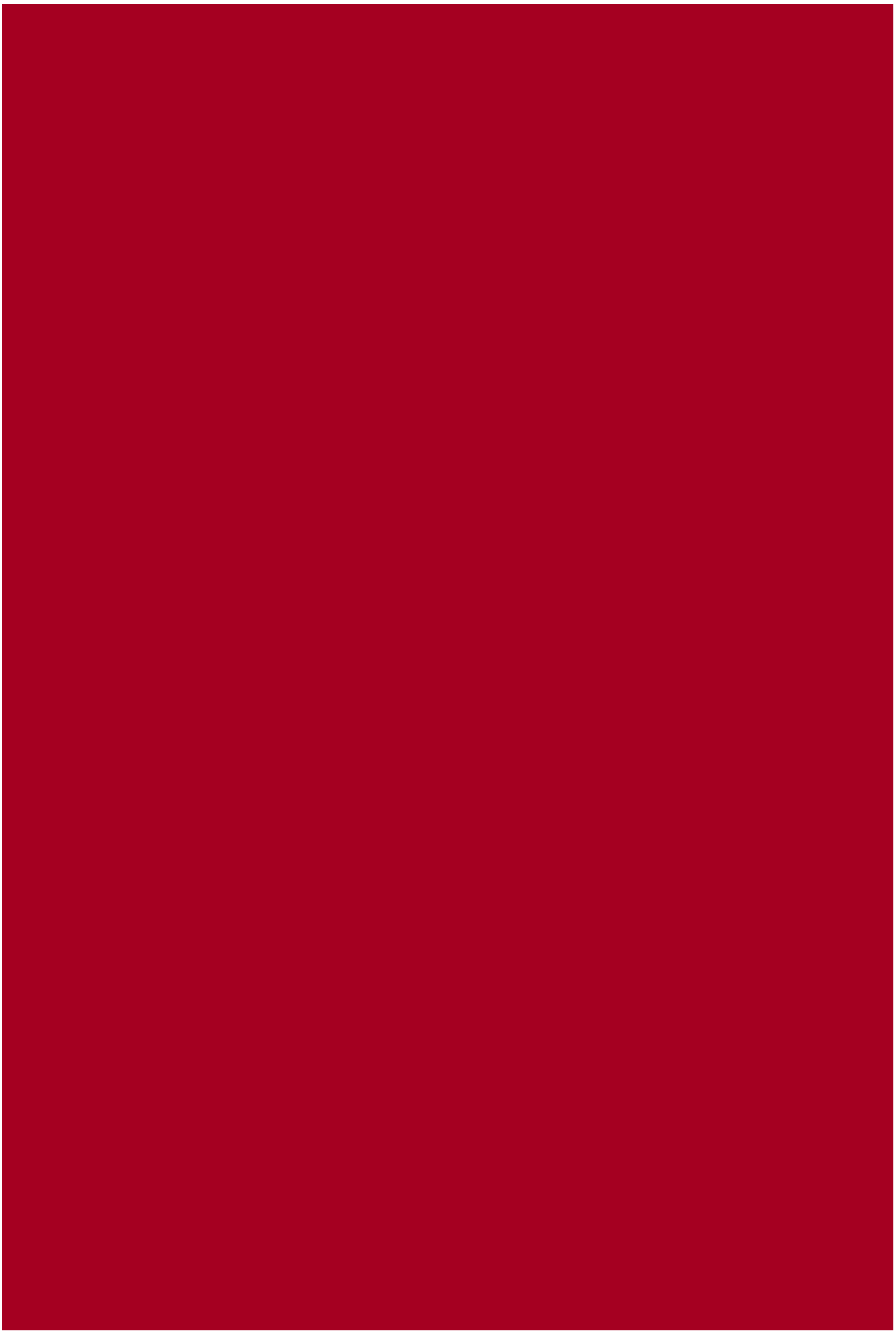
Managing people in France

Including a note about imminent changes in the Labour Code to be announced in August 2017

Collinson Grant



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Update – August 2017

The new President, Emmanuel Macron, announced in spring 2017 as part of his early decisions if elected, a major rewriting of the French Labour Code. The process is now well underway, following numerous consultations between the French Labour Ministry and representative Trade Unions this summer.

The detailed proposal has now been presented to the Cabinet and will be announced to the public at the end of August, when it will be included in the parliamentary agenda. The choice of a fast tracked parliamentary procedure should allow a final vote to take place before the end October 2017. The main changes to be included in the revised Labour Code are expected to be:

- Company agreements should gain, under specific conditions, primacy over branch or industry agreements.
- All existing employees' representative bodies in companies should be regrouped in one single entity.
- The law should provide a minimum and a maximum level of indemnities to employees who have won an unfair dismissal case against their employer. The current existing delay (12 months) under which any employee can sue his former employer for unfair dismissal should be reduced.
- The various existing redundancy cases should be managed within the same set of procedures.
- Rules to validate a company's agreement should be extended to direct consultation with workers.

We will update this document as soon as these proposals become law.

Introduction

France is notoriously hard for a foreigner to write about. For one thing, the French write so much (and so well) about it themselves. And France is so close. London is nearer to Paris than to Edinburgh by train, and Britons make 15 million visits to France every year. But France is so different.

Britain since the war has been characterised by decaying infrastructure, social polarisation, and the cultural impoverishment that makes David Beckham an icon. In France, conversely, the Fourth Republic overhauled the administrative structure and shaped the technocratic elite that modernised the economy at twice the British rate. Jean Monnet laid the foundations of European integration and clinched the Treaty of Rome. Sartre, Camus and de Beauvoir commanded international attention.

And then De Gaulle, coming to power on the back of military revolt in Algiers, restored France to grandeur. The Algerian War was brought to an end, a new Republic founded, the economy modernised and farming protected by the Common Agricultural Policy. France became the only truly independent power in Europe, equally dismissive of the American war in Vietnam and of Israeli

ambitions in the Middle East. And the intellectual renaissance continued: Levi-Strauss in anthropology, Braudel in history, Barthes in literary criticism and Lacan in psychoanalysis did work both original and radical. Under Hubert Beuve-Méry, Le Monde became indisputably the finest newspaper in the world. And in Truffaut, Godard and others, France possessed the greatest of film directors.

All this has passed. *A bout de souffle* has given way to *Amélie*, a cultural decline particularly striking in Le Monde. And if increasing unemployment, the rise of xenophobia and the far right, the marginalisation of immigrants, and broader access *to* but falling standards *in* education have been world-wide phenomena, they have taken acute forms in France. Globalisation may have proceeded as elsewhere: the value of the stock market as a proportion of GNP has tripled; and foreign equity in French companies has risen to. But the dominance of the market is resisted, along with the idea that society can be the outcome of a rational aggregation of the interests of individual actors. In Catholic France, society is still seen as ultimately dependent on an apex of authority.

That is why the perceived corruption of that apex has bred so profound a cynicism. The ruling elite, still largely drawn from the Ecole Normale d'Administration (ENA), is seen as using public office for private ends. *Pantouflage* - high functionaries gliding noiselessly from business to politics and back again - is one symptom of the inbreeding of that oligarchy. And its estrangement from public concerns, and its perceived failure to dispense social justice, were exemplified in the attempt to make the labour market more flexible by allowing companies to dismiss employees under 26 during the first two years in a job without giving a reason. This fatally confused an age group with a sociological category. Street protests - by no means confined to the young - promptly reasserted the citizens' right to be treated as human beings rather than as human resources.

Although only 7% of the workforce are members of trade unions, that propensity for spontaneous combustion in the street remains strong. Even so, the France of today is vastly different from the France of 20 years ago. The neo-liberal reform offered by every government, right or left, has opened much of the public sector to competition, ceded sovereignty to the EU, relaxed regulations on trade, made employment law increasingly flexible and reformed pensions and unemployment benefit. A Jacobin country wedded to national sovereignty has submitted itself to the authority of the Commission in Brussels, the judges in Luxembourg and the European Central Bank in Strasbourg. But are the institutions of capitalism and their current protagonists consistent with *liberté* and *égalité?* That tension remains unresolved.

Context

A marriage of true minds

A survey conducted by Libération and the Guardian in 2004 found that six out of ten English people could name no living French person at all

France is the largest country in Western Europe and Paris the centre of European civilization. (A short walk along the Seine from La Place de la Concorde to the Louvre and the Musée d'Orsay and across Pont Neuf to Notre Dame and the Isle de la Cité should convince any skeptic.) So English speakers hoping to do business in France should know a little about it.

France's 66 million inhabitants include the largest Muslim and Jewish populations in Europe. About 50% of the people describe themselves as Roman

Catholic, 10% as Muslim, less than 2% as Protestant and about 1% as Jewish. Over 30% acknowledge no religious affiliation.

The government is led by the President (head of state) and the Prime Minister (head of the government). The legislative branch has few checks on executive power. There is a bicameral parliament. The 577 Deputies in the National Assembly, the principal legislative body, are directly elected for five-year terms. The 348 members of the Senate are chosen by an electoral college and serve for six years, half of them being replaced every three.

Law is governed by the Court of Cassation (civil and criminal law), the Council of State (the administrative court) and the Constitutional Council (constitutional law).

The 13 administrative regions in continental France contain 96 departments. There are five overseas departments - Guadeloupe, Martinique, French Guiana, Reunion and Mayotte. There are also a number of overseas collectivities. Each department is headed by a Prefect appointed by the government. The 36,000 mayors elected in each town and village occupy a special place in French life. They represent the state locally, organize elections, conduct marriages, grant planning permission, and can be a political force to reckon with. Many are also Deputies, and a few are Ministers. And 72% of the public has confidence in them, whereas Deputies merit the trust of 30% and Ministers of only 15%.

About 75% of the workforce of 28 million is in services, 22% in industry and commerce and 3% in agriculture. The main industrial sectors are aircraft, electronics, transportation, textiles, clothing, chemicals, machinery and steel. Government spending at 53% of GDP is among the highest in the G-7.

Education is almost free. It begins at 3, is mandatory from 6 to 16 and boasts 91 public universities and 175 professional schools, including the post-graduate Grandes Ecoles. Private education is largely Roman Catholic.

History

The statue of Charlemagne broods beside the Seine, attracting few glances from the swarming visitors to Notre Dame who don't know who he is. The certitudes of the 'Petit Lavisse' - the primary school textbook that explained how successive heroes had contributed to making France the beacon for humanity culminating in the Third Republic (1870 - 1940) - have given way to the monumental Lieux de Mémoire (Sites of Memory) of Pierre Nora, subverting that heroic narrative but also prolonging it. With the passing of De Gaulle and the declining influence of the Church, the Communist party and the trade unions, the past is no longer representative of a collective national identity but a repository of sectional memories, fuelling both the xenophobia of the National Front and the disintegrating multiculturalism of SOS Racisme.

