

The Decentralisation of Collective bargaining in France

An escalating process

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The French Industrial Relations Context

- A paradoxical situation:
 - The lowest rate of union density in EU (**8,5%** in the private sector)
 - A high level of pluralism with 5 representative confederations:
 - 3 major union confederations: **CGT** (26,8%) - **CFDT** (26%) - **FO** (16%)
 - 2 smaller ones: **CGC** (9,4%) - **CFTC** (9,3%)
 - One of the highest rate of bargaining coverage: 95%
 - Despite a collective bargaining system set up belatedly (1950)
- Explained by a strong tradition of State intervention:
 - Legislation still the main source of regulation (minimum wage since 1950, working time and employment conditions defined by law)
 - Despite a long-standing mutual distrust between employers and unions
 - A quasi-automatic extension procedure offsets the weakness of bargaining

Sector-level bargaining: The traditional pillar is still alive

- 671 sectors with existing collective agreements but only 300 covering more than 5000 employees

Number of agreements binding more than 5000 employees					
Total		Metal industry		Construction	
Number of agreements	Employees covered	Number of agreements	Employees covered	Number of agreements	Employees covered
299	14 073 000	68	1 629 700	57	1 196 500

➤ Source: Ministry of Labour – DGT (BDCC)

- Between 1100 and 1400 agreements signed each year at national, regional or territorial level.
- In 2015, at least one agreement was signed in 70% of the national sectors

Sector-level bargaining: The traditional pillar is still alive

- Fluctuations in the number of agreements mainly due to wage agreements
 - For instance, in 2015, the number of wage agreements decreased by 9% due to:
 - No inflation (0,1% in 2014, 0% in 2015)
 - A very moderate SMIC rise

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
% of wage agreements	44,8	46,5	47,6	47,1	34,5	36,5	40,5	45,6	41,6	38,2	34,6

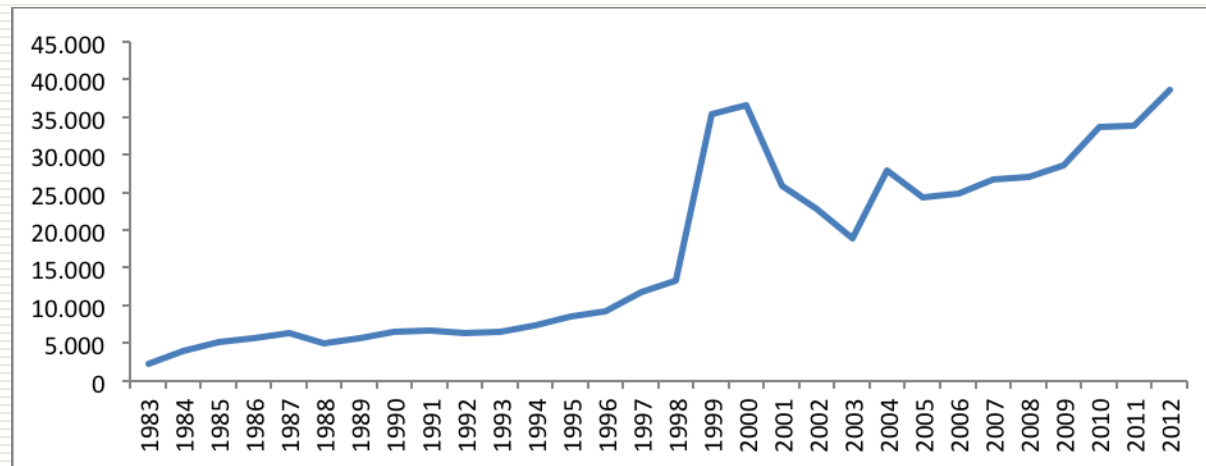
- Source: *La négociation collective en 2015, Ministry of Labour*

The dynamic since the 1980s: An early decentralisation

- Since the early 1980s, sector-level bargaining facing competition by:
 - Enterprise level as a norms-production space
 - Obligation to negotiate annually (but not to sign an agreement) both at sector and enterprise level (if union present) on wage and working time (Auroux Law 1982) reinforced by Aubry Law 1998/2000 on 35 hours
 - The expansion of a lot of derogations from the Law regarding working time arrangements
 - Many others compulsory topics added since the 2000s (e.g, prospective management on jobs and skills in 2005, gender equality in 2006, financial participation and profit sharing in 2008, employment of young/old workers in 2013)
- Multi-sector bargaining as a tripartite level
 - Existed for the 1970s
 - Confirmed its role in 2007 Law

The dynamic since the 1980s: An early decentralisation

- But the significant increase of enterprise level bargaining was triggered by a change in employers' organisations view in the 1990s:
 - They "discover" the charms of firm bargaining where they can take advantage of the weakening of the trade unions
- **Number of enterprise level agreements annually signed (1983-2012)**



➤ Source: Ministry of labour - DARES

During the 2000s: A no longer coordinated decentralisation

- Until 2004, a decentralisation coordinated by Law and the favour principle
- Proliferation of government incentives to bargain on employment at enterprise level : “negotiated public action”
(Groux 2005)
- Enterprise level bargaining as a way for managing employment: “managerial social dialogue” (Groux, 2010)
- Since 2000, employers’ organisations (mainly MEDEF) seek (and succeed) to reverse hierarchy of norms through derogation

