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**JOINT STUDY OF THE EUROPEAN SOCIAL PARTNERS  
“THE IMPLEMENTATION OF FLEXICURITY AND THE ROLE OF THE  
SOCIAL PARTNERS”**

**NATIONAL FICHE**

**FRANCE**

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## Preface

This national fiche is part of the EU Social Partners’ Study “The implementation of flexicurity and the role of social partners” carried out in the context of the EU Social Dialogue Work Programme 2009-2011, which includes “*Jointly monitoring the implementation of the common principles of Flexicurity, notably in order to evaluate the role and involvement of the social partners in the process and to draw joint lessons*”.

To implement this task in the best possible way and to involve national member organisations actively in the gathering of data and information, the study applies a methodology that consists of multiple levels of analysis using a variety of instruments to be implemented with the help of a team of experts:<sup>1</sup>

- The expert team, with the advice of European Social Partners, agreed on a *set of selected statistical indicators* in the field of employment and economic and social development with labour market relevance.
- National social partners were asked to participate in a *questionnaire-based survey* focussing on the relevance of the flexicurity concept within national labour markets, the role of the social partners in policy implementation and their views of the flexicurity concept. To complement the research, the expert team visited a number of countries and carried out interviews with national social partners.<sup>2</sup>
- Based on the two sources above and a review of available written materials and information, the expert team prepared *29 national “fiches”* on the implementation of the flexicurity principles and the role of social partners in the respective national contexts.
- Results of the questionnaire survey and main findings of the national analyses were discussed at four “*country cluster seminars*” that were organised by the European Social Partners with the help of national sections in Warsaw (November 2010), Lisbon (December 2010), Paris (31<sup>st</sup> January-1<sup>st</sup> February 2011) and The Hague (8<sup>th</sup> February 2011).
- In the light of the overall study results and the comments received by national social partners in the contexts mentioned above, the expert team has prepared a *comparative synthesis report* on “Social Partners and Flexicurity in Contemporary Labour Markets” that was presented and discussed at a *EU-level synthesis seminar* on 31<sup>st</sup> March and 1<sup>st</sup> April 2011 in Brussels.

This national fiche aims to present a broad overview on the economic and social context and the state of play with regard to flexibility and security in the labour market and current social security arrangements (sections one and two). Secondly, the report describes the role of the social partners and social dialogue in the implementation of policies and practices that can be considered under the broad umbrella of “flexicurity” (section three), also summarising inputs provided by national social partners to the questionnaire, from interviews carried out and other contributions made in the context of the study. Section three also presents brief descriptions of cases of good practice as has been indicated by the national social partners.

The text was originally prepared as draft report in the autumn of 2010 in order to facilitate the discussion at the cluster seminar on 31<sup>st</sup> January and 1<sup>st</sup> February 2011 in Paris. The original dossier has been reviewed and revised to take into account the comments and discussions that took place during the seminar or received afterwards.

However, it should be stressed that this report is presented as an “independent expert report”. It represents the views of the individuals involved in its preparation and does not purport to represent the views, either individually or collectively, of the social partners’ representatives that contributed to it, or those of the European level social partner organisations that were responsible for its commissioning.

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<sup>1</sup> Expert team: Eckhard Voss (co-ordinator), Alan Wild, Anna Kwiatkiewicz and Antonio Dornelas.

<sup>2</sup> The following countries were visited in the context of the project between May and July 2010: Denmark, France, Ireland, Italy, Czech Republic, Poland, Germany, Portugal and the Netherlands.

# 1 The economic and social context

## Economic crisis and recovery

France is in a peculiar situation: being one of the “old” EU countries, it is currently in transition from a well-off, modern economy with extensive government ownership and intervention to more free-market oriented one. Big privatization processes have been realised in Air France, France Telecom or Thales; the government still keeps its shares in the energy sector, public transport and defence industries.

Before the crisis France economic performance was at a moderate level of approx. 2%. France was hit by the economic crisis and noted negative growth between mid-2008 and the first quarter of 2009. The cumulative loss in GDP over this period reached 3.4%, while the contraction of the French economy in 2009 was 2.6%. Despite these negative economic results, France was relatively better off compared to other EU countries. It was a result of maintained level of private consumption and government spending, low degree of openness of the economy and a limited size of the manufacturing sector – in 2006 service sector in France accounted for 77% of GDP (World Bank, 2008) and for over 76% of total employment in 2007 (European Commission, 2009).

### FRANCE - MAIN ECONOMIC INDICATORS AND OUTLOOK

	2007	2008	2009	2010	2011
<b>GDP</b> – annual percentage change	2.4	0.2	-2.6	1.6	1.6
<b>Employment</b> – annual percentage change	1.6	0.7	-1.2	0.0	0.5
<b>Unemployment rate</b> (Eurostat definition)	8.4	7.8	9.5	9.6	9.5
<b>General government balance</b> (as percentage of GDP)	-2.7	-3.3	-7.5	-7.7	-6.3
<b>General government gross debt</b> (as percentage of GDP)	63.8	67.5	78.1	83.0	86.8

Source: European Commission: Autumn 2010 Economic Forecast.

The French government’s reaction to the crisis was introducing a stimulus package (worth approx. 1.1% of GDP) in February 2009. The package was focused on boosting households’ consumption, investment in infrastructure and tax breaks for small businesses. At the same time the labour market adjustments were possible as the law on modernisation of the labour market (January 2008) came into effect. More measures mitigating the crisis effects on the labour market were introduced in the national interprofessional agreement of February 2009. The French government also decided to introduce financial sector support measures in line with a coordinated EU approach. Further stimulus measures are foreseen in the 2010 budget (approx. 0.7% of GDP). The recent research by INSEE has indicated that manufacturers have a positive outlook of the future economic situation, while private households remain more pessimistic.

The stimulus package and investment measures contribute to a sharp increase of the French deficit. Already in 2009 it reached the level of 7.5%, from 3.33% in 2008. It is predicted to grow further in 2010 whereas only in 2011 a slight decrease in deficit growth is expected.