After the revolution of 1789, France four times reverted to absolute rule or constitutional monarchy: under Napoleon; Louis XVIII; Louis-Philippe; and Napoleon III. The glories of the Third Republic were severely tarnished by the enormous loss of life in the First World War and by the occupation of half of France in June 1940 and of the whole from November 1942, combated, however, by the unequivocally heroic Resistance. But since the 'thirty glorious years' of 1945 - 1975 (see Introduction), French leaders have increasingly tied

National Champions

Before the financial crisis of 2009/2010, the government had been reducing its involvement in business. The state had sold its majority holding in France Telecom and had allowed those businesses still in state control, such as Electricité de France (EDF), to adopt a more market-orientated approach. But the crisis has reversed the tide.
The Fonds Stratégique d'Investissement, jointly owned by the Caisse des Dépôts and the government, has been set up under Président Sarkozy to invest €2billion a year in French companies. So Valéo, which makes parts for cars, has been defended against a predatory American fund, Pardus Capital. And the transmission and distribution arm of Areva was sold to Alstom and Schneider Capital - both French - despite a higher bid from Toshiba.
The FSI has invested in DailyMotion, a rare French start-up in the internet industry and a competitor to YouTube. Most controversially, Henri Proglio was appointed head of EDF while maintaining a position at Veolia Environnement, a violation of the norms of corporate management that drew a rebuke from the impressive Economy Minister, Christine Lagarde,, and was swiftly corrected.

the future of France to the development of the EU, with which it does 62% of its trade. And since 2008 France has played a leading part in the Union for the Mediterranean (UM).

Domestically, the contribution required for a full pension has been extended and 'minimum service' has been required even during strikes. The regulations enforcing the 35-hour week have been relaxed too. These neo-liberal reforms all tend to remove restraints on employers. So opposition can be expected.

The identity of France

Tourists marvelling at Versailles, where Louis XIV spent a quarter of GDP, seldom realise how recent the identity of France as a fiercely independent unity actually is. When the Abbé Grégoire sent out in 1790 a questionnaire asking what languages people spoke, the answers (at least those he could understand!) were alarming. Six million French citizens couldn't speak French at all. O Oc Sí Bail Ya Win Oui Awè Jo Ja and Oua were all ways of saying Yes. The Abbé consequently fired off a report that patois must be exterminated. Yet when the Virgin Mary appeared to Bernadette at Lourdes in 1858, she spoke the local dialect. And even within living memory, some grandparents recalled being reproached for lapsing into the vernacular in the playground. Until recently, most French people lived in isolated communes, found brides within earshot of their local church bell and wore the isolation of their *pays* from the ne'er-do-wells in the next village as a badge of pride. Even the Tour de France, the greatest annual sporting event on earth, was initiated in 1903 partly as a vehicle to celebrate and unify the nation.

The enduring popularity of Alain Fournier's *Le Grand Meaulnes* (The Lost Domain), published in 1913, reflects the national nostalgia for *la France profonde*, the great good place, distant yet familiar, that still manifests itself in a reluctance to acknowledge other cultures as equal, to celebrate diversity, or to speak foreign languages. (French is the language of business in France - by law.) And it is shown in a tribalism that infuses society far more than in England. So workers regard *their* jobs as sacrosanct, and reckon that the company has a moral obligation to protect them. The law may be the law, but that did not prevent Sony's workers from taking hostage its head, Serge Foucher, until they got the better deal on redundancy that *they* wanted. Local and sectional interests are asserted - and acknowledged. The police did not free Foucher. And when, some years earlier, anti-capitalists demanded free train rides to Nice to disrupt a European summit, the transport minister met them half way and offered a 50% reduction.

The potent brew of parochialism-cum-nationalism and political cynicism makes France peculiarly receptive to the idea that the untamed capitalism of the last 30 years has been the product not of rational economic actors but of stampeding herds of - usually American - electronic gamblers: that the processes that led to the crisis in banking in 2007-2008 are not only unjust but environmentally and politically unsustainable.

Hierarchy

Two elements play a distinctive part in business in France. One is the government. The other is education.

Since the war, the government has fostered the development of 'national champion' companies large enough to meet international competition. Mainstream business has accepted this, and has worked closely with the civil servants involved.

The Grandes Ecoles

CEPR, a European group that conducts economic research, found that companies led by grandees from ENA and the Ecole Polytechnique tended to appoint to the board fellow graduates from those schools, but also tended to under*perform other firms.*

This cooperation has been abetted by the predominance of graduates from the Grandes Ecoles in both the civil service and commercial organizations. This not only creates an affinity, but also leads to elaborate planning and to a centralization of HQs in Paris.

Nevertheless, the hierarchy remains strong. The Président Directeur Général (PDG) tends to determine the direction of the company, and his juniors follow it and report to him. Obviously this is a less collaborative approach than is taken in, say, Sweden. It suits stable and prosperous businesses. But it inhibits quick responses *to* and personal responsibility *for* local difficulties.

More positively, it produces at the top of companies an academic rigour that is unmatched. 'Intellectual' is not a dirty word in France. Decisions in business follow painstaking analysis of complexity.

The intellectual approach

'This idea seems all right in practice. But will it work in theory?

French manager (apocryphal)

The collaborative ideals of 'Human Resources Management' in the English-speaking world - commitment, motivation, teamwork and so forth - figure less prominently.

This hierarchical structure extends to the running of meetings, which, in the presence of the PDG, rather confirm decisions than invite dissent. Other opinions are normally aired earlier and less formally. In the absence of the top dog, however, debate can become heated as competing egos relish the opportunity to display their powers of logic. This competitive edge is less concealed than in English-speaking countries, and is reflected in a preference for working towards personal objectives rather than as part of a team. Teams, when they do work well, are rather diverse specialists serving one leader than equal collaborators.

Precision

Logical, even rhetorical, argument requires precision, even elegance, in the use of language. This is utterly remote from the English preference for seeking solidarity in conscientious banality. So it can be discomfiting to find that the aim in discussion may not be to blur the differences and achieve a comforting mush of consensus but to sharpen the distinctions. France has, according to the sociologist, Hofstede, strong 'uncertainty avoidance', and hence an aversion to risk.

Dress

Costlythy habit as thy purse can buy,
But not express'd in fancy; rich, not gaudy:
For the apparel oft proclaims the man;
And they in France of the best rank and station
Are most select and generous chief in that.

This precision carries over into business attire. The French dress well, and expect that crisp discipline of others.

They also maintain a private sphere: the relationships that must be established before business begins can be developed over a long lunch, but invitations to dinner are less likely. The evening is for personal, not business, life.

Comportment

Titles are important. A reserved formality will serve you best. The *vous* form of the verb is almost invariably - and certainly in the office - the safer option. Some French colleagues do switch automatically from *vous* in the office to *tu* in the café, but that is a difficult trick for a non-native speaker. Do shake hands on each and every introduction and at the start of each day.

Discussion may range more widely than in England. Football is not a mandatory topic. Cuisine, literature, the arts and politics may well be raised over lunch or even in meetings. However, personal circumstances, political affiliations and positions held are off limits. And the observation that Madame Sarkozy is fit, though undoubtedly accurate, is not original. Decorum is the key. Do not invade privacy, assume intimacy, discuss your family, make jocular remarks about Jeanne d'Arc or Napoléon, show impatience with rigorous debate, try to rush towards an agreement, chew gum, put your hands in your pockets, slouch, or avoid eye-contact. And do not be put off by argument - it is a recognition of your individuality - or by the fact that French people stand a few inches closer than you are used to.

Nose to nez

'Some eighteen inches from my nose
The frontier of my person goes'
W H Auden

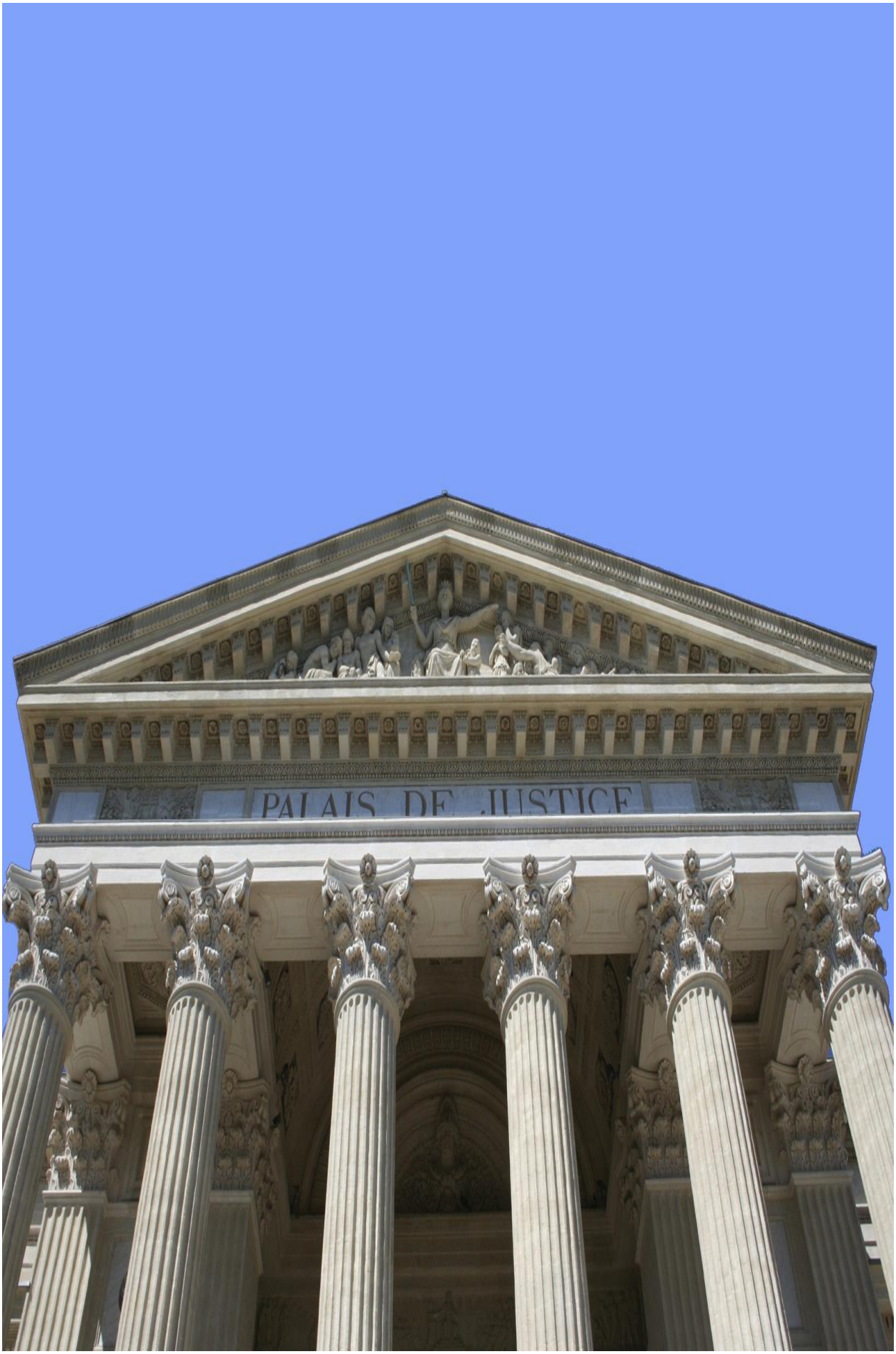
Expect direct and factual questions and have the information to hand. Offer punctuality but do not expect it: in France the journey matters more than the time of arrival.

