

Unemployment Benefits System in France : Regulation and Problems

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[Abstract] *The aim of this article is to analyse the status quo of the French unemployment benefits systems, the fundamental problems, challenges and constitutional jurisprudence. Problems of the French unemployment benefits systems are related to the ageing society, social insurance budget deficit and incitation to work longer for older generation. Therefore, an European Union recommendations and indications for the future reforms should be evaluated and implemented.*

The scientific literature analysis, legal acts analysis, document analysis, historical methods were used. The outcomes of this article may be used as methodical literature studying the unemployment benefits system and reforms in France.

[Keywords] *unemployment benefits reform European Union France*

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1. Introduction

European Union countries started to reform the state social insurance systems in the past decades, which aim - to reduce the budget deficit, to promote efficiency and to strengthen the state social insurance guarantees. According to the European projections, ageing and the need for additional finances in the EU will intensify: a modest recovery in the total fertility rate is assumed (from 1,52 births per woman in 2008 to 1,64 by 2060); life expectancy at birth for men will increase 8,5 years (from 76 years in 2008 to 84,5 in 2060) and for women - 6,9 years (from 82,1 in 2008 to 89 in 2060); the number of old age persons (aged 80 years) is projected to increase highly (from 22 million in 2008 to 61 million in 2060); the ratio of people aged 65 or above related to the working age population (15-64 years) is projected to increase significantly (from 25,4% in 2008 to 53,5% in 2060).¹

1 European Commission. The 2009 Ageing report: economic and budgetary projections for the EU-27 member states (2008-2060). European Commission, Luxembourg, 2009.

Today we could underline general challenges in Europe : more personal choice and quality improvements in services and benefits ; the impact of globalization (free movement of persons, goods, services and capital across national borders) ; ageing and economic, fiscal and social fallout during the economic crisis.² Social insurance reforms should be oriented to rise person's individual responsibility ; to provide opportunities for the complementary entitlements ; work longer and increase access to the supplementary savings schemes.³ As a result of reforms, we could see that the social security benefits decreased and the benefits became stricter : longer work record is required ; social security benefits are more targeted ; private savings systems developed ; austerity policies introduced and the incentives to work longer nowadays are the main task of national and European strategies.

The European Commission supports and complements the Member States' policies in the field of employment and social protection. The Europe 2020 Strategy for smart, sustainable and inclusive growth sets targets to lift at least 20 million people out of poverty (and social exclusion) and to increase employment of the population aged 20–64 to 75%. The Social Investment Package provides guidance to Member States to modernise their welfare systems towards social investment throughout life : the Employment Package (which sets out the way forward for a job rich recovery) ; the White Paper on Pensions (presenting a strategy for adequate, sustainable and safe pensions) ; the Youth Employment Package (which deals specifically with the situation of young persons).

Despite the European Union's recommendations, unemployment benefits reforms are an ongoing process because of changing economic, political and social phenomena, developing the concept of reforms strategies, increasing the European Union's institutions activity. Reforms should enable to work longer, to introduce new active labour market measures and better access to supplementary insurance schemes.

2. Construction of the French unemployment insurance system and problems

2.1. Organisation of the French unemployment protection

Today in France we could identify several social security systems (according to the number of participants : a) the general system (covers all employed persons. About 72% of participants of all social security systems are involved in this general system) ; b) agriculture social security system (only self-employed persons, working in the agriculture sector, are involved) ; c) system of civil servants and employed persons in the military structures ; d) self-employed persons system ; e) special systems (state enterprises, civil servants, persons of military structures etc.) ; f) additional compulsory social insurance system (AGIRC and ARRCO) ; g) other (independent professions etc.).

For the specific social groups, the occupational or professional enterprise social security systems are applicable.

The French unemployment system applies to all employees from the private sector and may also apply to the public employers (if they decide to be affiliated and on their own budget). The contribu-

2 International social security association. Dynamic social security for Europe : choice and responsibility : developments and trends. International social security association, Geneva, 2010, p. 93.

3 European Commission. Green paper : towards adequate, sustainable and safe European pension systems. European Commission, COM(2010)365 final, Brussels, 2010.

tory unemployment system not applies for the self-employed persons.

