



COUNTRY FICHE – France

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Document Information

Project Acronym	INNOVAWORKING
Grant Agreement	101126491 — INNOVAWORKING
Deliverable number and title	D 6 Country Fiche – France
Dissemination level	Public — fully open.
Organisation Name	THUAS
Submission date	31/10/2024



**Funded by
the European Union**

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A. Overview, sociological framework of working time

In the last decades, France has witnessed an evolution in its working culture. While traditions are respected, there is an acknowledgment that change is necessary to accommodate the demands of an industrial economy. In 1998, France introduced the 35-hour workweek policy (Aubry Laws), aiming to lower unemployment and promote a better work-life balance for employees. By reducing the standard working hours from 39 to 35 hours per week, employees had more time for leisure, family, and personal activities, leading to improvement in well-being and quality of life. While its purpose benefits workers, it is essential to note that the impact of the 35-hour workweek can vary depending on factors such as industry, company size, and regional economic conditions.¹

Working hours and working-time arrangements are central aspects of the employment relationships and key of elements of the quality of jobs. In 2022, the average usual working week at European Union level lasted 37,5 hours. However, this varied across different EU countries (between 36-39 hours in France, according to EUROSTAT statistics).²

This research is centered around national legislation, specifically the French ‘Lois Aubry’. It will shed light on the key provisions, impact, involvement of workers’ representatives, litigation procedure and, the role of collective bargaining within these national legal frameworks. It includes legal initiatives, such as ‘Le Droit a la Connexion’ to highlight the recent innovative approaches to working time in France.

France’s 35-hour workweek policy has significantly altered social relations, with varying effects across different sectors and demographics. The project INNOVAWORKING underscores the importance of understanding the implications of reduced work hours on both working conditions and leisure time.

The French working time culture is characterized by a blend of legal norms, social practices and ongoing negotiations that shape the standard workweek and reflect the evolving dynamics of work-life balance in the country. As many other countries, France has seen its working culture evolve and despite the respect for traditions, change does happen in accommodating the needs of an industrial economy.³

In France a relevant policy to promote conciliation of working and family life is the explicit recognition of the right to disconnect (‘Le Droit a la Deconnexion’). In 2017, France included this right in the Labour Code. This legal advancement along with the 35-hour workweek in

¹ Askenazy, P., ‘Working time regulation in France from 1996 to 2012 (2013) Cambridge Journal of Economics pages 323-347.

² Eurostat ‘How many hours per week do Europeans work?’ ≤ <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20240530-1#:~:text=In%202023%2C%20the%20actual%20weekly,the%20EU%2C%20averaged%2036.1%20hours> accessed 12 June 2014.

³ ‘Work-Life Balance’ (*Business Culture*, 12 November 2019) <<https://businessculture.org/western-europe/business-culture-in-france/work-life-balance-in-france/>> accessed 10 May 2024.

France have shaped the country labour landscape, influencing societal attitudes towards work, and setting standards for labour rights and regulations.

B. Legal regulation of working time flexibility (for the employer, for the employee)

In France, labour laws play a crucial role in shaping working time flexibility within their respective contexts. French labour law, influenced by the 35-hour workweek policy, regulates working hours to promote employee well-being and productivity. Over the years, France has enacted laws to progressively regulate working time for all categories of workers.⁴ One significant milestone in the history of working time in France was the implementation of the 35-hour workweek.⁵

The French experience with the 35-hour workweek, implemented through the Aubry laws, introduced significant changes to working time regulations and collective bargaining. This law reaffirmed the 35-hour week and provided social partners with greater negotiation freedom, including flexibility in calculating working time annually and separate arrangements for managerial staff. The key elements of the working time reduction included a substantial decrease in legal working hours, increased autonomy for social partners, reduced tax contributions, and enhanced flexibility for the company in arranging working hours.⁶

The Right to Disconnect was introduced as part of the French Labor Law reforms, specifically Loi Travail or El Khomri Law, which was enacted in August 2016 and took effect on the first of January 2017. The main goal is to ensure that employees have the right to disengage from work during non-working hours, promoting a better work-life balance and protecting their health and well-being. This legislation on the 'right to disconnect', requires organizations to forbid to managers and employees from sending or replying to emails after working hours. It aims to address the impact of digital technologies on the work-life balance of employees.⁷ The 'right to disconnect' is linked to working time practices as it addresses the increasingly blurred boundaries between work and personal life, exacerbated by digital technologies. By acknowledging the impact of constant connectivity, the legislation aligns with broader efforts to manage and regulate working time practices within modern digital work environments.⁸

The Aubry Laws aimed to reduce the number of working hours in France to address issues such as unemployment and improve employees' work-life balance.⁹ Many of the provisions from the Aubry laws are incorporated into the French Labour Code ('Code du Travail').¹⁰ The provisions of the Code were part of the broader labour market reforms implemented through

⁴ Casagrande, A., and Collin, P., *Law and Diversity: European and Latin American Experiences from a Legal Historical Perspective: Vol. 1: Fundamental Questions*. (Max Planck Institute for Legal History and Legal Theory 2024).