Remember that what an English speaker thinks is a tactfully understated hint may well be taken more literally.

The British say ...	And the British mean...	But the French understand ...
With the greatest respect	I think you are wrong	He is listening to me
Quite good	A bit disappointing	Quite good
Perhaps would you like to think about / I suggest	This is an order. Do it or be prepared to justify yourself	Think about the idea but do what you like
Very interesting	I don't agree / I don't believe it	He is impressed
Could we consider some other options?	I don't like your idea	He has not yet decided
I almost agree	I don't agree at all	He is not far from agreement

Part 1

Employment law and Industrial relations


PALAIS DE JUSTICE

Overview

France has developed highly structured and complex rules and regulations for the protection of the employee. Most of them are embodied in the Labour Code (*Code du Travail*). But many rules also derive from case law, because of difficulties in interpreting the Labour Code. This is in addition to the growing number of international sources of labour law, including international treaties, the ILO convention and EU treaties and directives. Many provisions of the Labour Code find their origin in European laws.

Employment is also regulated by collective bargaining agreements (*conventions collectives*). These agreements are negotiated at national or regional level between unions representing employers and employees within a given business sector. Collective bargaining agreements must be applied by the employers developing their activities in the business sector concerned if (i) they are members of the employers' union who signed the agreement or (ii) the application of the agreement has been extended to the whole profession by the ministry of labour.

A company may also enter into an in-house collective bargaining agreement (*accord d'entreprise*) with one or several representative trade unions. Other agreements may also be entered into with employees' representatives. They are defined as atypical agreements (*accords atypiques*).

Customs that are consistently applied in an enterprise may also be binding.

The employment relationship may also be regulated by internal regulation (*règlement intérieur*) which is necessarily established in a company with 20 employees or more.

Finally, there is the contract of employment entered into between the employer and the employee.

Where two or more of these sources differ, the general rule is that the provision that contains the most favourable terms for the employee prevails.

Employers' and employees' organisations

Employees' organisations

All employees have the right to join a trade union of their choice, cease membership when they wish, create a union or not belong to one at all.

French trade unions are not closely regulated. Anyone who has been engaged in a professional activity for 12 months or more is free to set up a union, provided that certain formalities are observed, such as the appointment of a leader and the filing (at the town hall) of articles of association and a list of administrators.

In France, as in the UK, trade unions are legal entities. They have the legal capacity to acquire, own and dispose of goods, contract in their own name and instigate or defend legal proceedings.

It is important to note that only five unions are deemed 'representative' by ministerial order and have the power to enter into collective bargaining agreements on behalf of the employees. These are:

- CGT (*Confédération Générale du Travail*) historically linked to the Communist Party and mainly representing blue collar workers in manufacturing, general engineering, chemicals, mining, steel and the docks
- CFDT (*Confédération Française Démocratique du Travail*) mainly representing engineering, chemicals, the nationalised sector and certain white collar sectors such as banking and teaching
- CGT - FO (CGT Force Ouvrière)
- CFTC (*Confédération Française des Travailleurs Chrétiens*) mainly representing health, teaching and engineering
- CGC - CFE (*Confédération Française de l'Encadrement*) representing engineers, executives, supervisors and technicians in engineering and chemicals.

Unions play an important role. But membership is low (around 10%).

Since the Act of August 20th 2008 there has been a new assessment of representativeness.

To be considered 'representative', an organization must fulfil certain cumulative criteria. It must

- demonstrate respect for the principles of the Republic of France
- be independent, economically and politically, from the employer
- meet legal conditions for financial transparency
- have been legally established for at least two years
- have obtained sufficient votes in the last elections for the works council or representatives
- have influence (priority, activity and experience)
- have sufficient members and contributions.

At company or unit level, a union can be considered 'representative' if it received at least 10% of the votes (excluding blank and invalid votes) in the first round of the election of the works council, the employees' representatives (*Délégués du Personnel*), or a regrouping of both (*Délégation Unique du Personnel*).

Employers' organisations

Employers also have the right to group themselves together for the purposes of conducting industrial relations, including the negotiation of collective agreements.

The main national employers' organisation is the MEDEF *(Mouvement des enterprises de France)*, which represents approximately 75% of employers. The MEDEF is empowered to negotiate with trade unions on all matters concerning companies at multi-industry at a national level. National collective bargaining agreements concluded in recent years have covered technological change, flexible working time, working conditions, equality of opportunity in the workplace and training.

Small and medium sized companies are also represented by two employers' organisations: the *CGPME* (*Conféderation Générale des Petites et Moyennes Entreprises*), which represents those with up to 500 employees, and the *SNPMI* (*Syndicat National du Patronat Moderne et Indépendent*).

There is also a sectoral employers' organisation for each industry, covered by a sectoral collective agreement. The two largest and most prominent are in chemicals, the *Union des Industries Chimiques* (*UIC*), and, in engineering, the *Union des Industries Metallurgiques et Minières* (*UIMM*). Bargaining on terms and conditions is carried out both nationally and regionally: in most industries, the regional sections of employers' organisations and union confederations conduct negotiations on pay. Other sectoral employers' unions such as the SNIP for the pharmaceutical industry (*Syndicat national de l'industrie pharmaceutique*) or the SYNTEC for IT, studies and advice activities (*Syndicat des sociétés d'études et de conseil*) are very active.

Internal regulations

Internal regulations must be issued in all companies with at least 20 employees. The French labour code lists the clauses that may be included in internal regulations: health and safety; disciplinary procedures and employees' rights; sexual harassment; and bullying at work.

Before any application of the internal regulations, the employer must:

- submit the project to the works council (or if there is none, the employees' representatives) and to the health and safety committee for health and safety issues
- send two copies of the internal regulations to the Labour inspector for approval. The Labour inspector may require that certain illegal clauses be deleted or amended.
- file the document in two copies with the clerk (*secretariat greffe*) of the labour courts.

The same procedure should be performed when the employer amends the rules.

Employees' representation and works councils

Employees' representation is determined largely by statute requiring representative bodies to be directly elected by the whole workforce at establishment or company level. Trade union representation in the workplace is also provided for by law. So there is a dual system of employees' representation.

In the absence of union representatives within the company, members of the works councils or employees' representatives may negotiate and conclude in-house collective agreements.

The representatives have the right to paid time off to carry out their duties.

Representatives also benefit from statutory protection, notably in case of dismissal, modification of their working conditions or transfer of their contract of employment, during the whole of their term of office. Candidates enjoy similar protection for six months from the publication of the list of candidates. So do former representatives, for six months following expiry of their term.

Failure to observe obligations towards employees' representatives at any stage may result in criminal penalties against the employer in the form of fines or a possible jail sentence for the officer concerned.

The type and the number of employees' representatives depend on the number of people employed by the company.

Employees' representatives

Any company employing at least 11 employees is required to organize the election of employees' representatives (*délégués du personnel*) by the workforce for a four-year period. Their role is to submit to the employer individual and collective claims of employees on remuneration, work safety, hygiene, rights generally and the terms of the collective agreement issues. (Nevertheless, employees can submit their claims directly if they wish to do so.) They can also inform the labour inspector (see later) of other employment issues, if necessary.

The election process is the same as for works councils (see below). The number of representatives depends on the number employed. It ranges from one in companies with 11 to 25 employees to 10 in companies with 1,000 employees. Beyond 1,000 employees, one additional representative must be elected per 250 employees. If the size of the workforce requires more than one representative, separate representatives are elected for workers on the one hand and for technicians and the supervisory staff on the other.

In companies with fewer than 150 employees, the works council must meet every two months, whereas in companies with at least 150 employees, the works council must meet every month. Moreover, when the staff representatives also represent the employees on the works council in companies with fewer than 200 employees, the works council must meet every month. Additional meetings can be organized.

The employees' representatives also perform some of the prerogatives of the works council when such a council has not been elected, even though the legal conditions for such an election have been met.

Works councils

Companies with at least 50 employees must organise the election of a works council. Large companies maintaining several establishments have a central works council (*Comité Central d'Entreprise*) at company level and establishments works council (comité d'établissements) within their

establishments having 50 employees at least. A group works council (*Comité de groupe*) can also been set up within a French group of companies. To be a French group, both the parent and all the covered subsidiaries must have their head offices in France (i.e. be French companies). The establishment of a European works council (*Comité de group européen*) can also be required in enterprises of a Community scale. The definition of Community-scale covers enterprises or groups with at least 1,000 employees in states which have signed the provisions of the EC Directive 94/95 on the establishment of a European works council, with at least 150 employees in each of at least two states covered by the directive.

The works council is the most important entity representing the staff. Its powers are wider than those of the employees' representatives. Its purpose is to represent the collective interests of the employees in the company or establishment in which it has been elected.

Elections are organised in two successive ballots. Only representative trade unions may propose candidates at the first ballot. If there is no unions' candidates or if not enough voters participated in the ballot, the employer must then organise a second round of elections, in which any employee with at least one year's service with the employer may be a candidate.

The number of seats on the works council depends on the number of employees working in the company. The figures below are only for 'principal members', to which must be added an identical number of 'deputy members':

50 to 74 employees	3 members
75 to 99 employees	4 members
et cetera	
between 1,000 and 1,999	8 members
10,000 and over	15 members

In addition, unions are entitled to appoint their representatives. The representatives are allowed to participate in all debates but they never vote

The employer, represented by the corporate manager or his/her appointee, chairs the works council meetings. The members are elected for a four-year term. A secretary is elected from them.

As described above, the council must meet once a month, except in companies with fewer than 150 employees, where it can meet once every two months. A notice and the agenda of the meeting, which is decided jointly by the employer and the elected secretary of the works council, must be given by the employer to the members of the works council before the meeting. Failure to call the works council is a criminal offence.

