

# From “Working Less for More Jobs” to “Working More for More Money” – Recent Development and Issues on Working Time in France

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## 1. Introduction

In the first years of the François Mitterrand presidency, in the beginning of the eighties, the French government decided to reduce the workweek from 40 hours to 39 hours and the retirement age from 65 to 60 years old. It was the two main axes of a new employment policy, a work sharing policy: to reduce working hours and working life to share employment and reduce unemployment; *working less for more jobs*. By the end of the 1990s, the 35 hours workweek continued this policy.

Today, after twenty years of efforts to reduce working hours and working life, French public policies intend to increase workweek and employment rates for older people and to develop their flexibilities. *Working more for more money*, as President Nicolas Sarkozy said. This is exactly the opposite of the previous policy.

As usual in France, all these employment policies imply changes in the Work Law. So after the first point that describes the main French societal choices for working time and working life, changes in the regulatory framework will be described. These changes intended to encourage collective bargaining to take a better place within the regulatory framework and to favour job creation and the economic activity. These issues were long debated and contested. This will be the last point of this paper.

Because working time is an important aspect of French employment policies and is a highly controversial and conflictual topic within social and political debates, it will be impossible to give an acceptable view of all regulations, policy schemes and debates within a short paper. Choices had to be made. So this paper begins in 1998 with the 35 hours work week and focuses on one main issue, working hours, and two of its correlates, non-standard employment relationships (temporary contracts, part time contracts) and older workers. Obviously, in each case, flexibility will be an important issue to be taken into account. Nevertheless these choices imply that issues like the life course working time, work life balance policies, variable working hours... will be indirectly and partly explored only, even if part time or older workers issues are important pieces of these policies. Clearly, the reason is that in France working time flexibility appears to be mainly involuntary, satisfying changing work load of the firms, rather than to be an implementation of work-life balance issues.

## 2. The French societal choices for working times and working life

### 2.1. Today, a few issues are specifying the working time situation in France.

Husson (2008) emphasizes that over 15 years, the macro economic evidence is that, in

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France, all the employment increase is the result of working time reduction. In Germany also, working time reduction is balancing the lack of economic growth in such a way that the slow growth did not generate any employment decrease. In the past decade, this evidence constitutes the core of what is commonly labelled as the Continental Type (European Commission, 2007): working time reduction was a major piece of the labour market equilibrium.

In other respects, French public debates often reduce flexibility issues to the employment security; to the protection that is offered by the labour contract. Flexibility means temporary contracts much more than working time flexibility. It may be some kind of singularity of French debates, in comparison to what is discussed in some other European countries, even in the Continental type countries. Moreover, for the European Employment Strategy (EES), for the Scandinavian or British Types, even for German debates, part time is considered as a central piece of the voluntary working time flexibility and of life course policies. It is not in France. For the public debate, the evidence is so great that it is generally considered in France that the French labour market is highly dualistic, according to the job stability, the nature of labour contracts and the working hours: permanent full time contracts on one side, temporary contracts and part time contracts on the other.

For many issues and even if the picture is changing today, French labour markets and employment policies reveal how much the French case has its own rationality. This can be reduced neither to the evidence that the French State is an important actor of the regulatory framework design as it has been systematically asserted by international institutions, and criticised as an obstacle to economic and social efficiency; nor to the 35 hours workweek experiment that often astonished foreign observers. It is mainly because the societal choices are really different from what happened in many other European countries.

In comparison to many other industrialised countries, the main empirical evidence can be summarized as follows:

- French working hours have low levels; adult full timers do not have long workweeks or work years.
- Males have relatively short hours, but females have longer hours than in many other countries.
- Working life is short: older people have low employment rates, young people have a lot of difficulties for their entry into working life; they have to experience a transitional period with succession of temporary jobs.
- Rhythms of work are highly intensive. The hourly productivity is high.

The French debate has always emphasised the danger to have shorter ordinary workweek and working life than the main economic partners of France. The comparative evidence is not so clear.

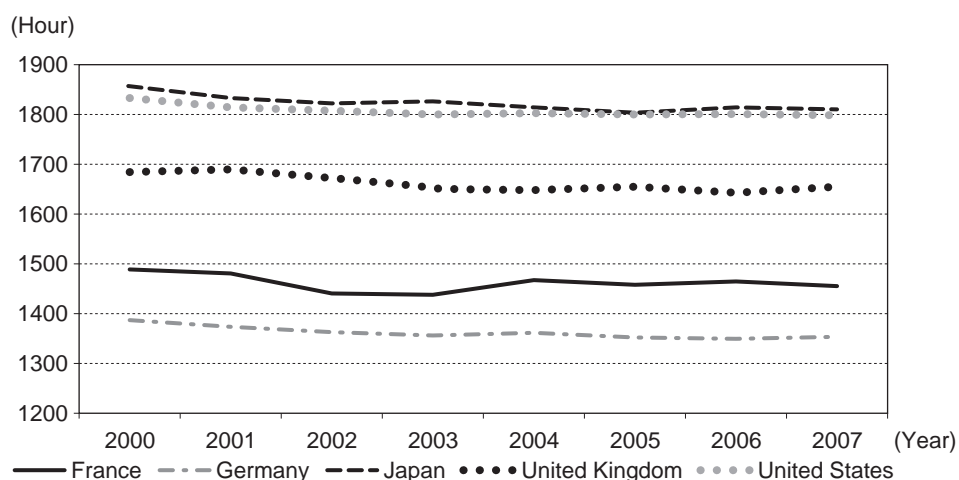
## 2.2. Working hours

a) The annual working hours in France for dependant employed are on lower levels than in many countries, but are not exceptionally low. German levels are under the French ones.

b) The average number of usual weekly working hours for full timers only is above 40 hours per week, despite the 35 hours workweek regulation. Taken into account i) that part time is less diffused in France than in Nordic European countries, even if French part timers have longer weekly hours than in many other countries, and ii) that for full timers, annual vacations are longer in France, the common work week is not so short as it is commonly said. Taking into account all these contradictory points, it appears clear that the short annual working hours in France are resulting from a societal choice that reduces work year of full timers,

