Askenazy, Phillippe

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Philippe Askenazy

The Parameters of the French Minimum Hourly Wage

Philippe Askenazy
CNRS-CMH-ENS.

Interest in the issue of national minimum wages has been growing since the late 1990s. Growing wage inequality and the limits of redistribution have pushed governments to implement or to raise minimum wages. The United Kingdom and Ireland introduced a national minimum wage at the end of the last century. In 2015 Germany made history by also introducing a federal minimum wage.

By contrast, the French minimum hourly wage (SMIC - *Salaire Minimum Interprofessionnel de Croissance*) looks ancient: it was first introduced as the SMIG "Inter-professional guaranteed minimum wage" in 1950[1]. It is currently amongst the highest minimum wages across OECD countries at 9.88 euros.

Gautié and Laroche (2018) provide an up-to-date review of the evaluations of the SMIC's impact on employment. This note takes another –more modest- perspective. It aims to deliver a presentation of the multiple original parameters of the French minimum wage, which result from nearly 70 years of changing regulations. Their knowledge may stimulate the creativity of lawmakers in France's economic partners, or prevent them from implementing some exemptions.

The first section gives the general definition of the SMIC and how it is set and enforced. The second section details the coverage of the minimum wage, while the third examines the definitions of "paid periods". Section four focuses on the very complex issue of defining "wages". All in all, the normal nominal rate of the SMIC provides a very rough picture of actual minimal compensations in France; which are below this fictional threshold for many French salaried workers.

HOW IS THE MINIMUM WAGE CURRENTLY SET AND ENFORCED?

The French SMIC is a gross wage reference for one hour of work, regardless of the applicable payment scheme in question (fixed wage, sales commission, piece rates, etc.) Even if the law does not cover civil servants, the administrative jurisprudence has extended the application of the SMIC to public workers.

[1] See Askenazy (2015) for a long-run perspective on labour regulations in France.

The national minimum wage is not the sole reference for minimal pay. In France, most private workers are covered by collective agreements, which may include floor wages that are differentiated according to occupation, seniority, education and, more rarely, by location. However, the minimum wage is still a key reference for negotiating these wage scales, especially at the bottom of the distribution range.

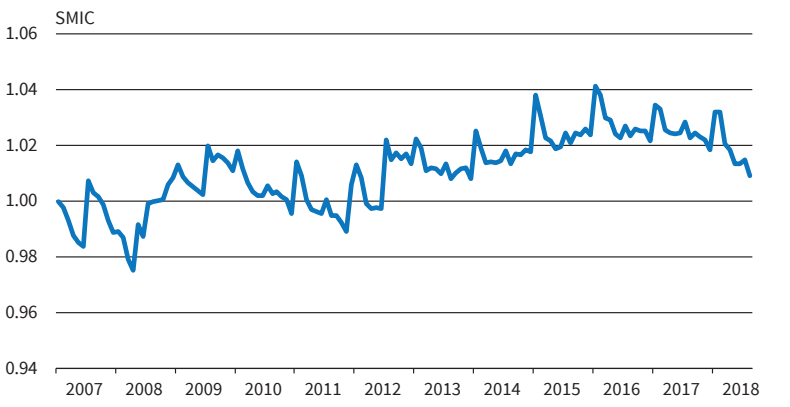
Over the past few years the French minimum wage has basically been increased according to an automatic formula. Each year on January 1st, its increase equals the evolution in the INSEE's consumer price index[2] (excluding tobacco) for households in the first quintile of the income distribution, increased by half the gain of purchasing power of the average hourly salary of blue-collar workers and employees. However, the revalorisation of the SMIC occurs in-year when this consumer price index reaches a level corresponding to a price increase of at least 2% compared to the SMIC increase that immediately preceded it. In theory, the French government may decide upon an additional discretionary hike at any moment. This tool, however, has been used only once in the past decade after the election of François Hollande in 2012. A steep hike of the SMIC is a key demand of the *Gilets jaunes*. Macron's government has refused any hike but increased the public income support for low-wage workers.

As of 2009 the government has been advised by a group of experts, which has five sitting members. Unlike advisory bodies in other countries (UK, Germany, etc.), it has no budget to fund research and its members have been, and still are, all affiliated with administrations or academic institutions with no significant experience as private-sector employees or

[2] The INSEE's index differs from the European Harmonised Index of Consumer Prices. For example, when a drug is no longer reimbursed by the Social Security, the HICP increases since the price paid by the patient out of pocket is larger. In this case, the INSEE's index is not affected because it is based on the market price of the drug, which remains unchanged. Consequently, the annual HICP inflation rate over the past decade has been about 0.1% higher than the index used to revalorise the French Minimum Wage.

