

# *Enhancing the Effectiveness of Social Dialogue Articulation in Europe (EESDA)*

*Project No. VS/2017/0434*

## **Social Dialogue Articulation and Effectiveness: Country Report for France**

This report presents a country study analysing the articulation and effectiveness of social dialogue in France. The methodological approach relies on desk research and semi-structured interviews with social partners in France, aiming at obtaining deeper insights into how issues are articulated in French social dialogue, actors are interacting, and how social dialogue outcomes are achieved – and ultimately implemented. Following a brief historical background on the industrial relations system and the evolutions in the French context after a series of reforms, the report then provides both a cross-sectoral overview of social dialogue articulation and the interaction with European-level social dialogue. It also offers a sectoral perspective by looking at four sectors with a particular focus on four occupations within these sectors: commerce (sales agents), construction (construction workers), education (teachers) and healthcare (nurses). The research suggests a diversity of experiences both in cross-sectoral and sectoral social dialogue articulation and their effectiveness depending on the type of actor (e.g. trade unions, employer organisations, etc.) and on the sector of focus. The perceptions of social dialogue effectiveness are mixed in the face of continuous reforms over the last decades. Interactions with European-level social dialogue and social partners is considered as important (particularly in some sectors), but the intensity of the interaction is limited when it comes to involvement in the European Semester process.

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**Social Dialogue Articulation and Effectiveness:**

**Country Report for France**

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## List of abbreviations

ANFH	<i>Association Nationale pour la Formation permanente du personnel Hospitalier</i> (National association for lifelong hospital staff training)
BATI-MAT-TP CFTC	<i>Bâtiment, Matériaux et Travaux Publics CFTC</i> (Building and public works - French Christian workers' confederation)
CAP	<i>Commission Administrative Paritaire</i> (Bipartite administrative commission)
CAPEB	<i>Confédération de l'Artisanat et des Petites Entreprises du Bâtiment</i> (Confederation of craft and small construction companies)
CDCF	<i>Conseil du Commerce de France</i> (French retail council)
CES	<i>Comité économique et social</i> (Economic and social committee)
CESI	European Confederation of Independent Trade Unions
CFDT	<i>Confédération française démocratique du travail</i> (French democratic labour federation)
CFE-CGC	<i>Confédération Française de l'Encadrement – Confédération Générale des Cadres</i> (French and general confederations of professional and managerial staff)
CFE-CGC BTP	<i>CFE-CGC Bâtiment et Travaux Publics</i> (CFE-CGC building and public works)
CFTC	<i>Confédération française des travailleurs chrétiens</i> (French Christian workers' confederation)
CGI	<i>Confédération du commerce de gros et international</i> (Confederation of wholesale and international trade)
CGT	<i>Confédération générale du travail</i> (General labour confederation)
CGT-FO	<i>Confédération générale du travail – Force Ouvrière</i> (FO general labour confederation)
CIF	<i>Collège Infirmier Français</i> (French nursing college)
CIIC-Paris	<i>Comité de liaison intersyndical du commerce parisien</i> (Paris retail inter-union liaison committee)
CNE	<i>Conseil national de l'emploi</i> (National employment committee)
CNESER	<i>Conseil National de l'Enseignement Supérieur et de la recherche</i> (National council of higher education and research)
CNFPTLV	<i>Conseil national de la formation professionnelle tout au long de la vie</i> (National council for lifelong vocational training)
CNI	<i>Coordination nationale infirmière</i> (National nursing coordination)
CNNC	<i>Commission nationale de la négociation collective</i> (National collective bargaining commission)
CNOSS	<i>Comité National de l'Organisation Sanitaire et Sociale</i> (National committee on health and social services organisation)
CPB	<i>Commission Paritaire de Branche</i> (Bipartite sectoral commission)
CPME	<i>Confédération générale des petites et moyennes entreprises</i> (Confederation of small and medium-sized enterprises)
CPNE-FP	<i>Commission Paritaire Nationale de l'Emploi</i> (National bipartite employment committee)

CSEN	<i>Confédération Syndicale de l'Éducation Nationale</i> (National public education trade union confederation)
CSFPH	<i>Conseil supérieur de la fonction publique hospitalière</i> (Higher council for public sector hospitals)
CT	<i>Comité Technique</i> (Technical committee)
DGOS	<i>Direction générale de l'offre de soins</i> (Directorate-general for caregiving)
DGT	<i>Direction générale du Travail</i> (Directorate-general for labour)
DREES	<i>Direction de la recherche, des études, de l'évaluation et des statistiques</i> (Directorate of research, studies, evaluation and statistics),
DSS	<i>Direction de la Sécurité Sociale</i> (Social security directorate)
EBC	European Builders Confederation
EFBWW	European Federation of Building and Woodworkers
EFEE	European Federation of Education Employers
EPSU	European Federation of Public Service Unions
ETUC	European Trade Union Confederation
ETUCE	European Trade Union Committee for Education
FCD	<i>Fédération du Commerce et de la Distribution</i> (Retail and distribution federation)
FEC-FO	<i>Fédération des Employés &amp; Cadres - Force Ouvrière</i> (FO federation of employees and managers)
SCOP BTP	<i>Fédération des sociétés coopératives et participatives du Bâtiment et Travaux Publics</i> (Federation of building and public works cooperatives)
FEHAP	<i>Fédération des Etablissements Hospitaliers et d'Assistance Privés à but non lucratif</i> – (Federation of private hospitals and assistance in the non-profit sector).
FEP-CFDT	<i>Fédération de la Formation et de l'Enseignement Privés – CFDT</i> (CFDT federation of training and private education)
FFB	<i>Fédération Française du Bâtiment</i> (French construction industry federation)
FGTA-FO	<i>Fédération générale des travailleurs de l'agriculture, de l'alimentation, des tabacs et des services annexes - Force Ouvrière</i> (FO general federation for workers in agriculture, food, tobacco and related services)
FHF	<i>Fédération Hospitalière de France</i> (Hospital federation of France)
FHP	<i>Fédération de l'Hospitalisation Privée</i> (Federation of private hospitals)
FIEC	European Construction Industry Federation
FNBM	<i>Fédération du Négoce de Bois et des Matériaux de Construction</i> (Federation of the wood and building materials trade)
FNCB-CFDT	<i>Fédération Nationale Construction et Bois – Confédération française démocratique du travail</i> (National federation of construction and wood)
FNI	<i>Fédération nationale des infirmières</i> (National federation of nurses)
FNSCBA	<i>Fédération Nationale des Salariés de la Construction, Bois et Ameublement</i> (National federation of construction, wood and furniture workers)
FNTP	<i>Fédération Nationale des Travaux Publics</i> (National federation of public works)

FSAS-CGT	<i>Fédération de la Santé et de l'Action Sociale - Confédération générale du travail</i> (Health and social services federation – General labour confederation)
FSS-CFDT	<i>Fédération Santé Sociaux – Confédération française démocratique du travail</i> (Health and social workers federation)
FSU	<i>Fédération syndicale unitaire</i> (Joint trade union federation)
HOSPEEM	European Hospital and Healthcare Employers' Association
MEDEF	<i>Mouvement des entreprises de France</i> (French employers federation)
NACE	Statistical Classification of Economic Activities in the European Community
NEET	Not in Education, Employment, or Training
ONSIL	<i>Organisation nationale des Syndicats d'Infirmiers Libéraux</i> (National organisation of trade unions of independent nurses)
OPCA	<i>Organisme paritaire collecteur agréé</i> (Certified bipartite contributions management body)
OPCO	<i>Opérateurs de compétences</i> (Apprenticeship finance organisation)
OPPBTP	<i>Organisme professionnel de prévention du bâtiment et des travaux publics</i> (Professional safety organisation for building and public works)
PME	<i>Petites et Moyennes Entreprises</i> (Small and medium-sized enterprises)
SGEN-CFDT	<i>Syndicat general de l'éducation nationale – CFDT</i> (CFDT general trade union for public education)
SME	Small and Medium-sized Enterprises
SNPI	<i>Syndicat national des professionnels infirmiers</i> (National union of nursing professionals)
SNPTES	<i>Syndicat National du Personnel Technique de l'Enseignement Supérieur</i> (National trade union of higher education technical professionals)
TPE	<i>Très Petites Entreprises</i> (Micro companies)
U2P	<i>Union des entreprises de proximité</i> (Union of local businesses)
UNEDIC	<i>Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce</i> (National inter-professional union for employment in industry and commerce)
UNIFAF	<i>Fonds d'Assurance Formation de la Branche sanitaire, sociale, médico-sociale, privée à but non lucratif</i> (Non-profit insurance fund for training in the health, social and medico-social sector)
UNIFED	<i>Union des fédérations et syndicats nationaux d'employeurs sans but lucratif du secteur sanitaire, médico-social et social</i> (Union of federations and national associations of non-profit employers in the health, social and medico-social sector)
UNSA	<i>Union nationale des syndicats autonomes</i> (National union of autonomous trade unions)
UPECAD	<i>Union Professionnelle des Entreprises du Commerce à Distance</i> (Professional union of non-store retailers)

## 1. Introduction

EESDA is a research project aiming to increase expertise on the articulation of social dialogue in Europe. Social dialogue articulation is understood as *“the ways in which social dialogue between public and private actors at different levels functions and the channels through which EU level social dialogue influences decisions, outcomes and positions of actors at the national and sub-national levels and vice-versa.”* The current paper delivers a comprehensive analysis of the stakeholders’ views in France, focusing on social dialogue at the national level and in four key sectors.

As highlighted in various publications, social dialogue has been long considered as one of the prime building blocks of Europe’s social model (European Commission, 2015a; 2015b). As the main social dialogue actors, *social partners*, therefore, traditionally play a key role in this setting. However, in recent years, both the European social model and the social partners have been under severe pressure. The economic crisis starting in 2008 has resulted in government budget cuts, which have often targeted social policies. The consequences of these measures have had various repercussions across various European countries.

Against this background, the European Commission has launched several initiatives to give a new impetus to social dialogue. Its flagship initiative *“A New Start for Social Dialogue”*, launched in 2015, sets out to strengthen social dialogue in Europe. With this initiative, the Commission aims to foster social dialogue in all Member States, though specific attention is paid to countries where capacity building is needed to further develop social dialogue. In the case of France, the country has witnessed a number of reforms over the last decade (e.g. 2008, 2010, 2016 and 2017 reforms) transforming not only the labour markets, but also the social dialogue setting. This makes the country one of the key cases to consider within EESDA research.

In Europe, social dialogue occurs at many different levels that are closely intertwined. Therefore, in the enhancement of social dialogue, it is important to account for diversity in the industrial relations and social dialogue traditions and structures that prevail in Member States, as well as particular social dialogue structures developed at European level (Kahancová et al., 2019). EESDA research takes these into account by looking first at the European level broadly and then focusing on the experiences of social dialogue articulation and effectiveness at European and national levels in selected Member States.<sup>1</sup> This report focuses on the case of France in particular. In addition to national-level cross-sectoral social dialogue in France, four sectors considering specific occupations are also examined in depth: healthcare and hospitals (focusing on nurses), education (focusing on teachers), construction (focusing on construction workers) and commerce (focusing on sales agents). These four sectors represent different sides of social dialogue in France and together provide a nuanced and comprehensive picture of collective bargaining structures in the country.

Methodologically, this report relies mainly on qualitative research tools, combining desk research on social dialogue in France with interviews of social partner representatives and other relevant actors at national and sectoral level. For this purpose, EESDA research conducted 10 interviews with stakeholders at the national level (covering cross-industry) and 16 interviews at the sectoral level (four in each sector mentioned earlier).<sup>2</sup> However, it should be noted that there were some data collection

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<sup>1</sup> The selected Member States for detailed case studies in EESDA research are Estonia, France, Ireland, Portugal, Slovakia and Sweden.

<sup>2</sup> In this particular country study, we were able to conduct 10 interviews at the cross-industry level and 14 interviews at the sectoral level, totalling 24 semi-structured interviews with key social partners in France. The

issues that might limit the insights that can be gained from this research. In particular, due to the decentralised nature of social dialogue in France, combined with the domination of major confederations at national level, it was not always feasible to connect with representatives from employer or trade union organisations or government that were able to provide a complete overview of their organisation's position at the different levels. Specifically, for inter-professional trade union and employer organisations, interviewees were either involved in branch social dialogue or technical committee negotiations. Therefore, several interviews were needed to cover the different points of interest of this research.

Additionally, the social context in France in the past months, with both the yellow vest protests and the entry of Macron ordinances<sup>3</sup> into force followed by the organisation of anticipated professional elections, have considerably mobilised social partners. The main consequences observed during the data collection phase were that there was a certain reluctance on the part of social partners to communicate on their activities over the past months, and that recent social and political developments affected views on the perceived effectiveness of social dialogue in France.

While the interviews – and the qualitative data collection methods used – can offer valuable insights into the nature of social dialogue in France, results should be interpreted with caution, since such research methods risk having a sample selection bias as the researchers can only conduct interviews with stakeholders that accept to participate. This caveat is addressed by complementing the subjective inputs from interviews with additional desk research. Furthermore, while the aim of the research was to obtain information on articulation of social dialogue between the European, national and sectoral levels, and to understand how things are transposed between different levels, the social partner representatives interviewed could not always offer insights on European-level social dialogue, and as a result, this topic can only be addressed in a limited way and only with regard to some of the sectors. Wherever available, interviews were complemented with findings from the literature on social dialogue in France in order to ensure robustness of the results.

The plan of this paper is as follows. Section 2 provides an overview of the articulation of social dialogue at the national level in France, aided by analyses based on the interviews conducted with French social partners at the national or cross-sectoral level. Section 3 then provides four sectoral case studies based on desk research and analyses the results from interviews with representatives from four key sectors in France. Section 4 provides a discussion of the overall findings and concluding remarks.