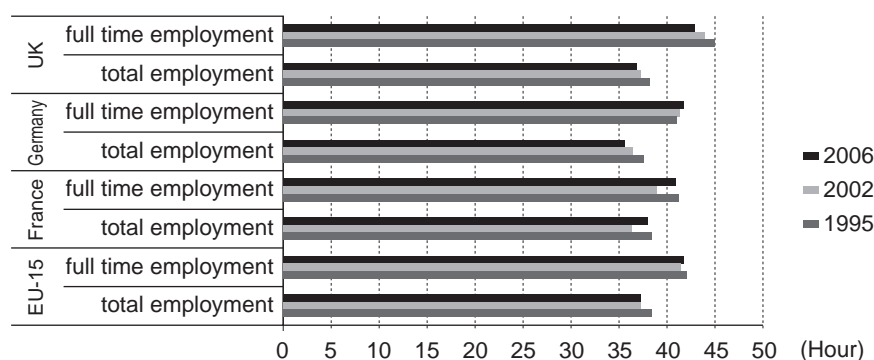
- by increasing vacations better than reducing the effective ordinary workweek, and
- by reducing full timers' working hours rather than by increasing part time arrangements as it is observed in Nordic European countries.

Figure 1. Annual working hours, dependent employment



Source: OECD, 2008, <http://stats.oecd.org/WBOS/Index.aspx>.

Figure 2. Average number of usual weekly hours of work in the main job (All persons)

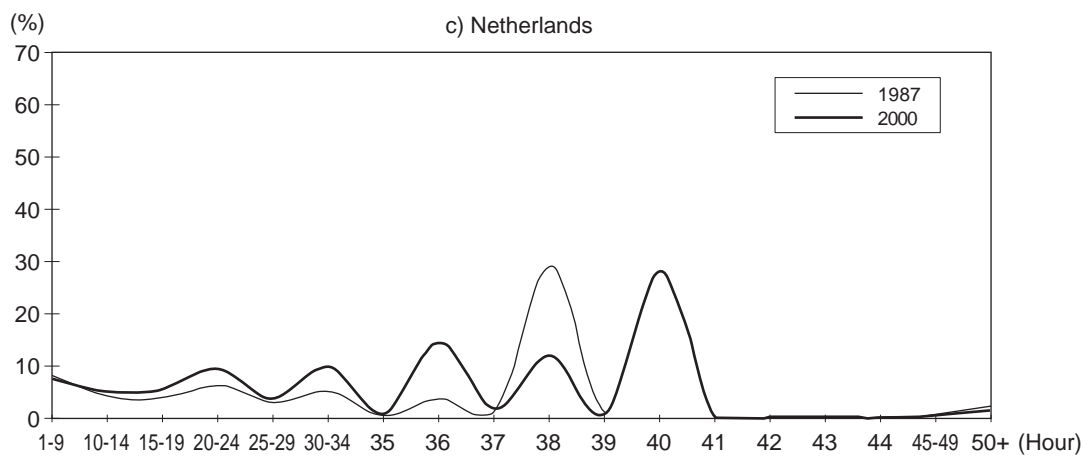
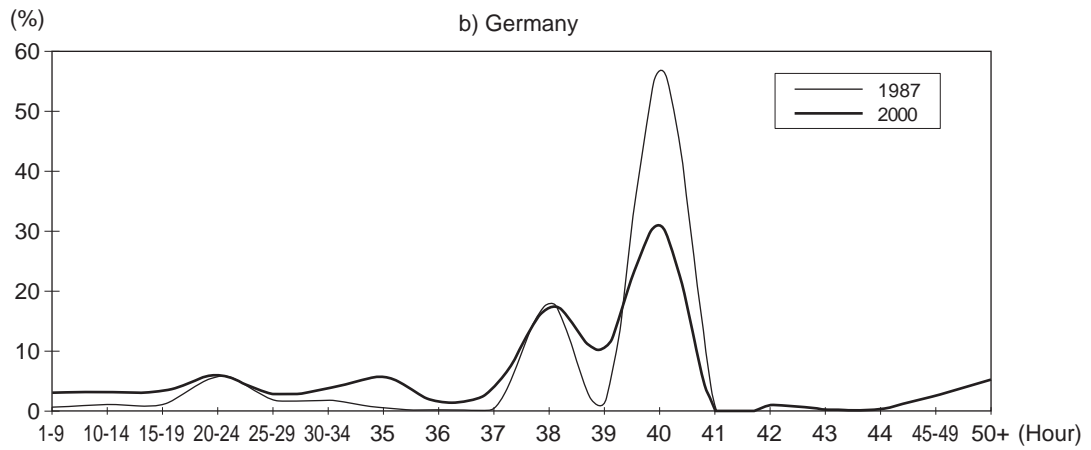
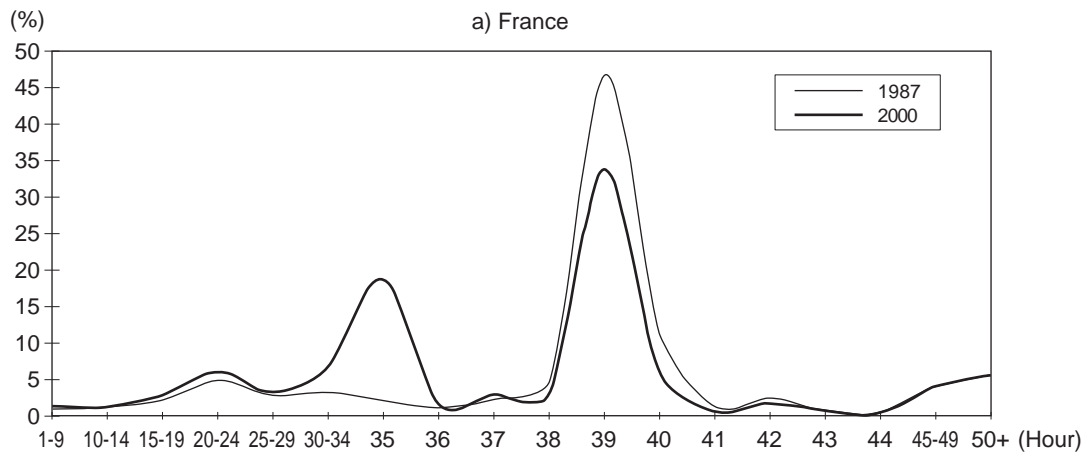


