UNIVERSITÉ DE STRASBOURG

WORKING TIME ISSUES

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1 - What are the sources of the working time regulation in your country (implementation of EU directives, Constitution, law, collective agreements, case law ....)?

The main sources of the working time regulation in France include two series of the regulatory rules. National legislation historically played a major role in the development of working time regulation before the European community had been created.

A. National sources of the working time regulation

National sources are based on the hierarchy of rules. At the top there is the **Preamble to the 27th of October 1946 Constitution** attached to the actual French constitution. The Preamble grants rest and leisure to the workers. Legal rules have been codified in France in the "code du travail" et in the "Code civil".

Historical evolution of the working time in France

Relevant labour regulation set by law in the XX century:

- 1906: the mandatory weekly rest is to be on Sunday
- 1919: An 8-hour work day is introduced
- 1936: 2 weeks paid annual leave and maximum work week of 40 hours are set by law
- 1982: maximum work week of 39 hours

The **35-hour working week** is a legal measure adopted first in France, in February 2000, under Prime Minister Lionel Jospin's Plural Left government. It was pushed by Minister of Labour Martine Aubry. The 35 hours was the legal standard limit, after which further working time was to be considered overtime.

The national legislation is the greatest source of the working time regulation (16 acts adopted since 2003, the latest on date is Macron act of the 7 august 2015). But since 1982 there has been a growing number of private collective agreements aiming to adapt working time to the needs of the social partners and companies.

Collective private regulation

The Preamble of 1946 Constitution outlines that every worker may participate through representation to decision making over labour conditions. The article L. 2221-1 of the code du travail admits the right of the employees to the collective bargaining over working conditions and social guaranties.

These agreements have a high impact on the working time regulation in France and are being reinforced by the upcoming legislation. The collective agreement may be applied at different levels: enterprise group or part thereof, branch or inter-branch. The difference is in the scope of application. The government has planned to reduce the number of the sectorial collective agreements from 700 to 100 by the end of the year.

How are managed the levels of the collective bargaining in France:

- National cross-industry agreement: negotiations are held at national level and cover all the sectors of economic activity
- Industry-wide collective agreement: negotiations are held at branch/sector level
- A company-wide agreement: negotiations are held at company level

The discussed El-Khomri Act may soon introduce referendums within the companies in order to bring more democracy in decision making particularly in the area of working time regulation. This measure is disputed by the trade unions who claims it will damage the collective bargaining.

National case law

The cases concerning working time regulation are heard by the **Supreme Civil Court- Court of Cassation** (Cour de Cassation) which is the court of final appeal for civil and criminal matters. As a judicial court, it does not hear cases involving claims against administrators or public bodies which generally fall within the purview of administrative courts, for which the Council of State (Conseil d'Etat) acts as the supreme court of appeal. Labor Division of the court (chambre sociale) handles labor disputes, worker compensation, and welfare. Case law of the Court of Cassation plays an important role by making clear imprecise points of the national statutory regulation and of the working time legislation. The judge may interpret law in order to regulate the working legislation.

B. EU directives

The Working Time Directive 2003/88/EC gives EU workers the right to a minimum number of holidays each year, rest breaks, and rest of at least 11 hours in any 24 hours. The directive restricts excessive night work, a day off after a week's work and provides for a right to work no more than 48 hours per week. It was issued as an update on earlier versions from 22 June 2000 and 23 November 1993.

The following Directives were consolidated and replaced by Directive: 2003/88/EC

- Directive 2000/34/EC amending Directive 93/104/EC concerning certain aspects of the organisation of Working Time to cover sectors and activities excluded from that Directive
- Directive 93/104/EC concerning certain aspects of the organisation of Working Time

Another important directive which modified French working time regulation was the European **part time directive 97/81/CE**. Its aim is to ensure that people who have not contracted for permanent jobs are nevertheless guaranteed a minimum level of equal treatment compared to full-time permanent staff. It also aims to facilitate the development of part-time work on a voluntary basis and contribute to the flexible organization of working time in a way that takes account of employers' and workers' needs. The directive requires that part-time workers' employment conditions may not be less favorable than those of comparable full-time workers, unless there are objective reasons for different treatment. In addition, it exhorts employers, as far as possible, to take account of employees' preferences and their requests to transfer from full-time to part-time employment or vice versa. Employers should also facilitate access to the relevant jobs. A worker's refusal to transfer from full-time to part-time work or vice versa should not in itself be a valid reason for dismissal.

2 - What are the goals of the regulation?

The goal of the regulation is to lay down minimum safety and health requirements for the organization of working time, in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work. It is important to clarify the working time legislation by simplifying the procedures by the codification of the provisions in question. The regulation aspires to reconcile the interests of business and workers and to maintain a balance in distribution of time between work and leisure. A part from these goals, there is also an economic objective: the working hours' regulation is a way to provide more flexibility for businesses and fight unemployment.

3 - How did your country implement the working time regulation directive and the part time directive.

A. Implementation of the working time directive 2003/88/CE

The directive was implemented gradually into French national legislation by the decrees adopted in 2006 and 2007.

On one hand the directive had an unequal weight on maximum weekly working time and minimum rest period in France. On the other hand, it had a major influence on the concept of working time.

- Maximum weekly working time and minimum rest period:

Minimum rest time conditions implemented into French legislation reinforce the protection of workers in France in comparison to what it used to be before. In particular, the directive extends the protection in case of derogation from the right to a break by imposing equivalent compensatory rest.

Maximum weekly working time in French law is still more protective then the European standards except the length of night work.

- European average weekly time limit is less protective then French daily and weekly working time

The code du travail offers a flexibility to calculate the maximal working week. It sets up a maximum par day and week and offers the possibility to calculate the 44 hours per week on average over a period of 12 weeks.

On the contrary, the working time directive establishes only one limit to weekly working hours, which must not exceed 48 hours on average, including overtime. The average can be calculated over 4 months without being considered as derogation.

There was no need to implement the directive in this particular provision.

- Maximum night work time

If the working time directive contains no maximum daily work of general application, it does require such a period for night workers. Thus the article 8 stipulates that Member States shall take the

measures necessary to ensure that normal hours of work for night workers do not exceed an average of eight hours in any 24-hour period. However, no specific limitation to night work was planned in the labor code before the transposition of this provision into French law by the law of 9 May 2001.

- On-call time

Before the transposition of the directive into French law, the code du travail and jurisprudence of the Court of Cassation interpreted the working time by excluding any non-productive/inactive time. However, the directive takes into account the time during which the worker is available to his employer. Since the laws Aubry 1998 and 2000 this criterion is also present in French working time regulation provisions.

On-call time must therefore be regarded as effective working time.

B. Implementation of the part time directive 97/81/CE

The Directive implements the Framework Agreement on part-time work agreed between the European Union's employers and the social partners.