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authors of this report conducted the interviews over the phone or in person either in Brussels or in Paris during the period January-September 2019. In some cases, some social partners sent their responses to the interview questionnaire in writing.

<sup>3</sup> For a quick summary in English, see the government's dedicated page on the recent labour law reform of 2017 [here](#).

## 2. Analysis of social dialogue articulation and its effectiveness at cross-sectoral level in France<sup>4</sup>

### 2.1 Introduction

Historically, France is a country that has had a very strong union culture for many years: the freedom of association in France was recognised by the Waldeck-Rousseau law of 1884. The right to be a union member and to exercise union action was further recognised in the preambles of the 1946 and 1958 Constitutions.<sup>5</sup> The country has both trade unions (*syndicats de salariés*) and employers' associations (*organisations patronales*) among its social partners. Within EESDA's conceptual framework, France belongs to the **state-centred industrial relations system** in Europe.

Social partners in France are generally organised into **different levels of representation**. There is a **national level** (commonly under the name of *confédérations* or *fédérations*), where deliberative bodies define the main guidelines and course of action for the union. The national level is usually led by one person with the title of secretary general. The unions then have **local levels, both regional (*fédérations*) and municipal (*unions*)**. The unions also have an **enterprise level**, where there is a union representative within an individual company. Officers at all these levels are appointed through elections. National social dialogue takes place at national, regional, sectoral and company levels through its different structures.

Since 1966, five trade union confederations have been deemed representative at national level. Prior to 2008, each trade union at a local or sectoral level that was affiliated to one of these confederations was also considered to be representative (presumption of representativeness). These principles were modified in 2008 with the law on social democracy and working time reform. Accordingly, regardless of affiliation, **representativeness** now primarily depends on the electoral audience; therefore, to be representative and participate in bipartite or tripartite negotiations, a trade union must win at least 10% of the votes at the workplace level, and the corresponding ratio is set at 8% for sectoral industry level.

Unions have different types of funding depending on their representativeness and whether they are involved in bipartite/tripartite consultations: membership fees, contributions from companies, contributions from the local community, public grants for specific union activities and public support in kind, such as free office space in public buildings. Similar to other countries, the decline in the share of unionised employees is an aspect of the financial fragility of trade unions in France. However, the reality of union finances became clear only after 2008 with the demand for financial transparency by law.<sup>6</sup> Despite the drops in rates of union membership from 30% in the 1950s to 10% more recently

<sup>4</sup> This section on cross-industry analysis of social dialogue articulation and effectiveness in France is an extended version of the shorter country section from the larger report by Akgüç et al. (2019), which can be accessed from [here](#).

<sup>5</sup> For a brief overview of constitutional links, national regulations as well as international conventions (e.g. ILO) on industrial relations in France, see the dedicated page on the ILO website [https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO::P1100\\_ISO\\_CODE3,P1100\\_SUBCODE\\_CODE,P1100\\_YEAR:FRA,,2015](https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:FRA,,2015).

<sup>6</sup> The Law of 20 August 2008 introduced the rules of representation. In particular, to be considered as a representative actor and have the right to conduct negotiations on behalf of its members, a union has to fulfil the following criteria: (i) respect for republican values; (ii) independence; (iii) financial transparency; (iv) at least 10 years of existence; (v) be influential on account of its activity and experience; (vi) accounting and membership fees, and (vii) sufficient representation in professional elections.

(around 19.8% in the public sector as opposed to 8.7% in the private sector), more than 90% of workers benefit from **collective bargaining coverage** in France.<sup>7</sup> Despite the generally low unionisation rates and with the exception of small and medium-sized enterprises (SMEs), the unions are well established in traditional industries (ETUI, 2019). Moreover, the collective agreements negotiated by unions apply to all employees (not only union members).

## 2.2 Actors

In terms of national cross-sectoral representativeness, the second round of elections in 2017 resulted in granting the status to all five unions that had previously been considered representative. These organisations are namely the *Confédération générale du travail* (CGT) (General Confederation of Labour), *Confédération française démocratique du travail* (CFDT) (the French Democratic Federation of Labour), *Confédération générale du travail – Force Ouvrière* (CGT-FO) (the General Confederation of Labour – Work Force), *Confédération française des travailleurs chrétiens* (CFTC) (the French Christian Workers' Confederation) and *Confédération française de l'encadrement – confédération générale des cadres* (CFE-CGC) (the French Confederation of Professional and Managerial Staff – General Confederation of Professional and Managerial Staff). Another relevant actor in French social dialogue is *Union nationale des syndicats autonomes* (UNSA) (National Union of Autonomous Trade Unions).

On the employers' side, the following cross-sectoral organisations are recognised: *Mouvement des entreprises de France* (MEDEF) (Movement of the Enterprises of France), *Confédération générale des petites et moyennes entreprises* (CPME) (Confederation of Small and Medium-sized Enterprises), and previously the *Union professionnelle artisanale* (UPA), now known as *Union des entreprises de proximité* (U2P) (Union of Local Businesses).

The French social partners are very engaged in national and European social dialogue and regularly participate in European-level social dialogue meetings and are part of sectoral committees. At the national level, social partners in France also participate in negotiations such as unemployment insurance, pension and complementary insurance schemes and are part of various advisory bodies engaged in social dialogue.

**Collective bargaining**, which is a conventionally used tool of social dialogue in France, is mostly conducted at sectoral and company level. Typically, **central agreements** are concluded between employers' associations and trade unions at industry level. Subsequently, social partners frequently apply to the Ministry of Labour for **an extension of most of an agreement's provisions**, which is granted in almost all cases.

However, with the labour law reform of 2016 as well as the Macron ordinances that followed, **decentralisation of collective bargaining went a step further**, as the law gives **company-level agreements precedence over those at sectoral level** or the law itself, if the latter so provides. One application of this reversal was, for example, the legislation on working time in early 2017. Since then, the labour law reform of 2017 has listed specific topics, such as minimum wage, where sectoral agreements will continue to be in force. The law also includes a limited list of topics where it depends on the agreement whether it takes precedence over company-level agreements or not. Accordingly,

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<sup>7</sup> The information in this and the next paragraph is largely taken from Akgüç (2018), Akgüç et al. (2019) as well as the latest country updates from ETUI's dedicated page on industrial relations in France ([here](#)).

sectoral agreements apply for all other matters in the absence of company-level agreements.

### 2.3 Topics

As part of EESDA research, the following three topics are identified as the most frequently discussed in European Social Dialogue Committee meetings: (i) **skills, training and employability**, (ii) **health and safety, well-being at work** and (iii) **working conditions (e.g. working time regulation, types of contract)**. The French cross-sectoral social partners interviewed mostly agree that these topics are very relevant for them.

As regards social partner organisations involved in European bipartite social dialogue, topics to be discussed are planned in the framework of multiannual work programmes as agreed among European cross-sectoral social partners.<sup>8</sup> A work programme was drawn up for the period 2019-2021 with six priorities that include negotiations on a possible autonomous agreement on the impact of digitalisation in the world of work, improvement of labour market conditions and social protection systems focusing on challenges common to all EU countries such as the ageing of the population as well as individuals who are not in education, employment or training (NEET).

Some of these topics, such as changing skills (upskilling or reskilling), consequences of digitalisation and future of work, were proposed by employee representatives for further discussion at European-level social dialogue through their affiliation with the European Trade Union Confederation (ETUC), which is the cross-sectoral European social partner representing workers. As a consequence, the recent work programme (see link above) contains a chapter on improving the performance of labour markets and a chapter on skills as well as prospects of negotiations on the consequences of digitalisation on working conditions.

The most important topics mentioned by French social partners during interviews include **social protection** (especially in some sectors of activity), **equal treatment, well-being at work, gender equality, digitalisation, underemployment, access to training, right to disconnect** (also related to work-life balance) and **transferability of social security rights**. Also mentioned is that anticipating the main trends and their consequences for workers (such as digitalisation), new rights and protections could be discussed and developed at the European level.

Finally, social partners in France also participate in the definition and evaluation of national public policies within the institutions that have consultative/advisory roles, for example the Social Dialogue Committee on International and European Questions, bipartite organisations such as the Economic, Social and Environmental Council as well as tripartite councils (e.g. National Council for Employment, Training and Career Guidance) that are competent for specific issues. Social partners also take part in meetings dedicated to social dialogue mainly on **National Reform Programmes** in the framework of the **European Semester**.

A cross-sectoral trade union representative asserted that the main topics relating to social policies should remain a **national competence**; therefore, it might not be ideal that those topics are discussed in the European-level social dialogue structures. However, this separation of topics between national and European level is not always possible, and the topics covered in national social dialogue sometimes

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<sup>8</sup> The most recent work programme agreed by the four cross-sectoral European social partners can be accessed [here](#).

overlap with those discussed at the European level. Nevertheless, issues of wages, working time and employment are at the core of the work relationship and thus are mainly negotiated and regulated at the national level. This is particularly the case for sectoral organisations representing public-sector workers, for whom wage bargaining depends on national and institutional scales and policies. Similarly, issues that deal with sector specificities, such as professions that require night work or weekend work, come under the national competence and are not discussed directly in European social dialogue structures.

## 2.4 Social dialogue outcomes

Some trade union representatives argue that European social dialogue is considered differently by different types of social partner; it appears to them that employers consider European social dialogue more as a discussion forum, and are not willing to use it to create new regulations or legislations. In contrast, workers' representatives aim at negotiating binding rules at European level whenever possible. At the same time, the transposition of binding agreements from the European to the national level is not straightforward (which, given the separation of national versus European competences on certain topics, especially sector-specific, as well as the high level of institutionalisation of the French social dialogue setting, is maybe not surprising).

As regards the transposition of social dialogue outcomes from European to national level, since 2015, only one agreement has been concluded at the European level on active ageing<sup>9</sup> without many concrete results at the national level in France, according to a cross-sectoral trade union representative. More generally, European social dialogue has produced only a few binding outcomes for many years.<sup>10</sup> In the past (1990s), different negotiated outcomes were transposed into directives (e.g. Framework Agreement on Part-time Work,<sup>11</sup> Framework Agreement on Fixed-term Work<sup>12</sup> and Framework Agreement on Parental Leave,<sup>13</sup> to name a few). This pattern changed at the beginning of the 2000s, when agreements signed by the European social partners began to be implemented by national social partners, such as the autonomous agreements on telework<sup>14</sup> and stress at work.<sup>15</sup> These two agreements were effectively transposed to the French context through national cross-sectoral agreements.

Another transposed social dialogue outcome that was mentioned by an employer organisation representative is the Directive on Posting of Workers.<sup>16</sup> However, this social partner representative

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<sup>9</sup> For more details, see the Framework agreement on active ageing and an inter-generational approach (2017) [here](#).

<sup>10</sup> For a list of these social dialogue outcomes, see Section 2 in Akgüç et al. (2019).

<sup>11</sup> For more details on Framework agreement on part-time work – directive 1997/81/EC (1997), see [here](#).

<sup>12</sup> For more details on Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, see [here](#).

<sup>13</sup> For more details on Framework agreement on parental leave – Directive 1996/34/EC (1996), see [here](#).

<sup>14</sup> For more details on the Autonomous Agreement on Telework (2006), see [here](#).

<sup>15</sup> For more details on the Autonomous Agreement on Work Related Stress (2004), see [here](#).

<sup>16</sup> For more details on Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, see [here](#). For more details on the Directive of the European Parliament and of the Council Amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (2018), see [here](#).

was critical of this transposition and argued that what is imposed on Member States from the European level distorts competition at the national level in this context.

On the other hand, employee representatives generally agree that discussions at the European level have shifted from binding outcomes towards voluntary outcomes, which in turn implied less concrete transposition of social dialogue outcomes.

## 2.5 Actors' interaction

At the national level, social partners **negotiate at three levels**: (i) within companies with fewer than 50 employees, (ii) negotiations in the professional branches (including companies with more than 50 employees), and (iii) cross-sectoral negotiations on general conditions of work.

Social partners in France continuously interact formally and informally with relevant national stakeholders to establish the social dialogue agenda. These intensive interactions – sometimes or often involving disagreements on certain issues – and informal ties are crucial parts of the social dialogue process and can only strengthen it. However, some social partners stressed that **earlier social dialogue in its intensive form (from say the 1990s) has somewhat deteriorated nowadays with the increased number of reforms** in the country limiting the capacities of the social partners in terms of the number of consultations. Nevertheless, these changes did not have too much effect on the number of collective agreements at the company level.

In France, social partner agreements also have to be discussed in parliament prior to transposition and in three tripartite bodies in regard to drawing up national reforms. These bodies are (i) *Commission nationale de la négociation collective* (CNNC) (the National Collective Bargaining Commission) for reforms concerning industrial relations; (ii) *Conseil national de l'emploi* (CNE) (the National Employment Committee) for reforms in relation to employment and (iii) *Conseil national de la formation professionnelle tout au long de la vie* (CNFPTLV) (the National Council for Lifelong Vocational Training) for reforms concerning training.

Additionally, social partners may interact in several information and consultation bodies and technical committees, which exist in both the public and private sectors involving different organisations. These consultative bodies exist at four levels: (i) *comités techniques ministériels* (ministerial technical committee), (ii) *comités techniques de proximité* (local technical committees), (iii) *comités techniques uniques, comités techniques communs* (joint or single technical committees) and (iv) *comités techniques spéciaux* (specific technical committees) such as works councils and health and safety committees.