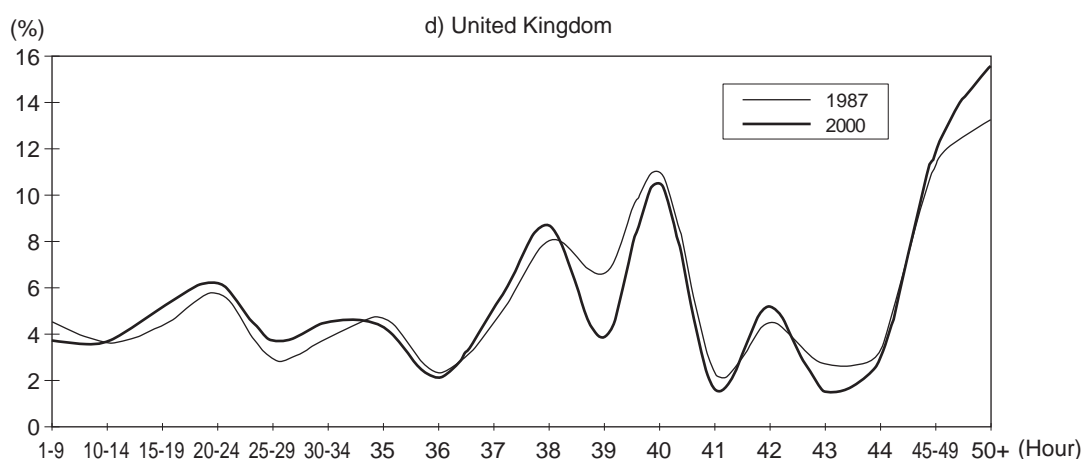
Source: Eurostat (European Commission, 2007).

c) It is also observed that in France, working hours are highly concentrated around two reference points: first, around the standard full time workweek (39 hours on the Figure 3 below, before the complete implementation of the 35 hours workweek); second, just under the maximum limit of the part time workweek (30 hours). In France, full time workweek is short; part time workweek is long.

It means that long workweeks are less frequent than in many other countries but also that short workweeks (and part time work) are less frequent than elsewhere. It also refers to the high impact of standards. In France all the activity is highly concentrated around social standards: 35 hours work week, long part time just near 30 hours, and (as it has been said just above) working life highly concentrated during the adult period.

Figure 3. Distribution of workweek hours (all people)





Source: reproduced from Lee [2004].

### 2.3. Temporary and part time contracts

Temporary and/or part time employment are increasing in France. And each is highly concentrated within some jobs and some workforce groups.

There are a lot of temporary contracts that are regulated by law. TAW (temporary agency work) is just one of these contracts. It is not the most important. Table 1 includes four kinds of temporary contracts that have a legal status.

Table 1. Share of standard and non standard contracts in the total work force

	(%)		
	2003	2004	2005
Independents	11.3	10.8	10.9
Employees	88.7	89.2	89.1
TAWs	1.9	2.0	2.2
Apprenticeships	1.2	1.2	1.3
Fixed term contracts	6.5	6.8	6.9
Training period and subsidized contracts	2.1	1.8	1.7
Open-ended contracts	77.0	77.4	76.9
<i>Total Labour Force</i>	<i>100.00</i>	<i>100.00</i>	<i>100.00</i>

Note: dependent and independent  
 Source: INSEE. Enquêtes sur l'Emploi.

In France every temporary status has its own use: temporary agency work for young males, unskilled blue collars in a few number of activities (car industry, construction, food industry for example); fixed term contracts are more feminine, more used in the non manufacturing sectors. Training period and subsidized contracts are conceived as temporary contracts to facilitate the first entry in employment for young people.

Part time is not so highly diffused in France as it may be in some other countries, especially in the Northern Europe where part time appears a crucial piece of the life course policies.

Table 2. Part time employment - 2007

	(% of total employment)	
	Dependent employment	Total employment
Japan	n.a.	18.7
USA	n.a.	12.5
Netherlands	35.9	54.7
UK	23.2	23.2
Germany	22.6	22.2
EU-15	18.7	18.1
France	14.1	13.4

Note: less than 30 hours per week – n.a. non available.  
Source: OECD.

Part time is mainly for employed women. In the EU-15, Eurostat evaluates part-timers in 2006 as 8.1% for males, 36.7% for women (% of total employment). This is highly variable from one country member to another. For France: 5.8 and 30.2. For Italia: 4.7 and 26.5. For Netherlands: 23 and 74.7<sup>2</sup>. Formally, part-time is defined by Eurostat as people working no more than 30 hours per week and this definition is compulsory to country members. In France, it is more often perceived as another non standard and insecure arrangement, even if this contract is not at all precarious per se, according to the evidence that part time is mainly involuntary and implies long hours (the common part time contract is a 4/5 workweek hours (that is free Wednesday, when school is closed), just under the threshold of 30 hours work week). It is also observed that its working hours can be highly variable from one period to another; part time is the first to suffer from redundancies.

The working time reduction for the core workforce (shorter standard workweek, longer annual vacation for male adults with standard contracts) proceeds together with some other kind of changes for peripheral workforces: longer period without work, between temporary contracts for example, mainly for young people, part time arrangement for women (but clearly less than in some other European countries). But it has to be observed that part time is not so well developed as in some other European countries. Everything is as if France should prefer to reduce working time of full time insiders, mainly with more vacation, better than to develop part time arrangements based on reduced workweek. The compensation could be a higher insecurity (as a result of the development of non standard employment arrangement) for some work force groups (younger's for example, according to the fact that temporary work is highly present among young workforce).

#### 2.4. Working life: retirement age and employment rates

The effective retirement age is in France one of the lowest in Europe: 58.7 years old in average, far behind Sweden or UK.

The Lisbon European Council of 2000 relaunched the European Strategy for Employment. It was decided that overall employment rate should rise to 70% “preferably by 2010”. The Stockholm European Council of 2001 decided another target for older people, an employment rate of 50% by 2010. According to Eurostat, France was far from these targets in 2007: the overall employment rate was only 64.6 % (Table 3).