The employer is legally obliged to provide regular information to the works council on the economic situation of the company, employment, finance, and training of the workforce.

In commercial companies, two to four members of the works council are appointed by the council in order to attend board meetings in a consulting capacity. They must be given the same information and documents as the members of the board. Two members of the works council are appointed to the shareholders' meetings. They have the right to be heard by the shareholders' meeting when the shareholders deliberate matters that require their unanimous vote.

To enable the works council to carry out its duties, the employer must contribute an amount representing 0.2% of the total wage bill. Employers must also provide premises as well as necessary services and equipment such as phone lines, computers and access to photocopiers.

Elected members of the works council are also allowed paid time off by the employer to perform their duties. The employer is prevented by law from subjecting the use of this time off to his/her prior authorisation or from trying to control the use of such time. However, should he/she discover the time off has been misused, the employer may seek repayment in court. But deducting the corresponding salary without having obtained the court's permission is a criminal offence.

The works council may be assisted by external experts. In some cases determined by law, the cost of the expert must be borne by the employer.

The works council may bring legal proceedings for damages if it believes the employer has taken decisions in breach of the rules for the involvement of works councils.

The competence of the works council

The most important competence of the works council lies in its rights to be informed and consulted before any decision is made about the organisation, management and general operations of the company, in particular any decision that may affect the structure or number of the workforce. The works council's opinion is not binding, but must be rendered before the decision so that the employer can take it into account.

Consultation with the works council requires the employer:

- to consult the works council before a decision is made and implemented
- to provide the council's members with true, detailed and written information in the form of a report a reasonable time before the meeting
- to engage in clear and transparent debate to enable the council to give its opinion.

In addition to many other situations, the discussion of which is beyond the scope of this document, the company must in particular inform and consult the works council under the following circumstances:

- when restructuring or redundancies are contemplated

- to discuss any plans or events that could affect the economic or legal organisation of the company, such as a merger, transfer, demerger, acquisition of a subsidiary or setting up of a new subsidiary
- when the conclusion of a collective agreement is contemplated.

Consultation means that the employer must get an opinion from the works council. Works council members may refuse to give an opinion, arguing that they need additional information. In such a case, the employer may have to hold another meeting to provide the requested information, which would delay the decision and its implementation, or go in court to obtain an order stating that the works council has been sufficiently informed.

In other cases, the employer must just inform the works council:

- in the event of a takeover bid or tender offer:
- if the company is a party to an integration operation, when the works council must hold a meeting three days after the publication of this project for integration, and, possibly, hold a second meeting if an expert is appointed.

The works council also manages or controls the management of the social and cultural activities provided by the company for the benefit of the employees, such as canteen, housing, holiday organisation, vocational training, medical services, welfare, etc.

Single representation of the staff

In companies with more than 50 but fewer than 200 employees, the employer may decide, after consulting the representatives of the staff, to set up a single body to represent the employees (*délégation unique du personnel (DUP)*), which means that the same people will be the employees' representatives *and* members of the works council and carry out the functions of both institutions, with a view to avoiding multiplying the number of representatives in medium-sized companies.

Health and safety committee

Companies with 50 or more employees must set up a Health and Safety committee (*chsct: comité d'hygiène de sécurité et des conditions de travail*). This committee is made of the employer or its representative, staff representatives and, in an advisory role, experts, such as the medical officer required by law to carry out examination of the employees in companies having more than 300 employees.

The purpose of the committee is to protect the health and safety of the employees in the workplace; raise their awareness of risks; inform them about preventative measures and improve their working conditions. The committee must be consulted before any decision is made about significant changes in health and safety at work, changes in work stations, changes in methods of production or any other matters affecting the health and safety of employees.

One other purpose of the committee is to maintain the 'Document Unique': this document lists all the risks existing in a firm and the way to prevent them.

Social and Economic Entity (UES)

If the same executive committee issues managerial decisions for two (or more) companies that separately have fewer but together more than 50 employees, the ensemble will be treated as a Unité Economique et Sociale (UES), and the obligation to set up a works council and other representative bodies will apply.

Trade unions

There are five trade unions in France that are deemed by ministerial order to represent the employees at national level in negotiations with the company and which can appoint union members or present candidates for election as employees' representatives in a company. But other trade unions may also be recognised as representative of the employees in a particular company, provided that they meet certain criteria set by law.

Trade unions are recognised in negotiation at national, industry and company or local level.

At national level, trade union representatives are members of the National Collective Bargaining Board (NCBB) and the Social and Economic Council. The NCBB is a tripartite forum, comprising representatives of the central employers' organisation, the trade union confederations and the government. Its main task is to monitor legislation on collective agreements and to decide on increases in the national minimum wage. National negotiations have generally resulted in a multi-industry agreement (*accord interprofessionel*). This is not itself legally binding. But it serves as a framework within which enforceable collective and company agreements can be drawn up. The Social and Economic Council is a research and advisory body, which publishes reports on economic and social policy.

At industry level, at least one trade union must sign a collective agreement before it can be regarded as valid.

At company or local level, the union representatives are responsible for promoting the interests of its members in accordance with the union's objectives. Whatever the size of the workforce of the company, each representative union has the right to set up local representation within the company without any formal conditions. In companies employing at least 50 employees, the union can appoint a union representative (*délégué syndical*) or representative to the works council. The number of representatives appointed varies with the size of the workforce.

Industrial action

By employees

All private sector employees and most public sector employees, except those in the police, prison or security forces, have a constitutional right to strike. This means that an employer cannot seek an injunction restraining employees from

starting or continuing a strike. Apart from this provision, legislation is limited. Most regulations relating to strike action and other forms of industrial action are set out by case law.

As French law defines a strike as being the 'collective and concerted cessation of work in order to support professional claims', the action taken by employees needs to involve a total cessation of work, even if it is brief or repeated. So, action such as a go slow or work to rule is excluded, as are strikes undertaken for political motives and sympathy strikes, except when their purpose is to defend the collective and professional interests of the employees concerned.

There is no constraint on who can call a strike, or by what means. In practice, any person may organise strike action. That said, strike action can only be lawfully taken if the employees have presented their claims to the employer before starting the strike (although they are not obliged to wait for a response or give notice of their intention to strike, except in the public services). Nor is there any requirement to hold a ballot before embarking on a strike.

Although employers are not permitted to subject employees on strike to any detriment in pay or benefits, the contract of employment is suspended during the strike and the employer is not required to pay the employees. Those not formally participating in the strike will still be entitled to receive salary, even if prevented from working.

An employer cannot replace a striking employee with a temporary employee, and any dismissal based on participation in a strike will be void and ineffective, except where the employee's actions also constituted an act of gross misconduct, such as violence, damage to property, obstructing non-strikers' freedom to work etc.

By employers

A 'lock out' is a temporary closure of the company's premises decided by the employer during strike action and is usually used as a retaliatory measure. According to case law, lock outs are not lawful in France because they infringe the right to strike and constitutional liberty. A lock out is illicit. It constitutes a breach of contract by the employer (as it deprives non-striking employees of work and in some cases of their salaries) unless the employer proves that it is impossible (not just onerous) to fulfil its obligations under the contract of employment.

Labour courts

The labour courts (*Conseils des Prud'hommes*) have exclusive jurisdiction in the first instance over all *individual* employment disputes.

Collective disputes arising between employers, on the one hand, and unions, works councils or other staff representatives on the other hand must be brought before the 'Tribunal de Grande Instance', which is made up of professional magistrates.

Disputes about the election of works council members, the election of employees' representatives and the designation of company-level union representatives fall within the jurisdiction of the Tribunal d'Instance.

Several employment regulations give rise to criminal liability, especially in the fields of health and safety at work, employees' representatives' institutions and working time. In the event of a breach, the general manager is prosecuted before the criminal court (*Tribunal Correctionnel*), unless his responsibilities for the matter at stake have been delegated to another employee. The company may also be prosecuted.

Organisation

Labour cases are brought first to the labour court. Appeals against its decision may be made before the Court of Appeal. The decision rendered by the Court of Appeal may be reviewed by the Supreme Court.

- There is approximately one labour court in the geographical jurisdiction of each 'Tribunal de Grande Instance'. Each labour court is divided into five sections: respectively called 'management', 'industrial', 'trade', 'agricultural', and 'diverse activities'.
- This court is equally composed of lay members representing employees and those representing employers. All are elected for five years. There are no professional 'magistrates'.
- Appeals are made before the court of appeals (*Cour d'Appel*) if the claim is more than 4,000 Euros or does not concern payment.

Judgments that may not give rise to appeal, as well as the decisions of the court of appeal, may be referred to the Supreme Court (*Cour de Cassation*).

Representation

Before the labour court and court of appeal, the employee and the employer can represent themselves, or may be assisted by a lawyer, union representative, colleague or spouse.

The assistance of a lawyer is compulsory before the Supreme Court.

Procedure

The cases are generally first heard by the labour court at a conciliation hearing, where two judges (one for the employees, one for the employers) check whether the parties can conciliate. If they don't, the matter is referred to a judgment hearing, during which four judges (two representing the employees, two the employers) examine the merit of the claims. If the four judges fail to agree on the decision, another hearing is held with an additional professional magistrate of the Tribunal d'Instance.

Claims may also be brought in summary proceedings.

The labour court may order the employer to pay, notwithstanding appeal, a maximum amount equal to nine months' salary (excluding damages). The labour court may decide that the entirety of the decision shall be executed by provision.

Appeals against the decisions of the labour court must be made before the court of appeal within one month of the notification of the judgment by the 'clerk's office' (*greffe*) of the labour court. .

Appeal to the Supreme Court must be made within two months of the notification by bailiff of the decision of the lower court.

The Supreme Court only reviews the application of law by the previous judges and does not reconsider the facts. If the Supreme Court decides that the lower court did not correctly apply the law and case law, the case is referred to another court of appeal, to be reheard in its entirety.

Collective agreements

A collective agreement (*convention collective*) is an agreement concluded by one or more representative unions and one or more employers or groups of employers on employment generally, working conditions and the welfare of employees.

An employer may decide to apply the provisions of a collective agreement that he is not legally obliged to apply. In those circumstances, the employer may also decide on his own to cease to apply such an agreement, subject to adequate notice to that effect to each staff representative and each employee.

Once a collective agreement has been concluded, its provisions will apply to all employees or categories of employee within the field of application of the collective agreement, irrespective of whether they are members of the union concerned.

Collective agreements may apply:

- Nationally
- Regionally
- Locally
- To particular industries or professions
- To particular grades of employee (such as executives only)
- To particular companies, establishments or groups of companies.

The agreement must be written and a copy must be filed with the labour administration and the clerk of the labour court. The employer must provide the works council, its representatives and the union representatives with a copy of the concluded agreement.

