



France: Labour reforms at risk

- France's notorious labour market rigidities have prevented it from responding optimally to the series of economic shocks that the country has faced since 2008. To address some key blockages, the government revealed a set of ambitious reforms in mid-February.
- The Socialist government proposals focused on the right set of policies, in our opinion: reducing the uncertainty associated with dismissal costs, facilitating firm-level agreements and employee participation, and allowing firms to adapt more easily to economic difficulties.
- The proposals prompted strong opposition from unions, the more left-wing Socialist party members and a portion of public opinion. This forced the government to delay the official presentation of the proposals by two weeks to allow for discussion with unions and Socialist MPs.
- The government is in a difficult position. For the law to be passed by Parliament with meaningful reforms, it will have to address some union concerns to avoid mass protests, manage party politics in the run-up to the 2017 elections, and rely on improving employment figures to convince public opinion of the credibility of the economic policies.
- We expect the law to go through multiple drafts during parliamentary debates and talks with unions. The government confirmed that it plans to pass it by summer. While many technical details will be modified, it is crucial that the general set of objectives mentioned above is not altered.

France in need of further flexibility

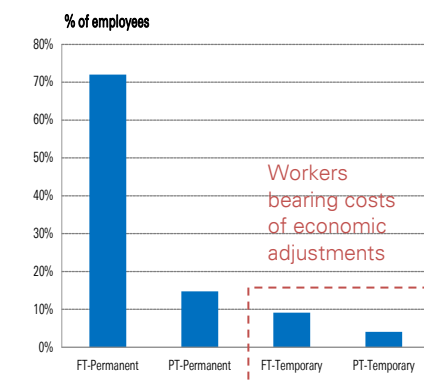
France's employment and working hours rigidities

France's labour market is famous for its 35-hour workweek and high level of employment protection. As in many European countries in the last 30 years, it has [relied on temporary employment to provide firms the flexibility to adjust their labour input through the business cycle](#). This has resulted in the well-known problem of a [dual labour market](#) with protected workers on permanent contracts and less protected temporary workers (who tend to be younger, less skilled and far more at risk of unemployment).

Figure 1 confirms that a majority of French workers are on permanent (mainly full-time) contracts and a minority on temporary contracts, bearing the costs of economic shocks. In a given year in France, [up to 15% of workers on temporary contracts are likely to fall unemployed as opposed to 2% for those on permanent contracts](#)¹

To adapt their labour input, [firms can choose to rely on the number of workers they employ and/or modify the working hours of each worker](#). France's institutional design prevents firms from optimally using the working hours margin. A comparison with Germany since 2008 clearly highlights this.

Figure 1: Employment by status in France



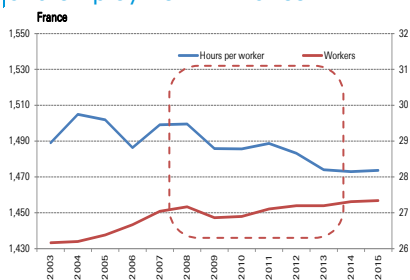
Source: Deutsche Bank, INSEE

¹ France Stratégie "Le compte personnel d'activité, de l'utopie au concret" (9 Oct 2015)



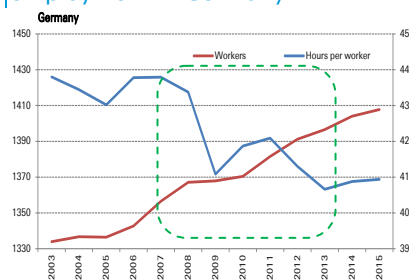
Since 2008, the number of French workers has barely increased while hours per worker decreased only 1.4% (Figure 2). By contrast, in Germany (Figure 3) hours per worker decreased 3.5% and employment performance was exemplary. While other factors were at play, this comparison is revealing. Following the 2009 recession, German firms were able to retain workers more easily by adapting working hours and costs. At the same time, labour market rigidities did not impact the relatively good performance of French workers' productivity (Figure 4).

Figure 2: Stable hours per worker and employment in France...



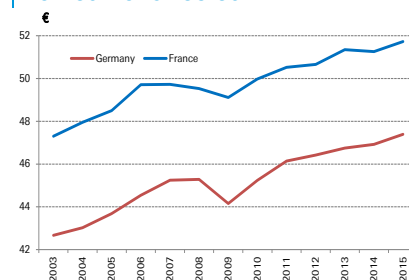
Source: Deutsche Bank, Haver analytics, OECD

Figure 3: ...lower hours and better employment in Germany



Source: Deutsche Bank, Haver analytics, OECD

Figure 4: Annual output per hour worked not affected



Source: Deutsche Bank, OECD, Haver analytics, OECD

Economic costs of France's rigidities

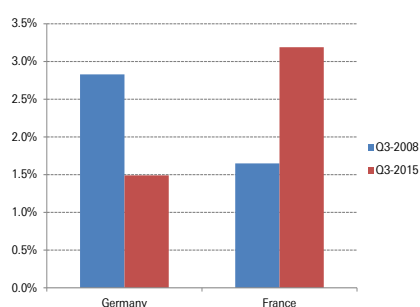
The [rigidity of the French labour market](#) means that in a prolonged downturn it is harder for unemployed people to find work, [resulting in long-term unemployment](#). Again, the dichotomy between the German and French experience is telling (Figure 5).

