Chapter 1

An Inventory of Employment Protection Legislation in France: A Preserved Past Primarily but an Uncertain Future

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ABSTRACT

This chapter presents an inventory of the employment protection legislation (EPL) in France. As shown by the OECD indicators, legal provisions have met with an overall stability since the 1980s, despite some reforms weighing in favor of flexibility. Simultaneously, France has been faced with a high rate of unemployment, especially long-term unemployment, as well as with a phenomenon of dualization of its job market. Precariousness remains limited to a part of workers whose situation tends, however, to worsen. This twofold observation leads us to the conclusion that current employment protection is relatively powerless, with a bleak future. Therefore, an adaptation to current circumstances is required, such adaptation being coupled with an improvement of the training system. Flexicurity is the direction that seems unavoidable in order to guide future reforms in France.
INTRODUCTION

The OECD (Organization for Economic Cooperation and Development) has the merit of having contributed to a thorough analysis of the links between employment legal regulation and the employment situation according to countries. The results of its work have resulted in regular publications, which include the famous annual report on “Employment Outlook”. This organization is the source of a quantitative indicator of the legal provisions on employment protection since the beginning of the 1980s until today, an indicator known as EPL (Employment Protection Legislation) indicator. Those very instructive data enable to follow the evolution of this regulation since the mid-1980s until today in a large number of countries. The OECD defines employment protection as “the whole set of rules that governs the hiring and above all, the redundancy of employees” (OECD, 2016, p.145). The principles of its construction will be further seen in details.

The World Bank initiated a similar draft for a quantitative measure of regulation at the beginning of the 2000s, with extending such drafts to other areas than the employment protection one. These are the indicators “Doing Business” that deal with areas such as business creation, implementation of contracts etc. (World Bank, 2017). Initially, those plans have delivered a liberal speech that advocated market deregulation, in line with the dominant ideology that has prevailed in major international organizations since the 1980s. Therefore, the OECD put the emphasis on an “employment strategy” that pointed out all the rigidities related to employment protection, as it considered such rigidities as the cause of the low growth of employment as well as the cause of unemployment. It must be recognized that the OECD has widely amended its speech since the mid-2000s. The 2006 report on “Employment Outlook” marks a turning point with a redefinition of this “employment strategy” in a much less liberal way (OECD, 2006).

Today, the analysis carried out by the OECD concludes that there is no clear link between the LPE degree of rigidity and unemployment rate. However, such rigidity would be harmful to flows and to mobility in the labor market, which would put a brake on innovation and on the necessary restructuring of sectoral activities. The EPL configuration, and in particular, the protection gap between permanent contracts and temporary ones, would be involved in the dualization of the labor market, that is to say the separation into two categories of unequally treated workers. As to structural reforms that must be implemented, the OECD warns against the social cost of certain measures aiming to flexibilize employment, with the consequence of making them less efficient to reach the objective of improving the functioning of labor market. Since 2006, as said earlier, this organization has very clearly reassessed its
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