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**Employment protection
and Labour market policies:
Trade-offs or complementarities ?
The case of France**

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Preface

This paper is part of a series of four papers that have been prepared for the research programme "Adjustment of labour markets to economic and structural change: labour market flexibility, security and labour market policies" by the labour market policy team (LMPT) of the ILO's Employment Strategy department. The three other papers deal with changes in Denmark, Japan and the USA.

It is common today to ask for changes in the policies and institutions of the labour market. Numerous authors have proposed an overhaul of these and the social protection systems in general, because the labour markets are said to face a secular change towards more and more short-term and flexible jobs. These jobs would not allow workers – as did the longer-term employment relationships from earlier decades – to qualify for many of the benefits of the social protection system, such as unemployment, health, and retirement. The increase in non-standard work arrangements would therefore require a new look at social protection and labour market policies.

However, many of these prescriptions were not based on a thorough analysis of the changes in the labour market but on some emerging trends, which seemed to indicate such a secular shift (especially in the "end-of-work" literature). A certain scepticism remained about the actual extent of changes. Was salaried work really vanishing? Was long-term commitment between workers and employers a thing of the past? Had job stability gone or was it on the way to fade away?

Our project took a closer look at such assertions and found an astonishing degree of job stability, accompanied by flexibility for some groups – but not for the whole labour market. This was especially true for Europe, but even in the United States, as research has noted, the link between workers and their companies was weakened, but not broken.

The present paper deals with the developments in France. As the authors show, France could be classified as a country which operates a sort of complementarity between employment protection and labour market policies. Those already well protected by employment protection policies are also those that dispose of a whole array of labour market policies (of the basically passive, income-replacement type, such as early retirement) when the problem of lay-offs arises. This system results in long-term employment relationships, which are eventually cut off by early retirement but yields very long average job tenure. However, other groups, basically the young of both sexes, are excluded from the system, or require long periods of joblessness and precarious work before they can access employment. For this group a particular trade-off exists: lack of employment opportunities for the young is partially compensated by active labour market policies. This makes France an interesting case of massive policy intervention for the young, compensating in part for segmentation, while maintaining to date its adult workforce in jobs over the long term.

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1. Introduction

France is usually considered to have significant labour market rigidities. OECD (1999) found that the level of employment protection legislation (EPL) is high, which means that flexibility is limited. Government policy plays an important role in the French labour market: at the end of the 1990s, about 3.2 per cent of GDP was allocated to labour market programmes (LMPs), compared to 5.6 per cent in Denmark, but only 0.5 per cent in Japan and 0.4 per cent in the United States.¹ Even divided by the number of unemployed, this index remains quite high in France.

As a result, there seems to be a “complementarity” rather than a trade-off between EPL and LMPs in France. Since the end of the eighties, such a balance has been criticized from a theoretical point of view. According to the “transitional labour market” approach (Schmid, 1995), protection should be focused not on *job preservation*, which hampers the necessary labour market flexibility, but rather on *worker mobility* in the labour market; consequently, there should be a trade-off, as in Denmark, between EPL and LMP, i.e. low EPL but very active LMP, in order to continually enhance “employability” and avoid long-term exclusion from employment. This particular debate has been introduced in France in recent reports (Supiot, 1999; Belorgey 2000), but it is only the latest step in a more general discussion about deregulating the labour market. This has been a central topic of French political debate for the last 15 years.

Reforms have been undertaken during this period, so now we need to know if the French labour market is still rigid compared to other OECD countries. How did these reforms affect the interaction between EPL and LMP, and what was their impact on the overall functioning of the labour market?

Chapter 2 assesses the flexibility and stability of the French labour market over a period of time. The main finding of this empirical study is that flexibility did indeed increase during the 1980s and 1990s, but that it was “contained” at the margins of the labour market: the core of permanent prime-age workers seems to have escaped flexibilization. As a result, the French labour market appears to be “dualistic”, and the “insider/outsider” model seems to be confirmed.

Chapter 3 describes the interaction between EPL and LMP. The “complementarity” hypothesis is far from valid at a disaggregated level: it is necessary to differentiate between age and gender groups, as well as between different types of LMP. If prime-age and, to a lesser extent, older workers enjoy both high EPL and high LMP, the trade-off model seems to apply to the youth labour market.

Chapter 4 analyses the causes and consequences of the interaction between EPL and LMP. Their characteristics must be understood in the context of the French welfare state and the functioning of the labour market. The male prime-age worker emerges as the central pillar of this system. As a consequence, he benefits from both EPL and LMP, partly at the expense of outsiders.

Chapter 5 assesses the recent debate on reforming EPL and LMP. It focuses on the discussion initiated recently by the “social re-foundation” project presented to Government by the employers’ organization. This project has not yet led to any new reform measures.

Finally, Chapter 6 draws some conclusions from our study, and proposes some approaches to reform.

¹ Figures taken from OECD, 1999.

2. Employment stability and flexibility

2.1. A global analysis of the French labour market

In 1998, a total of 1.7 million workers² were in temporary jobs including fixed-term contracts, employment agency work, training schemes³ and temporary jobs in the public sector. This type of work has become much more common since the early 1980s (table 1). In 1998 there were four times more temporary jobs than in 1983, while total employment had risen by only 9 per cent. The number of temporary workers in the public sector or in training schemes had multiplied by five. This remarkable growth is the result of labour market policy (LPM), which developed temporary work in the public sector in order to increase the job opportunities for young people and the long-term unemployed.

Temporary agency work and fixed-term contracts tripled between 1983 and 1998. Temporary contracts fulfil several functions of interest to employers. They make it possible for firms to:

- adapt their manpower to economic fluctuations. In other words, they improve external flexibility;
- focus on their main business and subcontract activities of minor importance. Subcontractors often use short-term contracts because they are the first to suffer from economic shocks;
- test new workers and select the best of them.

These various roles of temporary contracts explain their growing importance in labour market flows. In 1998, fixed-term contracts accounted for more than 70 per cent of entries and for 61 per cent of exits from firms employing more than 49 workers (table 2).

² Except self-employment, apprentices and youth on military service.

³ The only training schemes taken into account by the INSEE (French National Institute of Statistics) in these data are those which rely on an *employment contract* (except apprenticeship). The beneficiaries are considered as “employed” by the ILO.

Table 1: Evolution of the different types of employment contract (%)

	1983	1987	1990	1992	1994	1996	1998
Fixed-term contracts in the private sector	1.5	2.8	3	3	3	4	5
Temporary agency work in the private sector	0.6	0.7	1.5	1	1	1.5	2
Training schemes and temporary jobs in the public sector	0.3	0.9	2	2	3	3	3
<i>Total of temporary jobs</i>	<i>2.4</i>	<i>4.4</i>	<i>6.5</i>	<i>6</i>	<i>7</i>	<i>8.5</i>	<i>10</i>
Open-ended contracts in the private sector	73.2	70	67.5	68	66.5	65.5	65
Open-ended contracts in the public sector	24.4	25.6	27	25	26	26	25
Total (%)	100	100	100	99	99.5	100	100
Thousands	17 125	17 096	18 630	18 827	18 920	19 470	19 808

Source: Enquêtes Emploi, INSEE; field: workers except self-employed, apprentices and youth on military service.

Table 2: Reasons for entry and exit (firms with more than 49 workers)

	1984	1986	1988	1990	1991	1992	1993	1994	1995	1996	1997	1998
For 100 workers												
<i>Entries</i>	<i>20</i>	<i>22.9</i>	<i>28.2</i>	<i>32.2</i>	<i>29.8</i>	<i>27.7</i>	<i>25.6</i>	<i>29</i>	<i>30.5</i>	<i>30</i>	<i>31.6</i>	<i>34.4</i>
Fixed-term contracts	12.3	15.3	19	21.1	19.2	18.8	18.1	21.2	22.6	22.1	23.2	24.7
Open-ended contracts	5.2	5.3	6.6	8.8	8.1	6.7	5.1	5.4	5.6	5.6	5.9	6.9
Transfers in entry	1.2	1.3	1.4	1.3	1.4	1.3	1.5	1.4	1.3	1.4	1.4	1.5
<i>Exits</i>	<i>22.5</i>	<i>25.1</i>	<i>28.6</i>	<i>31.8</i>	<i>30.9</i>	<i>29.7</i>	<i>28.5</i>	<i>29.1</i>	<i>30.1</i>	<i>30.5</i>	<i>31.2</i>	<i>33.4</i>
End of fixed-term contracts	10	11.9	14.2	15.9	15.3	15.7	15.9	17.5	18.8	19	19.5	20.5
Quits	4.8	4.9	6.1	8	6.8	5.4	3.8	3.9	4.1	3.8	3.9	4.8
Lay-offs for economic reasons	2.1	2.3	1.8	1.1	1.6	1.8	2.2	1.4	0.9	1	1	0.8
Other lay-offs	11.2	11.4	11.5	11.6	11.9	11.9	11.6	11.5	11.5	11.5	11.5	11.6
Transfers in exit	11.5	11.6	11.7	11.7	11.7	11.7	11.8	11.6	11.6	11.6	11.8	11.9

Source: INSEE and Ministère de l'emploi et de la solidarité; field.

Part-time jobs proliferated during the 1990's (table 3). Between 1982 and 1998, the proportion of part-time workers rose by 8 percentage points, increasing from 9 to 18.1 per cent of all workers. The years since 1992 have seen a boom in part-time work, caused by three main factors:

- Government granted partial exemption from social insurance contributions for employers hiring part-time workers, or converting full-time positions into part-time jobs;

- social insurance contributions were also reduced for firms employing low-wage workers. Until the first law on the reduction of working time (May 1999), the relevant figure was the monthly, not the hourly wage. Consequently, if working time was short, employers could benefit from the reduction. To put it in another way, hiring a part-time worker was a way of reducing social insurance contributions;
- temporary jobs in the public sector, created by the LMP, are often part-time (see Chapter 3 below).

The growth of part-time work mainly resulted from increased “involuntary” part-time work⁴. The number of part-time workers looking for a full-time job rose from 800,000 in 1990 to 1.5 million in 1998. During the 1990s when the rate of unemployment reached 12 per cent, many people accepted a part-time job in preference to no job at all. Thus, the number of part-time workers increased by 67 per cent and the number who wanted a full-time job by more than 90 per cent.

Table 3 : Evolution of part-time work (%)

	1983	1987	1990	1992	1994	1996	1998
Share of part-time employment in total employment	9	11.6	12.2	12.9	15.4	16.7	18.1
Share of “involuntary” part-time employment in total part-time employment	UN	UN	37	38	42	42	42.5

Source: Enquête Emploi. INSEE; field: workers except self-employed, apprentices and youth on military service.
UN = unknown.

In spite of the strong growth of flexible jobs (part-time and temporary), the global configuration of the French labour market has seen no radical change. First, temporary jobs account for only 10 per cent of total employment. They doubled during the 1990s but they are still a small number. Second, only 1.5 million workers out of 20 million hold part-time jobs when they would prefer a full-time one. *Full-time permanent jobs still account for three-quarters of the stock of jobs* (table 4). In other words, regular jobs seem to remain the employment norm.

⁴ When part-time workers would prefer a full-time job but cannot find one. Part-time is «chosen» when the worker does not want more hours.

Table 4 : Different types of employment contract, 1998 in thousands (%)

	Full-time	Part-time	Total
Fixed-term contracts in the private sector	632.6 (3.2)	287.1 (1.5)	919.7 (4.7)
Temporary agency work in the private sector	379.7 (2)	44.3 (0.2)	424 (2.2)
Training courses and temporary jobs in the public sector	110.5 (0.6)	296.8 (1.5)	407.3 (2.1)
Open-ended contracts in the private sector	10 770 (55.1)	2 021 (10.4)	12 791 (65.5)
Open-ended contracts in the public sector	4 104.7 (21)	880.4 (4.5)	4 985 (25.5)
Total	15 997.5 (81.9)	3 529.6 (18.1)	19 530 (100)

Source: Enquête Emploi. INSEE; field: workers except self-employed, apprentices and youth on military service.

These observations give rise to two questions.

