Industrial Relations

France: Developments in working life 2018

Working life in 2018 – Annual review

Disclaimer: This working paper has not been subject to the full Eurofound evaluation, editorial and publication process.
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Political context affecting working life aspects

In April, the government in place since the election of President Macron in May 2017, completed the second stage of its social model renovation in an economic context marked by a drop of growth from 2.4% in 2017 to 1.7% expected for 2018. This second stage, adopted through the law N°2018-771 of 5 September 2018 on ‘freedom to choose one’s professional future’ (loi n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel) covers a vast field, from vocational training and apprenticeships to unemployment insurance, which is managed by the social partners.

In October, the protest movement of the “Gilets Jaunes” began on social networks in response to the rise in petrol prices, which were linked on the one hand to the rise in oil prices and on the other hand to an ecological tax aimed at increasing the cost of fossil fuels. With a common grievance, the movement quickly found a goal: to block roads all over France on 17 November. It also adopted an emblem: the "yellow vest", a piece of safety clothing that all drivers must have in their car. According to Le Monde (10 December 2018), from 20 October to 17 November, hundreds of Facebook groups reached about three million members. On 17 November, more than 280,000 demonstrators were registered by the police. Since the start of these demonstrations on weekly basis (every Saturday), violence emerged during them. In addition to claims related to fuel prices, the "yellow vests" call for social justice measures, such as the restoration of the tax on wealth (partially abolished by the government in 2017), the abolition of the increase in social contribution (CSG) which reduced the purchasing power of pensioners in 2018, and the increase of the legal minimum wage (SMIC). These claims were initially rejected by the government, but under pressure, President Macron announced on 10 December an initial set of measures to ‘provide first answers […] to those who need it most’. The government refused to increase the minimum wage over the automatic annual increase, but it has accepted an increase in the employment bonus (prime d'activité), a welfare allowance granted to the lowest paid workers. The increase of this bonus combined with the automatic increase in the minimum wage, should result in the payment of an additional 100 euros to employees paid at the minimum wage level, as of 1 January 2019. In addition, the government has encouraged companies to pay a tax-free bonus of up to €1,000, without social security contributions. This measure is included in a “law on economic and social emergency measures” published on 24 December (Loi n° 2018-1213 du 24 décembre 2018 portant mesures d’urgence économiques et sociales). The government has also agreed to cancel the ecological tax and the increase of the additional CSG paid by pensioners. Additionally, it decided to remove social contribution and taxes on overtime payment, with the aim of improving the net salary of employees.
Labour market reforms or major packages of working life regulations

The law N°2018-771 of 5 September 2018 on ‘freedom to choose one’s professional future’, referred to as the second part of the labour market reform of the government set after the election of President Macron in 2017, was adopted by the French Parliament on 1 August 2018 and promulgated on 5 September. This text is partly based on two interprofessional agreements negotiated by the social partners: one on unemployment insurance1 and the other on vocational training2. The general aim of the reform is to give employees the freedom to choose their own development path and to thereby enhance their skills and employability. The law introduces important changes in the management and financing of the vocational training system. One of the flagship measures is the transformation of the personal training account (‘Compte personnel de formation’), created in January 2015 that will from 1 January 2019 be credited in euros whilst at present it is credited in hours. The aim is that the personal training account becomes the main tool of development of the employee’s skills. The beneficiary of the account will be able to choose and pay directly for her training courses to agreed training providers. The law contains also measure to improve apprenticeship. For instance, the age limit is increased from 25 to 29 years. The law also simplified the possibilities of termination of such apprenticeships’ contract.

The law contains a new definition of training measures (Labour Code, Article L. 6313-2). This measure is defined as ‘an educational path to achieve a professional objective’. On 1 January 2019, the training plan becomes the ‘skills development plan’. The employer remains responsible for ensuring that employees can adapt to the needs of their workplace and to maintain their ability to hold a job. The new regulation makes a difference between the ‘compulsory’ and the ‘non-compulsory’ training. Any training measure that ‘conditions the exercise of an activity or function, pursuant to an international convention or legal and regulatory provisions’ is considered ‘mandatory’. This ‘compulsory’ training measure constitutes effective working time and warrants the continuation of remuneration (Labour Code, Article L. 6321-2). Other so-called ‘non-compulsory’ training courses may take place outside of working hours (Labour Code, Article L. 6321-6). The employee’s refusal to participate in training measures outside of working hours or the termination of her agreement shall not constitute a fault or reason for dismissal (Labour Code, Article L. 6321-7).

