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INTERGENERATIONAL BARGAINING

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COUNTRY REPORT : France

Summary

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In France, intergenerational bargaining takes place in a context characterized – , from an institutional point of view, by the State playing a major part in the industrial relation system and – , from an employment perspective –, by a labor market marked by young people’s integration challenges and older ones’ early withdrawal – their employment rate was beyond 30% in 1999.

Since the end of the 1990s, State intervention has resulted in the extension of bargained public action (Groux, 2005), in which governments have been exploiting bargaining to serve employment policies. Thus, incentives to negotiate at different levels have been especially developed, first to encourage social partners to negotiate on working time reduction devices or, more recently, on implementing prospective management devices or then again aiming to keep older employees at work or avoiding arduousness as well as promoting training for this group.

Public debt reduction policies, and EU incentives to increase senior employment rates through active age management strategies, led to a substantial change in public policies at the beginning of the 2000s with the 2003 retirement reform law. Under this law, the actual age of going into retirement was delayed and some mandatory bargaining took place about arduousness and seniors’ right to training . Other retirement laws followed over that decade. However, the low effectiveness of these mandatory negotiations led governments to add penalties in case of failing to launch negotiations (Caser & Jolivet, 2014).

Challenges met by younger and older generations and their difficult position in a tough labour market

The way different age groups have integrated the labor market has evolved. Comparing it to EU countries’ average situation, highlight firstly that, while older people’s participation rate has increased significantly – mainly in the 55-59 age group, as a result of retirement age reforms especially – it nevertheless has tended to stagnate in recent years and failed to comply with the Lisbon objectives¹. Moreover, it is accompanied with an increase of the unemployment rate in this category, though far below young people’. The latter’s access to the labor market has deteriorated, particularly for the unskilled, since diplomas are, to some extent, the best way to protect oneself from unemployment in France – even if this protection seems recently to have weakened (Cereq, 2014). Young people’s share in precarious employment is particularly high, while apprenticeships and other training-based integration devices have been dropping. Subsidized jobs policies for young people, highly developed in France, aim to overcome this degradation in young people’s integration.

I THE GENERATION CONTRACT AS AN “IDEAL-TYPE” OF INTERGENERATIONAL BARGAINING DEVICE

Both groups’ worrying situation, plus the relative failure of targeted measures and the fact that a number of European countries used to successfully manage combining both older and younger workers’ increased participation rates, have led the government, after the 2012 political change, to develop and propose social partners to bargain on the modalities of a device – the generation contract –, combining a financial incentive to recruit young people while maintaining seniors in employment as well as mandatory bargaining. As it apparently comes out as a sort of “ideal-type” of intergenerational bargaining device, the *generation contract makes up the core of our study*.

¹ Those has evolved to 2020 targets merging age groups: 70% participation rate for the 20-64 age group

The generation contract

The generation contract pursues three objectives at the same time: increasing both older and younger workers' participation rates; maintaining the current workforce for three years and facilitating skills transfer by putting together the two jobs into a binomial.

The term 'generation contract' comprises two sorts of measures:

- A contract signed with the Labour administration called 'generation convention': less than 300-employee SMEs receive a €2000 grant for each job when hiring a youth with a permanent contract, while maintaining a senior on the job for three years.

- Bargaining agreements to simultaneously promote young people's integration and their mentoring by more experienced workers, thereby keeping the latter's employment. These agreements have to include disposals on diagnoses, target figures, skills transfer, working conditions improvement, professional equality, and equal access to employment. Failing to start negotiations is liable to financial penalties of 1% of payroll for more than 300-employee firms. Under the March 2014 law, those between 50 and 300 employees have till March 2015 to negotiate, unless they are covered by an industrywide agreement. If no agreement can be concluded, the enterprise has to send to the Labour administration a unilateral action plan meeting the criteria laid down for the agreements. The Labour administration has to validate compliance with agreements or a unilateral action plan to meet the defined criteria.