The Agreement sets out to remove unjustified discrimination of part-time workers and improves the quality of part-time work. It also aims to help develop part-time work on a voluntary basis and allows employees and employers to organise working time in a way which suits both parties' needs.

The directive lays down minimum requirements and provide general principles, Member States are entitled to maintain or introduce more favorable provisions. The only binding condition concerns the prohibition of discrimination between part-time and full-time workers in conditions of employment.

The implementation of the directive into French law resulted in minimal changes given the fact that the principle of non-discrimination is recognized by the law.

Recently the part-time work in France has been modified and since 2014 the minimal number of hours must be at least 24 hours a week or its monthly equivalent (L3123-14-1 code du travail).

In order to fulfill the requirements of the EU directive, the articles L3123-9 to L3123-13 of the code du travail insist on equal treatment of the part time workers with full time employees.

4 - Is there, in your country a general framework about working time (i.e. a legal or conventional or statutory working time rules, weekly rest, holidays, specification for overtime working hours) . What is the scope of this regulation (workers, employees, others ...)

A. History

There were 3 successive guidelines which characterise the historical evolution of the working time framework. First of all, it was the necessity of protecting the health and security of the workers (i.e law of March 22nd 1841 limiting working time for women and children), then it was the adoption of

different laws in the 80's which attempt to reduce the working time as the workers can reconcile career and private life. With the 1973 economic crisis it was also necessary to restrain unemployment. So France adopted the laws Aubry I and II (June 13th 1998 and January 19th 2000) which reduce the working time to 35 hours per week, offering also an opportunity of flexibility for the firms through collective agreements. Exemptions of the 35 hours rule were increased by the next governments which want to offer to the firms more opportunities of competiveness, flexibility, especially through allowing more overtime (i.e law of August 20th 2008). When M. Hollande was elected President of the Republic, the law of August 16th 2012 ended the special fiscal and social system which granted a specific fiscal advantage to payment of overtime in firms employing at least 20 workers.

B. Framework

So the French working time system is composed of several laws codified in the "code du travail". Those laws provide the general framework. Inside this general framework exemptions or specifications are possible thanks to the collective bargaining. So social partners have a huge importance. The social bargaining concerning working time is accomplished mainly on two levels: a wider level, the sector, and the level of the enterprise or the establishment. The laws of 4 may 2004 and 20 august 2008 gave more power to the collective bargaining of the enterprise and the establishment. Since these laws a collective agreement of that level can contravene a sectorial agreement in several aspects of working time provisions, even in a way less favourable for the employees (for example concerning overtime working hours).

C. Scope

You can find the working time regulation in the 3rd part of the "code du travail" (L. 3111-1 du code du travail): the working time provisions in the Code du travail concern employers and employees of private law as well as public industrial and commercial firms. Apart from the legal provisions, conventional regulations are also important. Collective agreements can set different rules for the employees concerned. The main levels of collective bargaining concerning working time are: the sectorial level (concerns every enterprise and employee that belong to the sector) and the level of the enterprise or the establishment (concerns every employee working in the enterprise/establishment).

5 - What is the legal, contractual (individual contracts) conventional (collective agreements) or statutory system about working time?

A. Are there limits to working time? (apart from those included in the EU directive)

Legal limitations: The article L. 3132-1 of the code du travail provides that it is prohibited for an employee to work more than 6 days per week. The rest period should include 11 consecutive hours per day plus 24 consecutive hours per week (L.3132-2 code du travail). The 11 hour minimum for the

rest period originated from EU law and has been interpreted by the French Supreme Civil Court as a limitation to working time. As a result, according to cases such as Soc. 23 sept. 2009 APEI de Thionville c/Cocula, and Soc. 28 sept. 2010 B. c/ AFDAIM, employees cannot work more than 13 hours per day (pause and interruptions included).

The maximum working time per week is 44 hours. This duration is not calculated per week, it is the average working hours per week calculated in a 12 successive weeks' span (L.3121-36 al.1 code du travail). A decree issued after a sectorial collective agreement can provide for a duration of 46 hours (L.3121-36 al.2 code du travail). The absolute maximum is fixed at 48 hours per week (art. L.3121-35 al. 1 code du travail). The maximum working time per day is 10 hours (art. L.3121-34 code du travail).

For a night work employee, the maximum hours per day is 8 and the maximum hours per week 40, with possible derogation that can reach 44 hours.

Part-time work (less than 35 hours/week): The laws of 14 Jun 2013 and 5 mars 2014 have set a minimum duration of 24 hours per week for part-time work (L.3123-14-1 code du travail). This does not apply for a contract whose duration is equal or inferior to 7 days. The law of 14 Jun 2013 implemented a system that can temporarily increase the working hours of a part-time employee, by the means of a supplemental clause (L.3123-25 code du travail). In order to be applied, this possibility needs to be provided by a sectorial extended agreement. There can be 8 clauses per year and per employee. An increased salary can be provided for this extra hours. Concerning overtime hours a minimum of 25% increased salary is provided.

Occasional work (travail intermittent): This type of work provides for a succession of working periods and non-working periods. A collective agreement is obligatory in order for the employer to put in place the occasional work. The individual contract needs to mention the minimum working hours per year, the working periods and the work distribution throughout these periods (L.3123-33 code du travail).

Contractual system: there is a special type of contract that allows different working time models, the **individual flat-rate pay agreements** (convention individuelle de forfait), which can be based on a fixed number of working days or hours per year. In order to put in place this contract, the agreement needs to be in writing and to have the agreement of the employee (L.3121-10 code du travail). A collective agreement determines which categories of employees are susceptible to conclude this agreement, as well as the main characteristics of the agreement (L.3121-39 code du travail). The employees concerned by the flat-rate pay agreement in hours/year are the managers and executives as well as employees that dispose a real autonomy in the organization and direction of their work. The flat-rate pay agreement in days/year concern managers and executives who are independent in their work and cannot fit in the collective working hours applied in the company, as well as employees whose working hours cannot be predetermined and who have a real autonomy in the organization of their work (L.3121-42 and L.3121-43 code du travail). The working time for the employees working in a days per year agreement cannot exceed 218 days per year (L.3121-44 code du travail), but a collective agreement can provide for a higher limit. Without a collective agreement in place, the working days cannot exceed the absolute maximum of 235 days.

For the employees working in an hour/year basis all the general rules of working time limitations apply (exception overtime hours). For the employees working in a day/year basis the legal working hours per week, the maximum daily working hours and the maximum weekly working hours do not

apply (L.3121-48 code du travail). Regarding this point, France was convicted by the European committee of Social Rights in 2010 for violating article 2§1 of the European Charter of social rights providing for a reasonable working time per day and per week.