The evidence is that these low overall employment rates are the result of low rates for young and old people, lower than those in UK, Germany, and even than EU-15 as a whole (Figure 4).

In other words, the working life is shorter in France than in many other EU member states. This is another French way to reduce work contribution of people, adjust employment

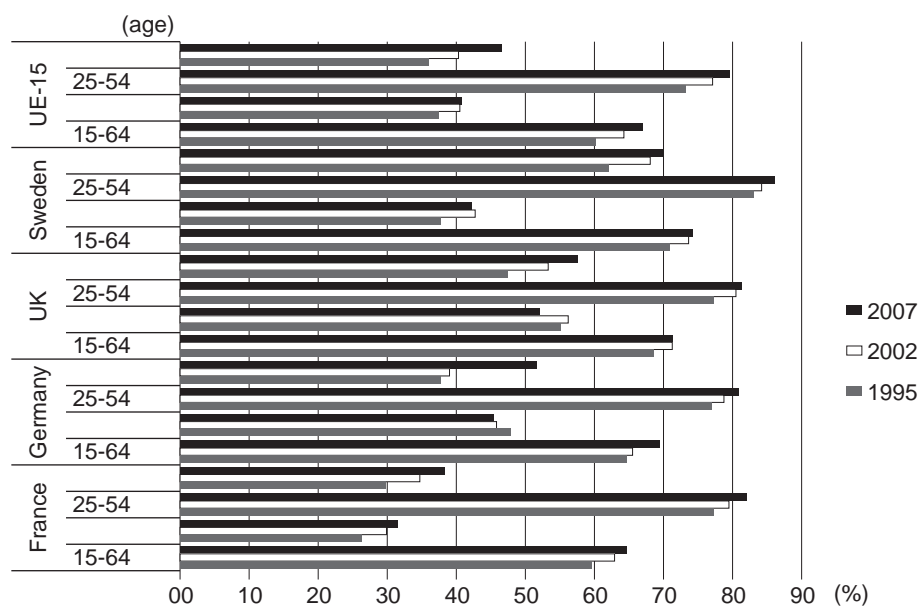
<sup>2</sup> Source: European Commission (2007), “*Employment in Europe 2007*”, Luxembourg, Office for Official Publications of the European Communities, 324 p.

Table 3. Overall employment rates in France and in EU

	(% of total population 15-64 years of age)		
	1995	2002	2007
France	59.5	63.0	64.6
Germany	64.6	65.4	69.4
UK	68.5	71.3	71.3
Sweden	70.9	73.6	74.2
EU-15	60.1	64.2	66.9

Source : Eurostat, Labour Force Surveys.

Figure 4. Employment rates (% of population of each age)



Source: Eurostat, Labour Force Surveys.

to needs. The entry into the labour market is difficult for young people and implies more and more a long period for insertion, characterized by a long sequence of employment (with temporary contracts) and unemployment periods. And despite the general claim of authorities about the necessity for older people to work longer, as soon as firms have to reduce their staffs, the first way to do that is to propose retirement and early retirement for old people. This is always one of the main tools for the first urgency; even today, the deepness of the crisis cannot be satisfied with this only.

As a consequence, the seniority within-the-firm indicators clearly show that not only effective retirement age are younger in France than in many other countries, but that older people do not have a very long presence within the same firm. Comparison to Germany is significant, according to the Casey's evaluation (Casey [1997]): French adults appear to stay a longer time within the same employer than German adults; French younger or older people stay a shorter time.

## 2.5. The counterparts: rhythms, workload, intensity

It is rarely emphasized how this situation of short working time and short working life could be maintained, facing an intense international competition, when competitors do not support such hard constraints. The answer is obvious.

- In France, productivity per people became very low, but productivity per hour or per product unit remained very high, even if the increase is not so fast now as it was in the

Table 4: Proportion of each age group staying with the same employer at least five years (%)

	France	Germany	Netherlands	Japan
20-24	43	46	47	69
25-29	54	39	23	72
30-34	49	39	29	65
35-39	56	62	33	69
40-44	51	43	35	70
45-49	60	51	35	66
50-54	42	65		65
55-59	25	33		36
Actual retirement age	59.9	60.8	60.8	64.8
Full state pension age	60	65	65	65

Source: partial reproduction from CASEY [1997].

1960s, 1970s and even 1980s. A major argument used by the supporters of working time reduction is its influences on firm organisation, highly favourable to productivity increases. Montaut (2008) evaluates that the hourly cost of dependant work has more than doubled between 1975 and 2004 (+ 1.7% each year), because of wage growth, working hours reduction, higher skills, more expensive social contributions of firms. He observes that all this is fully compensated by hourly productivity gain (+ 2.1% per year). So the cost of each product unit decreased. Fayolle [2008] discusses what he named the ambivalence of the French performances for productivity: low productivity per head, high hourly productivity. The evidence is that the French industry has one of the highest hourly productivity. But this could be the result that less efficient people are excluded from work. Exclusion of young or old people, short working time for male (but longer for women than in other countries).

- Any way, it means more intense rhythms of work. The empirical evidence is clear and well known, generally used to describe change in working conditions, less frequently correlated to working time reductions. Work rhythms that are judged too intensive by workers, work that are depending on delays judged too short by workers, are increasing everywhere in Europe. Employees appear to loose their autonomy in their work rhythms and their work methods (OECD, 2003). In France, between 1994 and 2003, repetitive work or work that is directly controlled by hierarchy became less frequent. But organisational constraints that workers are suffering are increasing: work rhythms more frequently imposed by consumer demand, more dependent on those of colleagues, more frequently controlled by computers; tasks more frequently interrupted by some unexpected things; feelings of more urgency than before... (DARES, 2004).

### 3. The implementation of the French working time policies: the regulatory framework and its recent changes

In the first years of the François Mitterrand presidency, in the beginning of the eighties, the French government decided to reduce the workweek from 40 hours to 39 hours and the retirement age from 65 to 60 years. It was the two main axes of a new employment policy, a work sharing policy.

Today, after twenty years of efforts to reduce working hours and working life, French public policies intend to increase workweek and employment rates for older people and to develop their flexibilities. These new policies maintain the two regulatory references that are the 35 hours workweek and the 60 years old retirement age but relax constraints of the regulatory framework, to allow firms and individuals to have “more work to make more money” as the French President Nicolas Sarkozy claimed.



