



France: Developments in working life 2016

[Developments in working life in Europe:
EurWORK annual review 2016](#)

Contents

Political context affecting working life aspects.....	1
Developments in social dialogue and collective bargaining 2016.....	2
Policies and actions to address pay-inequalities.....	9
Promoting the reconciliation of working families and caregivers.....	14

Author: Frédéric Turlan (IR SHARE)

Eurofound reference number: WPEF17016

© European Foundation for the Improvement of Living and Working Conditions, 2017

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75 to contribute to the planning and design of better living and working conditions in Europe.

European Foundation for the Improvement of Living and Working Conditions

Telephone: (+353 1) 204 31 00

Email: information@eurofound.europa.eu

Web: www.eurofound.europa.eu

Political context affecting working life aspects

No information.

The government(s) in office during 2016

Government 1	
In office since / to	25 August 2014
Name of the head of government (prime minister / chancellor / ...)	Manuel Valls (Prime Minister)
Name all the parties that are forming this government	Socialist party (Parti socialiste – PS), Radical left party (Parti radical de gauche – PRG)
List the changes in the composition of the government in 2016	<p>The government has been changed 4 times in 2016. The main departures concerned:</p> <ul style="list-style-type: none"> - the minister of Justice, Christine Taubira left the government and was replaced by Jean-Jacques Urvoas (27.01.16), - the minister of Foreign affairs, Laurent Fabius, replaced by the former Prime minister Jean-Marc Ayrault (11.02.2016) - the minister of Economy, Emmanuel Macron, who left the government in August 2016 to start his campaign for the presidential election of 2017, replaced by Michel Sapin, a former Ministry of Labour, who was the formerly Minister of Finance.
Additional comments	Manuel Valls has resigned after the decision of François Hollande not to take part to the next presidential election in April-May 2017. He started campaigning for Presidency but failed to be elected at the primary election of the left parties.
Government 2	
In office since / to	6 December 2016
Name of the head of government (prime minister / chancellor / ...)	Bernard Cazeneuve (Prime Minister)
Name all the parties that are forming this government	Socialist party (Parti socialiste – PS), Radical left party (Parti radical de gauche – PRG)
List any changes in the composition of the government in 2016	The composition is similar to the last government of Manuel Valls. Only four Ministry have changed.

Elections and referenda

There were no elections or referenda.

Forthcoming significant elections or political events in 2017

In May 2017, a new President will be elected to replace the socialist President François Hollande. The parliamentary election will then be held in June. It is very difficult to forecast which candidate will succeed. The far-right Front National's representative, Marine Le Pen, is likely to figure at the second round of the presidential election. François Fillon, the candidate for the right-wing party Les Républicains, had been considered a favourite to face off against Marine Le Pen in the final round of the election in May. But he has to face an anti-fraud investigation about the payments made to his wife and two children for alleged fake jobs as parliamentary assistants. Benoît Hamon, the candidate of the socialist party won the primary election of the left parties and merge its program with the candidate of the green party (Yannick Jadot) who decided to resign. But there are other outsiders as Emmanuel Macron, the former Minister of Economy of François Hollande, who has created its own political organisation, En Marche! Or Jean-Luc Mélenchon, from the left party Front de Gauche who received the support of the communist party.

Reactions from the social partners on new government's working life policies

The new Prime Minister, Bernard Cazeneuve, is keeping the same line of governmental orientation than Manuel Valls and has to manage the "technical" government until the new presidential election. There is no reactions of social partners to mention worth mentioning in the present context.

Developments in social dialogue and collective bargaining 2016

Major developments in national/peak-level social dialogue 2016

Changes affecting the social dialogue actors and institutions in 2016

Representativeness

Representativeness of employers' organisations: according to a [decree of 13 June 2015](#), to be representative at the sectoral level, employers' organisations have to include a number of member companies representing at least 8% of all companies adhering to employers' organisations in the corresponding branch. The decree gives practical details on how to calculate the threshold of 8%. It also explains how employers' organisations can oppose a collective agreement if they represent affiliated companies that employ more than 50% of the workforce of companies affiliated to employers' organisations within the sector. The reform comes into effect in 2017 and two decrees adopted in 2016 detailed the new rules ([Décret 2016-1419 du 20 octobre 2016](#); [Décret n° 2016-1474 du 28 octobre 2016](#)). The need to demonstrate its representativeness based on the number of members is likely to intensify the current rivalry between employers' organisations (see below). The first results of the representativeness assessment launched by the government on the basis of files submitted by the employers' organisations will be known during the first quarter 2017.

Latest data on union density: French labour ministry has published a [study](#) based on data collected in 2013 in the framework of the "working conditions study" (enquête conditions de travail, conducted by Dares-DGAFP, Drees, Insee). For this purpose, about 33,600 people have answered to a questionnaire. While the percentage of employees stating that they belong to a trade union remains stable, at 11.2%, this conceals substantial differences between the public and private sectors (19.8% and 8.7% respectively); also between private sector companies with 200 or more employees (14.4%) and those with fewer than 50 employees (5%); and similarly, between private sector employees on a permanent contract (9.9%) and those on fixed-term or agency contracts (2.1% and 1.2% respectively).

