that a collective agreement cannot set out provisions which are less favourable to the employee than those set at higher levels. The 4th May 2004 Act changes the rules which used to govern collective bargaining, especially regarding recourse to a majority commitment, the hierarchy of normative sources and the relationship between the different bargaining levels. Nonetheless, the 2004 Act did not modify some key elements of the French bargaining system:

1) the principle of trade-union pluralism: Each collective agreement signed by one employers' organisation and one trade union, is valid.

2) The 'erga omnes' effect vis-à-vis employees of collective agreements implies that it applies to all employees.

3) The trade unions' initiative: trade unions play a central role in bargaining.

4) The principles governing the representativeness of trade unions.

The 2008 representativeness reform

Pursuing the restructuring of the IR system, the principles governing the representativeness of trade unions' were modified in 2008. Since 1966, five trade union confederations have been considered to be representative at the national level: the General Confederation of Labour (Confédération générale du travail, CGT), the French Democratic Federation of Labour (Confédération française démocratique du travail, CFDT), the General Confederation of Labour – Force ouvrière (Confédération générale du travail – Force Ouvrière, CGT-FO), the French Christian Workers' Confederation (Confédération française des travailleurs chrétiens, CFTC), and the French Confederation of Professional and Managerial Staff – General Confederation of Professional and Managerial Staff (Confédération française de l'encadrement – confederation générale des cadres, CFE-CGC). And, until recent legislative changes, each trade union, at a local or sectoral level, affiliated with one of these confederations, was also considered to be representative ('presumption of representativeness'). Other trade-unions (without affiliation) had to prove their representativeness, in the courts, with the representativeness criteria established by law and case law.

On 20th July, 2008, the French parliament adopted a law on 'social democracy and working time reform' **(FR0808039I)**, in accordance with the social partners' 'Common Position on representativeness and collective bargaining' (9 April 2008, in French). Regardless of affiliation, representativeness will now depend primarily on the 'electoral audience'. That is, to be representative and therefore able to participate in negotiations, a trade-union must win at least 10% of the votes at workplace level, the ratio being of 8% at the industry level. It is expected that the trade union landscape will change at the end of the transitional period (March 2013).

Main actors

Trade unions

The low number of members is a specificity of French syndicalism. While this number is not known precisely, it is estimated that about 8% of employees are members of a union. After a long period of decline after the Second World War, this number has stabilised between 1.8 and 1.9 million since 1990 (Report DARES, 2008). This level is historically low. The paradox of the French system is that the unions have a very low membership compared to other European countries, but they cover nearly all sectors and have a strong presence in companies.

A way to assess the power balance between the trade unions can be found in the results of the nationwide elections for the 'conseils de prud'hommes' (labour court councils whose judges are employees on union lists or employers on lists established by the major of the municipality in which the council performs) that are organised every five or six years. The results of the elections are quite stable. The last elections were held in 2008 and did not result in any fundamental changes, but the growing results of the UNSA (an 'autonomous' confederation) are notable.

Trade unions	1987 (%)	1992 (%)	1997 (%)	2002 (%)	2008 (%)
CGT	36.35	33.35	33.11	32.13	34.00
CFDT	23.06	23.81	25.35	25.23	21.81
CGT-FO	20.50	20.46	20.55	18.28	15.81
CFTC	8.30	8.58	7.53	9.65	8.69
CFE-CGC	7.44	6.95	5.93	7.01	8.19
UNSA	–	0.14	0.72	4.99	6.25
Solidaires	–	0.45	0.32	1.51	3.82

For the first time since the reform of trade union representativity in 2008 (see below), the popularity of private sector trade unions at the national, inter-professional, and sector levels has been evaluated by their share of worker's votes. On 29 March 2013, the Ministry of Labour published data based on the results of workplace elections (**FR1301021**). However, the participation rate was only 42.78% (which increases to 66% if the results of elections held in SMEs are excluded). According to the published data, the five main trade union confederations, with membership across the entire economy maintained their representativeness. The two main organisations concerned are the CGT with 26.77% of the votes, slightly ahead of the CFDT with 26%. The CGT-FO came third, with 15.94% of the votes, followed by CFE-CGC that reached 9.43%, just ahead of the CFTC with 9.30%, retaining its status of representativity, considered in danger of being lost by a number of experts who predicted the union would fail to achieve the threshold of 8%[8]. The recently created trade unions SUD (Solidarity, Unity, Democracy), which tends to take a rather radical position and UNSA (Union of autonomous trade unions) both failed to reach the 8% threshold at the national level, with a score of 4.26% and 3.47% respectively.