Collective agreements must provide for provisions that are more favourable to the employees than those provided by law. Collective agreements cannot contradict legal provisions of 'absolute' public orders.

Industry-wide collective agreements

Unions and employers' organisations bound by industry-wide collective agreements or a professional agreement (*Accord National Interprofessionel*) must enter into salary negotiations at least once a year. In addition, training and professional grading and ranking issues must be reviewed every five years.

Company-wide collective agreements

The parties to a company-level or unit-level agreement (accord d'entreprise ou d'établissement) are the employer and at least one representative union, represented by a union representative. The provisions contained in company-wide agreements cannot be less favourable than those established by the law, regulations or professional and interprofessional agreements, unless the latter expressly authorise it or it relates to agreed salary provisions. Employers must negotiate annually at company level on effective working time, work organisation, the reduction of working time, career development, training, SAYE schemes and equal opportunities. Reaching an agreement is not mandatory, provided that the parties negotiate in good faith.

Recruitment

The labour code (code du travail) prohibits the employers from taking into consideration discriminatory factors such as a person's origin, sex, social habits, sexual orientation, age, marital status, pregnancy, genetic characteristics, ethnic, national or racial origin, political opinion, trade union membership or activities, religious beliefs, physical appearance, name, state of health, disability or the exercise of the right to strike when recruiting new employees.

Provided that the state employment service (Pôle emploi) is notified of any vacant positions, an employer is generally free to choose its own recruitment procedure. However, in order to employ a foreign employee not settled in France, the employer must first ask the Pôle emploi whether an unemployed person in France could take the job. Some collective agreements require set procedures to be followed, which are binding on those covered by the agreement. Typical provisions include a stipulation that all vacancies should initially be advertised internally and existing employees should always be given priority for new vacancies.

Employers wishing to recruit may use private agencies as well as the Pôle emploi or another agency having an agreement with the Pôle emploi. These typically consist of services provided by Chambers of Commerce or by organisations jointly managed by the employer and employees. Private agencies are permitted for permanent staff, temporary workers and managers. The recruitment of temporary workers through an agency is strongly regulated by law. Search and selection is also permitted for executive-level employees.

Subject to the satisfaction of certain requirements, employers can also place advertisements in the media. As well as notifying the Pôle emploi of the vacancy, they must also notify the local labour department or, if the advertisement appears in a national newspaper, the Paris local labour department.

Employers are also free to choose their means and methods of selection, although there are statutory provisions on employees' privacy, as well as on equal opportunities (see above).

All employees are required by law to have a medical examination before starting work. If an employee does not prove to be fit enough for the job, the employer may offer a different position, although this is not mandatory. Employees are required to have a further medical examination once a year or whenever requested by the employer. Refusal to do so could constitute grounds for dismissal.

Before hiring an employee, employers must notify the relevant social security organisations. Employees must usually present to the employer their identity card, exam certificates and social security registration, together with a certificate from their previous employer, if applicable.

Definitions and concepts

The definition of 'employee'

Although there is no statutory definition of an 'employee' in French labour law, a distinction must be made between an employee (salarié) and an independent contractor (travailleur indépendent). Employees are subordinated to their employer. Independent contractors are not. So they bear the financial cost arising from their activities.

The distinction is of prime importance, as the employees benefit from the legal protection provided by the labour code, notably to do with termination and social security.

Different categories of employee

In France, employees are grouped into three main categories: the executives or 'Cadres', the technicians and supervisors 'Techniciens /Agents de maîtrise' and the workers and employees 'Ouvriers/Employés'.

Persons who control the work of other employees or have higher technical knowledge (cadres) have different social benefits, such as retirement plans. Also, most national, industry-wide collective agreements distinguish between 'cadres' and other employees in key terms of employment such as the duration of the trial period (période d'essai), severance payments (indemnité de rupture), notice period, sickness and remuneration generally.

Contracts of employment

Except for fixed-term contracts of employment, part-time contracts of employment and apprenticeships, the contract of employment can be oral or written. However, employees hired on or after 1st July 1993 must be provided, within two months of starting work, with a document stating their terms and conditions of employment. Employees employed before that date can request written particulars, which the employer must then provide within two months of the request. The document must specify the contracting parties, place of work, employee's title or job description, date of employment, holiday entitlement,

notice period, remuneration and frequency of payment, daily or weekly duration of work and applicable collective agreement.

The employer cannot unilaterally modify the contract of employment of an employee without his prior consent. However, the employer is always permitted to change working conditions to improve the enterprise's functioning, including changing work assignments.

Written contracts with specific provisions are required for fixed-term contracts and part-time contracts, for apprenticeships, and by some collective agreements.

In the absence of a written contract, certain terms are deemed to apply, for example, that the contract is open-ended (durée indéterminée), full-time, and subject only to the rules contained in the labour code and, where applicable, to the terms of any industry-wide collective agreement.

Certain provisions apply even though they are not specifically indicated in the contract of employment, as for example:

- to take care of the employee's health and safety
- to treat the employee with dignity
- to be loyal to each other
- to obey reasonable instructions of the employer and
- not to use or disclose the employer's trade secrets or confidential information.

Trial periods are common and very important in providing the employer with his only opportunity to terminate the contract without having to justify the reason for termination and observe the termination procedure provided by law. Otherwise the contract is deemed to be entered into without any probationary period.

Since the Modernization of the Labour Market Law dated June 25th 2008 the duration of trial periods has been changed.

According to article L. 1221-19 of the French Labour Code, an open-ended contract of employment can contain a trial period with a maximum duration of:

- 2 months for workers and employees
- 3 months for supervisors and technicians
- 4 months for executives ('cadres').

Such trial periods can be renewed only once and only if expressly set forth in a collective agreement. Therefore, the trial period, including its renewal, cannot exceed:

- 4 months for workers and employees
- 6 months for supervisors

- 8 months for executives ('cadres').

If the employer terminates the trial period, he must give notice of at least:

- 48 hours during the first month in post
- 2 weeks after a month in post
- 1 month after 3 months in post.

In case of termination of the contract of employment by the employee during the trial period, he/she must give 48 hours' notice.

Finally, any contract of employment signed in France must be written in French. This rule also applies to foreign employees, although they can require the employer to provide a translation. In the event of litigation, any documents or provisions that do not comply with this are not binding on the employee.

Open-ended contracts of employment

Open-ended contracts of employment (contrats à durée indéterminée) are the norm in France. They can be oral or written, subject to the provision of specified information in writing to the employee (see above). Managers' contracts are almost invariably in writing, because of the existence of numerous specific provisions.

When the open-ended contract is written, the employer needs to be careful with the list of articles: a short contract will be the best way for the employer to avoid making a rod for his or her own back. Conversely, an amendment requested by the employer will need to be signed (as a new contract) by the employee.

Fixed-term contracts

Fixed-term contracts (contrats à durée déterminée) are strongly regulated in form and in the circumstances under which they can lawfully be used. The contract must be in writing and indicate why it is for a fixed term. It must be remitted to the employee within the first two days of work, and contain specific provisions.

A fixed-term contract can only be used for the carrying out of a specific and temporary task and in the following circumstances:

- Replacement of an absent employee
- A temporary increase in business activity
- Seasonal employment
- In some specified businesses where the nature of the employment is such that only a fixed-term contract would be appropriate (for example, technicians in the cinema industry).

A fixed-term contract cannot be used to do work that constitutes the normal and permanent activity of the company.

Fixed-term contracts have no minimum duration. The entire duration of the contract, including the renewal, must not normally exceed 18 months. By exception, duration may extend to 24 months in some cases.

An employer's failure to observe any of the above requirements for a fixed-term contract will result in its automatic conversion into an open ended contract.

The employer and the employee cannot terminate a fixed-term contract before the expiry of the fixed term except in the following cases:

- gross misconduct
- serious misconduct
- agreement between the parties, or
- the employee's resignation if he or she is offered an open-ended contract of employment by another employer.

Upon the termination of the fixed-term contract, the employee must be paid 10% of the gross salary received during the contractual term (this amount can be decreased to 6% if the employer gives the employee vocational training and if the collective bargaining agreement so provides).

Temporary employment

Temporary employment can only be used in the same limited circumstances as fixed-term contracts. Contracts are normally entered into with special interim employment agencies, subject to specific rules.

Part-time contracts of employment

A part-time contract is a contract under which the employee's working hours are lower than the legal working time or the hours fixed by the relevant collective bargaining agreements for full-time employees. The company's works council must be informed and consulted before the implementation of part-time work in the company, and the labour inspector must also be informed.

The contract must be written and includes some compulsory provisions such as working time, distribution of working hours during the week and how that distribution can be altered. Any changes in working hours must be made known to the employee at least 7 days before taking effect.

Part-time workers also have priority in consideration for full-time jobs and when they are created. They benefit from the same rights, pro-rata, as full-time employees.

Other contracts

Zero hours contracts are not allowed in France.

Other contracts that can be used to promote employment of certain categories of workers are:

Contrat à durée déterminée senior – an 18-month contract for job-seekers aged 57 plus who have been out of work for more than 3 months. It may be renewed once

Since 1st January 2010, the new 'single contract of integration' (*Contrat Unique d'Intégration*) has been available. This contract facilitates the rapid return to work of people having great difficulty in finding employment. The employer benefits from government subsidies.

Contrat de professionalisation – this aims to help people aged 16 to 25 and job-seekers of 26 plus to gain a career foothold. They receive training for a professional qualification and a percentage of the minimum wage (SMIC), based on age and qualifications. In return, the employer benefits from a reduction in social security contributions.

Restrictive covenants (non-competition clauses)

Under French law, restrictive covenants are subject to strict regulations. The restrictions imposed on the employee must not be greater than those strictly necessary to protect the legitimate interests of the company when the contract, for whatever reason, ends. A non-competition obligation must be limited in geographical area and in duration. The clause must provide for the payment to the employee of a non-competition indemnity. Finally, the non-competition obligation must not have the effect of preventing the employee from finding another job under normal circumstances and according to his qualifications.

A non-competition agreement must be made in writing and signed by the employee. Collective bargaining agreements may provide for conditions applicable in the case of non-competition agreements, in particular the maximum duration of the obligation, the calculation of the non-competition payment and the conditions under which the employer may or may not withdraw his rights under the non-competition agreement in order to be released from his obligation to pay the non-competition payment.

For example, according to the national agreement for engineers in the metallurgy industry, non-competition must not exceed one year and may be renewed once. The non-competition indemnity must represent a minimum of 50% of the previous average monthly salary, including variable elements.

Salary

The amount or the method of calculation of the salary to be paid must be fixed in the contract of employment. As a general rule, the employer and the employee are free to fix the remuneration to be paid, subject to:

- the requirement to pay the national minimum wage rate (salaire minimum interprofessionel de croissance) (SMIC)
- any rate established in an applicable collective agreement
- the absence of any discrimination
- 'equal pay for equal work'.

