The role of trade unions in France

Prof. Francis Kessler
Sorbonne law school
University Paris I
OUTLINE

I- Communication of Trade Unions with Political Level

II- Trade Union Representation at Company Level

III- Trade Unions: Perception of Workers/Employers

IV- Collective Bargaining at Company Level/Impact on business decisions
I- Communication of Trade Unions with Political Level
Methods, Procedures or Practices

• **Role and constitution of trade unions:**

• **Preambule to the Constitution of 1946:** « *all persons are entitled to defend their rights and interests through trade union activities and to join the trade union activities and to join the trade union of their choice*.»

• **To constitute a trade union:** to draft statutes of the trade union and to register statutes with the city hall where the trade union is located.

The exclusive purpose of a trade union is to protect the professional interests of its members (Article L. 2131-1 of the French Labor Code).
Methods, Procedures or Practices

- Legal form of union recognition: a decree from 1966 granted representativeness at national level to 5 union confederations.
Trade union representation

- Since a new law dated August 20, 2008, all the trade unions (both at the company and at the branch and at the national levels) have to demonstrate their representativeness by complying with new criteria (Article L. 2121-1 of the French Labor Code)
  - Respect of republican values;
  - independence;
  - financial transparency;
  - minimum seniority of two years in the professional or geographical scope concerned;
  - minimum percentage of votes at the last professional elections (10% at the company level and 8% at the branch and national levels);
  - influence, which is mainly characterized by the activity and the experience;
  - importance of the membership and of the contributions received.
Methods, Procedures or Practices

Social dialogue:

National level

Ministry of Labour

Legislator

Presentation of political guidelines on individual and collective labour relations for the coming year before the National Commission on Collective Bargaining

Interprofessional National Agreements

Prior consultation on individual and collective labour relations for government reforms

Trade union organizations
Labour inspection duties

Checks and interventions in the workplace

Support, coordination and cooperation

Labour inspection

Advice and Information for employers and employees

Early-warning and proactive role on legal matters
Methods, Procedures or Practices

• **Extension of collective agreement:** the Ministry of Labour can extend collective agreements to entire sectors of activity or to geographical regions after a prior consultation with the National Commission on Collective Bargaining.

  **Consequences:** companies not members of an employer organization which have signed an agreement are covered by a sectoral agreement once it has been extended.

• leads to a **coverage rate of 97%** in the private sector and **99%** in industry in 2009.
Methods, Procedures or Practices

• **UNEDIC** (National professionnal union for employment in industry and trade): the legislation has mandated the main trade unions (CGT, CFDT, FO, CFE-CGC and CFTC) and employer organization (Medef, CGPME, CPA) to manage the compulsory insurance for unemployment.

• **AGIRC-ARRCO** (General association of retirement institutions for executives – Association for employees’ supplementary schemes): collective agreements are of most importance for AGIRC and ARRCO schemes: rules, implementation, supervision of the pension institutions are regulated in collective agreements.

• **Ex:** *Collective agreement, 13 march 2013*
Labour inspection duties

- Checks and interventions in the workplace
- Support, coordination and cooperation
- Labour inspection
- Advice and Information for employers and employees
- Early-warning and proactive role on legal matters
II- Trade Union Representation at Company Level
Basic Set-up of Workers’ representation

- Workers representation by **elected members** (works councils, employee delegates)

- Workers representation by **appointed members**

- A trade union is represented, within companies, by a union cell ("section syndicale"), and by one or several trade union delegates ("délégués syndicaux").
Workers representation by elected members

- **Works councils:** for companies employing at least 50 employees (LC, art, L. 2321-1). Works councils members are elected on the basis of proportional representation and during a term of office of 4 years.

- The number of seats available for elected employees depends upon the total number of employees in the company.

- **Employee delegates:** for companies employing 11 employees or more (LC, art. L. 2312-1). Elections take place in the same conditions as for the Works councils and the term office is also 4 years.

- Employee delegates must assist employees in submitting their grievances to the employer, control the proper application of provisions of the Labor code.
Workers representation by appointed members

• **Trade union delegates**: delegates represent its trade union for the employer and may present claims to the employer to improve working conditions.

• Delegates must negotiate and conclude collective agreements. The number of trade union delegates is based on the number of company’s employees.

• **Staff representative**: companies with 11 or more employees.

• The number of staff representatives varies depending on the workforce of the company.
Levels of representation

Group

Company

Establishement

Establishement committee

Group works council
European works council

Works councils
Employee delegates
Trade union delegates
Staff representative
III- Trade Unions: Perception of Workers/Employers
Perception of workers: crisis of unionism?

- Important decrease of unionization rate: around 8% in 2011.

- Why a such decrease?
  - Trade unions are not preferred interlocutors of employees for defending their interests: employees prefer direct discussion with the management.
  
- In the French industrial collective relation system, it is not necessary to belong to a trade union to benefit from provisions contained in a collective agreement.
Perception of employers

• More and more collective agreements: 19% of agreements are based on unilateral decisions taken by the employer, 21 % approved by company referendum.

• Trade union representation perceived by employers as « a contact who represents workers’ community » (Opinion poll, 1998-1999)
IV- Collective Bargaining at Company Level/Impact on business decisions
Collective bargaining at company level

- Paradoxe of French industrial relations system: low unionization rate around 8% and very high rate of collective bargaining coverage, close to 98% due to extension of collective agreements and compulsory negotiations.
Collective bargaining at company level

- Main fields of company collective bargaining:

- The most important prerogative of trade union delegates is the monopoly they have in negotiating and concluding in-house collective agreements with the employer.
- In principle, an in-house collective agreement cannot be validly concluded without being signed by a trade union delegate (Article L. 2232-16 of the French Labor Code), even where the majority of the company’s employees is favourable to such an agreement.
Collective bargaining at company level

- Main fields of company collective bargaining:
  - Equal opportunities between women and men;
  - Vocational training;
  - Pay;
  - Equal pay between women and men;
  - Working conditions of part-time employees.
Collective bargaining at company level

• In the past, company level agreements could not provide worse terms and conditions than those set by the appropriate industry agreements.

• Legislation introduced in 2004 allows company level agreements to diverge from the industry agreement in areas where this is not specifically prohibited by the industry agreement, with the exception of a number of key issues such as minimum pay rates where divergence is prohibited. And the 2008 legislation gave primacy to company level rather than industry level agreements in the area of working time.
Collective bargaining at company level

- New legislation passed in May 2013, which implemented an agreement on employment security signed by three of the five nationally representative union confederations in January 2013, makes it possible for companies in financial difficulties to reduce some pay rates, although not the very lowest, as well as making changes to working time. However, these agreements will need the support of unions representing a majority of employees and will last a maximum of two years.
Collective bargaining at company level

- **Company collective agreements for the preservation of employment:** (Law on protection of employment, June, 14, 2013; LC, art. L. 5125-1 et seq.)

![Diagram](Diagram.png)

- Conclusion of a company collective agreement
- Workforce
- Salaries and/or working hours
- Serious cyclical difficulties in a company
- 2 years max
Questions?
Thank you for your attention!