Standard being decided by law, they are very influential. Nevertheless the French situation is more and more characterized by a voluntarism that gives more and more possibilities to collective bargaining within the firm to enlarge effectively applied regulation from the general standard. Working time issues are one of the areas where decentralised collective bargaining is more and more influential, especially to flexibilize the regulatory legal framework.

### **3.1. The 35 hours workweek**

The statutory 35 hours workweek was introduced in 1998 and 2000 (with the two Aubry's laws<sup>3</sup>) and has been modified since then (the January 2003 law, called "*loi Fillon*", the March 2005 law about "*the working time organisation within the firm*"). Nevertheless, it continued to be the reference of the working time regulatory framework. The recent August 2008 law "*for the social democracy renovation and working time reform*" rebuilt some elements of the architecture of the regulatory framework.

#### *The architecture of working hours*

The French statutory workweek is only a threshold from which overtime is beginning. Overtime can be included in the usual working hours if decided by the employer. It has to stay under limitations of maximum working time (10 hours a day, 48 hours per week). The maximum annual amount of overtime is decided by law or by collective agreement, the maximum legal overtime being able to be transgressed if decided by collective bargaining, and with some limitations. Overtime gives to employees some enhanced rate of pay and/or some compensatory time-off. The increased rate and the compensatory time off are decided by law or by collective agreement. Within these statutory limitations, this is the employer that decides the effective workweek (in other words, the employer decides the overtime), he has only to inform the employee representatives. Any firm is free to vary its collective schedules and calendars according to its needs.

This overtime architecture was not really new<sup>4</sup>. It can be said that the new architectural points that were proposed by the Aubry's laws were i) to extend the possibility to exchange the enhance rate of pay with some compensatory time-off ii) to increase possibility to flexibilize collective hours over the years (the "*annualisation*" of "*modulation*" schemes) and iii) to give an increasing part to the collective bargaining, more and more authorised to change the legal prescriptions. But these points, even this last one, were the continuation of changes introduced before, in the 1980s and 1990s.

#### *The statutory 35 hours workweek*

In 1998, the first Aubry's law decided the objective of 35 hours, with a delay for implementation no later than 1<sup>st</sup> February 2000 for the firm employing 20 people or more, no later than 1<sup>st</sup> January 2002 for the very small firms (less than 20 employees). This law proposed a program of financial support to firms to experiment some negotiated workweek reduction that could create new jobs or save the employment levels. The second Aubry's law (2000) largely reproduced contents of collective agreements that tried to implement the 35 hours workweek, to propose a general regulatory framework. The Aubry's laws decided a maximum overtime amount of 130 hours per year<sup>5</sup>.

<sup>3</sup> See <http://www.eiro.eurofound.ie/1998/06/feature/fr9806113f.html> for the 1998 law, and <http://www.eiro.eurofound.ie/2000/01/feature/fr0001137f.html> for the 2000 law.

<sup>4</sup> The main axis of this overtime system was introduced after the 2<sup>nd</sup> World War to maintain the 40 hours workweek introduced themselves in 1936 by the "*Front Populaire*" government and at the same time, to favour long hours to satisfy the need of the post war economy. In this way, one can say that the workweek flexibility has existed in France for a long time.

<sup>5</sup> Some sectors derogates the statutory framework. In these sectors, a workweek longer than 35 hours may be considered by law as an equivalence of the 35 hours (Hotel Restaurant and Café sector, Road Transport sector). These specific regulations have to be decided by a Ministerial Decree.

With the working hours reduction, collective bargaining can introduce some additional flexibility of working time. Flexible collective systems (“modulation” or “annualization”) have the purpose to facilitate variations of collective workweek within the year and in some sense render the threshold of overtime ineffective. They substitute the 35 hours standard by its yearly equivalent of 1,600 hours. Individual collective systems are also regulated by law and introduced by collective bargaining.

The first law made more difficult the recourse to overtime working. In companies with more than 10 employees, overtime of more than 41 hours within an annual 130-hour quota must be compensated with time off of 50% of the time worked. It offered to collective hours the possibility to calculate the number of hours worked over a one-year period (annualised hours, the 35 hours standard being substituted by its yearly equivalent of 1,600 hours) and to express the reduction of working time as days off<sup>6</sup>. It offered to individual hours the calculation over a period longer than one year, days off being accumulated as holidays and carried over for a period of several years with « time saving accounts ».

The second Aubry’s law proposed the overtime compensation:

- A 25% premium on the hourly rate from the 36th to the 39th workweek hour, paid as time off if no firm agreement for working time reduction exists, paid either in the form of wages, or in time off when there is such an agreement;
- A 25% premium or time off or a combination of the two from the 40th hour to the 43rd;
- And a 50% compensation from the 43rd hour included.

A transitional compensation was introduced for 1 year, and a longer transitional period for firms with fewer than 20 employees, which is until January 2002.

Finally the masterpiece of the Aubry’s Acts was all the incentives that were distributed to firms to encourage them to reduce working hours. The first 1998 Act decided some reduction of social contribution to favour experimentation of new working time organisation that could create new jobs and increase employment levels (first modality) or avoid job cuts and maintain employment levels (second modality added a little time after the first one).

#### ***Notable further developments in recent years – What remains of the 35 hours workweek ?***

The 35 hours workweek has been highly debated, as soon as the Government informed of its intent (see below for a brief summary of this issue). Taking into account a hard opposition, frequent changes of the original framework were introduced since then.

a) As soon as 2001, the Jospin government postponed the deadline of the 35 hours implementation for the very small firms (under 20 people) until 2004.

b) After the 2003 change in the political majority, new Governments introduced successive modifications of the regulatory framework: January 2003, December 2004, and March 2005. All these changes increased the amount of authorized overtime, and possibilities for working time flexibilities.

The 2003 Fillon’s law increased yearly overtime to 180 hours, extended the transitional period for the 35 hours implementation to the end of 2003, and practically suspended its implementation in very small firms. In December 2004, a new Bill increased the yearly overtime quota to 220 hours.

