

European issues

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## 'Directives' in France and economic improvements in the euro area: what is the link between these?

Engage in dialogue, I "order" it!" It is easy to employ humour when describing what is to come over the next few weeks in France, after the general elections of 11th and 18th June, depending of course on their results.

"Directives, no thanks": protests on the internet are starting again, the question being that of its success. "Directives" ("ordonnances" in French) are indeed being prepared to develop further the law of 8th August 2016 regarding labour, the modernisation of social dialogue and the protection of career paths, the so-called "Labour Law" or the El Khomri Bill (the name of the then French Minister). The central aim of this law was (and remains) to strengthen the weight of social agreements inside companies. Why and how to proceed?

Majority agreements must progressively become the rule at company level:

- To be valid, agreements will have to be signed by trade unions bringing together more than 50% of the vote (against 30% at present).
- If the agreement justifies it, in the eyes of the unions who have signed, and if that they represent 30% of the vote, these may lead to the consultation of the workers. This consultation will be on the initiative of the unions, who are the inevitable actors in terms of negotiations. This will give employees an opportunity to express their opinion on their working conditions and the choices which concern them directly. The agreements will therefore be based on wider consensus and employees will be better defended.

This new rule will be firstly applied to the chapter on working hours, holidays and rest times, as well as to employment agreements. After an initial mid-term review in 2018, it will then progressively be extended to other chapters of the labour code.

With the agreement of the employees' collective agreements, it will then, be possible to substitute work contracts with collective agreements if they aim to protect or develop employment. This will provide collective compromise with greater weight. These agreements will not have the power to reduce employees' monthly remuneration.

Source: Labour, Employment, Vocational Training and Social Dialogue Ministry, 2016

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Why then would there be protest against dialogue within the company? How are we to understand this long, violent, political tension amongst the unions, the pros and cons of negotiation within the company to a sectoral agreement last year in France? How are we to apprehend its rekindling? How can it be stemmed? And stopped?

In fact debate over the real reasons behind issues preventing our growth, are on the return. It is a debate that has been masked for a long time by vague concepts that have been of concern to us for so long, such as "social divide" that has to be resorbed, "inequalities" that have to be reduced, everything about the "protective State" that has to be extended.

And yet the least we can say is that the strengthening of the El Khomri Bill is not surprising, after such a painful start regarding working hours. Indeed, the idea from the beginning was to achieve a "total redraft of labour code to provide a central place to collective bargaining with the workers. Gradually 'Majority agreements' are supposed to become the rule at company level." It is this project that explains the policy followed on the whole: constantly moving forward for some, i.e. those who drafted, supported and approved the bill, to prevent it as far as possible for the others. But who and why in this case?

### **MULTINATIONALS OUTSIDE, SMALL COMPANIES INSIDE, NO STRONG MEDIUM SIZED COMPANIES: THE TRUE SOCIAL DIVIDE IN FRANCE.**

The strategic goal being followed is to change the structure that shaped the post-1945 "Glorious Thirty", which over the last twenty years has illustrated its limits and its weaknesses. This structure was that of a powerful public sector, from energy to transport, alongside a few big private businesses. The public sector was used to develop this model, until the State became a majority shareholder in the GDP. Opposite this, large private companies continued to develop, and with their outlets elsewhere the latter especially sought, the growth and profitability that they could not achieve at home.

1. Minimum growth salary (Smic) is the legal minimum hourly wage that an employee can receive.

Hence France has many multinationals, but in contrast the domestic profitability of other companies is reduced. This cannot continue. Domestic profitability gained by the national economy has become too weak, whilst the multinationals, within the nascent global monopoly, no longer offer a sufficiently attractive national position, either in terms of social rules or taxation. Work undertaken on sharing value added between payroll and "non-salary" highlights long stability (2/3 payroll and 1/3 non-salary), as if this stability were the guarantee for any kind of efficacy in the technological and world revolution that we are now experiencing! What is happening elsewhere?

In reality with the Tax Credit for Competitiveness and Employment (CICE in French, Crédit d'impôt pour la compétitivité et l'emploi) that followed the Report on French Competitiveness dated 5th November 2012, the so-called Gallois Report, named after the then Commissioner General for Investment (2012-2014), it became clear that businesses have to cover too many costs, especially if they are to innovate and attract talent. And so the idea to reduce costs was born.