The detailed implementation of the unemployment scheme is set by collective agreements (after approval of the competent Ministry). Collective agreements determine the level of contributions, duration, entitlement, amounts.

National agency UNEDIC is responsible for the coordination of the unemployment policy at the national level and this agency is managed by the social partners. In the local level, unemployment benefits are granted and active labour policies are implemented by the “Pole emploi” local institutions. Social insurance unemployment contributions are collected by the national agency URSSAF.

Despite social security reforms, France maintained system based on the solidarity principle, as indicated in the Social security code. This may be regarded as an advantage for the society and in the spirit of the concept of welfare state.

2.2. Legal background

The unemployment social protection is recognised as the constitutional value and unemployment benefits or allowances may be paid under the French Social Security Code, under the provisions of the Labour Code or in accordance with the EU Regulation 883/2004/EU of 29 April 2004.

The part 11 of the preamble of the French Constitution of 1946 (and part 2 of preamble of French Constitution of 1958) indicates, that every person who, due to his age, physical or mental condition, economic situation, is not able to work, has a right to obtain from the society decent means of existence. The French Constitutional Council in the decision of 23 July 1999 stated, that this principle has a constitutional value.⁴ In the decision of 18 December 1997, the Constitutional Council indicated that the social protection allowances and benefits could be in different forms: generals and specifics, directs or indirects, managed by the state social security or collective bodies, including fiscal mechanism for the families.⁵ The Social security system Act (adopted in 1945) provides, that social security should guarantee to every person (and his family) the necessary measures for a dignified living.

In the French Constitution (adopted in 1958), we could see the expansion of the government role regulating social security systems: the state participates in the formation of administrative councils (together with social partners) and executes financial and management control.⁶ But the procedures of management of the social insurance funds became different, contrary to what was intended in the Social security system Act of 1945.⁷

The article L 111-1 of French Social security code indicates that the organisation of the social security is based on the solidarity principle. The social security system applies to the workers and their families in case of social risks.⁸

The article L 5422-1 of the French Labour code indicates the right to the unemployment in case of not voluntary loss of work and if the person is able to work and actively under the certain limit of

4 Code de la sécurité sociale. Paris : LexisNexis, 2015, p. 431.

5 Bioy, X. Droits fondamentaux et libertés publiques. Paris : Editions Lextenso, 2014, p. 652-653.

6 Chauchard, J.P. Droit de la sécurité sociale. Paris : Lextenso, 2012, p. 50-51.

7 Voirin, M. Les organes des caisses de sécurité sociale et leurs pouvoirs. Paris : Librairie générale de droit et de jurisprudence, 1961, p. 325-327.

8 Code de la sécurité sociale. Paris : LexisNexis, 2015, p. 6-8.

age. Article L 5422-2 indicates that the term of payment of the benefits is limited in time. Article L 5422-7 stipulates, that the implementation of measures are negotiated by social partners, according to the general legislation.⁹

2.3. Unemployment social security benefits

Unemployment benefits can be paid only if the person is listed in the list of job seekers ; not working ; is able to work and actively looking for work and it is based on the reference wage principle. Waiting periods may apply : for the annual leave period (remaining at the end of the employment contract) ; benefit payment is deferred up to 180 days if the person received conventional redundancy payment.

The payment of unemployment benefits is related to the work record as well. Entitlement to benefits is subject to at least 122 days (4 months) or 610 working hours of insurance over the last 28 months preceding the termination of the employment contract. The duration of the unemployment benefit payment cannot be less than 4 months and cannot be longer than 24 months. If the person's age is more than 50 years, the unemployment benefit may be paid more than 36 months. Specific rules can be applied to artists and they need to have worked 507 hours over the last 319 days to be entitled to benefits.

The size of the unemployment social security contributions (decided by the social partners) is 6.40 percent of individual earnings (4 percent pays the employer and 2.40 percent pays the employee). The maximum social security contributions limit is 12.680 euros per month (in 2015). If a person is employed under a fixed-term employment contract, the part of the employer's social security contributions is increased, depending on the duration of the employment contract : from 4.5 percent (for the fixed-term contracts up to 3 months) to 7 percent (for the fixed-term contracts up to 1 month).

