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## **Social dialogue under the shadow of the EU: the failure of Hollande's social conferences**

### **Abstract**

Annual tripartite social conferences were introduced in France in 2012, pre-empting EU ambitions to reinvigorate the social dialogue at EU and national levels. Despite some successes, they did not live up to their ambitions to elicit consensus and give trade unions a voice in policymaking due to: opposition to, and protest against, government policy from some unions; the avoidance of discussion on contentious legislation; and the constraints of the Country Specific Recommendations arising out of the European Semester. The French experience of social dialogue suggests that the chances of the EU achieving its ambition of building consensus over economic and social reform through reinvigorating the social dialogue appear slim.

Key words: François Hollande. social conferences, social dialogue, trade unions, European Semester, Country Specific Recommendations

### **Introduction**

The social dialogue is the involvement of the social partners – trade unions and representative employer organisations – in the design and implementation of public policies, including through collective bargaining and bipartite and tripartite structures through which the state consults the major socio-economic forces – usually trade unions and employer organisations of the country (Ishikawa 2003: 3). The aim of such involvement is to elicit consensus over the broad direction of economic and social policy. Against a background of rising

Euroscepticism, the European Union (EU) has attempted to reinvigorate the social dialogue, including at the national level, as a means of reinforcing the legitimacy of the EU (European Commission 2015; Natali et al. 2015: 25 - 26). France could be seen as pre-empting such steps when annual consultative tripartite ‘social conferences’ were introduced in 2012 by the newly-elected President, François Hollande. Using France as a case study, this article will therefore examine whether the social dialogue, and particularly the involvement of trade unions in policymaking, can bring about greater consensus over social and economic policies, through an examination of policy innovation in the domain of the social dialogue in France.

This is an important question as the decline of trade unions, and with them of social democratic movements, is at least part of the explanation for the rise of populist parties that are seen as a threat to hitherto stable democracies, particularly in the EU (see for example Royo 2017). This decline may also explain why there has been little written recently on social dialogue at the national level in European countries, and particularly in France. Indeed, the focus has generally been on conflict and trade union decline in France and not on institutions designed to increase trade union voice and reduce levels of conflict (for a recent example see Lallement & Rey 2015). This study can therefore increase our understanding of French industrial relations and social dialogue in particular, but may also provide lessons for other countries facing similar challenges of gaining consensus around social and economic change, particularly where the traditional representative voice of wage-earners – the trade union movement – is weak. In sum, a key contribution of this research is to provide an assessment of the extent to which the EU’s ambitions for a reinvigoration of social dialogue can legitimise policy through social consensus under conditions of union weakness and tight external economic constraints – in this case emanating from the EU - and what the results of this may be through the examination of an attempt to do precisely this in France..

To do this, we shall firstly examine the importance of the social dialogue as a tool for legitimising policy output in the EU. We then set out the theoretical framework for this study. The notion of spillover, in both policy and institutional terms, will be examined to see how it can shape the social dialogue at national level, before the French case is elaborated upon. The following section then sets out the methodology used, before the results of the research are reported. Conclusions are then drawn in the final section.

### **Social dialogue and the legitimisation of policy**

Since the 1970s, under the pressures of changing work patterns, welfare strain and economic globalisation, advanced liberal democracies have faced the question of how to cope with pressures for greater economic competitiveness while ensuring social justice and inclusiveness. In the post-war era, in many countries, trade unions acted as the mediator of workers' interests to ensure trade-offs were not detrimental to workers' interests, sometimes through corporatist institutions and practices (Schmitter 1979). Since the 1970s, however, such institutions have been weakened, and trade unions have faced a declining strength as neo-liberal economic paradigms have risen to ascendancy. The result has been the emergence of the 'left behind' (Ford & Goodwin 2014) who have increasingly turned to far right nationalist parties to represent their interests. The culmination of such trends, to date, was the rejection of the current economic and political status quo expressed in the 23 June 2016 UK referendum on EU membership. Such tensions are not confined to the UK, however, as far right and left parties have gained traction across the EU, particularly in the wake of the financial and economic crisis that began in 2008 (Hix & Marsh 2011; Rooduijn, 2015). In France, the Front National candidate, Marine Le Pen advanced to the second round of the

2017 presidential elections on a nationalist, anti-EU platform. Finding a way to manage the equity versus efficiency conundrum in a way that ensures that the voice of the ‘left behind’ is heard and taken into account is therefore of primordial importance, not only to national polities, but also to the EU as a whole.

As Natali (2015; 256 - 60) argues, this poses a challenge at both EU and national levels, as reforms are more likely to be seen as legitimate by the social partners, and those they represent, if they are jointly elaborated, and seen to be so, than if they are the result of government initiative alone. For the European Commission, the equity versus efficiency tension can be resolved through a social market economy, and social dialogue is an essential prerequisite to the success of this. Since November 2014, when Jean-Claude Juncker took up the presidency, the European Commission has emphasized the need for a stronger social dimension to the EU, and has sought to strengthen the social dialogue, particularly the involvement of the social partners in the European Semester (European Commission 2015; Natali et al. 2015; 25 - 26).