In addition, a French academic study in 2004² found that workers feel less protected in countries with stringent employment legislation, though generous unemployment insurance was positively correlated to a feeling of security. These results suggest that workers are deeply concerned about the rare and costly event of losing one's job in rigid labour markets. [A more flexible labour market where the cost of unemployment \(via its duration and income loss\) remains low appears more optimal in terms of worker satisfaction.](#)

This [rigidity may also affect firms' costs and margins during a downturn](#). This mechanism may have played an important role in the decline of corporate profitability in France over the last six years, which in turn affected investment ([see report in Focus Europe of 22 January 2016](#)).

Over the long run, the academic evidence is ambiguous on the effect of employment protection on aggregate employment and productivity but agrees that rigid labour markets affect unemployment duration. More recent studies have tried to identify which particular institutions may be the most harmful. More than the actual level of [firing costs](#)³, it is their [unpredictability and the discrepancy between the level of protection of permanent and temporary contracts that appear key](#). For instance, Bentolila et al (2012)⁴ focused on the diverging experiences between unemployment in France and Spain before and

Figure 5: % long-term unemployed (in working-age population)



Source: Deutsche Bank, Haver analytics, EC commission

² Postel-Vinay F, Saint-Martin A. (2004), "Comment les salaires perçoivent-ils la protection de l'emploi?", Economie et Statistique, 372

³ This point was already discussed by Lazear (1990) "Job security and provision", Quarterly Journal of Economics. The argument is that if the firm knows what the firing costs will be and the probability that it will fire the worker, it could pass on the cost to the worker when negotiating the employment contract.

⁴ Bertolilla S, Cahuc P, Dolado J.J, Le Barbanchon T (2012), "Two-tier labour markets in the Great Recession: France versus Spain"



after 2008. While at first glance both countries appeared to have similar institutions, the study found that the gap between protection of permanent and temporary workers was much greater in Spain than in France. It referred to this as the Employment Protection Gap and determined that this simple difference in institutional settings can explain 45% of the rise in Spanish unemployment post 2008.

What France needs

A drastic overall decrease of employment protection is far from being the obvious and realistic solution. The high productivity of French workers is partly explained by the incentives firms and workers have as a result of employment protection. In the short run, such an approach might also increase unemployment before decreasing it.

Nevertheless, to increase its competitiveness, reduce the duality of its labour market and raise its ability to withstand adverse shocks, we believe France needs to:

- **Provide firms further flexibility to adapt working hours and/or labour costs to the economic environment.** This means increasing their ability to move away from national and industrywide collective agreements to better respond to their particular circumstances.
- **Decrease the uncertainty associated with firing costs.** In France severance payments are generally much higher than the costs prescribed by official formulas. Unions or workers can contest the validity of redundancy before the courts, where lawsuits are very long and penalties are at the discretion of judges. To avoid such lawsuits and red-tape costs, firms frequently offer generous terms to workers and their representatives. Kramarz and Michaud⁵ (2010) calculate the average firing cost for permanent workers in France at around one year's wages, with red-tape costs accounting for one-third of this amount.

Ambitious labour market reforms

To address the rigidities of France's labour market and facilitate re-employment of workers during the current timid recovery, the government revealed an ambitious set of reforms on February 17. The objectives were not only to address the current unemployment situation but also to establish the groundwork for long-term modification of the country's labour market institutions.

The main measures can be summarized as follows:

- **Simplification of labour code:** the number of pages in the French labour code has been multiplied by 3 in the last 30 years, resulting in a lack of clarity for all players. One of the main initial goals of the reform is to significantly clarify labour laws and decrease uncertainty in the interpretation of the law.
- **Clearer and cheaper dismissal procedures:** the reform plans to implement a cap on dismissal costs. It also aims to specifically define the conditions under which a firm would be able to declare "economic difficulties" justifying collective redundancies. This would strongly lower the ability of employees and their representatives to contest dismissal before a judge.

⁵ Kramarz, F. and M. L. Michaud (2010), "The Shape of Hiring and Separation Costs" *Labour Economics* 17, 27-37.