Finally French law provides for the possibility of **working time arrangements in a period superior to a week that can reach up to a year**. The law of 20 august 2008 has set the new rules but the preexisting rules continue to apply for the collective agreements concluded before 2008. Before 2008 the possible arrangement included 3 types of arrangements: the cycle (arrangement in a several weeks' period), the modulation (the working hours per week change for a part or all the year) and the 39 hours per week arrangement with attribution of days and half-days off. The 2008 law does not distinguish different types of arrangements but considers them all "arrangements of working time that allow a distribution of hours in a period superior to a week that can reach up to a year" (L.3122-2 code du travail). The conditions of these arrangements are determined by a collective agreement (enterprise, establishments or failing that, sector), failing that a decree. The decree can provide for arrangements up to 4 weeks. The arrangement can concern full-time and part-time employees.

B. Are there derogations to the general regulation of working time?

There are many derogations concerning the general regulation of working time described above.

Concerning the maximum of **working time per week**, an exceptional circumstance in a region, a sector or even an enterprise can justify the surpassing of the legal 46 hours frame (L.3121-36 al.3 code du travail). The absolute of 48 hours can also be surpassed by an enterprise; the art. L. 3121-35 al.2 also invokes exceptional circumstances to justify the derogation of the 48 hours per week limit. This derogation can apply for a limited time period and cannot surpass 60 hours per week.

The 10 hour per **day working time** limit is also subject to derogations provided by decree (art. L3121-34 code du travail). According to the decrees issued, there are two ways to contravene to this provision. Firstly a collective agreement of an enterprise or of an establishment of an enterprise can provide for a longer daily working time which cannot exceed 12 hours per day (art. D.3121-19 code du travail). Secondly, a surpassing of the 10 hours limit can be authorised when a temporary increase of activity demands it (art.D.3121-15 to D.3121-18 code du travail). This temporary increase needs to be justified by the following reasons provided by decree:

- A longer working time is needed because of the nature of the business or the charges and the engagements undertaken by the company
- Seasonal work
- Work that demands an increased activity for certain days of the week, the month or the year.

In order for the employer to apply this exception, he needs to consult with the employee's representatives (work's council or failing that the personnel delegation) and prepare a demand to the Employment inspector, who must respond in 15 days. In case of an emergency the employer can apply the derogation, with his liability on the line and he must alert the Employment inspector, in order to rectify the situation and provide him with the justifications described above.

There are possible derogations concerning the **part-time work** minimum working hours: employees under 26 years who study have the right to work less hours than the 24 hour limit requires so that their timetable is compatible with their studies. Moreover, a sectorial collective agreement can also fix an inferior minimum of hours for part-time employees (L.3123-14-3 code du travail). Finally the

employee has also the right to demand a reduction of his working hours (L.3123-14-2 code du travail). This demand can be justified by personal reasons or in order to allow him to combine this activity with other part-time activities.

C. What is the definition of overtime work in your country ? Is the worker allowed to refuse overtime work and, if so, under which conditions? What are the consequences of a refusal of the worker ?

Overtime work describes the hours of work performed beyond the legal duration of work. The legal duration of work is set at 35 hours per week for a **full-time** employee (L.3121-10 code du travail). So every hour that exceeds the 35 hours duration is considered overtime work. In order to calculate the working hours we need to consider the civil week, which means the week that starts Monday 0h and finishes Sunday 24h, but a collective agreement of a company or an establishment can provide for a different frame for the week considered for this calculation (L.3122-1 code du travail).

Except for the calculation of overtime working hours per week, there is also an **annual quota** of overtime work that needs to be respected. This quota reveals the maximum of overtime working hours that an employee can perform per year. The quota is set by a collective agreement of the enterprise or the establishment, or failing that, the sectorial collective agreement (L.3121-11 code du travail). In the absence of a collective agreement, there is a quota fixed by a decree which provides for 220 hours per year (D.3121-14-1 code du travail). The quota takes into account all the overtime working hours performed, with the exception of the overtime working hours that were compensated with the compensatory rest (L.3121-25 code du travail), as well as the hours performed in case of exceptional circumstances (L.3121-16 et s. code du travail). It is possible to work overtime and surpass the annual quota, after consulting the work's council or the personnel delegation (L.3121-11-1 code du travail). The terms of this overtime work are established by a collective agreement of an enterprise or an establishment, or failing that by a sectorial agreement. If there is not a collective agreement in place, the general dispositions provided by decree are applied.

A full-time employee cannot refuse to work overtime, as long as the employer respects the legal rules and the limitations. If the employee refuses to comply with the employee's demand he may face disciplinary penalty and even dismissal. The refusal can be considered as a major offence and a real and serious reason that justifies a fair dismissal. Case law provides for some occasions when an employee has a legitimate reason to refuse the overtime work such as:

- When the employer has not paid the previous overtime work (Cass. soc., 28 oct. 1996) or has not given the compensatory rest (Cass. soc., 5 nov. 2003)
- When the employer has only proposed but not demanded the overtime work (Cass. soc., 26 octobre 1999)
- When there are medical reasons known by the employer (Cass. soc., 11 déc. 1980)
- When the employer did not give sufficient notice and there is an exceptional situation preventing the employee to comply (Cass. soc., 20 mai 1997)
- When the employer abuses his power concerning overtime: in that case the employee has right to indemnisation (Soc. 10 october 2012)

- When there is a surpass of the maximum duration of work (Cass. soc., 12 janvier 2000)

Part-time work overtime hours: A part-time employee can also perform overtime work, but there are different rules to take into consideration. The overtime hours cannot result at him working the legal duration of full-time employees (35 h/week) (L.3123-17 code du travail). The overtime work cannot exceed the 1/10 of the working hours per month or per week fixed by the contract. A collective agreement can provide for more hours of overtime, which cannot exceed the 1/3 of the working hours fixed by the contract (L.3123-18 code du travail). The employee must be informed of the overtime hours at least three days in advance.

There are cases where a part-time employee cannot refuse to work overtime and other cases where he has that choice. The employee cannot refuse to work overtime, when the employer asks him to work within the limit of 1/10 (legal limit) or 1/3 (conventional limit) of his weekly or monthly working hours, as long as the work does not reach the legal duration of full-time work, and as long as the demand is made with respect to the three days in advance notice. On the other hand if the demand of the employer does not respect one of the three conditions mentioned above, the employee has the right to refuse. His refusal does not constitute a misconduct nor a valid dismissal motivation (L.3123-20 code du travail). If the employer demands systematically overtime work, it is possible to change the duration of the contract, with the agreement of the employee (L.3123-15 code du travail). There is also a risk for the employer in this case: if the overtime work brings the part-time employee to work fulltime even for a month, his contract can be requalified as a fulltime contract (Cour de Cassation, social chamber 12 mars 2014).

Occasional work (travail intermittent): The occasional worker can work overtime with a limit of 1/3 of the minimum working hours per year fixed by the contract (L.3123-34 code du travail). But in order to calculate the overtime work, the period reference used is not the year but the week (Cour de Cassation, social chamber, 28 May 2014).