- First, we have analysed employment at a very global level. But at a disaggregated level, different situations can appear. *If a regular job remains the norm for some categories of worker, this is not necessarily the case for all categories.* We need a more accurate analysis by criteria such as gender, age, etc.
- Second, the consequences of the growing number of temporary jobs for the employment norm mainly depend on labour market transitions. If workers easily obtain a permanent job after a short period of flexible work, then there is no erosion of the permanent employment relationship, but only delayed access to a regular job. However, if temporary jobs “lock” workers into this situation or lead to unemployment, then a regular job is no longer the “norm” for this category. This would imply a dual labour market. Thus, an analysis of labour market trajectories will show how the French labour market works.

2.2. A differentiated analysis

A breakdown of employment by individual characteristics displays inequalities. *Non-regular jobs are concentrated among particular categories: the young, women workers and unskilled labour.*

2.2.1. Age

Workers under the age of 25 are the most concerned by flexible jobs. In 1998, one-third of these young workers were in a temporary job (fixed-term contracts, temporary agency work, training schemes and temporary jobs in the public sector), while the rate of part-time work was close to 30 per cent (table 5). Moreover, 60 per cent of young part-time workers wanted a full-time job. No other age group is so affected by “atypical jobs”. The proportion of temporary jobs is less than 10 per cent among older workers and decreases with age. The rate of part-time work does not reach 18 per cent and most part-timers in the intermediate age groups have chosen their working time (i.e. they do not want to work longer). The share of “chosen” part-time work increases with age.

Finally, in 1998, ten per cent of young people were in jobs that were both temporary and part-time, and only 43 per cent had a full-time permanent job.

Table 5: Employment contracts according to age, 1998 (%)

Age of workers	Rate of temporary jobs	Rate of part-time jobs (Share of "involuntary part-time")	Rate of temporary part-time jobs
Less than 25 years old	32.3	28.5 (57)	10.2
25 – 39 years old	9.9	17.3 (46)	3.2
40 – 49 years old	5	17 (40)	2
50 – 54 years old	3.8	15.3 (35)	2
55 years old and more	3.5	23.5 (19)	2

Source: Enquête Emploi. INSEE; field: workers except self-employed, apprentices and youth on military service.

Among older workers (aged over 54), full-time permanent work is also less frequent than among the intermediate age groups. But the reasons are quite different from those concerning youth. First, older people rarely hold a short-term contract: 96.5 per cent have an open-ended contract. Second, 23.5 per cent of older people hold a part-time job and do not want to work full-time. They often choose progressive early retirement and a part-time contract permits them to reduce their working hours at the end of their career. This measure has been successful since 1994 because it reconciles the expectations of the three different groups of actors (see also Chapters 3 and 4):

- the employers want to separate from older workers with obsolete skills;
- the Government is trying to reduce unemployment by substituting young unskilled people and the long-term unemployed for older workers;
- older workers can no longer benefit from definitive early retirement and thus choose progressive early retirement.

In summary, regular employment has declined during the last 15 years, for both young and older workers.

2.2.2. Occupations

The share of regular jobs also differs by occupation. Two occupational groups, which together account for almost two-thirds of workers, are particularly concerned by non-regular jobs. First, both temporary jobs and part-time work are common among office workers (clerks) (table 6). Second, blue-collar workers are less frequently in part-time jobs but when they are, they often desire full-time work. *Fourteen per cent of blue-collar workers hold a temporary job.* At the opposite extreme, executives are protected from precarious jobs (97 per cent hold a permanent job) and from part-time jobs. Executives who hold part-time jobs have often chosen this arrangement.

Table 6: Employment contracts according to occupation, 1998 (%)

	Rate of temporary jobs	Rate of part-time jobs (share of "involuntary" part-time)	Rate of temporary part-time jobs
Executives, engineers, professionals	3	9 (28)	1
Intermediate occupations	5.4	13.4 (31.5)	1.8
Clerks	9.3	32 (43)	5.3
Blue-collar jobs	14	10.7 (57)	3

Source: Enquête Emploi. INSEE; field: workers except self-employed, apprentices and youth on military service.

2.2.3. Gender

Although temporary contracts are more or less equally distributed between men and women (table 7), this is not the case for part-time work. Almost a third of women workers are in part-time jobs and most of them prefer this to full-time. Nevertheless, 39 per cent of women part-timers would prefer full-time work, which is quite a high rate compared to other OECD countries.

Table 7 : Employment contracts according to gender, 1998 (%)

	Percentage in temporary jobs	Percentage in part-time jobs (share of "involuntary part-time")	Percentage in temporary part-time jobs
Male	8.3	5.6 (59)	2
Female	9.7	32.4 (39)	4.7

Source: Enquête Emploi. INSEE; field: workers except self-employed, apprentices and youth on military service.

The three criteria of age, occupation and gender reveal strong disparities in the labour market. Two-thirds of young female blue-collar workers hold temporary jobs (fixed-term contracts, agency work and temporary jobs in the public sector) and more than a quarter (28 per cent) work part-time. The proportions are reversed for young female clerks in the private sector: 62 per cent are part-time workers and one-third hold temporary jobs. In contrast, 96 per cent of male executives aged 40 – 49 hold a permanent job. The same is true of men in intermediate professions.

Flexibility is provided by specific categories of workers; young people, the unskilled and women. The combination of several disadvantages (age, skill, etc.) leads to a high probability of flexible jobs, if not unemployment.

The analysis of labour market transitions will permit a more precise statement of this diagnosis.

2.3. Flows and transitions in the labour market

Contrary to expectations, the French labour market, which is usually considered to be rigid, is in fact very dynamic. At the beginning of the 1990s, job rotation was even higher in France than in the United States (Chart 1, OECD, Chap. 5, 1996). More precisely, from 1987 to 1992, entry and exit flows represented between 55 and 60 per cent of the total stock of employment each year. This far exceeds what would be necessary to adjust employment to economic fluctuations (Lagarde, Maurin and Torelli, 1996). The issue is to understand the reason for so many movements and their consequences for individuals.

To address this question, flows and transitions will be studied from two points of view. First, we will study entry and exit flows into firms, then we will examine individual trajectories.

2.3.1. Hiring and firing practices: Insiders versus outsiders

Goux and Maurin (2000) studied entry and exit flows between 1991 and 1997. They show that firms offer two types of job, held by different types of worker. *They differentiate between high-seniority workers (in the firm for more than one year) and newly hired workers (seniority less than one year). The share of the latter is relatively low in most firms: on average 10 per cent of payroll. However, from one month to another, fluctuations among new entrants are ten times greater than among high-seniority workers (table 8).*

Table 8: Importance and volatility of jobs held by low-seniority workers

	Share of low-seniority workers (%)	Variation coefficient of low-seniority workers	Variation coefficient of high-seniority workers	Variation coeff. of low-seniority workers / Variation coeff. of high-seniority workers
Mean	10.9	56.6	8.1	10.7
Median	8.8	50.6	6.5	8.3
First decile	1.8	29	2.6	2.9
Last decile	22.1	90.7	15.5	21

Reading: In 50 per cent of the establishments, we observe no more than 8.8 per cent workers with less than one year of seniority. In 50 per cent of the establishments, the variation coefficient for the number of workers with less than one year of seniority is greater than 50.6. In 50 per cent of the establishments, the variation coefficient for low-seniority workers is 8.3 times greater than the variation coefficient for high-seniority workers.

Source: Goux and Maurin (2000).

It appears that there are two separate groups of workers in firms. On the one hand, high-seniority workers constitute the core and are considered as a “quasi-fixed” factor of production. As a result, they are protected from short-term employment adjustments, and they are laid off only in the case of structural changes. On the other hand, flexibility relies on the margin, i.e. low-seniority workers who are continually hired and fired.

Two factors may explain the huge difference in employment volatility between those two groups.

- The *first* is a question of *manpower management* issues, which are not specific to France. Temporary jobs, mainly fixed-term contracts, are held by new entrants. As they have not yet

acquired firm-specific skills, their jobs are not important for enterprise productivity. Thus, the firm will absorb economic shocks by hiring and separating from these low-seniority workers. On the other hand, permanent jobs are held by high-seniority workers who possess firm-specific skills, in which the employer has invested: varying high-seniority employment means creating and destroying firm-specific human capital. Consequently, laying off high-seniority workers generates important adjustment costs for firms.

- The second reason might be institutional and thus specific to France. French EPL protects workers who already have a degree of seniority in their firm. For short-term employment, firms can use fixed-term contracts, which are not covered by laws governing lay-offs from regular employment. As legal restrictions limit the renewal of these contracts, they only contribute to the employment flexibility of low-seniority workers and reinforce the asymmetry between high and low seniority workers.

In the private sector, the gap between high- and low-seniority workers widened during the 1990s: average tenure among low-seniority workers (less than one year) decreased from 0.8 month in 1990 to 0.6 month in 1998 (table 9). The reverse was true of salaried employees with more than ten years' seniority: their average tenure increased by more than one year. As high-seniority workers are more numerous than recently hired workers (table 10), total average tenure tended to increase during the last decade. This increase results from two opposite movements: greater stability for the core and higher precarity for the margin.

Table 9: Average tenure among workers in the private sector

	Workers in their firm since ...				For all workers
	... < 1 year	... 1 – 5 years	... 5 – 10 years	... > 10 years	
1990	0.8	3	7.9	19.3	10.25
1992	0.65	2.8	7.8	19.5	10.2
1994	0.67	3.1	7.5	19.8	10.6
1996	0.66	3	7.4	20.6	10.8
1998	0.64	2.9	7.6	20.9	10.9

Source: Enquêtes Emploi. INSEE; field: workers in the private sector except apprentices and youth on military service.

Table 10: Proportion of workers by tenure (%)

	... < 1 year	... 1 – 5 years	... 5 – 10 years	... > 10 years	Total
1990	16.8	24.0	17.8	41.4	100
1992	15.2	27.7	15.6	41.5	100
1994	13.7	27.7	15.8	42.8	100
1996	14.8	24.6	18.6	41.9	100
1998	15.5	24.0	19.3	41.2	100

Source: Enquêtes Emploi. INSEE; field: workers in the private sector except apprentices and youth on military service.

2.3.2. Individual transitions on the labour market

The previous section distinguished between two groups of workers and two types of jobs (high-seniority workers holding open ended contracts/low-seniority workers holding fixed-term contracts). The next question is: how important are flows between the two? Moreover, what are the flows between employment, stable or not, and unemployment? To answer this question, we will look at individual transitions on the labour market.

One point has to be stressed: The total number of transitions from and to employment on the French labour market is as high as in the United States, but in France these transitions are mainly from one job to another and much less from employment to unemployment or from unemployment to employment. Consequently, the exit rates from unemployment and the entrance rates into employment are very low.

More specifically, the hiring rate in France is lower than in the United States, the average difference being a ratio of one to five (four for men and six for women, table 11). At the same time, France has much lower rates of job loss than the United-States (table 12). How to explain this huge difference? According to Cohen, Lefranc and St-Paul (1997), there is a two-way causality at work. One may argue that low separation causes low hiring, i.e. low separations reflect high firing costs whose effects are to reduce hiring. But the other causality can also be at work. If hirings are low for exogenous reasons, then separations will also be low because workers will be reluctant to leave their firm. In this case low hiring causes low separation.

Table 11: Aggregate hiring rates in 1990

	France	United-States
Males	5.97	23.8
Females	4.77	29.4

Source: St-Paul (2000).

Table 12: Aggregate rates of job loss in 1990

	France	United-States
Males	0.5	2.84
Females	0.83	3.18

Source: St-Paul (2000).

2.3.2.1. *Transitions between employment, unemployment and inactivity*

Transitions between the different types of employment, unemployment and inactivity are given in table 13. We will mainly focus here on transitions from and into unemployment, and on transitions from and into atypical employment.

