

Dealing with precariousness through the so-called « social dialogue », preliminary results

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Outline

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Stability at the surface, but at the same time new trends

- **No major changes on the long run in the share (in stock) between OEC and atypical contracts, however a new recent increase of self employment.**
- **However, indicators of changes “under the surface”, if not only taking into account the employment status :**

Short fix term contract increase significantly in flows, with a kind of revolving door between unemployment and FTC/Temp agency work. Recurrent unemployment for some kind of workers mainly without qualifications, young, female, etc.

Increase of various forms of bogus self employment, including the new “auto-entrepreneur” status”

Increase of the working poors

More feeling of being “at risk”, even in the core of the labour force

Part time less important than in some other countries, but increase of the involuntary part time

....

- **Not only due to changes in the labour law, in the labour market regulations, but also to new uses by the firms of various loopholes, changes in the economic structures and new strategies**

From Integrated firm → to « distributed firms », Subcontracting and outsourcing of risks

New kinds of triangular employment relationship : who is the boss ?

Sharing the work force through multi employers for more flexibility and lower risks.



*How to defend these different
precarious employees ?*

The historical French industrial relation

The “classical” view (Jobert, Lalement, 1999,...): industrial relations implying unions and employers organizations in a contractual *rule making process*

Three levels in the French system: national intersectoral, sectoral, firm (with a hierarchy)

A system under the state umbrella (Minimum wage, labour law)

Some possibilities of exit options at the firm level, on specific topics since the eighties

A mixed system, between centralisation and decentralisation, “french corporatism”

The social dialogue approach : by whom and why ?

EU influence however keeping mainly the same perimeter than industrial relations (without necessarily bargaining, so not only rule making)

Political use to put the emphasis on dialogue rather on conflict (important in the French case)

Tactical use at the firm level by Human Resource Managers (Giraud, Ponge, 2016)

But also reflecting some changes within the industrial relation system *and* within the political system

Choice of some unions (CFDT) to promote more discussions and “peacefull” bargaining than open conflict; taking also into account the new rules for union’s representatives

Increasing importance of the firm level (wider topics, more numerous agreements...even if sometimes only repeating the upper level)

Rediscovering of the SME’s and TPE’s, so of the local level also a strategy of some employers organizations (for example craft employers);

Decentralization with more power to the regions on some topics such as training, a new public actor in the field

And more complex topics about precariousness implying also new actors (NGO’s...) in the field of labour, unemployment

So “Social Dialogue” in an enlarged meaning.... Sometimes challenging the classical industrial relation system

3 case studies of collective action on precariousness

Done in the framework of a comparative research (DG Employment, European union) on precariousness and social dialogue

Each country have to done this case studies -> comparison

2 other case studies still in process (cleaning sector and small firm)

Choice of cases dealing explicitly with :

- the topic of precariousness (in different forms)

- aiming at reducing some gaps

- some with an enlarged social dialogue, other more classical

Based on interviews of the main actors (unions, employers, policy makers, administration, managers...)

Case # 1 :

The house for seasonal work in Agde

Public initiative at first : a regional meeting in south of France to define prior actions with social partners
Social partners followed and created the “Maison du Travail Saisonnier” (for work and not only for workers)

The work inspectorate (to enforce the law) → social partners (to promote quality of work and service :
creation of common interest.

The objectives : At the beginning : matching labour supply/demand (with important housing problems)

Today : a sustainable socio-economic area (territory)

- better working and living conditions for workers
- matching supply/demand
- improve match between skills needs / training programs
- encourage better relations employers/employees
- improving the quality of services

Organisation : A steering committee and some commissions (housing, social dialogue, health, communication and professionalisation)

Case # 1 : Seasonal workers

Seasonal work definition : limited duration AND repetitive tasks from year to year.

Seasonal workers : a lot of short FTC (2 months → 7 months), in Agde, mainly in hotels and restaurants, camping ; 3500 additional seasonal workers on an area of 25000 workers.

