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Article

Labour Market Reforms and Collective Bargaining in France

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After the financial crisis, Germany experienced a boom- ing economy with steadily decreasing unemployment rates. The growth rate in France, by contrast, was con siderably lower during this period, while unemployment increased steadily from 2008 until 2015, then declined modestly. High unemployment and low growth rates led to disillusionment with traditional political parties. Both traditional mainstream left and traditional mainstream right candidates failed to make it to the second round in France’s 2017 presidential election. Instead, French voters faced a stark second round-choice between pro-European Emmanuel Macron who had launched a new centrist party and promised to reform the economy to boost growth and employment, and nationalist Marine Le Pen who repre sented the far-right National Front and promoted prote ctionist policies and opposed liberalizing reforms. Macron won 66% of second-round votes. His newly established party won an absolute majority in subse quent parliamentary elections, on a platform to promo te economic growth and labour market reforms.

Less than 20 years earlier, Germany had suffered from high unemployment rates and low growth, per forming worse than France and most other EU coun tries. During the 1990s, many collective bargaining agreements in Germany started to include opening clauses allowing for derogations and more flexibility at the regional or company level. In 2003, a coalition gov ernment by the Social Democrats and Greens initiated the so-called Agenda 2010 reform package, with an aim of boosting growth and employment. The name Agenda 2010 refers to the European Union’s Lisbon Strategy from 2000, with its ambitious (but ultimately unful filled) target of making the European Union “the most competitive and dynamic knowledge-based economy in the world” by 2010 (Lisbon European Council 2000). The German economy subsequently recovered, and the unemployment began to decline in 2005.

Germany’s turnaround inspired French politicians to try and reignite economic growth in their country too. Back in 2015, the French government under Presi dent François Hollande and Prime Minister Manuel Valls proposed reform measures to address structural chal lenges facing the French economy. The proposed meas ures emphasized reformed labour market regulation and the collective bargaining system in France. As part of its evaluation of a proposed reform package, the French Senate invited the ifo Center for International Institutional Comparisons and Migration Research to compare the institutional settings of employee representation and collective bargaining in France and Germany, and to evaluate the proposed reforms. In this article, we describe the regulation of workplace representative and collective bargaining in France, compare the main features with the regulatory framework in Germany, and discuss subsequent developments and perspectives for the French economy.

We start by presenting the institutional and economic situation in France before the 2016 labour market reforms were implemented. We then summarize and discuss selected reform proposals by Combrexelle (2015). This is followed by a description of the proposed and implemented reforms, first under the Valls government and then once Macron was elected president. Finally, we discuss the presented reform measures in the context of a shift towards more decentralised barg ainng in Europe.

### LABOUR MARKET DEVELOPMENTS IN FRANCE

Figure 1 reports harmonised unemployment rates for France and Germany. During the 2000s and before the financial crisis unemployment rates were higher in Ger many than in France. In Germany, the unemployment rate peaked at 11.3% in 2005, while it was at 8.9% in France during the same year. In 2008, the unemployment rate was 7.4% in both countries. After the financial crisis, the unemployment rate in France increased to 10.4% in 2015, then dipped to 9.4% in 2017. In Germany, unemployment steadily declined to 3.8% in 2017. The OECD (2017e) as well as the IMF (2009) document a sig nificant deterioration in France’s export performance during the 2000s due to a structural deterioration in competitiveness. Figure 2 illustrates that between 1995 and 2009 nominal unit labour costs increased by 28 per cent points in France, but remained almost unchanged in Germany, resulting in a major boost to German competitiveness vis-à-vis France. Sub sequently, wage growth picked up in Germany, but in 2017 Germany was still considerably more competitive than France. Overall, unit labour costs increased from 1995 to 2017 by 14 percentage points more in France than in Germany.

GDP growth during the 2000s was much faster in Germany than in France, with annual average GDP growth of 0.7% in France and 1.6% in Germany between 2000 and 2010. France’s strong export performance was driven mainly by competitive prices, as measured by Unit Labour Cost (CLP), which is the ratio of nominal Unit Labour Cost (

#### COLLECTIVE BARGAINING IN FRANCE COMPARED WITH GERMANY BEFORE THE 2016 REFORMS

Labour unions and employer organisations play an important role in both France and Germany. Before the 2016 labour market reforms, a central difference between collective bargaining in France and Germany was that the French system was far more fragmented, and the state played a much more central role. France has five major trade unions, each with its own distinct political profile. Several labour unions could be active in one firm, and strikes could be started by employees, collective agreements were possible at the regional or company level, the scope of collective bargaining was usually the national level. The possibility to extend collective agreements in France if they contained subjects defined in the Labour Law, was frequently used. Due to the practice of frequent extension of collective agree ments by the state, the collective bargaining coverage has remained consistently high in France (98% in 2012 according to worker participation 2018). In France, trade unions, employers or employers’ associations in Germany generally participate in collective bargaining. There are three main trade union organisations and a bulk of smaller non-organised sindicators.