Table 13: Probability of transition between permanent job, atypical work, unemployment and inactivity, 1991-1998 (%)

Situation in year N-1	Situation in year N	1992	1993	1994	1995	1996	1997	1998
Permanent job	Permanent job	92	92	92	93	93	92	93
	Atypical work	1	1	1	1	1	1	1
	Unemployment	3	4	4	3	3	3	3
	Inactivity	4	3	3	3	3	3	3
Atypical work (1)	Permanent job	35	33	28	29	29	27	29
	Atypical work	31	31	33	39	38	39	42
	Unemployment	28	30	33	26	28	28	24
	Inactivity	6	7	7	6	5	5	5
Unemployment	Permanent job	19	18	18	18	17	15	16
	Atypical work	12	15	14	17	15	15	16
	Unemployment	55	53	56	54	57	57	57
	Inactivity	14	14	12	11	11	12	11
Inactivity	Permanent job	6	6	5	5	5	5	5
	Atypical work	2	2	2	2	2	2	2
	Unemployment	4	4	4	4	4	4	4
	Inactivity	88	88	89	89	88	89	88

(1) Atypical work: fixed-term contracts, temporary agency work, training schemes and temporary jobs in the public sector; field: population aged between 15 - 64.

Reading: 92 per cent of people with a permanent job in March 1991 held a permanent job in 1992.

Source: Bloch and Estrade (1998/1999).

Since the middle of the 1980s, the probability of leaving unemployment has been low (L'Horty, 1997; Bloch and Estrade, 1998/1999). Since the beginning of the 1990s, nearly 55 per cent of those who were unemployed in any given year were still unemployed a year later. Only 30 to 35 per cent found a job, and the proportion of temporary jobs has continually increased (table 13).

The job seekers' difficulty in finding employment is the main conclusion of a study carried out by Canceill and Huyghes-Despointes (1999), on 6,480 first-time unemployed people i.e. who had never registered with ANPE⁵ before. Analysis of the individual trajectories showed that the process of finding or re-finding a job has lengthened during the 1990s, and that it now takes several years. More precisely, less than half (42 per cent) of the unemployed people in their sample had found work one year after registering with ANPE and just over half (55 per cent) after 33 months. Eighty per cent of subjects followed one of three types of transition. Twenty-nine per cent of individuals experienced recurrent unemployment: they failed to obtain a permanent job and rotated between unemployment and short-term contracts. Twenty-eight per cent of subjects found themselves in long-term unemployment, while 22 per cent obtained a new job quite quickly.

Segmentation within the pool of workers resulting from the practices described in Chapter 2.3.1 can also be analysed from the point of view of individual transitions from and into employment. Cohen and Dupas (2000), in their comparative study of transitions on the French and the US labour markets, distinguish between high-seniority workers,⁶ the insiders, and low-

⁵ The French Public Employment Service.

⁶ Seniority of more than one year.

seniority workers,⁷ the outsiders. In France, only 11 per cent of insiders (compared to almost 20 per cent in the United States) had experienced at least one period of non-employment (unemployment or inactivity) after two years (table 14A). In contrast, 40 per cent of outsiders had been unemployed at least once after six months, compared to only 15 per cent in the United States (table 15A). *In other words, recently hired workers are far less protected than high-seniority workers.⁸ moreover, the insider/outsider gap is much wider in France than in the United States.* This is more true for the young (under 30): less than half (46 per cent of men and 43 per cent of women) have not experienced non-employment after 12 months (table 15B). In the same way, only 42 per cent of unskilled people remain in employment. According to the authors, unemployment is “a double trap”: the job that has been obtained is often temporary and the transition from unemployment to a permanent job is longer.

Tables 14: Rate of attrition of insiders

A. According to the duration of non-employment

	Male	Female
6 months	98	96
1 year	92	90
2 years	89	87

Source: Cohen, Dupas (2000), data from the *Enquêtes Emploi*, INSEE. *Insiders:* people in work for more than one year. The table represents the percentage of insiders who have not experienced non-employment after x months.

Reading: the rate of attrition is the percentage of the population which remains in the starting sample at a later given date. For instance, 98 per cent of male insiders had not experienced non-employment after 6 months.

B. According to age and skill

	Male	Female
25-30 years old	90	93
30-50 years old	94	92
50-60 years old	86	87
Unskilled	82	87
Skilled	93	91

Source and reading: see table 14 A.

⁷ Seniority of less than one year.

⁸ This confirms section 2.3.1.

Table 15: Rate of attrition of outsiders**A. According to the duration of non-employment**

	Male	Female
1 months	90	90
3 months	74	73
6 months	90	58
1 year	47	45
2 years	36	35

Source and reading: see table 14A. Outsiders: seniority of less than one year.

B. According to age and skill

	Male	Female
25-30 years old	46	43
30-50 years old	47	55
50-60 years old	50	49
Unskilled	43	42
Skilled	50	47

Source and reading: see table 14A. Outsiders: seniority of less than one year.

While unemployment is becoming a long-term state, permanent employment tends to remain very stable, and this stability has not decreased during the last decade. Ninety-three per cent of permanent workers in 1997 held the same job a year later (92 per cent in 1990). The probability of leaving a stable job for a temporary one or for unemployment or inactivity is very low and has not changed over the decade.

In contrast, *temporary jobs are not stable.* They lead to three different situations: permanent job, temporary job or unemployment. At the beginning of the 1990s, it was more common to find a permanent job than to move into temporary work or unemployment. At the end of the decade, the opposite is true: temporary workers mostly remained in this type of job and they more rarely found a permanent job. Only 29 per cent of atypical workers in 1997 found a permanent job in 1998, against 35 per cent in 1992. The proportion of those leaving a job was nearly the same in 1996 as in 1992. The non-renewal of fixed-term contracts and agency work were the main reasons for being unemployed (table 16).

Table 16: Reasons for unemployment (according to ILO criteria) in 1998

	Number	%
End of temporary contract	1 175 452	39
End of military service	59 294	2
Lay-off	863 056	28
Quit	170 421	6
New entrant to labour market (students)	286 394	9
Had stopped to work or never worked	281 312	9
Other cases	214 221	7
<i>Total</i>	<i>3 050 150</i>	<i>100</i>

Source: Enquête Emploi, INSEE.

The main destination of part-timers wanting to work longer hours depends on their current working time. The longer their working time, the more likely they are to obtain a full time job (table 17). Those who work less than 30 hours per week often keep their involuntary part-time job, especially those working less than 15 hours per week. Those working more than 30 hours get a full-time job more easily.

The difficulty in moving from involuntary part-time work to a full-time job can be explained by the fact that part-time jobs enable firms to lengthen their opening hours and to adjust their manpower to the number of clients during the day, the week and/or the month. Thus, firms are unlikely to convert part-time jobs into full-time.

Table 17: Employment situation of involuntary part-time workers, 1994-1996

	Part-time ≥ 30 hours/ week in 1994	Part-time 15-29 hours / week in 1994	Part-time < 15 hours / week in 1994
Full-time job in 1996	43	24	14
Involuntary part-time in 1996	23	39	45
Chosen part-time in 1996	19	19	24
Unemployment in 1996	9	10	10
Inactivity in 1996	6	8	7
<i>Total</i>	<i>100</i>	<i>100</i>	<i>100</i>

Source: Enquêtes Emploi; field: workers in the private sector except students, people on training schemes and those holding a temporary job in the public sector.

2.3.2.2. Transitions according to individual characteristics

Transitions depend on individual characteristics. Between 1970 and 1996, young people (under 25) suffered from declining employment stability: their exit rate from employment rose from 10 per cent in 1970 to reach 21 per cent in 1996. However, the probability of an unemployed person being in a job one year later is higher for young workers than for adults, especially the elderly. But the jobs they hold are more and more precarious. Indeed, temporary

employment has become the main destination after unemployment for youth more than for the other age groups. The probability of holding a permanent job after a temporary one is higher for young males (15 – 29) than for older men (table 18). It is also higher for women under 50 than for older women.

Table 18: Probability of transition between 1997 and 1998

Situation in 1997	Situation in 1998	Male			Female		
		15-29 years old	30-49 years old	50-59 years old	15-29 years old	30-49 years old	50-59 years old
Permanent job	Permanent job	91	97	90	87	94	90
	Atypical work	3	1	1	3	1	0
	Unemployment	5	2	3	5	3	3
	Inactivity	2	0	7	5	2	7
Atypical work (1)	Permanent job	32	28	31	28	28	21
	Atypical work	40	43	42	41	41	51
	Unemployment	21	27	22	24	24	23
	Inactivity	7	2	4	6	6	4
Unemployment	Permanent job	20	22	10	19	15	8
	Atypical work	23	16	6	20	15	8
	Unemployment	50	58	72	47	59	72
	Inactivity	8	4	12	14	11	13
Inactivity	Permanent job	7	10	2	6	8	2
	Atypical work	5	3	0	4	1	0
	Unemployment	5	7	3	6	5	2
	Inactivity	83	80	95	85	85	96

(1) Atypical work: fixed-term contracts, temporary agency work, training schemes and temporary jobs in the public sector; field: population aged between 15 – 64.

Source: Bloch and Estrade (1998/1999).

Trajectories are very different at the other end of the age scale. Older jobless people are close to exclusion from the labour market: the probability of being out of work for two years is far higher for the over 50s than for other age groups. The probability of remaining unemployed for two years increases with age and the likelihood of finding a job, stable or not, decreases.

Lastly, permanent employment is more stable for the 30 – 49 age group, both female and male. Ninety-seven per cent of men and 94 per cent of women in this group with a permanent job in 1997 still had this type of job in 1998.

The level of education also has an effect on labour market mobility. Qualifications increase the probability of moving into a permanent job after a temporary one. Moreover, the higher the level of education, the greater the probability of finding a job, permanent or not, after unemployment. Education also improves the likelihood of keeping a stable job. At the opposite extreme, the probability of being out of a job after a short-term contract is far higher for young unskilled people (without qualifications) than for other categories. In particular, young unskilled

women are close to exclusion: they have a 45 per cent probability of remaining jobless, and only a 10 per cent chance of finding a permanent job after being unemployed the previous year.

Cohen, Lefranc and St-Paul (1997) combined the two criteria (age and education) to compute monthly job loss rates and monthly hiring rates in France and the United States (tables 19 and 20).

They show that *within age groups, the dispersion of job loss rates is much lower in France than in the United States*, but dispersion is much higher between age groups. For example, job loss rates are twice as high for young workers in the United States than middle-aged workers, while in France they are five times as high. On the other hand, while American workers with little education have a job loss rate that is four times greater than the highly educated group, the French ratio is only two to one. The institutional features of the French labour market explain this situation. As we have already pointed out, the system is organized as a two-tier market based upon two types of contract: short-term and long-term. Almost all new entrants, mainly young workers but also women, are hired on short-term contracts and thus experience the higher separation rates. These groups bear the burden of flexibility.

In France, high separations are associated with high hiring rates for youth and middle-aged workers, with little difference across skills. In contrast, French workers aged 50 – 64 experience low hiring rates and high separation rates.

According to Cohen et al. (1997), the institutional element is not the only factor. The disparity between France and the United States might reflect “irreducible” cultural differences with respect to employment termination, or they may be an “implicit contract” of a different kind that makes it difficult for a firm to fire a worker. The greater differences for the middle-aged groups arise from the combined effect of culture and regulation.

Table 19: Monthly job loss rates

Age	Education	Male		Female	
		France	US	France	US
16 – 24 years	Very high	1.25	1.28	1.63	1.94
	High	2.94	8.81	2.46	6.38
	Medium	2.49	4.41	2.31	6.99
	Low	3.24	10.87	2.99	13.78
25 - 49 years	Very high	0.38	1.27	0.48	1.98
	High	0.49	1.56	0.53	2.80
	Medium	0.47	2.34	0.77	2.94
	Low	0.69	5.4	1.04	5.58
50 - 64 years	Very high	0.52	1.55	0.52	1.43
	High	0.46	2.39	0.81	2.44
	Medium	0.77	2.7	0.68	3.79
	Low	1.15	3.58	0.89	6.36
Average		1.24	3.84	1.26	4.70

Source : Cohen, Lefranc, Saint Paul (1997).