Major developments affecting the main actors

Changes affecting employers' organisations : the three multiemployers' organisation of the liberal profession (UNAPL), of the social and solidarity economy (UDES) and agriculture sector (FNSEA) have sent to the Prime minister a [letter](#) to be invited to discuss the Labour law reform launched by the end of 2015 and to change the law to be consulted on the same basis as the three interprofessional employers' organisation (MEDEF, CGPME, UPA). Since the law of 5 March 2014, interprofessional employers' organisation have to discuss with UNAPL, UDES and FNSEA before starting a national collective bargaining and before the signature of an interprofessional collective agreement. But UNAPL, UDES and FNSEA that cover 30% of the French workforce ask to be more involved in the national social dialogue and the elaboration of new employment regulation especially when it comes to introduce changes in the collective bargaining system ([press release](#)). On 17 November 2016, the Craftwork Employers' Association (UPA) merged with the National Union of Liberal Professions (UNAPL) to create a new body, U2P (*Union des entreprises de proximité*). It organises 119 federation or association of trades and 110 regional or local organisations. These changes are linked to the reform of representativeness of the employers' organisation voted in March 2014. On 6 January 2017, the General Confederation of Small and Medium Enterprises (CGPME) changed its name to the Confederation of SMEs (*Confédération des petites et moyennes entreprises*, CPME).

Representativeness of trade unions: in March 2017, will be published the result of the last round of work place elections. The representativeness of the trade unions depends of these results. The confederation CFDT could become the first employee's organisation before the CGT.

Legislative or institutional changes to the main social dialogue institutions

Change in the collective bargaining system: the decentralization of collective bargaining went a step further with the labour law reform of 2016. The [law "on employment, the modernisation of social dialogue and safeguarding career paths"](#) gives, in the framework of the revision of the Labour code expected for 2018, company-level agreements precedence over those at sectoral level or the law itself if the latter so provides. However, this reversal is already provided, since 1 January 2017, on an experimental basis in connection with the legislation on working time. It thereby establishes a decentralisation of collective bargaining. This legislation will give more weight to social dialogue within the company.

Reform of staff representative bodies: Following the law No. 2015-994 of 17 August 2015 relating to social dialogue and employment, the government on 24 March published two decrees, one defining the role of the single staff delegation in companies with 50 to 300 employees (decree [No. 2016-345 of 23 March 2016](#)), the other dealing with the body that can be established by collective agreement to combine three institutions for employee representation (the staff delegates, works council and health, safety and working conditions committees - CHSCT) ([decree No. 2016-346 of 23 March 2016](#)). The aim is to improve the efficiency of the social dialogue on company-level by reducing the number of information and consultation bodies without reducing the rights to information and consultation. The first scheme focuses on SMEs to simplify procedures that employers have to observe. The employer can decide mergers unilaterally. However, this scheme exists since several years. The new measure mainly enlarges the scope of the covered companies by increasing the threshold from 200 to 300 employees and the scope of the information and consultation bodies that may be merged, as it adds the CHSCT to the two-other existing I&C bodies. The second is completely new as it allows merger of I&C bodies in large companies through a collective agreement signed by unions representing at least 50% of the workforce.

Changes in the social dialogue processes

Reorganisation of the social dialogue on sectoral level : The restructuring of the existing branches is launched with the publication of a [decree of 19 October 2016](#) specifying the restructuring procedure and a decree of 15 November 2016 focusing on the criteria to determine the branches that have to merge as for example: to cover less than 5,000 employees (397 branches in total) or haven't negotiated any agreement in the framework of the annual compulsory negotiations since the last three years or existing only on a local or regional geographical area. The aim is to achieve, in three years, around 200 branches, against 700 branches today. According to a [study](#) published by DARES, in 2013, 704 sectoral collective agreements (excepted agreements within the agriculture sector) covered about 15.3 million employees. The study highlights the sectoral agreements' diversity of size: 13% of the collective agreements covered 74% of the workforce, and 24% covered less than 0.2% of the workforce. This data relates to the plan that aims to reduce the number of "branches", announced by the General directorate of Labour (DGT- Ministry of Labour) on 13 November 2014.

Main social dialogue topics and outcomes in 2016

Themes	Description of issue	Main result
General labour market topics		
Job creation, reduction of unemployment	Revision of the national interprofessional agreement on the "contrat de sécurisation professionnelle" to extend this measure until the 30 June 2018.	Agreement of the 17 November 2016
Active labour market policies	Common position of the peak-level social partners on the functioning of the Occupational personal account (compte personnel d'activité) that will merge in one single tool the rights of training that figure in the individual training accounts and the individual accounts for employees performing arduous tasks.	The position adopted on 8 February 2016, was taking into account by the government to launch the Occupational personal account on 1 st January 2017. Legislation passed (The law "on employment, the modernisation of social dialogue and safeguarding career paths")
Benefits (unemployment, sickness schemes)	Social partners have negotiated from the 22 February to the 16 June to revise the unemployment insurance scheme that they manage in the framework of a bipartite institution (Unedic). But they failed to reach an agreement on 16 June and the government has decided to extend the	The social partners have met again in November to reach a common view about the situation of the insurance scheme with the aim to restart negotiation in Spring 2017.

	<p>duration of the current agreement until a new agreement is signed (Decree 29 June 2016).</p> <p>Social partners of the live performance sector have agreed, on 28 April, to revise the unemployment scheme of the life performance artists and technicians ("intermittent du spectacle").</p>	<p>The agreement was taken over through a decree of 13 July 2016.</p>
Taxation and non-wage related labour costs	Not an issue of social dialogue in 2016	Not relevant
Pension reforms	Not an issue of social dialogue in 2016	Not relevant
Labour market participation of different groups	Not an issue of social dialogue in 2016	Not relevant
Working life related themes		
Wage setting systems, including the setting of minimum wages	Not an issue of social dialogue in 2016	Not relevant
Working time regulations	Social partners were consulted on this issues in the framework of the Labour market reform launched in 2015 and adopted in August 2016.	Legislation passed (The law "on employment, the modernisation of social dialogue and safeguarding career paths")
Terms and conditions of employment, including different forms of contracts	Social partners were consulted on these issues in the framework of the Labour market reform launched in 2015 and adopted in August 2016.	Legislation passed (The law "on employment, the modernisation of social dialogue and safeguarding career paths")
Health, safety and well-being at work	Not an issue of social dialogue in 2016	Not relevant
Work-life balance related themes, incl. family leaves	Concertation on telework between the peak-level organisation	On-going process that could lead in 2017 to open an interprofessional collective bargaining on this issue.
Skills, training and employability	Common position of the peak-level social partners on the functioning of the Occupational	The position adopted on 8 February 2016, was taking into account by the