Age thresholds are 57 for maintaining seniors in jobs, 55 for recruiting older workers, and less than 26 for recruiting a youth.

The generation contract: a device that departs from the usual intergenerational solidarity logic

As a device promoting employment development for all, the generation contract opens a paradigm shift from policies implemented in the 1980s and the 1990s in France. Those aimed to encourage seniors to leave the labour market, mainly through early retirement schemes, in order to release positions for young people; this was called the "trade-off" logic. Intergenerational solidarity was then based on job sharing: progressive early retirement or partial retirement devices, subsidised by the state under conditions of maintaining staffing, met some success (Frank, Hara, Magnier, & Villey, 1982; Galland, Gaudin, & Vrain, 1984).

French economists in favour of a labour market reform were overjoyed at this measure that broke away from the past: "For a long time, public authorities believed that seniors' early retirement could facilitate young people' entering the labour market. The generation contract that tied the fate of young people and seniors can at least be credited with departing from this tradition" (Hairault, 2012).

This device, however, has to weather this school's criticisms: it is still locked in a poor image of older people's working potential – only useful for transmitting knowledge or bringing a youth in a firm – and especially it won't manage to solve the French labour market's main problem, namely, overprotection of the generation at work, with the young and seniors being considered as adjustment variables. For them, these focused programs are ineffective and they overlook the only necessary reforms that will encourage "staff turnover on median ages" (Hairault, 2012), that allows employment development for all groups: the main obstacle could be the overgenerous seniors' unemployment insurance system; it undermines wage flexibility, which they consider as the only way to maintain seniors in jobs.

Finally, the generation contract could be considered by these authors as an in-between of two images of the way the labour market works; one where existing employment must be distributed between generations with special preference to young people's employment; and seniors being dealt with via a mechanism allocating them a compensation at the end of their career; the other one claims all protection devices should be reduced, in order to allow all generations to take up employment. Two forms of worksharing, as it were.

...which, nevertheless, is in keeping with previous senior devices and youth devices leant on bargaining

The generation contract is at the intersection of two processes: employment policies on one hand, social dialog on training and working conditions on the other. In the first axis, we find the 2008 December law, whose objective was to raise senior employment rates: over 50-worker firms had an obligation (at the risk of financial penalties) to negotiate, by December 2009, an agreement dubbed seniors' agreements (or an action program), dealing with maintaining older workers in employment. The Law imposed some mandatory clauses that had to be included in agreements or action plans: targeted schemes on seniors' employment and training and three issues to be negotiated out of six: anticipations in careers, training programs, senior recruitment plans, improvement of working conditions, skills transfer and positive measures related to the end of working life.

On the second axis, we find the four 2011 cross-industry agreements for young workers. They deal with youth access to work and study contracts, mentoring and intergenerational solidarity in the transmission of knowledge, by means of a youth and a senior working in tandem.

Methodology

The context in which Intergenerational issues take place is the subject of chapter 1. We first conduct an analysis about various employment indicators by age groups, aiming to draw the French profile compared to the EU's; then, in the second part, a review of policies and negotiations since the 1980s.

Chapter 2 focuses on monographic analyses. They are conducted at the three levels of social dialog, cross industry, industry and firms. Our objective is to identify the interplay between different levels of negotiations and the role played by public action. In the first part, we wonder about the conditions under which the generation contract was developed at national level, with particular emphasis on the part played by social partners, and the role of the state in the final form of the device. The second and third parts of this chapter discuss its implementation. We have chosen to prioritize one sector – the metal industry – which dominates industrial employment (it can boast 1.4 million employees) and is traditionally a driving force in French industrial relations, where actors' autonomy is important. The analysis of how generation contract bargaining is implemented in a large company experiencing economic difficulties, as many firms do in this sector, also helps to consider the articulation of bargaining levels between this industry and its member companies. Bargaining has been rare in SMEs. At the end of this chapter, we opt for focusing on an SME that has negotiated and signed a Generation Contract; it gives us the opportunity to highlight the specific conditions that made bargaining possible.

