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Project Bargaining and Social Dialogue at the Public Sector (BARSOP)

Policy Paper France

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1. Introduction

This briefing paper from the project Bargaining and Social Dialogue at the Public Sector - BARSOP- deals with the study of the evolution and role of industrial relations in the public sector in France (focussing on three (sub)sectors: hospitals, primary education and municipalities). The aim of the BARSOP research is to answer two closely interrelated questions: What has been the evolution of industrial relations in the public sector? And what has been the role of industrial relations in shaping the public sector?

This policy paper presents the findings from research carried out during 2016-2017 according to the objectives of the project BARSOP. We examined developments in France with regard to the evolution of collective bargaining and social dialogue in the public sector. The main

aim of the report is to analyse the evolution of industrial relations in the three sub-sectors in the past 15 year. In this paper we summarize the changes that have taken place in the characteristics of the social partners (level and composition membership, types of organisations, mergers/fragmentation, resources, etc.), their ideas, objectives and strategies, the extent to which their relationships are consensual or conflictive and bi-lateral or uni-lateral, the coverage and dynamics of collective bargaining, social dialogue structures and processes, and the relationships between the sector and the national level. Special attention has been given to the role of the crisis, where relevant.

In France, the crisis has resulted in reduced funds for the public sector, in more unilateral action by governments in industrial relations and in changing ideas and regulations concerning the role and functions of social partners. Social dialogue has been important in reshaping public sector industrial relations during the crisis even when industrial relations have remained conflictual and unions claim that collective bargaining has become more burdensome. Based on the analysis of the three sectors we aim to generalise on the general evolution of industrial relation in the public sector in the country.

Closely intertwined with this is the second question, which concerns the role of industrial relations in shaping the public sector in general and more in particular the quantity and quality of employment and the availability and quality of public services. Our starting point here is that in the past 15 years most governments and international agencies (EU, OECD, IMF) have promoted profound public sector reforms. These reforms are generally inspired by a combination of New Public Management and austerity ideas. New Public Management focuses on privatisation and marketization of public services, including elements like accountability by result, financial incentives, decentralisation, and the replacement of automatic and collective mechanisms of pay increases and career promotion with more discretionary, selective and variable mechanisms. The austerity approach focuses on the goals of limited public expenditure, limited public debt, and limited budget deficits, and is institutionalised in the economic governance of EMU.

In France, public sector reforms have intensified during the crisis with clear effects on public budgets and in the number of jobs available in the sector. These changing ideas have been translated into reform policies for the public sector in France. In the country report on France we have examined: What shape has public sector reform taken in the country in general and in the three sectors in particular; what extent and in what way have industrial relations actors influenced these reform processes, as well as their implementation, through collective bargaining, social dialogue, industrial action, and lobbying; and finally, what effects have the changes in quantity and quality of jobs in the public sector had on the availability and quality of public services.

1.1. Methodology

In line with a mixed-method approach, our analysis is based on various sources of evidence. For the purposes of extensive analysis, we draw on available literature, legislation, reports published by national authorities or independent bodies, and the most reliable and up-to-date

quantitative data. First-hand data has been collected through semi-structured interviews with representatives from social partners and with other stakeholders in the public sector.

2. Public Sector Structure and Economic Context

From a legal-status point of view, the public sector includes two types of workers:

- Civil servants with a civil post in an administrative body. There are three main civil service bodies: central government (51% of personnel), local government (30% of personnel) and the Health Service (19% of personnel).
- Public employees working for public companies, which include all of the companies in which the State is a majority shareholder, eg. the state electricity company (Electricité de France, EDF), the state postal services company (La Poste), and the French National Rail Company (Société nationale des chemins de fer, SNCF).

The Central government includes:

- the central administration (central ministry departments) and their decentralized departments at local level (local departments, prefecture, education authorities.)
- National public institutions with a public service mission (teaching and research establishments and public administrative institutions).
- The health service personnel which are under the authority of the Health Service;

Two sectors, education and health, stand out due to the fact that they include both administrative bodies and private companies. Education includes public teaching and research establishments (primary schools, secondary schools, colleges, and universities) and private establishments, while the health sector includes public health-care establishments and private hospitals.