A lot of gaps : (due in part from very small businesses)

- Housing problems with too expensive rents
- From undeclared work to undeclared hours (a demand from employers AND employees)
 - No / low pension
 - No / low unemployment benefit
- Health at work
 - A lot of drugs and alcohol
 - Fatigue (a lot of quits of post in the middle of the season)
 - Occupational risks in small business
- Lack of awareness about rights and duties
- Lack of representation

Sometimes a choice for the workers (students), growing numbers of unemployed and of EU workers (Spain, Romania)

Case # 1 : Actions on which gaps ?

In Work	How?	Results
Transitional labour market between seasons to increase employment duration	Coordinate summer season in tourism and spring/autumn seasons in vineyards.	Poor. Agricultural sector did not cooperate. Seasons overlap. Different employee profiles.
Transition between winter/summer seasons	Joint employment arrangements with winter resorts.	More information exchanged. Should concern about 200 employees. But single contract is legally impossible.
Improving the matching of job supply and demand	Employment forum, full-time reception, reception of job-seekers.	650 job-seekers contacted.
Support / Advice	Individual guidance and information on training opportunities.	Concerns a limited number of employees. Attempt to track RSA recipients abandoned.
Reducing health risks at work	Strip cartoon booklet on these questions widely distributed among employers. Visits to firms to give advice (25). 1,000 first aid guides printed.	More information and awareness. But not possible to set up an inter-firm HSC.
Social Protection	How	Results
Housing (43% of housing applicants come from outside the département).	Attempt to convert fishing boats into accommodation; Collecting accommodation offers of.	Boat conversion failed: lack of political support, administrative complexity; A hundred accommodation units offered.
Health and welfare entitlements.	Cf. above.	
Enforcement	How?	Results
Main work done on making employers and employees aware of rights and duties.	Information booklets. Advice given during consulting hours.	Less illegal employment; but continuing undeclared hours, paid in cash. According to our interviewees, fewer cases go to the prud'hommes (employment tribunal).

Case # 1 : What kind of social dialogue ?

Presence of the social partners but no formal agreements : no rule making, more soft law, information and acting on behaviours, rule enactment

Ambiguity for unions and employers between belonging to an organisation and/or involved as an individual:

- in the steering committee ;
- when organising in the office (during the season) welcome and advice periods for the workers and/or the employers ;
- when visiting (new initiative) the work places...

More individual than organisational commitment

An organic relation with public authorities

The historical and stabilizing role of the ESF (70 to 80% of the budget)
for the structure (permanent employees of HSW for example)
For the share of power between actors (ESF coming from the State)

Case # 2 : Regional Policy in the home care services

Home care services is a sector in expansion (partly due to the ageing of the population)

Mainly low skilled women; roughly 80% on open ended contracts, however 70% part time

Wage gap (near the minimum wage for the hourly wage, not monthly, under the poverty threshold) and, depending of the employer (difference between for profit and non-profit organizations), unpaid time between two houses

30% working for non-profit organizations, 30% directly for at home individuals, 20% for for-profit firms and 12% for public local authorities

Case # 2 : A quadripartite social dialogue

In 2009, the regional authority create a special fund (IRIS) for low skilled workers

The same year, the non for profit home care sector set up a bipartite commission to discuss and bargain at the regional level

This commission start a common action with IRIS, which gradually involves also the bipartite training fund, the employment agency, the health insurance...So employers, unions, region and state

Unlike case#1, which is only “soft law”, social partners are here able to bargain, to be rule makers in connection with the other partners

Case # 2 : Actions on which gaps ?