	personal account (compte personnel d'activité) that will merge in one single tool the rights of training that figure in the individual training accounts and the individual accounts for employees performing arduous tasks.	government to launch the Occupational personal account on 1 st January 2017. Legislation passed (The law "on employment, the modernisation of social dialogue and safeguarding career paths")
Any other relevant themes/topics addressed in the national level/peak level social dialogue	Not relevant	Not relevant

Examples of selected significant social dialogue debates

Social partners failed to renew the unemployment insurance scheme

Social partners have negotiated from the 22 February to the 16 June to revise the unemployment insurance scheme that they manage in the framework of a bipartite institution (Unedic). But they failed to reach an agreement on 16 June and the government has decided to extend the duration of the current agreement on the functioning of the unemployment scheme until a new agreement is signed (Decree 29 June 2016). The accumulated losses of Unedic reached €26 billion and the government asked social partners for a saving cost plan as the slow decrease of the unemployment hasn't had enough positive impact on Unedic's resources. The government made also a commitment to the European Commission to save €800 million per year on the unemployment scheme. Unions proposed mainly an increase of social contribution through different means : tax on short-term contracts to encourage employers to recruit on permanent employment contract (CGT, CFE-CGC), creation of a bonus-malus mechanism to promote companies' good behaviour (FO, CFE-CGC), increase of the income ceiling on which social contributions are calculated (CGT, FO, CFE-CGC) and a decrease (progressively) of the unemployment allowance after a first period of full allowance (CFDT, CFE-CGC). But employers' organisations refused any global increase of social contribution and were strongly opposed to the tax on short-term contract, a measure that was also supported by the government. The employers' organisations were in favour to reduce the expenses of the scheme by reducing benefits given to older unemployed people (unemployed people over 50 years old are entitled to 3 years of allowance instead of 2 years for the other unemployed people), to reinforce control and monitoring on job seekers or to revise the calculation of allowance with the aim to reduce them. The last point aims to increase the length of time during which unemployment benefits are paid when the unemployment rate is high and to reduce it when unemployment decreases. It is the second time in the history of the unemployment scheme that social partners failed to reach an agreement. However, social partners met again in September to seek the possibility to re-open the negotiation. The discussions focused on drawing up a 'shared diagnosis of the issues and the partners will decide on 25 February 2017 whether or not to open new negotiations.

Adoption of the Labour law reform despite the opposition of important unions

The [law "on employment, the modernisation of social dialogue and safeguarding career paths"](#) has been definitively adopted by Parliament on 21 July 2016, after lengthy discussions and a high degree of mobilisation by trade unions. This main labour law reform, which relates in particular to working time, social dialogue, redundancy and incapacity, contains one article in particular that has been the focal point of the opposition from some trade unions. One of its provisions establishes that, as regards working time, company agreements take precedence

over agreements made at branch level. Although the length of the working week remains at 35 hours, the law contains several measures that offer some flexibility, for example, fixing the additional payment for overtime hours (with a statutory additional payment of 10% where there is no agreement), the possibility of exceeding the maximum length of the working day (up to a limit of 12 hours) or of exemption from the minimum daily rest period. This reform of working time, which precedes an extensive revision of the Labour Code that must also give priority to company collective bargaining, requires more than a hundred decrees to be passed to enable all the provisions to enter into force. The decrees No. [2016-1553](#) and [2016-1551](#) of 18 November 2016 implement Article 8 of the law, which amends the legislation on working time in three ways: 1/ It sets out the relevant public policy provisions relevant to the employment relationship. 2/ It specifies the scope of collective bargaining in a branch or enterprise. 3/ It sets out the provisions that apply in the absence of a collective agreement.

Some trade unions as CGT and FO were strongly opposed to the reform. The main concern is the reversal of the normal legislative hierarchy. Furthermore, the law is setting minimum standards that can only be improved by sectoral or company-level agreements, but it allows exemptions to be introduced by sectoral or company-level agreements. Unions were also fighting the new definition of redundancy on economic grounds that the law makes more flexible. On the other side, the so-called “reformist” unions such as CFDT, CFTC, CFE-CGC or UNSA saw in the law a new guarantee for workers and new opportunities to improve social democracy. The CFDT is partly in favour of the reform because it contains the creation of a new scheme: the Individual occupational account (compte personnel d’activité) (see EurWork: [France: Occupational personal accounts planned for 2017](#)). This scheme aims to bring together in a single account all the rights accruing to the individual, which can be transferred from one employer to the next and used during a period of unemployment. Furthermore, for the CFDT, the decentralisation of collective bargaining gives legitimacy to the trade union representatives at the site, which is, for the CFDT, more democratic because it gets closer to those directly affected by the agreement.

Sectoral and company level social dialogue 2016

The new labour law reform ([link to the law 2016-1088 of 8 August 2016, in French](#)) aims to change the Labour code by 2018 that is likely to comprise three levels: 1/ Public social order' provisions, to which no exemption can be agreed; 2/ Topics open to negotiation in industry or company-level collective agreements. 3/ Provisions applicable in the absence of an industry or company-level agreement. The reform covers working time, social dialogue, redundancy and incapacity, was adopted after lengthy discussions and much campaigning by the trade unions. Without waiting for the reform of the Labour Code, several subsequent decrees implement the law’s main provisions, including [important new rules on working time](#) which give precedence to company-level agreements over branch-level ones. The law establishes a decentralisation of collective bargaining. This legislation will give more weight to social dialogue within the company.