One peculiarity of the public sector in France is that it is a highly feminized sector. Women accounted for one of the highest shares in total employment across OECD countries and represent over 62.3 % of public sector employees (2013). Besides, there is a higher than average level of part-time employment for women in the public sector.

All public sector employees benefit from a special status. Since the Law 13 July 1983 (law on the rights and obligations of civil servants), the general regulations of the different civil services have been unified, even if there are still specific provisions for each sector. Alongside the civil servants, there are state manual workers who are public employees and also public non-permanent employees who work in the civil service. Finally, employees of public companies are also governed by regulations which are specific to their company.

During the global financial crisis of 2008 and 2009 and the sovereign-debt crisis in 2011, on average, GDP declined slightly more in the rest of the Eurozone than in France. In 2009, output suddenly stalled in France as well as in most European countries, but companies reduced employment more slowly than during previous recessions.¹ While having been hit

¹ INSEE, January 2016, <<http://www.insee.fr/fr/themes/info-rapide.asp?id=14>>

sooner by the economic crisis than most of the Eurozone countries, France was more efficient in limiting the output decline in 2010, and again in 2012 and 2013.

The French labour market tempered relatively well the initial impact of crisis compared with other EU neighbour countries. However, employment in the French public sector has shrunk (shed 40,000 jobs between 2000 and 2009.) France has begun to lag behind other European economies in terms of its per capita GDP. Until the 1990s, France was among Europe's leading economies in per capita GDP. By 2010, however, the country had dropped to 11th out of the EU-15. The main drivers of that change have been the low labour force participation of seniors and young people, as well as relatively high unemployment rates.

On the one hand, France faces strong demand for highly skilled workers, and on other hand workers with low levels of educational attainment will be unable to find jobs by 2020. While the unemployment rate of highly skilled employees is very low, the average unemployment rate ended 2015 on 10% of the workforce in metropolitan France and 10.3% overseas.²

As regards the impact of the economic crisis, France's policy management during the crisis is widely recognized for its efficiency in cushioning the main effects of the crisis, both on output and the labour market. Indeed, France benefited from powerful automatic stabilizers (in particular Unemployment Insurance and poverty allowances, RSA). As a consequence, France has experienced only a moderate decline in output despite negative fiscal impulses and tight fiscal austerity during the examined period.³

Despite the poor economic forecast in France in 2015/2016, levels of wellbeing in France remain high, with relatively low inequality. The quality of life indicators where France particularly stands out among the 34 OECD members are work-life balance and environmental quality. The country's major weaknesses, identified by the OECD, are the rigidity of its labour market and the high labour market duality.⁴

In France, public finances remain under pressure with high government expenditure; Government expenditure and revenues in France are the fourth highest among OECD countries (57.3% and 53.3% of GDP respectively - 2014).⁵ In the public sector, since the beginning of the economic crisis in 2008, the French administration has taken specific measures to reduce public payrolls, including a replacement freezing scheme affecting 30,400 civil servants.⁶ Therefore, employment in public administration was lower in 2014 than in 2008.

3. Industrial Relations Actors and Collective Bargaining in the Public Sector – Distinct Features

² INSEE, January 2016, op. cit.

³ Croquet, B., 'Labour Market Measures in France 2008-13: The Crisis and Beyond', ILO, (2015), 1-91;

⁴ According to the OECD report: 'OECD Economic Surveys France 2015', France was expected to have a slow economic growth of 1.6% in 2016 OECD, 2015, accessed on 15.03.2016, < <http://www.oecd.org/eco/surveys/France-2015-overview.pdf>>

⁵ Source OECD report on public expenditure in France, <<http://www.oecd.org/gov/France.pdf>>

⁶ S. Bach: Public services in the aftermath of the economic crisis, <http://www.kcl.ac.uk>. The study analyses the Czech Republic, Denmark, France, Italy, Netherlands and United Kingdom (2015).

Traditionally, France is characterised by highly adversarial industrial relations and by a trade union movement that is rather strong at the national level but has very little presence on the shop floor. The French trade union model is not one of massive trade union militancy. On the contrary, the penetration of the unions in the workplace is low, with only 8 percent trade union density - with unions' members concentrated in the public sector and large size companies. Attending to the peculiarities on the industrial relations actors, comparatively in the public sector in France there is a higher percentage of trade union membership 15% average. That percentage amounts to 25% in education and healthcare sectors. Nevertheless, as in the private sector, unionism in the civil service is characterized by the existence of many different organizations (quite diversified and fragmented representation).