⁵ Loi n° 98-461 du 13 juin 1998 d'orientation et d'incitation relative à la réduction du temps de travail (FR)

⁶ De Spiegelaere S., and Piasna, A., *The why and how of working time reduction* (European Trade Union Institute, 2017).

⁷ Eurofound 'Right to disconnect' ≤ <https://www.eurofound.europa.eu/en/european-industrial-relations-dictionary/right-disconnect> accessed 11 June 2024.

⁸ Simmons Simmons 'What is the new French "right to disconnect"?' (Simmons-Simmons, 11 January 2017) <<https://www.simmons-simmons.com/en/publications/ck0bdjgs8esrg0b59w3wb1nkr/110117-le-droit-a-la-deconnexion-questce-que-cest>> accessed 11 June 2024.

⁹ Bilous A, 'Law on the 35-Hour Week Is in Force' (Law on the 35-hour week is in force | European Foundation for the Improvement of Living and Working Conditions, 27 January 2009). <<https://www.eurofound.europa.eu/en/resources/article/2000/law-35-hour-week-force>> accessed 31 May 2024.

¹⁰ Code du Travail, Dernière modification le 10 juillet 2024, -[Code du travail - Légifrance \(legifrance.gouv.fr\)](https://www.legifrance.gouv.fr/cod/section-plus/livre-codification/codification-actuelle/codification-actuelle-cod-du-travail)

the Aubry Laws. The Aubry laws consist of two main pieces of legislation: Aubry I and Aubry II. The following table illustrates the differences:

Key provisions	Aubry I	Aubry II
Statutory working week: set at 35 hours	Effective from 1 February 2000 for companies more than 20 employees	Effective from 1 January 2002 for companies 20 or fewer employees
Calculation and payment of overtime. (Full implementation by 1 January 2001 for companies with more than 20 employees; by 1 January 2003 for smaller companies)	<u>Temporary measure</u> • 36th to 39th hour: 10% premium • 40th to 43rd hour: 25% premium • Beyond 43rd hour: 50% premium	• 36th to 39th hour: 25% premium • 40th to 43rd hour: 25% premium or time off • Beyond 43rd hour: 50% premium or time off.¹¹
Variation in weekly hours	<u>Three instruments</u> • Allowed for variations in working hours and average (modulation) through three different mechanisms	• <u>Single instrument</u>: simplifies the system by retaining only one method for varying working hours, making it easier to understand and implement • <u>Company-level or sector-level agreement</u>: requires the variation in working hours to be established through a company-level or an extended sector-level agreement • <u>12-month calculation period</u>: allows working time to be calculated over all or part of 12-month period • <u>Maximum weekly and daily hours</u>: the agreement cannot exceed the statutory maximum of 48 hours per week (with certain exemptions allowing up to 60 hours) and the daily maximum of 10 hours (with certain exemptions)
Successive shift working restrictions (system where employees work in shifts that rotate over a set period. Different groups of workers take over the same positions tasks in succession, covering various shifts throughout the day or week)	Permitted only in companies with continuous operations or where allowed by a decree or extended sector-level agreement	• <u>Expanded implementation</u>: successive shift working can now be established through a company- or establishment-level agreement alone, without the need for a decree or extended sector-level agreement • <u>Overtime calculation</u>: overtime is counted when hours exceed a 35-hour average over the shift working cycle • Companies operating round the clock will receive working time reduction subsidies if the average working week does not exceed 33 hours and 36 minutes