In addition to participating in national and European-level social dialogue meetings, social partners in France are also consulted on the National Reform Programme proposed by the government as part of the European Semester. This consultation happens during consultation of the national authorities at different phases of the **European Semester** cycle. However, participating trade union representatives consider that their **impact** on policy orientation during this process remains **rather limited**, and they feel that business-friendly policies based on deregulation, liberalisation, flexible labour markets and restrictive budgetary policies are somewhat dominant. Similarly, employee representatives feel that economic and social issues are not considered in a balanced way in the European Semester. Nevertheless, stakeholders perceive that there appears to be a slight improvement recently with the establishment and monitoring of the **European Pillar of Social Rights** through European Semester,

putting further **emphasis on social dimensions** in country recommendations. Therefore, overall, the trade union representatives interviewed consider European Semester involvement as an opportunity to claim a more social Europe and hope that the country specific recommendations will take social issues into account better than in the past. Moreover, some social partners (both trade union and employer organisations) consider this involvement as a way to evaluate government actions and policies and express their opinions on certain issues in the European Semester context.

## 2.6 Perceived effectiveness of social dialogue

In France, social dialogue promotes collective bargaining in order to improve workers' conditions, while preserving or improving the competitiveness of companies. This balance, however, is far from systematic, and poor social dialogue in which actors use their negotiating power without taking into account the externalities implied by their decisions might generate the opposite effects. From this point of view, the degree of **trust between the actors** in negotiations is a determining element of effectiveness. However, as the specificity of social dialogue in France is inter-professional bargaining, several interviewees mentioned that social dialogue meetings usually result in **formalised discussions** in which the actors are often more concerned with asserting their **divergent interests** than in achieving operational compromises. According to some trade unionists, this is reinforced by the plurality of employer organisations and trade unions – sometimes with a relatively small number of members compared to other industrialised countries – as well as the remaining uncertainties as regards the representativeness of the employer organisations.

Concerning the effectiveness of social dialogue, all social partners interviewed mentioned the obligation for all French companies to have a *comité économique et social* (CES) (Economic and Social Committee) as of 1 January 2020. This was introduced by the Macron ordinances of 2017, which made it obligatory for all unions<sup>17</sup> and federations to support their members in 2018 (reinforced in 2019) in organising professional elections (often anticipated and the mandates being usually for two to four years) and in negotiating an agreement for the establishment of a CES.

In addition to the considerable workload involved, it has been noted by several unions that the CES also resulted in merging of representative bodies of staff (especially in small businesses); therefore, the number of elected representatives has been significantly reduced in certain tranches of the workforce. This, overall, impacted the **representativeness of organisations** at the national level.

In general, the degree of involvement of social partners in France tends to remain stable, as they are, by law, consulted about each reform dealing with individual and collective labour relations, employment and vocational training. Consultations also take place for reforms that fall within the scope of national and cross-sector negotiations. However, their perceived level of influence has been affected in past years due to the refusal of certain organisations to negotiate, as well as the failure to

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<sup>17</sup> For sectoral trade unions, which represent mainly small and medium-sized enterprises, the introduction of CES may be even more damaging as they will favour free enterprise bargaining on all topics that are not contained in branch agreements (i.e. wages, probationary period, occupational classifications, vocational training, night-shift work and so on).

reach an agreement (e.g. unemployment reform<sup>18</sup>). In this particular case, the **influence of social partners was limited** as the government itself drafted a bill.

Overall, some social partners perceive social dialogue to be **less effective** than it used to be in France, reporting changes in the quality of their involvement on emerging concerns. In particular, some of the organisations interviewed assert that, depending on governments, there have been various failures in social dialogue; what is clear to them is that there are increasingly more constraints on the span of activities of social partners with the reforms and regulations, sometimes imposed from the European level. The same representatives also expressed that in social dialogue they sometimes have the perception that *“the state decides for all”*. In that regard, and concerning the involvement of social partners in national reform consultations, some progress was reported, but with some complaints on the part of social partners, with the **lack of time** to properly analyse the content of the National Reform Programme proposed by the government being the main issue that was systematically expressed.

The interview findings suggest that **perceptions of social dialogue effectiveness differ among social partners**. While employer organisations may feel themselves better understood by government, the trade unions stress that the government tends to overlook their views and that the consultation process has, overall, somewhat weakened as a result.

Nevertheless, both representatives of employer and employee organisations generally agree that they have limited influence and that social dialogue is effective when they obtain a concrete result, e.g. in the form of a legislative change or binding outcome. However, it is also the case that the employer associations appear to have a preference for more targeted, if any, binding outcomes rather than overly general but nationally binding outcomes. This is particularly the point raised by sectoral social partners (for more details, see section 3), which are usually represented by national federations in public consultations.

## 2.7 Suggestions for improvements

In France, since the January 2007 Larcher Act, it is recognised that the government must, before preparing any draft law on labour legislation, have a dialogue with social partners and negotiate an agreement to be later discussed in Parliament. However, certain circumstances may lead the government to take a **unilateral approach** if social dialogue is unsuccessful and does not lead to the conclusion of a formal agreement, as in the example of the new convention for unemployment insurance, in which case the government can decide unilaterally to change some legal points.

In that regard, some cross-sectoral social partners welcome the reforms impacting social partners (e.g. conditions of representativeness) and believe that these reforms might help rethink the union monopoly. There also appears to be advocacy by some social partners (not necessarily the largest) in favour of a **compromise culture** in companies to advance the effectiveness of social dialogue in France.

Social partners, in general, also note that the **regularity of discussions** has been improved with more formal meetings and additional side consultations. However, this increase does **not always lead to more efficient discussions**. Instead, some interviewed trade unions were fairly critical about the process and denounced this **transparency de façade**. They argued that what happens in practice

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<sup>18</sup> Décret n° 2019-797 du 26 juillet 2019 relatif au régime d'assurance chômage et le décret n° 2019-796 du 26 juillet 2019 relatif aux nouveaux droits à indemnisation.

during the meetings is that either the decision seems to have been taken beforehand or people come unprepared due to a lack of access to information.

More inclusion of social partners at the early stages of the social dialogue process, for example, in determining the topics to be discussed on the social agenda for the year was also among the suggestions for improvements. It was also often mentioned during interviews that, to aim for more efficient meetings, there should be a clear set-up for discussions in order to improve social dialogue.

From the employers' side, stakeholders are aware that it is important to **raise awareness among companies or enterprises about targeted negotiations** or collective agreements at the sectorial and company level, even though it is very likely that some companies are not used to this way of direct and local level of negotiations. It is up to the employer organisations they belong to to inform and train them, sometimes through seminars, phone calls or bilateral meetings. Such a setting does not mean giving up national social dialogue, but rather trying to move towards more targeted and specific negotiations at the local or company level.

Finally, some trade union representatives also mentioned the importance of reconsidering their own role, going back to their initial aim of informing their members and possibly reaching out to a wider audience. In regard to the recent **yellow vest movement**, the **need to further include civil society** was also mentioned, for example, using social dialogue to take positions on new topics such as climate change. Finally, due to on-going discussions on future branches as well as a general willingness to foster social dialogue in its natural environment, which is at company level, some social partners mentioned the need to improve the fit between the trade union activity of social representatives and their professional activity in order to leave space for further training.

### 3. Sectoral case studies

#### 3.1 Commerce

##### 3.1.1 Introduction

The section starts by providing a quick overview of sectoral social dialogue in the commerce sector within the European framework and links it to the French context. Following the definition of Eurofound (2018b) and the Statistical Classification of Economic Activities in the European Community (NACE),<sup>19</sup> the commerce sector is defined as including the following activities (NACE 45, 46 and 47):

- Retail and wholesale trade.

In particular, this section analyses the structure of social dialogue articulation and effectiveness in France within the commerce sector, looking specifically at sales agents.

As described in the recent representative study by Eurofound (2018b), the European Sectoral Social Dialogue Committee for the commerce sector was established in 1998. In this sector, employers are represented by Eurocommerce at the European level. On the workers' side, UNI Europa represents

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<sup>19</sup> In this section, we use the following sectoral classification codes to define activities within each sector [https://ec.europa.eu/competition/mergers/cases/index/nace\\_all.html](https://ec.europa.eu/competition/mergers/cases/index/nace_all.html)

workers in the commerce sector. CFDT, CFDT-Cadres, CGT-Commerce, FEC-FO, FGTA-FO are all affiliates of UNI Europa.

According to Eurofound (2018b), the commerce sector in Europe employed more than 30 million workers in more than 6 million enterprises in 2015 throughout Europe. In terms of employment in other sectors, the commerce sector is usually the second biggest employer after manufacturing in many countries (Eurofound, 2018b).

In the case of France, the sector provides about **3.5 million jobs** (INSEE, 2018) and corresponds to 10.2% of the value added created in the country (Conseil du Commerce de France, 2018). In 2015, one out of five companies and employees were active in this sector, which is, even so, quite low compared to other European countries such as Luxembourg or Greece (Eurofound, 2018b). Most employees are active in retail, but the majority of the revenue is created in wholesale (56%). Retail includes very different sub-sectors and types of stakeholders such as e-commerce retailers, food retailers, outdoor markets, franchises or independent retailers, each having different priorities

While the **bulk of the sectors is composed of SMEs**,<sup>20</sup> the French market is dominated by a few **very large retail companies** (*entreprises de la grande distribution*) (Conseil du Commerce de France, 2018). In addition, companies in the commerce sector in France have a relatively low average number of employees compared to other European countries; for example, there are, on average, 4.6 workers in French commerce companies compared to 10.6 in Germany.

Against this background, social dialogue in France's commerce sector is shaped by the considerable **heterogeneity of this sector**. In particular, the sector faces very different challenges according to the *branche* (subsector) or the profile of the company. This diversity has an impact on the structure of industrial relations and social dialogue in the sector. To reflect this, two representatives from employer organisations and a trade union representative were interviewed as part of the EESDA project to get further insights from sectoral social dialogue in the country.

### 3.1.2 Actors

According to Eurofound's (2018b) representativeness study, France has the **highest number of trade union and employer organisations active in the commerce sector in the EU**, with a higher number of employer organisations (26) than that of trade unions (16).<sup>21</sup> Historically, social dialogue in the commerce sector has been structured in a very heterogeneous way. On the employers' side, it has long been characterised by a strong fragmentation of federations because of diverging interests linked to the diversity of retailers and wholesale companies. While some organisations tend to represent retailers selling a specific kind of product (e.g. watches, glasses, shoes), some only focus on large companies or on small independent retailers. Hence, the membership domain does not overlap across organisations, which makes coordination more difficult at sectorial level (Eurofound, 2018b). Nevertheless, negotiation power remains at the level of individual members or federations.

The umbrella organisation *Conseil du Commerce de France* (CDCF) (Trade Council of France) includes 37 employer organisations, with some involved in social dialogue. The CDCF itself has no mandate on collective bargaining and negotiations on social issues, but it hosts a working group on social dialogue

<sup>20</sup> 96% of commerce companies in France have less than 10 employees (Conseil du Commerce de France, 2018).

<sup>21</sup> The European average is 4 trade unions and 5 employer organisations in the commerce sector per Member State.

to gather information on the demands of trade unions and on future legislation in France. Social partners can mandate the CDCF to send a letter to the ministry to communicate their concerns on future legislation that has a relevance for the sector. The same applies to umbrella organisation *Confédération du commerce de gros et international* (CGI) (Confederation of Wholesale and International Trade), which includes about 40 employer organisations. Eurofound (2018b) provides a complete list of employer organisations in the commerce sector in France.<sup>22</sup>

On the trade union side, the six major representative confederations are present in the commerce sector, which are CFDT, CFTC, CGT, CFE-CGC, CGT-FO and UNSA. Reaching representativeness is an important challenge for unions, especially in a fragmented sector like commerce. There is a separation between trade unions that focus on repair and retail of motor vehicles and those that focus on other retail sectors, given that the former represent mechanics and engineers, while the latter represent service sector workers.

### 3.1.3 Topics

As part of EESDA research, the following three topics are identified as the most frequently discussed in the European Social Dialogue Committee meetings: (i) **skills, training and employability**, (ii) **health and safety, well-being at work** and (iii) **working conditions (e.g. working time regulation, types of contract)**. The social partners interviewed stated that they find these topics very relevant in the commerce sector.

It is also observed that internationalisation, regulatory changes on opening hours, new technologies and new business models have triggered considerable changes in the commerce sector. Among these topics, **digitalisation** is one of the most transformative: it has already allegedly caused a 10% decrease in the number of jobs at checkout counters (France Stratégie, 2017). Similarly, **automation** has had an impact on jobs in logistics. Moreover, **e-commerce** requires a smaller workforce and different types of skills than traditional retail. This means that workers in such occupations are covered by different trade unions and collective agreements, or that it is more difficult to channel common demands to employers. Altogether, these issues are considered as important by social partners, because they have a strong impact on employment and working conditions (e.g. **increase in part-time workers, flexible hours**) and on training related to **digital skills** among the workforce. Last but not least, the recent economic crisis and the pressure from e-commerce have strengthened the will of employers to cut

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<sup>22</sup> The main employer associations active in the commerce sector listed by Eurofound (2018b) are as follows: the General Confederation of Food Retailers (CGAD), French Confederation of Wholesale and International Trade (CGI), National Council of Automotive Professions (CNPA), Federation of Commerce and Distribution (FCD), Federation of Shoe Retailers (FEC), Federation of Watchmaking, Federation of Clothing Brands (FEH), French Coachwork Federation (FFC), French Federation of Hardware (FFQ), Federation of International Mechanic and Electrical Companies (FICIME), Federation of DIY Stores and Home Furnishings (FMB), National Federation of Automobile Crafts (FNAA), National Federation of Clothing (FNH), National Federation of Gardening Professions (FNMJ), National Federation of Photography (FNP), National Association of Specialised Automobile Companies (GNESA), Tyre Professionals, National Union of Opticians (SNOR), Union of Jewellery and Watchmaking (UBH), Union of City Centre Retailers (UCV), Union of Opticians (UDO), French Union of Oil Industries (UFIP), Union Sport and Cycle, Professional Union of Non-Store Retailers, CDCF (Retail Council of France), Professional Union of Non-Food Retailers (CNDA).

down on labour costs and to ask for an overhaul of the company tax system (Conseil du Commerce de France, 2014).