The SMIC is reviewed every July and the cost of living is taken into account in the calculation of the appropriate rate. The agreed minimum may be altered at any time by the written agreement of the parties. The national minimum wage is currently (2016) 9.67 Euros per hour or 1,466.62 Euros per month (based on the legal working time of 35 hours / week, 151.67 hours / month).

In addition to basic salary, the employer must also pay a premium and grant the benefits provided by the applicable collective agreement.

As a general rule, employers must pay employees their salaries monthly, by cheque or bank transfer. The employer must also remit to the employee a payslip on which certain compulsory items must appear (gross pay, social security contributions, hours worked, collective bargaining agreement {if any}, holiday pay etc.). Failure to do so is a serious offence.

Profit sharing

On top of remuneration, all companies of whatever nature with more than 50 employees are obliged to negotiate a profit-sharing agreement (accord de participation). The amount is calculated by means of a formula taking into account the net profit, net worth of the company's assets, wage bill and added value. Participation is unavailable to the employees until 5 years have elapsed (except in specific circumstances).

On top, the employer can put in place a non-obligatory profit sharing scheme based on objective targets (defined by the employer but negotiated with the Unions).

Social security, unemployment and retirement pension

Contributions

Contributions to Social security and to unemployment and retirement pensions are based on gross salary. A portion of them, corresponding to the contributions borne by the employee (approximately 23% of gross salary) is deducted by the employer from the gross salary and paid together with the employer's contribution (approximately 45% of gross salary) to the various bodies.

Pension

The state pension scheme for employees is based on a redistribution principle and is managed by interprofessional bodies created by statute. It is supplemented by interprofessional 'complementary' schemes - ARRCO for all employees and AGIRC for executives ('cadres') - negotiated by trade unions and employers' organisations by way of multi-industry collective bargaining agreements.

Some sectors subject to specific pension schemes, in particular public or semi-public companies - the government, SNCF or Banque de France - and businesses that have set up a complementary pension scheme instituted by legislation, such as Air France, are excluded from the ARRCO scheme.

To be eligible for a retirement pension, an employee must have contributed to the state pension scheme, be 60 years old and have left employment. In order

to get a retirement pension at full rate, the retired person must have contributed for at least 40 years (160 quarters) or have reached the age of 65. As from 2009, the required duration of contributions increases by a quarter each year in order to reach 164 quarters in 2012.

Income tax

PAYE does not operate in France. Employers do not have the responsibility of deducting income tax on salaries and accounting for it to the relevant tax authority. Instead, employees must file a tax return each year with the tax administration, which then calculates the amount of income tax. The salary paid to the employees is therefore not net of income tax.

Working time

In France, this is an extremely complex issue and is highly politicised and regulated.

The law provides for a working week of 35 hours on average, in excess of which certain conditions, mainly to do with overtime and compensatory rest, start to apply.

Many sophisticated systems exist in order to apply the 35-hour week rule. For instance, the employees can work on an annual basis (in days usually 218, or in hours 1,607) or obtain days off in lieu if they exceed 35 hours per week.

The working day is limited to 10 hours with at least 11 consecutive hours of rest and a 20-minute break after six consecutive hours.

The working week is limited to 48 hours and to an average of 44 hours a week over a 12-week period.

No employee can be required to work more than 6 days per week, so all employees receive at least one day of rest per week, usually on Sunday.

As the employee's basic salary constitutes in principle the remuneration for a working week of 35 hours, any hours worked in excess of that constitute overtime, for which the employer has to pay salary at 125% of basic rate for hours worked in excess of 35 to a maximum of 8 hours worked in any given week, and 150% thereafter.

An employer is free to require its employees to work overtime either up to the legal limit of 220 hours per year or to such annual limit as has been agreed in an applicable collective agreement. Provided that the employer does not require the employee to work more than this, the employee has no legal right to refuse to work the overtime, and any refusal could lead to a lawful dismissal.

An employee's total working hours each month must be recorded in writing on the pay slip. Failure to do so is a criminal offence.

The employee also has, subject to certain conditions, the right to additional paid rest, depending on the number of hours worked in excess of 35 per week.

Night work

Any work done between 2100 and 0600 is considered night work. Any employee who usually works at least 3 hours during these hours twice a week or 270 hours in a twelve-month period is considered a night worker.

Night work is limited to 8 hours a day and an average maximum of 40 hours a week in a period of 12 weeks.

Night work must be provided by a sectoral collective bargaining agreement or an in-house collective bargaining agreement. Agreements concerning night workers must provide for advantages in additional rest or increased salary.

All work between 2100 and 0600 is prohibited for children and adolescents under 16 years and between 2200 and 0600 for youths under 18 years, whether staff or students. Exceptionally, however, exceptions may be granted for certain specified sectors.

The employer must also organise medical checks for all night workers.

Leave

Employees have a legal entitlement to 2.5 days' paid holiday per working month or a total of 30 days (5 weeks including Saturdays) every year in addition to the public holidays. Collective agreements often provide more, in particular by rewarding length of service.

Employees can take holidays as soon as they have acquired the entitlement to it (after one month). The precise timing of when leave takes place is an employer's decision.

Collective agreements usually provide additional paid holidays in certain circumstances, such as family marriages or the death of a close relative or friend.

Legislation also provides for unpaid leave in a number of other circumstances, such as to allow an employee to set up a business, take a sabbatical year, or undergo training.

Leave of absence

Maternity leave

The Labour Code provides for 16 (for the 1st child) to 46 (for a third) weeks of maternity leave. In principle, maternity leave is without pay, although collective bargaining agreements usually provide that employees with at least a year's service have their salaries maintained during the whole of maternity leave. The mother can reduce the maternity leave period, although there is a total prohibition on employment for eight weeks, at least six weeks of which must follow the birth of the child.

During maternity leave, the employee cannot be dismissed under any circumstances, even for a reason unconnected with her pregnancy.

Parental and paternity leave

After maternity leave, women with one year's service can ask for parental leave (*congé parental*) or to work part-time. This is initially for a year, but may be renewed twice, so that the maximum is 3 years up to the child's third birthday. This often takes the form of one day off a week.

The father can take one period of paternity leave (*congé de paternité*) of up to 11 consecutive working days within the first 4 months after the birth.

Sick leave

In general, the obligation for the employer to pay salary is suspended during a period of illness. However, collective agreements and the National Interprofessional Agreement provide that an employee with at least a year's service receive a portion of salary from the employer, in addition to benefits from social security, to make up in total a given percentage of the usual salary.

Persistent or long-term absence from work due to illness which disorganises the employer's activity and necessitates a replacement of the employee may entitle the employer to terminate the contract. However, some collective agreements contain a guarantee of employment, during which the employer cannot terminate the contract of an employee who is on long-term sickness absence.

Termination of contracts of employment

Fixed-term contract

After the probationary period, a fixed-term contract automatically terminates on its expiry date. It may only be terminated beforehand for *faute grave* (serious misconduct) or *faute lourde* (gross misconduct), by *force majeure* or by agreement.

If the employer terminates the contract earlier for reasons other than these, he or she will have to pay the employee's salary until the normal termination date and, possibly, further damages. If it is the employee who terminates the contract earlier, the employee may have to compensate for any loss suffered by the employer, unless he/she has left for a position under an open-ended contract.

Open-ended contract of employment

An employer may only dismiss an employee on an open-ended contract if there are real and serious grounds (*cause réelle et sérieuse*) for doing so, and must follow a minimum statutory dismissal procedure (collective agreements may require additional steps to be taken).

The two main categories for dismissal are:

- For personal (non-economic reasons) - employee's conduct or performance
- For economic reasons - redundancy.

Except for dismissal for gross misconduct, the notice period that an employer has to give to terminate employment is set by statute: custom and practice for up to six months' service; one month for six months' to two years' service; and two months for more than two years' service. However, employers have to observe the longer periods of notice period provided by personal contracts of employment or by collective agreements.

The law lays down no specific notice period if the employee resigns. Notice is determined by collective agreement, contract of employment or custom and practice.

Generally, notice is three months for executives ('cadres') and one to two months for other employees, depending on position and years of service.

In addition, all employees with over one year's service who are not terminated for faute grave (serious misconduct) or faute lourde (gross misconduct) are entitled on termination of employment to a termination payment (indemnité de licenciement) fixed by law at two-tenths of a month's salary for each year of service. A collective agreement generally provides for higher payments.

Dismissal for personal reasons

There are three basic grounds for dismissal for non-economic reasons. The first two involve dismissal without notice or a severance payment and the third dismissal with notice.

- Serious misconduct (faute grave) - defined as behaviour that precludes the continuation of the contract of employment during notice. The employee is entitled to dismiss the employee without notice or compensation

- Gross misconduct (faute lourde) - defined as intentional and malicious misbehaviour on the part of the employee that has particularly serious consequences for the company. In such a case the employer is entitled to dismiss the employee, without notice, compensation for termination or holiday pay.

Dismissals for faute lourde or faute grave must be initiated within two months of the employer's discovery of the misconduct.

- In all other cases, notice is given and statutory severance pay and holiday pay are awarded. Examples are:

  - on personal grounds, such as lengthy absences from work owing to illness which is causing disruption to the business; unacceptable behaviour such as continual aggression, or personality clash

  - for professional reasons, such as incompetence, negligence or poor productivity.

Note: the treatment of incompetence may be regulated by a collective agreement.

Dismissal procedure

This procedure applies to employees in all companies, regardless of size and length of service, and must be strictly followed by the employer.

The employer summons the employee to a preliminary meeting. The letter must specify the purpose, date, time and place of the interview as well as the fact that the employee has the right to be assisted by a work colleague, a staff representative or, failing that, special advisors listed on a register drawn up by the 'préfet'.

In the case of misconduct, this letter must be sent within two months of the employer's becoming aware of the misconduct.

During the preliminary meeting the employer is required to expose the reasons for its intention and to take note of the employee's explanations. The meeting must take place no earlier than 5 days after the employee receives the summons.

The notification of the employer's decision has to be made by registered letter with acknowledgment of receipt at least two days after the meeting and must state the grounds for the dismissal. The notice period starts as from the notification of the dismissal letter to the employee.

On expiry of the notice period, the employer must give the employee (a) a certificate of work (certificat de travail) that records the employee's length of service and the positions held; (b) unemployment certificate (attestation Pôle Emploi {formerly attestation Assedic}), which may be used to claim unemployment benefit; and (c) a receipt for wages and other payments (reçu pour solde de tout compte) that sets out the amount of money given to the employee after termination of employment.

