



# Changes in labour law since 2017



**Séminaire OBES à Paris, le 13 septembre 2019**

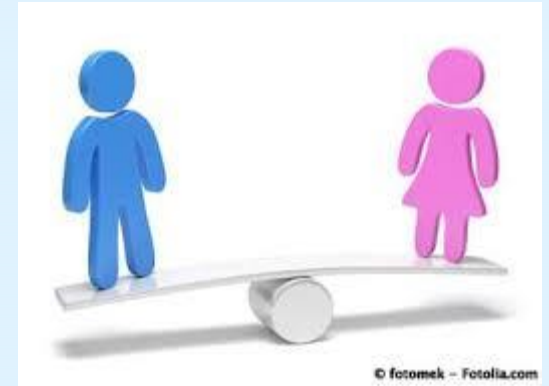
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**Au plus près des salariés et des entreprises**



# Balanced representation



- Since January 1, 2017, the lists of candidates for professional elections must respect the principle known as “balanced representation”.
- This means that for each electoral college, the lists comprising several candidates must be composed of a number of women and men corresponding to the share of women and men in the registries of the electoral list.
- These lists are made up alternately of a candidate of each sex until exhaustion of candidates of one of the sexes.
- These provisions apply both to the list of nominees and to that of alternates.

*Article L 2314-30 du Code du travail*

# The themes of the legislative decrees modifying the labour law called "MACRON Decrees"

## **5 Presidential Decrees published on September 23, 2017:**

"Strengthening collective bargaining"

"The framework for collective bargaining"

"Predictability and securing working relationships"

"The new organisation of social and economic dialogue in the company promoting the exercise and promotion of union responsibilities"

"The professional prevention account"

As well as an order known as the "broom" order of December 20, 2017.

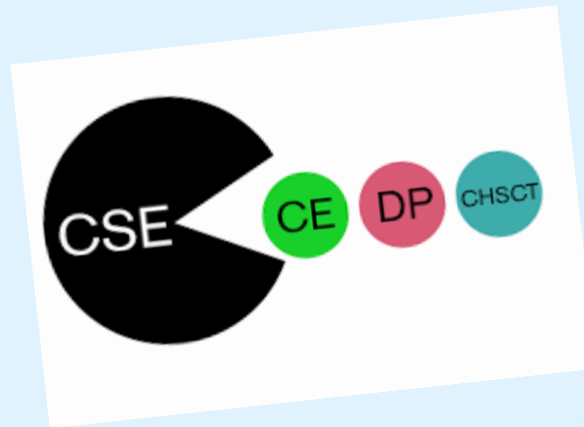
In addition, application decrees, published between September and December 2017.



# The establishment of a new body, the CSE (Social and Economic Committee)

# The deadlines and procedures for setting up the CSE

- Replacement of 3 bodies (Staff Representatives, Works Council and Health, Safety and Working Conditions Committee) by a single body, the Social and Economic Committee
- Compulsory implementation of the CSE no later than December 31, 2019.



# Limiting the number of successive terms

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Limitation to 3 successive mandates, in companies with 50+ employees from the staff delegation to the CSE.



Limitation:

Applicable to mandates taking effect after January 1, 2018.

The PAP can also exclude this limit of 3 consecutive terms, except in companies with at least 300 employees.

# Levels of implementation of the CSE

- Level of implementation of the Committee: Levels of implementation of the CSE

Either at the enterprise level,

Either at the SIU level,

Or at the inter-company level.

- New: Local representatives, chosen from among the members of the social and economic committee or appointed by it, may be established by agreement.

## CSE missions in companies with between 11 and less than 50 employees

- Present individual and collective complaints to the employer;
- Promote health, safety and working conditions in the company, using also the right to alert;
- Carry out ATMP surveys;
- Submit to the labour inspectorate any complaint or observation relating to the application of the legal provisions, the control of which it ensures;
- Manage ASC;
- Ensure or control the management of physical or sports activities and decide to participate in their funding.



## CSE missions in companies with at least 50 employees



- Ensure the collective expression of employees.
- Be informed and consulted on questions concerning the organization, management and general operation of the company, in particular on:
  - Measures likely to affect the volume or structure of the workforce;
  - The modification of its economic or legal organization;
  - Hours of work or conditions of employment, work and professional training;
  - The introduction of new technologies, the important development modifying health and safety conditions or working conditions.