With regards to working conditions, the government published details about a new measure included in the Law on ‘freedom to choose one’s professional future’ aimed at reducing the wage gap between women and men. This innovative system is based first of all on an employer’s self-assessment based on an "index" composed of five indicators, each with a value expressed in points: 1. The elimination of the gender pay gap, in comparable positions

1 Unédic (2018), Accord du 22 février 2018 relatif à la réforme de l’Assurance chômage

2 Accord national interprofessionnel pour l’accompagnement des évolutions professionnelles, l’investissement dans les compétences et le développement de l’alternance

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and ages (40 points); 2. The same chance of having a salary increase for women as for men
(20 points); 3. The same chance of obtaining a promotion for women as for men (15 points);
4. All female employees were granted increases that have been decided in their absence
upon their return from maternity leave (15 points); 5. At least four women or men in the 10
highest paying positions (10 points). The employer must evaluate its performance according
to these five criteria, publish the results on its website, forward them to employees’
representatives and give itself an overall score. If the score is less than 75 points, corrective
measures must be implemented. Companies that have not achieved satisfactory results by 1
March 2022 will risk a penalty of up to 1% of the pay-roll. For companies with 50 to 250
employees, the penalty will be applicable starting 1 March 2023. This measure has been
widely welcomed by the social partners.

Social partners’ views and reactions on changes in governments and
working life policies

The French Democratic Confederation of Labour (CFDT) hailed the reform as ‘progress’,
while fearing a ‘risk of a decline in training rights’3. The General Confederation of Labour –
Workers’ Force (FO) denounced the ‘logic of each for himself’, estimating that the law
‘detracted’ from unemployment insurance and ‘contained few guarantees’ for apprentices4.
The FO also felt that transforming the personal training account into euros would ‘inevitably
lead to individualisation and therefore a reduction in employees’ rights’. Employer
organisations reacted positively even though some, like the General Confederation of Small
and Medium Companies (CPME)5, were worried about their ability to assume responsibility
for the taxation of the occupational sectors that make the most use of fixed-term contracts.
Employers and trade unions have welcomed the provisions related to the index.

Developments in industrial relations 2018

Changes affecting the national-level actors and institutions in 2018

Actors

Two trade union confederations held their congresses in the second quarter of 2018. On 7
June, French Democratic Confederation of Labour (CFDT) reappointed Laurent Berger as its
general secretary. On 27 April, Force ouvrière (FO) elected Pascal Pavageau as its head,
where he succeeded Jean-Claude Mailly. But, in October, Pascal Pavageau had to resign after
the newspaper Canard Enchaîné revealed the existence of an internal file established by
Pascal Pavageau’s team on 126 trade union officers with qualifiers such as "stupid",
"garbage" or "thief in portfolios", "stupid", "completely crazy" - and possibly membership of

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3 CFDT (2018), Adoption de la loi “Avenir professionnel” 1st August.
4 FO (2018), Loi « liberté de subir seul son parcours professionnel », 6 August.
5 CPME (2018), « Liberté de choisir son avenir professionnel » : Que prévoit la loi ?, 1 August.
Freemasonry and sexual orientation. On 22 November, FO elected at its head Yves Veyrier, to gather the troops and restore the image of a trade union shaken by internal divisions since the file scandal and the resignation of Pascal Pavageau.

On the employers’ side, six candidates came forward to succeed Pierre Gattaz as President of the Movement of the Enterprises of France (MEDEF), France’s largest employer federation. After a tight competition, Geoffroy Roux de Bézieux was elected new president on 3 July, ahead of the candidate from the powerful UIIMM.

Representativeness

The second assessment of trade unions’ representativeness in the public sector has been published, based on the results of the workplace elections held from 29 November to 6 December 2018. Almost half of the 5 million voters participated to the vote. The General Confederation of Labour (CGT) remains the leading trade union organisation in the civil service as a whole (State, local government and hospital) with 21.8% of the votes (−1.3 point compared to 2014), followed by the French Democratic Confederation of Labour (CFDT, 19%, −0.3 point), Force ouvrière (18.1%, −0.5 point) and the Union of autonomous trade unions (UNSA, 11.2%, +0.8 point). Taking into account the results of workplace elections in the private sector, the CFDT has become, for the first time, the leading French trade union, in the public and private sectors combined. Otherwise, on 9 October, the Ministry of Labour published a new assessment of the union density rate, which rose to 11% in 2016, for the whole territory, in both the private and public sectors, compared with 11.2% in 2015. Statistics show a significant disparity between the public service sector with a rate of 19.1% and the private sector (8.4%). The largest proportion of members (11.5%) are aged 50 and over, while only 3.3% of those under 30 are members of a union.

Institutions

No major change in 2018.