According to the European Commission Spring Forecast 2010, the French recovery was to be uneven in 2010 and shall improve in 2011. Sluggishness of recovery is likely to be caused by specificity of the

French export, 70% of which goes to the European countries slower developing than their Asian or emerging countries’ counterparts as well as phasing out stimulus package and social benefits’ transfer<sup>3</sup>.

## Labour market indicators and trends

The employment rate in France corresponds to the average of the EU27; however it is still distant from the Lisbon goal of 70%. The situation is worse in case of younger and senior workers (32.1% and 38.9% respectively). Regarding both indicators France seriously lags behind the EU27 average. The dominating form of employment contract is still the indefinite duration one, however, the share of fixed term employment contracts has been steadily increasing in recent years, also during the crisis. The characteristic feature of the French labour market is its high polarisation between those, who are employed on indefinite duration contracts (CDI), and those employed on fixed-term (CDD), part-time and temporary contracts<sup>4</sup>. According to the European Commission important characteristics of the French labour market are: low participation rates, a high unemployment rate, long-term unemployment, and a low number of hours worked<sup>5</sup>. The structure of the French labour market is dominated by employment in the service sector (over 70% in 2009), followed by industry (approx. 24%) and agriculture (almost 4%).

One of the most disadvantaged group on the labour market are young workers usually employed on fixed-term contracts. During the crisis the unemployment rate of young workers increased from the already high level of 19.4% in 2007 (compared to the 15.4% for the EU27) to the level of 24.4% in 2009. Temporary employment, typical for this group, has been reduced due to the automotive crisis, temporary closures of plants and reversal in the housing market.

### FRANCE - MAIN LABOUR MARKET INDICATORS 2009 IN COMPARISON TO EU27

	France	EU27
Employment rate – % population aged 15- 64	64.2	64.6
Employment rate older people – % population aged 55-64	38.9	46.0
Self-employment – as % total employees	9.1	15.5
Employment in services - % total employment, 2007	77.2	70.4
Employment in industry - % total employment, 2007	19.7	24.1
Employment in agriculture - % total employment, 2007	3.1	5.6
Unemployment rate - % labour force 15+	9.5	8.9
Youth unemployment rate - % labour force 15-24	23.3	19.6
Long term unemployment rate - % labour force	3.3	3.0
Inequalities of income distribution (2008)	4.2	5.0

Source: Eurostat, *Employment in Europe Report 2010*.

According to Eurostat the unemployment rate in France (estimated at 9.9% in May 2010) corresponded to the Euro zone average (10% respectively) and was slightly above the EU27 average (9.6%). The French labour market has been seriously adjusted during the crisis. Temporary employment was hit first, especially in the construction and industrial sectors. Unemployment continued to grow throughout 2009 and reached the level of 9.5%. It is still predicted to grow in 2010, although at a moderate pace and to remain stable in 2011. In the next 2 years the unemployment rate is estimated at some 10%. It is still expected to grow in 2011 due to increase of population at working age – it may even reach 3 percentage

<sup>3</sup> EU Commissions’ Spring Economic Forecast 2010, p. 95.

<sup>4</sup> ARITAKE-WILD, *Joint Study of Restructuring in the EU15: France National Dossier*, Brussels 2008, p. 14.

<sup>5</sup> OECD, *Employment Outlook 2009: Tackling the 2008 Crisis*, Paris 2009, p.97

points more than before the crisis. The French labour market faces the problem of long-term and structural unemployment as well as segmentation of the unemployed cohorts, the two being especially defavoured - young and senior workers.

The perspectives for the French labour market are somehow troublesome. All in all, 70% of job losses were experienced in industrial and construction sector in 2009, and job destruction is predicted to continue in 2010. Employment rate may decrease by even 2 percentage point in 2010. It is very likely that phasing out stimulus measures will result in further contraction of economic activities in some sectors. Enterprises seem not only to reduce temporary employment contracts, but also to encourage early employment. Furthermore, tax reduction on overtime may attract employers to use more overtime than to create new jobs, even when the economy picks up.

### Flexicurity in the labour market and labour market policy

According to OECD, in 2007 the majority of people in France have achieved upper secondary and post-secondary non-tertiary education level (approx. 42% of population). The French achievements in all categories of educational attainment correspond to the OECD countries averages<sup>6</sup>.

There are systems in place aimed at organizing and financing continuing vocational training (*organismes paritaires collecteurs agréés*, OPCA) financed from the employers' contributions and managed jointly by social partners (more on this below in “Lifelong learning and mobility of workers” section). Proportion of the French employees participating in CVT significantly exceeds the EU27 average (46% for France compared with 33% for the EU27); the French enterprises also spend more money on training workers than their counterparts from other EU countries: 2.3% compared with 1.6% for the EU27. Critics of the system point out that usually those, who have the best level of knowledge and qualifications, get more training than the less qualified, therefore equal access to training programmes is still rather theoretical. At the same time, participation in lifelong learning is below the EU27 averages (6% versus 9.3% for the EU27).

In France, the proportion of flexible<sup>7</sup> employment has been increasing recently, especially part-time employment, and the use of temporary agency workers. Self-employed account for 9.1% of total employment in France compared with 15.5% in the EU27. France is close to the EU27 averages in regard to access to flexitime. Reasons for part-time work vary significantly: according to the EU-SILC France is the country where decision of taking up part-time employment is usually a voluntary one. However, there are also opinions stating that part-time is often a “forced choice” as there are no full-time offers<sup>8</sup>.

France has high level of employment protection. Overall employment protection is much higher than the EU27 average and temporary employment is even more strictly protected than the regular one (3.75 versus 2.47 in 2008). This makes this type of employment more expensive; as a result it seems that temporary employment in France is indeed limited to execute temporary tasks.

The level of public expenditure on labour market policy in France is slightly above the EU27 average; spending on passive labour market measures is bigger than on active measures, which is also typical for the EU as a whole. ALMP in France are complemented with additional measures that are financed from funds managed jointly by social partners.

<sup>6</sup> OECD, *Education at a Glance 2009*, pp. 40-41.

<sup>7</sup> For the purposes of this report ‘flexible employment’ is understood as all types of employment contract/employment relation different than indefinite duration employment contract.

<sup>8</sup> Interviews with social partner organisations’ representatives – July 2010.