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include opening clauses to allow for derogation by regional or firm-level agreements. This leads to variations in collective agreements by region within the same industry, especially concerning wage levels and working hours, in particular between Eastern and Western German states. In 2015, a new law regulated that only one collective agreement is valid for an establishment or a specific group of employees. As in France, collective agreements in companies are covered by collective agreements, irrespective of union membership. The extension of collective agreements by the state to companies that do not participate in collective agreements is possible by law, but can only be conducted by the Ministry of Labour: “if there is a general interest by the public” and if 50% of the employees are already covered by the negotiating employers and if the employees’ representatives agree. In practice, this state intervention is quite rare and the number of extended collective agreements by the state declined in the past. In Germany, there is a “peace obligation” for strikes: if a collective agreement has been signed, there is the duty not to go on strike for the duration of that agreement and on grounds covered by it.

REFORM PROPOSALS IN THE COMBREXELLE REPORT AND THEIR EVALUATION

Combrenelle (2015) suggested several points for reform in French labour law to overcome structural challenges and improve the economy’s performance. In general, the Combrexelle report made a set of proposals to improve the functioning of the collective bargaining system, by prioritising company-level agreements in establishing the rules governing working time, wages, working conditions and employment, and derogations from the legislation on the 35-hour working week and overtime payments. Table 1 gives an overview of central proposals in the Combrexelle report and the 2016 evaluation by the Ifo Institute, which is available in English in Poutvaara et al. (2017).

Table 1
Ref orm Proposals and Their Evaluation According to Poutvaara et al. (2016).

<table>
<thead>
<tr>
<th>Proposal No.</th>
<th>Content</th>
<th>Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Extension of collective agreements to working conditions, working time, employment and wages: new forms of working contracts, collective regulations under a framework predefined by the law.</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>The priority is given to firm agreements, the supplementary regulations of industrial agreements and the law which only apply if no firm agreement has been reached.</td>
<td></td>
</tr>
<tr>
<td>34</td>
<td>Legal limitations of the duration of firm agreements and industrial agreements.</td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>Maintaining of extensions of industrial agreements by the labour minister.</td>
<td></td>
</tr>
<tr>
<td>39</td>
<td>Provision of standardised firm agreements on the industry level.</td>
<td></td>
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</tbody>
</table>
Suggested by enlarging the scope of collective bargaining, it can improve the competitiveness of firms. | 
| 
Collective bargaining between labour unions and employer organisations re- duces negotiation costs, compared with bargaining carried out separately in each firm and strengthens employees’ bargaining position. However, allowing firm agreements can have the opposite effect. | 
| 
Well-defined, mutually agreed contract periods reduce uncertainty for both firms and workers. A peace obligation would reduce costs of strikes during the contract period. | 
| 
Maintaining frequent use of legal extensions would be counterproductive and make the country less competitive in the global economy (Greencare et al. 2017). The changes under the new framework law can be summarised under five main topics. | 
| 3. First topic concerns rules for the negotiation of collective bargaining agreements. Industry level agreements are empowered to cover themes that were previously covered by law. Furthermore, company- level agreements can take precedence over industry level agreements in certain areas (Mercier 2017). This new rule further strengthens the implication of the El Khomri law that company-level agreements are supposed to become the standard norm in certain matters. In the absence of successful negotiations at a company and industry level, legal standards apply (Rehfeldt and Vincent 2018). | 
| 38 | Companies which are too small to have union representatives are allowed to agree on, for example, working hours deals with their employees in the same way as a larger company. | 