Working time for managerial and professional staff	Not included	Three categories • <u>Senior management</u>: excluded from most working time regulations • <u>Team-based staff</u>: included in all standard working time regulations • <u>Autonomous staff</u>: may have individual agreements based on hour or days
Part-time working	Ensuring that part-time workers are not overlooked in the implementation of reduced working hours. ¹²	• Limitation on breaks: one break a day, maximum of two hours. • Annualized part-time hours replaced by new flexible arrangements
Training and the reduction of working time	• No specific detailed conditions or clear distinction between different types of training	Two types of training • <u>Retraining</u>: considered actual working hours • <u>Skills development</u>: can be outside working hours if agreed upon and endorsed by employees
Reduction of social security contributions	• Constant monitoring their employees' working hours to ensure compliance • <u>Eligibility</u>: companies required to create or maintain a certain percentage of jobs	• No constant monitoring • <u>Eligibility</u>: companies reducing working time to 35 hours through collective agreements • Reduction is not applicable through unilateral decisions by employers

Source: Bilous A, 'Law on the 35-Hour Week Is in Force' (*Law on the 35-hour week is in force* |European Foundation for the Improvement of Living and Working Conditions, 27 January 2000)

C. Main features of industrial relations in the country

The main employers' organisation in France is the federation MEDEF (Mouvement des entreprises de France). At sector level there are also employers' confederations, for example the UIMM (Union des industries et des métiers de la métallurgie) is the largest employers' organization in the manufacturing sector and it is affiliated to the MEDEF.

In France there are several trade union federations which are recognised as representative and entitled to bargain at sectoral level. For example, the CGT (Confédération générale du travail), CFDT (Confédération générale du travail), CFE-CGC (Confédération française de l'encadrement), and FO (Force ouvrière). Moreover, there are other small unions such as SUD, UNSA or CFTC which are also representative in certain companies.

Concerning the role of the State in industrial relations, in France the state has traditionally showed an active role, intervening directly in the legal regulation of collective bargaining. In the French case, since the mid-1980s, successive governments' legislative reforms have prioritised company bargaining above sectoral collective bargaining.¹³ This trend to

¹³ Muñoz Ruiz, A., Ramos Martín, N. E. and Vincent, C., (2023) 'Interplay state and collective bargaining, comparing France and Spain', 113-139, in eBook: Frank Tros: Editor, Pathways in Decentralised bargaining in

decentralisation of collective bargaining can also be observed in several large sectors in France.¹⁴

In the last two decades, the above-mentioned legal reforms have significantly modified industrial relations and the labour market in France. By weakening the individual and collective protections provided by the Labour Code, these reforms have increased the decentralisation of collective bargaining. “Since the 2000s, State interventionism in collective bargaining goes so far as to define a part of its agenda. Successive legislations have introduced the obligation to negotiate at sector level on various topics.”¹⁵ The employers’ organisations have clearly supported the reforms, which meet many of their demands, while all the unions are strongly opposed.

The French collective bargaining coverage rate is one of the highest among the OECD countries (94 per cent in the private sector and 98 percent including public enterprises).¹⁶ With low trade union density, the system shows high levels of employees covered by collective agreements. According to Munoz Ruiz, Ramos Martín and Vicent, the high coverage level results from two factors: “First, collective agreements apply to all employees of a company covered by them, regardless whether or not they are trade union members. Second, and above all, bargaining coverage has been broadened by the general use of administrative extension of industrial agreements.”¹⁷

In the French case study one of the measures analysed is dealing with the reduction of the working week in the public sector. On that regard, it is important to note that the legal status for public workers is distinct than that of employees in the private sector in France. Civil servants have a specific legal status as they are connected with the general public interest. This special status also implies differences regarding collective bargaining.¹⁸ The working conditions and terms of employment of civil servants are governed by statutory law.¹⁹ However, collective bargaining exists in the public sector with differences concerning the legally binding character of collective agreements.²⁰ In 2008, the Bercy Agreement contributed to the expansion of the right to collective bargaining in the public sector.²¹ Various agreements in the public sector followed then, ie. on pay scale, vocational training, and early retirement schemes.²² As result of the gradual developments, beside negotiating on wages, civil servants

Europe, Full manuscript accepted for publication by Amsterdam University Press; Full Manuscript eBook Amsterdam University Press - AIAS-HSI - University of Amsterdam (uva.nl), <https://figshare.com/s/b79502505fe27cf80e05>

¹⁴ Kahmann, M. and Vincent, C., ‘Decentralised Bargaining in France’, Country Report nr. 1 in the CODEBAR-project, 1-72, final version in open access on the project’s website: Codebar - AIAS-HSI - University of Amsterdam (uva.nl)

¹⁵ Kahmann, M. and Vincent, C., ‘Decentralised Bargaining in France’, Country Report nr. 1 in the CODEBAR-project, 11, final version in open access on the project’s website: Codebar - AIAS-HSI - University of Amsterdam (uva.nl)

¹⁶ OECD/AIAS ICTWSS database, 2021. [URL: <https://www.oecd.org/employment/ictwss-database.htm>]

¹⁷ Muñoz Ruiz, A., Ramos Martín, N. E. and Vincent, C., (2023) ‘Interplay state and collective bargaining, comparing France and Spain’, 113-139, in eBook: Frank Tros: Editor, Pathways in Decentralised bargaining in Europe, Amsterdam University Press; eBook.