Changes affecting the sectoral and company level social dialogue 2018

Sectoral-level

The sectoral social dialogue is marked by the continuation of the policy of restructuring professional branches, provided for by the law of 8 August 2016, which set the objective of reducing the number of branches to 200 in August 2019, against more than 700 in 2016. In November 2018, the Ministry of Labour announced that 180 branches had been restructured by the Ministry in consultation with the social partners. After prioritising

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6 Ministry of Public administration (ministère de l’Action et des Comptes publics), Résultats des élections professionnelles pour les comités techniques dans la fonction publique en 2018, résultats définitifs, Stats Rapides, December 2018

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branches that no longer have collective bargaining activity, or very little activity, the work of the Subcommittee on the Restructuring of Professional Branches (SCRBP) of the National Collective Bargaining Commission (CNNC) has continued with the examination of restructuring projects relating to branches with less than 5,000 employees. Ministerial orders (‘arrêtés’) providing for branch mergers were published throughout the year. This movement will accelerate in 2019, mainly because the branches will be invited to join forces to set up the new bodies that will finance vocational training (Opco) as part of the training reform adopted in September 2018. This restructuring forces also employers’ organisations to merge: the research centre of employers’ organisations directors (Centre d’études des directeurs d’associations professionnelles) estimates that one-third of the EO have operated merger operations since 2015. In 2017, the number of EO decreased by 11%.

**Company-level**

After the reforms introduced by the five Macron ordinances (see France: Latest working life developments – Q3 2017, link below), the government has adopted a sixth ordinance No. 2017-1718 of 20 December 2017 that has completed and partly modified the rules relating to the Social and Economic Committee (SEC). The government managed to implement these reforms without much opposition, as the trade unions that had criticised the entire reform were unable to organise common action against it. The SEC is a single information and consultation body that merges the Works Council, the Health and Safety Committee and staff delegates. It has to be implemented in all companies with 11 employees and more, on 1 January 2020 at the latest. In practice, the year 2018 was marked by many collective bargaining within companies to implement the SEC and to merge the existing information and consultation bodies. According to a first assessment published by the committee for the evaluation of the ordinances, of 1 November 2018, 10,500 SEC were established, a significant proportion of which in companies with less than 50 employees. According to this assessment, it seems that the social partners are generally satisfied with a simple minimum application of the mandatory provisions, just adapting existing representation structures. On the one hand, employers are seeking to reduce operating costs, while on the other hand, employee representatives are trying to maintain the resources allocated until now, particularly in terms of the number of mandates. Otherwise, this first assessment highlights the lack of interest of the social partners in setting up a SEC which, in addition to its information and consultation role, could also negotiate collective agreements. Moreover, the new possibilities for negotiating on new topics and reorganising the modalities of social dialogue within companies have not yet been successfully implemented. It is expected in 2019 an important increase of company-level collective bargaining to set up SECs before 1 January 2020. On 19 April 2018, the Ministry of Labour published « 100 questions and answers » circular on the SEC on its website to explain the content of Ordinance No. 2017-1386.

Otherwise, a Decree No. 2018-362 of 15 May 2018, applicable to collective bargaining agreements concluded as of 1 September 2017, provides that collective bargaining agreements concluded at the level of the company, establishment, group and group of companies must be put online on a new on-line platform. They are published on the official website Legifrance, which becomes the first existing complete database of company-level collective agreement.
Innovation in collective bargaining

On company-level, out of the traditional issues (wages, working time...), some innovative agreements can be mentioned in 2018:

- Sunday work (as in 2015 the legislation has been made more flexible to define zones for the opening of shops on Sundays) in the commerce sector;

- telework / mobile work with a trend aiming to make the framework more flexible and to increase the share of teleworkers. For instance, the aeronautic providers Thales has cancelled the threshold of workers allowed to telework. Other agreements have been concluded at SAP, Schneider Electric, Harmonie Mutuelle, Airbus, La Poste, Enedis...

- The right to switch-off ('droit à la déconnexion') negotiated mainly in agreements covering work-life balance or quality of life at work. For instance, agreements have been concluded at Groupama, Saint-Maclou, Manpower, Enedis...

- The donation of leave to employees with seriously ill children is still an issue on company-level and also on branch-level as the instrument has been extended by a new law in February (Loi n° 2018-84 du 13 février 2018 créant un dispositif de don de jours de repos non pris au bénéfice des proches aidants de personnes en perte d’autonomie ou présentant un handicap) that has created to allow those who care for people with disabilities or a loss of autonomy to benefit from leave not taken by other employees of their company.

Perhaps the most innovative issue is related to soft alternative transports as an agreement concluded at the telecommunication company Orange which provides for a "bicycle mileage allowance" up to €200 per year to cover part of the cost of transport for employees who choose to travel by bicycle, or also assistance for the purchase of a conventional or electrically assisted two-wheeled vehicle. To facilitate the use of bicycles, the Orange Group undertakes, within six months of signing the agreement, to examine the possibility of introducing:

- adapted and secure bicycle shelters;

- battery charging terminals with pay-per-use, at a rate covering only the costs incurred by the company;

- the installation of lockers near workspaces;

- access to specific equipment (changing rooms, showers).