Unemployment benefits are linked to the size of the former salary and working record. The amount of benefits could be twofold (better option can be selected) : either 40.4 percent of the gross daily reference wage plus 11.76 euros fixed part per day or 57 percent of the gross daily reference wage. Unemployment benefit cannot be lower than 28.67 euro minimum daily allowance and cannot be higher than 75 percent of gross wage. Unemployment benefits can be paid from the eighth day (after personal registration on the list of job seekers). For part-time workers, the minimum daily allowance is prorated.

2.4. Unemployment solidarity non-contributory allowance

In addition to the unemployment insurance benefit system, there is a state-funded non-contributory unemployment solidarity allowance (in French : *Allocation de solidarité spécifique - AES*), if the person is no longer eligible to receive the unemployment insurance benefit.

If a person has five years of work record in the last ten years, such person shall receive a monthly allowance of 487.50 euro. It is paid as a differential benefit for persons whose income are between 650 euro and 1,137.50 euro per month. This allowance is paid in full for persons whose income are below 650 euro per month. For persons with higher income, there is no entitlement and depending on the

9 Code du travail. Paris : LexisNexis, 2015, p. 1392-1397.

person's situation (former incomes, family situation), the replacement rate of this allowance can be variable.

Additionally, 7.01 euro daily allowance can be paid for persons housing (if the person is under the age of 55 years and has more than twenty years of work record ; or if the person is under the age of 57.5 years and has more than ten years of work record). This system is financed by solidarity and tobacco taxes and state subsidies (annual budget is 2.66 billion euros).

2.5. Allowance of the equivalent pension

For the persons under the age of 60 years (therefore the person should have 160 semesters of work record and the income is below the state fixed level) the allowance of the equivalent pension (in French : *Allocation Equivalent retraite - AER*) can be paid. The size of this allowance is 34.78 euros per day. The allowance is paid under the retirement age.

2.6. Unemployment social protection problems in France

The development of the contemporary French social security system began after the Second World War in 1945. Government adopted the main social security system organization principles : *universality* (the system must be accessible to all residents and include all social security risks. No privileges to special social groups. The same basic amount of social security benefits is paying for all or and the maximum benefit "ceiling" is fixed for all professional categories. Social security benefits shall be awarded in accordance with the clear rules and shall be applied to the widest possible group. Certain exceptions must be reasoned objectively) ; *uniformity* (the same system should be applied to all) and the principle of *the management of social insurance system, based on the social partnership*. Despite these principles, in the period of 1952–1966 we could fix the separation of independent professions social security system from the general social security system, the formatting of different social security subsystems or autonomous systems. Social security systems in France could be autonomous (systems of French railway, underground companies, sailors, employees of French Bank, etc.) or partially autonomous systems (EDF–GDF company, notaries, students etc.). As we indicated above, the Constitutional Council in the decision of 18 December 1997 indicated that social protection allowances and benefits could be in different forms. Such legal regulation means that it is complicated to reach an agreement between social partners on the unemployment system's reforms, decreasing the budget resources for the unemployment benefits and to raise the employability (especially for older persons).

Council of the European Union in the recommendation "On France's 2013 national reform programme and delivering a Council opinion on France's stability programme for 2012–2017" indicated for France to take further action to lower the cost of labour, in particular through further measures to reduce employers' social-security contributions, in association with social partners.¹⁰

Council of the European Union recommendation of 14 July 2015 "On the 2015 National Reform Programme of France and delivering a Council opinion on the 2015 Stability Programme of France"

10 Council of the European Union. Council of the EU recommendation No. 10635/1/13 on France's 2013 national reform programme and delivering a Council opinion on France's stability programme for 2012–2017, Brussels, 2013.