Overtime in the case of **working time arrangement in a period superior to a week that can reach up to year** (L.3122-4 code du travail): In the case of an employee whose time period reference is a year, is considered overtime every hour that surpasses the 1607 hour per year limit. When calculating the overtime hours, we must not include the overtime weekly hours that surpass the weekly limit and are already accounted for. Concerning the arrangement of working hours in a period other than the year, are considered as overtime hours the hours that surpass 35 hours per week with deduction of overtime weekly hours that surpass the weekly limit and are already accounted for.

D. Is there a financial or other (for instance days of compensatory rest) compensation for overtime hours?

For the time being, the overtime working hours are compensated more than the regular working hours. The law provides for two types of compensation. Firstly, an increased remuneration and secondly a compensatory rest of equivalent replacement.

Concerning the **increased remuneration**, the law provides that an overtime working hour should be compensated with at least 25% increased salary for the first 8 hours of overtime work and 50% increased salary for the rest (L.3121-22 code du travail). However an extended sectorial collective agreement or an enterprise or establishment collective agreement can provide for different percentages, as long as the provided increase of salary is not inferior to 10%.

The increased remuneration can be partially or totally replaced by the **compensatory rest** (L.3121-24 code du travail). During the overtime hours the employee will be paid his regular salary but he has the right to a compensatory rest which will be calculated accordingly: 25% increase for the first 8 overtime hours and 50% increase for the rest (for example an employee who worked 9 hours overtime: for his first overtime hour the employee is entitled to 25% of the hour off, so 15 minutes off, if he works 8 hours overtime he gains 2 h off and the 9nth hour is worth 50% more, so he gains 30 minutes off, in total 2 and a half hours of rest). In order to apply this type of compensation, a collective agreement of an enterprise or an establishment or, failing that, a sectorial agreement, must provide for that. In the case of an enterprise that does not have a trade union representative and is not legally obligated to negotiate annually, the employer can unilaterally apply this compensation, as long as the work's council or the personnel delegation are not opposed to it. According to case law (Cour de cassation, social chamber 24 Jun 2014), if the enterprise fulfills the criteria for the obligatory annual negotiation, the unilateral decision needs to be replaced by a collective agreement, or else the compensatory rest can no longer apply.

Concerning the overtime working hours that surpass the annual quota, there is a different compensation provided, according to the law of 20 august 2008. The employee has the right to an **obligatory rest compensation** (different from the compensatory rest of equivalent replacement). This rest compensation is obligatory for every hour performed beyond the annual quota limit and it is fixed by a collective agreement of an enterprise, an establishment or failing that a sectorial agreement. If there is not a collective agreement, the dispositions of the decree are applied. The 2008 law distinguishes the companies with a maximum of 20 employees with the companies that have more than 20 employees. For the first, these overtime hours are compensated with 50% of obligatory compensation rest and for the latter, 100% obligatory compensation rest. The right to obligatory rest must be used in a limit of two months after the opening of the right (D3121-8 code du travail). Even if the employee does not ask for this compensation, the employer is obliged to ask him to take the obligatory rest (D.3121-10 code du travail).

Concerning employees who have a flat-rate pay agreement in hours or days per year, the quota of hours per years is not applied. The agreement provides for the number of overtime working hours that can be performed (Cour de cassation, social chamber 5 may 2004), and if the employee works beyond this limit his compensation must be higher (Cour de cassation, social chamber 17 January 1996).

Part-time work: the law provides for a 10% increase of salary for the overtime hours that respect the 1/10 limit. For the hours beyond this limit there is a 25% increase (L.3123-19 code du travail). A collective agreement can provide for a different percentage, no lower than 10%. The increase of the salary cannot be replaced by a compensatory rest, as is the case for full-time work (Cour de cassation, social chamber 17 February 2010).

E. Do workers have the right to ask for a reduction or an increase of their working hours? If so under which conditions? Does the employers has specified reasons to refuse the change?

An employee working **full time** has the right to ask his employer to work part time. The conditions and the organisation of the passage from fulltime to part time work is fixed by a collective agreement (L.3123-5 code du travail). In the absence of such an agreement, the employer and the employee must respect the legal provisions. According to the legal procedure, the employee needs to send a return

receipt requested letter where he expresses his demand to work part time, when he wants to start working as a part time employee and the number of hours that he wishes to work. The employer has the right to accept or refuse his demand. If he accepts the demand, the employee can pass to part time work with the hours requested. If the employer refuses, he must objectively justify his decision. The reasons considered valid by the law are the following (L.3123-6 code du travail):

- The employer cannot offer a part time job needing identical or equivalent qualifications to these of the employee
- The passage to a part-time job can be harmful for the wellbeing of the company.

Concerning **part-time** work, a minimum of 24 hours/week is required by the law. The employee has the right to demand a reduction of his working hours (L.3123-14-2 code du travail). This demand should be written and motivated. It can be justified by personal reasons or by the need to combine this employment with other part-time activities in order to reach the legal working time.

A part-time employee can also request to work full-time. In that case, the employer can present them a list of possible jobs if they are available (L.3123-8 code du travail).

The employee has also the right to demand an arrangement of working time due to **family reasons** (L.3123-7 code du travail). This arrangement provides for a decrease of working time that includes working periods and non-working periods. During the working periods the employee follows the collective timetable applied by the company.

6 - How is working time organised over the week, the month or the year? Do working time accounts exist?

In broad outline, and at this point, three periods can be differentiated for one employee working full time:

- From 0 to 35 hours per civil week – legal work time
- Over 35 hours per civil week – overtime work, counted in an annual quota
- Over the overtime annual quota – overtime work already authorized

As we analysed above, there are many derogations to this regulation and a different working time organisation can apply over the week, the month or the year.

A. Individual arrangements of working time: flat-rate pay agreements

Two major derogations are possible:

- Individual flat-rate pay agreements in hours (over the week, the month or the year)
- Individual flat-rate pay agreements in days (over the the year)

Individual flat-rate pay agreements in hours over the week or the month

An employer and **any employee** can conclude an individual flat-rate pay agreement in hours over the week or the month (L 3121-38 code du travail). This can be useful when an employee, with regard to his work, or functions, is probably going to do a lot of overtime work; working time arrangements in hours are a way to "plan" overtime, and facilitate its counting.

There are three cumulative conditions for the agreement in hour to be legal;

- A written consent of the employee is necessary (L 3121-40 code du travail)
- The number of hours included in the arrangement must be determined beforehand (cour de cassation, social chamber, 5 May 2004)
- Wage has to be minimally equal to the minimal wage applicable in the company, for the number of hours defined, added to the overtime increased wages (L 3121-41 code du travail)

Those agreements in hours over the week or the month can be concluded even if there isn't any collective agreement establishing the possibility for employers and employees to do so.

Overtime accomplished in addition to the agreement has to be paid, in accordance with overtime regulation specificities. (cour de cassation, social chamber, 6 November 1991).