The March 2005 Act gives to the collective negotiation the possibility to increase flexibility of working hours :

- The working time accounts can get supplies for non spent overtime or paid vacations that can be transformed in money.

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<sup>6</sup> This explains i) why it has been analysed that professional and managerial staffs were the “great winners” of the 35 hours workweek. Their unions succeeded to exchange all the working hours reduction against their equivalent calculated as days off: the well-known “*jours de RTT*”, working time reduction days. ii) why 35 hours work week is narrowly linked to flexibilization within the year: the days offs became an important way to flexibilize workweek.

- Agreements for time choices system can decide to overpass the yearly overtime quota.
- Again, the deadline for the 35 hours implementation in the very small firms is postponed.

c) The August 2007 Act (called TEPA Act, "*en faveur du Travail, de l'Emploi et du Pouvoir d'achat*"<sup>7</sup>) and the last August 2008 Act ("*pour la rénovation de la démocratie sociale et la réforme du temps de travail*")<sup>8</sup> are a real reformulation of the working time regulatory framework.

- The main change (in any case the more contested) is that the 2008 Act increases possibilities for collective agreement to overpass the annual overtime quota. Conditions that were restricting these possibilities are suppressed.
- For the working hours organization, the 2008 Act gives the predominance to the firm level. Contents of the firm agreement are applied to whatever could be decided by a possible sectoral agreement.
- The working hour annualization can be introduced without any agreement, under the condition to organize working hours in periods no longer than 4 weeks.
- The regulations for the overtime compensation and for the working hours organization are simplified. In case of collective agreement (firm level or sector level), the overtime premium must be 10% or more. In the absence of any agreement, 25% for the 8 first hours, 50% for the others.
- The 2007 Act reduced the cost of overtime with some exemptions of social security contribution for employees as well as for employers (this is new), and in case of overtime hours or days off renouncement. It is also applied to part timers in case of renouncement of complementary hours.<sup>9</sup>

All these new schemes act to favour overtime. The evaluation of their influences on working time is the main issue that has been debated for these few years (see below).

### 3.2. The retirement and pension schemes

Reduced in the beginning of the 1980s from 65 to 60 years old, the retirement age did not change since then. But exactly as the legal workweek is a threshold for the beginning of the overtime compensation, the 60 years old retirement is only the age that gives to people the right to receive a full retirement pension. As it was said in 1993, "attainment of the retirement age had no particular effect on the contract of employment (although occasioning the termination of employment in the special case of established civil servants): if employees decided to terminate their employment, they resigned, and if retirement originated from a decision by the employer, it constituted dismissal. Since a law of 1987, this latter case has been subject to special rules" (Lyon-Caen, 1993).

Anyway, early retirement schemes also have to be taken into consideration. The first ones were introduced in France in the middle of the 1970, just after the oil shock. Without any ambiguity, they have been always considered by everybody (employers, public authorities, people themselves who welcomed this possibility to achieve their working life early and with good financial conditions, instead of staying unemployed for a long time) as a central way to reduce employment and unemployment, by reducing the labour force and transferring people out of the labour force. It has been evaluated that in the beginning of the 1980s when the retirement age was reduced from 65 to 60 years old, 60 % of the people of this age were early retired already (Gauvin and Michon, 1989).

In 2002, the new government decided to change the pension schemes. With the ageing of people and the arrival at the retirement age of the baby boomers, pension funds are judged to

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<sup>7</sup> "in favour of work, employment and purchasing power"

<sup>8</sup> "for an updating of the social democracy and the working time reform"

<sup>9</sup> Hours above the regular schedule of part timers, but under the 35 hours.

be too poor to cover these hard increases of expenses for retirement pensions. The Aout 2003 Act decided to prolong a previous 1993 change for employees of the private sector. The insurance duration required to have a full rate pension will be progressively extended from 40 years today to 42 years before 2020. And from now pension will be evaluated on the basis of the 25 best years of activity, instead of 20 best years<sup>10</sup>.

Progressive retirement scheme gives to older people the possibility to work as part timers and to receive at the same time some part of their pension. In 2006, conditions required to access to this scheme was made less restrictive.

At the same time as regulatory framework favoured delays of departure to retirement, the 2003 Act and a following collective agreement (November 2003) gave possibility to retirement before 60 years old for “long careers” within the framework of the general scheme for pensions. It is required: to begin to work very young, to have a subscription duration to pension schemes longer than the standard required. Anyway, a long time before, early retirement schemes have been elaborated by collective agreements (sectoral within the firms) especially within firms that needed to reduce their staff.

#### **4. Controversies on working time**

Since the middle of seventies, working time has been considered not only as an important element of the quality of working conditions, but also as the heart of the employment policies. In this way, effect of working time reduction on employment levels is the first issue of French controversies. Another issue is less controversial, but highly important for the future of the French Industrial Relations System. For these twenty years, working time policies have been a kind of experimental area of attempt to give more dynamics and to decentralise collective bargaining: for example, public authorities tried to disengage themselves to the central regulatory role they were traditionally assumed to engage in France and to give more possibilities to social actors. These two points of view are adopted below.

The 35 hours workweek has been highly debated, as soon as the Government informed of its intents. A few years later this policy was evaluated by many studies. All evaluations have been contested. Today, other controversies go on, mainly about the influence of measures recently adopted to favour overtime. But when the Aubry's policies not only encouraged working time reduction with costly aids for job creation or job preservation, but also gave important funds to proceed to empirical evaluations of its results for employment policy, actual policies that tried to make working time longer have not been observed with the same care. The empirical evidence cannot be really evaluated.

##### **4.1. The 35 hours controversies<sup>11</sup>**

Nobody was surprised to observe that the 35 hours controversies were political as well as scientific. The opponents immediately questioned the decisive part of the public authorities. Even if the formal arguments that were used were focusing on their bad efficiency to create or protect jobs, the real main issue was about the firm governance. Can the working time be decided by other than the employer, that is to say, by the State or the unions? Working time belongs to the prerogatives of the employer: this is the permanent claim of French employer representatives since the 1930s and the 40 hours work week experience; this is the main issue that structures the public debate on working time policies.