[8] Le Monde, 'Les syndicats réformistes obtiennent la majorité', Michel Noblecourt, 30 March 2013.

Main trade union organisations

Trade unions are national organisations. France has five trade unions recognised as representative at a national level (i.e. are considered as representative without having to prove it).

- CGT, Confédération générale du travail/ General Confederation of Labour,
- CFDT, Confédération Française démocratique du Travail / French Democratic Confederation of Labour
- CGT-FO, Confédération Générale du Travail-Force Ouvrière / General Confederation of Labour – *Force ouvrière*
- CFTC, Confédération des Travailleurs Chrétiens / French Christian Workers' Confederation
- CGE-CGC, Confédération Générale de l'Encadrement-Confédération générale des cadre / *French Confederation of Professional and Managerial Staff – General Confederation of Professional and Managerial Staff*

Other unions are:

- **SUD – Union Syndicale Solidaire / Trade Union Solidarity** is the historical continuity of the 'Group of 10' born out of a meeting of 10 autonomous unions or federations in late 1981 to create a distinct form of association compared to the confederal model of unionism. It has 39 member unions, including 26 SUD (Solidarity democratic Unitarians).

- **UNSA – Union nationale de Syndicats Autonomes/ National Union of Autonomous Trade Unions** was born in 1993 of an internal split in **the National Education Federation (FEN)**. It brings together several independent unions and federations.

- Other **independent unions** not part of any national coordination are organised on a professional basis and / or geography.

They have significant influence but do not have (yet) a representative status at national level.

The French industrial relations system is in a period of transition. Since 1966, five trade union confederations have been considered to be representative at the national level: CFDT, CFE-CGC, CFTC, CGT and CGT-FO. And, until recent legislative changes, each trade union, at a local or sectoral level, affiliated to one of these confederations, is also considered to be representative ('presumption of representativeness'). Other trade unions (without affiliation) had to prove their representativeness, in the courts, with the representativeness criteria established by law and case law.

But in August 2008, the French parliament adopted a law on 'social democracy and working time reform' **(FR0808039I)**, in accordance with the social partners' 'Common Position on representativeness and collective bargaining' (9 April 2008, in French). Regardless of affiliation, representativeness will now depend primarily on the 'electoral audience'. That is, to be representative (and to be able to negotiate) at workplace level a trade-union must win at least 10% of the votes in workplace elections, and 8% at sectoral and national levels. Specifically, to be representative, trade unions will have to meet seven criteria: (1) respect for republican values (2) and independence, (3) they are required to be legally established for at least two years, (4) they

must have a sufficient audience (10% or 8% in the workplace elections), (5) financial transparency, (6) provide a real influence and (7) have a sufficient number of members and contributions. Moreover, collective agreements are valid only if they have been concluded by one or several representative trade unions that have obtained at least 30% of the votes in workplace elections and only if trade unions who are representative of the majority of the workforce are not opposed to it. At national and sectoral level the new criteria will apply from 2013, when results of workplaces elections, which take place no less frequently than once every four years, will be known. Until 2013, the current presumption of representativeness is maintained.

The reform of trade union representativeness by the Act of August 20, 2008, could lead to a deep modification of the French trade union landscape. Some organisations, such as the CFTC, may lose their representativeness at the national level (see below). Conversely, other organisations might see recognition of their representativeness at the national level, such UNSA.

The new rules create instability in the trade union landscape at company level: loss of representativeness, increased competition between unions. Every four years, the future of unions is challenged, therefore behaviours become dictated by the short term and are far from promoting social dialogue (**FR1109031I**). Mergers were made between unions in certain companies to maintain their representativeness. The reshaping of the union landscape is often accompanied by a reduction of the number of representative trade unions. So HR departments encourage consensus. Indeed, to be valid, a collective agreement cannot be ratified unless the signatories represent at least 30% of the vote and the majority (50%) did not object (see below).

Employer organisations

Membership of employer organisations is voluntary in France, with organisations competing to attract members. Most of the country's employers are members of at least one employer organisation: in contrast with the trade unions, employers' 'organisational density' is considered to be quite high (Traxler, 2004).

Nonetheless, the difficulty to get reliable data, if any, has to be underlined. In addition, many companies are members of several organisations (CEE Report, 2012). Membership figures are not clearly published (a list of members is available on the websites). The MEDEF is the main national employer organisation in France. An indication of the relative importance of the organisations can be found in the review of accounts: the annual resources of the CGPME reach 10 million euro, while those of the MEDEF exceed 36 million euro.