Moreover, an employee who is subjects to this kind of agreement is already subject to working time "common" regulation, that means to the maximum working time regulation too; for example, it is impossible to conclude an arrangement with 50 hours worked per week. The annual quota for overtime work is also applicable.

Individual flat-rate pay agreements in hours over the year

A preliminary collective agreement for the establishment, the company or failing that for the professional sector is required (L 3121-39 code du travail). It determines which employees' categories can be subjects to those flat-rate pay agreements, and fixes their main characteristics.

Here again, the individual flat-rate pay agreements is written, requires the employee's consent (L3121-40 code du travail), and his wage has to be minimally equal to the minimal wage applicable in the company, for the number of hours defined, added to the overtime increased wages (L 3121-41 code du travail).

Contrary to individual flat-rate agreement in hours over the week or the month, not every employee can conclude one over the year. The article L.3121-42 of the code du travail defines those types of employees, as:

- Executives for whom the nature of their functions doesn't lead them to follow the collective work schedule applicable in their team, workshop or department
- Employees with a real autonomy in the organisation of their work schedule

The annual quota for overtime work isn't applicable to employees having concluded an individual flat-rate agreement in hours over the year.

B. Individual flat-rate pay agreements in days over the year

The validity conditions of working time arrangement in day over the year are the same as flat-rate agreement in hours over the year (L 3121-39 and L 3121-40 code du travail). There is a little difference concerning the categories of employees who can conclude one. Indeed, according to article L 3121-43 of code du travail, those categories are:

- Executives with a real autonomy in the organisation of their work schedule, and for who the nature of their functions doesn't lead them to follow the collective work schedule applicable in the workshop, department, or team they are integrated in.
- Employees for who working time cannot be predetermined and with a real autonomy in the organisation of their work schedule in the exercise of their responsibilities.

Employees are, in this case, not subjected to legal working time regulation, to daily working time regulation and to weekly working time regulation (L 3121-48 code du travail).

The number of worked days, which is fixed in the collective agreement, cannot exceed 218 days per year (L 3121-44 code du travail). The employee can renounce to some of its rest days, with his written consent, in exchange of an increased wage, but he cannot work more than 235 days per year.

An individual annual interview between the employer and its employee is organized, with the aim to consider organisation of work in the company, remuneration, workload, and articulation between personal and professional life for the employee.

C. Collective arrangements of working time

Apart from individual agreements, a global arrangement of working time is possible. It results from the articles L 3122-2 to L 3122-6 of code du travail. Since the Law of the 20 August 2008, "arrangements of working time that allow a distribution of hours in a period superior to a week that can reach up to a year" are envisaged. Two systems can be noted;

- a conventional system, that gives the possibility to arrange working time schedules on a period superior to a week that can reach up to a year
- a supplementary statutory system that allows to arrange the distribution of hours in a period of four-week maximum

The collective agreement that put in place this different distribution has to be a company or establishment one, and if there isn't it can be a professional sector collective agreement.

In the case of an arrangement of working time for a period equal to the year, by collective agreement, are considered as overtime, hours counted after a 1607 hours ceiling in one year, or a smaller ceiling defined by the collective agreement. Are not included to these calculations the overtime hours that surpass the weekly limit and are already accounted for.

If the arrangement is about a period smaller than the year, are considered as overtime hours the hours that surpass 35 hours per week with deduction of overtime weekly hours that surpass the weekly limit and are already accounted for.

If the employer choose the supplementary system, are considered as overtime:

- the hours accomplished over 39 hours per week
- plus, the ones accomplished over a 35 hours weekly average for the period chosen. (the overtime hours over 39 hours already counted are deducted)

A point has to be mentioned; before the 2008 law, a different system of modulation was used, allowing an extended collective agreement (company or establishment) to modulate work time: the cycle (arrangement in a several weeks' period), the modulation (the working hours per week change for a part or all the year) and the 39

hours per week arrangement with attribution of days and half-days off. Agreements concluded before the law of 2008 continue to apply.

D. The « saving time account » (Compte épargne temps)

In French law there is a saving time account (compte épargne temps L.3125-1, -2 code du travail) that allows the employee to accumulate rights to a paid leave or to increase his monetary compensation by giving up part of his right to annual paid leave (for the days exceeding 24 working days) or resting time. A collective agreement of an enterprise, an establishment or a sector is necessary in order to put in place this type of account.

7- Are there legal or other rules about paid leaves (holidays, week days off, etc.)

A. Rest (Repos)

Daily rest (Repos quotidien)

Every worker, except executives, has the right to 11 hours off between each day of work (L. 3131-1, L. 3131-2, L. 3131-7 et D. 3131-1 code du travail) with specific rules for under age workers (L3164-1 code du travail). The worker is not paid during the daily rest. Some exceptions are possible for specific working areas (i.e truck driving). Exceptions are settled through collective bargaining. However you cannot restrain the daily rest under 9 hours. If there is no collective agreement the employer can restrain that daily rest only if there is an increase of the activity or if there is a force majeure. If there is an exception, the worker should recover that loss with some extra time off or a compensation written in the collective agreement.

Weekly rest (Repos hebdomadaire)

The weekly rest is applied to every worker (L.3132-1 to L. 3132-11 code du travail) and specific rules are applied to under age workers (L3164-2 à -4 code du travail). You cannot make somebody work more than 6 days per week. The worker has 35 hours of weekly rest: 11 hours from the daily rest + 24 hours of time off. The worker is not paid during the weekly rest. The weekly rest can be delayed for some special circumstances (i.e seasonal activities), suspended (i.e emergency works, force majeure) or reduced (i.e maintenance). Those are exceptions.

Sunday rest (Repos dominical)

The French law (L. 3132-12 et s., R. 3132-5, R. 3164-1 code du travail) has chosen Sunday as the weekly rest to preserve the health and security of the workers as well as the family bounds. This choice respects the French Constitution (Cour de cassation, social chamber 5 Jun 2013). However the employer can make the employees work on a Sunday if this is an exception. According to the law, the exceptions concern the touristic city zones and the large urban areas. It also depends on the characteristics and the area of the job (i.e bakery). The law limits the areas and so does the French prefecture (administrative centre of the county). Currently, there is a grand debate concerning Sunday rest, with the latest law, the Macron law providing for new rules in favour of working Sundays. The new law increases the number of Sundays that a business can stay open from 5 to 12 during a year (in the exception of food related businesses). In order to stay open a Sunday, a collective agreement must be concluded beforehand, providing the compensation for these hours. An employee who works Sunday, must take his day off another day of the week.