Dismissal for economic reasons

Dismissal for economic reasons (in English law, redundancy) is subject to an even more strict procedure, as the laws make paramount the protection of the employee. So, the aim to improve profit is not an adequate justification for making redundancies. The employer will need to show that the business is making losses or will be at risk if redundancies are not made.

Companies with more than 300 employees must negotiate with the unions every three years on:

- Projects to create, reorganise or suppress activities, to seek or abandon markets, or to set up operations abroad, and their foreseeable effects
- Provisions for manpower planning, taking into account training, assessment and mobility, etc
- Provisions for retraining older employees and giving them access to training.

As redundancy law is heavily regulated, there are certain procedural requirements that must be followed, according to the number of employees to be dismissed and the size of the company. In addition to these legal

requirements, some collective agreements also specify obligatory notification procedures to joint industry committees.

Individual redundancy

Before dismissing an employee for economic reasons, the employer is under a strict and general obligation to try and find an alternative position for the employee within the company or the group, even abroad if that is appropriate, and to provide any training necessary. The courts strictly enforce this obligation. The sanctions for failure to meet it are the same as in the case where the dismissal was not justified at all.

There is no obligation on the employer to consult the works committee or employees' representatives in the case of individual dismissals for economic reasons. The employer must summon the employee to a preliminary meeting and offer him (provided that he has more than one year's service) the benefit of special retraining and redeployment measures provided by the Pôle Emploi (in the form of a plan called CRP - Convention de reclassement personnalisée) or, if the company employs more than 1,000 people or belongs to a group of this size, a redeployment vacation (congé de reclassement), during which the employee's notice period is extended (from four to nine months) and during which the employer has to put in place, at his own expense, different measures to help the employee find another job. The employee has twenty-one days from the preliminary meeting in the case of CRP, or eight days from the date of delivery of the dismissal letter in the case of 'congé de reclassement', to decide whether or not to take up the offer.

If dismissal is unavoidable, the employer must notify the employee in writing of his dismissal and state the economic reasons for it. The letter must also refer to the CRP or the 'congé de reclassement' and state the period during which the employee may accept this.

Employees dismissed for economic reasons have priority of reinstatement for one year from the termination of their contracts, provided that they make their availability known to the employer within that period.

The employer must also inform the Labour Inspector of the dismissals for redundancy within 8 days of the letters being sent out and record them in the monthly employment return and the company's register of employees.

Selection criteria for redundancies:

Before deciding which employees will be dismissed for economic reasons, the employer must establish the selection criteria, which are set out by the labour code and often by collective or company agreement. In the absence of such agreement, managers consult the works council or employees' representatives to establish the criteria. These criteria must in particular take into account factors such as family responsibilities, length of service, difficulties with reemployment owing to age or ill health, and professional qualifications. An employer who fails to comply with these legal obligations may have to pay damages to the dismissed employee.

Collective redundancies (fewer than 10 employees over 30 days):

Although the procedure for dismissing as redundant two to nine employees over a period of 30 days is similar to that for individual redundancy, the employer must also consult the employees' representatives (or works councils in companies with 50 or more employees) about the proposed redundancies and the measures that the employer proposes to take in connection with them. The employer must also give the representatives specific information beforehand:

- The economic, technical or financial reasons for the redundancy
- The number of employees to be made redundant
- The number of people employed in the particular establishment
- The provisional timetable for declaring redundancies
- Measures to be taken to avoid redundancies, limit their impact and help employees whose dismissal is unavoidable to find work elsewhere
- Selection criteria to be used if there is no collective agreement covering redundancy.

As for individual redundancies, the employer must also inform the Labour Inspectorate of the dismissals for redundancy within 8 days of the letters' being sent out and record them in the monthly employment return and the company's register of employees.

Collective redundancies (more than 10 employees over 30 days):

In companies that do not have works councils, the procedure is the same as where there are fewer than 10 employees to be dismissed, except that two meetings must be held with the employees' representatives.

The employer in a company with a works council must consult it twice under two different procedures of the labour code. The two procedures can be undertaken simultaneously, provided that the agenda set for the two procedures are clearly distinguished from each other.

- Reorganisation consultation

  The works council is consulted on the contemplated reorganisation and told the economic reasons for it.

  The employer must send copies of all the documents to do with the proposed redundancies to the local labour inspector (Inspecteur du Travail), must respond to his observations, and must meet the local mayor and Préfet to discuss how the company could contribute to improving the prospects for employment in the region.

If the employees' representatives consider they have not been properly consulted, they may seek an order from the tribunal nullifying the procedure.

- Redundancy consultation

The consultation concerns the contemplated dismissals and the measures that may be taken to limit their number, and the consequences of any that cannot be avoided.

In companies employing at least 50 employees, the employer must present a social 'plan to safeguard employment' (which is usually prepared in advance), setting out the measures it is going to take to avoid or reduce the impact of the proposed redundancy, such as:

- Short time working/ temporary lay off
- Reduction/ reorganisation of working time
- Voluntary part-time working
- Early retirement
- Internal or external redeployment of employees
- Creation of new business activities within the company
- Supporting the possibility of employees' finding work in other business sectors by means of retraining programmes et cetera.

This plan is presented to the employees' representatives and works inspector.

The content of the social plan must comply with the requirements of the law and collective agreements; otherwise the representatives may seek from the tribunal an order nullifying the procedure.

The employees' representatives can be assisted by an accountant, paid by the employer, to assess the information supplied by the employer.

The law provides for two meetings of the works council, separated by a maximum of 14 days if fewer than 100 dismissals are contemplated, 21 days for 100 to 250, and 28 days for 250 plus.

If an accountant has been appointed to assist the works council, the law provides for three meetings, the second one taking place between the 20th and 22nd day after the first meeting. The third meeting is held within the period set out in the preceding paragraph.

The labour administration is notified of the social plan by recorded delivery the day after the first meeting. This is a very important step, as it starts a period of between 30 and 74 days (depending on the number of contemplated dismissals and whether or not the works council is assisted by an external expert[1]) during which no redundancy can be announced.

Once this period has lapsed, and if no vacant position within the group is available for the employees, the dismissals are notified by recorded delivery.

[1] Note: This may be subject to review)

The notice periods of the dismissed employees begin on the date of delivery of these letters.

These employees must be offered the CRP or the 'congés de reclassement' described above.

Termination by mutual consent (Rupture conventionnelle)

The employer and employee may jointly decide to terminate the contract of employment by mutual consent (Article L.1237-11 of the Labour Code).

The mutual termination procedure is formalized in a three-step procedure that takes over a month. The first step is a formal meeting between the employer (who can be assisted, but not by counsel) and the employee (who can be assisted in the same way). During this meeting, the mutual termination agreement is signed. The employer and the employee agree freely on the date on which the contract is to end (at the earliest one month later, but irrespective of any further notice period) and a mutually agreed termination payment to be made by the employer (which is at least equal to the statutory compensation for dismissal). Once the agreement is signed, each party has a discretionary, two-week right of withdrawal (thus protecting the employee against undue pressure). When the withdrawal period is over, the agreement is filed with the labour administration, which again has two weeks to make its decision. The purpose is to control suspicious or discriminatory cases, or cases where an employer would try to avoid a social plan (a collective economic redundancy plan) which is one of the cases in which mutual termination cannot be used. After this second phase of two weeks is over without reaction from the administration, the mutual agreement is deemed approved and becomes effective.

There is a triple benefit to this procedure: (i) the employer is protected against a claim for unfair dismissal, (ii) the employee, although consenting to the termination of the contract of employment, is fully entitled to unemployment benefit just as if he/she had been dismissed and (iii) the termination payment negotiated between the parties is exempt from social security contributions and income tax.

Employee resignation

When an employee resigns, the employer must ensure that that resignation is unambiguous. The resignation needs to be in writing and to be confined to the date of departure. If an employee were to use a letter of resignation to raise a complaint against the employer, that could lead to legal proceedings.

Remedy

In the event of unfair dismissal, the labour court may award damages to the employee that may represent the equivalent of several years' salary, depending on such factors as age, length of service, circumstances of the dismissal and chances of re-employment.

If an employee has at least two years' service in a company with 11 employees, the labour court may recommend reinstatement. However, if either party refuses to accept reinstatement, the law provides that the damages to be awarded to the employee must be at least six months' salary. In addition, the

court may order the employer to reimburse the Pôle Emploi (unemployment benefit fund) the equivalent of up to six months of the unemployment benefit paid to the employee as a result of the dismissal.

If the employee has less than two years' service or worked in a company employing fewer than 11 people, damages are based on the 'harm suffered'. The labour court generally awards less than six months' salary.

Further, if the employer did not follow the legal procedure for dismissal, the labour court may grant the equivalent of another month's salary as damages for breach of procedure.

Transfer of undertakings

In the case of a transfer of a business, the employees of the former employer will automatically become employees of the new employer under the same terms and conditions of employment. There is also a right to information and consultation. French law on this subject has implemented the EC directives and the general principles applicable are the same as those applicable under the TUPE regulations in the UK.

Any dismissal for reason of transfer is unfair.

Part 2

Restructuring operations

Overview

European markets are changing and customers' requirements are becoming ever more sophisticated. The pace of change is quickening, forcing many companies to reorganise and rationalise. Manufacturing, service or distribution facilities may need to be restructured, or even closed.

Rationalisation can improve skills, create centres of excellence, streamline operations, and improve the effectiveness of the supply chain. Yet the managers doing the rationalising - often not natives of the country where they are based – are faced with considerable challenges. In having to manage complex operations while dealing with different labour laws, practices and cultures, they can feel at acute personal risk: of failure; of disruption and excessive costs during restructuring; of losing credibility; or worse. When the parent company lacks expertise in the local practices and politics, the risks are even greater.

This is particularly true in France, where the law requires labyrinthine formal consultation and the culture demands extensive machination behind the scenes to save plans for restructuring from being subverted.

Managers want restructuring to result in predictability, efficiency, control of costs, continuity in processing, and the simplification of complexities.

Collinson Grant has a successful record of managing rationalisation in mainland Europe. This paper describes the experiences of two long-standing clients: Imperial Tobacco Group; and Thorn Lighting, now part of Zumtobel. In both examples, the project was accomplished ahead of time and the factory was closed or, in the case of Thorn Lighting, sold as an alternative to closure.

Imperial Tobacco Group

…is the largest tobacco business based in the UK and the fourth largest in the world. Its sales in 2004 were $6.1 billion. It has 16,000 employees and markets in Europe, Africa and Asia.

Thorn Lighting/Zumtobel

…with production facilities in Europe, North America, Australia and Asia, and sales of 1.1 billion Euros, the Zumtobel Group is one of the few global players in the lighting industry. Thorn Lighting, its major UK-based subsidiary, has manufacturing units in England, France, Scandinavia and the Far East.