There are three main employer organisations:

- MEDEF, Mouvement des Entreprises de France / Mouvement of French Entreprises
- CGPME, Confédération Générale des Petites et Moyennes Entreprises / Confederation of Small and Medium-size Entreprises
- UPA, Union Professionnelle Artisanale / Craftwork Employers' Association

The Movement of French Enterprises (Mouvement des entreprises de France (MEDEF) was established in 1998 to succeed the former National Council of French Employers (Conseil national du patronat français, CNPF). The MEDEF is a multi-layered confederation of sector and territorial organisations bringing together companies with more than 10 employees. It organises 87 federations that cover some 600 associations and 165 regional organisations. It seeks to cover all companies, whatever their size, in all geographic and professionals sectors.

Small and medium-sised enterprises (SMEs) are represented by the General Confederation of Small and Medium-sised Enterprises (Confédération générale des petites et moyennes enterprises, CGPME) and self-employed craft workers by the Craftwork Employers' Association (Union professionnelle artisanale, UPA). In 2001, an employer organisation was created in the not-for-

profit sector, namely the Council for Businesses, Employers and Trade Associations in the Social Economy (Conseil des entreprises, employeurs et groupements de l'économie sociale, CEGES).

Since the Act of August 20, 2008, in particular, the issue of representativeness of employers' organisations is regularly raised, whether by trade unions, employer organisations which are not representative at national level or by political actors. Indeed, regularly, during national negotiations, trade unions, such as CGT and CFE-CGC, ask for the respect of a 'parallelism of forms'. This demand regularly returns to the centre stage in the current discussions on the modernisation of the 'paritarisme'. The 'outsider' employers, not invited to the negotiating table or to consultative bodies, regularly ask to be recognised as representative. For example, with its 19.05% of votes at the 'Conseil de Prud'hommes' elections of December 2008, the Union des syndicats et groupements d'employeurs représentatifs dans l'économie sociale (USGERES) request measures addressing the issue of representativeness. Similarly, the Union Nationale des Professions Libérales (UNAPL), for professionals, asked to be recognised as representative at national level. There were opposing views on this issue for many months between the two organisations, CGPME and MEDEF. CGPME wanted to base the representativeness on elections rather than – as the MEDEF always requests – on the number of member companies.

According to several statements by its president, MEDEF would like a rapprochement with the CGPME, to strengthen its power. By absorbing the CGPME, MEDEF would kill two birds with one stone. On the one hand, it would silence dissenting voices who, at the initiative of the CGPME argue for an overhaul of the representativeness of employers, just like the one that was imposed in 2008 on trade unions. On the other hand, it would become the sole representative of SMEs and thus of almost all French companies.

Industrial relations characteristics

Collective bargaining

Levels of collective bargaining

	National level (Intersectoral)	Sectoral level	Company level
Principle or dominant level			x
Important but not dominant level		**x**	
Existing level	**x**		

The coverage rate of collective agreement is almost 98% (97.7% in 2004 according to a study by the DARES, compared to 93% in 1997). This is because the practice of extension of collective agreements to entire sectors of activity and/or to different geographical regions or other economic sectors is pervasive. The government can extend collective agreements at the request of one of the bargaining parties. Such extensions decided by a public authority have been used in different sectors to level advantages given to workers and to avoid competition on social matters (same minimum wages for all companies in a sector for example). These extensions historically showed their efficiency in improving working conditions. They prevent distortions of competition; indeed they guarantee that employers who are not member of an employer organisation cannot escape the social obligations requested from their competitors and achieve a competitive advantage at the detriment of employees. As a consequence, even companies that are not members of the signing employer organisations, or of any organisation at all, are covered by a sectoral agreement once it has been extended by the government.

However, the high coverage rate masks deficiencies. Many collective agreements are outdated. And few issues are actually covered: most of the negotiations concern wages and there are many overlapping areas (Report on collective bargaining and professional sectors, 2009).

Collective agreements are legally binding if legal conditions are fulfilled. National and sectoral agreements are legally binding for all employers who are members of the signatory employer organisation and if the firm belongs to the geographical and professional scope of the agreement. If the agreement is extended, the condition of belonging to the signing employer organisation does not apply. Even if a collective agreement is not legally binding (due to the fact that the employer does not belong to the signatory employer organisation), an employer can nevertheless apply it voluntarily. Conversely, specific 'opt-out' clauses have been introduced, allowing the employers not to have to implement the regulation. This has taken place particularly in the implementation of the European Directive 2003/88/EC on working time, concerning specific sectors that have to deal with the 'duty hours' (time on standby). More generally, the law (since 1982) authorised the conclusion of derogating agreements (at sectoral or company level). The law may be residual (non-peremptory legislation). It requires an express statutory authorisation. This capability has been developed by reforms in 2004 and 2008. It is mainly used in the organisation of working time (now, collective agreements may affect overtime, or the maximum hours of work). The law on 'simplification of the law' (published on 23 March 2012) eliminates the need for individual employees' consent when the modulation of working time is established by collective agreement.