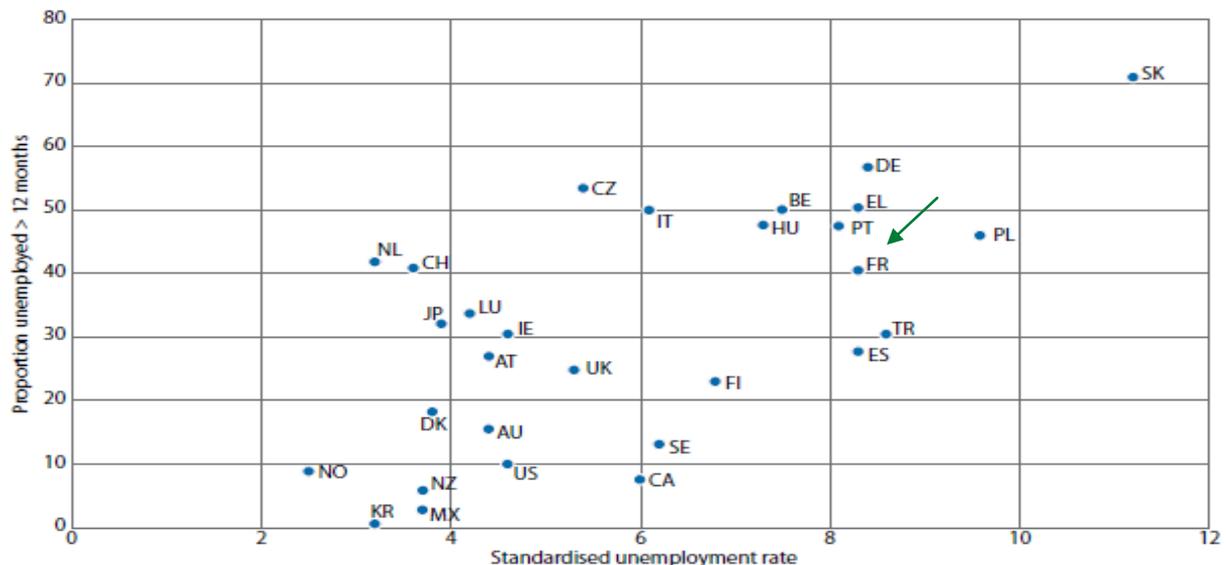
FRANCE - FLEXICURITY INDICATORS IN COMPARISON

	France	EU27
Total population having completed at least upper secondary education (population aged 25-64, %), 2009	70.4	72.0
Part-time employment - % total employment, 2009	17.3	18.8
Fixed-term contracts - % total employees, 2009	13.5	13.5
Access to flexitime, % total employees aged 15-64, 2004	28.2	31.3
Percentage of employees (all enterprises) participating in CVT courses , 2005	46.0	33
Lifelong learning participation – percentage of the population aged 25-64 participating in education and training over the four weeks prior to the survey, 2009	6.0	9.3
Job satisfaction – percentage of workers that are either very satisfied or satisfied with working conditions in their main paid job (EWCS 2010)	79.3	84.3
Strictness of employment protection – regular employment, 2008	2.47	2.11*
Strictness of employment protection – temporary employment, 2008	3.75	2.08*
Strictness of employment protection – collective dismissals, 2008	2.13	2.96*
Public expenditure on <i>passive</i> labour market policies (categories 8-9) - % of GDP, 2008	1.17	0.96
Public expenditure on <i>active</i> labour market policies (categories 2-7) - % of GDP, 2008	0.60	0.46
Persons at-risk-of-poverty after social transfers - % of total population, %, 2009	12.9	16.3

Source: Eurostat; Employment in Europe Report 2010; Eurofound (European Working Conditions Survey 2010); OECD.\*OECD average

France faces the problem of long-term unemployment, which in 2007 accounted for over 40% of the total unemployment rate, while the standardized unemployment rate was slightly over 8%. Between January 2003 and December 2006 the average duration of unemployment spell was 22.6 months and was the longest in Europe<sup>9</sup>. Over 45% of the long-term unemployed are prime-age people; the situation is even worse in case of older workers - 65% of the long-term unemployed are seniors. Almost 50% of workers facing long-term unemployment are people with low skills.

INCIDENCE OF LONG-TERM UNEMPLOYMENT AND THE UNEMPLOYMENT RATE 2007



Source: Employment in Europe Report, p. 73, based on OECD figures.

<sup>9</sup> OECD, Employment in Europe 2009, p. 92.

## Conclusion

Recently the number of part-time work and fixed-term contracts has increased, however, indefinite duration employment contract, usually with a single employer, is still the most popular one (45% of employment contracts last more than 10 years). The level of social security and support in job searching is conditioned by the type of employment contracts; there are differences in equal access to services for different categories of workers. Pace of job creation is rather moderate, and during the crisis employers have preferred to use overtime and temporary work than to create new posts.

## 2 Flexibility and security in recent labour market and social policy reforms

### Introduction and overview

According to the French government their labour market is still not used to its full capacity. This is mainly due to the long-term unemployment, lower employment rates and shorter-working hours per individual, a segmented labour market and skewed wage scale (13% of employees earns minimum wage)<sup>10</sup>.

Recently several important market reforms have been implemented in the field of labour market policy, contractual arrangements, lifelong learning and working time arrangements. They were aimed at:

- modernizing public employment services by merging them with unemployment insurance network;
- dynamizing labour market by introducing more flexibility to employment contracts and termination rules;
- enhancing competence development and lifelong learning system by introducing complex personal assessment after the first job - basis for further development - and a more detailed description of powers between actors, especially at the regional level;
- making work and economic activity more attractive by introducing appropriate regulations on overtime as well as introducing more freedom in scheduling work at the level of enterprises and sectors.

Flexicurity cannot be regarded as a guiding principle of these market policy reforms - the main goal was to increase labour market and work efficiency.