The agreement asked for the adjustment of working hours for employees who carpool. Therefore, the management is committed to promoting carpooling services. Managers are invited to consider kindly requests to adjust the working hours of employees involved in carpooling. Specific parking spaces will be created on the car parks. Otherwise, the agreement recommends that Orange employees use the means of communication provided by the company to reduce travel. Finally, Orange also covers the entire cost of travel from home to the usual place of work (instead of 50% in normal times) in the event of peak pollution, bad weather or exceptional transport difficulties, for employees who do not have access to telework, even occasionally.
It should also be noted that a framework agreement 2019-2021 of 18 October 2018 defining the social policy of the Caisse des dépôts et consignations, in which the signatories hope that the renegotiation of the agreement on quality of life at work "will further deepen the policies implemented, in particular those in favour of employee transport (collective, bicycle plan, etc.)

Another topic, on which social partners have start to discuss and to negotiate in large companies is the concrete implementation of the recent legislation on the duty of vigilance (Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre) drawn up after the Rana Plaza disaster in 2013. Thus, "any company that employs [...] at least 5,000 employees within the company and its direct and indirect subsidiaries, whose head office is located on French territory, or that has at least 10,000 employees within it and in its direct or indirect subsidiaries, whose head office is located on French territory or abroad", must establish and implement an effective vigilance plan. The vigilance plan must include "suitable measures to allow for risk identification and for the prevention of severe violations of human rights and fundamental freedoms, injury to human health and safety, and environmental damage" caused by the group but also as a result of the operations of subcontractors or suppliers. In large companies, social partners are therefore involved to elaborate the vigilance plan or to monitor it.
## National social dialogue in 2018 – Scope and Contribution

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<th>Social dialogue interaction</th>
<th>Social dialogue outcome and/or output</th>
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<tr>
<td><strong>Employment - Labour market participation of disabled workers</strong></td>
<td>People with disabilities - On the basis of a guidance document, the Prime Minister launched a consultation with social partners on an employment policy for people with disabilities. Social partners are invited to open negotiations at the end of the consultation period. Two reports, one from the Court of Auditors, the other from the General Inspectorate of Social Affairs and the General inspectorate of Finance, criticised the operation and efficiency of the two current funds for the professional integration of disabled workers (Agefiph and FIPHFP).</td>
<td>The government has launched a consultation out of a tripartite institution and within the National Advisory Council of Disabled Persons (Conseil National Consultatif des Personnes Handicapées - CNCPH) where trade unions have seats.</td>
<td>The Law on ‘freedom to choose one’s professional future’ of 5 September 2018 includes a provision to increase the access to employment of disabled people. For instance, companies have an obligation to employ up to 6% of the workforce of disabled workers. As it was calculated on establishment level from 20 employees, some sectors as banking sector that have an important network of small establishment finally escape from this compulsory measure. From now, the 6% threshold will be calculated on the whole workforce employed in France on company-level.</td>
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<td><strong>Skills, training and employability - Reform of vocational training</strong></td>
<td>Following the conclusion, on 22 February of a national interprofessional agreement by the representative social partners, the government unveiled a far-reaching reform of vocational training. Introduced on 5 March, it incorporates some of the content of the agreement, but also goes well beyond it, particularly with regard to the governance of vocational training. In fact, under the government’s plan, the social partners will not be involved in the sourcing of funding for vocational training. It also changes the way the personal training</td>
<td>Based on an interprofessional collective agreement, the government has adopted a bill that was then submitted to formal consultation of both social partners outside a tripartite institutional framework.</td>
<td>The reform of the vocational training has been included in the Law on ‘freedom to choose one’s professional future’ of 5 September 2018.</td>
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<td>account works. Employees will no longer accrue training hours in their account, but will instead receive 500 euros a year, up to a limit of 5,000 euros. Unqualified employees will receive 800 euros a year. The aim is to give employees control over their training.</td>
<td>At the end of August, the government organised bilateral meetings with the social partners on the future of the social model. Following these exchanges, Prime Minister Édouard Philippe sent partners a ‘work programme to renovate our social model’. This work programme contained seven projects, three of which - unemployment insurance, occupational health and care work stoppages - should be submitted to interprofessional collective bargaining, according to Prime Minister Philippe. He intends to respect the autonomy of the social partners. French Government: Programme de travail pour rénover notre modèle social. Regarding unemployment insurance reform, the government opened a ‘shared diagnostic phase’ with the social partners in September, before launching a formal consultation. A document was produced that detailed the objectives of the reform (i.e. reduce levels of precarious work and increase incentives to return to employment) and the social partners began negotiations.</td>
<td>On 9 November, the social partners launched negotiations to reform the unemployment insurance. They should achieve an agreement in the first semester 2019; even the employers’ organisation had been upset by the regular breaches of their autonomy as the government asked them to introduce a bonus-malus mechanism against companies using too many fixed-term employment contracts.</td>
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<td><strong>Employment (2018c).</strong></td>
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<td><strong>Pension reforms</strong></td>
<td>The electoral programme of the President Macron included a systemic reform of the pension system to make it more sustainable and fairer though a universal pension system’ that would operate on a pay-as-you-go and point basis.</td>
<td>The High Commissioner for Pension Reform Jean-Paul Delevoye brought together the social partners in October to conclude the first phase of consultation and present ‘the main principles underlying the future pension system’. On 10 October, he confirmed that the reform aims to establish a ‘universal pension system’ that would operate on a pay-as-you-go and point basis. It would cover all asset classes up to a certain income cap. The legal retirement age would remain at 62.</td>
<td>A second phase on ‘the main parameters of this new system, as well as the transition modalities’, supposed to be opened before the end of 2018 has been postponed to the first semester 2019 due to the yellow jackets movement. The pension reform is scheduled of 2019 and will need a law.</td>
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### Themes