Negotiations can be carried out at all levels of economic activity. The original structure of bargaining was clearly pyramidal, with legislative regulation playing a pivotal role. Coordination between the different levels used to be organised on the 'principle of favourability' towards the employees ('principe de faveur'); that is, in case of conflict between agreements, the one most favourable to employees applies. As long as legislative principles were respected, the decentralised levels had more autonomy to negotiate wages and working time and more flexibility in general issues concerning the relationship between employer and worker.

The overall construction has been significantly modified from the mid 2000.

The 'Fillon law' of 4 May 2004 on social dialogue (**FR0404105F)** aimed at injecting a new dynamism into collective bargaining; it introduced two major innovations: collective agreements must essentially have the support of (or not be opposed by) a majority of representative trade unions or of unions representing a majority of employees in order to be valid; while the previous hierarchy of collectively agreed norms is changed, with the possibility of company-level agreements departing from sector-level agreements (except in relation to four themes set out in the law). This new regulation contributes to the main trend of decentralisation of collective bargaining.

Moreover, the Act of 20 August 2008 amended the conditions of validity of a collective agreement, asking for two cumulative conditions. First, collective agreements have to be signed by one or more representative trade unions which received at least 30% of the votes cast in workplace elections; secondly they should not be opposed by a majority unions.

Other issues in collective agreements

In 2010, several agreements were signed, on harassment and violence at work (**FR1006011I)** and on the management of social consequences of the economic crisis on employment (19 May). An agreement was signed on March 25 2011 on unemployment insurance. One of the major themes of the ongoing intersectoral bargaining concerns the 'competitiveness-employment agreements'.

The number of agreements on vocational training has increased significantly in 2011 (Report on collective bargaining, 2011) (266 agreements against 166 in 2010, see FR1207011I), probably as

a result of the 2009 law on 'guidance and vocational training throughout life', which reformed the financing of training (Law 1437 of 24 November 2009).

The French parliament decided that the collective bargaining process would be the best tool to reach equality between men and women, especially regarding the reduction of wage differentials at company and branch levels. In 2006 the law of 23 March 2006 reinforced the duty to bargain. However, the Report on collective bargaining for 2010 (p.24) demonstrates that few sectoral agreements have been signed, despite the legal obligation to negotiate on this issue. A 2010 law introduced a system of financial penalties for companies with no agreement or action plan on the issue (Law-1330 of 19 November 2010). French companies that have not taken steps to close the pay gap between women and men through a collective agreement or unilateral action plan may be fined up to 1% of their payroll costs from 1 January 2012 (**FR1112011I**). In 2011 the quality, and the number, of sectoral agreements increased. The financial penalty has been a very strong incentive to negotiate an agreement in this field: there was an increase of 49% in new agreements from 2010 to 2011 according to the Report on collective bargaining, 2011.

Industrial disputes

The strike indicator in France is usually been higher than the European average, representing a significant number of working days lost due to the considerable number of employees involved in different strikes. About 80% of strikes are initiated by trade unions and 20% can be defined as unofficial (at the beginning).

The proportion of firms who report having had one or more collective disputes rose sharply in 2010 (+2.2% compared to 2009), especially in large companies (more than 500 employees). From May 2010, the pension reform sparked a massive social movement (nine days of national mobilisation) (**FR1012011I**). The number of individual days not worked because of a strike has greatly increased: it rose from 136 to 316 days per 1,000 employees from 2009 to 2010 (collective Bargaining Report, 2011). Two sectors were particularly affected: transport and industry.

Although there is little legislation on strikes, there are elaborate procedures for settling disputes, but these procedures are rarely used in practice.

Tripartite concertation

Several paths exist allowing for at least tripartite discussion.

First of all there is a national tripartite body through which employer and trade union confederations can hope to influence government policymaking as they are purely consultative: the Environmental, Economic and Social Council (Conseil économique, social et environmental, **CESE**). The CESE comprises representatives of employer and trade union confederations, as well as other interest groups such as consumers, and experts nominated by the government. CESE appears to be a body through which the government explains and informs employers and trade unions about its policies, rather than a body with whom a genuine consensus is sought.