It was also mentioned that **youth employment and vocational training** are important topics for the sector, as the **commerce sector offers a major entry into work for young people** and other groups that have been temporarily out of the labour market. The average employee is much younger in commerce than in other sectors; for example, 34.2% of commerce employees (compared to 21.1% in other sectors) were under 30 years old in 2015 (Conseil du Commerce de France, 2018). Furthermore, one fourth of youth in France begins their career in the commerce sector. Participation of women in the labour force is also an important topic given that a majority of commerce sector employees are women.

The interviews confirmed that shop opening hours and working time, especially work on Sundays, have been a major bone of contention/discussion in the commerce sector in France both for employers and employees. This also has a link with e-commerce, since this sector requires longer opening hours in warehousing and delivery. Overall, working time has become a lot more flexible through mitigation agreements (*accords de modulation*) granted by the ministries on a case-by-case basis.

Stakeholders also mentioned training as an important topic, since skills are constantly changing with technology and consumers' demands. However, trade unions are disappointed with the reform of the personal learning account from a time-based to a money-based account, with potential negative effects on low-paid employees. Also, there were complaints that health and safety is perceived as comparatively less important. According to a trade union representative, the suppression of health and safety committees (*comité d'hygiène, de sécurité et des conditions de travail* – CHSCT) in companies and their replacement by a non-autonomous subcommittee in the new CES will have negative impacts in this area.

### 3.1.4 Social dialogue outcomes

Practices in this sector tend to follow general patterns of industrial relations in France, where **industry-level agreements** (at the *branche* level) are the most important point of negotiation. **Coverage of collective agreements is high (94%)** due to the **extension of collective agreements** by the Ministry of Labour (more precisely *Direction générale du Travail* - DGT).

The diversity of the commerce sector in terms of company size can influence the activity of trade unions and their presence in all segments. Given the high fragmentation of employer associations, **multi-employer bargaining<sup>23</sup> is predominant**, as SMEs tend to be represented by specific organisations. Large companies engage in company-level agreements. Company-level agreements at the largest retailers can also have a signalling or snowball effect on negotiations in the rest of the sector, since these agreements cover a large share of the workforce. The interviewees highlighted that collective agreements are often hard to reach, depending on the social partner and the topic.

Social dialogue in France takes place in **bipartite sector-specific boards** such as *Commission Paritaire de Branche* (CPB) (Bipartite Sector Commission) or the *Opérateurs de compétences – Commerce* (OPCO Commerce) (Competence Providers - Commerce), which is also responsible for professional training

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<sup>23</sup> Multi-employer bargaining generally covers all members of the employer organisations that are party to an agreement (Eurofound, 2018b).

issues and certifications in the commerce sector. Employer organisations coordinate their position in the CDFC before monthly OPCO bipartite board meetings. The *OPCO Commerce* resulted from the merger of several *Organisme paritaire collecteur agréé* (OPCA) (Certified Bipartite Collector Body) following the reform of lifelong training.<sup>24</sup> At OPCO level, not all members have the same weight in decision-making. *Fédération du Commerce et de la Distribution* (FCD) (the Federation of Commerce and Distribution) has four to five seats because of the size of its members. Other organisations representing smaller employers work in pairs of two members, for which there is a rotation in mandates. The common position of the employers generally takes into account the views of all stakeholders even if they are smaller. The arrival of larger companies in the OPCO has, however, changed the working atmosphere. Some interviewees criticised the reforms and the creation of the OPCO. The OPCA was perceived as a real decision-maker in training policy, whereas now the OPCO is perceived as an instrument of the government by the social partners interviewed.

All interviewees underlined that the **deep changes brought about by the successive labour code reforms** (e.g. Rebsamen law, El Khomri law, the six ordinances of September and December 2017, decrees and the ratification law of March 2018) may have a significant negative impact on social dialogue. They accelerated the **trend of liberalisation of the organisation of work and the shift towards less binding agreements**. It was stated that these reforms profoundly modified how social dialogue is conducted in companies generally, but particularly in the commerce sector. Stakeholders coin this change as the reversal of the hierarchy of norms. This trend was initiated in 2004, when new legislation made it easier for company agreements to diverge from industry-level agreements and national negotiations. Company-level agreements now prevail over industry-level agreements in terms of working time.

*“...an increasing number of derogations are granted to companies to enact poorer working conditions and this brings insecurity in the workplace both in small companies and large companies.” (Representative of a trade union from the commerce sector)*

It was also expressed by trade union representatives that the possibility of organising referendums in companies with only 12 employees is described as a negative development in collective bargaining. In large retail companies, collective bargaining increasingly revolves around employers trying to gather the minimum support required (i.e. unions representing at least 30% of the workforce) to trigger a referendum in the workplace and avoid having to negotiate with representative unions.

Social dialogue outcomes also depend on the **quality of interactions** with the government and the Ministry of Labour. Cooperation with the ministry can also lead to successful implementation of programmes in partnership with social partners on training policy, for example.

*“To get outcomes on one topic, it can be extremely long. For example, hardware shops got a derogation on the interdiction to work on Sunday, but it took them 11 years of negotiations with the government. (...) Whereas on some topics, such as wages, the ministry can be very reactive.” (Representative of an employer organisation from the commerce sector)*

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<sup>24</sup> For more details on this law (*Loi du 5 septembre 2018 pour la liberté de choisir son avenir professionnel*), see [here](#).

### 3.1.5 Actors' interaction

All interviewees were active in sectorial umbrella organisations such as the CDCF for employers, which sometimes faces **power struggles** between small retail organisations and large retail chains due to conflicting interests. The recent reorganisation and merging of *branches* have also changed the balance of power between these large retailers and independent retailers in national bipartite bodies such as the *OPCO Commerce*, introducing large chain retailers into the discussion.

*“The bigger players do not try to dominate the other branches too much, but try to gather support for their positions. There is a lot of debate around how other branches try to argue against their positions and find alternatives. Generally, however, large retailers will take the first step and set out the first position. They generally do this well enough, so that other branches accept and agree with them – at least partly. There is a good working spirit in the sector with a lot of informal links, so if someone doesn’t agree, they will call each other later to reach an agreement informally.” (Representative of an employer organisation from the commerce sector)*

Trade unions also try to cooperate among themselves in this fragmented setting for social dialogue. For example, *Comité de liaison intersyndical du commerce parisien* (CLIC Paris) (Inter-Trade Liaison Committee for Parisian Trade) is a cross-trade union committee aimed at cooperation between four major unions in the commerce sector in Paris. They focus on raising awareness about the negative consequences of working on Sunday and at night. While **cooperation among trade unions at national level is very difficult**, interactions can be more positive and fruitful at company level. For example, the CGT is often perceived by employers as the most difficult union to deal with during negotiations, especially at branch and national level. However, the CGT signs most of the company-level agreements, because these are seen as less political since they cannot be extended to all companies in the *branche*. Other unions are criticised at national level for having agreed to the 2017 ordinances on social dialogue without consulting their members.

Within the same trade union, unionists at branch level normally undertake consultations with local groups and help them with advice on legal and social issues. Divergence and tensions within federations can arise between two types of unionist: the works council representative who is impacted directly by the decisions taken and the *permanent syndical* (the union staff member), who works for the federation and has to follow political guidelines. Sometimes, the *permanent syndical* can sign an agreement, because he or she considers it politically important, even if the works council representatives have rejected it because they are aware of the practical consequences. Moreover, trade union federations are very autonomous. To get an agreement, all the different levels of representation have to be convinced through bilateral talks (i.e. *branche*, federation and national).

Regarding interactions with the government, formulation of issues at national level is mostly done in a **top-down manner**, according to the interviewees. All social partners underlined that the current government has taken a **less consensual approach** and listens to a lesser extent to social partners when deciding on social policy reforms (e.g. unemployment insurance, social security, pensions). Social partners participate in consultations launched by ministries, but all depends on the willingness of the Ministry of Labour to pursue discussion on the topic.

*“The government already has a policy agenda designed and pretends to listen or avoids responding. Before the current government, consultations were more effective and had a purpose.” (Representative of a trade union from the commerce sector)*

Interviewees tended to complain that the Ministry of Labour did not pay enough attention to their views or demands and that the DGT was not responsive enough, except on agreements dealing with wages. When the sector tries to push for issues or solutions, the ministry will listen and take them into account only if it fits its agenda. When the topic is too political, such as working time and work on Sunday, the discussion is broken off. In addition, one employer representative said that they had **contacts among members of parliament to channel their questions and demands** to government sessions in parliament. However, the other interviewees did not mention a similar strategy. Efforts were made to promote dialogue in the sector with social partners and the government, such as through the creation of the tripartite body dedicated to commerce, *commission de concertation du commerce* (3C) (Trade Consultation Committee) in 2016. This body has a specific working group on employment, training and occupations to assess the state of the commerce sector on these issues and its future challenges.

It was also found through interviews that **informal relationships** matter for social partners in the commerce sector. Personal access points are important, either with members of parliament to voice the federations’ concerns, inside ministries to get information on the specific legislative file, or between social partners to get ahead of negotiations and formulate more suitable propositions. Informal contacts are not especially useful for reaching agreements, but mostly help to be aware of the positions of the other party. Bilateral relationships make it possible to create **personal links** and to **know the red lines in negotiations**. They are also important between employer organisations to appease divergences within umbrella organisations during the formulation of common positions.

### **3.1.6 Perceived effectiveness of social dialogue**

The social partners interviewed tended to be **negative about the state of social dialogue** in France and about recent legislative changes to social dialogue structures. As mentioned above, social partners in the commerce sector consider that **dialogue with the government has deteriorated** and that they are not being properly consulted. Moreover, constant changes to the structure of social dialogue does not necessarily contribute to its effectiveness.

*“It has become very artificial. Since Sarkozy, collective agreements are more about updating them with the new social legislation enacted by the government than about creating new rules in themselves. Attention is diverted by this instead of responding to changes inside the sector. They cannot think about what needs to be done.” (Representative of a trade union from the commerce sector)*

The merging of the three former bipartite decision-making bodies within companies, i.e. *délégués du personnel* (workers delegates), *comité d'entreprise* (works council) and *the comité d'hygiène, de sécurité et des conditions de travail* (health and safety council) into one CES is also perceived as a potential worsening of the effectiveness and quality of social dialogue. This reform has important impacts on trade union elections in companies given that the new CES should be elected by 31 December 2019, which forced elections to be organised very quickly in autumn 2019. This prevents unions from taking care of other issues insofar as the results of these elections will have a tremendous

impact, with the 2008 reform instituting the 10% threshold. A union representative underlined that these reforms aimed to decrease the power of unions in companies.

Interviewees agreed that company-level bargaining is more effective at company level. This is explained by the fact that **the issue becomes political when it is dealt with at higher level**. At national level, trade unions are focused on issues of image and reputation. It was stated that divisions among them appear to have created opportunities for the government to bypass them. Therefore, the **effectiveness of social dialogue tends to be higher at company-level**, as long as there are good working relationships between stakeholders. It was, however, mentioned during interviews that, if unionists and employers do not get along, the long-term quality of social dialogue is endangered, since there is often little turnover among union representatives and employers, especially in SMEs.

When facing a sustained lack of responsiveness from the government or employers, trade unions can resort to **alternative strategies** to social dialogue such as **strikes** and **legal actions** in courts. One interviewee mentioned that a luxury retail company was taken to court on the issue of work on Sunday and was sentenced, for example. However, **successful negotiations** are always seen **as the primary goal** for unions despite their lack of faith in the ability to reach satisfactory outcomes through conventional social dialogue tools.

### **3.1.7 Suggestions for improvements**

Social partners tend to disagree on suggestions for improvements. One trade union representative argued for a change in the functioning of the *OPCO Commerce* and for **more autonomy of bipartite decision-making bodies at national level**. There was also an argument for the reinstatement of an autonomous health and safety council at company-level. On the other hand, one employer representative argued for putting the economic survival of the company ahead of social dialogue in some cases, especially on subjects that impact the economic future of the company, for which the obligation to find agreements can be cumbersome. This interviewee also argued that at *branche* level, workers' representatives should be aware of the practical consequences of the agreements at company level and understand the political importance of reaching a consensus at the same time.

### **3.1.8 Articulation of social dialogue**

Even though a fair proportion of trade unions and employer associations are represented in umbrella organisations like Eurocommerce and UNI Europa, the fragmentation of social partners in the French commerce sector is reflected in the missing links between national and European-level social dialogue. According to interview results, the participation of social partners in European social dialogue structures is limited because of **lack of knowledge, time, human resources or ability to speak English**. One interviewee was not aware at all of the activities of Eurocommerce.

Employers, who actually conclude collective agreements with unions, tend not to be represented at the European level, given their very specific focus. The CDCF is in charge of sharing the different voices of the French commerce sector at European level, even if it does not take part in social dialogue at national level. Its involvement in the European Sectoral Social Dialogue Committee through Eurocommerce is very recent, thanks to the participation of the UPECAD, a CDCF member. One interviewee mentioned that positions are mostly framed by the European association in charge, which has the expertise and the broader knowledge of the sector from a European perspective, and then

members add their specific minor adjustments. The working method is, however, mostly **consensus-oriented**.

Regarding trade unions, representatives tend to share the observation that France does not benefit considerably from European-level social dialogue, because it has better social regulation on workers' protection than other Member States. They see European social dialogue more as a way to provide minimal standards and upward harmonisation in Central and Eastern European countries.