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<th>Health, safety and well-being at work - Occupational health and safety</th>
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**Description**

The government announced that a consultation on occupational health would be commencing in October. Social partners were sent a guidance document for the opening of possible inter-professional collective bargaining, which could be extended until the end of the first quarter of 2019. During this period, the partners will be able to refer to the report Health at work: towards a simplified system for enhanced prevention and review the national inter-professional agreement of 19 June 2013 on the quality of life at work. A bill will then be tabled in parliament before the end of the first half of 2019.

**Social dialogue interaction**

The government also announced that a consultation on occupational health would be commencing in October.

**Social dialogue outcome and/or output**

Social partners were sent a guidance document for the opening of possible inter-professional collective bargaining, which could be extended until the end of the first quarter of 2019. During this period, the partners will be able to refer to the report Health at work: towards a simplified system for enhanced prevention and review the national inter-professional agreement of 19 June 2013 on the quality of life at work. A bill will then be tabled in parliament before the end of the first half of 2019.

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No major social dialogue debates were held on the following themes: Taxation and non-wage related labour costs; Terms and conditions of employment; Wage setting; Working time; Work-life balance.

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Selected major social dialogue debates

*No major social dialogue debates*

The main theme that occupied the social partners at national level throughout 2018 was the reform of unemployment insurance, which is managed by the social partners. However, the State is omnipresent in the financing of the scheme, in particular insofar as the deficit of the unemployment insurance scheme is included in the French budget deficit examined by the European Union as part of the European Semester. A few months after concluding a collective agreement that was to operate the unemployment insurance scheme for two years, the government therefore sent a "framework letter" in December 2017 to the social partners to negotiate a reform of unemployment insurance on the basis of the promises made by President Emmanuel Macron during the presidential campaign: creation of a new right to compensation for employees who resign from their jobs, extension of the unemployment insurance scheme to the self-employed, fight against precariousness in order to reduce the use of short-term fixed-term contracts, control of the unemployed and governance of the scheme. The social partners, on 20 December, adopted a "Reflection basis for a useful consultation" to maintain certain principles such as the contributory nature of unemployment insurance, and the responsibility entrusted to the social partners to "make choices making it possible to reconcile protection against the risk of job loss, the adaptability of the labour market and the financial sustainability of the scheme". They also agreed to meet every week between 11 January and 15 February. The final negotiating session, on 22 February, resulted in an agreement signed by all the social partners except the CGT. To implement it, part of the provisions of the agreement have been included in the law on the freedom to choose one's professional future (published on 5 September), which also reforms vocational training and apprenticeship. But the agreement does not go far enough for the government. In July, before Parliament, Emmanuel Macron called for a review of 'the rules of unemployment insurance, which may have unintentionally encouraged the development of what is called permittence (the possibility of combining unemployment benefit and employment) and precariousness'. In September, the social partners were therefore received by the government in bilateral meetings and then at a multilateral meeting to define the content of the framework letter for the forthcoming negotiations. In September, the social partners met with representatives of the organisation that manages unemployment insurance (Unédic) and representatives of the public employment service (Pôle Emploi) to establish a diagnosis. On 21 September, the government sent a new framework letter. Starting from the observation that 'the situation is not satisfactory', with 'an increasing duality of the labour market', the government wants a systemic reform of unemployment insurance. At the same time, the government is demanding that the negotiations allow annual savings of €1 to €1.3 billion over three years, in addition to the €800 million per year already provided for in the unemployment insurance agreement signed in 2017. These savings, according to the executive, must be used 'to finance new rights for resigning and self-employed people and to accelerate the regime's debt reduction'. Although the framework letter specifies certain topics to be addressed, it does not mention a bonus-malus system aimed at increasing the social security contributions of companies that employ too many employees on fixed-term contracts. Despite the fairly precise framework developed by the government, the social partners decided to open a new negotiation on 9 November. This negotiation was disrupted by the movement of yellow vests, then by the publication of a decree strengthening sanctions against the unemployed
and, at the beginning of 2019, by statements by President Macron who had publicly reaffirmed his intention to introduce a bonus-malus on employer contributions to fight against precariousness. A red line on the employer’s side for years. Finally, the social partners failed to reach an agreement, leaving the government to carry out the reform of unemployment insurance. However, at the end of February, the Prime Minister set the course of the operations: a broad consultation led by the Minister of Labour and her cabinet with a view to establishing a shared diagnosis of unemployment insurance, followed by the presentation (in the spring) of the development plans adopted by the executive; for a decree implemented this summer. Unemployment insurance, torn between social partners who intend to continue to manage it and a government wishing to steer the system more closely, has thus given rise to a kind of permanent negotiation on this subject in 2018, without achieving a thorough reform of the system.

