

## **The 2017 French labour market reform**

### **A short overview**

This article does not give a complete picture. Its purpose is to give an overview of main elements of the proposed decrees.

#### **Latest news:**

On 2 August the French parliament gave the government its OK to reform the labour code by decree. Votes: 225 for, 109 against. The government wants to avoid a longer process in parliament, with possible watering out of proposals, which might be a risk with a regular legislative process.

Through August there will be further negotiations with social partners and the plan is to have the new rules in place at the latest by 21 September.

CGT has called for demonstrations across the country on 12 September. CFDT and FO have declared that they want to wait with their decisions until they have seen the final proposal. CFDT has argued that if the enterprise level and trade union representation is reinforced and the social dialogue in enterprises strengthened, CFDT would look more positively at this reform. Both CFDT and FO have underlined that they still have red lines in the negotiations.

#### **Contents of the labour law proposals:**

The proposals fall in several blocs:

##### **Changed rules on dismissals and compensation**

The purpose of these changes is to make the cost of redundancies lower and more predictable.

A ceiling will be introduced on compensation awarded to employees who claim unfair dismissal. A ceiling of one month salary per year of employment is on the table. In case of "faults of exceptional gravity" from the employer, the ceiling will not apply. The current floor of compensation (six months minimum wage for persons with more than 2 years seniority in companies with more than 10 employees) is proposed to be abolished.

The time limits for appeal in case of termination of the employment contract will be reduced. and the employers will get the right to correct formal errors in letters of dismissals, thus avoiding dismissals being blocked on formal grounds.

Changed base of evaluation if a company or group has economic difficulties and needs to dismiss employees. Today the evaluation is based on the group's global performance. In the future it will be based on the performance in France. Concerns have been voiced that companies might artificially create difficulties in order to facilitate job cuts. The proposed text mentions the need to take measures to prevent this. Nothing specific.

Finally, strengthening of voluntary dismissal plans are also on the table.

##### **Changed structure of the employees' bodies in the enterprise**

The purpose of this is to simplify representation. It is not clear what the consequence will be for enterprise union representation, but the number of workers' representatives is expected to be substantially reduced.

The proposal is to gather the current three enterprise bodies (Comité d'entreprise, Committee for health, safety and working conditions and employee delegates) into one new Social and Economic Committee (SSC). The new forum would retain the full jurisdiction of the three former structures and could initiate legal proceedings. Finally, the SSC would enjoy the negotiating power of enterprise- and group-level agreements.

The law further introduces the possibility for both the employer and the union in the enterprise to call for a "referendum" in the enterprise on various issues, including enterprise agreements. This is a concern for unions, who are worried they could be faced with an employer-initiated referendum if they refuse an enterprise agreement even in a company where they won the majority in the social elections.

The French Senate added to the original proposal a limit for any individual to sit no more than three periods unless there is an exception (unclarified). This might cause problems for those national trade union officers, who maintain their employment in their original enterprise where they are still elected as employee delegates, and from where they are still being paid.

A new initiative is the establishment of a system of "union-vouchers", parallel to luncheon-vouchers, which the individual worker can give to a union after his or her choice without being a member. The system is proposed to be financed entirely or partly by the employer. The proposal has met opposition by SMEs, but has been tried effectively by some companies already. CFTD supports this proposal.

### **Collective bargaining - Changed balance between levels and changed generalization**

The purpose is to make the negotiation system clearer and at the same time less formal. It changes some government regulations to be valid only when no agreement exists (as it already today exists on parts of working time) and places a number of issues at the level of enterprise bargaining.

Originally the proposal contained the right to derogate from a range of minimum conditions, but this has now been dropped. There is still a proposal to permit derogations by employers in small companies - less than 50 employees - after negotiations with works council members, including those unaffiliated with the unions.

The French system has extensive generalisation of agreements. This is today done under authority by the ministry after hearing the social partners. The proposal is in the future to give the employers' side a veto on generalisation.

The proposal contains a division of bargaining into three groups:

#### ***Where sector level bargaining always has primacy***

Agreed minimum wages, classifications of professions, pooling of vocational training funds, provident funds, and equality between men and women. The joint financing of social and pension systems. The conditions of recourse to short contracts or to worksite contracts (project based contracts with full permanent employee rights, known from the building sector to be expanded to other sectors as well).

#### ***Where the sector can decide to lock the content and level of enterprise agreements***

Areas where a company agreement could not be less favorable to employees than the provisions laid down in the branch agreement. This could include prevention of occupational hazards and

hardship, disability and the conditions and means of exercising a trade union mandate. CGT wants working time and family related issues such as parental leave to be included here.

### ***Where the enterprise agreement has primacy***

The third block would consist of all other areas of work life. The enterprise agreement would have primacy, provided that it is a majority decision and respects the fundamental rights defined in the Labour Code. Currently primacy of enterprise agreements only applies for the implementation of the 35 hr week legislation. Extending it is a challenge to the collective bargaining system.

### **Outside the labour law proper:**

The government has introduced a number of proposals outside the labour law, which are targeted at increasing the acceptance of the whole package.

### ***Improved employee representation on company boards***

The government has stated its intention to encourage a better representation of employees on the board of companies.

### ***Changes in tax law***

Reducing income taxes for employees on minimum wage (currently 1480 Euros per month), and providing for the payment of a 13th month bonus. Lowering employees' social contributions (an employee earning a monthly salary of 2,200 Euros will earn an additional 500 Euros net a year).

To finance this, the government proposes to remove the tax credit for research programmes. This will especially hit the Pharmaceutical and Tech industries.

### ***Posted workers and initiatives against precarious employment***

Macron intends to renegotiate the proposed EU Posted Workers Directive to reduce the number of posted workers in France overall and limit the posting period to one year.

Taxing employers who frequently use temporary contracts instead of permanent employment contracts through an additional levy at company level.

Publishing on a "shame list" the names of companies who do not comply with equal pay.

Extending unemployment benefits to all 'workers' such as independent contractors, entrepreneurs or employees who resign from their job

### **This article is among other sources based on:**

- <http://www.lexology.com/library/detail.aspx?g=86dcad58-04dc-4897-b98b-45710d3dc846>
- [http://lentreprise.lexpress.fr/rh-management/droit-travail/loi-travail-2-les-dix-nouveautes-qui-vous-attendent-a-la-rentree\\_1932279.html](http://lentreprise.lexpress.fr/rh-management/droit-travail/loi-travail-2-les-dix-nouveautes-qui-vous-attendent-a-la-rentree_1932279.html)
- <http://www.la-croix.com/Economie/France/Muriel-Penicaud-donne-gages-syndicats-2017-06-28-1200858895>
- <http://www.ugict.cgt.fr/articles/references/decryptage-tout-savoir-sur-la-loi-travail-xxl-et-les-ordonnances>