# Cases of recurrent CSE consultations in companies with at least 50 employees



**II Public policy:** - Strategic directions of the company; - Economic and financial situation of the company; - Company social policy, working conditions and employment.

## **III Supplementary provisions**

Strategic directions of the company;  
Economic and financial situation of the company (consultation at company level);  
Company social policy, working conditions and employment.

## **I Scope of negotiation**

A company agreement, or, in the absence of such, the CSE can define:

the content, frequency and methods of recurrent consultations of the CSE;

the number of annual meetings of the CSE (cannot be less than 6);

the levels at which consultations are conducted and their articulation.

the possibility for the CSE to issue a single opinion on all or part of the consultation topics.

The frequency of consultations (cannot be more than 3 years).

A company agreement or, in the absence of such, the CSE defines:

The organization, architecture and content of the BDES;

- The operating methods of the BDES (access rights, level of implementation in companies with at least 50 employees, consultation and use methods)





## I Public order

Means of controlling the activity of  
employees implemented;

Restructuring and downsizing of the  
workforce;

Collective dismissal for economic  
reasons;

Takeover bid;

safeguard, recovery and  
compulsory liquidation procedures.

Recruitment methods and means of  
controlling employee activity

## II Scope of negotiation

The company agreement can define:

content of ad hoc consultations and  
information from the CSE;

terms of these consultations, including the  
number of meetings;

time limits within which the committee's  
opinions are delivered.

A group agreement may provide that ad hoc  
consultations are carried out at the level of the  
group committee.

## III- Additional provisions:

- one month after the election of the CSE, the  
employer communicates economic and  
financial documentation to it

- restructuring and reduction of the workforce -  
right to alert

# establishment of the Health, Safety and Working Conditions Commission (CSSCT) for information and consultations on these themes

## ► **Composition of the commission**

CSSCT members appointed by the CSE from among its members, by a resolution of the CSE by a majority of the members.

Commission chaired by the employer.

The commission includes at least 3 members representatives of staff, including at least one representative from the middle management.

Duration of the commission modeled on that of the CSE.

## ► **Missions of the commission:**

Health, safety and working conditions.





## The Works Council (CE)



- Implementation by majority company or extended branch agreement.
- The Works Council has the negotiating power and brings together the staff representation functions.
- It has a right of veto on certain subjects (eg. training plan).
- The CE is only competent to negotiate if it is question to put in place social rights.



## The use of expertise in certain consultation cases: modification of the funding rules

### ► Principle:

The costs continue to be borne 100% by the employer.

### ► Exceptions:

Co-financing (20% CSE / 80% employer) is maintained for expertise on the strategic directions of the company and extended to ad hoc consultations outside the project of collective economic layoff.

Expert fees are not borne by the employer for "free expert reports".

# Employees' right to expression



- Willingness to modernize the direct and collective right of expression of employees (article L 2281-1 of the Labour Code) by promoting the use of digital technologies.
- Limit: the exercise of this right must not result in the dissemination of information aimed at discrediting the company.
- The company's social partners, as part of the compulsory annual negotiation on gender equality, set the terms for the exercise of the right to expression. In the absence of social rights to negotiate or in the absence of an agreement on equality, the employer must consult the CSE.

53/5000

# Restructuring of professional branches



## Speeding up the process of restructuring the professional branches

- The deadline given to the Minister to merge the branches goes from 3 years to 24 months.
- Branches with fewer than 5,000 employees can also be merged "ex officio by the Minister".



# The professional account for the prevention of professional risks

# Prevention of hardships at work



Since January 1, 2019, it is an obligation for companies with 50 or more employees:

to initiate negotiations on a hardship prevention plan;  
failing this, to establish an action plan, which would be triggered when the cases of occurrence of absences due to accidents and illnesses is greater than 0.25.

# Prevention of arduousness

## ► 6 arduousness criteria:

Night work

Repetitive work

Work in alternating hours

Work in hyperbaric environment

Work in noise

Work in extreme temperatures



## ► Elimination of the obligation to declare by the employer for 4 factors:

Handling heavy loads

Painful postures

Mechanical vibrations

Chemical risks