Table 20: Monthly hiring rates

Age	Education	Male		Female	
		France	US	France	US
16 - 24 years	Very high	9.68	40.00	21.27	50.00
	High	11.59	29.13	12.17	34.44
	Medium	10.78	33.14	9.56	24.56
	Low	8.3	26.56	7.01	24.19
25 - 49 years	Very high	8.15	22.43	8.37	27.16
	High	6.35	28.8	6.99	24.29
	Medium	7.84	32.03	6.82	25.72
	Low	5.26	30.00	4.17	22.13
50 - 64 years	Very high	3.03	14.81	1.52	n.a.
	High	0.96	25.93	2.16	23.08
	Medium	1.66	29.67	2.00	26
	Low	1.05	36.67	0.65	16.22
Average		6.22	26.94	6.89	24.82

Source: idem.

2.4. Conclusions

2.4.1. Increased segmentation

At first glance, the growth of temporary and part-time jobs during the last 15 years does not seem to have altered the fact that a permanent full-time job is the global employment norm. But this growth has segmented the French labour market. On the one hand are insiders, with high seniority, who hold the permanent full-time jobs. Skilled prime age males are the core of this category. Insiders benefit from high stability of employment, which has not decreased in the last decade in spite of economic fluctuations. This stability is due to firm-specific skills, but as it appears to be higher in France than in some other countries, we will have to assess if it is a consequence of EPL. On the other hand, outsiders bear the burden of flexibility. They hold part-time and temporary jobs, which enable firms to continually adjust to short- and medium-term shifts in the business environment. Outsiders suffer from precarity, vulnerability to unemployment and difficulty in obtaining permanent jobs. All told, individual trajectories in the two segments of the labour market are quite distinct. Insiders keep their permanent and regular job while outsiders move between short-term contracts and unemployment. To put it in another way, employment protection for some seems to require insecurity for others.

2.4.2. The “partition” versus the “labour queue” models

Our analysis permits us to mitigate the previous assessment. Segmentation and insiders /outsiders are ambiguous terms. The first mainly refers to employment (i.e. jobs and occupations), while the second refers to individuals. Employment segmentation in France results from the contrast between temporary contracts and open-ended contracts. From this point of view, the secondary labour market (i.e. temporary jobs) has expanded in the two last decades. But how can we link this evolution in employment with the experience of individual workers?

Two opposing theoretical models can be defined:

- According to the *labour queue model*, “secondary” jobs are a step on the way to primary jobs; new labour market entrants have to queue in unemployment or temporary jobs, waiting for a permanent position; they are temporary outsiders.
- According to the *partition model*,⁹ the secondary and primary sectors are separate worlds, with no bridge between them; outsiders are trapped in secondary jobs.

Of course, all real labour markets are somewhere between these models, which represent the two extremes of the same continuum. In France, age (which is a temporary characteristic) plays a very important role in defining the outsiders (i.e. those who hold a temporary job). Age is less important in the United States, for example. This would mean that the labour queue model prevails. But the categories defined by more permanent characteristics (such as unskilled women) are better described by the partition model: they seem to be trapped in secondary jobs. All told, there seem to be various types of outsider: short-term, long-term, and permanent.

From a very global point of view, all the data analysed in this section seem to show that the French labour market has shifted away from the labour queue model during the past 20 years and moved nearer to the partition model. The duration of queuing before finding a permanent job has increased; in other words, the gap between the secondary and the primary sector has widened (i.e. the bridges have narrowed). Moreover, we can assume that the pool of permanent outsiders (i.e. those who will remain in the secondary sector throughout their active life) has increased, especially among less skilled workers. But long-term panel data would be needed for a more precise assessment.

Finally, a paradox must be noted. Even if the majority of employees seem to be relatively protected from job loss, the feeling of insecurity is quite widespread among French workers. According to OECD (1997) – table 5-3-B. – only 41 per cent of French workers were satisfied with their job security in 1996, compared to 47 per cent in the United States and 68 per cent in Denmark, two countries with much less EPL. We will refer to this again in our concluding chapter.

3. Interactions between EPL and LMP: An assessment

3.1. Introduction and overview

As mentioned in Chapter 1, at a very global level, there seems to be a “complementarity” rather than a trade-off between EPL and LMP in France. But this gross correlation is not necessarily valid at a less aggregate level: the links between EPL and LMP can vary widely for different categories of workers, according to age, gender, tenure on the labour market, or skill. There could even be an inverse relation. Chapter 2 showed that the French labour market is segmented. One might imagine that those who benefit from high EPL enjoy less LMP and, conversely, that LMP is targeted at outsiders, with high unemployment rates, high turnover and low job security. In this case, the duality of EPL would be offset by dual LMP: the hypothesis of a trade-off between the two would be valid, even if at the macro level it appears that France combines high EPL and high LMP.

⁹ The word “partition” refers to the mathematical concept: there is partition when a set is entirely divided into subsets, which do not intersect.

But things are not that simple. We must not only distinguish between different types of worker, but also separate active labour market policy from passive LMP. Table 21 gives a very simplified overview.

Table 21: Interaction between EPL and LMP by gender and age group

	Employment protection	Active measures	Passive measures
Youth (16-25)	Low	High	Low
Women (25-50)	Low	Low	Low
Men (25-50)	High	High	High
Older than 50	High	Low	High

NB: Employment protection legislation does not discriminate according to age or gender. Workers benefit from employment protection according to the type of job they hold; the assertion that youth and women have “low” employment protection means that they are more likely to hold precarious jobs.

Many young people have precarious jobs (fixed-term contracts, temporary agency work), which means low employment protection. If they lose their job they often do not benefit from the unemployment compensation system, which is mainly based on an insurance principle. It is necessary to contribute a certain amount to qualify for benefits. On the other hand, there are a variety of active labour market programmes targeted at youth, such as employment subsidies, training schemes, and temporary jobs in the public sector. As a result, there seems to be a *partial trade-off between EPL and LMP* for young workers. But there is some ambiguity here. As the labour market programmes rely on temporary schemes, which often pay less than the regular wage, and as their effects on the unemployment rate are modest, some argue that LMP contributes to maintaining a secondary labour market for youth. According to this analysis, *LMP reinforces the consequences of low employment protection* instead of compensating for it.

Women have higher unemployment rates, and more precarious jobs, especially if part-time work is included. Labour markets entrants and/or low-skilled women are the most seriously affected, receiving little or no compensation when unemployed. But they do not constitute a separate target group for active labour market policy, so that *LMP does not offset the consequences of low EPL* in their case.

Prime-age male workers make up the core of the insiders. They have high employment rates, low unemployment, and regular jobs (i.e. open-ended contracts). They benefit from a substantial degree of employment protection as they are (almost) unaffected by atypical employment. They also enjoy important labour market policies. A strong link between LMP and EPL is institutionalized in the employer’s obligation to implement a “social plan” for collective dismissal (on economic grounds); social plans include retraining and other labour market programmes. Because of stable jobs and long tenure, prime-age men who lose their job enjoy high unemployment compensation from the insurance system - UNEDIC. They are also entitled to active measures partially or completely financed by UNEDIC, which is not the case for the other categories. Finally, special programmes are targeted at the long-term unemployed – who are mostly prime-age males or older workers. To summarize: *in the case of prime-age men, there seems to be a strong complementarity between high EPL and high LMP, both active and passive.*

Workers over 50 have a very low employment rate in France, compared to other OECD countries, although it is higher than the rate for the labour force as a whole. As they are

considered less employable, a special EPL rule has been adopted for older workers. But this group benefits from very important passive LMP. As they have contributed for long periods, their unemployment benefits are relatively high, and many of them can take early retirement through a social plan when there is a collective dismissal. Moreover, early retirement pensions are higher than unemployment benefit. As for the prime-age male, but maybe to a lesser extent, there seems to be *complementarity between high EPL and important LMP, mainly passive measures, for older workers.*

All these outcomes are the indirect or direct effects of the articulation between EPL and LMP that we are going to analyse. After a brief survey of EPL and its evolution over time, we will focus on the LMP measures aimed at displaced workers, mainly in the context of “social plans”. Our analysis leads to the conclusion that the unemployment compensation system favours the insiders - because it is based on the principle of an insurance scheme but also because it is ruled by unions and employers’ organizations. Finally we will examine the labour market policies aimed at outsiders – mainly youth and hard-to-place workers.

3.2. EPL: Limited deregulation, increased segmentation

With respect to regulation it is necessary to distinguish regular employment (i.e. open-ended contracts) from “flexible employment” (fixed-term contracts and agency work).

3.2.1. The protection of regular employment

According to a comparative study organized by the OECD (1999), France offers relatively strict protection for regular employment – box 1. Nevertheless, in the late 1990s, there was less protection than in Germany, Italy, Japan, Netherlands, Spain or Sweden, for instance. If the Anglo-American countries are not taken into account, only Belgium, Denmark, Finland and Ireland among the OECD countries offer less employment protection than France (OECD, 1999, chart 2-1).

Box 1: The regulation of dismissals in France

- *Administrative procedure for individual notice and dismissal.* Personal reasons: statement of reasons to employee; in many cases, additional notification of the Works Council is requested by collective agreement. Economic reasons: labour inspectorate and usually the personnel delegates or Works Councils.
- *Required notice and severance pay for individual dismissal.* Blue-collar: 7 days notice for tenure under 6 months; 1 month notice for tenure under 2 years; 2 months for tenure over 2 years. Severance pay: 1/10th of a month's pay per year of service plus an additional 1/15th after 10 years. White-collar: 15 days notice for tenure under 6 months; 1 month notice for tenure under 2 years; 2 months for tenure over 2 years. Severance pay: 1/10th of a month's pay per year of service plus an additional 1/15th after 10 years.
- *Conditions under which individual dismissals are fair or unfair.* Fair dismissals: for personal characteristics such as non-performance or lack of competence, or for economic reasons such as work reorganization or other business needs. In redundancy cases, the employer is obliged to consider alternative solutions (*reclassement*), offer redundant employees a "retraining contract" and give priority when rehiring. Unfair dismissals: without real and serious cause, and for reasons relating to the private life of the employee.
- *Compensation and related remedies following unjustified dismissal.* Reinstatement cannot be enforced. Compensation of 6 months minimum (in some cases 24 months or more) for employees with at least 2 years tenure and working in enterprises with more than 11 employees. For other employees, the judge can order compensation according to the loss suffered, but with no minimum.
- *Procedures and standards for collective dismissal.* Definition of collective dismissal: ten or more redundancies within 30 days (special obligations, similar to those for individual redundancy, also for dismissal of two to nine employees). Notification of employee representatives: full information to be given to personnel delegates or Works Councils, and consultation meetings to be held. Notification of public authorities: notification of departmental labour market authorities (DDTEFP). Periods involved: 30-60 days in companies with 50 or more employees; 21-35 days in companies with fewer than 50 employees (depending on number of proposed dismissals). Type of negotiation required: consultation in several phases on alternatives to redundancy, such as redeployment or retraining; consultation on social compensation plan which is obligatory in companies with 50 or more employees; no veto power by employee representatives, but possibility of rejection of social plan by labour market authorities. Selection criteria: labour law requires employers to take account of family responsibilities, seniority, age, disability and professional qualification (by job category). Severance pay: no special regulation for collective dismissal.

Source: OECD, 1999, table 2A.

The legal restrictions on dismissal were relatively strong until the end of the 1980s. A law passed in 1945 introduced *mandatory prior administrative authorization for hiring and dismissal*. An amendment to this law was adopted in 1970 to the effect that only collective dismissals on economic grounds had to be authorized by the regional labour office (*Direction départementale du travail et de l'emploi – DDTE*). In 1986 the right wing government abolished the mandatory administrative authorization. The employers' organizations had long pressed for its removal as they considered it very restricting - even though authorization was granted in about nine cases of ten. The employers argued that its abolition would create hundreds of thousands of jobs, the principal obstacle to hiring being the fear of not being able to fire in case of downturn. The overall impact of abolishing the mandatory authorization is difficult to assess, because the statistics on collective dismissals disappeared with the authorization (Malo, Toharia and Gautié, 2000). However, registrations on the ANPE (French Public Employment Service) job seekers list show a substantial increase in this type of dismissal immediately after the abolition (+ 17 per cent between December 1985 and December 1986). In addition, there are data supporting the suggestion that the dismissed workers (who enjoyed permanent status) were in fact replaced by temporary employees. Along with the removal of mandatory prior authorization, the role of Works Councils (*Conseils des prud'hommes*, with representatives of

both workers and employers) was enhanced, giving rise to a rapid judicial procedure regulating the causes and the form of economic dismissals.