Collective rights for civil servants have been specifically regulated in France. The right of association and the right to strike have been fully recognized since 1946, except for members of the armed forces and judges. The main original feature of the regulations is that personnel representatives participate in individual career management in administrative committees and in the organization of services in consultative committees. The unions are involved in decision-making at all levels;

In public companies, personnel status is very variable, ranging from the status of personnel very close to that of a civil servant, to that of public employees, which in terms of collective labour rights entitlement is close to that of private sector workers.

Different quantitative criteria have been established to define the conditions that unions must fulfil in order to be recognized as representative in the public sector and therefore be able to stand at workplace elections and to participate in national collective bargaining. On the management side, the government is represented at the bargaining table by the civil service Minister. Technical support is provided by the DGAFP (General Directorate for Administration and Civil Service), which reports to the Prime Minister. Centralised bargaining takes place every year at national level for all ministries and each ministry has a personnel operations division which consults personnel representatives. In principle, in France there are no independent bodies monitoring the bargaining.

The negotiations of wages in the public sector deal with the specific pay structure for civil servants. Variable pay is particularly relevant in certain bargaining units or organisational areas. Civil service pay has two components:

- An indexed salary. Each grade is linked to an index level and the negotiated salary increases affect the value of an index point:
- And individual bonuses which are determined per grade. These bonuses on average represent 17% of civil servants' salaries.

Until recently there was no collective bargaining (except for remunerations matters) in the public sector but only consultations between the Ministries and the trade unions. This situation changed with the 2008 Bercy agreement, which established collective bargaining in the whole public sector (at all levels and concerning all matters).

The public administration has recently evaluated the development of social dialogue in France. The 'Report Combrexelle' issued by the Conseil d'État (an advisory body to the government) provides an analysis of the current state of the social dialogue. The starting point is that the collective bargaining in the current moment, it is not equipped for the current timeframe that demands flexibility and quick paces. In this report the explanation for the hampering of the social dialogue is twofold. On the one hand, the complexity of the French labour law is mentioned as a limiting factor. On the other hand, the social partners playing the role of "not per se aiming at consensus" culture/strategy is described as a limiting factor. The observations on the second matter in the Report Combrexelle coincide with the input of the interviewees regarding the industrial relations and their development. This report states that on both sides the complexity of the law is felt as hampering, for the employers' organisations because this in general results in delay, for unions because it is difficult to always dispose of enough negotiators that have the same information as the other side of the table. On the employers' side the actors are not always convinced about the use of collective agreements, since it does not provide immediate and actual revenues for the enterprises. On the unions side, the collective bargaining is merely seen as an instrument to equally divide wage raises, working time reduction and working conditions, and not so much as an instrument to regulate the labour market in times of crises. Furthermore, a very relevant observation in the Report Combrexelle is that there is a lack of trust between the negotiating parties.

The interviews conducted show a similar picture for the social dialogue in the public sector to the evaluation presented by the Combrexelle report. It is perceived on the unions' side that the relation with the employers' organisations has hardened in the public sector. The unions' representatives interviewed perceived that the management negotiators have used the economic crises as an excuse to achieve as much flexibility as possible. According to the unions, negotiation processes have become more conflictual, considering the social dialogue as more difficult and time consuming.

4. Industrial relations and their role in shaping the public sector

In the relationship between the social partners in the public sector in France two periods have been identified: The first one during the Sarkozy administration (2008-2012). During this period the right-wing political climate created a climate of unanimity among the main trade unions at sector level against the reforms with a trend to downsizing. Smaller trade unions became less important in terms of political influence and bargaining power. More and more the administration – as opposed to the government - ruled and there is an "alleged" willingness to modernize the social dialogue. The second period, under the Hollande administration (2012-2016), a trend to fragmentation could be noticed. There is a division between the major trade unions (eg. FSU & l'UNSA in primary education) which were more aligned with the government policies in the educational sector versus the CGT, Force Ouvrière, which were in clear opposition to the government measures for the sector. Small-side trade unions became again more important since 2012. According to the findings of the research, since then, they have been often consulted, their position was more often taken into

consideration, and called more often for collective action. Finally, during this last period, the government also displayed a stronger willingness to modernize the social dialogue structures.