Regarding the issues discussed, social partners do not try to bring up a specific topic and adopt a defensive position. However, depending on the interviewee, it was mentioned that some topics, such as the posting of workers or the harmonisation of rules on the mobility of independent retailers, are important ones to be dealt with at the European level.

## 3.2 Construction

### 3.2.1 Introduction

The section starts by providing a quick overview of sectoral social dialogue in the construction sector within the European framework and links it to the French context. Following the definition of Eurofound (2015) and the Statistical Classification of Economic Activities in the European Community (NACE), the construction sector is defined as including the following activities (NACE 41, 42 and 43):

- Construction of buildings
- Civil engineering
- Specialised construction activities.

In particular, this section analyses the structure of social dialogue articulation and effectiveness in France within the construction sector, looking specifically at construction workers.

In the construction sector, the European Construction Industry Federation (FIEC) is the main social partner representing construction sector employers of all sizes, while the European Federation of Building and Woodworkers (EFBWW) is the main social partner representing workers at the European level. EFBWW is a member of the European Trade Union Confederation (ETUC) and has affiliates in all Member States including France. FIEC also has a number of affiliates in France. In 1999, as a response to the joint request by these two European-level sectoral social partners (EFBWW and FIEC), the European Sectoral Social Dialogue Committee for the construction sector was established (Eurofound, 2015). As described in Eurofound (2015), the other relevant social partner representing employers is the European Builders Confederation (EBC), which has attended the European Sectoral Social Dialogue Committee meetings with an observer status as part of the FIEC delegation since 2007, but is not yet a recognised European-level sectoral social partner. EBC is a sectoral European member organisation of SMEUnited.

The construction sector is the biggest industrial employer in Europe, employing nearly 14 million workers in over 3 million firms.<sup>25</sup> Construction sector employment corresponds to about 7% of total

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<sup>25</sup> The statistics are taken from the European Commission's sectoral social dialogue website dedicated to the construction sector ([here](#)). The aggregate figures are taken from the European Labour Force Survey (2014) and Business Statistics (2013).

employment in the European Union (Eurofound, 2015, based on Eurostat data).<sup>26</sup> The business structure of the construction sector displays high degrees of fragmentation with a large number of micro-companies (*Très Petites Entreprises* – TPE, in the French context), SMEs (*Petites et Moyennes Entreprises* – PME, in the French context) and self-employed workers (Eurofound, 2018a). The sector displays strong gendered employment features, whereby nearly 90% of construction workers across Europe are men (Eurofound, 2015). The contract types in the sector are diverse, with a large share of workers in fixed-term, part-time or self-employment situations. Such non-standard employment relationships imply precarious working conditions for these workers, which include largely low-skilled and migrant origin workers (Eurofound, 2015). This situation is fairly common in many Member States, including France.

According to the recent country report by the European Construction Sector Observatory (ECSO, 2018), construction is an **important and growing sector** in France, where the overall number of enterprises grew by nearly 20% between 2010 and 2016. Accordingly, there was a substantial **increase in residential as well as transport infrastructure construction** in 2017, boosting overall sectoral production and providing a **positive outlook** for the construction sector in France (ECSO, 2018).

### 3.2.2 Actors

There are a number of sectoral social partners in the construction sector in France. On the workers' side, there are at least five trade union organisations, some of which are sectoral affiliates of the larger multi-sectoral trade unions: *Fédération Nationale des Salariés de la Construction, Bois et Ameublement* (FNSCBA), *Fédération Nationale Construction et Bois – Confédération française démocratique du travail* (FNCB-CFDT), *Bâtiment, Matériaux et travaux publics CFTC* (BATI-MAT-TP CFTC), *Confédération Française de l'Encadrement-CGC Bâtiment et Travaux Publics* (CFE-CGC BTP) and *Confédération Générale du Travail – Force Ouvrière Construction* (CGT-FO Construction).

On the employers' side, the following organisations can be listed as representing construction employers: *Confédération de l'Artisanat et des Petites Entreprises du Bâtiment* (CAPEB), *Fédération Française du Bâtiment* (FFB), *Fédération du Négoc de Bois et des Matériaux de Construction* (FNBM), *Fédération Nationale des Travaux Publics* (FNTP) and *Fédération des SCOP BTP* (SCOPTP).

For the purposes of EESDA research in the construction sector in France, semi-structured interviews were conducted with four social partners from among those listed above, comprised of two employers' organisations and two trade unions.

### 3.2.3 Topics

As part of EESDA research, the following three topics are identified as the most frequently discussed in the European Social Dialogue Committee meetings: (i) skills, training and employability, (ii) health and safety, well-being at work and (iii) working conditions (e.g. working time regulation, types of contract). The social partners interviewed for the construction sector in France all agree that these topics are very relevant for them. In particular, the **skills, training, health and safety and working conditions of construction workers** are fundamental topics of priority for most of them.

<sup>26</sup> As mentioned in Eurofound (2015), since there is quite a large amount of undeclared work in this sector, actual employment in the construction sector is likely to be higher than 7% of total employment in Europe.

*“Building and construction is a labour-intensive industry and the training of employees is crucial to adapt to the many changes in the sector. In relation to this, the issue of recruitment and attractiveness of the sector to young people is a recurrent topic as well. Our organisation has signed several collective agreements on training and apprenticeship, raising, among other things, the apprentices' minimum wage in relation to the law. Moreover, following the recent reform of vocational training, negotiations are under way to adapt branch organisations to the new legal framework.*

*“The topic of health and safety is also very important because our sector is considered to be risk-bearing and our organisation must encourage companies to always do better in this area in order to reduce risks as much as possible.”  
(Representative of an employer organisation from the construction sector)*

As highlighted by social partners, **reducing risks at construction sites** plays an important role in the **attractiveness of the sector**. To this aim, some of the social partner organisation representatives interviewed work with a joint body created specifically to inform and train companies and their employees about taking health and safety measures against construction site risks. This body is called *l'Organisme professionnel de prévention du bâtiment et des travaux publics* (l'OPPBTP – the professional organisation for accident prevention in building and public works). Social dialogue on these subjects is mainly exercised within this body.

The question of **working conditions** is also very important to social partners. It is at the heart of the construction sector collective agreement negotiations that govern a particular form of employment contract (i.e. the construction contract), the number of overtime hours that can be worked beyond the legal working hours, the various limitations and adjustments of working time, as well as the minimum wages of employees according to their hierarchical status.

In addition to these topics, other issues were also raised by the social partners. One of these was **social protection** covering welfare benefits, health, retirement and other social actions. Moreover, many agreements have recently been renegotiated in this area, relating to provident and savings schemes. Another topic highlighted was the **restructuring of the construction sector**, in accordance with the law, to eliminate many local and old texts, and to harmonise the social status of workers at the national level by **updating the national collective bargaining agreement**. Last but not least, the **employment of people with disabilities** is considered an important topic, which is also related to occupational health.

In terms of articulation, the topics and priorities are raised as part of the internal organisational bodies of the social partners. These topics might be driven by requests of their members through various offices and internal social commissions, as part of the obligatory framework provided by law and the cyclical developments in the wider economy. It is therefore possible to consider there is **a mixture of both bottom-up and top-down articulation** of issues in social dialogue.

### **3.2.4 Social dialogue outcomes**

The most common social dialogue outcomes in the construction sector are of a **binding nature** as they consist of **collective agreements** and **legislative changes**. The social partners interviewed (from both employer organisations and trade unions) consider that these types of outcomes are the most

appropriate for this sector. The binding outcomes take into account the very sectoral specificities and also reflect the business structure of the construction sector, which is largely composed of micro-companies (*TPE*) or SMEs (*PME*). For example, one of the employer representatives gave the example of mandatory professional identification cards on construction sites. Their organisation has supported this initiative for many years and this measure was effectively put in place by law in 2015.

Another example where social partners consider **collective bargaining as an effective tool** relates to social protection issues, which regularly lead to collective agreements to adjust the benefits of and/or contributions to health and welfare plans. It was stressed that it would be difficult to manage the health and welfare plans without binding outcomes in the sector. Similarly, binding social dialogue outcomes are indispensable in the case of collective branch bargaining that needs to be extended to a collective agreement covering the entire sector. In this case, a binding outcome serves as a device that extends the effects of an agreement to all companies (e.g. including SMEs) included in the scope of implementation.

### 3.2.5 Actors' interaction

The most common social dialogue outcome in this sector is **collective bargaining agreements**. The social partners interviewed all participate in these negotiations either through their cross-industry affiliates at the national level or directly themselves in the sectoral collective agreement negotiations. When social dialogue is at the cross-industry level, the sectoral social partners do not lead the debate, but rather follow it under their upstream cross-industry affiliates (e.g. MEDEF, CPME in the case of employers and CGT, CFDT or other in the case of trade unions). However, the sectoral social partners both lead the debate and engage in the sectoral collective bargaining negotiations in the sector specific social dialogue instances or bodies.

In the French context, all **negotiation partners are defined by the Labour Code**, hence the social partners are not in a position to choose with whom to negotiate an agreement. All negotiating parties include all employer organisations and trade unions recognised as representative by the State. To request extension of a collective agreement, the organisation must contact a particular department of the labour administration. Other administrative bodies with which social partners commonly interact are *Direction Générale du Travail* (General Directorate of Labour) and *Direction de la Sécurité Sociale* (DSS – Social Security Directorate). Furthermore, social partners find it useful to contact parliamentarians, who are ready to hear their arguments, usually as part of the preparation of a law or legislative change. This can enable the parliamentarians to better understand the practical issues of a future law, for companies and in particular SMEs, as well as for workers.

In the French social dialogue context, the social partners are also present in many **other bodies and paritarian organisations** as part of their activities. One such body is *Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce* (UNEDIC – National Inter-professional Union for Employment in Industry and Commerce), which is a paritarian and independent association tasked to manage **unemployment insurance**. This organisation used to be a government agency – and even used to be part of *Pôle Emploi*, the French public employment agency – but it has recently become an independent association managed by social partners only.

**Informal ties** are also highlighted as important, as they can help to prepare the background for more formal meetings. These ties may also support the development of the annual social agenda that includes non-binding negotiating topics.

*“It is very important to be transparent vis-à-vis all union interlocutors at joint meetings to maintain high-quality social dialogue. It is, however, equally important to meet them in bilateral meetings, beyond the actual negotiation meetings, to have an exchange of views on each other's priorities, which is a less formal procedure than a meeting bringing together all social partners.” (Representative of a trade union from the construction sector)*

### **3.2.6 Perceived effectiveness of social dialogue**

A **recent reform** of the Labour Code initiated by President Macron (so-called *Macron ordinances*) allows companies – with the exception of 13 areas – to **negotiate collective agreements that can derogate from branch agreements**, in a more or less favourable way. Social partners consider these reforms carefully and reflect on new opportunities to articulate their branch bargaining with company-level bargaining. This **reform could result in less negotiation of branch agreements** or in negotiation of agreements applicable only to companies that are not able to negotiate (the latter are mainly micro-companies or SMEs).

A representative of an employer association stated that the **measure of representativeness** brought about by the legislative change on social partners has resulted in a form of overbidding between the social partners, which is not a positive development for negotiations. In particular, it is stressed that **representativeness has crystallised different alliances** between worker and employer organisations.

*“Since 2016, employer organisations and trade unions have to prove their representativeness. This is done through the results of the elections of staff representatives for trade unions, while it is done by counting the members for employer organisations. The measure of representativeness is established by the public authorities, in particular by a ministerial decree. This phenomenon leads to a form of competition, which affects relations between organisations and social dialogue, in general.” (Representative of an employer organisation from the construction sector)*

Overall, there seems to be a **mixture of perceptions** by different social partners of both types on the effectiveness of social dialogue in the construction sector in France. While some consider that it is functioning effectively overall – especially as concerns employee savings (*l'épargne salariale*) – others do not consider the recent developments as promoting further effectiveness in social dialogue. It could also be observed that the negative perception of social dialogue effectiveness is underlined more strongly by trade union representatives than by employer organisation representatives.

*“National social dialogue may be of interest for societal and cross-sectoral topics such as employment or retirement in a compulsory and joint system. For example, unemployment insurance and supplementary pension are managed jointly (by the State and social partners) in France and are the subject of recurring negotiations. However, the system seems to be running out of steam lately as the failure of the last negotiation on unemployment insurance suggests.” (Representative of a trade union from the construction sector)*

A trade union representative mentioned that social dialogue in France is **conflict-oriented** rather than consensus-oriented. This representative considers that **both unions and employer associations are**

**very set on their positions.** On the government side, the interviewee believes that the government does not always take into account the position of social partners (e.g. on pension reform, unemployment insurance scheme, etc.).

### 3.2.7 Suggestions for improvements

Against the background of reforms impacting various aspects of social dialogue in France, employer organisations stress the necessity to make businesses, which could not previously negotiate, aware of the possibility that they now have to negotiate, which implies sectoral and national negotiating that is probably less intense, but more focused on companies. To support this, employer organisations are striving to inform their members of these new possibilities through telephone discussions, provision of models and other types of information campaign. Their objective is to promote the effectiveness of social dialogue by encouraging it on another level, such that the outcomes are more adapted to the needs of companies.

Some social partners also say that they do not necessarily want more binding national collective agreements, which may be too broad in scope, but rather prefer **targeted responses considering the specific needs of the construction sector**. Other social partners representing employers criticise the role of trade unions in the framework of the reformed social dialogue setting in France.

