

# COVID-19 and Labour Law: France

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## Abstract

In France, the main goal of the legislation adopted in response to the health crisis is to avoid dismissals by the development of short-time working and more flexibility in working time. New measures protect also unemployed and independent workers. Several measures have an impact on social dialogue in the firm.

**Keywords:** Covid-19; Labour Law; Short-time work; Working time flexibility.

In France, the impact of containment would be just over 30 points of monthly GDP per month of containment<sup>1</sup>. On April 9 2020, French economic activity would be reduced by 36% compared to a normal situation<sup>2</sup>.

The public authorities have both sought to preserve jobs, by extended short-time working, and introduced new derogations from the Labour Code.

Since the 24<sup>th</sup> of March, France lives under a new legal regime, called the sanitary state of emergency (*état d'urgence sanitaire*), created by an Act of Parliament of March 23. This peculiar state of emergency may be declared by the government for a month and may be renewed by Parliament without any time-limit. The Act derogates to this procedure and already declares the sanitary state of emergency for two months.

It has been extended until July 1 by an Act of May 11.

During this sanitary state of emergency, the Prime minister is authorized to take a number of decisions in order to protect the health of the population. The Act of Parliament lists ten possible types of decisions, like quarantine, limitations to freedom of enterprise, or closure of various public places. The Act also entitles the government to adopt orders based on article 38 of the Constitution (delegation of legislative power to the government) in order to adapt Labor law. This delegation of legislative power is valid for

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<sup>1</sup> OFCE, Policy brief, 65, 30 March 2020; [www.ofce.sciences-po.fr](http://www.ofce.sciences-po.fr)

<sup>2</sup> <https://www.insee.fr>.

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three months. The government has already published several orders, which give more flexibility about annual leave, working time, rest period and the information and consultation of the working council<sup>3</sup>. Part of those new rules increase flexibilization at work. Until the end of the year 2020, the employer may require employees to take their rest days. In some companies that the state has listed as strategic, the employer can impose an increase in working hours and a reduction in daily and weekly rest periods.

President Macron announced out of containment as of May 11. Some activities remained at a standstill (restaurant, shows...). The schools reopened under special conditions but the universities will not reopen until in September. A second stage allowed to reopen more activities and the possibility to travel freely inside the country since June 2. Restaurants and theaters will reopen but several limits will remain in Paris and around. Public transport will be at their full capacity at the end of June.

On April 16, the government announced a €100 billion emergency plan to help firms in economic difficulties, short-time workers and vulnerable people.

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A government order (*décret*) extends the possibilities of short-time working<sup>4</sup>. The financial cost for employers is cancelled in most cases. This legislation is extended to new forms of work and the procedure is easier. The indemnity due to the employee covers at least 70% of his previous gross remuneration, apart workers who have minimum wage. As of May 19, 12.7 million employees were affected by the short time working.

Except for the sectors not authorized to reopen, the State will reduce to 85% the portion reimbursed to companies benefiting from the short-time working on June 1.

The recent reform of unemployment insurance, which is tougher on the rights of the unemployed, is postponed until September. The rights for the unemployed are maintained.

There has been a controversy in the building industry between the government and sectorial federations about health and safety on building sites. The government wanted the activity to resume quickly. An agreement has been reached but the construction sites have not reopened.

Unions and workers have warned about risk of infection in the transport sector for deliveries, supermarkets, and online sales warehouses. They threatened to exercise their right of withdrawal. Most employers have decided to reinforce measures of health and safety at work. Trade unions have sometimes decided to go to court to suspend the activities of companies that did not sufficiently respect the health and safety of workers. For instance, the Court of appeal of Versailles upheld on April 24th a ruling condemning Amazon to assess occupational risks with the involvement of elected staff representatives. It imposed restrictions on Amazon's activities. Renault and La Poste got similar sentences.

The government has published sectorial guides about Health and Safety.

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<sup>3</sup> <https://www.vie-publique.fr/dossier/273985-les-ordonnances-covid-19-du-25-mars-2020-dossier>

<sup>4</sup> <https://travail-emploi.gouv.fr>

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Teleworking is developed with a flexible procedure, but 18,8 millions of workers can't be teleworking<sup>5</sup>.

Parents who stay at home with children under 16 due to school closure are covered by the short-time activity.

Short-time working is extended to temporary workers, domestic workers, sales representative and child minder. The resident permit for foreign workers is prolonged. A solidarity fund is created for independent workers.

Among the government measures announced on April 16, several emergency financial aid packages were announced for families in need and precarious students. This assistance will be automatic, without prior formalities.

Bonuses will be paid to care staff and for civil servants who continued their activity.

Since May 1st., leave for childcare or those issued to vulnerable persons at increased risk of developing severe forms of Covid-19 are covered by the short-time system.

Since the middle of March, public authorities have had teleconferences with Social Partners several times a week. But they did not play a role in the choice of measures. Some of the new derogations about paid holidays need a collective agreement in the firm. But in several authorized sectors, employers can unilaterally derogate to working time (maximum working hours, weekly rest...). A new Act allows a collective agreement at the firm level to derogate at the collective agreements at sector level about fixed-term contracts and temporary work.

Many collective agreements are signed in firms. For instance, an agreement at Renault from April 2, has been negotiated to "guarantee the health and safety of employees during the Covid-19 pandemic period, manage the sub-activity and its impacts, in particular by [maintaining] the employment of all employees on permanent and fixed-term contracts" and "their net remuneration" and to "create the necessary conditions for the resumption of activity in the future". These agreements deal with many issues (production organisation, working time, protection of health and safety at work, etc.). They have a very short duration (generally 3 months).

The Unions complain about the lack of concertation with the government in the last reforms which increase flexibilization and simplified the procedure with the working council (*comité social et économique*).

The arrangements for informing and consulting workers' representatives (the Social and Economic Committee, *comité social et économique*), have been changed. Its meetings can be held by videoconference as well as by conference call or instant messaging. In order to promote the rapid resumption of economic activity under protective conditions for employees, there are certain time limits for the consultation of the Social and Economic Committee. When topics are related to COVID-19, the consultation periods have been

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<sup>5</sup> OFCE, Policy brief, 65, 30 march 2020

reduced from 1 month to 8 days. In a number of cases, the opinion of the CSE does not need to be issued prior to the implementation of the measure.

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