This was done under the constraints of a budgetary deficit that encouraged the introduction of a tax credit (CI - Crédit d'impôt) and it was especially political constraint that encouraged the establishment of a link between E for Employment and C for Competitiveness. This was the exemplary ambiguity of the CICE and the limitation of "non-choices" taken previously:

- CI (tax credit), was about gaining treasury for a year by reducing the budgetary deficit (business "charges" are "public" resources),
  - E in support of low wages (around the SMIC, and to calm the "rebels" in the Socialist Party),
  - as for the C, for the highest wages (up to twice the SMIC[1]), which provide competitiveness and exports.
- It is not surprising therefore that the CICE's performance was mitigated, since it supports domestic, low qualified labour, rather than investment and qualified labour. 30 billion euro spent – for a modest result!

The consequences of this metering and procrastination have been that France lacks funds for innovation, whilst the taxation of investors and creators is impeding

change, at a time when it is vital for us to emerge from the "post crisis".

Of course the picture is not totally black, but we have to make a bigger effort. The French GDP is 5% more than of that of 2007, but future growth seems to be capped at 1.5%, as though we are incapable of finding our previous path to expansion. Young businesses have been born here, like Withings, SeLoger.com, Meetic and PriceMinister, but they have quickly passed into foreign ownership. In chronological order Nokia (Finland) bought Withings, Axel Springer (Germany), SeLoger.com, Match (USA), Meetic and Rakuten (Japan), PriceMinister. France is cutting the grass under its feet, with the extremely qualified labour force and the innovations that go with it, due to a lack of financial backing.

"The average age of CAC40 businesses in France is 105 years, that of the Nasdaq in the USA is 15," said a former French Economy Minister – Emmanuel Macron! – and the Dow Jones companies are 30 years old on average, a third of that of the CAC40.

### TRADING THE COAL AND STEEL OF TOMORROW

Trading the coal and steel of tomorrow, as in the past, obviously means committing not to go to war anymore, but it also, and especially means strengthening oneself by way of better manufacturing conditions within each company. This means moving forward by reducing internal conflict and having greater influence in the world.

Tomorrow more than ever before social dialogue is decisive as far as growing together in the long term is concerned. It is not by chance that in the countries where it is strong, Germany first and foremost, these are also the ones that are the most efficient, not only in terms of growth but even more so when it comes to withstanding pressure and shocks. Pressure and shocks will only increase as time goes by. These will fall heavy on innovation, on profitability in filing for and purchasing more patents. Consider the GAFA (Google, Apple, Facebook, Amazon). There will be shocks in a

more unstable, dangerous world in which the entry of the emerging countries on the world stage will not be achieved without discord. Consider China.

The economic and social structure that has formed the post-war period cannot continue, with the acquired structures and advantages that go with it. In other words, Europe and the euro zone enable change and reform. Some countries have constantly benefited from them and others "have taken advantage" for a time, like Spain, Greece and Portugal, before adopting a more sustainable path. But France has successively exhausted the two models: that of the Glorious Thirty and that of the reduction of short and long term rates (in other words the credibility provided by Germany). It is now therefore that it has to change from the inside and at the base of its productive structures and territories.

### NOT MOVING FORWARD BY SIMPLY CLOSING OFF "THE OTHER PATHS".

Except if we continue to feed the revolt against "austerity" or a rising wave that is heading towards leaving the euro zone, with populism as its base, the euro zone cannot move forward simply by closing off the "other paths" – France less so than the others. Because of the way it has been built the single currency prevents devaluation, and because other tools control public spending, the budgetary and debt monitoring systems (Two Pack and Six Pack), as well as the series of rules and norms, businesses are either adapting or dying.

But this set of rules is evidently burdensome because it is felt as imposed from the outside. Especially it is increasingly inadequate because it ignores the advantages brought by social debate, along with the adaptability, flexibility and the ideas that this enables and implies. This set of rule is seen as exclusively external - imposed – and not internal – i.e. accepted and enriched. Besides, this new attitude must be permanent, in the knowledge that it must integrate the ongoing information and communication revolution, not forgetting the shocks that come from world crises, risks and uncertainty. The rules, which especially come

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from "Brussels", are no longer operational as they are less and less adequate. It is not about obeying, but taking part and creating.

### **LET IT BE SAID: THE REVIVAL OF THE FRENCH ECONOMY MEANS ITS SOCIAL REDESIGN.**

To date France has not fully integrated Europe's dual and profound message: that of external political peace based on internal social peace. Internal dialogue must now be the French solution and it is also the best message that France can send out, to the euro zone and to the world.

To take social relations forward in France so that we can take advantage of this changing world and the euro zone, and to take France gradually out of its dual external and budgetary deficit: this is what is at stake in the "directives" now being prepared. This involves developing a political movement mainly around Emmanuel Macron with the possibility of an agreement on both the left and the right in "compatible" areas – as we now call them.