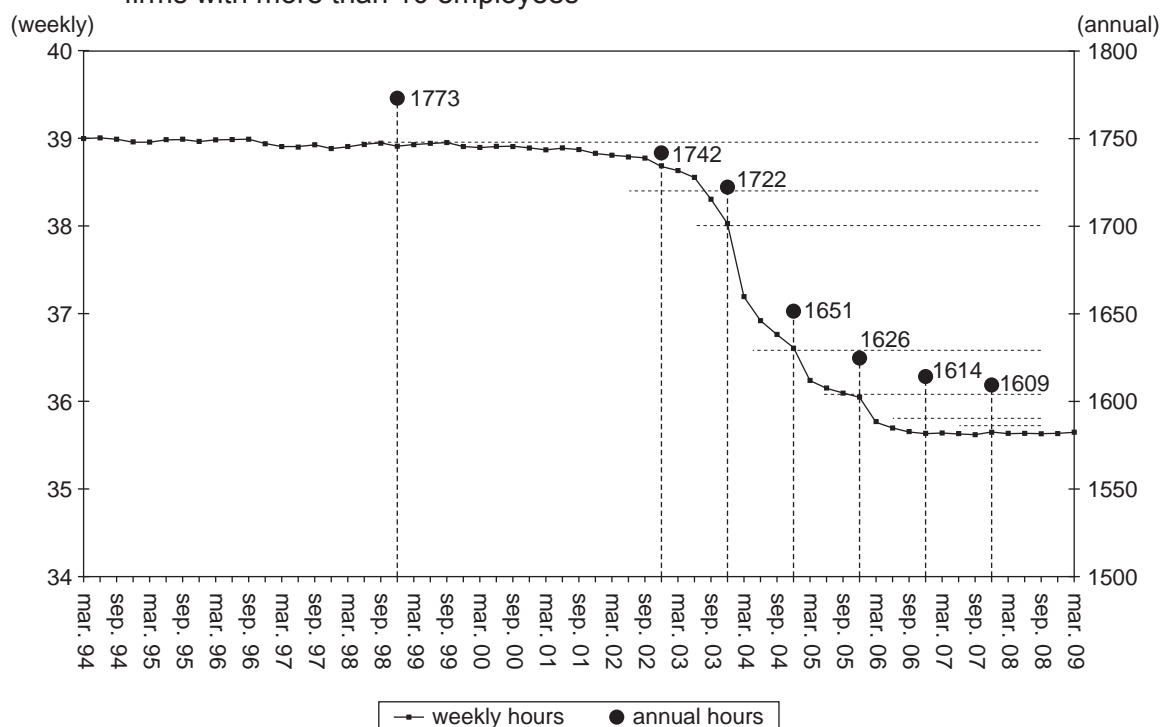
Anyway, the academic experts mainly focused on the employment effect of the Aubry's Acts. Beside, other points have been examined: compensation with productivity increases,

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<sup>10</sup> The pension scheme of the civil servants does not obey to the same rule. But it was also changed, in the same ways.

<sup>11</sup> This part is largely adapted and translated from Michon [2005].

Figure 5. Evolution of collective working hours (weekly and annual) since 1990 firms with more than 10 employees



Source : enquêtes ACEMO trimestrielle et annuelle, DARES.

dynamics of collective bargaining.

Before that, the evidence must be reminded. Even if the effective workweek remains above 35 hours, it has been strongly reduced. The Aubry's incentives have had an unquestionable influence.

Firstly, it has been observed that during the years when Aubry's Acts were in force, the employment increase rates were the highest in France since the beginning of the century. Obviously, it is highly difficult to prove a causal relation. How much of the employment increases can be attributed strictly to the working time reduction, and to incentives that encouraged reductions? How much to the rapid growth that characterized the period when 35 hours came in force? Whatever the suggested answer, expert evaluations give results that are very far to be insignificant: from 300,000 to 500,000 jobs, depending on the studies (see Rouilleault [2001], Husson [2001], Askenazy, Bloch London, Roger [2004], for example).

Secondly, there has been observed unquestionable dynamics of collective bargaining. However, firm reluctances against the 35 hours did not disappear without difficulties. In 2002, two years after the 35 hours Acts were compulsory for firms with 20 people and more, half of them (and ¼ of employees) had not adopted the 35 hours workweek yet [Jorand, Tonneau, 2004]. The small and medium sized firms, which benefited from more time until the changes were applied, claimed for obtaining new deadlines. In contrast to this, the big firms' managers discreetly emphasized that their organisations had to be adapted to the new working time rules and that it would be difficult to change again their organisations.

A successful collective negotiation for the introduction of the 35 hours was a compulsory condition to obtain reductions of social contributions that were proposed by Aubry's Acts. By the end of the first half 2003, when it was the closing of the incentives introduced by the second Aubry's Act, 330,000 firms (i.e. a total number of 9,900,000 employees) had signed an agreement to benefit from such reductions; that is 20.6% of the total number of firms and

50.6% of the total dependant workforce. For firms with 20 people and more, 56% signed, covering 76.3% of the dependant workforce. [Dares, 2004b and 2005].

Thirdly, a major argument by the supporters of working time reduction is its influences on firm organisation, highly favourable to productivity increases. Interviews from a panel of French actors or experts of the economic and social life (collected by Fayolle [2008]), discussed what Fayolle named the ambivalence of the French performances for productivity: low productivity per head, high hourly productivity. The evidence that the French industry has one of the highest hourly productivity could be the result that less efficient people are excluded from work: low participation rates of young and old people (see above). Conversely, this could be the result of a better mobilization of productivity reserves. Far from constituting an obstacle to economic growth (with shortage of productive factors that could have been created), the working time reduction increased collective bargaining on organisational issues and was a major source to mobilize these productivity reserves.

#### **4.2. Recent controversies about overtime and other issues**

The contrast is striking. Controversies about 35 hours could be drawn on a number of data, official reports, and academic studies. Since 2003, working time has always been a controversial issue on the political and social scene. Changes of regulatory framework are frequent, and always contested. But quantitative data or qualitative information are very scarce, and evaluations much more difficult to produce. It is only possible to produce some insights.

