

International workgroup meeting
1st-2nd of February, 2016
Vilnius, Lithuania

CFDT Presentation

I will talk about the reform of trade union representation system in France. An evolution decided in 2008 in an agreement negotiated and signed by the CFDT and CGT (The two main trade unions) with the employers.

It took five years to create a map of union representation. The time needed to put in place a system to establish the reality of the weight of each union in the most reliable manner.

Before I explain how we did it concretely, I will present what made this reform necessary, the philosophy that has guided the CFDT during the negotiation and the monitoring of the trade unions representativeness.

I. Why a reform?

1. "Legitimacy crisis" for Trade unions

French unions were often criticized for their lack of legitimacy:

- First of all because of their low membership rate (the lowest among OECD countries),
- Also because the trade unions representativeness was based on legal criteria that were largely obsolete (they were more than 60 years old!).

This weakened social dialogue.

2. Need to assess old criteria

Former representative system was based on outdated and rigid criteria inherited from the post second world war (such as the patriotic attitude during the Occupation).

Five organizations (CGT/ CFDT/ Force ouvrière / CFTC (Christian) / CGC (white-collar) were recognized as representative by a 1966 decree and had all related rights. This representativeness was presumed and could not be disputed.

3. The development of new Trade unions

The labor landscape had changed and new organizations have knocked on the door. (such as SUD, UNSA, FSU, etc.).

They did not benefit from the presumption of representativeness. Therefore, they had to prove their representativeness in order to officially participate to the social dialogue (labor talks) in companies or in what we call "branches" (business sector).

4. The challenges related to the representativeness

The representativeness offers many rights that require responsible, legitimate organizations. Indeed, only representative unions can:

- Sign collective/labor agreements which have an “erga omnes” effect. That is to say that an agreement signed by representative trade unions applies to all employees (whether they are members or not) in the company, the branch or in all of France.
- Designate a union representative in any company,
- Present candidates in the staff representative elections in the first round.
- Participate in the management of bipartite commissions,
- Benefit from some grants,

5. Increased role of social dialogue.

A law voted in 2007 on “the modernization of social dialogue” accelerated the need to reform the criteria of representativeness.

Indeed, the law states that social partners (employers’ representatives and employees’ representatives) must be consulted on any government project or prior to any draft bill involving reforms in the areas of labour relations, employment or professional training.

This required the unions to have legitimacy. It was therefore necessary to change the criteria of representativeness.

A consultation was held in 2007 that led to a national labour agreement in 2008 between the employers’ representatives and the two main French trade unions: CFDT and CGT.

II. What was the philosophy of the CFDT for this negotiation?

1. More legitimacy for social dialogue stakeholders

It is important that the Trade unions involved in social negotiations be really representative. Otherwise the collective labour agreements could be denied legitimacy. This requires that representativeness is decided by workers.

2. More legitimacy for negotiated agreements

Previously, the signature of only one representative union was enough to make an agreement. The others had only a “majority opposition power” (they could oppose if they represented a majority in number).

So it happened often that a trade union committed to an agreement, while others criticized.

The system had to evolve to make the signed agreements unquestionable. Therefore everyone would have to take the responsibility to sign or to oppose.

3. More legitimacy for representatives

The representative trade unions have the right to appoint representatives/delegates in the companies (those negotiating agreements in the companies).

It was also necessary to review the rules of representativeness in order to give greater legitimacy to the representatives of these unions in workplaces.

4. More financial transparency

Representativeness requires also financial accountability and transparency. After scandals that have been splashing the unions, it was necessary to establish rules on financial transparency, and ensure the autonomy of trade unions when it comes to funding, including public ones.

III. Representativeness: from presumptions to proofs

Seven representativeness criteria have been decided (cumulative criteria):

- **Financial transparency:** Henceforth, unions and professional organizations (employers' representatives) are required to prepare their accounts and ensure publicity.
- **Independence** from employers and the government,
- **Respect for republican values** (particularly with regard to the statutes)
- **Influence** : Influence is characterized by activity and experience
- **Seniority:** A minimum of two years in the field.
- **Number of members.**
- **Electoral weight :**

We wondered whether we should we take into consideration membership or electoral audience.

We took both but membership is not considered as important as electoral weight (given the low union membership rates in France).

• How to measure Electoral weight?

For the CFDT **the audience must be measured as close as possible to the employees.**

This is the option that was chosen: we chose to measure the union electoral weight, based on the election returns in the workplaces. (The works councils elections – compulsory from 50 employees – or the Staff representatives election – in the smaller companies).

• What level of hearing?

To be considered as representative a union must weight :

- 10% of the vote cast in the company level
- 8% of the vote cast in the 'branch" level
- 8% of the vote cast in the national in inter-professional level

We have not chosen the easy I confess and it required lengthy work.

• A 4-year electoral cycle

The results, once recorded, are not moving for a new cycle of 4 years, after which it recalculates representativeness.

IV. Result ?

Nothing has changed the representative trade unions remained the same. None has disappeared but we now know better the weight of each organization in the social dialogue:

CGT : 26,77 %

CFDT : 26,00 %

CGT-FO : 15,94 %

CFE-CGC : 9,43 %

CFTC : 9,30 %

All this for what? Representativeness has impacts on:

- **Collective bargaining:** to negotiate collective labour agreements, the unions must have 10% and an agreement is only valid if signed by trade unions which together represent 30% and 50% unopposed. So we stopped to have agreements challenged politically by trade union;
- **Trade union representatives at company level:** now the trade unions that designate them are legitimate. The 2008 law has even added a feature to be nominated as a representative/delegate: the person must have 10% of the votes, that is to say that people have not scratched him or her in the ballot.
- **The right to be part of social dialogue commissions:** only for representative trade unions.

V. And now ?

Several tasks has to be done by 2017:

- Improve the system for measuring the trade union audience to improve participation, resolve hiccups,
- Reduce the number of occupational branches go from 700 to 100 branches in 10 years.
- The employer's representative, on going recovery criteria for Trade union, but not the hearing, since no elections, but membership of employers' organizations.