*“It would probably be appropriate to review the trade union monopoly, which has not disappeared with the Macron ordinances, and to allow companies where there are no trade unions (e.g. micro-companies or SMEs) to be able to really negotiate with their employees or elected representatives of non-unionised employees, which is not the case yet. At the same time, companies need to be encouraged to put in place a culture of compromise.” (Representative of an employer organisation from the construction sector)*

### 3.2.8 Articulation of social dialogue

The French sectoral social partners interviewed are all affiliates of European-level sectoral social partners (FIEC and EFBWW) in the construction sector that attend various working groups of the European associations and **actively engage in European Sectoral Social Dialogue**. The representatives of French employer organisations attend the European Sectoral Social Dialogue Committee meetings about twice a year, while the trade union representatives attend about those meetings about once a year. Nevertheless, almost all social partners interviewed highlighted the **lack of time**, which might prevent them from attending some of these meetings in Brussels.

In terms of topics discussed at the European Sectoral Social Dialogue Committee for the construction sector, all social partners interviewed highlighted the **posting of workers** as one of the key priorities for them where the EU holds the competence. Related to this is the issue of **social security coordination** across Member States. Other relevant topics discussed at the European level and that are deemed very important by the French social partners are the **fight against illegal work, social dumping**, and various **EU-related regulations on health and safety** (e.g. regulation on **asbestos**). The discussions on the European electronic card for services is also among the topics deemed very relevant by French social partners in construction, even though the proposal was rejected.

*“Some topics are treated at all levels and differently depending on the level. At the European level, the focus will be on lobbying to influence regulation. It is often the case that a topic is dealt with in parallel at national and European levels; however, the results will be less binding at the European level, because we can go further at the national level. For example, in the wood sector, France is ahead of the health issues, so we would, therefore, concentrate our efforts on pushing our norms to harmonise things upwards at the European level.” (Representative of a trade union from the construction sector)*

As regards the articulation of social dialogue **at the European level**, the social partners do not perceive the process as a bottom-up articulation (from the national to the European level), but rather as a **top-down articulation**. Despite this direction of articulation, they also do not recall many binding social dialogue outcomes, such as a collective agreement, except on the Directive on Posting of Workers and some health and safety related matters. However, social partners agree that **their voice is better heard when they unite in joint statements** including both employers’ and workers’ sides.

Lastly, the sectoral social partners interviewed are **not very involved in the European Semester** process in France. One of the trade union representatives mentioned that it is generally the cross-industry social partners who are consulted in the process rather than sectoral social partners (even though exceptions exist).

**At the national level**, trade union representatives consider that the **social dialogue articulation is mostly characterised by top-down style**, where the government mainly decides the agenda and large construction corporations have a key role in general. It is also claimed that these corporations are not always sufficiently committed to bilateral negotiations with unions. Based on these arguments, the trade unions complain about **power imbalances in social dialogue**.

### 3.3 Education

#### 3.3.1 Introduction

The section starts by providing a quick overview of sectoral social dialogue in the education sector within the European framework and links it to the French context. Following the definition of Eurofound (2011) and the Statistical Classification of Economic Activities in the European Community (NACE), the education sector is defined as including the following activities (NACE P85):

- Pre-primary education
- Primary education
- General secondary education
- Technical and vocational secondary education
- Post-secondary non-tertiary education
- Tertiary education
- Sports and recreation education
- Cultural education
- Driving school activities
- Other education not elsewhere classified
- Educational support activities.

In particular, this section analyses the structure of social dialogue articulation and effectiveness in France within the education sector, looking specifically at teachers.

At the European level, the European Sectoral Social Dialogue Committee for education was established in June 2010. There are three main social partners recognised at the European level and representing workers in this sector: the European Trade Union Committee for Education (ETUCE), the European Federation of Public Service Unions (EPSU) and the European Confederation of Independent Trade Unions (CESI). Employers are mainly represented by the European Federation of Education Employers (EFEE). This organisation comprises national ministries of education, associations of local governments and public agencies (Eurofound, 2011). As stated in the sectoral representation study for education by Eurofound, affiliation to a European social partner organisation and/or active participation in national collective bargaining are key elements of European social dialogue, where the national and European level could be connected and interacted (Eurofound, 2011). According to the representativeness criterion of Eurofound, affiliation to one of these European organisations is considered as a sufficient condition for classifying a national association as a representative social partner organisation. Some of the social partners interviewed in this sector in France are members of these European-level organisations, such as ETUCE.

Education is a key sector of an economy, given its importance in preparing and augmenting the fundamental production input that is **human capital**, in creating economic prosperity, and its **key role in the civic life** of a nation. In this vein, the European Commission has also placed a lot of emphasis on education over the last decades in the aim of improving the quality of education across Member States. Similarly, the Lisbon strategy as well as the **Europe 2020 strategy** – and the specific education and training targets therein – are part of the vision of a knowledge-based European economy that the European Commission is pushing for (Eurofound, 2011). However, some of these targets have been hindered in the aftermath of the 2008 financial crisis, which led to **budgetary constraints** and reductions in government revenues generally, also leading to **cuts in expenditures on education**. France's national education system has also experienced the consequences of this economic recession over the last decade.

Similar to many other European countries, the education sector in France is **largely** covered by the **public sector**, even though private and other providers (e.g. religious organisations) also coexist. The French national education system is mainly characterised by the **central role of government** in providing and regulating the education system as well as the agenda for all levels of education ranging from the preschool and fundamental education to higher education, research and innovation through different ministries. The unionisation rate of teachers is also generally higher than other professions.

### 3.3.2 Actors

Social dialogue in the education sector is somewhat institutionalised<sup>27</sup> in France through two key bodies: *Commission Administrative Paritaire* (CAP – Paritarian Administrative Commission) and *Comité Technique* (CT – Technical Committee). Both these bodies are organised at three levels: departmental, regional education authority (known as *académie* in French) and ministerial. The CT is based on a law in social dialogue and public services dating from 2010 and is consulted on collective actions on the basis of the subsidiarity principle. There is also a body for higher education: *Conseil National de*

<sup>27</sup> The high degree of institutionalisation of the education sector is also related to the fact that different levels of education are managed by different public administration bodies in France.

*l'Enseignement Supérieur et de la recherche* (CNESER – National Council of Higher Education and Research), which is consulted on decrees concerning higher education. All these different bodies include a set of social partner organisations based on their representativeness, which is determined by elections every four years.

Social partner organisations in the education sector in France include CSEN (*Confédération Syndicale de l'Éducation Nationale*), FEP-CFDT (*Fédération de la Formation et de l'Enseignement Privés - CFDT*), SGEN-CFDT (*Syndicat général de l'éducation nationale - CFDT*), FSU (*Fédération syndicale unitaire*), UNSA-Education (*Union nationale des syndicats autonomes*), SNPTES (*Syndicat National du Personnel Technique de l'Enseignement Supérieur*), to name but a few. The full list of social partners is much longer, which also showcases the **fragmented nature** of the French **unions in the education sector**.

### 3.3.3 Topics

When looking at developments in the education sector across Europe, a common issue arises as regards the **working conditions of teachers**, as observed by large-scale industrial actions such as strikes and protests (Cerf and Aumayr-Pintar, 2017). Accordingly, it is observed that **pay levels** and **inequalities**, together with working time, workload as well as recruitment procedures at schools drives these concerns and therefore constitute the main focus of social dialogue and collective action. The situation and topics of priorities among social partners and relevant stakeholders in France largely resemble the concerns raised in the education sector in many other European countries. In particular, pay inequalities over the career path are a particular concern of teachers in France. For instance, despite the country being in the group of wealthier economies in Europe, average salaries for French teachers are lower than those of teachers in the other wealthier European Member States (e.g. Denmark, Germany and Luxembourg).

*“There is a major issue of salaries, particularly important in the national education sector. There is a common understanding that pay is low and does not reflect the desired levels – whether compared to other countries or compared to other public-sector workers of the same level in France. Related to this issue is the problem of precarity.” (Representative of a trade union from the education sector)*

As part of EESDA research, the following three topics are identified as the most frequently discussed in the European Social Dialogue Committee meetings: (i) **skills, training and employability**, (ii) **health and safety, well-being at work** and (iii) **working conditions (e.g. working time regulation, types of contract)**. The social partners interviewed almost all consider these topics as relevant in the education sector. They also suggested additional topics of priority such as continuity from high school to university (also within the framework of the High School Reform that will be implemented in 2021).

Moreover, social dialogue in the education sector in France has been continuously evolving with the introduction of various reforms, not only in the education sector but in the provision of public services as well as in the context of social dialogue as part of the recent labour law. All these imply a complex scene of social dialogue articulation in the education sector in France.

One of these reforms concerning compulsory education (*refonder l'éducation prioritaire*)<sup>28</sup> was proposed in 2014 and came into effect in September 2016 (**School Reform of 2016**). This reform is aimed at **combating inequality** and consists of 14 measures combining changes in some of the subjects included in the school curriculum. For example, subjects such as “sustainable development” or “citizenship” are to be addressed from the primary school level onwards (at the fifth year or around the age of 10-11) as part of a course that would be between one to three hours a week within the compulsory education modules (Cerf and Aumayr-Pintar, 2017). However, this reform led to **strikes among teachers** in 2015, because they claimed that the proposed changes and additional subjects in the new school curriculum would require additional working time and preparation for teachers. In other words, the extra hours that teachers provided on a voluntary basis in the past are now incorporated as part of compulsory teaching hours, which is a major subject of concern for teachers (Cerf and Aumayr-Pintar, 2017). Moreover, it was also stressed that teachers have not received training to teach these topics. The issue of **teacher training** is also commonly raised by trade union representatives interviewed as part of EESDA research.

Another topic that is relevant in education is the **gender-related segmentation of the sector**. Similar to many European countries, the share of women teachers in the education sector is very high, with an increasing trend over the last decades, and the share is even higher at the lower levels of education (Siniscalco, 2002). The situation is similar in France with overrepresentation of women in the sector. For that reason, some national social partners (particularly trade unions) are also concerned about gender inequality and therefore try to voice these concerns in social dialogue.

### 3.3.4 Social dialogue outcomes

The French social partners mostly **favour binding social dialogue** outcomes in the education sector (and also in general). Social dialogue is considered as a means of negotiation among parties and national agreements in the education sector are the main results of the process. However, some social partners are worried about the implementation of national agreements at local levels. While the public education system is centralised and regulations are transposed in a **top-down** manner, there are also **territorial inequalities**.

Most of the social partners interviewed consider the process functions in a top-down manner. It is very rare for a bottom-up articulated topic to be transposed into a national agreement and some social partners assert that most of the topics they propose are not even discussed at the ministerial level.

### 3.3.5 Actors' interaction

Social partners in the education sector are somewhat fragmented between large representative trade unions and their sectoral branches as well as smaller unions, which sometimes render interactions between different actors complicated. **Coalitions among social partners are more difficult to construct** and the political changes of recent years appear to have a role in this.

*“Obviously all representative organisations are naturally our partners, but, of course, there are those which are closer to our ideologies than others. For example, we do not collaborate with organisations that have extreme right ideologies. The*

<sup>28</sup> Further information can be found in this link: <http://www.education.gouv.fr/cid76427/refonder-education-prioritaire.html>

*situation depends on the topics as well. Sometimes we unite with others to oppose a motion. On some topics, unity is easier to ensure than in others.*

*“We also pay attention to having alliances with student parent organisations as well as student organisations and other organisations (e.g. Ligue de l’Enseignement). We even stay in touch with non-representative associations and sometimes go beyond social partner organisations and interact with human rights organisations, migrant organisations, associations of unemployed individuals, to name a few. We believe that it is important to stay in touch with them, since they are part of society and they are the people impacted by social dialogue outcomes or any reform in the country.” (Representative of a trade union from the education sector)*

Another related point highlighted in the interviews was the **change in the political scene** since 2017: the last presidential elections resulted in the meltdown of a major political actor in French politics (i.e. the socialist party) and this is considered to have had negative consequences for some of the trade unions in France. In other words, the political “earthquake” in 2017 has had repercussions for French social dialogue and interaction between various actors, according to some trade union representatives.

The importance of informal ties was also highlighted and it was mentioned that through such informal ties, some organisations could have a wider influence than their representative capacity (i.e. informal ties could generate a multiplier effect). Most of the social partner staff have spent a number of years in the field, have considerable expertise in the subjects concerned and have been working with the same people from different organisations over many years. This continuous working relation and regularity help build an environment of trust, and informal ties contribute to this environment. One of the trade union representatives mentioned that in social dialogue, empathy could play a key role in understanding the arguments of the other side. These ties could even help launch a dialogue.

*“For example, in the ministries, there is always an “interlocutor privilégié” [a person who is willing to listen]: it sometimes helps to have someone you can speak to in a frank way. This can facilitate preparation of the ground prior to formal discussions. This interlocutor could be anyone, e.g. someone from the cabinet or elsewhere, and the political party of the government does not matter in that case, it all depends on the person (and the topics). For instance, currently, our organisation does not have such a person within the Ministry of Education; however, we had such people in the past even with a right-wing government. Again, informal ties help here...” (Representative of a trade union from the education sector)*

### **3.3.6 Perceived effectiveness of social dialogue**

The social partners generally acknowledge that the situation has never been perfect, yet the social dialogue system generally has worked more or less well in France so far. In particular, social dialogue in public service has almost never been interrupted and there has always been dialogue between partners, even though there were not always agreements.

Despite this overall perception, most of the social partners interviewed from the education sector in France expressed rather **negative feelings about the effectiveness** of social dialogue in the sector.