- **Increasing flexibility of working hours:** the minimum cost of overtime (irrespective of the number of hours) is 10% of the hourly wage, but many collective agreements push it up to 25%. Under the proposed terms, it would be much easier to bypass the collective agreements and keep the cost of overtime hours at the legal minimum requirements. Also, under the new terms, overtime hours may not be paid immediately but allocated over a three-year period. Workers who refuse negotiated overtime agreements could be fired for personal reasons (at a lower cost than for economic reasons).
- **Development of firm-level negotiations and altering power of unions:** the new law aims to substitute the veto power of hard-line unions with the voice of employees. Unions representing only 30% of workers would be able to call for a vote to validate agreements negotiated with the employer, rendering the veto power of other unions void. In the long run, the reform aims to develop workers' engagement at the firm level and modify the role of unions. In Box 1, we present a few concrete case studies of the new proposals.
- **Making some workers' social and training rights not job-dependent and accessible via a simple portal:** a minimal first step, starting the process of gathering the different benefits and rights accumulated by workers into one single account, independent of the specific job.

Box 1: Examples of blocked firm-level agreements valid under new proposals

In September 2010, tyre manufacturer Continental proposed an 8% decrease in labour costs in exchange for a five-year employment guarantee in one of its plants. 53% of workers agreed to the plan, but two unions representing 60% of workers at the previous company elections vetoed the agreement.⁶ Under the new proposals, the unions would not have been able to veto the deal.

Currently, French cultural retailer Fnac is negotiating with unions to open its shops on Sundays with offers to double and triple wages for Sunday workers. Three unions representing 50-70% of workers are blocking the agreement. Under the new proposals, the minority unions supporting the agreement would be able to call in a workers' referendum to settle the dispute.⁷

These reforms aim to move France towards a "flexicurity" system similar to that in the Nordic countries where "people are protected, not jobs". While the government made this goal clear, the perception was different in France. These reforms were presented to the public at the same time as social partners are negotiating the new terms of the unemployment benefit system, with the aim of saving €800M a year (2.5% of the annual unemployment insurance system). Proposing changes to decrease job protection while planning to cut unemployment insurance may not have been the best choice of timing to promote a new "flexicurity" model.

Strong political and social opposition

Between January and February, the share of poll respondents believing that the reforms would have no impact on employment rose by 10p.pts.⁸ An online petition asking the government to drop the reform proposal collected 750,000 signatures within a week. This rapid reversal of public opinion can be explained by miscommunication on the part of the government and the strong public criticisms expressed following the draft law revealed on February 17.

⁶ Institut Montaigne "Sauver le dialogue social" (Sep 2015)

⁷ L'express entreprise "Travail du dimanche à la Fnac, un accord pas si généreux ?" (29/02/2016)

⁸ OpinionWay survey for the newspaper Le Figaro in January and BFM TV poll for February



All of the unions unanimously expressed their disagreement with the proposed law. In a radio interview, the Labour minister hinted that the constitutional option 49-3 that allows the government to bypass the Assembly vote would be used, if necessary, upsetting many Socialist back-benchers. Finally, on February 25 in the newspaper *Le Monde*, senior party figure [Martine Aubry](#) (famous for being the Labour minister who designed the 35-hour reform in the late 1990's) strongly criticized the government's policy. This accentuated the internal dissent within the Socialist majority and forced the government to delay the presentation of the law to the Cabinet meeting by two weeks (on March 24).

Government forced to delay law presentation to cabinet

On Sunday 28 February, the reformist union CFDT sent a clear signal to the government, issuing a statement that the draft of the law should be revised and union propositions should be considered. The support of the other French unions seems to be lost, and strikes were called for March 9. Without the support (explicit or implicit) from the CFDT, it will prove extremely challenging for the government to avoid mass protests and opposition from its own majority in Parliament.

According to *Le Figaro* on March 1, changes to the law may focus on specific technical details such as increasing the maximum penalties for irregular dismissals, redefining acceptable terms for economic redundancies, abandoning the proposed extra flexibility for executives in companies with fewer than 50 workers, and increasing the list of rights that can be transferred between employers under the new employee portal.

The government is in a difficult position. Many centre-right MPs stated that they were ready to vote for the law with no modifications (which now appears unlikely) while Socialist party politics (in the build-up to the 2017 elections) will likely play a key role in passing the final version of the reform before the summer of 2016.

We expect the text to go through various drafts during the Parliamentary debate. In our opinion, the key developments to build support for the bill will be that employment performance continues to improve, preferably at a faster rate (unemployment declined from 10.4% to 10.3% in Q4-15) and that the youth and the reformist union CFDT support the reform.

In the last few days, many voices expressed support for the reform.

- On March 4, 30 academic economists (including Nobel Prize winner Jean Tirole and ex-IMF Chief economist Olivier Blanchard) published an op-ed in *Le Monde* arguing that the reform proposals were similar to those recently enacted in Spain that created 300,000 jobs in a year.
- Reformist Socialist think tank Les Gracques, comprising civil servants, academics and business people, came out in support of the government on March 3.
- More importantly, in a poll published on March 5, only 50% of French people expressed support for the upcoming organized protests. In 2010, when the centre-right government passed necessary pension reforms, 70% of French people supported the organized protests.

Beyond the political posturing, and to ultimately be a positive development, reforms should aim to reduce the uncertainty associated with firing costs, promote employee representation at the firm level and allow employers more flexibility to adapt to changing circumstances.



Appendix 1

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