Hence the European Commission’s call for national governments to ‘closely involve national parliaments and social partners in the design and implementation of relevant reforms and policies’ (Caspar et al. 2016; 195). Indeed, the national level is crucial for social dialogue as the actual outcomes of the process are seen at this level, given that social and labour market policies are still under the control of national governments, and patterns of social justice and employment are most keenly felt in the national context. However, for EU member states, policy options elaborated through the social dialogue are subject to the EU-level constraints due to the nature of economic integration in the EU. It is to such constraints that we now turn.

### **Social Dialogue and EU constraints**

Indeed, developments at the national level in the social dialogue cannot be seen in isolation from developments at the EU level. Neofunctionalist theories of European integration (Falkner 1998; Haas 1958) essentially see the development of the social dialogue at this level as a result of spillover from economic integration, as the labour market and social implications of centrally-determined economic policy need to be taken into account.

Likewise, multi-level governance theory also sees an increasing Europeanization of industrial relations due to the development of symbiotic relationships between different levels of governance as actors react to economic integration (Marginson & Sisson 2004). In other words, those areas of policymaking formally under the aegis of member state governments, such as social and labour market policy are increasingly Europeanized as a result of economic integration within a multi-level governance framework.

On the other hand, intergovernmentalists argue that EU influence over social policy remains limited, precisely because of member state competence in this area (Talini 2014; 191; Prosser 2016). Part of the explanation here is the historical focus on ‘negative’ integration aimed at dismantling barriers to market integration rather than ‘positive’ integration aimed at market-correcting social policy (Scharpf 2010). This, analysis, however, is based upon the assumption that spillover requires legal competencies to be transferred from one political actor (the member state) to another (the EU) to take effect. However, as Lukes (1974) argued, power is exercised not only through legal competence, but also through the capacity to set agendas. Thus, spillover can occur through policy *framing* rather than competence in a multi-level governance system so that one level of government can influence and shape the policies of a lower level without having formal competence for that policy area. In this case, the notion of spillover can be broadened to encompass not only *de jure* spillover but also

*normative* spillover in that policy choices can be framed at one level in a multi-level governance system to constrain the potential range of policy choice at another level.

Such processes of normative spillover can be seen in reaction to the 2008-9 financial crisis and the Eurozone crisis from 2010 onwards. The EU has strengthened and centralised its economic governance capacity through the ‘six pack’, Euro Plus Pact and Treaty on Stability, Coordination and Governance, otherwise known as the Fiscal Compact (Crespy & Menz 2015). This package of measures reinforced the excessive deficit procedure, with the potential of financial penalties for infringement and, with the Fiscal Compact, the requirement for balanced budgets. At the same time, the European Semester increased the monitoring capacity of the European Commission by requiring member states to submit annual National Reform Programmes (NRPs) setting out their policy orientations. These are scrutinised by the Commission and Council who then draw up Country Specific Recommendations (CSRs) for member state governments. These cover, not only economic policy, but also social and labour market policies, and are aimed at reinforcing national competitiveness and fiscal rectitude. While CSRs cannot force member state governments to adopt the recommended social and labour market policies, not to do so while not meeting debt and deficit reduction targets could potentially invite financial penalties.

Given that social partner input into the NRPs is expected in an attempt to reinvigorate the social dialogue and achieve consensus around reform packages, processes of spillover can be observed. Firstly, horizontally, the European Semester has enabled EU scrutiny of not only economic but also social policy, and for recommendations to be made to national governments on these. Secondly, vertically, processes of social dialogue at the national level are part of the exercise. This gives rise to the question of whether this process provides a

constraint on the national social dialogue with the result that unions are effectively sidelined as argued by Hyman (2015). Or, as argued by the Commission, does this allow for the greater involvement of social partners in policymaking, resulting in greater legitimacy for policies aimed at achieving socially sustainable economic competitiveness?

For some commentators, the ‘socialisation’ of the European Semester and the greater involvement of social policy actors in the process have provided unions with the potential to ‘politically make their voices heard (...) and to influence its outcomes’ (Zeitlin & Vanhercke 2015; 91 – 92). For others, however, this is mere ‘window dressing’ (Clauwaert 2015; 17). Indeed, for Hyman (2015; 97 -103), the European Semester shifts power away from the national level, to EU level expert groups, and weakens social dialogue, particularly at national level. In a context where views are polarised and unions weak, social dialogue becomes a form of ‘crisis corporatism’ (ibid.) wherein unions are sidelined and have, in order to retain any pretence of national presence, to acquiesce to socially regressive, competitiveness-focused economic and social policies.