¹⁸ Bordogna, L., ‘Industrial relations in the public sector’, Eurofound, (2007), 15.

¹⁹ Chanut V. and Rojot, C., ‘Does Public Sector Collective Bargaining Distort Democracy – The Case for France’ (2013) Vol. 34(2) Comparative Labour Law and Policy Journal, 371.

²⁰ Ibid. 386.

²¹ Ramos Martín, N. E. ‘Bargaining and social dialogue in the public sector in France: between transformation and stability’ in Keune, M., Ramos Martín, N. E., and Mailand M. (eds), Working under pressure: Employment, job quality and labour relations in Europe’s public sector since the crisis, ETUI, Brussels, (2020), 3, 116.

²² Bordogna, L., ‘Industrial relations in the public sector’, Eurofound, (2007), 25.

could negotiate also on career development, occupational training, and other employment related topics.²³

As mentioned above, many of the provisions from the Aubry laws were incorporated into the French Labor Code. Several articles (within the Code) in second part, Book II, Title III of the Code discuss the role of employee representatives in negotiating collective agreements, including those related to working time arrangements. As an example, L2231-17 of the Code outlines the rules regarding the composition of delegations representing different organizations in negotiations within a company, particularly in the context of labor unions and employers.²⁴ In some cases, collective agreements are negotiated at the sector level, involving representatives from multiple companies within the same industry.²⁵ These agreements can establish industry-wide standards and are providing a framework that individual companies must adhere to.²⁶

During the consultation process, workers' representatives have access to information and can provide input on these aspects of working time flexibility.²⁷ Employers are required to provide information on several aspects of working time such as overtime, part-time work, scheduling and any measures aimed at facilitating employees' work-life balance. Additionally, workers' representatives can address or propose improvements to ensure fair and flexible working conditions for all employees.²⁸

The Code includes provisions to protect workers against abusive practices related to working time flexibility.²⁹ Employers have a legal obligation to ensure the health and safety of their employees, including when implementing working time flexibility measures. Workers' representatives and trade unions can raise concerns about the potential impact of flexible schedules on workers' well-being and advocate for measures to mitigate any risks.³⁰ The Code mandates the establishment of a health, safety and, working conditions committee (Comite Social et Economique – CSE).³¹ While the CSE shares similarities with trade unions or workers' representatives in terms of employee interest and participation in decision-making processes, trade unions often have broader membership and may operate at the industry or national level. While CSE is specific to individual companies.³²

Key features	France
National actors	• Government • Employer Organizations • Trade Unions

²³ Chanut V. and Rojot, C. 'Does Public Sector Collective...', *op. cit.* 387.

²⁴ Code du travail second part, Book II, Title III

²⁵ Collective bargaining agreement of the pharmaceutical industry in France is applicable to companies whose activities relate to several grounds, these agreements apply to a sector and not just one company.

²⁶ Code du travail L2261-6.

²⁷ Code du travail L2312-26..

²⁸ Code du travail L2312-26.

²⁹ Code du travail L3121.

³⁰ Code du travail L2312.

³¹ Code du travail L2312-2.

³² Code du travail L2312.

Local actors	National actors operate at regional levels as branches or representatives of the national organizations
Workplace actors	• Social and Economic Committee • Health, Safety and working conditions Commission (300 or more employees)
Trade union density	9% (2019) ³³
Collective bargaining coverage	94% (2019) ³⁴

D. The role of collective bargaining in working time

The Aubry laws, incorporated into the labour code, regulate working time arrangements and emphasizes the role of employee representation in negotiating collective agreements. These agreements can be at the company or sector level, establishing industry-wide standards. Workers' representatives have access to information and can propose improvements to ensure fair and flexible working conditions.