Main developments - other than wages and working time - from important collective agreements or bargaining rounds

Works councils oppose fiscal optimisation: Already targeted by European and national authorities for their fiscal optimisation practices that deprive governments of resources, multinationals must now face pressure from another quarter. In France, the Labour Code provides for companies of more than 50 employees to allocate part of their profits to employees under a financial participation scheme. If they generate profits, they must, after closure of their annual accounts, distribute a profit-sharing bonus to all their employees. The French press has brought attention to two initiatives: 1. Represented by its lawyer, the MEP Eva Joly (Greens/EFA), the works council of McDonald’s Ouest Parisien, one of the French subsidiaries of the American fast-food group, has filed a complaint, as reported by the daily newspaper [Libération](#) (18 December 2015), against McDonald’s for “organised laundering of

tax fraud proceeds". The staff representatives condemn the practice of channelling the profits generated by their company to another subsidiary in Luxembourg by way of royalty payments. As a result, their company does not show a profit and does not pay its staff a profit-sharing bonus. 2. The works council of WKF, the French subsidiary of the Dutch information services group Wolters Kluwer, secured a victory against the group's management before Versailles court of appeal, which issued a ruling on 2 February 2016. In the lawsuit WKF was accused of channelling its profits, following a Leveraged Buy-Out, through the holding company in the Netherlands, where corporate taxes are lower than in France, thus depriving French workers of their profit-sharing bonus. According to the daily newspaper [Les Echos](#) (4 February 2016), the court of appeal found that the employer had committed a "fraudulent practice" which reduced the amount of profits serving as the basis for calculation of their profit share". "This case is anyway only the first in a list that is likely to grow," comments [Les Échos](#).

Examples of innovative collective agreements (at any level) made during 2016

Agreement on digitalisation by Orange: a [company-level agreement](#), on the impact of digitalisation on the workforce, was signed by communications group Orange. This introduces, for the first time in a major French group, the right for workers to switch off electronic devices and not check their emails, as a way of ensuring that compulsory rest periods are respected.

Agreement on a single I&C body at Solvay: One of the first agreement concluded in the framework of the reform of social dialogue adopted in 2015 (see above) has been signed within the French activities of Solvay. One of the measures of the reform provides for a single information and consultation committee in companies with 50 or more employees. This is created by bringing together a firm's employee delegates from its works council and its health and safety committee ([CHSCT](#)). The reform also provides to merge employee delegates and the works council in companies with up to 300 employees including the possibility of bringing the CHSCT into such a merger. In companies with more than 300 employees, the merger of existing bodies to form information and consultation bodies is also possible through a company-level agreement (EurWork "[France: New bill on social dialogue should bolster employee representation](#)", 3 September 2015). The agreement concluded, on 31 May, between the management of Solvay and its unions representing over 50% of the votes at the workplace elections. In establishments providing services with less than 100 employees, a single information and consultation body will merge the employee delegates, the works council and the health and safety committee. In establishment with 100 employees and more, the employee delegates and the H&S committee will be merged into a Committee of health and safety, working conditions, environment and sustainable development. The works' council is maintained. Out of this rationalisation, the agreement increases the means allowed to unions and employees' representatives and forecasts that the company will pay a part (the part which is not deducted from the taxes paid by the employees) of the fees paid to the employee's chosen unions. Training are provided to unionists and employees' representatives and there is also a mechanism to recognise the skills acquired during a mandate by employees' representatives or unionists.

Agreement on the working organisation in the railway sector: On 26 May, the negotiation between the employers' organisation of the public and railway transports, UTP, and unions have resulted in two agreements: the first on the "general provisions", and the second, the most controversial, on employment contract and working time organisation" within the railway sector. The agreement has not been immediately signed by unions, but finally it has been signed by unions representing near the 40% of the votes at the last round of professional election (UNSA, CFDT, CFTC). SUD Rail (17% of the votes) refused to signed and the CGT (35% of the votes), the main union, decided not to use jointly with Sud-Rail its opposition right against the agreements (together they represent over 50% of the votes and could denounce the agreements). Until the new agreement enters into force, on 1 July 2016, the

employment conditions were settled in a regulation (the railwaymen status / statut des cheminots) and through group or company level agreements for some issues or for some private subsidiaries within the group SNCF. In the framework of the railway liberalisation, social partners have negotiated this two new agreements to cover all employees within the sector working in the group SNCF or at private competitors to avoid social dumping and unfair competition.

New innovative agreement to prevent psychological risks by Total : On 20 January, two establishments of the group Total have signed an agreement to reinforce the prevention policy against psychological risks after a first agreement on this issue signed in 2011 (accord de prévention des risques psychosociaux – RPS). According to the union CFDT, this agreement will be a milestone in the framework of the negotiation of an European collective agreement on prevention of psychological risks that is currently negotiated on group level. The agreement highlights, under the primary prevention, the duty of diligence that managers have to observe about planning and distribution of the workload as well as the definition of missions and objectives. A medical observatory of stress, created in 2008, also assesses the level of stress, anxiety and depression at individual and collective levels. The agreement provides that each Health & Safety committee has to nominate two referees who are the "privileged interlocutors of employees" on the psychological risks. The agreement creates in each establishment, a committee of stress prevention bringing together the director of the, occupational practitioners, the secretary of the Health & Safety committee, representatives of the HR and psychological risks referees.