To do this we have to see what is at stake, i.e. a political reconfiguration of an economic and social origin, in comparison with what might happen, i.e. a coalition of standoffs and threats: a coalition of populist movements. These are the challenges being made to Emmanuel Macron's five year term and especially the period after that. This is why we have to see further and link events in France and the euro zone together so that France can take greater advantage of the economic improvements now ongoing in the euro zone (which will grow stronger) and at least to avoid the dangers that are rising everywhere else.

### **SOCIETY CANNOT BE CHANGED WITH "DIRECTIVES"!**

This depends on the way we draft, explain and implement them! "Directives" as opposed to democracy, speed as opposed to negotiation, progress as opposed to social withdrawal, flexibility as opposed to insecurity, "the inversion of norms" against "employer power", growth

and employment as opposed to submission to Brussels and the euro: we should be prepared to hear reactions like these. As excessive as they are opposite, they mask what is vital: a good reason to clarify debate.

"Directives" announced to strengthen the El Khomri Bill and the Social Front of 8th May last to prevent it: Emmanuel Macron enjoyed a period of grace of minus 7 days! The extremes, on the right and the left will be up in arms, some unions will be mobilised, all are on the alert. The Republicans might support or abstain, depending on their programme and their various shades of opinion. On its platform for the legislatives The Socialist Party has indicated that it would oppose the directives and any "contraction in employees' rights regarding the labour code". We shall see.

To simplify social and administrative contracts and especially to introduce another philosophy concerning the labour law, opening to new social relations in fact, are the challenges in the upcoming debate, together with the social agitation that this promises to bring.

### **OF COURSE, AS ALWAYS IN FRANCE WE SHALL SPEAK OF "METHOD"**

"Directives", according to a well-known formula, have to merge the acceptable and the idea of getting people to "swallow" the most indigestible part – if we can put it like this. The acceptable would be the "right to make a mistake" for the citizens against the civil service. This, according to Emmanuel Macron's campaign programme aims to make the "core of the administration's mission, no longer to punish but to advice and support." The programme quotes the example of the case of an employer who forgets to declare the Christmas bonus that he pays to his employees to the URSSAF or the grand-parents who forget to declare to the CAF that they provide lodgings to their granddaughter. Hence, instead of being directly punished with a fine or by the suspension of their allowances they would enjoy a kind of "cushion" embodied by the "right to make a mistake". This all has to be clarified.

The most difficult part will of course be "the simplification of the labour code". The philosophy behind the

"directive" will comprise maintaining the "fundamental principles" (legal working hours, minimum wage) in the bill and to make adjustments (effective hours, the organisation of labour) which will depend on the majority agreement achieved by staff representatives or of an agreement based company referendum. A scale will regulate industrial tribunal damages, with the aim of "standardising" the costs of conflict separations. These measures, in the main, featured in the first draft of the El Khomri bill before they were withdrawn, which helped it "pass". "Directives" are therefore a mere return to the first document, in the ilk of the bill of 6th August 2015 for growth, activity and equal economic opportunities, the so-called "Macron Bill".

#### AND THE EURO ZONE IN ALL OF THAT?

Without saying it, it is everywhere. It is not just a question of "flexibility", "flexisecurity" or "social liberalism" as French economists love to call them. It is to decentralise decisions to company level, to adapt them in a more refined manner, company by company – and faster via social dialogue to the increasingly rapid changes that surround us, and even more – to catch up on lost time.

It is also a question of distinguishing ourselves from the impossible (impossible by French standards!) German approach adopted by former Chancellor Gerhard Schröder in the 2000's to reduce unemployment rapidly and to moderate rising wages costs, which were undermining competitiveness at the time – the positive

but limited effects of which we can now see. Germany will now have to raise its wages and increase public spending and take part more in the Union by accepting an autonomous budget. But it can afford it !

Conditions have rarely been as favourable as they are now to change France's social landscape from the economic, political and even financial points of view.

Social France must change if it is to succeed in the euro zone, in businesses and via dialogue, by embracing its values more deeply and by communicating this commitment. It can no longer play for extra time, asking for postponements from "Brussels". Procrastination is not an option. However dialogue is harder than obeying or criticising. "Directives" are meant to heal, by adapting to the changing world – and we all have the means to succeed if we dominate the forces of the past and if we rise above our fears.

*"Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity,"* said Robert Schuman on 9th May 1950.

Solidarity is first and foremost between ourselves, within the French companies, and this has to be strengthened.

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