Secondly, the social partners continue to be heavily involved in the management of certain social security provisions, such as public health insurance, unemployment benefits and social welfare boards. The social partners also play a central role in the supplementary private health insurance system (mutuelles) and pension plans. They are involved in the system of vocational training. The national system of policy concertation is complemented by a tripartite social dialogue in development at the regional or local level.

Furthermore, a 2007 law (Law 2007-130 of 31 January, 2007, on modernisation of social dialogue) makes it obligatory to consult national-level representatives of trade unions and employer organisations beforehand when proposing reforms in the field of industrial relations, employment and vocational training (**FR0704039I**). The government should provide these

organisations with a policy document presenting the 'diagnoses, objectives and principal options' of the proposed reform. The social partners will then be able to indicate whether they intend to embark on negotiations and how much time they need in order to reach an agreement. This procedure will not apply in 'emergency situations'; in such cases, the government would have to justify its decision, which can be legally challenged.

When drawing up a draft law following the consultation procedure, the government is not obliged to adopt the content of a collective agreement as it is. However, depending on the issue at hand, it must submit the bill to:

- the National Collective Bargaining Commission (Commission nationale de la négociation collective, CNNC) for reforms concerning industrial relations;
- the Higher Employment Committee (Comité supérieur de l'emploi, CSE) for reforms in relation to employment;
- the National Council for Lifelong Vocational Training (Conseil national de la formation professionnelle tout au long de la vie, **CNFPTLV**) for reforms with regard to training.

The social partners that are represented in these bodies have therefore the possibility of assessing whether or not the government's proposals are in line with the relevant collective agreement and, if necessary, to give their opinion.

Workplace representation

In France, employees are represented through trade union and structures directly elected by all workers. Institution of worker's representation is obligatory since 1945 at all workplaces with more than 11 or 50 employees (for a complete presentation, Milan Jevtic, The role of works councils and trade Unions in representing interests of the employees in EU member states, 2012).

Trade Union

Since 1968, trade union rights have been recognised in companies and trade unions have been entitled to appoint shop stewards (*délégués syndicaux – Labour Code Articles L2143-1 to L2146-2*), who have the power to negotiate and sign collective agreements at company level – a power the other worker representation bodies do not have if there is at least one shop steward. Since the reform of representativeness in 2008, unions not recognised as representative in an undertaking, can appoint a 'representative of the union' ('*représentant de la section syndicale*' – RSS – Labour Code Articles L2142-1-1 to L2142-1-4) who receives similar rights as the appointed shop steward except the right to negotiate collective agreements.

In the last survey REPONSE (2004–2005), 62.9% of the undertakings with more than 50 employees had a least one union steward. The study shows an increase: 57.8% of undertakings had at least one Union steward in 1998–1999, up from 54% in 1992–1993. An explanation is that the legal framework increased the role of negotiations at the level of undertaking. For example, to reduce the working time with state support or to create system of financial participation for employees, employers have to sign a collective agreement with trade unions.

Works Council

The council is a legal entity, which, as a collegial body, is composed of members elected by the employees and members of the management of the company, as well as of representatives nominated by the unions. Works councils have to be set up in private sector companies with more than 50 employees; they can be formed at either company (comité d'entreprise – Labour Code *Article L2321-1*) or establishment level (comité d'établissement). Works councils receive information from employers on issues such as the economic and social aspects of the company and new technology. They also respond to formal consultations by employers on topics such as

redundancies and vocational training (without formal negotiation power), and are responsible for managing social and cultural activities, for which they have a budget (0.2% of the company's annual pay-roll) (Labour Code *Articles L2323-1 to L2323-5*).

If the employer has fewer than 200 workers it can decide to establish, after consultation with staff representatives, a single body (Délégation unique du personnel –DUP, *Labour Code Article L2326-1 to L2326-3*). This does not replace the Works Council but assimilates both the CE and DP under one body, which performs the tasks of both by those elected.

In a group of companies, a group-level works council can be created (*comité de groupe – Labour Code (Articles L2331-1 to L2335-1*), which enjoy similar rights to those of ordinary works councils.

In a multi-establishment company, works councils also form a central works council (*comité central d'entreprise – CCE – Labour Code Article L2327-1 to L2327-14*) which covers establishment works councils (comité d'établissement – *Labour Code Articles L2327-15 to L2327-19*)

Company with a European dimension can create a European Works Council ('Comité d'entreprise européen' – CEE – *Labour Code Articles L2341-1 to L2346-1*) which can be merged, according to the Labour Code, with the group-level works council, if employees' representatives agreed.