Collective agreements on Sunday and evening work. Since the loi "Macron" has extend possibilities to open shops on Sunday and in the evening, social partners at company-level negotiate collective agreements on these issues. The electronic, electric and cultural goods retailer network Fnac has concluded an agreement on in January 2016 to open its Parisian shop on Sundays and evenings with three unions (CFDT, CFTC, CFE-CGC) representing 30% of the votes at the last workplace election. Three other unions, CGT, FO and SUD, representing over 50% of the votes have decided to denounce the agreement, as foreseen by law, which cannot therefore come into practice. This failure has been commented with strong positions between experts and politicians denouncing the position of the opposed unions. They are considered to be against the employees (who wish to earn more money working in Sundays and in the evening on a voluntary basis) and against employment (as the employer intended to recruit if the agreement was applied). This is why the government, in its draft bill on the labour law reform has introduce a measure to organise a vote within the company inviting employees to agree or not a signed collective agreement. On 27 January, the electronic and electric goods retailer network Darty, for its shop in the Parisian region, signed an agreement. Unions have signed the agreement that provides bonuses for employees working in the evening or on Sunday. The agreement covers shop employees but also logistics' sites and headquarter. Two clothes retailers have signed also such agreements: the group Inditex (Zara...) on 29 December 2015 (hours worked on Sundays and after 9:00 pm are paid with an increase salary of 100% for evenings or 110% for Sundays) and Etam (100%). At the end of 2016, agreements on Sunday work were finally reached in the "Grand magasin" [Le Printemps](#) with job creations and finally at [Fnac](#), in January 2017 after 15 months of negotiation.

Policies and actions to address pay-inequalities

The recent public debate on pay gaps at the workplace

Gender pay gap:

Debates on pay gaps at the workplace exclusively focus on gender pay gap.

A [study](#) published in March by Dares finds that gender pay gap continues to be important in France (19%). Further analysis confirms this finding. According to the public employment agency for senior managers (Apec), women in senior manager positions earn *ceteris paribus* 8.5% less than men. Differences in gross annual wages are present throughout entire careers and vary significantly across occupations. The economist Thomas Picketty has published a [note](#) highlighting that the Gender pay gap is increased with the age. The pay gap reached 25% for a 25 years old woman and 64% at 65 years old.

On 7 November 2016, several organisations have invited women to stop their work at 16:34 as “from 7 November at 16.34 [and seven seconds] women will be working ‘voluntarily’”, according Les Glorieuses, a feminist newsletter (see [article in The Guardian](#)). Rebecca Amsellem, founder of [Les Glorieuses](#) group, who spearheaded the campaign, explained that “everyone was able to participate in this campaign in their own way. We were not insisting all women walk out at 4.34pm, but perhaps that they take a break at this time, or write a post on social media or speak about it with their colleagues. Our main goal was to start a conversation.” Ms Amsellem was inspired after reading about the movement in Iceland to put an end to the gender pay gap. An [article](#) published by Le Monde, shows that inequalities are stronger for women with high wages. A [study](#) of the public employment services for managers, Apec, highlighted on 2015 that wage inequalities increased with the seniority in employment from 4.2% for employees with less than 30 to 12.5% when they are over 50 years old.

The law of 4 August 2014 for a real equality between women and men (“[loi pour l’égalité réelle entre les femmes et les hommes](#)”) included measure in favour of a better articulation between working life and private life, a reinforcement of the compulsory collective bargaining on company-level on equal pay issues and a reform of the parental leave (to avoid that women stay too long outside the labour market).

In October 2016, the government has adopted a [new inter-ministerial plan in favour of equality between women and men](#). The aim is to fight the different structural grounds of inequalities.

Positions regarding the posted workers directive

Positions of trade unions

Trade unions (CFDT, CFE-CGC, CFTC, CGT and FO) are all in favour of all measures that can reinforce the fight against abuse of posting of workers including those figuring in the EC proposal and in particular the principle of equal pay for equal work in the same workplace. This is stated by the an [advice](#) adopted unanimously in September 2015 by the Economic, social and environmental Council. Furthermore, on sectoral level, social partners have adopted declaration to fight undeclared work. In the construction sector, a “Common declaration for the project managers about the fight against social dumping” (déclaration commune à destination des maîtres d’ouvrage publics) was elaborated by the social partners since 2012 and signed in September 2014. The aim is to inform project managers about their legal commitments related to their own responsibilities when awarding a contract to an abnormally low tender, clandestine employment and foreign job without a work permit. An annex informs them about the new legal commitments introduced by the recent legislation of 2014 (“Loi Savary”) to fight social dumping. The social partners have drawn up a schedule stating recommendations to the public contracting authorities. The statement also requires from contracting authorities to verify the companies’ regularity of tax and social contributions before the award of a contract. This statement was signed by the five national representative trade unions (CFE-CGC, CFTC, CFDT, CGT, CGT-FO) and the three national employers’ organisations of the construction sector (FNTP, FFB, Fédération des SCOP des TP). It has been disseminating to bodies involving the different public contracting authorities (association of majors of cities, association of departments...).

Some organisations, as [FO](#), think that the EC proposal could go further taking into account explicitly remuneration foreseen in company-level agreements and not only the legal minimum wage, the minimum wage and other wages fixed in an extended branch collective agreement. In the [advice](#) adopted unanimously by the Economic, social and environmental Council, all social partners asked the European Commission to include the principle of equal pay for equal work in the same workplace in its proposal (page 78).