The above set of initiatives was completed by the Employment Mobilisation Plan (*Plan pour mobilisation d'emploi*) launched at the end of 2008 to mitigate the effects of the crisis. In April 2009 these measures were completed with the plan to stimulate youth employment (*Plan d'urgence pour l'emploi des jeunes*). Another important document issued with a view to mitigate effects of the crisis was national interprofessional agreement on managing impact of the crisis on employment (*l'ANI sur la gestion des conséquences de la crise sur l'emploi*) signed on 8 July 2009. This agreement introduced temporary measures – valid only till 1 January 2011 – which are to prevent from ending employment contracts during the crisis, ensure more flexible access to partial unemployment scheme (functioned before the crisis), support employees in the case of job loss, i.e. via personal assistance in professional reclassification (*le Contrat de transition professionnel*, CTP combined with *la Convention de*

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<sup>10</sup> French government: France National Reform Programme 2008-2010, Paris, October 2008.

*reclassement personnalisée*, CRP, which guarantees 80% of the former salary and individualized support in professional reconversion and in job search ). In February 2008 the Funds for the Social Investment (*les Fonds d'investissement social*) were created for 2 years to additionally support employment and professional training - related initiatives during the crisis. Access to partial unemployment was extended (for employees of all sectors, from 600 hours to 1 000 hours per year) and received remuneration was increased (from 50% to 60% percent of the gross salary for 12 months). Temporary workers were made eligible to partial unemployment. Specific measures were introduced for SMEs (“zero charges” and easier access to fixed-term contracts). With a view to offer maximum services, some 2 000 additional agents were hired to PES (*Pôle emploi*) and the cooperation with private employment agencies was enforced.

## Lifelong learning and the mobility of workers

In France the following instruments are available: sectoral funds managed jointly by social partners (OPCA), individual training leave (DIF), *bilan de compétences* – mandatory annual audit of competences, system of accreditation of prior learning (*Validation des Acquis de l'Expérience*, VAE) and requalification contract. Mobility of workers remains quite limited due to cultural and financial reasons; quite recently job seekers have been obliged to enlarge their “geographical flexibility” while accepting employment offers.

### ➤ Vocational Training Funds (OPCA)

Since passing the law of 1971 in France there OPCAs are managed jointly by the social partners. Employers’ contribution to these funds is mandatory and accounts for 1,6% of the payroll. OPCA finances training programs, individual training leave as well as competences audits. Enterprises can finance their annual training plans from this fund; if they do not have the training plan, they are obliged to use the available funding to finance alternative way of developing workers. If the allocated money is not spent on employee training, OPCA takes over responsibility for employees’ training. The biggest criticism concerning continuing vocational training system in France is its selective nature and privileging better educated workers.

### ➤ Fund for securing professional career (FSPP)

One of the initiatives aimed at creating opportunities for professional development for the more disadvantaged groups is the fund for securing professional career (FSPP). It was established as an interprofessional fund with some money earmarked for representatives of the defavorised groups: the unemployed, young employees, less qualified employees, employees of SMEs and microenterprises. The fund is financed from a 13%-contribution from OPCA.

### ➤ Individual training leave (CIF) and right to individual training (DIF)

The national intersectoral agreement creating DIF was signed on 5 December 2003. Recently transferability of earned DIF hours was regulated as well as use of DIF during economic slowdown to prevent from dismissals. DIF can also be used during the unemployment period, provided the request is made in the first half of the entitlement period. In case of taking up new employment, accumulated DIF hours should be used within the first 2 years. To strengthen career security terminated employees have the right to use the remaining hours of DIF as well as they maintain the same supplementary health and welfare insurance for at least three months. Employees also have the right to paid training leave (CIF).

### ➤ Strategic employment and competence management (GPEC)

This approach is aimed at ensuring prospective analysis of demand for competences and better match between training initiatives and employers’ demand for competences; competences are to correspond with strategic development of the company. Social partners are involved in GPEC-related initiatives.

➤ Validation of the Prior Learning (VAE)

Validation of the Prior Experience (VAE) allows each person, independent on age, education level and status, to validate acquired experience with a view to receive certification. Three years of professional experience corresponding to the content of the certificate are required.

➤ Right to complex personal assessment after the first job

It includes: creation of regular professional skills reviews (*bilan d'étape professionnel*), access to lifelong training and the VAE mechanisms.

As regards to lifelong learning, the reform of the LLL system was to be based of the joint group recommendations of 10 July 2008. The reform was to be based on the following initiatives: clarifying the powers of actors, especially at the regional level, determining the prerequisites for “deferred training rights”, securing career paths, adjusting individual training leave (*congé individuel de formation, CIF*) and the individual right to training (*droit individuel à la formation, DIF*), improving lifelong learning financing conditions, modernizing OPCAs, strengthening anticipation and evaluation capacity as well as transparency of the LLL system, ensuring better link between training offer and the needs of the labour market, ensuring equal access to LLL for all. In 2009 two new diplomas were introduced: the first is a digital economy and foreign languages diploma (BII and B2i) and the second a language diploma – *Diplôme de Compétences en Langues, DCL*. The law of 24 November 2009 related to professional reorientation and training was an important step in reforming CVT system in France. Apart from setting up the fund for securing professional career (*le fond pour sécurisation des parcours professionnels, FSP*), it regulates portability of DIF, brings changes to training plan, develops measures aimed at auditing competences and developing professional development plans (*le bilan d'étape professionnel, l'entretien en milieu de carriere, le passeport orientation et formation*).

A temporary work agency is obliged to elaborate training programs for its workers. It is possible that while temporary agency workers' participation in trainings can conflict with accepting new postings. As a result ensuring an appropriate level of training for temporary agency workers seems to be a challenge.

At present in the French system there are not any special support measures fostering mobility of workers.

### External/internal flexicurity and contractual arrangements

As it has already been stated, the most often used form of contract is the indefinite duration full-time employment contracts (*contrat durée indéterminée, CDI*). Recently the number of defined duration employment contracts (*contract durée determine, CDD*) as well as the share of temporary agency work in the total employment has risen. Overtime is often used to manage additional work. Use of CDD and temporary workers is very much sector-determined, but most often concerns young and senior workers.