Certainly, it could be argued that this spillover is the result of socialisation, and not the exercise of agenda-setting power. However, if the social dialogue is to play the role of an institution for socialisation, it would need to also shape the policy orientations of the social partners, including trade unions. In the absence of this, a more likely explanation is that the threat of hard sanctions arising from the excessive deficit procedure has enabled vertical spillover as far as policymaking is concerned while not socialising all policy actors into the process. If this were the case, the result, rather than consensus and the legitimation of policymaking, could be ‘conflict when (...) two differing belief systems, or elements of a political system with differing cognitive frameworks, clash over the interpretation of an issue and the



consequent action required' (Parsons 2013b). With part of the union movement marked by a history of radicalism, the French case is one that can elucidate such processes.

### **The French Case**

France can be seen as a deviant case where trade unions are ideologically divided and have suffered the most serious decline amongst all OECD countries. Indeed, France now has the lowest unionisation rate of any OECD country at less than 8% (Parsons 2103a). Such weakness is often seen as fuelling radicalism and a reliance upon mobilisation capacity rather than negotiation (Lindvall 2011; Shorter & Tilly 1979). On the other hand, while unions may be weak, the institutional architecture of industrial relations appears very comprehensive and robust, with rights to union representation, consultation and bargaining at national, sectoral and company levels enshrined in law (Parsons 2005; 113-52). At national level, the 2007 Law on Social Democracy gives the social partners the possibility of concluding collective agreements on any matter of social policy in advance of government legislation. This law can be seen as downloaded from EU processes of the social dialogue as it replicates provisions that first appeared in the 1992 Maastricht Treaty for the European-level social partners to conclude an agreement over social policy issues in advance of, and in lieu of, legislation on the issue. Even where bargaining is refused by the social partners, they have, by law, to be consulted on any proposed social legislation. To engage in national collective bargaining, the 2008 Law on Trade Union Representativeness stipulated that unions must have at least eight per cent of the votes cast in professional elections. In 2013, five organisations achieved this and were therefore deemed to be nationally representative, with the so-called reformist unions – the CFDT, CFTC and CFE-CGC – having a 51%-49% majority over the so-called radical unions, the CGT and FO<sup>1</sup> (Ministère du travail 2013). Unions not achieving this

threshold were, on the radical side, the FSU and Solidaires, and on the reformist side, UNSA. Whether they achieved the threshold or not, all these unions were invited by Hollande to participate in the ‘social conferences’.

In his 2012 presidential election campaign, François Hollande appealed to trade unions by promising them a greater say over policymaking, and, in line with this established annual tripartite social conferences to enable this (Parsons 2015). In this sense, the social conferences can be seen as a policy innovation designed to overcome some of the dysfunctionalities of the French system of social relations. A numerically weak, politicised and fragmented trade union movement, meant that reform was often contested on the streets as radical unions such as the CGT, FO and Solidaires organised protest against government policy, claiming it was the only way to get their voices heard. Although, historically, the government has been able to deal with more reformist unions such as the CFDT, CFTC, CFE-CGC and UNSA, the result is that reform was likely to spark conflict – as in 2010 when unions were united in their opposition to President Sarkozy’s pension reforms. For Hollande, then, the challenge was to reduce conflict through a discussion of policy with all labour market actors in order that the effects of economic crisis and high unemployment could be addressed through policies elaborated in an atmosphere of consensus. Consultation with labour market actors did previously take place, of course, but the social conferences were seen as a means of achieving this through bringing all the actors together in one place for more transparent discussion.

From 2012 to 2014 social conferences took place over two days, although in 2015 this was reduced to one day (19 October), bringing together state, employer and trade union actors. As announced in a government report on the inaugural conference in 2012 (République

Française 2013: 2), the social conferences were designed as a forum to discuss the general orientations of policy. For the conferences, the government produced a briefing document setting out the progress made since the previous conference and themes for discussion. In the four to six weeks preceding the conference, these themes were the subject of discussion in a series of bilateral meetings between unions, employer organisations and the Ministry of Labour. Technical background reports and expert analyses to support discussion for each theme of the conference were also produced. Discussion then served as the basis for future action, including collective bargaining and legislation where appropriate, based on a post-conference roadmap or work agenda (the *feuille de route sociale*). Where national collective agreements were signed, these were often transposed into law. In what was presented as Hollande's 'method', a sequence of reasoned, evidence-based deliberation followed by negotiation, agreement and legislation would ensure consensus and cooperation over the design and implementation of social and labour market policies, reducing conflict around differing social and economic interests. This process can be seen to mirror EU level processes whereby European-level employer organisations (BusinessEurope and the CEEP) and trade unions (the ETUC) are consulted on all social legislation and can sign collective agreements in lieu of legislation in certain areas.