Legislative reforms and proposals 2000-2015

	Before 2004	MEDEF claims 2000 for “overhaul” negotiation	« Common position » 2001 (without CGT)	Legislation 2004, 2008, 2013, 2015
derogation	Working time (1982, 2000)	From sector agreement and from law, except social public order	No derogation from sector agreement unless signatories decide otherwise.	From sector agreement, unless forbidden by the agreement. Derogation forbidden for minimum wages, job classifications, supplementary social protection, and multi-company vocational training funds
Validity of the agreements: majority principle based on elections	At <u>company</u> level: on working time right for majority unions to oppose	-	At <u>sector</u> level: right to oppose for unions with “majority of numbers”. At <u>company</u> level: Sector agreement must choose between 50 % majority or right to oppose	2008: right to oppose for majority unions At <u>company</u> level supplementary condition: 30 % majority 2013: 50 % majority for derogatory job protection agreements
Bargaining competence if no union delegates	employees mandated by union	Mandated employees or elected representatives	Sector agreement chooses between mandated employees and elected representatives	elected representatives, otherwise mandated employees

The state of enterprise level bargaining

- In 2014, negotiation took place only in 15% of the workplaces >10 but employing 61,5% of the workforce; 84% of the workplaces hosting union delegates.
- In 2014, an agreement was signed in 11,7% of the workplaces; 68,6% of the workplaces hosting union delegates

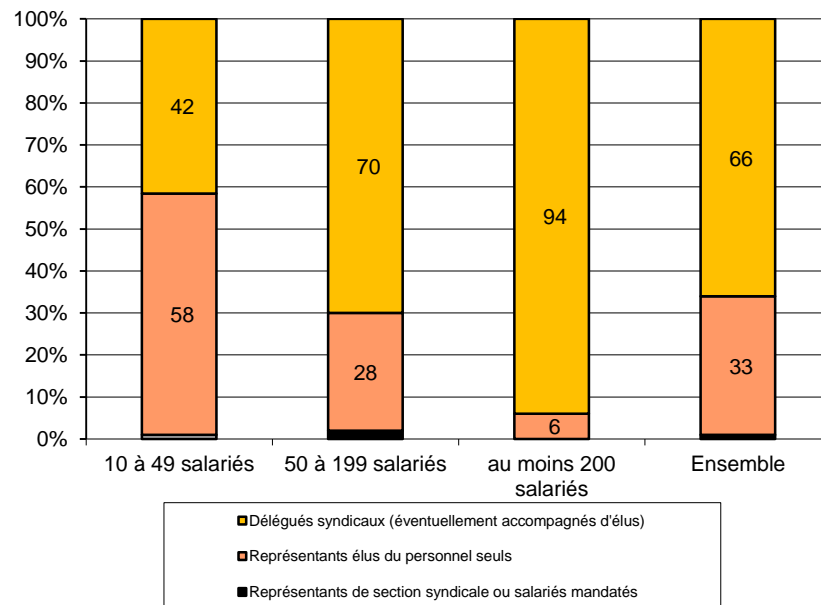
	2012	2013	2014	2015
Number of agreements signed by DS/CE/mand.	38 799	39 363	36 528	36 624
Number of agreements signed by DS/mand.	31 310	31 514	30 965	31 449
% of agreements (DS/Mand.) on:				
- Wages	36	33	33	38
- Working time	23	21	21	24
- Employment	9	17	13	11
- Profit sharing, participation	18	19	16	19

- DS: union delegate; CE: elective representatives; mand.: mandated employees.
Source: DARES résultats, n° 086, décembre 2016

The state of enterprise level bargaining: union influence

➤ Collective bargaining without unions: only in 8 % of the workplaces = 20 % of the employees); mainly on financial participation

➤ Share of agreements bargained by union delegates by enterprise sizes (2014)



The state of enterprise level bargaining: union unity at workplace level

- Agreements are generally signed by all the all the unions present at the workplace
 - Regarding the “propensity to sign” workplace agreements, in 2015:
 - CFDT 94% - FO 90% - CGT 84%
 - Compared with the propensity at multi-sector and sector level
 - CFDT 86% - FO 68% - CGT 35%
 - 28 national multi-sector agreements signed in 2008-15: all signed by CFDT, but only 9 by CGT

The state of enterprise level bargaining: Results of the legal derogation

- In practice, the legal possibilities of derogation are not that used by the actors
 - After the 2004 Fillon Law withdrawing the favour principle, most of the main sector agreements have prohibited derogation and restore the hierarchy between sector and enterprise levels
 - After the 2013 Law on Employment security, only 10 “job protection” agreements (competitiveness agreements) signed

- Government willingness to reform once again the French collective bargaining system
 - Aim: stimulation of competitiveness, growth and employment
 - Need for further stimulation of collective bargaining
 - Employee protection better ensured by company agreements than by Law (“proximity”)

The 2016 El Khomry Labour Law

- A very controversial reform
 - Inspired by experts and consultants, adopted without prior social partners consultation (despite legal obligation since 2007 Law)
 - supported by CFDT, CFTC and employers' organisations
 - strongly opposed by CGT, FO, USS, FSU, and student unions which organize demonstrations, asking for the retreat of the bill
 - criticized by two others (CGC, UNSA), asking for modifications
 - not supported by majority of the population

- The aim of the reform: a reversal of the hierarchy of norms, in a first step in a specific area, working time (subsidiary order)
 - Priority to company level agreements in accordance with social public order
 - Safety net: majority agreements only