A very important national intersectoral agreement was signed on 11 January 2008 and transposed in the Labour Market Modernisation Act of 12 July 2008. The act consists of the series of changes aiming at dynamising the labour market. One of the provisions included in the Act increases flexibility of employment contracts and their termination (*rupture conventionnelle du contrat de travail à durée indéterminée*). Precise procedure of negotiated dismissal has been introduced. Moreover, the Act defines –the number of workers that can be dismissed and the dismissals timeframe to prevent from executing “hidden” collective dismissals by using this procedure. The same intersectoral agreement foresees fixed-term employment contract of 5 years for engineers and executives to complete certain projects with an unspecified termination date. This is a non-renewable employment contract for 18 to 36 months, which ends when objectives are reached. After termination of the contract employees are entitled to professional reintegration, validation of the knowledge acquired through their experience (*Validation des Acquis de l'Expérience, VAE*) and are guaranteed priority in recruitment and access to

LLL. The discussed January 2008 agreement supports the importance of “strategic employment and competence management” (GPEC).

CGT believes that the Labour Market Modernisation Act of 2008 imposes on workers “forced flexibility” by making dismissals easier (*la rupture conventionnelle*), extending the duration of precarious employment contracts (CDD à *objet défini*, longer probation periods), individualising workers’ rights, employment contracts and working conditions as well as exploiting workers engaged on the basis of “bogus” employment contracts (i.e. self-employed or temporary agency workers).

CGT points out the problem of employment contract inequality in France, where worker is always subordinate to employer. This type of relationship is even less equal in case of flexible employment contracts, moreover, it negatively influences social protection of flexible workers.

CGT openly rejects external flexicurity that, according to the Confederation, is imposed by the government and the French employers.

### Active labour market policy

Some significant labour market reforms were implemented during the 2008-2009 period with the aim of reducing the unemployment rate to 5% in 2012. One of them – the Public Employment Service Organisation Reform Act passed on 13 February 2008 – was the basis for merging National Employment Agency (*Agence Nationale Pour l’Emploi – ANPE*) with the unemployment insurance network (UNEDIC). The second important act was the Job Seekers’ Right and Obligations Act of 1 August 2008 that provides a legal basis for precise definition of a reasonable employment offer. It was aimed at personalizing an approach to job searching (*projet personnalise d’accès a l’emploi, PPAE*). This approach implies broadening geographical scope of job search together with limiting wage demands. Job seeker may refuse only two reasonable job offers before being excluded from the list of job seekers.

Within the framework of the labour market reform the single institution – *Pôle emploi* – was created in 2009. It was created by merging two institutions merging National Employment Agency (*Agence Nationale Pour l’Emploi – ANPE*) with the unemployment insurance network (UNEDIC). The merger took place to simplify and broaden services provided for businesses and job seekers. Social partners remained responsible for managing the unemployment insurance. Among different services provided by *Pôle emploi* one is addressed to workers whose entitlement to assistance in job search is about to finish (*le plan de rebond pour l’emploi*).

There is also an important initiative – *Grenelle de l’Insertion* – initiated on 2 October 2007 with a view to promote employment of the most defavorised groups. One of the agreements signed within the framework of this initiative aims at making new PES responsible for assisting those “who are furthest from employment” and providing the same treatment for job seekers entitled to unemployment benefit and recipients of minimum social benefit.

The need to attracting more older workers to employment as well as keeping them in employment was reflected in a series of initiatives. Among them there was the plan launched by the government and the social partners, Concerted National Action Plan for Employment of Older Workers 2006-2010 (*Plan National d’Action Concerté pour l’Emploi des Seniors 2006-2010*) as well as the plan announced by the government – Action Plan to Promote Employment of Older Workers of 26 June 2008 (*Plan d’Action en Faveur de l’Emploi des seniors*). The latter had three objectives: introducing incentives for businesses linked to keeping older workers employed, encouraging combined employment benefits and pension and attracting senior workers back to the labour market. The plans were followed by the series of additional measures, i.e. abolishment of forced retirement as well as phasing out of the dispensation from the obligation to look for a job. This dispensation is important for all age categories

of workers as the dispensation system (*dispense de recherché d'emploi, DRE*) will not accept further beneficiaries after 2012.

### Supportive social security systems

Unemployment benefit accounts for some 60% of the former gross salary and its duration can be up to 2 years (between 122 and 730 days and up to 1 095 days for employees over the age of 50). The duration of the benefit depends on the moment when employee acquired the right to unemployment benefit. It is worth mentioning that such a “generosity” of unemployment benefit and its relatively long duration may result in a certain demotivation in the job search. Another aspect of such an organisation of the social security system is its polarisation: situation of employees who do not have unemployment benefit entitlement and loose work is much worse than their counterparts who are entitled to unemployment benefit. It is estimated that a significant number of workers is not entitled to unemployment benefit. For those other measures were introduced (i.e. *l'allocation de solidarité*), but often employees do not want to use it as it “stigmatises” them. There is also working solidarity benefit (*revenue de solidarité active – RSA*), which replaced minimum integration income (*revenu minimum d'insertion, RMI*). There are no direct social security measures aimed at promoting or supporting flexibility.

According to CGT assessment the majority of measures introduced after 2007 have resulted in aggravating social inequalities. CGT lists the following consequences: increase of unemployment, precarious employment contracts and exclusion from the labour market, growing number of people living below the poverty line, increase in discrimination, harassment, people earning low wages and incidence of work in difficult conditions. Moreover, CGT points out that none of the introduced support mechanisms for enterprises (i.e. reduction in social contributions) have resulted in more job creation.

### High quality and productive workplaces

In terms of hourly productivity, France exceeds productivity levels of all OECD countries with the exception of Norway. While comparing productivity per employee, France performs less well due to its shorter working hours<sup>11</sup>.

Recently important laws aimed at making work and economic activity more attractive have been introduced. These are: the Work, Employment and Purchasing Power Act of 21 August 2007 (*loi TEPA*), the Purchasing Power Act (*loi PA*) and the Solidarity Fund (*le Fond solidarité*). The *loi TEPA* stipulates exemption of the overtime work from social security contributions and income tax as well as simplifies its rules and standardizes the overtime wage increase at 25%. The *loi PA* extends the right to work longer hours and to convert paid-holiday rights into money. It also allows employees with fixed delay wages to benefit from the *loi TEPA*. The Social Democracy Renewal Act and the working hours reform grant businesses and sectors more freedom in scheduling their working hours to accommodate company and employee needs. According to CGT, an important development in this field was introducing *pôles de compétitivité*, which are meant to stimulate R&D starting with the most important sectors.