In replicating EU institutions and processes at the national level, through a government openly declaring its wish to give unions a voice in policymaking, France therefore appeared to be ideally placed to implement the EU's declared ambition to reinvigorate social dialogue for more consensual policymaking and, indeed, on the surface seemed to be doing so. According to Lindvall (2011; 299) this should improve trust relations around macro-economic management with the result that 'there would probably be fewer protests if the social groups that trade unions and other interest organisations represent had more effective

representation within political institutions'. Indeed, distrust is often seen as a characteristic feature of French industrial relations institutions due to employer anti-unionism, union fragmentation – and inter-union rivalry – and a state which sees itself as the incarnation of the 'general will' of the people and which therefore refuses to negotiate with intermediary bodies (Parsons 2013a). Hollande's social conferences could be seen as an attempt to overcome such a situation, which renders reform problematic for governments as likely to spark protest movements, through institutional innovation.

However, according to Natali and Rhodes (2004: 2) unions are too weak and divided to engage in national-level policy concertation, with the result that the state engages in 'pre-emptive trade-offs' to avoid protest against reform (Natali and Rhodes 2004: 8-10). In this, the state can play unions off against each other to achieve its preferred outcomes (Parsons 2013a; 186-7). As well as these structural and institutional variables, Parsons (2002) has shown that ideational variables are important in explaining a lack of policy concertation in France. Unions reject corporatist structures as undermining their autonomy from the state and hence capacity to defend wage-earner interests, while governing parties of both left and right jealously guard the notion that the state governs in the general interest and cannot therefore allow policymaking to be subject to the will of vested interests represented by intermediary groups, including unions. Again, Hollande's social conferences suggest an institutional innovation designed to overcome such entrenched attitudes.

On the other hand, it could be asked what motive the state has for participating in social dialogue institutions with weak and divided unions when it faces external economic constraints and can exert its will through other channels such as the legislative process. Does this mean that institutions such as the social conferences are not about 'genuine' social dialogue in the sense of a search for consensus over policy, but rather a means of legitimising

policy decisions taken elsewhere? If this is the case, such institutions will not overcome the trust problem in French industrial relations and will not lead to a reduction in conflict. Thus, while the French case may be considered ‘deviant’ in that unions are divided and often radical, as a worst case scenario, it also provides an excellent test case for the propensity of social dialogue to overcome division and to bring about social consensus over the future direction of policy and reform.

It should be noted that the social conferences are only consultative, and are not the only forum for social dialogue in France. As well as engaging in collective bargaining, the social partners have informal meetings with ministers and discuss specific subjects in various issue-specific formal and informal fora<sup>2</sup>. They must also be consulted on social and labour market bills going through parliament in the Economic, Social and Environmental Committee (CESE), and are consulted on the uploading and downloading of policies to the EU through the Social Dialogue Committee for European and International Questions (CDSEI). The latter, however, only meets for half a day per year and is largely concerned with responding to European initiatives or uploading issues discussed elsewhere, while the former only deal with specific issues, not overall reform programmes. On the other hand, social conferences normally took place over two days, dealing with multiple aspects of social and labour market reform to address issues of social justice and competitiveness under thematic headings in the glare of the media spotlight. This, and their centrality to Hollande’s project of renewing social democracy through increasing the involvement of the trade unions in policymaking, means that they are the centre of attention in the research reported here.

## **Methodology**

The case study was approached through the collation and content analysis of primary documentation and through interviews with key informants.

Official reports from social conferences and trade union reports on all social conferences were examined. In addition, Ministry of Labour annual reports on collective bargaining since 2012 – which also deal with the themes of the social conferences – were analysed. These reports deal with the main themes and work agendas of the social conferences, with collective bargaining, including areas of failed negotiation, as well as with social legislation and strike movements. Press reports on the same topics provided further evidence of the success or failure of social conferences to promote consensus around economic and social policies.

Semi-structured interviews were also conducted with high-ranking key officials from the social partners who had represented their organisation in the social conferences - CFDT, CGT, FO, UNSA, FSU, Solidaires, CFTC, CFE-CGC for the unions, and MEDEF and U2P for the employers. As far as state actors are concerned, a senior policy advisor and a senior politician involved in the social conferences were also interviewed. The interviews took place during a three-week period in June-July 2017. The only inter-sectoral organisation that did not respond positively to requests for interviews was the CPME, which represents small and medium-sized companies in France. With one exception, then, the views of all the major participants in the social conferences were examined through interviews. Using these interviews and the documentary evidence, we now set out the major findings of the case study research.

### **Social conferences in France**

### *Policy Outcomes*

The French government reports that the broad themes of the social conferences gave rise to a volume of agreements and state action (Table 1). This is particularly true of employment and training: state services have been reorganised and local and regional trials implemented within the framework of the EU-funded ‘Youth Guarantee’; the ‘Occupational Personal Account’ (CPA) was introduced to improve the portability of employment-related and training rights; extra funding was found for apprenticeships; and gender equality legislation reinforced.