In the survey REPONSE (2004–2005), 46% of the undertakings with more than 20 employees had a works council ('comité d'entreprise', 'comité d'établissement' or a 'délégation unique du personnel'), against 44% in 1998–1999. 96 per cent of undertakings with more than 500 employees have a works council or a single body, the rate decreases to 26% for companies having between 20 and 49 employees.

Health and Safety committee

In the private sector, a separate committee deals with health and safety issues (Comité d'hygiène, de santé et des conditions de travail – CHSCT – Labour Code *Articles L4611-1 to L4611-7*). In the public sector, since the reform of 2011, the former Health and Safety Committees ('comité d'hygiène et de sécurité') have become 'Health and safety and working conditions committees' (Comité d'hygiène, de santé et des conditions de travail – CHSCT). They are no longer a joint committee and only staff representatives have the right to vote. They should be set up in establishment with more than 50 employees

Workers' delegate

The 'workers' delegates' (délégués du personnel – Labour Code *Article L2311-1*) should be elected by all workers in all private sector establishments with more than 10 employees and are responsible for presenting individual and collective grievances to management and ensuring the implementation of legislation and collective agreements (Labour Code *Articles L2313-1 to L2313-12*). SME's with fewer than 11 employees have no legal requirement to create an information-consultation body or to launch an election for workplace representative, however the decision create it can be take by collective agreement. In the survey REPONSE (2004–2005), 87% of the undertakings with more than 50 employees had a least one workers' delegate. The study shows a continuous rise: 80.2% of undertakings had at least one Union steward in 1998–1999, up from 73% in 1992-1993. Conversely, the rate decreased to 63% in companies that have between 20 and 49 employees (against 57% in 1998–1999). Over 90% of companies with more than 100 employees had workers' delegates in 2004–2005.

Technical Committees

Information and consultation (I&C) bodies also exist in the public sector, but their organisation is different to that in the private sector. The main consultative bodies within the public services are the Technical Committees that can be created on four levels: ministerial technical committee (‘comités techniques ministériels’), proximity technical committees (‘comités techniques de proximité’), common or single technical committees (‘Comités techniques uniques, Comités techniques communs’) or specific technical committees (‘comités techniques spéciaux’). The reform of collective bargaining in the public sector brought about by the law of July 2011 alters the way trade unions’ representativeness is assessed in the public sector, in line with regulations already in place in the private sector since 2008. Since this legislation, workplace elections determine the extent to which trade unions are involved in negotiations, can sign agreements and hold seats on tripartite advisory bodies.

The technical committee has different competences depending on the civil service divisions it belongs to; national civil service, public hospitals and local government. Within the national civil service (Fonction publique de l’État), the technical committee is responsible for individual and collective claims, work organisation and working conditions and there is an ad hoc Health and Safety committee. At local government level (Fonction publique territoriale), the technical committee is competent in issues from both working conditions and health and safety areas, as aspecific health and safety committee does not exist.

In the public hospital sector (Fonction publique hospitalière), competences are divided among two types of bodies: the ‘establishment technical committees’ (comité technique d’établissement), responsible for individual and collective claims and work organisation, and the health and safety committee, covering both health and safety and working conditions issues.

The regulation of these bodies is mainly organised by law. Nevertheless, there is room for regulation through collective negotiation as the social partners can create I&C bodies by collective agreement, to improve information and consultation within the company. They may negotiate improvements in facilities for employee representatives (more paid time-off, increase in resources etc.), or adapt I&C bodies to the company’s organisation, on a permanent basis such as setting up a works council for each business unit, or on a temporary basis, for example ad-hoc works councils in the event of a merger between two companies.

Main channels of employee representation

	Works council type (WC)	Trade union (TU)	[Other body] Please specify, if needed
1 Most important body	Works council – Comité d'entreprise (CE)	Shop steward- Délégué syndical (DS)	Workers' delegate (Délégues du personnel-DP) Health and Safety committee (Comité d'hygiène, de sécurité et des conditions de travail- CHSCT)
2 Alternative body	Single body- Délégation unique du personnel (DUP)	Union representative Représentant de la section syndicale (RSS)	Single body- Délégation unique du personnel (DUP)

Employee's rights

Labour law issues and individual litigations are, at the first level, brought before an industrial tribunal named 'Conseil de prud'hommes' (Council of wisemen), composed of non-professional judges, elected every five years. Appeals, when permitted (refused when the financial interest is low), are lodged before the 'Cour d'appel' (Court of appeal). Then appeals against the latter are filed to the 'Cour de cassation' (Judiciary Supreme Court).