Regulation of working time has a clear connection with occupational safety and health at work. The establishment of health and safety protective measures and working conditions committees (CSE) is mandatory according to the French labour law.³⁵ Safety and health at work issues are often included in collective bargaining in France. As mentioned above, since the reform of labour law in 2017, a clear trend to decentralisation of collective bargaining can be observed in France. The reform of the system of collective bargaining has given greater role to collective bargaining also in the area of OSH. However, according to recent studies, working conditions and OSH are not at the top of the list of topics on collective bargaining priorities. Instead, the social partners give priority to negotiating on other topics such as wages, and working hours.³⁶

In France, there is arrangement known as 'forfait-jour', allowing employees to have their working time calculated by the number of days worked per year instead of hours. This system provides flexibility but comes with limitations and requirements. It applies mainly to employees with significant autonomy and cannot exceed 218 days per year, though it can go up to 282 days with explicit agreement and compensation. Employees can receive daily and

³³ Gautier M, 'Nombre d'adhérents Des Principaux Syndicats Français 2022' (*Statista*, 24 October 2023). <<https://fr.statista.com/statistiques/1375149/nombre-adherents-syndicats-francais/>> accessed 19 May 2024

³⁴ Eurofound (2022), *Moving with the times: Emerging practices and provisions in collective bargaining*, Publications Office of the European Union, Luxembourg.

³⁵ See: Loi pour renforcer la prévention en santé au travail promulguée le 2 août 2021: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043884445>

More detailed information on Ramos Martin, N. Mercader Uguina, R. and Muñoz Ruiz, A. et al. (2023), Health and safety at work: achievements, shortcomings, and policy options. *EuSocialCit Working Paper*, March 2023. Doi: 10.5281/zenodo.8118960, 112-117.

³⁶ Ibid, 115.

weekly rest, and their workload are monitored to ensure that it is reasonable. Both a collective bargaining agreement and an individual agreement are necessary for implementation.³⁷

Reduction of working time, “*Reduction du temps de Travail - RTT*” is a scheme, aiming to reduce weekly working hours. With this type of scheme, companies negotiate specific arrangements to accommodate operational needs. RTT maintains full time status while reducing hours, with excess hours accumulating as paid leave. Implementation includes annualizing hours and negotiating collective agreements. The number of RTT days is determined by company agreement, either as a package or based on completed working hours.

E. Other issues regarding working time arrangements and overall conclusion

In France, labour law plays a crucial role in shaping working time flexibility. French labour law, with the 35-hour workweek rule, regulates working hours to promote employee well-being and productivity.

With the rise of flexible forms of work in the late 20th century, France has enacted laws to progressively regulate working time for all categories of workers. One significant milestone in the history of working time in France was the implementation of the 35-hour workweek since 2000. France’s latest legislation on the right to disconnect, along with the 35-hour workweek, have shaped societal attitudes towards work and influenced the role of human resources departments in facilitating and supporting flexible work arrangements and reducing working hours.

The Aubry laws themselves do not contain specific litigation procedures within their articles. They primarily focus on setting the legal framework for working hours, overtime and related matters. However, litigation procedures related to disputes arising from the application or interpretation of the Aubry laws would typically fall under general labour law and employment law procedures. These procedures may involve mediation, arbitration, or adjudication in labour courts. The Code establishes procedures for mediating or arbitration disputes between employers and employee representatives, including those related to working time.³⁸

Links to relevant legislation and collective agreements

- Labour Code, (‘Code du Travail’), -[Code du travail - Légifrance \(legifrance.gouv.fr\)](https://www.legifrance.gouv.fr/)
- Law of reduction of working time, Aubry Law I, (‘Loi n° 98-461 du 13 juin 1998 d'orientation et d'incitation relative à la réduction du temps de travail (dite loi Aubry)’): <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000558109/>
- Law of reduction of working time, Aubry Law II, (‘LOI n° 2000-37 du 19 janvier 2000 relative à la réduction négociée du temps de travail’): <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000398162>
- Law for the reinforcement of the prevention and health at work 2021, (‘Loi pour renforcer la prévention en santé au travail’): <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043884445>

³⁷ Smith-Vidal S, ‘Flexible Working Time Arrangements in France’ (*Lexology*, 19 May 2014) <<https://www.lexology.com/library/detail.aspx?g=382f8e8d-75af-4a1c-b8d8-21171925daa4>> accessed 17 May 2024.

³⁸ Code du travail Title II: procedure for settling collective disputes.

- Law of labour and modernization of social dialogue and professional security or El Khomri ('LOI n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels'):
<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032983213>
- Collective agreements: <https://www.legifrance.gouv.fr/contenu/menu/droit-national-en-vigueur/accords-collectifs>