CGT also points out that work shall serve individuals and enable them to exercise full human rights and freedom. Only good quality work can contribute to reaching these objectives and shall not be used interchangeably with the notion of flexibility on the labour market.

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<sup>11</sup> ARITAKE-WILD, *Joint Study on Restructuring in the “EU15”*, Brussels, September, 2008, p. 20; (available at: [http://resourcecentre.etuc.org/ReportFile-20080925101942\\_IP2---FR-Restructuring-Report---EN.pdf](http://resourcecentre.etuc.org/ReportFile-20080925101942_IP2---FR-Restructuring-Report---EN.pdf)).

## Gender equality

Some social partners (a.o. CFDT) underline that gender equality is a transversal theme: it is integrated in all negotiations and state social policy agreed between the state and social partners.

In France there are several measures promoting gender equality. The French law on equal pay passed in 2006 stipulates that appropriate measures to detect differences in remuneration between men and women are to be introduced in enterprises employing over 50 employees. Additionally, the Decree of August 2008 re-introduced obligation to address the situation of men and women in enterprises employing over 50 employees.

CGT points out the obligation to negotiate agreements on professional equality between men and women at the enterprise level as well as the obligation to eliminate a pay gap between men and women before December 2010.

FO indicates that recently there has not been any reform related to gender equality that would be “flexicurity-oriented”.

## Financial sustainability

Information on financial stability of functioning measures is limited. However, like in other European countries, finances are a rather “hot” subject in France at the moment. Questions arise around multiple and rather extensive support programmes and their financial sustainability. Sometimes efficiency of specific measures (i.e. OPCA) is questioned.

According to CFDT tri-annual agreement signed by the State and FPSPP (*le Fonds paritaire de sécurisation des parcours professionnels*) on 15 March 2010 defines priority activities and guarantees financial means (budget of €1 060m for 2010).

## Conclusion: Strengths, weaknesses and challenges

According to the assessment of the European Commission continuing market reform in France is necessary. The most acute problems are related to eliminating segmentation of the labour market, reducing unemployment rate of young and senior workers, increasing overall employment rate and creating good quality workplaces. The weakness of the present situation is linked to “traditional” organization of employment relations based on indefinite duration employment contract and rights linked to seniority, and hinders mobility. There are also certain limits to mobility resulting in a limited willingness of workers to travel after work as well as not adequate support mechanism (i.e. housing is still problematic). To a certain extent, limited mobility seems to be one of the characteristic of the French labour force and shall not be ignored. The strengths of the present system are related to a wide-approach to vocational training system, which so far has been financially sustainable. However, the public deficit makes the government look for additional funding, therefore not-used training funds can potentially become an interesting source of complementary financing for the state budget. Recent reform of the PES gives hope for a more targeted, personalized and effective services. Since there are many different measures i.e. within the pillar of continuing vocational training or ALMP, it is questionable whether the targeted audience is not confused and can use the services easily. Last but not least, the notion “flexicurity” is not a natural idea while discussing labour market reforms in France. Trade union representatives prefer to discuss provisions for “securing of professional career” or “social and professional security”; employers organisations’ representatives focus more on maintaining competitiveness and improving productivity and believe that further modernization of labour law is necessary to achieve these goals. For trade unions, namely CGT, security for workers can only be guaranteed when fundamental social rights of workers are guaranteed. These rights include: professional career development (i.e. qualifications, salary, vocational training), social protection (i.e. social security, pension) and social democracy (i.e. right to join the unions, role of trade unions,

collective negotiations). These rights shall be individual worker’s rights and shall be transferable between different employment contexts (they are maintained during employment, job-to-job transition and vocational training). CGT calls this approach “secured social policy”. CFDT stresses that transferable rights shall not be related to employment contract, but the individual- life has changed and regulations have to reflect present development of the labour market and changes in contractual arrangements.

The main challenges concerning implementation of flexicurity can be summarised as:

- ensuring equal access to unemployment benefits and support for workers employed on different contracts;
- improving effectiveness of public employment services;
- creating regional partnerships for combating unemployment;
- combating long term-unemployment, especially among young workers, immigrant and senior workers;
- increasing effectiveness of existing CVT systems, ensuring appropriate level of training for employees with low skills and those employed in SMEs;
- ensuring equal treatment of workers employed on indefinite employment contracts and on flexible contracts as to vocational training, career development and social protection rights.

### 3 The role of the social partners

#### General remarks on the role of social partners

Despite the fact that trade union density in France is below the EU average (8.6% in France in 2005 compared to over 25% in the EU25), collective bargaining is an important instrument as its coverage is 95% (63% in the EU25). Trade union presence is high in large companies, and almost non-existent in SMEs. The public sector has the highest unionization rate. There are five main trade union confederations with membership across all sectors of economy (CGT, CFDT, CGT-FO, CFTC and CFE-CGC). These five organizations are considered as representative at the national level - they can therefore negotiate and have seats in the bodies managed by social partners. Only three of them are affiliated at the European level (CGT, CFDT and CGT-FO are members of ETUC). There are also other important and influential trade unions confederations, but are not regarded as representative (UNSA, the G10 or SUD). Over the time unions have been losing their influence and are gradually outnumbered by non-unionised workers’ representatives in the elections to work councils.

Employers’ organizations account for a much bigger density than trade unions (78%). MEDEF, the main employer association, is a multi-layered confederation of sector and territorial organisations bringing together companies with more than 10 employees. MEDEF directly organises 87 federations that cover some 600 associations and 165 regional organisations. There is no direct company membership at the confederation level. SMEs are represented by the CGPME, and self-employed artisans by the UPA. These two organisations played a significant part in reducing working time in small and very small companies in 2002. All three organisations are affiliated at the EU level to the relevant employers’ organisations (BUSINESSEUROPE and UEAPME respectively).