#### **Table 1 here**

In the area of future employment, investment and productivity, the National Industrial Council was reformed to coordinate the modernisation of industry and plan for future manpower and training needs arising from technological change. In other areas, as Table 1 shows, pensions have been reformed, with the aim of improving their financial stability, while reforms in the public sector have aimed to improve working life for employees and to streamline bureaucratic procedures for end users, both individuals and companies. The social Europe/social dialogue theme gave rise to the adoption of the revised Posted Workers Directive as well as to calls for further reform to avoid social dumping being presented to the European Commission; and to reforms of company-level employee representation, particularly in small and medium-sized companies, through the Rebsamen Law of 2015.

While this suggests that the social conferences generated a great deal of outputs, it tells us little about whether trade union views were taken into account during discussions, or

whether, as argued by Lindvall (2011), this involvement of unions in the decision-making process increased trust between them and governing elites or whether it brought about consensus over reforms. These factors being dependent upon perceptions of the process and outcomes of social dialogue, we now turn to an examination of participant views.

### *Participant Views*

We do not have the space here to go into any detail of what our interviews uncovered. Nevertheless, a few general comments are appropriate. Firstly, there was widespread agreement that the first social conference was a success, with six out of the eight unions seeing them as positive, and the CFTC respondent describing the first conferences as ‘almost perfect’. From 2014, though, only state actors and the main reformist unions, the CFTC and CFDT, continued to view them positively. For the radical unions (FSU, Solidaires, FO, CGT), the problem was the context of a change of government and hardening of government policy to focus on deficit and debt reduction rather than Hollande’s electoral promise to make finance pay for the crisis. The rise of what was seen as an austerity-focused, neo-liberal current within the Socialist Party was epitomised by the replacement of Jean-Marc Ayrault as Prime Minister by Manuel Valls in 2014. The latter was also seen by these unions as far less open to social dialogue than his predecessor, an attitude that contributed to the souring of relations with a part of the trade union movement.

As a result, the radical unions walked out of the 2014 conference, and the CGT and Solidaires boycotted the 2015 conference. Our interview respondents from these organisations essentially claimed that this was because the whole process was ‘a sham’ and that the government was using the social conferences to gain legitimacy for pre-determined policies



that favoured employers, by suggesting there was a consensus over them, with the support of the reformist unions.

For others, however, this support from reformist unions was not problematic. For one of the state actors interviewed, ‘Consensus does not mean unanimity’, while for our CFDT respondent, the radical unions marginalised themselves by their refusal to enter into dialogue with the government over reform. Indeed, for this interviewee, dialogue enabled unions to make gains in negotiating with the government, exchanging greater labour market flexibility for improvements in employee rights. In this outlook, the state used the social conferences to get the social partners to share responsibility for reform, and this gave the unions leverage to push for gains such as the CPA and generalised company health cover. For both state actors and reformist unions, the legitimacy of this approach was reinforced by the results of workplace elections, which meant that agreements arising out of the social conferences were signed by a coalition of (reformist) unions that could claim to represent a majority of employees. It should also be noted that, despite their opposition to the government and the social conferences, the CGT and FO did sign national agreements on ‘generation contracts’ - which gave state aid for the employment of the young unemployed while maintaining older workers in post to pass on their knowledge -, gender equality in the public sector and employment security contracts. In general, however, support for agreements and legislation came from the reformist unions, with the CGT and FO opposing them (see Table 2).

**Table 2 here**

Nevertheless, there was general agreement that the social conferences were state-dominated. While for the radical unions this meant a lack of influence, state actors and reformist unions

saw this in more nuanced terms. Prior discussion over the agenda and themes for discussion of the social conferences meant that social partners could bring up their concerns, although the general framework of discussion reflected government priorities. Likewise, the roadmap was seen as a government, not a jointly agreed, document. It was largely prepared in advance and minor amendments made in the night following the end of the social conference to reflect discussion, with a work programme set out requiring legislation and/or collective bargaining. For the reformist unions then, this exercise in social dialogue complements political democracy: the social partners can exert influence to amend and improve on the general political orientation of a democratically elected government through social compromise. For the radical unions, on the other hand, the government divides the union movement, and weakens opposition to policies for which it was never elected.

While prior discussion allowed for some union input, the government's setting of the general thematic priorities and control of the roadmap suggests that the government was able to frame discussion through control of the agenda. Indeed, one of our state actor respondents admitted that 'The roadmap was drawn up by the government. It was largely drawn up beforehand'. On the other hand, the radical union representatives complained that the government refused to discuss the general austerity-focused orientation of macroeconomic policy in the social conferences. This, in part at least, is due to the fact that as Eurozone member, French macroeconomic policy is constrained by centralized euro-area economic governance, particularly through the European Semester.