The analysis we undertake in this study has led us to mixed results on the bargaining side of this ideal-type of intergenerational device – the generation contract. After recalling the main results it has achieved, we will examine the relevance of intergenerational bargaining in the French institutional context.

II MITIGATED RESULTS OF THE GENERATION CONTRACT BARGAINING PROCESS

Limited quantitative results in terms of employment

After one year's implementation, only 30,000 conventions were signed, and the number of grants is far from the 100.000 target (Direction Générale du Travail; DARES, 2014). Nevertheless, direct assistance to fewer than 50-employee businesses worked best, as they can get subsidies without entering the process of bargaining an agreement.

Although the main sectors signed an agreement, the number of sector level generation contract agreements is far smaller than the one on senior collective bargaining. Our study on the metal industry shows the limits of the bargaining process in this sector and in one of its big company. The sector has

set conservative agreement targets for recruitment and training that are the same as in previous years (not even met besides) and mainly offers some cognitive tools for the industry's SMEs.

At enterprise level, less than 12% of enterprises concerned by the law have signed an agreement or sent an action plan to the administration – most of them coming from big companies (DARES, 2014) – SMEs being covered by sector agreements? The number of agreements is quite the same as the number of unilateral action plans. These results show how difficult it actually is to reach an agreement on legally imposed issues and time-limits. In the big firm we investigate (it experiences economic and youth stabilization problems), the action plan is quite the same as the one for seniors; the recruitment and retention targets match the present flow of jobs and youth recruitments are exactly linked to retirement expectations. In big firms that were less hard-hit by the 2008 crisis, in the aeronautics, defense or computer industries, some agreements have been more ambitious and innovative as well as suited to growth strategies. Similarly, in M, the SME we investigate, the enterprise growth and the good shape of the age pyramid have allowed to negotiate a generation contract agreement relying on career prospects.

Combined with a depleted bargaining process....

The combined analysis of the multi-industry agreement and of the law that was supposed to make it operational suggests that public policy and social partners' respective objectives were substantially different. The latter focused more on an age-management logic, including an intergenerational dimension that was particularly noticeable, especially as the intention was to quantify targets for young people recruitment and their emphasis on skills transfer embodied in the tandem concept a tandem, already used in the July 2011 multi-industry agreement on youths integration and the development of mentoring. Public authorities, however, consider the Generation contract mainly as an employment policy instrument, intended to curb early retirement by making companies forgo their trade-off logic and encourage them to develop policies combining quality youth employment (hiring with permanent contracts) and older workers' continued employment. Witness the fact that the very term "intergenerational" cannot be found in legislation but only in decrees, and that skills transfer is barely mentioned, and merely as a clause to be included in the agreements, without specifying its contents.

By almost exclusively targeting employment and hiring incentives, while discarding the multi-industry agreements', most innovative provisions, policy makers have taken up the challenge of a minimal law that would leave great bargaining leeway for social partners at industry and company levels. The monographic analysis and the one conducted more broadly about the early assessment of agreements (DARES, 2014) suggest that the expected enrichment has not been achieved and that, on the contrary, the ambitious multi-industry agreement objectives have not been met. Like what happened during mandatory bargaining over seniors (Claisse, Daniel, & Naboulet, 2013; ANACT/IRES, 2013) (Farvaque, 2011) formal agreements designed to ensure compliance with the law in order to avoid financial penalties have prevailed. Even though, in the metal industry, provisions have been adopted, including on employment and training for young people as well as on arduousness, quantitative targets are limited in scope and a number of measures contained in the multi-industry agreement has not been included in the metal industry agreement, although though the employers' federation has been heavily involved in this national-level bargaining process. This confirms that it is the law, no longer the cross-industry agreement that modelled the sector level bargaining process.