Figure 1

"Normal" Rates of French Hourly Minimum Wage, Jan. 2007 — Aug. 2018
Deflated by harmonised indices of consumer prices (HICP), base 1 = October 2008



Source: Author's calculations based on Eurostat, HICP (2018).

employers. The current President of the group is Gilbert Cette, Deputy-General Director of studies and international relations at the Bank of France, and associated professor at the Aix-Marseille University. The group reports have systematically recommended avoiding any increase above the automatic indexation.

In December 2018, the "normal" rate of the gross hourly minimum wage was 9.88 euros in France. It is significantly higher than its German counterpart of 8.84 euros. The automatic indexation of the French national minimum wage preserves its purchasing power whatever the business cycle (Figure 1). This stagnation contrasts with historical periods marked by a decline in the SMIG in the 1950s and 1960s, steep hikes in the 1970's and 1980's and a moderate progression in the 1990s.

Labour and social security inspectors are in charge of enforcing the law. In France, the maximum fine for infringements may reach 1,500 euros for each employee concerned. In 2015, according to their reports to the ILO, labour inspectors transmitted just 173 *procés-verbaux* to the justice for violations of the SMIC. A worker who wants to protest can contact the labour inspection authorities confidentially, or lodge a complaint directly with an Employment Tribunal (*Le Conseil de Prud'Hommes*). French is the only permitted language for these actions, which is a real barrier for foreign workers who are most likely to be affected by violations of the law. In that perspective, when present, the unions play a key role for the effectiveness of the minimum wage in France.

Compliance with the minimum wage regulation is monitored by verifying that the gross wage divided by the number of hours worked during the reference pay period (a week, one month, etc.) is above the gross minimum hourly wage. As we shall see in the following sections, the definitions of the numerator, as well as the actual coverage, are extremely heterogeneous. They are thus crucial in assessing how attractive the SMIC really is.

LARGE COVERAGE BUT EXEMPTIONS AND REDUCED RATES

Contrary to the claims of many articles or reports, the French national minimum wage is not universal. It suffers from some exemptions and reduced rates.

Exemptions

By definition, self-employed workers are not covered by the minimum wage. Disputes frequently arise when there is doubt as to whether a worker is self-employed or an employee of a firm. There is no reliable statistic to measure the incidence of fake self-employment. However, by blurring the frontier between independent work and salaried status, the development of the gig economy is magnifying this phenomenon. Some disputes also emerge over interns who are generally not covered by the minimum wage.

In addition, France has introduced a variety of specific exemptions, concerning roughly 1% of the FTE dependant workforce in France. Two main categories of employees are not covered by the SMIC: sales representatives and activity organisers in day or holiday camps.

According to the French Labour Force Survey, there are about 100,000 sales representatives (VRP, *voyageur représentant placier*, about 0.5% of the private workforce). The SMIC cannot be applied to them because their number of worked hours is considered unmeasurable. It is worth noting that for sales representatives who work exclusively for one employer, a collective agreement ensures a minimal pay per quarter (regardless of their actual working time).

A second exemption concerns many students. Organisers and directors of activities for children can be hired under a *Contrat d'Engagement Éducatif* (CEE) if they work occasionally (i.e., less than 80 days a year). There is no hourly wage reference. They can be paid as little as 2.2 hourly SMIC a day, whatever their actual working time. To my knowledge, there are no recent statistics on the number of related workers. However, based on the number of days spent by children in holiday camps with housing (12 million in 2016-17) and statistics from the late 2000s (Nutte 2012), we can estimate that 200,000 workers were hired under the CEE status last year.

Finally, workers with very specific statuses are not covered by minimum wage regulation. Among the principal examples are the members of a religious community and prisoners (one out of four works i.e., about 15,000).

Reduced Rates

The youth rate is limited to teenagers. A worker aged 17 with less than six months of working experience can be paid at 90% of the normal rate; while for younger workers the reduction can be up to 20% at most.

As in numerous countries, reduced rates also apply for apprentices or workers in vocational training. About 420,000 young workers (2% of the private workforce) were apprentices in 2017, including 7% of 16-25 year-olds. The rates depend on the age of the apprentice and her year in the programme. As in the UK, for example, reduced rates are particularly drastic for apprentices in their first year (Table 1).

Childminders also face reduced rates. Thanks to the high participation rate of women and France's fairly high birth rates, over 300,000 childminders (about 1.5% of the private workforce) are operating in France. They are directly employed by families. For each child, a family has to pay at least 0,281 hourly SMIC. So a childminder is only sure to earn the normal minimum wage if s/he cares for at least four children on a full-time basis.