Some trade union representatives stated that there is a degradation of the quality of social dialogue, which functions as a formal mechanism, but they claim that its results have become slighter. The representatives interviewed suggested that this could also be observed from the **recent trend of not many agreements or negotiations**. The interviewee described the situation as follows:

*“We could say that social dialogue in its formal definition takes place and it is true that we are often listened to by the government and relevant ministries, but at the end of the day, the government takes the final decision and there is no real negotiation. This is the recent tendency in social dialogue and it is a recurrent development not only in the education sector, but is also felt in other sectors by other social partners.” (Representative of a trade union from the education sector)*

One of the social partners interviewed gave an example from 2010 to describe how social dialogue has been reduced to formal procedures in recent times in France:

*“In 2010, when we negotiated the agreement on the regulation of social dialogue, there was a disposition that when there is unanimity among trade union organisations in a technical committee (comité technique), the text should be presented/re-discussed for the second time. In the spirit of social dialogue and in the mind of social partners, the objective was to allow renegotiation of the text. However, what happened in practice is that this became only a formal requirement, whereby the technical committee indeed meets for the second time, but they put the exact same text on the table.” (Representative of a trade union from the education sector)*

A point raised in the interviews relates to the **fossilisation of differences between different organisations** engaged in social dialogue. This implies that the differences do not necessarily grow between organisations, but there is a tendency that they become more crystallised among social partners, which might hinder the smoothness of social dialogue. This could be due to the weakness of French unionism culture, according to a trade union representative. At the same time, these differences appear to remain more crystallised at the national level than at lower levels. For example, when looking at the more local level, such as the establishment level (e.g. primary schools, secondary schools), there are fewer divergences in priorities between social partners, and these priorities mostly relate to wages and working conditions of teachers.

### **3.3.7 Suggestions for improvements**

The social partners interviewed agree that social dialogue requires time to discuss things, try to understand the shared diagnosis, listen to others, listen to the public administration and understand responsibilities. Against this common understanding, they assert that one of the major characteristics of the recent reform process in France mainly, but not only, has been that political decision-makers come up with a **pre-defined reform agenda** and often have the idea of imposing those laws or making them acceptable by people through their interlocutor. However, social partners believe that **there should be more back-and-forth interaction** during the process as well as more opportunities for real negotiations on the agenda items.

Related to this point is the perception of inequalities by some social partners in their involvement in the *Comité Economique et Social – CES* (Economic and Social Committee). A trade union

representative, who emphasised their commitment to public services in France, stated that they do not feel that they are co-managing the process equally. For example, the CES could be a platform for debate of an aspect of a situation, where deeper debate could be promoted about a certain topic, allowing stakeholders to exchange views and see what could be done next based on the discussions in a constructive and bottom-up articulation process with real involvement of social partners. However, their perception today is that the CES gives only an opinion about the government text and the role of social partners is seen as limited in the process.

Some trade union representatives assert that even between salaried workers and their union representatives, there might be a **lack of communication**, whereby the union representatives stick to their ideological agenda without fully taking into account workers' demands at times.

### **3.3.8 Articulation of social dialogue**

Most of the social partners interviewed were not actively engaged in European level social dialogue; therefore, the articulation of social dialogue from national to European level could not be developed further within the scope of this report on the education sector. Similarly, the involvement of social partners in the **European Semester process** appears to be **limited** in the education sector. This could also be related to the fact that education mostly remains a **national competence** rather than a European one. Some of the interviews, nevertheless, mentioned that they were consulted a few times during the process as part of the preparation of the country progress report, but their involvement remained rather limited. For these reasons, most of the information obtained through the semi-structured interviews refer to the sectoral social dialogue articulation in the country.

Given the historical background of French social dialogue culture and the high institutionalisation of social dialogue in the education sector, the **articulation is very developed** in France, even though sometimes **coordination across different bodies from various levels complicates the process**. However, the recent reforms by the government appear to be changing the scene for how social dialogue functions and perceptions of these reforms are mixed. For these reasons, the perception of social dialogue in the education sector could be summarised generally by **a top-down articulation of priorities**, even though social partners also push for bottom-up articulation when they can.

In addition to formal channels of social dialogue articulation, social partners in France are also very active in engaging in **industrial action through strikes** to appeal to society. Also common are direct interventions at individual institutions. Other commonly used social dialogue tools include **opinion campaigns**, close **engagement with parliamentarians or government**. Social partners mostly do not conceive social dialogue as being without pressure: they articulate their priorities as being able to open a channel of negotiation as the first thing, and then they try to obtain the maximum possible.

## **3.4 Healthcare**

### **3.4.1 Introduction**

The section starts by providing a quick overview of sectoral social dialogue in the healthcare sector within the European framework and links it to the French context. Following the definition of Eurofound (2009) and the Statistical Classification of Economic Activities in the European Community (NACE), the healthcare sector is defined as including the following activities (NACE Q86):

- Human health activities
- Hospital activities
- Medical and dental practice activities
- Other human health activities.

In particular, this section analyses the structure of social dialogue articulation and effectiveness in France within the healthcare sector, looking specifically at nurses.

As described in the relevant representativeness study of Eurofound (2009), the European Commission has established a European Social Dialogue Committee for the hospital and healthcare sector. In this committee, the workers are represented by the European Federation of Public Service Unions (EPSU). The employers in this sector are represented by the European Hospital and Healthcare Employers' Association (HOSPEEM). As in other sectors covered in this study, affiliation to one of these European organisations is a sufficient criteria to classify a national association as a social partner organisation.

The healthcare and hospital sector is generally characterised by two features, which has implications for the way industrial relations are structured (Eurofound, 2009). Firstly, the sector is generally **largely covered by the public sector** and by a smaller private one. This holds true in the French case. Secondly, the healthcare sector is composed of a labour force that has a **high degree of professional education** and skills. Therefore, the occupations in this sector (e.g. doctors, nurses and physiotherapists) require formal licensing to provide healthcare services (Eurofound, 2009). Moreover, in the particular case of nurses, the occupation is mostly composed of women.

The sector employs more than 23 million people, of which more than 13 million are employed in hospitals in Europe.<sup>29</sup> Given the aging societies of European countries and existing skills shortages in the health sector, it is expected that there will be more demand for health services in the future in almost all European countries. In the case of France, nurses are already the number one health profession, with more than 600,000 nurses working in the healthcare sector, which is well ahead of the number of doctors (226,000). Moreover, the number of nurses increased by 70% between 2000 and 2017, corresponding to a growth rate higher than that of the general population (3% per year against 0.6%) and is characterised by a high level of feminisation (87% of nurses are women).<sup>30</sup>

Against this background, the French healthcare system is also confronted with considerable **shortages of care workers and nurses**. In particular, there are serious concerns in healthcare service provision related to **the ageing of care providers** in France, since a large number of nurses will retire in the next decade. Therefore, these challenges were taken very seriously by all relevant stakeholders including policymakers and social partners in the past decade with a series of measures taken to foster the development and training of the nursing profession until recently.<sup>31</sup>

<sup>29</sup> This information is taken from the European Sectoral Social Dialogue's dedicated page to healthcare and hospitals ([here](#)).

<sup>30</sup> The statistics are taken from the Directorate of Research, Studies, Evaluation and Statistics (DREES) based on 2018 figures.

<sup>31</sup> Related to this is a major reform on the *universitarisation* (i.e. reserving all health training to universities) of health training that is currently under way. For example, the examination for selection to train as a nurse will be abolished in 2019 in favour of a system that involves registration to nurse education via *Parcoursup*, which is a general platform for new graduates, university students and graduates wanting reorientation. Assistant nurses and childcare assistants maintain a specific path of access to professional advancement (only in 2019). Access is

Thanks to the aforementioned measures and according to the estimates of *Direction de la recherche, des études, de l'évaluation et des statistiques* (DREES – Directorate of Research, Studies, Evaluation and Statistics), the number of nurses will increase by 53% in 2040, which is an essential increase to meet the growing demand for care due to the ageing of the population (DRESS, 2019). At the same time, the average age of caregivers is also expected to increase slightly and liberal practice (outside of hospitals) is expected to grow further. However, even if the overall density of nurses might increase over the entire country, **interregional disparities** are still expected to continue to exist.

The rest of this sectoral case study draws on desk research as well as four semi-structured interviews with three trade union representatives and one employer representative who is active in social dialogue in the healthcare and hospital sector in France.

### 3.4.2 Actors

There are a wide range of actors that are active in social dialogue in the healthcare sector in France (as described in Eurofound, 2011a).<sup>32</sup> The following trade unions gather care workers in general, as well as nurses:

- *Fédération Santé Sociaux – Confédération française démocratique du travail* (Health and Social Workers Federation – FSS-CFDT), which organises workers both in public and private healthcare, sociomedical and social service sectors, and takes part in collective bargaining in both sectors. It is also involved in various bodies dealing with matters in the healthcare sector and also in bodies with equal representation in charge of training.
- *Fédération de la Santé et de l'Action Sociale - Confédération générale du travail* (Health and Social Services Federation – General Confederation of Labour – FSAS-CGT), which organises workers both in public and private healthcare, sociomedical and social service sectors. As one of the main trade unions (it was the first in the last professional elections of 2007 in terms of votes), it is also part of the main bodies dealing with matters in the healthcare sector.
- *Confédération générale du travail – Force ouvrière Santé* (General Confederation of Labour - Public Services and Health Services Workers' Federation – CGT-FO Santé), which covers employees working in local authorities, as well as public and private healthcare, sociomedical and social service sectors. It is the third main trade union in the healthcare sector and is involved in bodies at all levels (local, departmental, regional and national).
- *Fédération CFTC (Confédération française des travailleurs chrétiens) Santé et Sociaux* (French Christian Workers Confederation – Health and Social Services Workers' Federation), which has members from both public and private healthcare, sociomedical and social service sectors and participates in collective bargaining in the private and public sectors.

In addition to these larger organisations, a few trade unions and organisations only have nurses as members. While not all of them are representative, those unions are relevant for the purpose of EESDA research focusing on nurses in this sector. These organisations are *Convergence Infirmière* (Nurse Convergence), *Fédération nationale des infirmières – FNI* (National Federation of Nurses), *Organisation*

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preserved for candidates in continued vocational training that have contributed to a social protection scheme for a minimum of three years.

<sup>32</sup> All information on the key actors in the healthcare sector in France is taken from Eurofound (2011).

*nationale des Syndicats d'Infirmiers Libéraux – ONSIL* (National Organisation of Liberal Nurses Syndicates), *Coordination nationale infirmière – CNI* (National Nursing Coordination) and *Syndicat national des professionnels infirmiers – SNPI* (National Union of Nursing Professionals).

There are also a number of employer organisations representing the private profit-making sector, the private non-profit sector and the public sector. Each employer organisation participates in collective bargaining in its own part of the healthcare sector, respectively.

In the public sector, *Fédération Hospitalière de France – FHF* (Hospital Federation of France) covers all public health establishments in the sector, which consists of about 1,000 public hospitals and 1,000 specialised structures. It represents the employers, i.e. hospitals, in many consultation bodies and actively takes part in decisions about public healthcare. It participates in *Conseil supérieur de la fonction publique hospitalière – CSFPH* (Hospital Civil Service Higher Council) and *Comité National de l'Organisation Sanitaire et Sociale – CNOSS* (National Committee on Health and Social Services Organisation, which are tripartite bodies active at the national level. It also participates in the equal-representation (paritarian) body, *Association Nationale pour la Formation permanente du personnel Hospitalier – ANFH* (National Association for Permanent of Hospital Staff Training), which is in charge of occupational training in the public healthcare sector.

In the private non-profit sector, there is *Union des fédérations et syndicats nationaux d'employeurs sans but lucratif du secteur sanitaire, médico-social et social – UNIFED* (Union of Federations and National Associations of Non-profit Employers in the Health, Sociomedical and Social Sector), among which there is also *La Fédération des Etablissements Hospitaliers et d'Assistance Privés à but non lucratif – FEHAP* (Federation of private hospitals and assistance in the non-profit sector). FEHAP gathers more than 2,300 establishments and wards and represents the second biggest care provider after the public sector. It is part of *Fonds d'Assurance Formation de la Branche sanitaire, sociale, médico sociale, privée à but non lucratif – UNIFAF* (Insurance Fund for Training in the Health, Social and Medico-Social Non-profit Branch).

*Fédération de l'Hospitalisation Privée – FHP* (Federation of Private Hospitalisation) operates in the private commercial healthcare sector. It is a member of MEDEF. It gathers about 1,100 private establishments organised according to regions and specialisations, which together employ 150,000 workers (all kinds) according to FHP data.<sup>33</sup> It is the respondent of the government when reforms of the private sector are discussed. It also participates in the equal-representation body in charge of occupational training, *Commission Paritaire Nationale de l'Emploi (CPNE-FP)*.

In addition to these social partner organisations, a number of other relevant actors are mentioned during interviews including the Ministry of Health, *Direction générale de l'offre de soins – DGOS* (Directorate-General for Caregiving), various technical consultative bodies for both the public and private sectors, the health advisor to the President of the Republic, Regional Health Agencies representing the state in the regions and *Collège Infirmier Français – CIF* (French Nursing College), to name a few.

<sup>33</sup> For more information, see the presentation by FHP (2015) [here](#).

### 3.4.3 Topics

As part of EESDA research, the following three topics are identified as the most frequently discussed in the European Social Dialogue Committee meetings: (i) **skills, training and employability**, (ii) **health and safety, well-being at work** and (iii) **working conditions (e.g. working time regulation, types of contract)**. All social partners interviewed in the healthcare sector consider these topics very relevant in France. A trade union representative stressed that these three topics are those that have suffered from significant degradation over the last decade.

First and foremost, **pay** is an issue that is much debated within French social dialogue in the healthcare sector at the moment, as many nurses (especially young graduates) are pushed to take a salaried position due to the hardening of conditions for independent nurses (*infirmiers libéraux*). In addition, increasing health and safety concerns, worsening of **working conditions** and **increasing work hours** caused by staff shortages were mentioned relating to increased numbers of accidents or other incidents, including **burn out** that the nursing profession has been facing in past years.