B. Holidays and leaves

Bank holidays (Jours feriés et ponts)

Some days during the year are considered as holidays. But not all of them tend to provide a compulsory rest. Indeed, only May 1St is compulsory. The other 10 bank holidays are not mandatory: January 1st, Easter Monday, May 8th, Ascension, Whitsun Monday (Pentecost), July 14th, August 15th, November 1st, November 11th, December 25th. In Alsace-Moselle there are more bank holidays: the Good Friday and December 26th (Boxing Day in UK). In overseas territories/counties you have days celebrating the abolition of slavery (i.e in Mayotte (976), April 27th. They also have Muslim religious celebrating days like the Ide el Kébîr).However some people can work during a bank holiday. If it is May 1st, only some useful areas are concerned (i.e hospitals), as it is the only compulsory bank holiday. As far as the 10 other days are concerned, people do not work if a collective agreement or a custom considers it. During a bank holiday workers are paid (if they are in the firm at least since 3 months). They are normally paid more favourably if it is written in an agreement. If the person is working during a bank holiday he/she is paid. He/she could be paid more if an agreement considers it. The person who works during May 1st sees his/her pay doubled.

Holidays-the annual paid leave

Every employee has the right to take a paid leave every year (L.3141-1 code du travail). The employees are entitled to 2 and a half working days per month (L.3141-3 code du travail). Even though we only take into consideration the days the employee was at work, some absences are assimilated as working time by the law and count as working days when calculating the days for paid leave (L.3141-5 code du travail): the annual paid leave, the maternity and paternity paid leave, the leave due to an accident or disease caused at work, the compensation rest periods provided for overtime work, the absence due to training courses… The departure period and the order of departure are usually set by a collective agreement, or failing that, the employer. The employee must be notified 2 months in advance. The principal paid leave must be at least 12 successive days, up to a maximum of 24 days, and the rest can be distributed all together or fragmented. The compensation during the paid leave is calculated as the 1/10 of the remuneration received by the employee during the year, but

it cannot be inferior from the compensation the employee would have received if he was working (L.3141-22 code du travail).

Parental leaves

- Authorised paid leave for every obligatory medical exam concerning the pregnancy (L.1225-16 code du travail).
- Maternity leave (L.1225-17 code du travail): the mother has the right to a paid maternity leave that starts six weeks before the assumed day of birth and finishes 10 weeks after the date of birth. The employee can ask, if the doctor agrees, to reduce the leave before the birth up to three weeks, and so receive a longer leave afterwards. A longer leave is provided in case of multiple births (12 weeks before birth and 22 afterwards for 2 children, 24 weeks before and 22 weeks afterwards for 3 or more children), in case of a pathology (2 more weeks before the birth and 4 more afterwards) or when the employee has already two children born in charge (8 weeks before the birth and 18 weeks afterwards). During the maternity leave, the contract of employment is suspended. The employer cannot dismiss the employee during that period. The employee receives a per diem allowance during the leave. Once the leave is over, she has the right to return to her job or to an equivalent job and to receive her salary, including all the possible augmentations that took place during her absence.
- Paternity leave (L.1225-35 code du travail): the spouse or civil partner of the mother has the right to 11 consecutive days of leave or 18 days in case of multiple births. He receives a per diem allowance. The contract of employment is suspended, once the leave is over the employee returns to his previous job, or an equivalent one with the same salary.
- Adoption leave (L.1225-37 code du travail): the employee has the right to a maximum of 7 days before the arrival of the child and a maximum of 10 weeks afterwards. The contract is suspended, but the employee is protected and cannot be dismissed during that period. As in the cases above, once the leave is over, he employee returns to his previous work, or to an equivalent one, with the same salary (including possible augmentations).
- Parental leave of education (L.1225-47 code du travail): this type of parental leave can be taken after the expiration of the maternity leave by the employees having at least one year seniority in the company. During that time the contract of employment is suspended or the working hours are reduced (with a minimum of 16 hours per week). The leave lasts one year but can be extended two times, ending at the most at the third birthday of the child, or at the fourth if there are serious medical reasons. During the leave, the employee receives an allowance from Caf, the social security centre providing family benefits. Once the leave or the reduced working hours' period is over, the employee returns to his previous job, or to an equivalent one, with the same salary.
- Leave due to sickness of the child (L.1225-61 code du travail): non paid leave of 3 up to 5 days per year, given to the employee whose child (up to 16 years old) has had an illness or an accident.
- Leave of parental presence (L.1225-62 code du travail): when a child has an accident, a handicap or an illness of a particular gravity, the parent can ask for a leave that can reach 310 days, during which his contract will be suspended.

Other types of paid leave

- Paid leave for family occasions (L.3142-1 code du travail): every employee has the right to ask a paid leave in the case of exceptional family occasions: marriage (4 days paid leave), birth or adoption of a child (3days), death of a child, of a spouse or a civil partner (2 days), marriage of a child (1 day), death of a parent or a brother or sister (1 day).
- Paid leave for professional training or training for a Trade Union (L.3142-7 and following code du travail): this type of paid leave cannot exceed 12 days per year. Every employee has the right to take a paid leave for training reasons. If the employer refuses, he needs to justify how the absence of the employee could harm the well-being of the company.

Non paid leaves

- Leave "familial solidarity": an employee whose family member is gravely ill can ask for a leave that can reach a maximum 3 months, with a one-time possible renewal.
- Leave "family-support": an employee whose spouse, parent or child has a serious handicap has the right to a three months leave, with possible renewal.
- International solidarity leave, leave due to a natural disaster, training leave for executives, leave for an employee candidate or elected in regional or national elections.
- Sabbatical leave: leave of 6 to 11 months maximum. The contract of the employee is suspended during the leave.

Sick leave for illness or accident

There is a distinction between the sick leave due to a work related illness or accident and sick leave for the non-work related illness or accident

- Work related illness or accident: the employee must justify his absence by sending a medical certificate in the first 48 hours and he must be supported by the social security. The contract of employment is suspended during the sick leave but the employee is compensated with a per diem allowance which depends on the salary of the employee and the days of absence. Afterwards a medical exam is set in order to establish whether the employee is able to return to his previous post. If he is able, he is reintegrated in his post or in an equivalent one. If not, the employer is obligated to search for a job compatible with the medical exam's conclusions.
- Sick leave due to a commute accident: the accident that takes place when the employee is on his way to work is an intermediary category in French law. It is considered as a "work related accident" when calculating the days for the annual paid leave (Cour de cassation, 3 juillet 2012, n° 08-44834).
- Non-work related illness or accident: the employee needs to inform the employer in the first two days of absence. He has the right to a per diem allowance from the social security, which starts from the 4th day of absence. The contract of employment is suspended. Afterwards a medical exam is set in order to establish whether the employee is able to return to his previous post. If he is able, he is reintegrated in his post or in an equivalent one. If he is partially able, the employer is obligated to search for a job compatible with the medical exam's conclusions. If he is not at all able, the

employer can dismiss the employee.

The absence due to a work related illness or accident, as well as the commute accident are taken into account in order to calculate the annual paid leave, whereas the absence due to non-work related issues does not count. This provision is incompatible with the 2003/88/CE directive.