#### Main instruments and levels of influence

Social dialogue in France takes place at all three levels (national, sector, branch, enterprise). Since the law of 2006 social partners have to be consulted on all law drafts concerning social law; labour market

reforms are equally a subject of social dialogue process. In order to make social dialogue more effective, the Social Dialogue Modernisation Act of 31 January 2007 was passed. The law foresees three different consultation mechanisms. The first is conferring with the social partners when the government considers a reform in the general rules of labour law: social partners are obliged to inform whether they intend or not to negotiate an intersectoral agreement. The second mechanism is consulting: the laws and regulations prepared by the government in the light of conference and negotiation results must be submitted to the usual social dialogue entities. The third mechanism – informing – implies that the government and social partners are to meet annually to announce planned reforms and bargaining timetables.

**FRANCE - MAIN SOCIAL DIALOGUE INDICATORS IN COMPARISON TO EU27**

	France	EU27
<b>Collective bargaining coverage - % of employees covered by collective agreements, 2006</b>	95.0	63.0
<b>Trade union density - % of dependent employees who are trade union members, 2005</b>	8.6	25.3
<b>Employer organization density - % of employees employed by companies that are members of an employer organization, 2006</b>	78.0	n.a.

Source: EIRO on-line Country Profiles, EU Industrial Relations Report, 2008.

Some labour market measures are derived directly from national inter-sectoral agreements. So far social partners signed the following agreements relevant for the labour market reform: on unemployment insurance (January 2006), on modernizing the labour market (January 2008) on continuing vocational training (January 2009), on management of the consequences of the crisis on employment (July 2009) and on leasing of workers (June 2010).

The January 2008 agreement defines which subject/measures should be discussed at the national level (i.e. unemployment insurance agreement or GPEC) and which at the sectoral level (i.e. job placements or renewal of probation period).

According to the stipulations of the French labour code it is also possible to sign agreements at the territorial level – so called “agreements of local interest on employment and continuing education”. Territorial approach has been stressed recently as the most effective to secure professional careers in specific regions. These kind of agreements should not interfere with social partners’ responsibilities at the sector level.

Apart from the national, sectoral and territorial level, agreements can also be signed at the company level, i.e. as regards to GPEC and training. It is worthwhile to note that one of the trade unions, CFTC, established a quality label to certify company-level agreements of an innovative nature and in line with their proposals.

CGT believes that it is impossible to separate social issues from economic ones and the process of industrial development. The Confederation calls for the right for trade unions to participate in enterprise management as well as to influence its economic policies.

**Recent changes and challenges**

As it has been stated before, all French social partners prefer to discuss provisions for “securing of professional career” and modernization of the labour market than “flexicurity”. For the French social partners concept of “flexicurity” does not naturally fit their agendas. Trade unions openly dislike the word “flexicurity” as they are convinced it usually results in more flexibility for employers, while the second component - security for workers – is often forgotten. It is especially acute in the context of the

segmented labour market and two groups of employees – the better-protected ones on CDI and other employees who are not eligible to social protection. CGT openly declares “resistance” towards governmental attempts to impose its “liberal concept of flexicurity”. According to trade union representatives’ assessment enterprises are more and more often dismissed from their social responsibilities towards employees and territory on which they operate. To overcome this problem CGT proposes tailoring social contribution to situation of each individual enterprise so it can act in a socially responsible way. Some trade unions point out that their objections to the concept of “flexicurity” are related to the fact that “flexicurity” is a “Trojan horse of the government”: the government hides initiatives that result in social regression behind the notion of “flexicurity”.

Among employers, the perception of flexicurity and its stage of implementation is more diverse. There are some that believe that “some elements of flexicurity are implemented without being named flexicurity”. Others believe that “flexicurity is non-existing on the French labour market, which is too rigid as regards to instruments as well as culture and attitude”. From the perspective of employers the challenge is to dynamise the labour market by introducing less constraining rules for hiring and firing; to this objective they welcomed with satisfaction new procedure for ending the employment contract. Some of the French social partners believe that recent developments cover only chosen aspects related to flexicurity while others remain underdeveloped.

Both trade unions and employers observe that the European Employment Strategy is a trigger for some changes or, at least, discussions between social partners on the employment-related subjects. As a consequence, they believe that the discussion on flexicurity is driven by the European trend and the EU interest and is not a natural point of their discussion. They are convinced that changes on the French labour market should be realized in a “French way of doing things” and use existing procedures and mechanisms. They prefer to negotiate concrete measures than concepts.

The concept of mobility seems to be controversial among the French social partners. Trade unions representatives are not convinced that forcing employees to become mobile is the most natural and wanted development. There are also some controversies around professional mobility and transversal competences - by some they are perceived as a way of escaping from hiring new workers and forcing employees to do multiple jobs. At the same time mobility seems to be inevitable and there are projects to introduce temporary “suspension” of the employment contract in case of changing the job. This suspension would guarantee that if an employee is not satisfied with a new job, s/he may come back to the former employer without losing any of his rights. Internal mobility is usually conditioned by size of the enterprise.

According to social partners the law passed in June 2008 “Modernisation of the labour market” was a very important step in reforming the labour market. They also believe that all the instruments necessary to cope with the crisis were already in place when the crisis stroke. However, they doubt the effectiveness of some measures. One of the criticized initiatives was the merger between ANPE and UNEDIC. They believe it was not necessary, very expensive, not well executed and that the necessary time has not been secured<sup>12</sup>. Additionally, the merger took place during the times of the crisis, which made the whole operation even more difficult. Some critics believe that *Pôle emploi* reflects solely the needs of big enterprises and are not very effective for SMEs and microenterprises. Also, it lacks a regional perspective. According to social partners there are still some reforms necessary to bringing the unemployed back to work effectively and in a timely manner. Some trade union representatives criticize GPEC as they believe that within the framework of GPEC the dismissals for economic motives were executed. Another critics concerned the mobility leave (*le congé de mobilité*), which results in ending employment contract. Employers’ organizations representing SMEs and

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<sup>12</sup> This development is not welcomed by CGT which stresses that it has contributed, among others, to increase of unemployment and inequality on the labour market.

microenterprises welcomed with satisfaction changes corresponding to their peculiar situation: i.e. extending probation period from one to four months, privileging SMEs and microenterprises employees in access to some training programs as well as portability of healthcare rights.