Table 2
Content of El Khomri Law Based on the Reform Proposal

<table>
<thead>
<tr>
<th>Reform Proposal</th>
<th>Content of the El Khomri law</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>The El Khomri law aims to soften the legal upper limit of weekly work. Even though the legal duration of work remains 35 weekly hours, the new regulation allows employees in exceptional circumstances to raise the weekly upper limits to 40 hours. In contrast to the proposals in the daily legal limit (30 hours increased to 42 hours and 35 hours to 40 hours) in the Bill, the new law only allows overtime if the bargaining process has been successful. Furthermore, it is easier for companies to dismiss workers on the basis of economic problems. This law should make it easier for especially small and medium-sized enterprises to dismiss workers.</td>
</tr>
<tr>
<td>35</td>
<td>Regarding issues on how work time is organised, due to the El Khomri law, a priority will be given to agreements made between employees and employers over industry agreements. This decentralisation is a fundamental change in the construction of labour law in which company-wide collective bargaining agreements are set above industry-wide collective agreements and over- ride give company agreements. Additionally, the future flexibility principle is loosened in cases where these decentralised agreements result in worse condition than the industry-wide agreements, they are valid for the employees.</td>
</tr>
<tr>
<td>18</td>
<td>No legal changes were introduced by the El Khomri law.</td>
</tr>
<tr>
<td>38</td>
<td>The majority agreement should gradually become the rule at company level. Before a collective company-level agreement is valid, it must be signed by the representatives of the employees and the companies according to the law on new rules it is possible.</td>
</tr>
</tbody>
</table>

The last topic, which had not been addressed by Combrellle’s proposal and reformed by the El Khomri law, concerns the quasi-automatic extension of branch level agreements. The extension of an agreement is now subject to an evaluation of its potential economic consequences. Furthermore, the agreements must include provisions specifically to small firms (OECD 2018).

A TREND TOWARDS MORE DECENTRALISED BARGAINING IN FRANCE

A central feature of the El Khomri law and the subsequent ordonnances by the Macron government is that they make it possible to shift collective bargaining away from the industry towards the individual company level. Since the financial crisis, many governments in Europe have decentralised collective bargaining to reform labour market structures (Pedersini and Leonardi 2018). In fact, the OECD (2014) states that since the 1970s not a single country has moved towards more centralised bargaining.

France is characterised by a highly institutionalised labour market governed mainly by national legislation. This has become manifest in strongly regulated representativeness, the presence of a legal minimum wage and the mandatory social dialogue at national level. In the past, multi-employer bargaining agreements were often extended by law, instead of considering particular needs of economically weaker regions or companies. The recent labour market reforms mainly affected the so-called vertical coordination of the bargaining structure and an increasingly decentralised bargaining autonomy. This is primarily achieved by loosening the favourability principle. Decentralised agreements can now introduce provisions that are independent and potentially derogate from existing sectoral rules. For specific topics such as minimum wages, job classification systems, or gender equality, sectoral rules may now be concluded by elected employees representing gaining units, the favourability principle still maintains.

According to Dustmann et al. (2014) this developments led to higher wage flexibility, especially at the lower end of the wage distribution. Export oriented industries profited from this development, which contributed to Germany’s competitiveness on international markets today. Additionally, the so-called Hartz reforms, which were part of the Agenda 2010 programme, were implemented by the German government from the year 2003 onwards. Along with social benefit reforms, this included additional measures to foster labour market flexibility and incentivise employment in so-called mini-jobs, for example (Fabre 2012).

CONCLUSION AND OUTLOOK

Since the financial crisis, European countries have faced a stark divide in their labour market performances. Germany and some other countries have enjoyed fast growth and relatively low unemployment, while others have suffered from high unemployment and disappointing growth performance. In Greece, the outcome has been a disastrous recession that has forced radical cuts in public spending, including slashed salaries for civil servants and significant reductions in public pensions. In France and Italy and several other countries, the crisis has primarily meant stagnation and high youth unemployment.

Yet reforms are possible. Germany reformed its labour market rules and welfare spending to improve its competitiveness, and the reform helped to stimulate economic growth and employment. In recent years, France has started to reform its labour market, searching for ways to learn from the German experience. The first results of these reforms are already visible: The Economist (2018) reports that the share of those aged 15-64 who are employed on permanent contracts has increased during 2018; and that firms intend to hire more permanently than a year ago. Moreover, the number of court cases for unfair dismissal went down by 19%, most probably due to the limit that the recent reforms put on damages that labour courts can award. This reduces the risk and potential costs of firms hiring new employees, particularly on permanent contracts.

It is important to note that learning from the German experience does not mean weakening labour unions, as was the case with Margaret Thatcher’s reforms in the United Kingdom or various anti-union laws in the United States. Instead, Germany attaches a great deal of importance to collective bargaining, and has strong employee participation in company boards and supervisory councils. The French government has, instead, often intervened in the labour market. With Macron’s reforms, first as minister and subsequently as president, the aim is to move closer to the German system and highlight the role of employee representation.

REFERENCES