by too many successive layers of mandatory bargaining

Bargaining over the Generation Contract has replaced bargaining over seniors, whose assessment has not been made, and has been added on to the one on gender equality, *GPEC* or arduousness. While, in some large companies and major industries, social partners are equipped to handle these multiple requirements, these often result in hurried through bargaining, in which unions are weakened by procedures multiplicity and technicalities. In SMEs, layers of legislations stack upon each other, which causes a wait-and-see attitude or a high degree of formalism, as evidenced by the limited number of

signed generation contracts in SMEs. These firms cannot face this flow of mandatory bargaining without an HR function – scarcely present in this sort of enterprise.

and the deterioration of the economic situation

Has generation contract bargaining proved a casualty of the 2008 crisis? Though, in a context of high economic uncertainties, hires on permanent contracts have continued to decline – just like apprenticeships and even work-and-study contracts – the requirements resulting from hiring a youth with a permanent contract while retaining an older worker for 3 years, may have influenced the mobilization of the generation contract device, especially when this mobilization had to be accompanied with a bargaining obligation. This is the key reason for employers' reluctance about the generation contract: it is an obstacle to labour market flexibility, as it results in perpetuating the situation of two jobs for three years – too long a time horizon in a period of economic uncertainty.

Regarding the objective of keeping older employees in employment, there's a consensus between employers and trade unions. Both consider it is not always possible, nor felt desirable by employees. Social dialog actors still prefer early retirement devices. For most trade unions, intergenerational solidarity means employment sharing, whose clauses can be bargained for in social plans linked to redundancies. Even if they include targets on keeping older workers in jobs or recruiting young workers, industry agreements are not binding for company stakeholders. Moreover, poor working conditions, lack of protected jobs, imbalances in the age pyramids are obstacles in the way of successful generation contracts, as they drive older workers out of labour market. The latest working conditions survey (Algava, Davie, Loquet, & Vinck, 2014) pointed to the deterioration of working conditions for all French employees – including seniors –, as an important proportion of them does not feel able to continue the same job up to 60 years of age. An active ageing policy should include the fact that employers agree to keep older workers on the job, but also that working conditions have to be improved, not only at careers' end, but also throughout working life. Without these two conditions, extending the retirement age and dropping specific compensation devices for unemployed seniors, these would drive them to poverty.

In addition, the development of devices such as contractual termination allows dismissing the employment contract without any bargaining procedure – though it could improve individual and collective working conditions during the bargaining process. It makes the French system duplicitous and it tends to weaken specific devices like the generation contract.

which impact bargaining on skills transfer

These numerous brakes also explain the failure of the skills transfer aspect of bargaining. It was already predictable due to the blurred terms in the generation contract device such as it is provided by the law and decrees around it (Jolivet & Thébault, 2014). Employers adamantly opposed mentoring by an older worker as it is a limit to flexibility in job management. Skills transfer bargained clauses are most of the time mere statements of intention that fail to materialize into measures that take into account the diversity of the forms of mentoring the way they should be acknowledged (Masingue, 2009). Such formalism is also visible in the contents of agreements: the establishment of procedures for transferring skills is rudimentary, while the bargained provisions on skill transfer are mere statements of intentions; they keep being set according to age groups and are part of already well-ingrained trends. Studies on seniors bargaining process led to similar conclusions (Caser & Jolivet, 2014).

Finally, the generation contract in itself illustrates this contradiction: it was devised partially as a measure expected to take into account working conditions and job content – through skills transfer – and bargaining over it was supposed to facilitate debates in order to make at work intergenerational solidarity more practical (Delay, 2008; Méda & Vendramin, 2013), this device has become purely an employment measure leaning on a formal negotiation. As Jolivet and Thébault (Jolivet & Thébault, 2014) put it, “there's a risk of diversion of the skill transfer principal by the sustained integration of young people on the labour market principle”.