Finally, a reduced rate is still in force for all workers in the overseas department of Mayotte (the latest to join France). In 2018, the gross hourly SMIC in Mayotte is 7.46 euros compared to 9.88 euros in the rest of France.

Table 1

Rounded Reduced Rates as % of the Normal Minimum Wage (SMIC)

for Apprentices, according to Age and Year in France, 2018

	Under 18	18-20	21 or more
Year 1	25	41	53
Year 2	37	49	61
Year 3	53	65	78

Source: Author's calculations (2018).

WORKED HOURS AND PAID ANNUAL LEAVE OR HOLIDAYS

Since workers are generally paid on a monthly basis, the definition of paid working hours is crucial for the implementation of the hourly SMIC.

European labour regulations, especially concerning workplace safety, and the jurisprudence of the European courts have progressively homogenised the definitions of salaried/time/paid/output hours across Europe. Basically, "hours worked" to be paid include hours spent at work, required for work or on standby near the workplace (but not on rest breaks), hours when kept at the workplace even though unable to work, hours travelling on business during normal working time, training (or travelling to training) during normal working time, as well as hours awake and working during usual sleeping time.

In France, workers are entitled to paid annual leave: a minimum of five weeks (25 days) per year. For short-term contracts, an employer can refuse to pay days off, but in this case he must pay a 10% holiday bonus at the end of the contract. Moreover, the 1st of May must be paid if it falls on a "normal" working day, and up to nine additional public holidays[3] (such as the 14th of July, etc.) are also paid to employees who have at least a three-month tenure (when the public holiday occurs a day of the week regularly worked by the employee). For a lucky worker (all public holidays occur on days regularly worked), the actual rate of the hourly minimum wage, including paid annual leave and holidays, is thus increased by up to 15%.

TIPS, GRATUITIES, BENEFITS IN KIND: THE EXTENDED DEFINITION OF MINIMUM WAGE

While the definition of worked hours is quite homogenous, the calculus of the wage used for complying with minimum wage regulations is dramatically different across European countries. In fact, workers may receive payment in a variety of forms from their employers, as well as directly from customers. In addition, they may be given significant benefits in kind. Whether or not such payments from various sources are deducted massively affects the true minimum wage for numerous occupations. Table 2 shows what types of benefits can or cannot be counted as part of the minimum wage in France, and of the minimum (or living wage) in the UK. This table is not exhaustive, but it does cover the main elements of compensation.

A first striking difference is the treatment of tips given by clients. Basically, a cloakroom attendant receives the minimum wage plus tips in the United Kingdom. In France, the job contract can stipulate that

[3] In Alsace and Moselle, some German rules still apply. So two additional paid days are not worked: Good Friday and the 26th of December.

Table 2

Several Types of Compensation

included (or not) as Part of the Minimum Wage Pay in Compliance with National Regulations (France vs UK)

	France	United Kingdom
Basic pay	Yes	Yes
Sales commissions	Yes	Yes
Tips and gratuities	Yes	No
Performance-related pay	Yes	Yes
Annual bonuses	Yes	Yes
Specific schemes	Participation, profit-sharing: no	Rewards under staff suggestion schemes: no
Any premium element for working at special times	No	No
Overtime premium	No	No
Allowances on top of basic pay: for working unsocial hours, in a particular area, in dangerous conditions, being 'on call', performing special duties	No	No
Benefits in kind:		
Accommodations	Yes, up offset rates	Yes, up offset rates
Meals	Yes, up offset rates	No
Car or fuel for personal use	Yes	No
Others (mobile phone…)	In general, yes	No

Source: Articles 3251-1 to L. 3252-13 and R. 3252-1 to R. 3252-49 of the Labour Code (http://www.legifrance.gouv.fr/initRechCodeArticle.do) [France] and http://www.nidirect.gov.uk/index/information-and-services/employment/employment-terms-and-conditions.htm [UK] (2018).

the employee is only paid in the cash tips s/he receives; in case of disagreement with the employer, the worker has to prove that the amount of tips collected did not reach the level of the minimum wage.

The inclusion of benefits in kind implies that the high nominal rate of the SMIC is eroded by a large variety of offsets depending on the occupation, and even on the location or on the type of compensation, generally resulting from agreements between employers and unions that are subsequently made mandatory by the government or local prefectures.