Positions of employers organisations

The peak level employers' organisation MEDEF claims in a [position of 1 April 2016](#) that there is no need to revise the directive of 1996 as Member States have already to implement the directive 2014/67 of 15 May 2014 on the enforcement of Directive 96/71. Its opinion is that it would be not efficient to create a threshold of 24 months. About remuneration of posting workers, the EC proposal is very similar to the French legislation (Labour code, art. L.1262-4, 8°), however the rule of equal payment would be costly for French companies sending posting workers to Member States where there is no extended collective agreement, as companies would have to apply the minimum wage fixed by non-extended collective agreements. Furthermore, the proposal to apply some working conditions including remuneration to the subcontractors' employees is "unacceptable". The organisation finally suggests some recommendations, but none related to the "equal pay" principle that is not considering as an issue, as French companies have already to apply this rule.

Position of the government

The government has pursued its policy to fight against abuse of posting of workers and have provide efforts to build a common front of the Member states hosting the main number of posting worker to support the EC proposal against the 11 MS against (see Ministry of Labour, [press release](#)). The French government is one of the 7 Member states that have adopted a common position on 5 June 2015 to support equal pay for equal work in the same workplace. The government has published a [decree](#) on 19 January 2016 obliging project owners and contractors availing themselves of the services of providers domiciled outside France if the latter does not comply with the rules on compulsory declaration prior to posting. It increases the responsibility of project owners and contractors for payment of the posted workers. Furthermore, a [decree of 7 April 2016](#) concerning transport companies established outside France provide for a simplification of procedures but also reinforce the commitments of the employer who is responsible for posting the employees. It has to respect the legal and contractual provisions with regard to minimum wage. On 16 June, following an exchange of information with the French authorities and a thorough legal assessment of the applicable French legislation, the European Commission has decided to send a [letter of formal notice](#) to France.

On 4 January 2017, the Prime minister Bernard Cazeneuve has again highlighted the willingness of his government to revise the directive 96/71 and to insure the adoption of the principle of equal pay for equal work in the same workplace (see. [Governmental press release](#))

Pay gaps at the workplace

Evidence

The last main [study](#) about pay inequalities at the workplace focuses on gender gap. It was published by Dares in November 2015. It evaluates the gender pay gap at 16.3% in 2013. Wage inequalities stem from the fact that women are more likely than men to be employed in lower paid trades. In 2012, the average net hourly wage in the so-called "female" trades was almost 19% lower than in the "male" trades. The [study](#) stresses that once the effects of working time, occupational segregation and structural effects have been ruled out, there

remains, therefore, "all other things being equal" an "unexplained" difference of 10.5% between the remuneration of men and women. A difference that could be estimated as pure discrimination. The authors of the study nevertheless point out that part of this gap may be due to individual characteristics that their survey did not observe, such as "diploma, professional experience, seniority in the position or career breaks, but also the effort or the wage bargaining power facing the employer" (see [article in Alternative économique – 7 November 2016](#)).

According to a [study](#) published in January 2017 by Dares, the larger the company is, greater is the dispersion of wage is within the company. The net wage gap between women and men has been steadily declining since 2008. The ratio between the 1st and the 9th decile reached 2.4 in the small companies with less than 10 employees and 3.2 in companies with 500 employees and more. It is -18.6% on average in 2014 and ranges between + 0.1% in construction and -38.8% in Financial and insurance activities.

A [study](#) published by INSEE in September 2016, focuses on wages in the private sector in 2014. It mentions a gender pay gap of 9.6% between women and men with the same characteristics (and a rate of 18.5% considering the whole private workers). The study also highlighted a difference between "insiders" (mainly male employees employed for at least 2 years in the same workplace) and the total workforce. The wages have increased of about 2.1% for the insiders in 2014 against +0.5% for the total workforce.

According the [last published report of the labour inspectorate](#), almost 200 notices on a total of 3068 related to gender discrimination were notified to employers by the inspectors in 2014. Priority is given to collective bargaining, but the labour inspectorate can verify that it is engaged and is substantial and fair. The report mention some rare cases of discrimination linked to union activities, health, maternity and religion, but it gives no data. About these discriminations, the report stresses how it is difficult to prove them (page 100 and 101).

Policies to address pay inequalities at the workplace

No recent policy in this field.

Social partner's involvement in addressing pay inequalities at the workplace

The decree of 18 December 2012 reinforced the demands on companies by including the theme of equal remuneration among those to be dealt with in the agreements and action plans with a view to reducing wage differentials ([Labour inspectorate report 2014](#)). Since then, social partners have increased the number of negotiation dealing with this issue. According to the [annual assessment of the collective bargaining 2015](#), 166 sectoral collective agreements concluded in 2015 on a total of 1042 included provisions on wage equality, against 134 on a total of 1006 in 2014.¹ In 2015, five agreements addressed only the issue of wage equality between men and women, and 161 addressed partially this issue, mainly agreement on professional training, part-time work or forecasting of employment and competencies, and age management).

The [annual assessment of the collective bargaining 2015 highlights some "good practices" to tackle wage inequality between men and women.](#)

[The development of tools to reach a joint diagnostic between social partners on this issue as report to present comparisons \(Gas and electricity industry, Public employment service, distance and on-line retail\) or launch of study \(sport\).](#)

[Adoption of agreements focusing on the different structural sources of inequalities: recruitment policy, mix of jobs, professional promotion, training, work-life balance and working conditions \(side 401 to 405\).](#)

¹ [Bilan de la négociation collective 2015](#), Ministry of Labour

WORKING PAPER

Promoting the reconciliation of working families and caregivers

Recent policies

The labour law reform of August 2016 ([Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels](#)) foresees different measure aimed to help employees to better reconcile work and family life. These measure entered into force on 1 January 2017:

- An agreement concluded between the employer and its employees to work under a days-worked system (“forfait jour” scheme: instead of calculating how many hours they work, managers or employees which are allowed to organise their working time by their own can have their working time calculated on the basis of the number of days worked per year, regardless of how many hours they work during each day. Such provision has to be provided by a collective agreement to set how the employer and the employee will discuss about the workload, the articulation between its professional life and its personal life, and the way the employee may use his right to switch off from electronic devices and cell-phone. At least, the employer has to organise one meeting per year with the employee on these issues.
- to introduce or extend night work, a company-level agreement (or a sectoral-level agreement) has to provide measures designed to facilitate the articulation of their professional activity at night with their personal life and with the exercise of family and social responsibilities, in particularly the means of transportation ([Labour Code, article L3122-15](#)).
- to introduce or extend evening work (from 21:00 to midnight), a company-level agreement (or a sectoral-level agreement) has to provide measures designed to facilitate the articulation of their professional life and their personal life in particular measures to cover the costs of childcare or the care of a dependent person.

[Note in this context that evening work was hitherto very restricted in France, so there are not so many companies where it is already in place. There is currently a wave of negotiation in the retail sector to open shop in the evening or on Sunday, and it represents many employees. Furthermore, these rules will apply in case of renegotiation of existing agreement.]

- In the framework of the compulsory annual negotiation on gender equality and quality of life, the employer has to negotiate with the representative trade unions on adequate rest times and annual leave, and to pursue agreements that respect the private and family life of employees. In the absence of an agreement, the employer must clearly set out the procedures under which an employee can exercise the ‘right to switch off’ from all work-related communication (*droit à la déconnexion*). Note in this regard that the employer has to open negotiations, but there is no requirement to reach an agreement. The law opens a concertation of peak level social partners on the development of telework that could lead to launch a negotiation of a national-wide collective agreement. This consultation also concerns the taking into account of practices related to digital tools to better articulate personal and professional life. At the end of the concertation, a guide to good practice is launched and serves as a reference document when negotiating an interprofessional agreement or a company agreement.

Otherwise, two recent legislation aim to ease work-life balance:

New leave of absence for employees using medically assisted procreation

The [law 2016-41 of 26 January 2016](#) “modernizing our health system” has introduced a new leave for employees using medically assisted procreation. The article L.1225-16 of the Labour Code, allows the couples concerned to benefit from leave to carry out the medical procedures necessary for medical assistance for procreation. This authorization of absence was also opened to the spouses, partners of civil solidarity pact or concubine of the employee receiving medical assistance to procreation, to go to three of these necessary medical

procedures for each protocol. Such leave shall be granted under the same conditions as compulsory medical examinations related to maternity: such absences shall not entail any reduction in remuneration and shall be treated as a period of work for determining the duration of paid leave.

New leave to care about a sick family member

The law of 28 December 2015 has transformed the former leave (congé de soutien familial) in a leave for sick family member (congé de proche aidant). Changes were introduced by the labour law reform of 2016 (law of 8 August 2016) and detailed by a decree of 18 November 2016. According to its provisions, that apply since 1 January 2017, any employee with at least one year of seniority in the company is entitled to this leave when a close relative has a particularly serious handicap or loss of autonomy ([Labour Code, article L. 3142 -16](#)). The leave is a right: the employer can't refuse or postponed it.

The following legislation has also to be mentioned. As detailed in section 4, this scheme has been extended in some company-level agreement to employees caring for dependent relatives.

Gift of days off to parents of a serious ill child

Under the [Law No. 2014-459 of May 9, 2014 for the gifting of days off to a parent of a seriously ill child \(in French\)](#), all employees of all companies, regardless of their size, can donate days off if their employer agrees (see: EuWork, "[France: Donation of leave to employees with seriously ill children](#)", 19 September 2014). No special requirements are imposed except that the leave donated should already have been accrued by the donor. In practice, in businesses where a leave donation arrangement has been created by a collective agreement, the social partners limit the number of days that an individual employee can give to other employees each year. At PSA Peugeot-Citroën Automobile, the number is limited to five a year and at property company Paris Habitat the limit is 10 days. Animal health company Merial allows the gift of a single day off per year per employee. At Peugeot-Citroën the agreement established a solidarity fund that collects donations and days off given by managers (100 days available at the initial launch, and 50 days per year for the following two years). Within the Casino group, any employee may pay days off into a caregivers' leave plan. The management of Paris Habitat adds extra leave days to the period of leave requested by an employee. Agreements also provide a maximum number of days off that can be taken (20 days at Peugeot Citroen and Merial, 60 days at Paris Habitat). At Merial, the agreement allows any employee who must care for their seriously ill child to take 20 days' leave, paid at 75%. The use of donated days off starts only once this 20-day period is up.

Rights to request special working time arrangements, place of work etc.

The labour law reform of August 2016 (Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels) foresees that a full time employee may ask for a reduction of his working time of one or several period of at least one week each per year, on the ground of needs related to his personal life (Labour Code, article art. L. 3123-7). But the employer can refuse.

The role of collective agreements

Company-level

Provisions are mainly found in company-level agreements, but there is no study available on such provisions. Typically provisions are : to avoid to schedule meetings after 16:00 or on Wednesday (as employees who works part-time mainly choice to reduce their working time on, Wednesday when children don't have school), to establish interview with pregnant employees before they go on maternity leave and when they come back to facilitate contact with the company and ease the return to work.