Additional topics highlighted in the interviews concern **quality of life at work, psychosocial risks, recognition of hardship, absenteeism, ageing workforce, recognition of skills and responsibilities, evolution of nurse training** and the **overload in emergency services**. Social partner representatives also pointed out specific issues that they regarded as particularly pertinent within the nursing profession, related to their status as caregivers. In this regard, the current debate on the training reform of nurses towards further responsibilities and the creation of a new status of advanced practitioner nurses were mentioned.

*“...these advanced daily practices and borders between occupations vary in Europe: in some countries, it is the nurses who carry them out, while in others it is the doctors. These boundary problems between professions were highlighted by the migration of Spanish nurses and doctors to Germany, where nurses can no longer carry out the same tasks as in Spain.” (Representative of an employer organisation from the healthcare sector)*

The trade union representatives also emphasised that issues are generally identified and discussed in a very **bottom-up way** within the organisations that rely on views and criticisms coming from members at local level. If issues cannot be solved through local level dialogue or are of broader national concern, then the local association would raise the issue with the general union and in the relevant councils.

### 3.4.4 Social dialogue outcomes

In the public sector, there was no collective bargaining until recently. Wages and employment conditions were determined at national level. With the **2008 Bercy agreement, collective bargaining was established for the whole public sector**, including the public healthcare sector. Since then, collective bargaining takes place at all levels and can concern all matters, including negotiations about training, work conditions and organisation, health and safety at the workplace and so on. However, local collective bargaining is limited, as it must respect higher-level agreements because of the **favourability principle**.

In the private healthcare sector, agreements are concluded either at the establishment or branch level through **bipartite negotiations**. **At establishment level, agreements concern working conditions and**

**work organisation (e.g. working time), profit-sharing and participation. At national level, agreements are mainly related to wages and working conditions.** Branch agreements are often concluded in the private non-profit sector (GHK, 2008).

In terms of outcome preferences, **social partners** of both types interviewed (trade union and employer association) **prefer binding social dialogue outcomes** in the form of legislative change. A trade union representative referred to legislative changes as the only ones that allow progress.

*“Change by legislature is more in the French culture. The adoption or creation of collective agreements is the subject of debate in our organisation, but such a reform would be a revolution. This ties in with the question of whether a hospital should be run like a business.” (Representative of an employer organisation from the healthcare sector)*

### 3.4.5 Actors' interaction

Given the diversity of stakeholders and fragmentation of social partners in the healthcare sector in France, interactions between various actors prove complicated. Nevertheless, the formal negotiating partners are defined by legislation and, at least in that respect, there is no question about who can interact with who when it comes to actual negotiation.

*“We cannot avoid anyone; in the hospital, we have to discuss. For instance, the establishment technical committee still meets regularly. The conflicts can be very hard and there have been cases of hospital directors being detained...” (Representative of an employer organisation from the healthcare sector)*

As regards the change in interactions with different stakeholders, a trade union representative stated that they continue to meet various interlocutors from ministries, parliament and so on, but they feel that there are fewer meetings with government officials despite numerous attempts. This is found to be a negative development, since they believe that interaction in social dialogue is key to starting collaboration, finding common ground and enriching thinking on topics of concern among stakeholders.

In terms of **industrial action** in this specific sector, nurses are allowed – like other workers – to go on strike. However, as they operate in the critical care sector, there **are specific rules framing this right**. These specific rules differ according to the juridical status of the care establishments. For example, depending on whether nurses operate in a public establishment or a private one providing public healthcare services, only a representative union can call for a strike with a minimum number of days of advance notice. In order to maintain a minimum service, the employer can assign workers by designating specific workers who must stay and work.

**Informal ties** are also highlighted as important in this context by both types of social partner. Several interviewees mentioned that informal ties can facilitate access to specific interlocutors. Such ties and informal exchanges outside of official meetings can sometimes change the situation and unlock hook points.

### 3.4.6 Perceived effectiveness of social dialogue

Generally, the perception of social partners is that **social dialogue has appeared to decline in France over the last few years**. Representatives from the organisation of nurses particularly pointed out the fact their opinion is less solicited and when it is done, they do not feel that it has **any impact on the policymakers' agenda**.

*“For several years, we have not felt the impact of social dialogue neither at European nor national level. There is especially the impression of ... two worlds that evolve in parallel. Topics can be mentioned, but are not addressed. The actions proposed by the higher authorities are not in correlation with reality and envisage deadlines for implementation or achievement of results that seem so far away that the issues that have led to the reflection can only worsen by then.” (Representative of a trade union from the healthcare sector)*

### 3.4.7 Suggestions for improvements

From the European perspective, sectoral stakeholders mentioned **they would like to see a harmonisation of training** that would allow professionals from each country to practice in Europe without the need for partial exercise in France. This request has emerged over the past few years related to shortages of nurses in the hospital sector, as well as the increasing need of healthcare practitioners in some regions. In terms of harmonisation, European social dialogue was also mentioned as a way to achieve wage standardisation.

*“In terms of harmonisation, we would like European social dialogue to lead to a standardisation of wages. For example, hospital nurses in France are remunerated below the EU-average salary, whereas in Portugal, for example, they are well above.” (Representative of a trade union from the healthcare sector)*

It was also suggested that the law on the public-sector service must be digested by the actors involved to observe its good elements (e.g. there is the new mediation principle).<sup>34</sup>

Trade union representatives interviewed ask for **better recognition of the role of social actors**, which (in their opinion) are not recognised for their expertise in the field. They believe that their function as a social partner should be seen a richness of the system.

*“As an intermediate between the government and the people, we are able to provide knowledge that enriches discussions and facilitates the implementation of common objectives. It is difficult to understand why a ministry or any state agency does not respond to the requests of social partners seeking dialogue. Therefore, to make social dialogue more effective in our country and more particularly in the healthcare sector, we should start by convincing the government of the usefulness of such dialogue.” (Representative of a trade union from the healthcare sector)*

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<sup>34</sup> A major change with the recent law is the creation of a national mediator in the hospital public service with a team of regional mediators. This is an addition one compared to internal mechanisms. These are mediators between the regional health agency and the establishment director to bring up the existing topics within the institution. This new mechanism is there to fill in the gaps of the old mechanisms and is considered more neutral.

### 3.4.8 Articulation of social dialogue

While French social partners in the healthcare sector do generally participate in European social dialogue, the representatives interviewed within the scope of the EESDA project were not directly involved in this process. Therefore, the articulation of social dialogue in this sector as regards the European level cannot be assessed in detail. Nevertheless, some of the interviewees expressed their opinion on the articulation and effectiveness of European social dialogue in the healthcare sector.

*“We follow the developments of European-level social dialogue in the healthcare sector, but we are not sure about its effectiveness. Take the example of Directive 2010/32/EU implementing the framework agreement on the prevention of sharps injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU. Social partners were able to start an agreement on a text that passed without amendments to the Council. This is the only example, not very successful in our opinion though, of a Directive. Overall, we are not very convinced of the effectiveness of the results of European social dialogue in the healthcare sector. We are also aware that precise implementation of the directives varies greatly between Member States.” (Representative of an employer organisation from the healthcare sector)*

As far as the **European Semester** process is concerned, social partners interviewed stated that their **role is rather limited**.

*“Usually, social partners should be involved in this process, but our organisation is very little engaged in it, whether through the European Commission or at the national level. We also observe that during the preparation of the country progress report as part of the Semester process, the discussions we participate in do not lead to any concrete results. Social partners have no feedback and must read the Semester report to see the results.” (Representative of an employer organisation from the healthcare sector)*

At the national level, as recounted by the trade union representatives, bottom-up articulation appears to be relatively common in social dialogue in healthcare. On the other hand, engagement with the national level can also occur at the invitation of higher-level organisations. For instance, it was noted that the Department of Health can invite union representatives for discussions on important issues on the agenda. However, the unions are not sure about the actual impact of their inputs to the discussions.

However, over the last decade, some social partners feel the tendency of stigmatisation of the public service and **definition of the issues is done in a more top-down fashion**. At the micro level, the discussions are also becoming more of a top-down nature; for example, a hospital administration implements ministerial reforms imposed by the government despite opposition at lower levels on certain matters.

## 4. Discussion and concluding remarks

This report provides a country study of France focusing on the stakeholders’ experiences and views on the articulation of social dialogue at the national level, the interactions with European-level social

dialogue structures and a qualitative evaluation of the effectiveness of social dialogue in general. The report is organised in a way to cover these issues both at the cross-sectoral as well as sectoral levels, focusing on specific occupations in four key sectors: commerce (or retail), construction, education and healthcare. The methodological approach consists mainly of desk research and semi-structured interviews with national social partners in France.

French industrial relations have been characterised as one of the state-centred regimes in Europe, with relatively low levels of union density, which varies largely across public and private sectors, yet with a very high collective bargaining coverage (covering nearly nine workers out of ten). The country's social dialogue culture has a long history with constitutional preambles affording the right to join a union and take collective action. There are many social partner organisations representing workers and employers at various levels (national, regional, municipal and enterprise-level), which indicates a very fragmented setting for social dialogue in France. Traditionally, collective bargaining has been mostly conducted at sectoral and company level. At industry level, central agreements are concluded between employer associations and trade unions, and an extension of most agreements' provisions is granted in almost all cases by the Ministry of Labour.

French labour law specifies the actors who can participate in social dialogue. In particular, since the recent legislative changes concerning social partners, the representativeness criteria (based on regular elections) became the main condition to participate in bipartite or tripartite negotiations. More recent reforms from 2016 and 2017 went a step further in the decentralisation of collective bargaining agreements, giving company-level agreements precedence over those at sectoral level (with exceptions for some topics).

The main priorities of cross-sectoral social partners include social protection (i.e. unemployment insurance, retirement), equal treatment, well-being at work, gender equality, digitalisation, underemployment, access to training, right to disconnect (also related to work-life balance) and transferability of social security rights.

The social partners interviewed highlight that French social dialogue has undergone significant changes during recent political shifts alongside continuous reforms implemented by the government. In particular, some social partners consider that there has been a general deterioration of social dialogue in France. For example, it was found during the research that despite an increased level of consultations and exchanges with various actors, there are fewer agreements or negotiations. Furthermore, interview results suggest that coupled with the megatrends (e.g. digitalisation) in labour markets, the recent labour reforms accelerated the trend of liberalisation of work organisation and the shift towards less binding agreements. In this vein, some social partners asserted that their points of views are not sufficiently listened to by decision-makers. The interactions between social partners are also complicated at times, as there are often political or ideological differences between them and this can render any dialogue difficult. Nevertheless, informal ties have been highlighted as important (yet not always sufficient) to prepare a common ground where parties can try to understand the arguments of the other side.

In the commerce sector, social dialogue is extremely fragmented as the sector includes a diverse set of activities. Moreover, the sector is considerably impacted by the general trends transforming labour markets such as digitalisation and automation and changes in working conditions. The main topics of concern of social partners include working conditions (e.g. Sunday work, night shift) and skills (e.g. digital skills). Given the significant fragmentation of employer organisations, multi-employer

bargaining is predominant, and collective agreements are hard to reach. The articulation of social dialogue is usually done in a top-down manner.

In the construction sector, social dialogue is less fragmented than in commerce. The main priorities are skills and training, health and safety, working conditions, reducing accident risks at construction sites and attracting youth to the sector. Social partners mainly favour social dialogue outcomes of a binding nature consisting of collective agreements and legislative changes. There seems to be a mixture of perceptions regarding the effectiveness of social dialogue in this sector. The recent reforms impacting social partners (e.g. representativeness criteria, derogations from branch agreements) are viewed with suspicion. Social partners seem to desire more targeted responses in view of the specific needs of the construction sector.

The education sector in France is highly centralised and largely covered by the public sector. Social dialogue in the education sector is mainly institutionalised with several bodies that have consultative and advisory roles. The main topics of concern include levels of pay, working time and training of teachers. On top of the more general labour code reforms transforming the social dialogue setting, the education sector has witnessed more specific sectoral reforms in recent years (e.g. high school reform), modifying the agenda of the parties involved. Binding outcomes are preferred by most of the social partners interviewed and top-down transposition of national agreements are common in this sector. Nevertheless, there are concerns about the implementation of national agreements at local levels and interregional inequalities persist.

The healthcare sector is largely covered by the public sector and is composed of a labour force with a high degree of professional education. The sector faces high levels of shortages of care givers and nurses. The ageing of healthcare staff is another important trend; therefore, policymakers and social partners have been taking initiatives to attract people to develop the sector to meet the increasing demand for healthcare services. As regards the topics, pay, worsening working conditions (e.g. increasing work hours, burnout), staff shortages, absenteeism and health and safety emerge as the main priorities. With the recent legislative change (2008), collective bargaining was established for the whole public sector and it has been the main tool for determining wages and employment conditions since then. The interview results from this sector point to a deterioration of social dialogue, whereby some social partners assert that their voices are not heard by policymakers.

Generally, the involvement of French social partners – both cross-sectoral and sectoral – in European-level social dialogue could be considered as a moderate to high level of involvement. Most social partners interviewed, if not all, have affiliations with European-level social partners. However, the articulation from national to European-level is not very straightforward. The other way around (transposition from European to national level) is more common, if anything, but it depends on the sector. For example, in construction sector, the posting of workers directive was agreed at the European level and implemented at national level, but some social partners consider this transposition as distortionary. The distinction between European and national competence also enters into the picture, thereby influencing the perception of the effectiveness of European social dialogue outcomes at national level. As regards the European Semester, although it has been promoted by the European Commission as another platform of consultation for social partners and national stakeholders, the involvement of French social partners in the process remains limited.

This report comes out at a critical period in France. Some of the findings from the report resonate with the current situation. The yellow vest movement that started in the autumn of 2018 and the more recent strikes in December 2019 against reforms to the retirement system underline the complicated picture that is social dialogue in France.

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