*Articulation with the European Level*

For our interview respondents, any articulation between the European and national levels of social dialogue was very weak due to the institutional complexities involved in elaborating a clear, coherent message to be uploaded. Some recognised consultation on NRPs, but felt this is of little value as social policy remains an area of national competency, and finding a common position on EU questions in the CESE, where these questions are dealt with by the social partners alongside other civil society actors, is problematic. National positions are then filtered by the French government for negotiation with 27 other member states. The French unions therefore felt they had no influence and geared their action towards the national level, with EU affairs left to EU-level social partners. Input was felt to be more consequent where EU matters were dealt with in national law, for example provisions on the use of posted workers, which featured in the 2016 Labour Law.

The same weak articulation was also expressed for the downloading of concerns, although some recognised that the CSRs formed part of the ideational context within which policy debate took place (CFTC, MEDEF, CFDT, UNSA). Again, the radical unions were more likely to see the EU as imposing constraints, through austerity, on action and debate at the national level. We therefore now turn to an examination of the French CSRs and their relationship to social conferences in France. The annual recommendations given to France are summarised in Table 3 below.

**Table 3 here**

Several observations can be made from Table 3. The first is that the European Semester has intensified and made explicit the spillover from macroeconomic governance to social policy at the EU level. Indeed, as Clauwaert (2016: 11) has shown, the majority of CSRs for France

can be categorised as ‘social’ CSRs. Secondly, although not legally binding, the CSRs set out a consistent framework for economic and social policy. The accent is on debt and deficit reduction, to be achieved through liberalising trades; reducing costs, including tax and social insurance contributions, for business; reforming and reducing the cost of social protection and pensions; reducing labour market rigidities; and improving the labour supply through training and education.

There is, thus, considerable overlap with the themes of the social conferences. The action taken under the theme of employment (see Table 1) corresponds to the supply-side recommendations of the European Commission and European Council, as do reforms of education and training. Under pensions and social protection, there has been a notable reform of pensions, in 2014, which aligns closely to the more precise CSRs given in 2013 on this topic. Public sector modernisation has also, since 2013 and CSRs on the subject, sought to simplify bureaucratic procedures for companies. Finally, the Rebsamen Law of 2015 responds to the EU’s 2014 invocation to consider the impact of size-thresholds for company regulation through its reform of company-level representation structures (for details see Kessler 2016).

Thus, the CSRs appear to provide a template for government action at the national level. At times, however, it could be argued that the CSRs merely provide ex-post support for government action. This can be seen particularly in training policy, where the 2014 law on job security introduced the Individual Training Account, in line with CSRs dating back to 2011 to improve access to lifelong learning. However, this was a feature of Hollande’s 2012 presidential campaign and was informed by union ideas of ‘making employment pathways secure’ dating back to the mid-1990s (Milner 2012: 225-8). Likewise, the Tax Credit for

Competitiveness and Employment (CICE), eventually introduced in 2014, reduces social security charges for employers, although this was already in train before the 2013 CSR on the subject. Finally, according to one state actor, the inspiration for company-level collective agreements designed to maintain employment in companies facing financial difficulty through changes in wages and working time (and which was taken up in the 2016 Labour Law) came, not from the CSRs, but from the pacts for employment and competitiveness signed in German companies.

In other areas, however, government policy has clearly changed to align to the CSRs. Thus, in his election campaign in 2012 Hollande promised to undo the pension reforms carried out under Nicolas Sarkozy's presidency that had raised the retirement age from 60 to 62. The 2014 reform, however, left the legal retirement age at 62 and increased contributions and contribution periods for most workers, effectively raising the retirement age. Likewise, the 2015 Macron Law, named after the then Minister for the Economy, contained many liberalising trends (see below), in line with the 2014 CSR on the subject. In terms of the general focus of government policy, Hollande campaigned against the Fiscal Compact and the generally neoliberal and austerity focus of Eurozone economic governance, arguing for more redistributive tax and spend policies. However, from 2014 onwards, government policy focused on liberalisation, deregulation, labour market flexibility and a reduction in state spending in order to stimulate growth (McDaniel 2014), promoting what were, for the unions, the very austerity policies he had campaigned against. In this respect, it could be argued that government policy changed to align with the injunctions arising from the European Semester and that the first CSR, which always concerns budgets and deficits, is the most important one, conditioning the others, as it is the only one that is backed up by the threat of hard sanctions, in the form of the excessive deficit procedure, in the case of non-

compliance (Crespy and Menz 2015). This change of orientation in policymaking did not find favour with the more radical unions, and nor was it always openly discussed in the social conferences, sparking, at times violent, protest on the streets of France.

### **Conflict and Protest**

Indeed, in some areas, policy alignment with the CSRs conspicuously failed to generate consensus, and this generally occurred when issues were not raised in the social conferences. Thus, the National Pact for Growth, Investment and Productivity (the ‘Responsibility Pact’) reduces social charges for employers in exchange for job creation measures through the CICE. Although mentioned in the roadmap of the 2014 conference, it was not explicitly dealt with in the conferences. FO and the CGT did not sign the Pact and our interviewees from those organisations claimed a lack of consultation on the policy. Their organisations organised two days of national protest against it in 2014 (see Table 3).