According to the French social partners the measures used to mitigate the crisis were typical measures corresponding to the business cycle approach, i.e. the use of professional transition programmes and professional requalification. Additionally, some alterations were made to the existing provisions to make them more operational, facilitate their use or make eligible to wider public (i.e. employees became eligible to sickness benefit after a-year-long employment instead of 2 years, portability of the health insurance after dismissal or DIF portability have been introduced).

Social partners agree that the crisis has provoked questions regarding stability on the labour market and was a natural step towards introducing more flexible solutions. They also agree that it aggravated structural problems on the French labour market. Social partners pointed out that some measures used to mitigate the effects of the crisis were not used to its maximum effectiveness. An example is partial-unemployment, which foresees training activities during the times of the economic slowdown<sup>13</sup>. Sometimes training programs did not correspond to the need of the employer and employees as no prior analysis of training needs was made. According to the French social partners it is necessary to analyse the labour market situation after the crisis and project further reforms on the basis of this analysis. Some trade union representatives are not in favour of new structural reforms, while some employers representatives would welcome further changes. One of the necessary changes pointed out by all social partners was increasing the effectiveness of OPCAs, limiting their number, work out strategy of OPCAs functioning as well as enriching OPCAs training offer and better targeting its activities. Another set of changes shall be aimed at tailoring labour law to modern labour market, namely cope with such issues as: diversity of employment contracts, various work organization, different arrangements concerning working time as well as different links between private and professional life. In the discussions often the subject of “portability” and “transferability” are discussed jointly; trade unions are generally in favour of “transferability of rights”, while employers support “portability of rights”.

The French social partners agree that the present moment is “complicated”<sup>14</sup>. Social partners believe that recently negotiations between social partners became more difficult and the climate for negotiations is less favorable. There are tensions between organizations themselves. Public authorities seem to make attempts to have more influence in defining subjects for bilateral negotiations as well as negotiations timetable. Another controversy is caused by the fact that whatever social partners agree upon is very quickly written into law, while the subjects not addressed in their negotiations are left aside and do not become a part of the legal regulations.

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<sup>13</sup> CGT perceives partial unemployment scheme as one of the measures that limited the labour market degradation during the crisis, however, the Confederation criticizes its limited access.

<sup>14</sup> CGT even points out “lack of loyal and serious negotiations” both at the national and enterprise levels. Moreover, they believe that national policy eliminates social partners, especially trade unions.

## Cases of good practice in the field of labour market flexibility and security

Examples of good practice in France include;

### **Example One: Securing professional career in the tourism sector**

CGT Rhône-Alpes in cooperation with Jeunes Emplois Mobilité and l'UNAT Rhône-Alpes implemented pilot project to support sustainable professional career for young seasonal workers in the tourism sector.

Basic assumption of the project was to combine work and training (so-called 'contracts of professionalization'). Each participant had employment contract for seasonal work in the tourism sector and participated in training program - two training platforms were created in cooperation with enterprise operating in the social tourism sector. The 'combined contract' – work and training – was to eventually lead to indefinite duration contract (CDI) upon the completion of the 15- month-project.

In order to make this initiative operational it was necessary to find promoters of the project, create networks, find employers who were ready to take up this responsibility and find financial means. Promoters were: JEMRA, local missions, trainers, 4 enterprises operating in the social tourism sector, the State and regional authorities.

The initiative is financed jointly: the State, regional authorities and employers contribute financially. In total 190 000 EUR was spend for contract of professionalisation of 45 young workers. Audit of achievements (*le bilan d'étape*) has proved high effectiveness of the project : 37 out of 45 young workers have stable employment, 7 are moving towards stable employment and only one person did not manage to complete the programme with success. There are plans to cover more people working in the tourist sector in Rhône-Alpes with this initiative.

In this case role of social partners was the one of initiator and negotiator.

Source: CGT, questionnaire May 2010.

### **Example Two: Interprofessional agreement for competence development**

Social partners sitting at regional, interprofessional employment commission of the Franche-Comté (*Commission paritaire interprofessionnelle régionale de l'emploi, COPIRE*) decided to sign agreement for competence development. Agreement signed in 2007 was aimed at addressing changes taking place within professions, transferring competences and securing professional career. This initiative is based on reinforced social dialogue within enterprise, which shall contribute to securing employment by implementing DIF, training plan, VAE, training passport as stipulated in l'ANI.

In September 2008 working group was created at the regional level to work out 'competences passport' that could be useful for all enterprises, especially in the automotive sector. Parties involved are: the State via regional PES, regional authorities, l'AFP, Pôle emploi, trade unions and employers organisations, including l'UIMM. This initiative is aimed at advancing professional social security for the workers in automotive sector, special attention will be paid to some 4 000- 5 000 temporary workers.

In this case role of social partners was the one of initiator and negotiator.

Source: CGT, questionnaire May 2010.

## 4. Key points arising

From the point of view of the author of this report, also in the light of the discussion of the French case at the cluster seminar in Paris, the following key points are arising:

- *Some French social partners perceive the 8 EC Principles of Flexicurity as declarations that are quite open for interpretations; these interpretations can significantly differ as well as can be contradictory, even to the EC intentions;*
- *France is relatively far from implementing intentions into tangible strategies/actions;*
- *Finding appropriate solutions to support SMEs and their workers to ensure flexibility and security for both;*
- *It is necessary to open PES to all workers independent of their actual status;*
- *Some opponents of the flexicurity concept stress that this is not the concept itself they oppose, but the way it is implemented in France;*
- *Introduction of flexicurity-related solution requires revisiting of the French social contract, both its internal and external dimensions.*

## Sources and references

### Replies to the questionnaire survey, interviews and other contributions

Questionnaire replies were received from three trade union confederations: CGT, FO and CFDT. Within the framework of the projects interviews with social partner organisations (ACPM, CFDT, CGPME, CGT, FO, MEDEF, UPA and the French representative for CEEP) representatives were conducted on 19-21 July 2010.

There were two presentations of representatives of the French social partners (CGT and MEDEF) delivered during the country seminar in Paris on 31<sup>st</sup> January and 1<sup>st</sup> February 2011.

### Further resources

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