Sectoral level

According to the Annual assessment 2015 of the collective bargaining published by the Ministry of Labour ([Bilan de la négociation collective 2015](#)), “many agreements provide for the granting of special leave in addition to annual leave or the leave for family events provided by the Labour Code”. This assessment provides relevant information on provisions negotiated on sectoral level

In the sectoral agreement concluded in 2015 in the retail sale via mail order houses or via Internet (« vente à distance »), provisions encourage companies to promote the work-life balance by: 1/ studying the setting up of facilitating services (conciierge services) or local services with local authorities and associations; 2/ improving family leave so that women and men benefit equally; 3/ fixing the opening and closing times of meetings within the usual working hours, except in exceptional case.

Leave for family events

Some branches recall the legislative changes in leave schemes, in particular the extension of leave entitlements to persons having concluded a civil solidarity pact (PACS), just as these rights were open to married persons (camping industry, iron and steel industry, import-export businesses, industrial bakery and pastry-making activities, cabinets or automobile expertise, trade and services in the medical and technical fields).

In addition, many branches are planning to grant a number of days of paid leave for family events above the minimum required by the legal provisions in force (advertisement, establishments and services for disabled persons, manufacture and trade of products for pharmaceutical, parapharmaceutical and veterinary use, ceramic industries...).

Some branches have introduced paid leave for family events for which the law does not require an absence. For example, the fast-food branch grants one day of grandparent leave. The branch of commissioning, brokering and intra-Community trade and import-export companies, on the other hand, grants an authorisation of one day for an official ceremony concerning a dependent child before the age of 16 years.

Gifts of rest day for sick child

Several branches have put in place the possibility of giving rest days for seriously ill children following the adoption of Law No. 2014-459 of 9 May 2014 allowing donation of days of rest to a parent of a seriously ill child². In 2015, the fast-food branch provided that, in agreement

² Under the [Law No. 2014-459 of May 9, 2014 for the gifting of days off to a parent of a seriously ill child \(in French\)](#), all employees of all companies, regardless of their size, can donate days off if their employer agrees (see: EuWork, “[France: Donation of leave to employees with seriously ill children](#)”, 19 September 2014). No special requirements are imposed except that the leave donated should already have been accrued by the donor. In practice, in businesses where a leave donation arrangement has been created by a collective agreement, the social partners limit the number of days that an individual employee can give to other employees each year. At PSA Peugeot-Citroën Automobile, the number is limited to five a year and at property company Paris Habitat the limit is 10 days. Animal health company Merial allows the gift of a single day off per year per employee. At Peugeot-Citroën the agreement established a solidarity fund that collects donations and days off given by managers (100 days available at the initial launch, and 50 days per year for the following two years). Within the Casino group, any employee may pay days off into a caregivers’ leave plan. The management of Paris Habitat adds extra leave days to the period of leave requested by an employee. Agreements also provide a maximum number of days off that can be taken (20 days at Peugeot Citroën and Merial, 60 days at Paris Habitat). At Merial, the agreement allows any employee who must care for their seriously ill child to take 20 days’ leave, paid at 75%. The use of donated days off starts only once this 20-day period is up.

with the employer, an employee may waive rest days for the benefit of another employee of the company who is responsible for seriously ill child under 20 years old. This covers also children victim of an accident of particular severity making a sustained presence and care obligatory. The donation is anonymous and without consideration. Some company-level agreements have also extended the scheme to employees having to care of their elderly parents up to 60 years per year (Agreement of 16 September 2017 of the gift of day at Mutex).

Additional leave arrangements for statutory holidays

Several branches grant leave, not provided for by law, with a view to promoting the work-life balance: leave for removal (iron and steel industry), leave for the back-to-school day, or to make face the illness of a family member. Thus, the advertising branch grants a leave of absence without pay for one month if the health of the spouse or dependent descendant requires it. The branches of cinematographic exploitation and ceramic industries grant paid leave in case of hospitalisation of a child. Other branches have set up days off for personal convenience.

Maintaining wages during Maternity and Parenting leave

Some branches support the use of maternity and parental leave by maintaining part or all of the remuneration of employees on leave. For example, the branch of the metal industry of the Moselle grants a salary maintenance of three months during a maternity leave. The branch of the electrical and gas industries provides for the full remuneration for employees on paternity and childcare leave in case of adoption.

Maintaining the link between the employee and the company during the holidays

Maintaining a link between the employee and his employer during the holiday period is foreseen in some sectoral agreements. Thus, the branch of manufacture and trade in pharmaceutical, parapharmaceutical and veterinary products provides for the continuation of the link between the company and employees on maternity, adoption or parental leave. Companies will send them general information communicated to all employees.

Impact of leave on career development and earnings

Many branches explicitly propose to neutralise the taking of maternity, paternity and adoption leave so that they do not affect the evaluation, the promotion of the employee concerned and his or her career progress (Electrical and gas industries, Private education). Many branches recall the obligations of employers with regard to employees returning from maternity or adoption leave who must benefit from general increases and from the average of the individual increases received during the period of leave by other employees in the same occupational category or, failing that, by the average of the individual increases in the company (do-it-yourself, private education, and electrical and gas industries).

Return of leave

The systematic practice of a professional interview with an employee returning to work after maternity leave, parental leave of absence, family support leave or adoption leave is organized in several branches (architecture, electrical and gas industries, manufacture and trade of products for pharmaceutical, parapharmaceutical and veterinary use, sports, recycling industry).

Evening and Sunday work

Otherwise, in the framework of the law n°2015-990 of the 6 August 2015, that introduce flexibilities to open shops on Sunday and in the evening in the “international touristic areas”, social partners are invited to negotiate a company-level agreement to offer compensation to the employees through measures designed to facilitate the articulation of their professional life and their personal life in particular measures to cover the costs of childcare or the care of a dependent person. This commitment has been taken over on the labour law reform of 2016 (see above).

WPEF17016

WORKING PAPER

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75, to contribute to the planning and design of better living and working conditions in Europe.