III BEYOND THE GENERATION CONTRACT: WHAT PROSPECTS FOR INTERGENERATIONAL BARGAINING IN FRANCE ?

Will the relative failure of generation contract bargaining doom intergenerational bargaining? We have conducted the analysis of all bargaining pertaining to the intergenerational issue in metallurgy and in the companies we have examined. It delineates a number of avenues likely to outline which conditions prove favourable to developing intergenerational bargaining.

Developing social partners' autonomy and a multi-dimensional bargaining process

On the whole, the analysis shows that during bargaining rounds, social partners in metallurgy and companies under scrutiny appropriate mandatory bargaining constraints within their own strategies by negotiating packages tackling various themes while fitting into the institutional calendar (like in the metal industry) or then again by maximizing the advantages reaped on other bargaining occasions (GPEC, seniors or arduousness, youths insertion, apprenticeships...), even when they were not successfully concluded. This choice of an integrated bargaining process implemented by sector or enterprise matches social dialog stakeholders' requests. It is implemented regularly at sector level – like in the metal industry – or conducted by clustering several issues or populations (the young, older people, women, the unskilled...) in the so-called mandatory negotiation agenda. It is intergenerational without actors defining it as such, as it deals simultaneously with young as well as older people, along with training and the GPEC. In this logic, a few provisions with intergenerational objectives, as developed in Generation contract bargaining could be revived, such as the tandem as a tool for transferring skills; the emphasis on apprenticeship; or targeting the least qualified. In this context, the very concept of trading-off could be revisited to get the more experienced to teach their skills to the young, and within age limits that take into account the legal retirement age.

Equipping intergenerational bargaining with cognitive instruments or procedures for strengthening the diverse forms of articulation between sector and company levels bargaining

Even when generation contracts agreements do not have very ambitious goals, the way bargaining is carried out mobilizes procedures and diagnostic indicators such as the age pyramid, which enable social partners to take a prospective view of changes in employment and of its demographic components. The work done by sector-level institutions, such as joint labor employment and training observatories, is an important support to these cognitive bargaining tools (Mias, 2013). The monographic analyses we have conducted in this report are used to point out both the sector-level instrumental role in the large metal industry company – which essentially mobilizes the legal department of the trade federation – and its central supporting role in SME's case – which takes up again the sector-level senior agreement to negotiate its generation contract agreement while mustering the information supplied by the observatory of sector-level employment to shore up its objectives. Once again, we find here the well-known dual role of sector level (Morin, 1996; Tallard, 2004; Jobert, 2003): providing a minimal bargaining toolkit (primarily legal), as a genuine resource for social partners in order to empower them. The strengthening of sector level role as a support to company bargaining could help give back to the sector a role in the collective regulation of employment relationship, whereas the trend, over the last two decades, has been to weaken its role in favour of company-level bargaining (Tallard & Vincent, 2014).

Mentoring as a collective bargaining issue

Mentoring is scarcely a company level bargaining issue, as it is, as well as training, included in management prerogatives. The binomial system for skill transfer in the generation contract is much too simplistic and is not mobilized by industrial relations actors. However, mentoring forms have to suit organized labour, career trajectories and employees' social and professional backgrounds in each company. Trade unions wish to obtain a status recognition mechanism for mentors and their professional certification in order to formalize skills transfer and revitalize apprenticeship. To include

mentoring in the future development of collective bargaining on training at company level could lend this bargaining issue a legitimacy that is for the moment hard to bring out.