In 1989, after the return to power of a left wing government, a new law extended the role of the public administration in collective dismissals by introducing the *social plan* to offset the potential negative effects of abolishing the prior authorization. Every firm with more than 50 employees has to implement a social plan if it dismisses ten people or more within a period of 30 days. The aim of the social plan is to keep dismissals to a minimum (all other alternatives must be explored, especially in-house-transfers); when dismissal cannot be avoided, the employer has to participate in the retraining and “reemployment” (*reclassement*) of displaced workers.¹⁰ The requirements concerning social plans were reinforced, in 1993, in a context of severe recession and heavy downsizing. Social plans now have to make detailed provisions (as opposed to general declarations), and cannot resort only to early retirement. Other alternatives (retraining, creating new job opportunities, etc.) are detailed in the text of the law. Since 1998, with the implementation of the first “35 hours” law, firms have to explore all the possibilities of avoiding redundancies by reducing and reorganizing working time. If the judge considers that the firm has not made a sufficient effort to avoid redundancies, the social plan can be declared void.

The social plan is based on the social responsibility of employers. This concept is not merely political (i.e. ideological), because it can be grounded on economic considerations (see Büchtemann and Walwei, 1996), as the employment relationship creates income for both employee and employer. This relation may imply hidden costs, in particular for employees who invest in firm-specific human capital, and who may accept jobs which do not accumulate any general human capital (i.e. transferable) – or where they may even lose human capital (repetitive unskilled jobs, for instance). Social responsibility limits the employer’s opportunistic behaviour, and establishes a better balance in the risk sharing which is inherent to the employment relationship. In particular, it aims to limit opportunistic behaviour in the context of unemployment compensation (employer’s moral hazard): the employer, knowing that redundant workers will receive unemployment benefits, may adopt a more flexible manpower policy, with high turnover. This is the most obvious example of the general problem of negative *externalities* stemming from dismissals: they imply social costs beyond the individual loss of income and/or well-being of the redundant worker. Social responsibility means that employers must assume part of the private and social costs of dismissals. In some countries (such as the United Kingdom), the employers’ contribution is limited to (possibly high) severance pay, which amounts to a kind of “voucher” that the workers concerned can spend as they like. But the requirements of the social plan are different. Except for early retirement measures, they are based more on promoting employability than on simple income maintenance, described by Esping-Andersen (1996) as the *social investment* strategy. This investment has to be co-financed by the employer and the government: *The social plan substitutes mixed (i.e. private and public) labour market policy for simple job protection. However, the trade-off between EPL and LMP remains very partial, as the workers concerned benefit from both high EPL and high LMP.* The paradox is that this substitution relies on a *reinforcement of judicial power*: judges do more than check that the dismissal procedure complies with clearly established rules. They have discretion in deciding if a social plan is good or bad. They can act as a deterrent. Their power to declare that a social plan is void tends to ensure that employers do not take advantage of the weakness of

¹⁰ Another law implemented in 1992 (following the EC Directive of 24 June 1992) increased the procedures and rights of workers facing economic dismissal, extending the concept of economic dismissals to every case of separation stemming from a firm’s economic problems (including quits, for instance).

employees (trade union membership in the private sector in France is less than 10 per cent). This “Damocles sword” seems to be effective¹¹: in 1993, for instance, which was the first year the more restrictive law (voted in January) was implemented, only 80 out of 2000 social plans (4 per cent) were declared void. But the data are ambiguous: they could also mean that implementation of the law is much less restrictive than its formulation. It must be borne in mind that the law applies only to collective dismissals (at least ten employees). Often employers circumvent it by (repeatedly) laying off smaller groups of workers. Only 15 per cent of all dismissals in 1993 were covered by social plans.

As for ordinary dismissals (not necessarily collective), French law requires employers to define their criteria for deciding which workers to lay off. Seniority is one criterion: if discrimination against a high-seniority worker can be proved, the employer can be punished for unfair lay-off practices. But workers who have been with the firm for less than six months can be laid off for economic reasons without notice or unemployment benefits. Workers who have been with the firm for more than two years must be given two months notice and severance pay.

3.2.2. Atypical employment (AE)

The regulation of fixed term contracts and temporary agency work has seen a number of changes but no clear trend towards increasing deregulation (see Rogowski and Schömann, 1996; Malo et al. 2000, for surveys). The common rules for atypical forms of employment (AE) were introduced in 1972. The rules were relaxed to some extent in 1979 but this trend was reversed in 1982 by the left-wing government. In 1986, the right-wing government permitted firms to hire fixed-term or temporary workers for their normal (non-temporary) activities, while the maximum period for such arrangements was extended to two years.¹² In 1990, after the return to power of a left wing government, a new law restricted the use of temporary contracts. The main trends in the legal regulation of AE since the end of the 1970s are the following. First, the regulations governing fixed term contracts and temporary agency work have tended to converge (cf. box 2). Second, workers have gained more rights in terms of vocational training, unemployment benefits, compensation for lack of job security and protection against occupational hazards. Third, restrictions on the use of these types of employment contract have been lessened.

¹¹ Incentives also play an important role: the measures included in the social plan are mostly financed by the National Fund for Employment (*Fonds national pour l'emploi - FNE*), which is a branch of the Ministry of Labour. The FNE can refuse to participate if it considers the social plan is insufficient.

¹² In July 1985, another law was adopted by the left wing majority, which was a first step toward liberalizing the use of temporary contracts.

Box 2: The regulation of atypical employment

Since the law of 1990, regulations on the use of temporary agency work (TW) and fixed term contracts (FTC) have been harmonized and restricted. Generally, the maximum duration is 18 months, and only one renewal is possible (up to this maximum). At contract termination, the employee receives "compensation for a precarious job", which is 6 per cent of the gross wage in the case of a FTC (except for seasonal work), and 10 per cent in the case of TW.

The use of FTC and TW is allowed only in four cases:

- temporary absence of a permanent employee;
- temporary increase in the firm's activity;
- seasonal work;
- in sectors where it is not usual to have open-ended contracts (*contrats à durée indéterminée*);

The use of TW or FTC is explicitly forbidden in the following cases:

- for a permanent job;
- to replace a worker on strike;
- for dangerous tasks;
- within six months after a collective dismissal.

According to an OECD study (1999), AE regulation in France was one of the strictest among the OECD countries.¹³ Nevertheless, as the OECD noted, and as shown in Chapter 2, these restrictions “do not seem to have prevented French companies from making strong use of temporary workers” (OECD, 1999, p.64). Various explanations can be given of this apparent paradox. First, the law is less restrictive than it seems, and/or it is circumvented in many sectors. This even occurs in the public sector itself: each year the national educational system, for instance, hires many temporary teachers, who are fired during the summer, and re-hired in September. The auxiliary teachers can maintain this precarious status for several years, far beyond the legal 18 months. Second, although there are restrictions on temporary work, this remains the only margin of flexibilization, given the laws on regular employment. Finally, one must remember that a lot of atypical jobs are in fact labour market policy schemes, particularly aimed at youth (see Chapters 2 and 3.5).

As Malo and al. argue (2000):

Although later reforms tended to restrict the use of atypical employment, it can safely be argued that the 1986 regulations marked a significant break in the way French firms can resort to temporary arrangements to solve their labour adjustment needs ... [These regulations] enlarged the segment of the economy in which job insecurity prevails.

This dual labour market interpretation is supported by several analyses of the French labour market (see Saint-Paul, 1996, for instance), and is consistent with the description given in Chapter 2.

¹³ Greece and Italy are the only countries where this regulation is more stringent – OECD (1999), chart 2-1.

3.3. The main schemes included in the social plans

As argued above, social plans introduce a link between EPL and LMP. Redundant workers are entitled to benefit from various schemes, which may be co-financed by the firm, the Government - mainly the National Fund for Employment (*Fonds National pour l'emploi - FNE*), and the unemployment compensation system (UNEDIC). We will analyse here the aids to restructuring and the early retirement schemes. Box 3 provides an overview of these measures.

Box 3: LMP measures for redundant workers benefiting from a social plan

1) *The main aids to «restructuring» (dispositifs d'accompagnement des restructurations)*

- The *conventions de conversion*. Beneficiaries enter a “technical unit of reconversion” (*Unité Technique de Reconversion*), organized in the ANPE, in which they receive job search assistance, retraining etc; this scheme is restricted to workers under 57 years old¹⁴, with a minimum tenure of 2 years.
- The *conventions de cellule de reclassement* concern firms with less than 2000 employees. A special unit follows up on redundant workers (mainly by job search assistance).
- The *convention d'aide au passage au temps partiel*, FNE gives a subsidy when a full-time job is converted to part-time work in order to avoid a dismissal. The subsidy helps maintain the worker's wage.
- The *conventions d'aide à la mobilité* (aid to geographical mobility). Displaced workers who have to move to find a new job are entitled to an allowance which is co-financed by the FNE (50 to 70 per cent) and the firm.

2) *Early retirement schemes (ER)*

- *L'allocation spéciale du FNE licenciement (ASFNE)*: Beneficiaries must be at least 57 years old (special authorization can be requested for those aged 56); they must have paid social security contributions for at least ten years and they must have been with the firm for at least one year.
- *La préretraite progressive*: This is a type of phased retirement; to avoid lay-offs, and/or hire new employees, the firm can propose that its older workers change their full-time job for a half-time contract.
- *L'allocation de remplacement pour l'emploi (ARPE)*: Workers who are 58 years old and who have paid 40 years contributions to their pension fund, are allowed to retire early. The firm has to maintain the total number of working hours with one or several new hires.

3.3.1. Aids to restructuring

Firms that have to lay off workers can resort to government-financed schemes for their redundant employees. The *conventions de conversion* is the main scheme but there are several others, which are financed by the FNE: *conventions de cellule de reclassement*, *conventions d'aide au passage à temps partiel*, *conventions d'allocation temporaire dégressive*, *congés de conversion*, *conventions de formation et d'adaptation*, *conventions d'aide à la mobilité*. Only the main measures will be analysed here. For more details, see DARES, published annually.

- The *conventions de conversion* were introduced in 1986 along with suppression of the “administrative authorization” for dismissals. Regardless of their size, firms must offer all their redundant workers a chance to enter this scheme. The right is enshrined in the Labour Code, but the scheme is restricted to workers less than 57 years old¹⁵, with a minimum of two years service; it is an insiders' scheme. The justification is that it prevents long-term

¹⁴ Workers over 57 can take early retirement.

¹⁵ Workers over 57 can enter an early retirement scheme, see below.

unemployment among prime-age workers with low skills and (often) long-term employment in the same firm (i.e. with no transferable skill). Nevertheless, in 1998, out of the 106,000 beneficiaries, 26.1 per cent were skilled blue-collar workers, 29.2 per cent were skilled white-collar workers, 17.8 per cent technicians and 8.3 per cent were executives or engineers. About two-thirds were between 30 and 50 years old. While they are in a *convention de conversion*, the beneficiaries are not considered to be unemployed, even though the job contract has been broken. The scheme continues for a maximum of six months, and the allowance from UNEDIC¹⁶ (83.4 per cent of the previous wage for two months, 70.4 per cent for the remaining period) is higher than the unemployment benefit. Beneficiaries enter a “technical unit of reconversion” (*Unité Technique de Reconversion*), organized in the ANPE, where they receive job search assistance, retraining, etc.

- The other schemes are much less common. The *conventions de cellule de reclassement* for firms with less than 2000 employees provide a follow-up on redundant workers, mainly in the form of job search assistance. The costs are partly covered by the FNE (50 to 75 per cent). In 1998, there were only about 2000 beneficiaries of this scheme. With a *convention d'allocation temporaire dégressive* (temporary allowance), displaced workers receive compensation to make up the difference between the new wage and the previous wage. FNE financial support is a maximum of 75 per cent of the allowance; the rest has to be paid by the firm. In 1998, less than 3000 people benefited from this measure. With the *convention d'aide au passage au temps partiel*, FNE gives a subsidy when a full-time job is converted to part-time work in order to avoid a dismissal, so as to maintain the worker's wage. FNE pays between 20 and 80 per cent of the allowance according to the firm; the employer has to pay the rest of the allowance. The *conventions d'aide à la mobilité* (aid to geographical mobility) provides an allowance to workers who have to move to find a new job. The allowance is financed by the FNE (50 to 70 per cent) and the firm. This scheme has never been used in practice.