Collective litigations are brought to the ordinary civil court: 'Tribunal de Grande Instance (TGI)' (for social plans, interpretation of collective agreements, functioning of the employees' representatives, strikes). But the 'Tribunal d'Instance (TI)' is also the responsible body for litigations concerning the workplace elections (to check the candidacies or the regularity of the elections).

French labour law has punitive aspects (illegal work, infringement of security, discrimination, sexual harassment…), so criminal courts can be competent ('Tribunal de Police', 'Tribunal correctionnel').

The commercial courts deals in particular with conflicts concerning insolvency (to declare redundancies on economic ground for example).

Finally, the Tribunal of Social Security Affairs ('Tribunal des Affaires de Sécurité sociale') deals with the general litigations of social security.

Labour inspectorates

The Labour inspectorate is an administrative division under the Minister for Labour (767 labour inspectors in 2009, 1423 controllers, see report 2009), organised at regional level (in the 'DIRECCTE -Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi'- Regional Business, competition, consumption, labour and employment direction). It monitors and enforces the application of social legislation, encompassing provisions deriving from collective agreements. In addition to this main role, it also performs advisory and

information functions, has responsibilities in the settlement of disputes and possesses certain decision-making powers, particularly in matters where the law stipulates prior administrative authorisation for a private initiative (e.g. dismissal of an employee representative and, between 1975 and 1986, redundancies).

Pay and working time developments

Minimum wage

French law stipulates a statutory minimum wages (SMIC - Salaire minimum de Croissance), covering all workers (a cross-sector minimum wage) independently of the form of remuneration (in time, performance, task, piece, commission or gratuity, etc). It is updated every year in January by the government. By law, the increase cannot be lower than the inflation for the current year, but it can be higher. If the inflation rate increases by 1% compard tothe level used for the last calculation, then there should be an automatic adjustment and therefore the minimum wage should be set again.

For example, on the 1 July, 2012, the minimum wage (SMIC) increased by 2%, bringing the new hourly rate to 9.40 euro (compared to 9.22 euro on 1 January 2012), and 1,425.67 euro gross per month.

Despite its importance in the French labour legislation the SMIC has not universal coverage; certain categories of workers are excluded from the minimum wage while others suffer a reduction in the minimum wage. Specific minimum wages are also agreed through collective bargaining and some of these sectoral minimum wages are lower than the SMIC.

Pay developments

The number of collective agreements on wages increased in 2011 (after declining in 2009 and 2010), this being the main bargaining issue in companies and professional sectors. 190 sectors (out of 300) have a minimum wage corresponding to the SMIC (Report on collective bargaining, 2011).

The law on financing of social security of 28 July 2011 introduced a premium on profit sharing for employees belonging to a company or group that has increased its dividends. The amount of the premium must be set by collective agreement. It is estimated that the amounts distributed have generally been quite low (mostly between 100 and 500 euro, and even as low as 8 euro in the group Securitas, which was against the premium distribution).

Equality between men and women has become a subject of mandatory bargaining for companies with at least 50 employees, an obligation now accompanied by a financial penalty of up to 1% of the total payroll amount (see above). Equal pay for men and women is arguably the most often addressed issue in the agreement's provisions on equality. These are intended both to guarantee female employees' wages are comparable to those of men and also to bridge the gaps. Important agreements were reached in large companies. The firm Capgemini committed itself to achieving the equal pay after three years. In order to appreciate the pay gap, the company developed a method of analysis. '(…) if deviations are found by comparing the salaries of persons in the same employment status, according to the criteria of analysis, a wage adjustment is made mandatory for all women concerned, every time that show a discrepancy from the theoretical gross annual salary (SAT) average of men in the same occupational status.' Hewlett Packard also defined 'the diagnostic steps' to address the pay gap between men and women. Alcatel Lucent and HP provided a fund of one million euro to make up the pay gap between men and women.

Working time

French statutory working time is 35 hours per week. The 'Aubry laws' of 1998 and 2000 organised the reduction of the statutory working week from 39 to 35 hours, to be implemented in 2000 for all companies employing more than 20 people and in 2002 for smaller companies. The reform continues to be controversial, but even the conservative government that emerged from the 2002 general elections kept the statutory working time at 35 hours. All French companies have negotiated working time reductions in the period 2000–2004. The law permits a variety of flexible arrangements whereby companies may derogate (within limits) from certain provisions of the working time legislation, provided such arrangements are negotiated and organised through collective bargaining. This applies, for example, to the annual calculation of overtime if the agreement provides for an annual adjustment of working hours, or in the calculation of executives' working time by days worked in the course of the year (G. Cette, 2008).