**Unilateral government actions – without social dialogue**

**First governmental measures in response to demands from the Gillets Jaunes**

Under pressure of the yellow jackets movement, President Macron announced on 10 December an initial set of measures to ‘provide first answers [...] to those who need it most’, without any kind of social dialogue. The government refused to increase the minimum wage over the automatic annual increase (a decision taken before the formal consultation of the social partners on this issue), but it has accepted an increase in the employment bonus (*prime d’activité*), a welfare allowance granted to the lowest paid workers. The increase of this bonus combined with the automatic increase in the minimum wage, should result in the payment of an additional 100 euros to employees paid at the minimum wage level, as of 1 January 2019. In addition, the government has encouraged companies to pay a tax-free bonus of up to €1,000, without social security contributions. This measure is included in a “law on economic and social emergency measures” published on 24 December. The government has also agreed to cancel the ecological tax and the increase of the additional CSG paid by pensioners. Additionally, it decided to remove social contribution and taxes on overtime payment, with the aim of improving the net salary of employees. Social partners played no role during this sensitive period and all the measures were decided by the government itself with the support of its majority at the National assembly.
Collective labour disputes in 2018

Changes in the regulation of collective labour disputes

No changes made.

Selected major labour disputes of national significance

To reform the public railway company SNCF, the government has announced – on the basis of a report commissioned by the former President of Air France – its willingness to adopt ordinances, making it possible to pass reforms more quickly. The reform was designed to prepare the national railway for passenger rail competition while also removing the ‘special status’ for new railway workers, which in the past has included jobs for life. The Prime Minister has upset the trade unions by announcing that new employees will no longer benefit from the favourable employment conditions included in the 'status of railway workers' and that the working conditions included in the Labour Code will apply instead. The main trade union organisations (Sud-Rail, Unsa, CFDT and CGT) have strongly denounced this reform and decided upon an unprecedented action: a strike plan of two days in every five (Le Monde, 5 April 2018), from April to June (during which time the bill was being examined in Parliament). It was the longest strike in the history of the SNCF, with unions mobilising against the government’s draft railway reform law. The government’s promise to take on €35 billion of the SNCF’s debt, and the adoption of amendments to the bill in agreement with union demands, ended up cracking the union front. After the new law was officially adopted by parliament on 27 June, the French Democratic Confederation of Labour (CFDT) and The National Union of Autonomous Trade Unions (UNSA) indicated that they would be suspending strike action in favour of negotiation. However, the CGT Cheminots and SUD-Rail both announced new strikes for July.

Another dispute to mention is the industrial action that occurred at the airline company Air France during the second quarter of 2018, with a series of 15 strike-days in support of a 6% wage increase. After 11 unions refused the proposals put forward by management (a 2% increase in 2018 and 5.1% increase over three years), CEO Jean-Marc Janaillac organised a referendum for all employees on a draft agreement that included the company’s wage increase proposal (Les Echos, 24 April 2018). The proposal was rejected by a majority of the employees, which led to Janaillac’s resignation on 4 May. Chief Financial Officer Frédéric Gagey was subsequently named as interim CEO, before the nomination of the former deputy CEO of Air Canada, Benjamin Smith, in September 2018, who started to negotiate with trade unions and reached a first wage agreement for the whole staff in October (+ 2% in January 2018 and + 2% in January 2019), and a second agreement with ground staff with a complementary individual wage increase of +1.8% and a 0.1% budget to finance exceptional individual bonuses (Air Journal, 12 January 2019). Negotiations were still on-going by the end of 2018, with the flight crew and pilots, in a more peaceful social climate.

According to a chapter of the annual assessment of collective bargaining (Bilan de la négociation collective 2017, s. 647), published in February 2018, in 2016, 1.7% of companies with ten or more employees of the private sector reported having experienced one or more collective work stoppages, an increase of 0.4 points compared to 2015. The number of individual days not worked per 1,000 employees almost doubled from 2015 to 2016, from 69 to 131 days. This increase is all the more significant as it comes after five years of relative...
stability. The explanation is that 2016 was marked, at the inter-sectoral level, by social movements against the Labour Act (law of 8 August 2016). The latter represent the first reason for collective work stoppages, cited by 41% of companies that experienced a strike in 2016, whereas it is usually wages that are the most frequent reason. Strikes in all sectors were significantly more intense in 2016 than in 2015. In particular, the proportion of "transport and warehousing" companies that experienced a strike was the same in 2015 and 2016, but the number of days not worked due to strikes per 1,000 employees was 2.6 times higher in 2016 than in 2015.