Even more contentiously, the 2011 and 2014 CSRs on employment protection were subsequently reflected in the Law for Economic Growth and Activity of 2015, better known as the Macron Law, and the Labour Law of 2016, also known as the El Khomri Law after the then Minister of Labour. While some of the dispositions of these laws were the subject of discussion in the social conferences (restrictions on the use of posted workers in the case of the Macron Law and the CPA in the case of the Labour Law), many of their most controversial elements were not mentioned in any of the agendas or reports of the conferences. According to our interview respondents, this was because the issues were ‘too conflictual’ to be dealt with in that forum.

The Macron Law of 2015 liberalises many areas of economic activity, such as Sunday trading, the legal professions and bus operation. In line with CSRs of 2011 and 2014, it also made it more attractive for employers to sign agreements to maintain employment, by increasing their maximum period of application from two to five years. During this time, employers agree to maintain employment levels in return for changes in work organisation, including reduced wages and increased working time. Any employee refusing such changes may be dismissed without any alternative employment offered. In line with the 2014 CSR to combat labour market rigidity, the 2016 Labour Law notably rendered economic redundancies easier and made it easier to increase working time through company-level collective agreements (for details see Kessler 2016). In the face of stiff opposition, the law was finally passed in the French National Assembly on 21 July 2016 when the government for the third time, following two previous readings, resorted to Article 49.3, a legislative device that enables the executive to push legislation through parliament without a vote.

Both the Macron and Labour Laws gave rise to protest. As the Macron Law was being debated in parliament on 26 January 2015, the CGT, FO, FSU and Solidaires called for protests in Paris other French cities, with further protests occurring on 12 May and 24 June. The main focus of discontent was the law's provisions for extending Sunday opening for shops. The most vociferous, and at times violent, protest, however, was reserved for the Labour Law. Indeed, the radical unions – the CGT, FO FSU and Solidaires - organised sustained opposition to the law in conjunction with student movements. Between 3 March and 14 June, twelve national days of demonstration took place with two – on 31 March and 14 June –, according to the organisers, seeing over one million people protesting in the streets across France (the police put the figures much lower at 390,00 and 125,000 respectively). Although demonstrations continued until 15 September, their scale was subsequently much

reduced (Durand 2016). The main focus of anger was the proposal to allow for more flexible working time and reduced overtime payments through local agreements that could derogate from higher level, industry, agreements. These pieces of legislation were not discussed in Hollande's social conferences, and union leaders complained of a lack of consultation, particularly over the Labour Law, a feeling reflected in our interviews. Even the respondent of the CFDT, which did not take part in the protests, described consultation over the Labour Law as 'brief'.

More widely, however, the general trend in the decade from 2005 to 2014 was towards a reduction in strikes, particularly from 2011 onwards. The period from 2005-2009 saw an average of 129 individual workdays lost per thousand employees, compared to 74 from 2011-2014 (Ministère du Travail 2015: 645). However, after two years of relative peace, when only two national protest movements took place, the period from 2012 also saw more national-level 'days of action' called by trade unions (two of the four in 2012 were of EU origin rather than national – see Table 4). 2015 and 2016 saw days of action in protest at the passage of the Macron and Labour Laws, as noted above, with 2016, in particular outdoing the recent high point of the 2010 protests against Sarkozy's pension reform.

**Table 4 here**

What is noticeable is that within six months of the first social conference in July 2012, one of the themes addressed and which would lead to a national level collective agreement and legislation – that of employment security – had already led to a national mobilisation on the part of the unions. The CFDT and UNSA appeared satisfied with subsequent discussion, but the radical unions continued with three further days of action on and following the day of the



signing of the agreement on 11 January 2013. In general, however, protest was reserved for those issues not debated in the social conferences and where the radical unions, at least, complained of a lack of consultation: the 'Responsibility Pact' in 2014 and the Macron and Labour Laws in 2015 and 2016 respectively.

## **Conclusion**

In replicating EU institutions and processes at the national level, France appeared to be ideally placed to implement EU ambitions for a reinvigorated social dialogue and, indeed, with the election of François Hollande in 2012, seemed, on the surface, to be pre-empting such ambitions. However, what the President presented as the central 'method' of his stewardship soon unravelled. From this overview of the social conferences held between 2012 and 2015, several observations can be made.