To summarize, France has many schemes in the spirit of the “transitional labour market”. *There are LMP measures to secure the trajectory of displaced workers but few schemes are intensively used.* This is a very important point, although little attention has been paid to its causes. Are employers not aware of these schemes? Are they too complex? Are the financial incentives too low? Or are there simply too many measures? As no systematic evaluation has yet been made it is not possible to draw clear conclusions.

3.3.2. Early retirement schemes (ER)

Early retirement schemes have existed in France since the end of the 1960s, and they were expanded drastically during the 1980s to mitigate the social effects of the huge downsizing in traditional sectors such as mining, shipbuilding, textiles, iron and steel. *But as these measures were very costly it was decided at the end of the 1980s to curb the number of ER beneficiaries by decreasing the financial incentives.* Almost 80,000 people joined this scheme in 1998, while the total number of beneficiaries amounted to 220,000 in that year. Three different types of ER exist.

- *L'allocation spéciale du FNE licenciement (ASFNE)*. In the context of a social plan, a firm can sign an agreement with the FNE allowing some displaced workers to take ER. They must be at least 57 years old (special authorization can be requested for those aged 56). They must have paid social security contributions for at least ten years and have a minimum

¹⁶ The firm pays a lump sum for each beneficiary.

of 12 months' service with the present employer. They must also agree not to take any kind of remunerated job while (early) retired. The pension is 65 per cent of the previous wage under the threshold of about 15,000 FF (about 2300 Euro), and 50 per cent under 30,000 FF. The pension is co-financed by the employee (severance pay), the firm, FNE and UNEDIC (unemployment compensation system). The FNE contribution is negotiated with the firm. As mentioned in Chapter 3.2, this margin of discretion provides FNE with a very powerful tool for influencing the social plan.¹⁷ The government contribution depends on the quality of the plan. The size of the firm and its financial situation are also taken into account. As a result, the firm's contribution is usually between 12 and 15 per cent if it has less than 500 employees, and between 15 and 23 per cent if it is bigger. About 19,000 people joined this scheme in 1998.

- *La préretraite progressive*: This is another approach to early retirement. To avoid dismissals, and/or to hire new employees, the firm can propose that its older workers transform their full-time job into a half-time one. The conditions are the same as for the ASFNE, except that beneficiaries can be younger (55 years old). They generally earn 80 per cent of the previous wage. If the firm resorts to this scheme in order to hire new workers, half of them have to be "hard-to-place" unemployed, and two-thirds have to be youth. There were only 3500 new entrants to the scheme in 1998. The cost of partial ER is shared between:
 - the employer. Since May 1997, the employer has had to pay a financial contribution which depends on the size of the firm and the proportion of "hard-to-place" unemployed people hired;
 - the ASSEDIC which gives older part-time workers an allowance amounting to 30 per cent of the previous wage;
 - the older part-time workers who accept a reduction of 20 per cent of their monthly wage.
- *L'allocation de remplacement pour l'emploi (ARPE)*: in 1997, the employers' organization and the trade unions signed an agreement (renewable every year) allowing workers who are 58 years old and who have paid at least 40 years' contributions to their pension fund, to take early retirement. Their pension is financed by the unemployment insurance system (UNEDIC). The condition is that the firm has to maintain the total number of working hours with one or several new hires. More than 43,000 people took advantage of this scheme in 1998.

*Although the number of beneficiaries has decreased during the last decade, ER still remains popular. But it mainly concerns men in big firms and the "primary" sector.*¹⁸ Eighty per cent of ASFNE beneficiaries in 1998 were men (their share in the 55-59 age group was about 58 per cent). This disproportion stems mainly from the fact that about half of these new entrants were blue-collar workers, 75 per cent of whom are men. Over 41 per cent of these entrants were in a firm with more than 500 employees (only 11 per cent of all wage earners work in firms of this size). Finally, the production sector is overrepresented (66 per cent of new entrants while 27 per cent of wage earners are in this sector in France). As for the ASFNE, men from big firms and the production sector are also overrepresented in the *préretraite progressive* and the ARPE schemes.

¹⁷ Legally, the social plan cannot rely on ER measures alone.

¹⁸ According to the terminology of the dual labour market theory.

3.4. The unemployment compensation system

Since its foundation in 1958, the national unemployment insurance system – UNEDIC - has been ruled by the social partners (representatives of the employers' organizations and the trade unions), and financed by social contributions. It is complemented by a solidarity system directly financed by the Government – and thus by taxes. UNEDIC has suffered financial crises during the two last decades, stemming from the rise in unemployment since the 1970s. The reforms introduced to address these problems enhanced labour market dualism instead of reducing it. This dualism also appears in the labour market policy measures (both passive and active) implemented by UNEDIC, which have become more important over time.

3.4.1. The increasing dualism of unemployment compensation¹⁹

Since the reform of 1984, unemployment compensation relies on two pillars: 1) *the insurance system (assurance)* – UNEDIC – which provides benefits for a limited duration only to the unemployed who have paid a certain number of contributions; 2) *the “solidarity system” (assistance)* for those who are not covered by the insurance system, because the benefit period is finished (long-term unemployed), or because they have not paid enough contributions (new entrants, or unemployed after short-term temporary work). *This distinction was a prime source of increasing dualism* (i.e. increasing inequality between beneficiaries of the insurance system and beneficiaries of the solidarity system). The basic allowance (*allocation de solidarité spécifique – ASS*) is paid by the solidarity system. It is restricted to workers with five years' employment in the preceding ten. The ASS increased much less than the allowances granted by UNEDIC. The conditions to qualify for the allowance for new entrants (*allocation d'insertion – AI*) were restricted in 1992, and as a consequence the majority of young people were excluded.

In 1992, in a context of UNEDIC budgetary crisis, an important reform took place, introducing the AUD (*Allocation Unique Dégressive*), in order to cut the cost of the system and its coverage (Daniel, 1998). The changes are summarized in box 4. *The 1992 reform is the second important source of increasing dualism in the unemployment compensation system in France*, because it has reinforced the exclusion of workers with a poor employment record.

¹⁹ This section is based on Daniel (1998), and Daniel and Tuchsirer (1999).

Box 4: The 1992 reform of insurance unemployment benefit

- The minimum entitlement conditions have been tightened. Whereas in the previous system the minimum requirement was 3 months contribution in the last 12 months, it is now 4 months over the past 8 months. Although the reference period has been shortened, increasing the obligatory contribution period means that people in very short-term employment are excluded from compensation.
- For the unemployed with a contribution record of 6 months over the last 12, the previous system provided a maximum entitlement period of 21 or 15 months (depending on whether the person was older or younger than 50); under the present regulations, these people are entitled to only 7 months benefits, unless they have paid contributions for 8 months, in which case the same entitlement periods apply as before.
- For those with contribution periods of 12 months over the last 24, the previous system provided a maximum period of 30 or 45 months, depending as before on the age of the person; people with 6 months of contributions over the previous 12 but with an overall contribution record of 10 years in the previous 15 received the same benefit. Under the present rules, 14 months contribution in the past 2 years are required to qualify for these benefits, and the second possibility has been eliminated.
- For workers older than 50 with contribution periods amounting to 24 months over the last 36, the previous system fixed an entitlement period of 45 months (60 for those over 55); under the new system, 27 months of contribution are required.
- Whereas the old system envisaged various types of insurance benefit (basic, extended, end-of-entitlement, extension of end-of-entitlement), the new system comprises a single basic benefit, the AUD (*allocation unique dégressive*) which, after a certain period, is reduced by a fixed amount every four months (the interval between these reductions was extended to six in 1996). The new system implies an overall lower substitution rate.

Source: Malo, Toharia and Gautié, 2000.

In a context of rising unemployment and atypical employment these reforms had the following consequences:

- The proportion of unemployed people covered by the compensation system has decreased over the last decade. The rate has fallen from 62 per cent in 1991 (47 per cent insurance, 15 per cent solidarity) to 52 per cent in 1998 (41 per cent insurance, 11 per cent solidarity). Young people were particularly affected: while about 52 per cent of unemployed workers under 25 received benefits in 1991, only about 33 per cent did so in 1998. Prime-age (25-49) and older workers (over 50) also suffered during this period (the proportion entitled to benefits fell from about 63 to 52 per cent, and from 83 to 78 per cent respectively). Fewer women than men receive benefits: in 1998, while 53.1 per cent of all unemployed workers were women, only 48.6 per cent of workers receiving unemployment benefits were women. (This shows that there are big holes in the “safety net” based on insurance complemented by assistance. For instance, in 1998, only 20 per cent of the unemployed whose insurance benefits were exhausted were entitled to other forms of compensation through the solidarity system (ASS). As a consequence, many long-term unemployed have no other resource than the minimum income (*revenu minimum d’insertion* - RMI), which has become the “third pillar” of the unemployment benefits system, although it was not intended as such when it was created in 1988 (Audier et al. 1998).
- The inequalities between age and gender groups reflect the increasing dualism between outsiders, with poor employment and insiders, with long employment records and often high employment protection. The reform of the compensation system did not offset the consequences of the effects of changes in the labour market: as the number of precarious

workers rose, their entitlements, in particular in the insurance system, fell. How can this paradox be explained? The system is based on two principles:

- the *protection principle*: the priority is to cover the risk of unemployment, regardless of the worker's employment record;
- the *contribution principle*: compensation is based on contributions paid. This means that the employment record, which determines the social contributions, also determines the benefit entitlement.

The two principles apply in both the insurance system UNEDIC (the benefits are not exactly proportional to contributions, which means that the protection principle is taken into account), and in the solidarity system (ASS is also based on the employment record, which indicates the contribution principle). Until the mid-1980s, the two principles were compatible, and even complementary: the workers most at risk of unemployment (both in terms of probability of dismissal and in terms of unemployment duration) were those who had contributed the most (i.e. prime-age and older workers in the downsizing traditional sectors). But since the 1980s, unemployment among labour market entrants and the number of precarious workers have become growing concerns. The two principles became non-compatible: a trade-off had to be made at a time of financial crisis in the unemployment compensation system. The insiders' view (the contribution principle) seems to have prevailed. The reason may be that the insurance system is ruled by the trade unions, which favour prime-age and older workers in the primary sector. But the solidarity system also became less generous.

3.4.2. Active measures implemented by UNEDIC: The danger of growing dualism

The "activation" of passive spending has been a leitmotiv of both the OECD and the European Union. *But in a context where the insurance system covers only 40 per cent of the unemployed, and where the contribution principle prevails²⁰, there is a danger of dualism in LMP. In other words, the people who are most at risk - i.e. those who do not enjoy job protection, may be excluded from the best active measures.* We mentioned above that UNEDIC contributes to early retirement schemes, and to active measures targeted at displaced workers before they become officially unemployed. We will now look at schemes targeted at jobless workers receiving unemployment benefit.

- *The retraining allowance (Allocation Formation Reclassement – AFR).* The AFR scheme maintains the unemployment insurance benefit (AUD) for the duration of training. It was created with financial support from the Government. This support was withdrawn in 1997, since when the contribution principle has been reinforced. People who had a part-time job before becoming unemployed now receive an allowance during their training, proportional to the contributions that they made. It is necessary to apply for a retraining allowance during the first six months of unemployment. In 1998, there were 194,000 beneficiaries (12 per cent of all AUD recipients). Seventy-two per cent of the beneficiaries were prime-age unemployed (25-49 years old), although this age group makes up only 65 per cent of all AUD beneficiaries. Skilled workers are also overrepresented among AFR beneficiaries.
- *The "convention de coopération"* is an employment subsidy. UNEDIC subsidizes firms hiring the long-term unemployed (more than 8 months without a job) by an amount equivalent to the remaining entitlement to unemployment benefit. The subsidy is thus

²⁰ This principle applies when access to the active measures financed by UNEDIC is restricted to people who have contributed enough.

proportional to the entitlement, which depends on the previous employment record, and on the previous wage. In 1998, there were 32,500 new entrants in this scheme, more than 80 per cent of whom were between 25 and 49 years old.