(in the light of the “European semester”) of 2015 indicates to take action in consultation with the social partners and in accordance with national practices to reform the unemployment benefit system in order to bring the system back to budgetary sustainability and provide more incentives to return to work.¹¹

It means, that all reforms in social security field must be accompanied by the other sectorial institutional reforms : to raise the level of employment, to create new jobs, to introduce the labour market activation measures, to increase the competitiveness of business and to maintain the financial sustainability of the state budget. The data in 2013 European Commission Draft Joint Employment Report¹² shows, that the nominal unit labour costs in whole economy in 2011 (annual rate of change) in France was almost twice higher than the EU average (change in France was 1.6, in the EU average was 0.9), the general government debt in 2011 was 86% of GDP (the EU average was 83% of GDP), the total amount of taxes in 2011 (total taxes as % of GDP) in France was 45.6 (the EU average was 39.9). Therefore, in France were about 2.9 million unemployment benefit recipients (and the unemployment rate was 10.3 percent) in 2015¹³ and the level of the social security expenses raised from 14.64 % (in 1959) to 29.9 % of GDP in 2003.

Regarding the unemployment system in France, it could be noted that actual unemployment system does not stimulate older persons to return to the labour market. As it was mentioned above, older job seeker is entitled to get unemployment benefits or allowances until he reaches retirement age. If the person’s age is more than 50 years, the unemployment benefit may be paid more than 36 months. After that, person can receive the unemployment solidarity non-contributory allowance (if the person is no longer eligible to receive unemployment insurance benefit). Moreover, for the persons under the age of 60 years the allowance of the equivalent pension can be paid until the retirement age. It means, that older job seekers at 58 year could receive unemployment benefits until retirement age for full pension. It could be stressed, that in France there is not enough unemployment system’s reforms in the past, the lack of consensus between social partners and the lack of will of state. The proposals for the unemployment reforms were absent in the presidential election programmes of N.Sarkozy and F.Hollande.¹⁴

The long-lasting deterioration in the labour market has affected the unemployment benefit system, calling into question the sustainability of the model. The new convention on the unemployment benefit system introduced on 1 July 2014 is insufficient to reduce the deficit. The deficit of the system is still projected to rise from 3.9 billion euro in 2014 to 4.4 billion euro in 2015, leading to a further increase in the system’s debt to 25.9 billion euro. Structural measures should ensure the viability of the system. In particular, the regressive structure of benefits and the replacement rates for workers with the highest wages should be reviewed between the social partners in charge of managing the system.¹⁵

11 Council of the European Union. Council of the EU recommendation No. 2015/C 272/14 of 14 July 2015 on the 2015 National Reform Programme of France and delivering a Council opinion on the 2015 Stability Programme of France. Brussels : Official Journal of the European Union, C 272/51.

12 European Commission. Communication from the EU commission on Annual Growth Survey 2013, No. COM(2012) 750 final, Brussels, 2012.

13 Prétot, X. Droit de la sécurité sociale. Paris : Dalloz, 2015, p. 252.

14 Hairault, J.O. Vivre et travailler plus longtemps. Paris : Descartes & Cie, 2012. P. 108–111.

The future unemployment system's reform should be more balanced between incentives to work and unemployment.

3. Conclusions

1. The challenges for the French unemployment benefits system are ageing population, low employment rate of older population and not enough incentives to return to the labour market.

2. The future unemployment benefits systems reforms in France should be more balanced between incentives to work and unemployment.

3. Contemporary French social security system began to develop after the Second World War, when the Government adopted the main social security system organization principles : universality, uniformity and equality of the social partners' management. However, these principles were not implemented in the reality. Independent professions opposed to the idea of the unified social security system and preserved a special social security systems. Such legal regulation means that it is complicated to reach an agreement between social partners in the field of the unemployment system's reforms, decreasing the budget resources for the unemployment benefits and to raise the employability (especially for older persons).

4. Future reforms should be oriented to promote the employment and the labour market, to maintain the financial sustainability of the state budget.

5. Reforms in the unemployment benefits system should be in the conformity with the constitutional principles as well : rule of law, equality of rights, justice, proportionality, protection of legitimate expectations, legal certainty, legal security and social solidarity.

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15 Council of the European Union. Council of the EU recommendation No. 2015/C 272/14 of 14 July 2015 on the 2015 National Reform Programme of France and delivering a Council opinion on the 2015 Stability Programme of France. Brussels : Official Journal of the European Union, C 272/51.

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