Concerning **the strategies and aims of the social partners** (assuming that in the public sector there is a triangle of industrial relations actors, namely, the government, the managerial administration, and the unions) the following trends have been identified by the qualitative study:

- The different governments were mainly concerned about communicating/presenting to the public opinion that the situation of the educational, health, and municipalities services was stable despite the “structural reforms” undertaken to reform the public services;
- In the last decade, the management of public administration and public offices have assumed the new public management discourse goals and adaptation strategies, such as: the public sector has to change and modernise, adapt itself to new social needs and aim to be a service-provider to its clients, optimize services, and exchange best practices.
- A transformation in the philosophy of unions can also be observed. The representatives of unions in the sector considered that formerly unions members were joining the union with more idealistic ideas, such fighting for values and workers’ rights, and they often stay in the union even after retiring; Nowadays workers join mainly for more pragmatic reasons, eg. seeking for expert assistance on juridical matters. That evolution has led to a transforming role of the union from a quasi-political institution with the core function of defending “collective rights and values” to a system of unions focused on supporting members in HR matters and providing legal advice.
- Many unions present in the public sector have survived the aftermath of the Bercy agreement with diminished resources and needs. However, they are keeping up with new trends (social media) and remain credible and active in the sector.
- Among the peculiarities of the sector, recently, one relevant development is that other important actors have entered the picture of social dialogue, such as associations of parents of pupils (sub-sector of primary education), which are increasingly important as they are organising, the relevant ministers increasingly listens to their views, and ideas for reforming the public system.

When assessing to what extent and in what way have industrial relations actors have influenced reform processes in the public sector (including budgets’ cuts, governance structures, number of jobs and workers’ rights and working conditions), as well as their implementation, the following conclusions can be drawn:

- Because the public services in France barely have well-functioning human resources structures the unions have assumed the role of HR support bodies; According to the unions’ representatives, in the public sector, there is limited expertise on how to deal with such issues as work-related stress sickness, difficulty with retiring, and psychological problems.

- In the public services there is a transformation in management policies towards the logic of the private sector but the existing management structures are ill-prepared to deal with cases such as burnout, or work-related stress. In this field the Safety and health committees (Comité d'hygiène, de sécurité et des conditions de travail), are meant to deal with these issues but their work is far from satisfactory, according to the trade unions representatives views;
- The transformation to a private sector logic (following the New Public Management discourse) entailed an increased power to the heads of the establishments (directorates and managers). The directors can decide over the bonuses employees will get. This has increased the work pressures among employees, especially in unionized employees, by eliminating their “l'indemnité pour mission particulière” (expense allowances).
- On the changes in social dialogue, compared to 2012, representatives of the trade unions are more frequently invited and consulted – i.e. there is a greater willingness to modernize the social dialogue. However, this trend doesn't come from the government but from the administration and the public officials.
- Changes derived of the Bercy agreement: Since the Bercy agreement, the larger trade unions have seen an increase in their resources, at the detriment of mid-size and smaller unions which were at risk of disappearing. The collusion between the political powers and trade unions has led to the laws of 2008 and 2010 on the “new representation”. In the words of a trade union spokesperson, actually what has happened is that due to the crisis resources were very limited. In exchange for fewer resources from the government, the major trade unions received a greater part of the share, to the detriment of the middle and small size unions. There are discrepancies among the social partners' views on the purpose of the Bercy agreement. The government representatives consider that the main reason behind the reform was to simplify the social dialogue by having fewer trade unions. The small-size unions argue that what actually happened, though, was that now the larger unions have most of the resources but don't act sufficiently.

5. The role of the crisis from 2008 in the changes of working conditions and industrial relations in the public sector

What have been the effects of austerity measures on the availability and quality of employment in the public education system?

A concrete example of the effect of the crisis was that the Sarkozy government eliminated 100.000 jobs in the national education by not hiring new teachers for the ones that retired (decrease in replacement ratio). Even when the Hollande government partially reversed the measure by creating 60.000 new jobs in the national education, this falls still short of staff and that have affected the quality of education. Consequently, this has an adverse effect on the quality of the public educational system. The elimination of jobs has got the following adverse consequences: increase of class sizes from 27 to 30/32 pupils per class; closing of schools and repartitioning the pupils among other schools; and reduction of school subjects and courses). Another effect is the increase of contractual work in primary education. In this

sector there has been an explosion of contract workers (with no teaching diploma and earning a lower salary) from less than 5% to 10-15% of all teachers.