3.5. LMP targeted at outsiders

So far we have focused on LMP targeted at insiders, arguing that for those groups there seems to be a complementarity rather than a trade-off between EPL and LMP. But LMP is also targeted at outsiders such as new entrants, mainly young people – and other “hard-to-place” groups, especially the long-term unemployed.

3.5.1. LMP on youth: An ambiguous role

France has many schemes for youth (see box 5).

Box 5: The main schemes for young workers

1) Subsidized jobs in the private sector (pure subsidies)

* *Plan d'Urgence pour les Jeunes* (1986-87). Beneficiaries: young people under 25; exemption from employer's social security contributions (50 per cent for a young person exiting another employment policy measure; 25 per cent for others).

* *Exo-Jeunes* (1991-1994). Beneficiaries: unskilled young people under 25; exemption from employer's social security contributions (100 per cent for one year, 50 per cent for the next 6 months, for wages up to 120 per cent of the statutory minimum wage (SMIC)).

* *Aide au Premier Emploi des Jeunes* (APEJ) (1994-1996). Beneficiaries: all young people who have never held a job entitling them to unemployment compensation, whatever their level of skill; the employer receives FF 1000 per month for the first 9 months of the job.

* *Contrat Initiative Emploi (CIE)*. Beneficiaries: several hard-to-place groups, including young people under 26, without skills; the duration is between 12 and 24 months; the employer is exempt from social security contributions for the part of the wage under the minimum wage, and receives a lump sum of FF 2000 each month.

2) Temporary employment in the public sector

* *Travaux d'Utilité Collective (TUC)* (Public works schemes) (1984-1990). Beneficiaries: young people aged 16 to 21, or up to 26 if they have been unemployed for over a year; "trainee" status: less social protection, low pay, 30 per cent of salary paid by central government; maximum duration: 1 year, except in special cases; TUCs are limited to the public sector.

* *Contrats Emplois-Solidarité (CES)* (1990-). Replace the public works schemes; extended to other groups in difficulty (notably the long-term unemployed); half-time work contract, paid an hourly rate based on the SMIC; maximum duration: 1 year, except in special cases; CES are limited to the public sector.

* *Emplois-Jeune* (1998-). Beneficiaries: young people up to the age of 26 (or 30 for those not entitled to unemployment compensation); wages are settled according to industry-wide collective bargaining agreements; duration: no more than 5 years; these jobs, in the public sector, must correspond to "new services" not on the "regular" market.

3) Dual training schemes (on-the-job and classroom training)

* *Contrat d'apprentissage*. Beneficiaries: young people aged 15 to 25; training both inside (mentoring) and outside firms (training centres); the employer enjoys partial exemption from social security contributions; young people are paid 25 to 78 per cent of the SMIC, depending on age and length of service; duration: up to 3 years.

* *Contrat de Qualification (CQ)* (1984-). Beneficiaries: young people aged 16 to 25; training both inside (mentoring) and outside firms (training centres); the employer receives partial exemption from social

security contributions. a training subsidy (FF 60 per hour); young people are paid between 30 per cent of the SMIC and 75 per cent of the statutory wage, depending on age and length of service; maximum duration: 2 years.

* *Contrat d'Adaptation (CA)* (1984-). Beneficiaries: young people aged 15 to 25; in-firm training; the employer receives partial exemption from social security contributions and a training subsidy; young people are paid at least the SMIC, and at least 80 per cent of the statutory wage corresponding to their qualifications; maximum duration: 1 year.

4) Comprehensive schemes

TRACE (TRAjectoire d'Accès à l'Emploi) (1998-...). This programme, targeted at hard-to-place youth, takes an individualized approach; beneficiaries have a mentor who coordinates the different stages of this trajectory into employment; TRACE offers a wide array of schemes (job search assistance, classroom and on-the-job training, temporary employment in the public sector).

LMP plays a key role in the youth labour market. In 1998, more than 1 million workers under 26 years old (out of 2.6 million – i.e. 38 per cent) were in assisted employment (*emploi aidé*). This includes subsidized jobs in the private sector, temporary employment in the public sector and the dual training schemes mentioned in box 5, as well as subsidized part-time jobs (*abattement temps partiel*) - which are not restricted to young people (DARES, 1999). *This is an illustration of the EPL/LMP trade-off, as youth do not enjoy high EPL.*

But the role of LMP is ambiguous. *One could argue that it only contributes to creating a secondary labour market for youth*, because assisted employment means temporary jobs which often pay less than the conventional wage (some employers are accused of circumventing the minimum wage), and they produce most results in terms of employment rate and/or income (Gautié, 1996).²¹ More than 230,000 young people were in temporary jobs in the public sector²² in 1998, which can be considered as queuing for employment. In that year, about 70 per cent of the beneficiaries of dual training schemes were in firms with less than 50 employees. As we will see in Chapter 4, this stems from the exclusion of youth from the primary sector.

3.5.2. LMP on the hard-to-place

A number of schemes are targeted at hard-to-place prime-age workers who are out of a job. The main schemes are the following:

- The *Contrat Initiative Emploi (CIE)* is the main employment subsidy scheme. It is restricted to the long-term unemployed (over 12 months of unemployment), the unemployed aged 50 or more, the unemployed who depend on the solidarity system (ASS or RMI), disabled workers, single mothers with dependant children, and youth with low or no skills (see box 5). The duration varies between 12 and 24 months; the employer is exempt from social security contributions for the part of the wage under the minimum wage, and receives a lump sum of FF 2000 (about 300 euro) each month for the less employable. The number of beneficiaries was 196,000 in 1998 (about 80 per cent were older than 26).

²¹ We stressed in Chapter 2 that the transitions from these schemes to permanent jobs are low.

²² It is worth mentioning that more than 60 per cent of CES beneficiaries are women. Outsiders are concentrated in the less efficient schemes in terms of labour market outcomes: according to evaluation studies, former beneficiaries of CES have lower wages than non-beneficiaries when they find a job; but this result probably stems from a selection bias: the beneficiaries of CES are less employable *ceteris paribus* (i.e. for any given age, gender and qualification); Gautié (1996).

- The *Contrat Emploi Solidarité (CES)*: temporary work in the public sector; half-time work (20 hours a week), paid at an hourly rate based on the SMIC; this scheme is open to low-skilled youth under 26, but it is also targeted at the long-term unemployed (one year or more), RMI and ASS beneficiaries; unemployed workers aged over 50 and the disabled. Depending on the beneficiary, between 65 and 85 per cent of the cost is paid by the State, the rest being paid by the non-profit organization which gives the CES; usually the duration cannot exceed 12 months, but renewals are possible up to a maximum of 3 years, especially for the hardest to place (unemployed for more than 3 years). There were about 480,000 new entrants in this scheme in 1998; 62 per cent were women, 75 per cent were more than 26 years old and 11 per cent were over 50; 75 per cent had been unemployed for one year or more and 24 per cent for 3 years or more; before entering a CES, 55 per cent were receiving no allowance at all, and 33 per cent were on the RMI.
- The *Contrat Emploi Consolidé (CEC)* was created at the end of the 1990s. These are longer contracts (up to 5 years maximum), also limited to the public sector; the Government pays up to 60 per cent the first year (and 50 per cent, 40, 30 and 20 the following years, except for certain beneficiaries whose subsidy can be maintained at 50 per cent throughout the 5 years); the maximum working week is 30 hours. There were more than 105,000 new entrants in 1998. The same year, 62 per cent of CEC beneficiaries were women; 83 per cent were more than 26 years old and 21 per cent were over 50; 32 per cent had been unemployed for more than 3 years before entering the scheme.

To conclude, the hardest-to-place seem to be relegated to temporary employment in the non-market sector, with a high risk of the lock-in effect (Erhel et al. 1996). In a context of mass unemployment, creaming tends to be very high in schemes which have links to the private sector. In terms of active intervention, it seems that too little is done too late. In other words, LMP targeted at the hard-to-place does not fit the framework of a "transitional labour market", which implies that LMP must intervene early enough to prevent long term exclusion from employment. Better profiling earlier in the unemployment period would be necessary to prevent exclusion. But exclusion may also be a consequence of strict EPL. The next chapter addresses this question.

4. The interaction between EPL and LMP

When assessing EPL and LMP, one must adopt a "systemic" approach: labour market regulation is one component of a system based on the interaction between the welfare state and the labour market. From this interaction emerges the central figure of the "prime-age male wage earner". There are different forms of relative exclusion of (mainly low skilled) youth, older workers and the long-term unemployed.²³

4.1. The central figure of the prime-age male wage earner

4.1.1. A corporatist-conservative type of welfare state

It is not possible to understand EPL and LMP in a given country without referring to the type of welfare state. There are different conceptions of "social citizenship". Following Esping-

²³ Low skilled and female new entrants should be added to the list.

Andersen (1990), social rights can be viewed in terms of the degree to which they permit people to make their living standard independent of pure market forces; social rights do not view the status of citizens as a commodity. There are three ways (that may be combined) for citizens to gain access to the resources in a given society (Gautié, 1998):

- *economic distribution*: refers to earned income; at this level, "de-commodification" depends on EPL and LMP that limit labour market forces;
- *social distribution* refers to welfare entitlements; these social rights can be linked to employment status so that "de-commodification" is less important than where universal rights prevail;
- *household distribution* mainly concerns dependant children, but also a (non-working) spouse and sometimes dependant older people.

The interaction between the three types of distribution differs widely from one country to another. Following Esping-Andersen again, three types of welfare state can be distinguished:

- first is the "liberal" welfare state, in which means-tested assistance, modest universal transfers or modest social insurance plans predominate; the United Kingdom and the USA are good examples of this first type. In these countries de-commodification through labour market regulation is very limited: both EPL and LMP are low. Access to resources depends mainly on economic and household distribution;

- at the opposite extreme the "social-democrat" welfare state of the Nordic countries (especially Sweden) relies on a mix of highly de-commodifying and universalistic programmes. This prevents an overreliance on household distribution. EPL and LMP are high. Social protection is financed more by taxes than by social security contributions; nevertheless, employment is considered as a counterpart of social citizenship, and as a condition of autonomy: women's labour force participation is fostered in this model by the tax system and child care facilities;

- the intermediate case, illustrated by Bismarkian Germany, is the (conservative) "corporatist" welfare state. Benefits depend mainly on contributions to the social insurance system, and thus on work and employment status. Allowances (usually means-tested) granted directly by the state are only a complement. Non-working members of a household depend directly on the working member (the "male breadwinner"), via household redistribution and the extension of the worker's social rights to family members. As employment status is the central pillar of the welfare regime, EPL is high. In this corporatist tradition, civil servants usually enjoy privileged welfare provisions and lifetime employment.

The traditional welfare state in France is a particular example of the "corporatist" model. In this context, it is clear why labour market rigidity and the concentration of EPL and LMP on prime-age male wage earners form a self-reinforcing spiral. As Esping-Andersen (1996) argues:

"If we consider that most families depend on the male earner's pay and social rights [...] the result is that the typical worker can ill afford any risks or employment breaks across his active career. The consequence is that voters and trade unions will defend the existing rights of the "insiders" as forcefully as possible. There is an implicit conspiracy to safeguard the prime-age male worker even when it harms his wife's, son's, daughter's employment prospects" (p. 19).

This model, based on the central figure of the "male bread winner", must be adjusted to take account of increased female labour force participation. The participation rate of women

aged 25-54 was around 68 per cent at the end of the 1990s compared to 60 per cent 20 years earlier - which was quite high compared to other countries (such as Germany, Italy, Netherlands or Spain) classified as "corporatist countries" in Esping-Andersen's typology. Indeed, this evolution is partly due to increasing unemployment among "male breadwinners." But as we noted in Chapter 2, women are overrepresented among the outsiders, with higher unemployment rates and more precarious or involuntary part-time jobs. As a consequence, even if the "male breadwinner model" must be adjusted, it still remains generally valid.