WORKS CITED

- Algava, E., Davie, E., Loquet, J., & Vinck, L. (2014, juillet). Conditions de travail : reprise de l'intensification du travail chez les salariés. *DARES Analyses*, n°049.
- ANACT/IRES. (2013). Construction et mise en oeuvre des accords et plans d'action en faveur de l'emploi des seniors. *Rapport n°05.2013*. Paris: ANACT/IRES.
- Caser, F., & Jolivet, A. (2014). L'incitation à négocier en faveur de l'emploi des seniors. Un instrument efficace? *Revue de l'IRES*, n°80(2014/1), pp. 29-48.
- Cereq. (2014). *Quand l'école est finie Premiers pas dans la vie active de la génération 2010*. Marseille: CEREQ.
- Claisse, C., Daniel, C., & Naboulet, A. (2013). Quand la politique en faveur de l'emploi des salariés âgés passe par la négociation collective : une analyse des accords d'entreprise et plans d'action issus de la LFSS pour 2009. In E. Bethoux, J. V. Koster, S. Montchatre, F. Rey, M. Tallard, & C. Vincent, *Emploi, formation, compétences : les régulations de la relation salariale en questions* (pp. 177-190). Toulouse: Octares.
- DARES. (2014, Aout). Les préretraites d'entreprise. *DARES / Analyses*(n°64), p. 8.
- Delay, B. (2008). *Les rapports entre jeunes et anciens dans les grandes entreprises. La responsabilité organisationnelle dans la construction de dynamiques intergénérationnelles coopératives*. CEE. Paris: CEE.
- Direction Générale du Travail; DARES. (2014). *La négociation collective en 2013*. Paris: Ministère du travail, de l'emploi et du dialogue social.
- Farvaque, N. (2011). Le bricolage du maintien dans l'emploi des seniors : régulation publique, dialogue social et boîte à outils. *La revue de l'IRES*, n°69(2011/2), pp. 139-172.
- Frank, D., Hara, R., Magnier, G., & Villey, O. (1982, juillet). Entreprises et contrats de solidarité de préretraite démission. *Travail et Emploi*, n°13, pp. 75-89.
- Galland, O., Gaudin, J., & Vrain, P. (1984, décembre). Contrats de solidarité de préretraite et stratégies d'entreprises. *Travail et Emploi*, n°22, pp. 7-20.
- Groux, G. (2005). L'action publique négociée. Un nouveau mode de régulation? Pour une sociologie politique de la négociation. *Négociations*, 1(n°3), pp. 57-70.
- Hairault, J.-O. (2012, octobre). Contrat d'avenir et contrat de génération: les politiques ciblées par l'âge sont-elles efficaces ? *Notes de la chaire TDTE Transition démographique, Transitions économiques*(n°13).
- Hairault, J.-O. (2012, novembre). Pour l'emploi des seniors — Assurance chômage et licenciements. (Cepremap, Ed.) *Opuscules du CEPREMAP*, n°28.
- Jobert, A. (2003). Quelles dynamiques pour la négociation collective de branche? *Travail et Emploi*, n°95, pp. 5-25.
- Jolivet, A., & Thébault, J. (2014). Le contrat de génération : une occasion manquée pour la transmission professionnelle ? *Revue de l'IRES*, n°80(2014/1), pp. 105-126.
- Masingue, B. (2009). *Séniors tuteurs : comment faire mieux ?* Paris: La Documentation Française.
- Méda, D., & Vendramin, P. (2013). *Réinventer le travail*. Paris: collection le Lien social PUF.
- Mias, A. (2013). *Le travail des relations professionnelles. Connaissances et négociations*. Aix-Marseille Université.
- Morin, M.-L. (1996). Permanence et transformations du rôle de la négociation collective de branche. In *L'état des relations professionnelles, Traditions et perspectives de recherches* (pp. 351-375). Toulouse: Octarès.
- Tallard, M. (2004). *Action publique et régulation de branche de la relation salariale*. Paris: L'Harmattan.

Tallard, M., & Vincent, C. (2014, mars). Les branches professionnelles sont-elles toujours un lieu pertinent de négociation des normes d'emploi ? *Droit social, dossier "Réformer la représentativité des organisations professionnelles d'employeurs"*, pp. 212-216.