8 - Legal or conventional rules for situations with specific working time models

A. Part time work

Definition: The law does not define part-time work, but it gives the definition of part-time employees, which is the same thing. Are considered part-time employees, according to the article L3123-1 code du travail, the workers whose working time is inferior to:

- the weekly legal working hours (35 hours) or the working week applied in the company or establishment, when this duration is less than the legal limit;
- or the monthly period equivalent to the statutory working time (151.67 hours) or monthly term applied in the company or establishment, when this duration is less;
- or the annual period equivalent to the statutory working hours (1607 hours) or annual period applied in the company or establishment, when the time is less.

In other words, the working time of a part-time employee must be less than that of employees working full time in the same unit of work, never reaching further than 35 hours or their equivalent, let alone exceed them. This duration is assessed as part of the week, month or year, depending on the organization of part-time modality chosen.

Conditions: The employment contract of part-time employees may be indefinite or with fixed term, such as full-time contract. Whatever its form, the contract of employment of part-time employees must be written (L. 3123-14 code du travail). The absence of a writing evidencing the existence of a part-time contract is presumed that it was concluded as full-time contract. The contract must imperatively stipulate (L. 3123-14 code du travail):

- the employee's qualifications;
- the compensation elements;
- weekly or monthly working hours scheduled;
- except exceptions, the distribution of this time between the days of the week or month;
- cases in which any modification of this distribution can occur, and the nature of the change;
- the ways in which working hours for each day worked are communicated in writing to the employee;
- the limits within which can be performed additional hours beyond the working time set by the contract.

Unless exemption or exception, part-time employment contract must have a minimum of 24 hours

per week or, if applicable, its monthly equivalent (104 hours) or one calculated on the period defined by the collective agreement under article L. 3122-2 of the code du travail (L. 3123-14-1 code du travail). Part-time employment contract must include the distribution of working time between the day of the week for employees working on a weekly basis, or between weeks of the month for employees working on a monthly basis (L. 3123-14 code du travail).

Wages: The remuneration of part-time employees must be in proportion to the working time, equivalent to that of full-time employees involved in the establishment or enterprise equivalent employment, qualification and equal seniority (L. 3123-10 code du travail). If there is not in the position of business equivalent, full-time remuneration of part-time employee must be contractually fixed in accordance with the agreed minimum. Part-time employees are entitled to paid leave in the same conditions as full-time employees, both in terms of duration and in terms of compensation. Accordingly, they become two and a half working days of paid leave per month (L. 3141-3 code du travail), or four weeks or twenty-four days of work (L. 3141-4 code du travail).

B. Week-end work

Definition: We know that it is forbidden to make an employee work more than six days a week in France. Every employee must have a weekly rest (L3132-2 code du travail). The rest must be 35 consecutive hours. The code du travail added that the weekly rest is endorsed on Sunday. This public policy rule is not absolute, however. The ECJ has in fact said that only the weekly and not the Sunday rest is linked to a requirement of health and safety of workers. The Sunday rest "in the interests of employees" has been bypassed by many exceptions and derogations. The sectors concerned should not stop their activities on Sunday due to urgent needs, including food, utilities necessities, leisure or culture, or continuous operation justifying shift work. A temporary opening on Sundays can also be justified because of rescue measures or urgent work.

Conditions: The prefect may thus allow a temporary exemption if the rest of the entire staff is detrimental to the public or likely to impair the normal functioning of the institution. A waiver may be the fact of a prefectural (arrêté préfectoral), most often in relation with the organisation and animation of local celebrations. Exemptions of Sunday rest may be the result of a collective agreement or authorization of the labor inspector. The Law of 1 August 2009 was intended to "reaffirm the principle of Sunday rest and adapt exceptions to this principle ». But following this law, waivers of right in the tourist areas are extended to all retail businesses. Practices contrary to law in large areas of shopping centers are widely legalized, and thus extended the camp of the prefectural derogation within the perimeters of exceptional consumer use.

Wages: The law has not established a general obligation of salary increase for Sunday work. In other words, there is no specific salary increase for Sunday work unless it is provided by a statutory exception, a collective agreement, an employment contract or a most advantageous use. Counterparties and guarantees to employees vary with different types of exemption, to the detriment of the principle of equality. When they must be necessarily provided, they result from a collective agreement, failing that a decision by the employer after approval by a majority of the employees, and failing that, finally, the law.

C. Night work

Definition: Subject to the specific provisions for young workers, night work is one that is performed between 21p.m and 6a.m. (L. 3122-29 code du travail). This text allows fixation, by extended collective agreement or company agreement or settlement, another range of 9 consecutive hours between 21 pm and 7 am, including in any case the period between 24 and 5 hours. In the absence of agreement, and where the specific characteristics of the company's activities guaranties it, this substitution may be authorized by the labor inspector after consultation with union representatives and opinion of the works council or staff delegates if one exists. Notwithstanding, the night work period is set between 24p.m and 7a.m. for activities of (L. 3122-30 code du travail) : — editorial and commercial production of press, radio , television ; — production and cinema exhibition ; — live shows ; — nightclubs. In these areas, another period of night work may be fixed by agreement or an extended sectorial agreement or company agreement or settlement. This period of substitution needs to include in any case the period between 24 pm and 5 am.

The French code du travail also defines which is a night worker. It is one who (L. 3122-31 code du travail) : - performs at least twice a week, according to his usual work schedule, at least three hours of his daily work in night time ; - performs at least 270 hours of night work for a period of 12 consecutive months (R. 3122-8 code du travail).

Conditions : Night work must be exceptional (Art. L. 3122-32 code du travail). Two conditions must be fulfilled simultaneously:

- Taking into account the imperatives of protecting the safety and health;
- Justifying the need for the night work: it must be required by the need of continuity of the economic activity or by the necessity to provide socially useful services.

According to the administration, the exceptional character can be viewed in relation to a particular area (eg., nightclubs, casinos, hospitals ...) for which night work is inherent in the activity. For other sectors, the use of night work must be linked to the screening of other design possibilities of working time. Moreover, health protection requirements and safety of workers should be taken into account. Thus, investment profitability criteria cannot be the only ones who will be retained (Circular DRT No. 2002-09 , May 5, 2002 - Introduction). The daily maximum hours of work by a night worker may not exceed eight hours (L. 3122-34 code du travail). Prior to his assignment to night work, then every six months, a night workers should be given special medical supervision according to special rules of application (L. 3122-42 ; Art R. 3122-18 and s code du travail). To this end, the occupational physician shall proceed, during the periods in which night workers are working, to an analysis of working conditions and workplace. He then analyzes the content of the post and constraints for each employee. Based on the evidence gathered, he advises the company manager or his representative on the terms of organization best suited to night workers depending on the type of activity (R. 3122-20 code du travail).
The occupational physician informs night workers, especially pregnant women and older workers, of the potential impact of night work on health. This information takes into account the specificity of schedules: fixed schedule or alternating schedule. He advises on possible precautions (R. 3122-21 code du travail). The occupational physician should be consulted before any major decision regarding the establishment or modification of the organization of night work. The works council and the HSC must be informed and consulted.