Why is France so different?

The first step in a successful restructuring is to understand how and why France is different.

Culture

...trade unions are strong and militant

Employment in France is not 'at will'. It is formal and highly regulated. The trade unions are strong and militant, and enjoy great popular support, despite the falling membership that is characteristic of developed economies. The law governing the relationship between employer and employee in France is very different from the common law system in the UK. Employees are protected by highly structured and complex rules and regulations, most of which are embodied in the Labour Code (Code du Travail).

...dismissal for economic reasons is vigorously resisted

Dismissals are subject to stringent statutory constraints. Dismissal for economic reasons (in English law, redundancy) is possible, but often vigorously resisted. Local managers can be torn, to an extent uncommon in the UK or US, between their loyalty to the resisting workforce and their professional responsibilities. The legal process for redundancy is subject to separate and complex procedural and substantive constraints, particularly in the case of multiple dismissals. The potential for delay is considerable. The Works Council can seek injunctions throughout the process, and they are very often granted.

In essence, a French entity (not the group to which it may belong) can only justify laying people off or making them redundant by demonstrating that its economic situation is placing the business at risk: the desire simply to make more profit is not an acceptable justification.

Working with managers from a different country

In a multinational company, executives become used to working with colleagues from different cultural backgrounds. But restructuring heightens tensions: there is more pressure to achieve results, and more scope for misunderstanding. It is all too easy to blame other people - particularly those from a subsidiary or other country - if things go wrong.

Decision-making in French companies is typically more autocratic than in British or American ones. Middle managers may refer to higher authority decisions that their British counterparts would take themselves, with all the attendant (and perhaps unnecessary) delays that this might incur. Teams also work differently, with greater emphasis on collaboration and collective decision-making.

Restructuring in practice

Hofstede's respected research, covering 88,000 subjects in 66 countries, assessed cultural differences on four dimensions.

Our relationships with Imperial Tobacco Group and Thorn Lighting go back many years. The companies' trust in our ability to undertake a difficult restructuring in France and in our intimate knowledge of the law and local customs lay behind the success of both projects.

At Rizla in southern France and at Thorn in Belleville near Lyon, we were responsible for leading the negotiations with the Works Councils, trade unions, local officials and politicians (Book III and Book IV). Because of local political sensitivities, which are often encountered, it took between five and nine months to reach agreement on closure. This involved careful negotiations with the unions, local political leaders and government officials; the development of the Social Plan; and maintaining the output of the facilities. Both projects were finished ahead of schedule and within the original estimates of cost.

Imperial Tobacco

...discussions with Rizla highlighted excess capacity

Imperial Tobacco Group (ITG) consolidated its position in the world-wide cigarette market with the acquisition of the leading German manufacturer, Reemtsma, in 2003. The company has a reputation for driving down unit costs and maintaining excellent productivity. We have been working for the Group since its demerger from Hanson PLC.

Timescale for closing a factory in France

2001

January-June

Development of the manufacturing strategy and detailed plans for reducing capacity

October

Announcement that plant was to close in September 2002

Implementation of plans and introduction of interim manager

2002

January-June

Phased transfer of production
Agreement on Books IV and III
Confirmation of social plan
Local output maintained

Surplus equipment transferred

July

Factory closed.

ITG established the Paper Division through the acquisition of Rizla in 1997 and EFKA in 2000. These businesses complemented its tobacco activities by supplying cigarette papers and tubes to consumers who wish to roll their own. Rizla is a leading brand of cigarette paper and the market leader in many countries in the supply of paper booklets.

Rizla trades in demanding markets and there was a continuing requirement for investment to maintain and improve manufacturing facilities to meet increasing competitive pressure. Analysis of production highlighted weaknesses. Many assets were not good enough to provide efficient, reliable production. Efforts were made to use the extensive overcapacity by increasing sales and correcting the imbalance by marginal changes, but Rizla could not afford to maintain all its capacity. A dramatic improvement was needed.

During 2000, Collinson Grant reviewed product costing in all parts of ITG. Discussions with Rizla highlighted excess capacity, the underutilisation of the best plants, and the need to develop a manufacturing strategy to tackle these problems. In January 2001 we were asked to review the preliminary ideas and help to draw up a plan that would gain the support of the Board.

After the review, ITG decided that production could be consolidated on fewer sites. A long-established paper manufacturing plant in Mazères near Toulouse was declared redundant. It was a principal employer in the local area, with an ageing staff of about 70.

The Group managers, based in the UK and mainland Europe, needed considerable help in understanding the complexities of French law and the scale of local opposition that was likely to be encountered. We spent valuable time working with them to draw up rigorous plans for how the closure could be

achieved successfully, at least cost, without disrupting production targets, and in full compliance with employment law.

We managed the French plant for ten months and maintained its output while we led sensitive negotiations with the unions, local political leaders and government officers. Union officials were adept at putting spokes in the wheel, egged on by a campaigning local and regional press. However, a concerted effort to foster constructive relationships with the influential factions inside and outside the plant rendered the press coverage - like the lock-ins, picketing and intimidation that were experienced - far less damaging than had been feared.

We drew up the Social Plan, got it accepted, and reduced the company's legal and financial exposure. Our job was to maintain excellent communications with managers in France, Belgium and the UK, constantly explaining our tactics and why the obvious course of action was not necessarily the best. It was important not to overreact to surprises. The overall manufacturing strategy was implemented ahead of schedule to provide additional flexibility in closing the plant.

The Rizla factory at Mazères was closed in July 2002, two months earlier than planned. In difficult circumstances, all the operational objectives were achieved and the company was seen to have done all that it could for the local community. After the event, French Government officials praised the calm and sensible way that the closure had been handled.

Thorn Lighting

Zumtobel's acquisition in 2000 of Thorn Lighting, another manufacturer of light fittings and lighting gear, was predicated on the assumption that removing the consequent duplication of certain products, locations and organisational structures would significantly reduce costs. It didn't. There was no overt resistance to change, but a general inertia, and a continuing concentration on the separate businesses, to the detriment of the Group as a whole.

...plans for closing French sites had been shelved

...'it was just too difficult'

Even before that, Thorn's own managerial team had looked at the profitability of its European operations and decided that rationalisation was essential. It had closed a factory at Hereford, but had baulked at closing French sites, having decided, on legal advice, that the prospect would be 'just too difficult', even though it still made financial sense. So plans had been shelved.

By late 2003 it was apparent that the number of manufacturing facilities was detrimental to the overall profitability of the group. Zumtobel reconsidered the plans for the closure of the French sites. Belleville was no longer manufacturing a full line of lighting products: the manufacturing of lighting gear had been transferred elsewhere. The practical and financial reasons for transferring the remaining manufacturing to another site were overwhelming. It was decided to begin negotiations about options for the factory, including the possibility of its closure.

Timescale for closing the Belleville factory in France

1999-2001
Restructuring plans created (including Books III and IV), but not implemented due to perceived legal constraints

September 2003
Discussions on the overall strategic direction of the business prompt

Zumtobel sought Collinson Grant's support. The long history with Thorn's managers and our inside knowledge of the business helped us understand the company's objectives. We had previously managed its European operations and the production facilities at Les Andelys.

First we created a revised plan, with a more robust and comprehensive assessment of the underlying costs, which gave the managers more confidence in the figures and a better understanding of the risks associated with the project.

The key to success was positioning an expert as the legal 'managing director' of the company. Experience has shown us that in France it is not possible to manage the process from afar, leaving the day-to-day management to the staff on site. Effective and frequent communication with local representatives - elected officials, trades union representatives, civil servants and members of the workforce - is essential. The project incorporated two Book IV consultative exercises, one for closing, the other for selling the site.

The assignment was run to as tight a timeframe as possible and was completed on time and within the revised budget. Agreement on closure of the site was reached with all appropriate parties.

However, once this stage had been reached, there was an unexpected bonus for the workforce at Belleville. A buyer for the operation was found and a significant proportion of the 155 jobs saved. Before the consultative exercise, this would never have been an acceptable option.

Conclusion

Restructuring European subsidiaries and closing factories in France or any other country rarely happens overnight. It can, however, be achieved more quickly than you might think.

A restructuring should be meticulously planned and managed, firmly but responsively, as a discrete project. Taking pains pays off. Good communication is essential: informal as well as formal.

Experience has shown that:

- There are merits in 'ring fencing' the restructuring process by appointing a separate executive to be responsible. Otherwise, it can be a debilitating experience for local managers, who lack the specialist expertise required in, for example, developing the rationale for Books I and II (ex books III and IV) of a social plan, and in negotiating with officials and independent experts. This also allows the parent company to keep its distance and retain the power of veto
- The plan should be properly costed, with a realistic assessment of potential expenditure at each stage. It should schedule an early start and clear milestones, allowing adequate contingency for the inevitable delays. The managers should use it as a guideline, but be prepared for unscheduled diversions
- A disciplined approach guards against misleading assumptions and over-emotional responses
- There is a need to pursue informal channels and to work with the locally elected politicians and dignitaries.

There are no shortcuts to a thorough understanding of specific features of European businesses and the intricacies of local customs and regulation. Despite Europe-wide legislation and market consolidations, each situation, in each industry and in each country, is different.

To create or to manage firms in France can be hard for managers steeped in British culture. The context of employment law may seem both strange and difficult.

A common feeling is that French employment law affords employees too much protection. But the converse is also true. The law protects employers too.

The unions are one of the most touchy subjects. And it is true that they have to be respected, and handled with considerable diplomacy and tact. But that, surely, is no more than every employee deserves. Good managers, who acknowledge legitimate concerns, honour dissent and nurture realistic cooperation in meeting mutually acceptable aims, are seldom confronted with a strike.

Any integration of cultures requires adjustments and accommodations. What seemed a good idea here may not look so clever there. So take your time; learn who and what really matters; and be deliberate but not dogmatic. Above all, maintain a sense of humour. That always helps.

Costs **People** **Organisation**

Productivity **Performance** **Restructuring**

United Kingdom **Mainland Europe** **United States of America**

Complexity, Direct costs, Employee relations,

Employment law, Implementing change, Integrating organisations, Lean,

Managerial controls, Organisational design, Overheads, Performance management,

Pricing, Process improvement, Procurement, Reward, Supply chain,

Transitional management, Value chain analysis, Workforce planning

www.collinsongrant.com

Collinson Grant

33 St James's Square London SW1Y 4JS United Kingdom **Telephone** +44 20 7661 9382 **Facsimile** +44 20 7661 9400

Ryecroft Aviary Road Worsley Manchester M28 2WF United Kingdom **Telephone** +44 161 703 5600 **Facsimile** +44 161 790 9177

Web www.collinsongrant.com www.collinsongranthr.com