Firstly, tensions rose from 2014 with a refocusing of government strategy, meaning that consensus over policy could only be reached with the reformist unions. The radical unions, rather than seeing their own policy orientations shaped through processes of social dialogue, on the other hand, fell back on oppositional action and rhetoric, as they believed they could not influence debates and outcomes that were framed by the neoliberal outlook of policymakers who controlled the agenda of the social conferences. In effect, the social conferences failed to increase trust by socialising the radical unions into a policymaking process based upon rational deliberation to achieve consensus. This was, however, possible with the reformist unions. This strongly suggests that European Commission plans to reinforce the social dialogue through increasing the input of the social partners into the European Semester risk coming to nothing in those countries where there is not already a culture of social compromise and strong, centralised reformist trade unions able and willing

to enter into compromises in an attempt to promote economic competitiveness and employment. Indeed, the French case suggests that rather than social dialogue functioning to elicit consensus, some pre-existing consensus, in the sense of shared cognitive frameworks, needs to be in place for it to function. Without this, the result is conflict over the framing of issues and the consequent action required.

Even where cognitive frameworks do not differ as radically as they do in the French case, however, the promotion of social dialogue may not be sufficient to reverse the tide of growing Euroscepticism as hoped by the EC. In terms of the multi-level governance framework and spillover, the interaction between national-level social dialogue and EU-level policymaking remained extremely weak despite institutional innovation that appeared to reflect EU ambitions. While institutional complexities constrain the possibility of uploading from the national to the EU level for the unions, the European governance architecture itself provides a constraint on social dialogue at the national level. The CSRs provided, at the very least, through processes of vertical and horizontal spillover, a normative frame for government policy that strongly encouraged deregulation and liberalisation as well as cuts in social spending, thereby reducing the margin for manoeuvre for union-friendly deals to be struck and the possibility of consensus. Without a change in focus of macroeconomic governance at the EU-level, the prospects for greater national level social partner input into the construction of a more social Europe, or even into domestic policymaking, do not, therefore, seem propitious. This should be of concern at a point in time when it is more needed than ever due to the informal encroachment of EU competence into the area of social and labour market policy through processes associated with the European Semester.

Of course, France could be seen as just a deviant case, and further comparative research is needed to see whether Juncker's call for an improved social dialogue is being met in other

countries, what the necessary conditions for this are, and what the results of this may be. On the other hand, France may serve as a critical case study, and as a warning for other countries that some form of dialogue, however imperfect, is better than none at all. It is noticeable that the most vociferous, and at times violent, opposition to government reforms was reserved for those pieces of legislation that were not discussed in the social conferences. In this sense, the function of social dialogue may not be to elicit consensus, but to legitimise policymaking through open discussion, thereby dampening conflict through an acceptance of the rules of the game. In our interviews, the FO respondent, even though vehemently opposed to government policy, accepted the government's democratic right to legislate. What was not accepted was that such legislation is passed with little or no discussion with stakeholders.

A further warning, for both other countries and the EU, comes from developments in France at the time of writing. Following his election in 2017, President Macron abandoned the social conferences in favour of a 'vertical' exercise of power. As a result, from November 2018 through to the time of writing in February 2019, France witnessed protests against government policies every weekend in Paris and other towns and cities as the 'gilets jaunes' took to the streets in hi-vis jackets that gave the name to their movement, complaining that their voices were not being heard (Boutin and Landier 2019). As suggested above, while social dialogue may not lead to consensus, it may provide a channel for such opposition to at least be discussed, thereby avoiding the violence and chaos witnessed on a regular basis in present-day France. In instituting a 'great national debate' in response to the protests, Macron has accepted that some form of dialogue is preferable to unchannelled protest from the marginalised.

## Notes

1. The organisations that participated in this study are the radical left unions: *Confédération générale du travail* (CGT), *Force Ouvrière* (FO), *Fédération des syndicats unifiée* (FSU), *Union syndicale solidaire* (USS) also known as *Solidaires*; reformist unions: *Confédération française démocratique du travail* (CFDT), *Confédération française des travailleurs chrétiens* (CFTC), *Union nationale des syndicats autonomes* (UNSA); and employer organisations: *Mouvement des Entreprises de France* (MEDEF) and *Union des entreprises de proximité* (U2P).
2. To engage in national collective bargaining, the 2008 Law on Trade Union Representativeness stipulated that unions must have at least eight per cent of the votes cast in professional elections. In 2013, five organisations achieved this and were therefore deemed to be nationally representative, with the so-called reformist unions – the CFDT, CFTC and CFE-CGC – having a 51%-49% majority over the so-called radical unions, the CGT and FO (Ministère du travail 2013). Unions not achieving this threshold were, on the radical side, the FSU and Solidaires, and on the reformist side, UNSA.
3. Such fora include national committees on issues such as collective bargaining, employment and training, pensions and the bipartite management of social security funds.

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<sup>1</sup> The terms 'reformist' and 'radical' are refused by the so-called radical unions, who argue that they also make positive proposals. They are used here, however, as a form of shorthand as the radical unions are generally left-leaning and oppose the general direction of government policy as being too favourable to employers due to its focus on competitiveness and austerity.

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<sup>2</sup> Such fora include national committees on issues such as collective bargaining, employment and training, pensions etc. To a long list could be added the bipartite management of social security funds, but these are not considered here as they generally deal with the technical aspects of social security financing and funding.