Wages : Night workers should benefit from counterparts as compensatory rest and, if necessary, in the form of wage compensation (L. 3122-39 code du travail). Both counterparts' modalities can be combined. Rest is the preferred form of compensation by the legislator. It is not possible to substitute

all of it with money. It is the collective agreement or, failing that, the employer who determines the terms of setting and payment of the rest is paid in full. The collective agreement should finally provide for measures to improve the conditions of work of workers, facilitate the articulation of their nocturnal activity with the exercise of family and social responsibilities, particularly with regard to transport and to ensure professional equality between women and men, including access to training. The collective agreement also provides for the organization of breaks (Art. L. 3122-40 code du travail).

Sanction: If night work outside authorized cases is used, the company is liable to a fine of 1,500€, increased to 3,000€ for a subsequent offense within one year (R. 3124-15 code du travail). The company can also be ordered to pay damages to the trade unions acting in defense of the interests of the profession and to the employees concerned.

D. Others forms of working hours (for instance, shift work...).

The replacement teams (équipe de suppléance). An extended collective agreement or a company collective agreement may provide industrial businesses operating with an execution staff of two groups. One group has the sole function replacing the other during the day or days of rest granted to it are allowed to give the weekly rest on a day other than Sunday. This exemption also applies to the staff necessary for coaching the team locum (L. 3132-16 code du travail). If there is no agreement, the use of replacement teams may be authorized by the labor inspector if it tends to better utilization of production equipment and to maintain or increase the number of existing jobs (R. 3132-10 code du travail).

When the duration of the period of use of a team does not exceed 48 consecutive hours, daily hours can reach 12 hours. When the duration of the appeal period is longer than 48 consecutive hours (ex: Friday, Saturday, Sunday), daily hours may not exceed 10 hours, except in two cases: - if this is provided for by a collective agreement of the industry or business; - failing that, the authorization of the labor inspector (R. 3132-12 code du travailcode). In most cases, these employees will be part-time employees. The compensation of employees of the weekend teams is increased by at least 50% compared to the compensation of an equivalent period performed during the normal schedule of the company (L. 3132 -19 code du travail). This increase concerns all hours worked under the replacement teams regardless of the days concerned (Friday, Saturday, Sunday or Monday). There is no objection to it being combined with surcharges for night work or holidays, insofar as these do not have the same purpose. This 50% increase in compensation is not applicable when employees working in replacement teams are required to replace the week employees on leave.

The continuous work is characterized by the uninterrupted succession of work crews during the day and of the week: organizing work round the clock, 7 days per week.

The semi-continuous work assumes a weekly stop most often during the weekend. The working hours of employees working permanently in successive shifts in a continuous cycle must not exceed an average of one year to 35 hours per week worked. This working time applies even if the employees assigned to teams who are intermittently subjected to a normal schedule. The calculation of the average of 35 hours is done on a year per week worked on the basis of diminished legal duration of days of statutory leave (five weeks) and conventional (eg holidays and bridges). The deduction of the eleven public holidays is required only when they are actually nonworking or compensated by paid days off. Any hours worked beyond 35 hours on average over the year will be compensated by overtime pay or compensatory rest (cour de cassation, social chamber 7 December 1999, No. 96-43987).

The work by relays. It involves making different working schedules within a group of employees having the same activity. It could take the following forms:

- a shift schedule (overlapping teams) so that more teams can be occupied at the same time in a certain period of the day. For example, an A team works from 8am to 4pm, while a B team works from10am to 6pm.
- or work in rotating shifts: this formula alternates several teams working periods who are interspersed with long pauses. For example, team A works from 6am to 10am and 14pm to 6pm, a team B from 10am to 2pm and 6pm to 10pm.
- or work in rotating or flying teams, one being intended to replace the other during break times. When the work is authorized by relay, the work of each team must be continuous except for rest interruption.

The shift work. - It is to assign different weekly rest days to employees or teams of employees engaged in the same activity. This type of work may, however, encounter the rule of Sunday rest.

9 - Is there a debate in your country about working time? And if so, what are the issues discussed especially in the context of economic crisis.

The question of a debate about working time in France is a euphemism. Indeed, Working time is one of the big issues interesting trade unions – and more generally workers and employers – in our country.

Since the first of January 2002, and because of the law of the 19 January 2000 (related to the negotiated reduction of working time), Legal work time in France has reached 35 weekly hours. One of this measure's goals was to increase hirings, by liberating some working time for "new" employees. 15 years, and one economic crisis later, we have to admit that unemployment has inexorably increased. For one part of French society, working 35 hours is a social progress that shouldn't be touched at any price. For others, a legislation with 35 weekly hours leads the company to a lack of productivity, more and more overtime to be paid… and its suppression could be a way out of the crisis.

Currently, the debate about introducing "more flexibility" in arrangements of working time has never been so present. A look at the "draft bill to establish new liberties and new protections for companies and assets", better know as the "draft bill El-Khomri" (name of our current Minister of Labor, employment, vocational training and social Dialog), shows how much our actuality is now focused on Labour law and especially on working time.

This draft bill has been transmitted to the Council of State in February 2016, and initially included big measures for Labour law, some of them especially concerning working time;

- Legal working time would still be fixed at 35 hours weekly, but with new arrangements possible
- The increased wages rate, consecutive to overtime, and fixed by a company agreement could

be inferior to the rate fixed by the professional sector agreement

- In companies with less than 50 employees, flat-rate pay agreements over the year could be concluded without any prerequisite collective agreement
- The weekly average limit of 44 hours worked per week over 12 weeks would be calculated over 16 weeks. A company or professional sector agreement could increase this 44 hours limit at 46 hours.
- The referential period for an arrangement of working time (by collective agreement) pass up to three years (today one year). Without agreement, companies with less than 50 employees could arrange work time in a period of 16 weeks (4 weeks for now).
- The administrative authorisation for an increasing of the maximal duration of work for an apprentice (aged less than 18) would be supressed.

After those announces, lots of oppositions were raised; a petition for the suppression of the draft bill is currently on the Internet, with 1 275 000 signatures at this moment. Demonstrations from trade unions, students, and citizens in general led the government to change some points of the reform, when even members from the majority look at the potential reform with a disapproving regard. Some adjustments were proposed:

- The suppression of the authorisation to increase an apprentice's maximal working time is dropped
- Companies with less than 50 employees wouldn't conclude individual flat-rate agreement without any company or professional sector agreement.
- Arrangement of working time on a period superior to the year would be possible by a company agreement, but only if a professional sector agreement previously considers this possibility

Unfortunately for the government, those adjustments, added to others related to different domains of Labour law, were not enough for a part of the opponents. If the CFDT decided to retire from the opposition, it isn't the case for the CGT or FO. Moreover, the main employers' union, Medef, and politicians from the right side, who were initially in favour of the bill, are now disapproving it too.