In 2010, the average worked hours per week was 39.4 (INSEE). There is a statutory maximum working hour per week (and a10 hour maximum per day), established at 48 hours (including overtime), but it may not exceed 44 hours on average over a 12-week reference period.

Any hour worked beyond the legal limit (35 hours) is an additional hour. Overtime qualifies for overtime pay or, under certain conditions, compensatory leave. Overtime worked beyond the annual quota (or within the quota if a collective agreement so provides) also gives entitlement to mandatory rest. Under the conditions and limits set by the Act of August 21, 2007 (the 'TEPA Act'), wages in respect of overtime (overtime, additional hours of part-time employees etc.) are subject to social relief and tax.

A specific system of annual working days may be established by collective agreement for executives. In 2012, about 40% of executives are covered by a system of annual working days. It allows counting the duration of the work in days instead of hours. An annual limit is set by collective agreement (maximum 218 days) but an employee can legally work in excess of this limit until 282 days.

The French regulation of working time is considered as particularly complex. It leaves a very large role to collective bargaining. For example, it is up to collective agreements to set an annual quota of overtime and a system of annual working days.

Bibliography and links

Amossé, T. and Wolff, L., 'Ce que représentent les syndicats en entreprise' (160Kb PDF), *Connaissance de l'emploi*, Centre d'Études de l'Emploi (CEE), No. 69, September 2009.

Andolfatto, D. (ed.), *Les syndicats en France*, Paris, La documentation Française, 2004.

Carlier, A. and Naboulet, A., 'Négociations collectives et grèves dans les entreprises du secteur marchand en 2007' (190Kb PDF), *Premières Synthèses Informations*, Direction de l'Animation de la Recherche, des Études et des Statistiques (DARES), No. 18.2, April 2009.

Cette, G., Reform and reduction of working hours, 2008.

Compston, H., and Berger, S., *Social partnership in the 1990s: The West European experience in historical perspective*, Oxford, Berghahn, 2002.

DARES, « Le paradoxe du syndicalisme français », 2008

DARES, « La construction de la représentativité patronale », Nicole Maggi-Germain, Jean-Pierre Le Crom, Pascal Caillaud, Stéphane Carré, Franck Heas, Marion Blatge, Jean-Pierre Chauchard et Jean Saglio, 2011

European Industrial Relations Observatory (EIRO), various articles on http://www.eurofound.europa.eu/eiro/.

Eurostat, Structural indicators, 2009.

Jevtic Milan, The role of works councils and trade Unions in representing interests of the employees in EU member states, 2012

Jobert, A. and Goetschy, J., 'Employment relations in France', in Bamber, G., Lansbury, R. and Wailes, N. (eds.), *International and comparative employment relations, Globalisation and the developed market economies*, New South Wales, Allen and Unwin, 2004, pp. 176–210.

Jowell, R., *European social survey 2002–2003*, London, Centre for Comparative Social Surveys, City University, 2003.

Lallement, M., 'New patterns of industrial relations and political action since the 1980s', in Culpepper, P.D., Hall, P.A. and Palier, B. (eds.), *Changing France: The politics that markets make (French politics society, and culture)*, London, Palgrave Macmillan, 2006.

Ministère du travail, des Relations Sociales, de la Famille, de la Solidarité et de la Ville, Direction Générale du Travail (DGT), DARES, La négociation collective en 2011, Paris, La documentation française, 2012.

Ministère du travail, des Relations Sociales, de la Famille, de la Solidarité et de la Ville, Direction Générale du Travail (DGT), DARES, La négociation collective en 2010, Paris, La documentation française, 2011.

Moreau, M.-A., *The evolving structure of collective bargaining in Europe 1990–2004*, National report, France, Project report 'The evolving structure of collective bargaining, A comparative analysis based on national reports in the countries of the European Union', University of Florence and European Commission, 2005.

Traxler, F., Blaschke, S. and Kittel, B., *National labour relations in internationalised markets*, Oxford/New York, Oxford University Press, 2001.

Traxler, F., *Small and medium-sised enterprises and business interest organisations in the European Union*, Brussels, European Commission, 2004.

Visser, J., 'Patterns and variations in European industrial relations', in *Industrial relations in Europe*, Luxembourg, Office for Official Publications of the European Communities, 2004.

Woll, C., *The difficult organisation of business interests: MEDEF and the political representation of French firms*, Max Planck Institute for the Study of Societies, Discussion Paper, 05/12, 2005.

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