Firstly, if employment rates of old people are low in France and declined until the beginning of the 2000s, they have been stabilised since then, even have a slight increase. Mini [2008] only comments as follows: the increase of employment rates for old people can be explained by three factors: incidence of change in the demographic structure, unemployment decrease, and finally, incidence of employment policies for old people. In other words, this evidence may mean something else than successful policies. Anyway, changes in the pension schemes were not really discussed. Behind some formal protest, everybody seems to agree with the necessity to save pension schemes and to delay age of departure out of the labour force.

The very last changes are too new to be evaluated. In last November, the Parliament decided to postpone the age from which an employer can push an employee to retirement without consultation: from 65 years old to 70. Nevertheless this is following a great public debate organised to discuss on pension schemes, which concluded that this possibility should have to be suppressed. With this measure, there was also an increase in the number of years required for a full pension before 65 years old. For the opponents, this is a first step to a future contest of the right to a 60 years old retirement. But these two points do not generate a real debate. This is disappearing behind the fear of the current crisis.

Secondly, since 2003, controversies focused on overtime. As a result of the 2007 TEPA Act, government claimed this summer that the new regulatory framework for overtime that was introduced with this Act was a great success. In fact, measured overtime increased in the second 2008 quarter, despite the strong slowdown of the economic growth. This is unusual enough to be emphasized. But the evidence could not be so clear. Ducoudré [2008] observes, but does not conclude, that it is within firms where working hours were already above 35 hours that overtime is increasing the most. It could be a windfall effect. Firms that had overtime without any registration and compensation for overtime could have declared overtime now, to obtain the benefit of the reduction of social contributions. Barroux [2008] observes that it is too short a period since the Act to really have conclusions. He also reminds that some experts emphasize that in such a weak economic dynamism, an increase of overtime implies an employment decrease.

In the last days of January, the French Department of the Economy addressed to the

Parliament a report that asserted a very favourable influence of the TEPA Act on the economic growth and a highly positive welcome of the new overtime scheme by firms. According to this report, 20% of full time employees belong to firms that indicate to have increased their overtime use, since the beginning of the TEPA Act implementation; of which, 40% belong to firms that never used overtime before. Nevertheless this report cannot hide that there is no data that could authorize a serious comparison between before and after the TEPA Act implementation.

Thirdly, all these changes are planned together with an official talk about necessity to debate and to mobilize social actors to bargain changes. But the contents of the new regulations that are introduced are often very far from what was previously discussed and agreed by the social actors. The last August 2008 Act generated terrible reactions for unions. It appears that we are now exactly in the same situation that was charged against the Aubry's Act at the end of the 1990s: there is a formal protest of government in favour of debate and bargaining with social actors; but its real attitude is opposite.

Finally the real question should be: if the 35 hours were a costly measure for insufficient results, why the new policies are not evaluated in the same way. If the new policies have real effects on overtime, i) how many jobs are not created because of this overtime increase, ii) how costly are these new policies?

Table 5. Reductions of social contribution and working time policies

	(millions of Euros)						
	2000	2001	2002	2003	2004	2005	2006
Expenditure for employment (% of the GDP)	51,046 (3.5)	52,711 (3.5)	56,673 (3.7)	58,223 (3.7)	58,518 (3.5)	57,701 (3.3)	56,952 (3.2)
Reductions of social contribution (% of the GDP)	1,576 (0.80)	14,416 (0.96)	15,425 (1.00)	16,090 (1.01)	16,275 (0.98)	17,193 (1.00)	19,490 (1.08)
Of which							
Robien's Act (June 1996)	554	506	539	565	388	17	8
Aubry 1 Act (June 1998)	2,073	1,949	2,362	1,949	846	258	30
Aubry 2 Act (January 2000)	3,674	6,371	8,191	4,260	–	–	–
Fillon's Act (January 2003)	–	–	–	7,230	15,033	16,918	19,453
Total Expenditure + reductions (% of the GDP)	68,622 (4.35)	67,127 (4.48)	71,998 (4.65)	74,313 (4.66)	74,793 (4.51)	74,894 (4.34)	76,442 (4.23)

Source: (millions of Euros) reproduced from Roguet [2008].

There are no real evaluations of their effects on employment levels. All that is known is that these policies are very costly. The report addressed to the French Parliament by the Department of the Economy is evaluating the total amount of the exemptions of social security contribution that intended to favour overtime at € 2.75 billions for 2008.

## 5. Conclusion

Issues exposed in this paper don't present all that was discussed in France or is discussed now. For example, today, the last major public debate focuses on the Sunday opening of retailing.<sup>12</sup>

One cannot say that the regulatory framework of the 35 hours reform was very easy to apply. The evidence is opposed. One cannot deny that there was a need for simplification of the regulatory framework. In some aspects, the last changes bring such a simplification and give tools for a better flexibility of working time. But where is the security of working time – and of incomes? The present situation gives the answer: high job cuts, strong reduction of temporary agency work uses, high partial unemployment or technical lay-offs.

With the current crisis, after last summer, working time issues appear to be out of date. In fact, European economies have come into a situation where announcements of jobs cuts are more and more frequent and important. Is it really a good time to organize longer overtime? More work for more money, is it possible if there is not enough work for everybody? This issue is not questioned. The French Government is pursuing its previous policies.

For a long time, one of the preferred devices of the governmental policies has been opposed, on one hand, by privileged workforce groups, the insiders. Their conservative oppositions, passed on by their representative unions, were against, on the other hand, any changes that could reduce their “privileges” and that are proposed as a good way to restore a better equality between workforce groups. This will be more and more difficult to continue this opposition. These “privileges” are disappearing with the rapid increase of job cuts everywhere. Will it be possible to come back again to solidarity policies as work sharing?

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<sup>12</sup> The present regulation disposes that an employee must have one full day per week for rest. This must be Sunday. Of course, there is a list of exceptions which allows to work on Sunday: in manufacturing sectors (shift work), in all activities related to tourism, in hospitals, entertainment and show business, transport... . Today, the government intend to facilitate the Sunday opening, arguing that economic influences of this kind of flexibility could be very positive: it should satisfy individual preferences of consumers, increase their consumption, increase employment. Opponents (which are not only members of the political Opposition) refer to the perfect symmetrical arguments, arguing that the only influence should be some transfer from the ordinary days to Sundays. Each refers to some survey results. See Mathiot (2008).



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