Working time 2018

Changes in the regulation of working time 2018

Legislation on working time duration or organisation

Young workers / Apprentices

The working time regulations for workers under the age of 18 years have changed. According to Labour code, they can’t work more than 35 hours a week and 8 hours a day (Labour Code, Art. L. 3162-1). The law No. 2018-771 5 September 2018 provides the possibility of derogating from this maximum working time for certain activities, that were defined by the Decree No. 2018-1139 of 13 December 2018 (Décret n° 2018-1139 du 13 décembre 2018 définissant les secteurs d’activité pour lesquels les durées maximales du travail des jeunes travailleurs peuvent être aménagées lorsque l’organisation collective du travail le justifie). If it is justified by the collective organisation of work, employers from the mentioned sectors (building sites, public works sites, creation, development and maintenance activities on landscape space sites (LC, article R. 3162-1) may notify the Labour inspectorate to increase the maximum weekly working time by 5 hours and the maximum daily working time by 2 hours. In other sectors not covered by the decree, it will also be possible to derogate from working time, but with a more restrictive procedure (LC, Art. L. 3162-1). However, the working time of young workers may not exceed the normal daily and weekly working time of adults.

Overtime

As an answer to the social movement of the “yellow jacket”, the law “on economic and social emergency measures” published on 24 December (loi n° 2018-1213 du 24 décembre 2018 portant mesures d'urgence économiques et sociales) includes a measure, which removes social contribution and taxes on overtime payment, with the aim of improving the net salary of employees. Therefore, it will also reduce labour cost on overtime.

Collective bargaining outcomes on working time duration or organisation

No main outcomes expected about Sunday work and telework (see above, innovation in collective bargaining).

Major debates concerning working time duration or organisation

No major debates to report this year.
Health and well-being at work 2018

Physical working environment

Biological agents

More than one in five employees were exposed to biological agents in 2010, according to the survey "Medical surveillance of employees’ exposures to occupational risks" (Sumer) conducted by DARES (2018). 22.2% of employees were exposed to biological agents in 2010, representing nearly 4.8 million people.

Psychosocial working environment

On February 1, the National Assembly rejected a bill for the recognition as occupational diseases of psychological pathologies related to burn-out.

In a study published on 27 June 2018, the DARES (2018) pointed out the link between the use of new technologies and the deterioration of working conditions. This is despite a ‘greater autonomy’ and a ‘strong sense of professional recognition’, made possible by these tools.

Employment status 2018

‘Standard’ employment contracts

The main changes occurred in 2018 are related to the implementation of the labour market reform of 2017 aiming to reduce mass unemployment that has persisted in France since the 1980s, with its first phase the reform of the Labour code implemented since September 2017 through several decrees that made huge changes to the Labour Code which take into account long-standing business demands that clearly favour employers. A second wave of changes was introduced by the reform of vocational training, apprenticeships and unemployment insurance adopted on 5 September (the law N°2018-771 of 5 September 2018 on ‘freedom to choose one’s professional future’ (loi n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel). However, some other less important changes occurred:

In the field of sexual harassment, the law No. 2018-703 of 03 August 2018 (Loi n° 2018-703 du 3 août 2018 renforçant la lutte contre les violences sexuelles et sexistes) has introduced the new offence of sexist insults (« outrage sexiste », Penal Code, article 621-1, I) which, like sexual harassment, can occur in the workplace. Sexist insults are defined as any sexual or sexist comment or conduct that violates the other’s dignity because of its degrading or humiliating nature or that creates an intimidating, hostile or offensive situation against the other. No repetition of the facts is required, and this type of offence does not need to be accompanied any act of sexual violence or exhibition, or any act of sexual or moral harassment. Sexist insults are punishable by a fine of € 750). In the event of aggravating circumstances (if the offence is committed, for example, by a person abusing her authority conferred on her by her duties), the fine may be increased to € 1,500. In the event of a repeat offence, it is increased to € 3,000. Additional penalties can also be pronounced, such as the obligation for the offender to complete, at her own expense, a training course to fight sexism and raise awareness of equality between women and men.