The crisis also affected trade unions federations in the public sector, which have experienced growing internal debates and disagreements among their members when assessing their responses to the government reform policies. Moreover, after 2008 and, partially due to the Bercy agreement, there have been dissolution of many trade unions, and a trend of smaller unions joining the main federations.

Another detrimental effect of the austerity measures for workers in the public sector has been the increase in the statutory retirement age from 60 to 62 (“Réforme des retraites” in 2010) and the elimination of the phasing out model of retirement (gradual reduction of working hours with a corresponding reduction in wage) by the elimination of the “dispositif d’accompagnement”. This reform is quite negatively perceived by the unions, as it is eliminating some of the possibilities for flexible retirement.

In the regional/municipalities sector, several reforms are considered by the unions as having detrimental effects on the quality of employment and services. In particular the Re-foundation Law and the Law on decentralisation: in the kindergarten (managed by the municipalities), with the Re-foundation Law “Loi de la refondation”, the afternoon day-care has to be paid by the regions (which lack enough financial resources), instead of the government. This has led to a wave of elimination of the extra afternoon hours or to a search for alternative financing options in the private sector. According to the unions’ representatives, this introduces private interests in the public education system and threatens the egalitarian and neutral aspect of it; lastly, the decentralization law has moved the technical personnel from the national public service to the local/regional level, which as a consequence has created serious problems in the hierarchy system/management.

6. Conclusions

In this final part we summarize the findings of our research, presenting the effects of the public sector reforms in the analysed period on the working conditions of public servants and employees in that sector, and focusing in the crisis derived effects.

Massive downsizing of jobs and freezing of salaries have instigated a severe crisis of recruitment in the sector (especially in primary education and day-care services provided by municipalities), which is still ongoing notwithstanding the increase in unemployment. The deterioration of work conditions and an increased in the pace of work have contributed to increased numbers of burn outs in the public sector.

A main conclusion is that work-intensity has clearly increased during this period. Employees in the public sector in France are facing increasing pressure at work in the form of stress-related complains derived from having to work more quickly, work in a pressurised way with a strong sense of urgency, and assuming additional tasks, as staff numbers have been declining. The interviewees mentioned that work pressure and work intensity increased dramatically in the last decade and linked that development to the new institutional reforms,

organisational changes, and greater job insecurity in the public sector, due to crisis/austerity policy related reforms. They also mentioned the lack of properly functioning Human Resources structures able to cope with increasing work-related stress complains, especially in the education and hospitals sectors. However, a positive improvement in flexibilisation of working time (availability of adjusting of schedules) has also been noticed in the period according to the interviews and available ministries surveys.⁷

In short, a growth in the intensification and fragmentation of work has been identified in the public sector. This is a problem especially in the hospital sector in recent years, where the majority of hospital workers reported fragmented work, frequently having to interrupt one task to do another.⁸

Focusing on the impact of crisis in industrial relations the BARSOP project research shows that industrial relations in the public sector have not been strongly affected by the crisis. The role of the public administration in social dialogue and collective bargaining after the reforms remains similar. The union positions remain relatively strong, and the collective bargaining structures remain similar and collective bargaining processes leading to agreements by the social partners are stable.

-The analysis of the impact of the economic crisis on industrial relations leads to different conclusions:

- Stability on the social dialogue processes at sub-sector level (with an increase in industrial conflicts since 2014);
- Adverse consequences of the Bercy agreement for mid-size and smaller unions, which have experienced a decline of their financial resources;
- Collective agreements concluded during the crisis show an effort of social partners to maintain the functioning of social dialogue as a mean of social regulation.
- On the unions' side there is a perception that collective bargaining became more burdensome during the crisis: unions representatives interviewed mentioned that the increased difficulties for employees' representatives to resist employers' threats of job losses due to economic difficulties, have forced them to accept unfavourable agreements with lower working conditions (in particular on wages).

⁷ In the 1998 Ministry of Labour survey, 41% of public sector workers found it impossible to arrange working time flexibility and changes in their working schedules while, in 2013, this figure had dropped to 31%.

⁸ Ibid.