The objective is to compress wages, and thus actual labour costs, in labour-intensive activities that are central to the French economy, including tourism and agriculture. The result is an extremely complex (and sometimes exotic) system. For example, in September 2018, an employer in the hotel-restaurant branch can deduct 3.59 euros for each meal from the wages of his/her staff, whatever the number of worked hours and the actual cost of the meal. Each day, and regardless of the working time, an employer of a grape-cutter in the Gers *département* can deduct from cash gross wage, 1.01 euros for a breakfast, 5.18 EUR for a lunch or a dinner and 1.52 euros for housing; however, if the employer does not provide two litres (sic) of wine a day for drinking, s/he has to pay 0.61 euros to the grape-cutter.

This complexity creates confusion in employee and employer declarations in the labour force or cost surveys, and even in social security records. Some employers or workers declare tips and benefits in kind, while some do not at all or only partially. The treatment of this confusion by French administrations and researchers is irritating. Most of the statistics on labour costs and earnings and evaluations of the impact of the minimum wage are purged of "absurd" observations[4].

4 For example, hourly wages below 0.8 or 1x SMIC cut-off points; observations with missing information on hours.

We thus fail to take into account as many as hundreds of thousands very low-paid employees in France, who are mostly youths.

Figure 2 shows the distribution of net wages of FTE workers in the private sector and public firms (excluding apprentices, and households' and agricultural employees), according to exploitation of employers' social security records by INSEE. The French statistical institute refuses to publish its estimations for the 4-first centiles, arguing that it is unable to disentangle between consequences of the "quality of the data" and workers actually paid under the minimum wage.

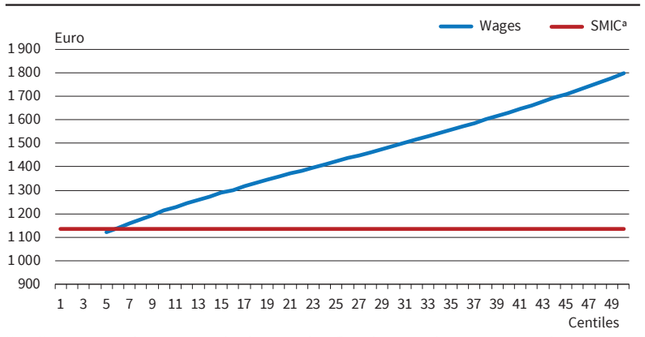
Despite its limitations, this figure suggests that the first-half of the distribution of wages is linear with no apparent change in the slope just above the SMIC threshold. Even if we trust that wages should reflect individual productivity, this observation is not all that surprising: the exemptions/reductions, and the inclusion in the wage definition of benefits in kind or tips create a continuum of final employer costs for minimum wage earners.

Social contributions schemes also participate to this continuum. In September 2018, all private employers benefit social contribution cuts plus a tax credit equal to roughly 35% of gross-wage at the minimum wage (Gautié et al 2018); they drop to 6% at 1.6 SMIC and are null above 2.5 SMIC. There are many other schemes for revitalizing zones and tipped workers, for instance. The employer final costs can even be lower than the gross wage[5].

This linearity seems inconsistent with the common claim that around 10% of French private workers are paid "at" the minimum wage. Actually, these figures translate another series: the proportion of workers in firms in the business sector with ten or more employees paid on the "basis of the minimum wage" (see Sanchez (2016) for a presentation). These workers are those directly affected by the latest increase in the SMIC. Their proportion is significant from between 8 and 16%, depending on the magnitude of the last increase in the national minimum wage. Among these employees, there are both workers paid below or above the normal SMIC[6]. For example, a vendor paid a fixed share of the SMIC, plus a commission on each sale, can earn much more than the SMIC, but she is considered as being "paid on the basis of the SMIC".

Figure 2

Centile Distribution of Monthly Net Wages of FTE Workers, 2015
Centiles 1-50 for the private sector and public firms



Note: Net wages according to employers' social declarations. Excluding apprentices, and households' and agricultural employees
a The red line is the net "normal" French statutory minimum wage for a 35-hour full time worker (Salaire minimum interprofessionnel de croissance [SMIC]).
Source: INSEE (2017).

5 Transfers or tax credits can massively alleviate their burden for households: for example, in September 2018, the final cost of a baby sitter (employed directly by the family or via a firm) working 25 hours a month for a family with two active parents and a child younger than three, can be less than 80 euros.

6 In 2013, about 20% earned more than 1.2x hourly SMIC (Sanchez 2016).

This discussion confirms the nature of the French minimum wage: a key reference for the collective bargaining and the labour contracts of a large proportion of the workforce, and at the same time a threshold eroded by a variety of exemptions and reductions and an extended definition of "wages". This nature rationalises the demand of the *Gilets jaunes:* a 8% hike of the SMIC.

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