Disclaimer: This working paper has not been subject to the full Eurofound evaluation, editorial and publication process.
Self-employed

Charter to protect “self-employed” workers of the gig economy: While scrutinising a bill, members of the French parliament, with the government’s support, tabled an amendment to provide protection for online platform workers and legal security for companies. These companies might introduce a charter setting out the “the rights and obligations” of both the platform and its workers. The charter is expected to guarantee “the non-exclusive nature of the relationship between the worker and the platform”, to ensure that workers receive “decent remuneration”, and to contain “occupational risk prevention measures” and “rules applicable in the event of a breakdown in contractual relationships”. But the Constitutional court refused the amendment for procedure reasons, so that the government introduced a new provision in a draft law8 to allow electronic platforms to establish a charter determining the conditions and modalities for exercising their social responsibility. The adoption of such a charter, which would define their rights and obligations as well as those of the self-employed workers with whom they work, aims to protect platforms against the risk of requalification of the contractual relationship as an employee employment relationship. Otherwise, the work within digital platforms was for the first time the subject to a judgment9 handed down by the Court of Cassation, on 28 November, about the qualification of the contract between couriers and digital platforms. The court took the view that if a relationship of subordination could be established, the judges could only redefine the contract for the provision of services as an employment contract. In describing the relationship of subordination, the Court pointed out that the application used by the couriers went beyond mere interaction, because it “involved a geolocation system which allowed the company to track the position of the courier in real time and record the total number of kilometres he or she covered”. Furthermore, the platform “had the authority to sanction the courier” (see explanatory note below). For the Court, if the conditions for the performance of the service reveal the characteristic elements of a subordinate relationship, the classification as an employment contract must be retained. This position was confirmed by the Court of Appeal of Paris, on 10 January, in a case regarding an Uber driver (Le Monde, 11 January 2019).

Fixed term contracts

The law No. 2018-771 of 5 September 2018 (Loi n°2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel) introduces flexibility in the management of successive fixed-term contracts. On an experimental basis from 1 January 2019 to 31 December 2020, it allows a single fixed-term contract or a single temporary employment contract to replace several employees. In practice, it will be possible to conclude a single fixed-term contract or a single temporary employment contract to replace several employees who are absent, successively, or over two half-time periods.

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8 Projet de loi d’orientation des mobilités (article 20)

9 Cour de cassation, chambre sociale, 28 novembre 2018, n° 17-20.079. Note explicative relative à l’arrêt n°1737 de la Chambre sociale du 28 novembre 2018
However, this experiment will only be available to sectors that will be defined by a decree still to be published. The period of experimentation is set. The goal is not to fill permanent position but is presented as a means to fight precariousness and the use of short-term contracts.

**Temporary agency workers**

As for fixed term contract (see box above), the law No. 2018-771 of 5 September 2018 (Loi n°2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel, article 53) allows a single temporary employment contract to replace several employees. On an experimental basis from 1 January 2019 to 31 December 2020, it will be possible to conclude a single temporary employment contract to replace several employees who are absent, successively, or over two half-time periods. However, this experiment will only be available to sectors that will be defined by a decree still to be published.

Otherwise, the same law introduces some changes to the permanent temporary contracts that allows a temporary work agency to conclude an open-ended contract with the employee for the performance of successive assignments (article 116). Created on 6 March 2014 by a branch-level agreement concluded by the social partners of the temporary agency sector, this permanent temporary contract was set by law for an experimental period, which ended in December 2018. The new law now introduces this instrument within the Labour code.

**Posted workers**

**Tougher measures to combat fraud related to posting of workers:** On 27 February, the government adopted a bill on the reform of apprenticeships, vocational training and unemployment insurance. The bill also provides for the introduction of tougher sanctions to combat fraud related to the posting of workers and illegal working, and reinforces the prerogatives of the labour inspectorate. The bill was adopted in September: Law no. 2018-771 of 5 September 2018 on freedom to choose one’s professional future. This law eases the administrative formalities applicable to short-term assignments (C. trav. L. 1262-6) and to employers who regularly post employees (C. trav. art. L. 1263-8). The law also abolishes the €40 contribution payable for each posting declared. The amount of the fines payable for breaches of the posting regulations is being doubled (C. trav. L. 1264-3), from €2,000 to €4,000 per posted employee and the work undertaken within the framework of the posting may be suspended if fines remain unpaid. The law also includes a provision intended to combat letterbox companies.

**Seasonal workers**

No changes made

**Zero-hour contracts**

Not applicable (this kind of contract doesn’t exist in France)

**Apprenticeship**

**Reform of apprenticeships:** on 9 February, the government unveiled a major reform of apprenticeships, which is designed to simplify the scheme for the benefit of businesses, to
provide better information and incentives for future apprentices, to open up new funding sources and, above all, to give individual industries a bigger say in defining the content and amount of training provision on offer, so that this can be aligned as closely as possible with companies’ actual needs. The reform was generally well received by the social partners, and especially employers. The main measures were included in the law “on freedom to choose one’s professional future” (Loi n°2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel), adopted by Parliament on 1 August, was published on 7 September. This important text introduces in-depth reforms, notably in the areas of vocational training and sandwich courses, announces a new reform of the unemployment benefit system, creates an obligation to achieve a result in terms of equal pay for men and women, and reinforces the battle against sexual and sexist violence, and against fraud linked to the posting of workers.
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