In Work	How ?	Results
Increasing working time	Training for higher skilled task	Increasing for the majority sometimes to full time, however, 20% coming back to part time due to the too penible workload
Increasing qualification for easier employment transitions	Training for qualifications	Numerous qualifications
Risk prevention (health and safety)	Workshops on different risks	? No assessment

Representation	How	Results
Fostering social dialogue	<ul style="list-style-type: none"> - Employers must discuss with unions delegates - The regional commission as a key actor 	At least 70 firms with improvement of the social dialogue

Enforcement	How	Results
Increasing the role of the collective agreement	<ul style="list-style-type: none"> - To benefit, employers must follow the collective agreement 	At least 70 firms

Social protection and integration	How ?	Results
Fighting against unemployment	<ul style="list-style-type: none"> - Help to the employers in a reconversion of activity - Training for fired workers 	? No assessment available

Case # 2 : Strengths and weaknesses of the social dialogue

Obvious results : more than 3700 employees benefit from the IRIS fund (and from other funds), however lower involvement and results for the unemployed

Field (only for the non profit) : easiest for the social dialogue (more tradition, employers of social and solidarity economy, ...), however covering only 30% of the whole sector

Capacity to build a common interest and to federate numerous actors

Quadripartite social dialogue as a strengthening of the “classical industrial relations”

As in Case #1, highly dependent of the policy agenda. The region shift to the right. What next ?

Case # 3 : Sectoral and firm bargaining on part time in retail : a classical social dialogue

A majority of open ended contracts. The employment status is not the key of precariousness

60 % of women in retail

1 woman in 3 on part time (1 man in 10)

A lot of single-parent family

Irregular hours (to adapt them to scheduled for customer)

Work on Saturday, more and more on Sunday

Difficult balance between work and family

Difficult working conditions (handling, standing work, etc.)

Focus on the bargaining in a big firm in retail : the case of X : 30 000 employees, 72 % of women, 37 % on part-time (wage average : 800 euros per months).

Case # 3 : From national impulsion to firm level negotiation in retail (or the reverse ?)

- 2012 : A guidance document from the state, for social partners including the topic of part time (the "state umbrella")
- 2013 : A national intersectoral collective agreement with a minimum duration (24h/week) AND the obligation to negotiate in sector where 1/3 of employees work on part-time
- Development of sectoral collective bargaining after 2013
 - with for some sectors, the possibility to sign an opt-out clause

It was not the choice of retail industry. Why retail had already negotiated a minimum duration of 25 hours in 2008 ?

They don't come back to 24 hours, but they negotiate 26 hours...

What happened in X ?

The context : part-time issue is an old question. There has been some experiments (since 2008) to increase working time by linking it with versatility but with a lot of conflicts with unions, some signing and some not, due to their opposition to versatility.

Since 2009, X has a minimal duration for part-time = 26 hours
So is its norm which was integrated in the sectoral agreement ?

Case # 3 : Action on which gaps ?

In work	How	Results
Increasing working time	By versatility or when an employee leave With training for versatility case	Minimum duration of 26 hours for everyone and more year to year 28 hours for those who accept versatility
Wage rise	Increasing working time	They earn more each months

Social protection and integration	How ?	Results
Increasing social entitlement	Increasing	

Case # 3 : What kind of social dialogue ?

A classical social dialogue : employers and unions, with the 3 levels hierarchy.

However, individual possibilities for the workers to keep their previous labour contract and hours. So margins in the implementation (for both sides)

Some workers didn't want to work more hours :

- Because of personal problem (children)
- They don't want to do other tasks, problems of multi-skilling
- To keep some other benefits (tax exemptions)

Difficulties to sign a collective agreement with all unions ... but employer strategy to use another way (annual compulsory agreement)

Keep in mind that X doesn't want to rise wages, but need to develop loyalty (including for example cashiers), solution : to increase the working time (through in work versatility of employees for a part of them).

A specific situation as some super market are directly owned by X, other are franchised stores (not concerned by the same level of bargaining)

Conclusion

Social Dialogue sometimes broader than classical bargaining, capacity to involve other actors

Regarding precariousness, key questions are on enforcement (new employers strategies) rather than on rules ; in our cases, the weakness of actors do not allow to extend actions to very small firms

In all cases, high sensitivity to the political context

More linked topics (housing+wage+family structure+...), so more complex solutions, more expertise for the actors.