The industrial relations system is also linked with the welfare regime. The welfare state (particularly the unemployment compensation system) is partly governed by the social partners, and thus by the trade unions. This is a very important source of power and resources for unions.²⁴ It is all the more vital as membership is declining, and increasingly concentrated in the public sector. But as a result, the welfare state tends to be ruled by the insiders for the insiders. The state is supposed to intervene to promote the general interest, (including the outsiders' interests). This can lead to a conflict of interest between the state and the social partners (see Chapter 5 below). But the state itself does not necessarily promote the outsiders' interests every time - as we have seen in the case of unemployment compensation. The same applies to deregulation, and can be understood in a "political economy" perspective. Saint-Paul (1996) argues that governments will only implement labour market reforms if these do not damage the majority of the people. Hence fixed-term contracts represent a compromise, which enables the government to introduce some flexibility into the labour market without endangering the employment security of most (permanent) workers.

4.1.2. An "internal market" type of labour market functioning

In addition to the type of welfare state, the institutional characteristics of labour markets must be taken into account. The link between the education and training system and the production system defines two modes of labour market functioning (Eyraud, Marsden and Silvestre, 1990; Garona, Ryan and Edwards, 1991).

In an *occupational labour market*, skills are transferable from one firm to another; they qualify workers for specified occupations in the job classification (and thus a definite wage level). These skills are acquired through an apprenticeship system that follows certain rules aimed at making transfer possible, thus facilitating inter-firm mobility. The United Kingdom (until the 1980s) and Germany, albeit in different ways, are examples of this kind of labour market. France (and also, to some extent, and in different ways Italy, Japan, Sweden and the USA) tends to be characterized by an *internal labour market* type of functioning. The diplomas and credentials acquired outside firms in the educational system act mainly as a criterion for recruitment, and experience acquired inside the firm converts this "potential" skill into a skill which has meaning for job classifications. The education and training system is primarily a filter that makes it possible to classify job applicants according to their aptitudes. Firms consider a diploma more as a signal (in Spence's (1973) terminology) of potential than as a measurement of immediately productive skill. Even when they have a vocational skill, new entrants in blue-collar jobs and offices hold an unskilled job. *Seniority plays a key role in careers in France, in terms of job classification and wage, much more than in Germany for instance: a long-term*

²⁴ 11,000 delegates from trade unions and employers' organizations participate in administering the social security system, which is divided into four branches: UNEDIC for unemployment, with expenditures of 143 billion FF in 1999, for 2.5 million beneficiaries; CNAM (*Caisse nationale d'assurance maladie*) for health (634 billion FF, 48 million beneficiaries); CNAV (*Caisse Nationale d'Assurance Vieillesse*), for retirement pensions (409 billion FF, 9.5 million beneficiaries); CNAF (*Caisse Nationale d'Allocations Familiales*), for aids to family (including housing) (266 billion FF, 9.5 million beneficiaries).

employment relationship is thus necessary. Another important point in France until the beginning of the 1980s, was that the majority of labour market entrants (especially those who became blue-collar workers or clerks) had no diploma or vocational training at all. The only skill they could acquire was specific human capital accumulated inside the firm, and thus a (quasi-) non-transferable skill. As a result, until recently, the educational level of prime-age and older workers was very low in France compared to Germany, the Nordic countries and the United States.

These facts help explain why the priority of trade unions was to protect the core of prime-age and older workers whose employability is low outside their firm as their skills are hardly transferable. Job protection and strong guarantees in case of lay-off were thus the key issue for them. The complementarity between EPL and LMP stressed in Chapter 3 stems from an “internal market” type of functioning. It must also be remembered that the unions’ “internal labour market” culture reflects the fact that their basis was the public sector and the “primary sector” (automobiles, banking, energy, etc.), where internal markets prevail.

4.2. Labour market outcomes

Overall labour market outcomes in terms of employment stability and flexibility were described in Chapter 2. In this section we will analyse the outcomes of labour market functioning (including the specific link between EPL and LMP) from the point of view of different groups of workers. Table 22 depicts the labour market situation of the age and gender groups distinguished in the previous sections.

Table 22: Unemployment, labour force participation and employment population ratio by age and gender, 1998

	Unemployment rate (%)	Labour force participation rate (%)	Employment/population ratio (%)
Youth (<25)	25.4	28.0	20.9
Women (25-54)	12.7	77.9	68.0
Men (25-54)	9.3	94.5	85.8
Older workers (55-64)	8.7	36.1	33.0

Source: OECD, 1999.

The “centrality” of male prime-age wage earners appears clearly here. Women have lower employment and participation rates, and higher unemployment. But France has particularly low employment ratios for both youth and older workers. In 1998 they were 20.9 and 33.0 per cent respectively, compared to 45.1 and 47.9 per cent respectively for the OECD countries as a whole. We must try to explain why France is a country where “*a single generation works at a time*” (Elbaum and Marchand, 1994). This problem will be addressed in Chapter 4.2.1.

Another characteristic of the French labour market (but also of many other European countries) is the importance of long-term unemployment: in 1998, 43.2 per cent of the unemployed had been searching for a job for more than a year. We will try to assess if the link between EPL and LMP is relevant here.

4.2.1. The relative exclusion of youth and older workers²⁵

4.2.1.1 Youth

The overall job shortage is the main cause of youth unemployment in most European countries. But the overall shortage has the biggest impact on young people in countries where the *internal labour market* mode predominates. Three factors have contributed to this trend:

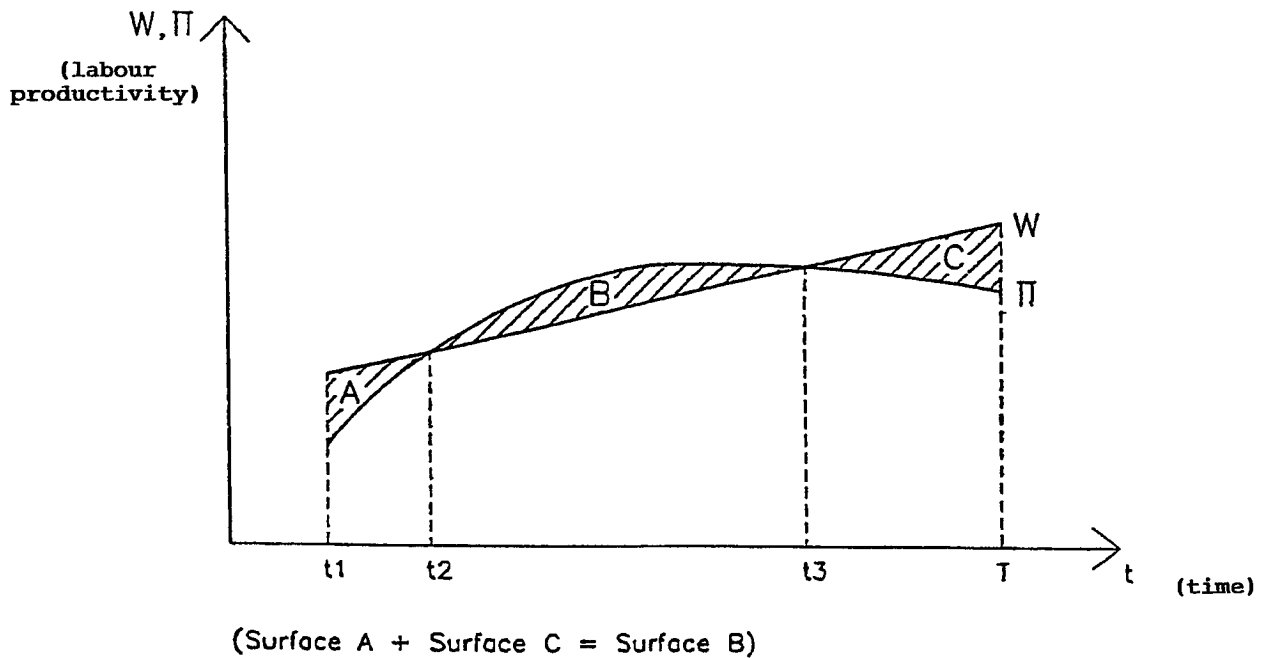
- the rise in the relative wages of the least skilled workers through the first half of the 1980s, and their level since then, has tended to penalize unskilled young people; this rise was due to increases in the minimum wage, in both relative and absolute terms;²⁶
- in response to the crisis, unions have generally tended to defend the interests of the adult workers (aged over 30) who constitute their base;
- the destabilization of internal labour markets, with the disappearance of the implicit subsidies from which young people sometimes benefited, also contributed to their disadvantages in the labour market (box 6).

²⁵ This paragraph relies heavily on Gautié (1999).

²⁶ In Sweden, for example, the same result was achieved by the wage solidarity policy promoted by trade unions. This policy, which was initially aimed at equalizing wages for a given level and type of job ("equal wages for equal work"), subsequently, especially in the 1960s and 1970s, sought to reduce wage gaps between the various skill levels.

Box 6: Destabilization of internal labour markets and the effect on youth and older workers

The accumulation of human capital in firms and the incentive value of seniority-based wages are the foundation of the standard wage profile in the internal labour market of large firms - diagram 1. In the initial phase (from t_1 to t_2), during which the specific human capital is accumulated, young employees are paid more than their productivity level. In the second phase (from t_2 to t_3), employees are paid below their productivity, both so that the employer can recover some of the costs of the investment in human capital during the earlier period and as an incentive (as presented in the theory of delayed payment contracts - cf. Lazear, 1981). Lastly, the third stage (from t_3 to T), in which older workers are paid above their productivity, is justified by the same reasons of incentive (seen in the second stage), since wages continue to rise in line with tenure until the end of the employee's career. Independently of firm-specific human capital, the career profile during the first two periods (the young and the adult employee) can also be due to high wages at the time of hiring (because of a minimum or contractual wage), which requires the employer to pay newly hired employees above their productivity, a loss that the employer subsequently recoups by imposing a lower rate of seniority-based advancement. In the aggregate, the profile of wage and productivity trends is such that there is an equalization of both variables ($B = A + C$) over time (longitudinally, over the entire career). On the other hand, in a cross-section perspective (at a given moment in time), this system entails a subsidy -- that we shall call "implicit" -- from prime-age workers to younger and older workers (since these adult workers are paid below their productivity while younger and older workers are paid above it).



There are signs that these implicit subsidy systems from which young and older people used to benefit in some firms have tended to be dismantled since the 1980s. This is due to the shorter time horizon of corporate management -- which itself stems from higher interest rates in the 1980s, the more rapid pace of technological progress and increased competition -- as well as to new technologies which make it easier to individualize performance. The higher level of training acquired in the education system has also tended to weaken the on-the-job training model of traditional internal labour markets. The trend now is to pay all workers according to their productivity at a given time in their career, as is borne out by the increasing individualization of wages: in new wage contracts, spot wages equal spot productivity. If, as we have suggested, younger and older workers tended to benefit from implicit subsidies in previous wage contracts, then it is understandable that in many countries they have been hardest hit by changes in the labour market, which have led to a drop in their relative wages and/or lower employment in countries where wages are not flexible. This is the case in France, and more particularly in the sectors where the internal labour market predominates.

Concurrently, the supply of young workers began to decrease from the beginning of the 1980s, as school attainment rose sharply (table 23). As a result, the participation rate of people under 25 fell to 34.2 per cent in 1998, the lowest among the OECD countries. This “educational rush” is partly due to the job shortage.

Table 23: Exits from the educational system

	1980	1997
Bac +3 years and more	6 %	21 %
Bac + 2 years of college	9 %	17%
High school degree (Bac)	16 %	25 %
Short professional diploma (CAP-BEP)	30 %	18 %
No diploma. CEP. BEPC	39 %	20 %

Note: usually, children enter the 1st grade of primary school around the age of 6; at the end of the primary school (5 years of schooling, i.e. 10-11 years old), they can get the “*Certificat d’Etude Primaire (CEP)*” (primary school diploma); for those in the secondary “general” curriculum, the “*BEPC*” is an intermediate diploma (9 years of schooling, i.e. 14-15 years old), and the “*baccalauréat (BAC)*” is the final high school diploma (12 years of schooling, i.e. 17-18 years old); those in the secondary “professional” curriculum, can get a “*CAP*” (10 years of schooling) or a “*BEP*” (11 years of schooling).

The consequence of all these factors was that the number of people under 25 who had a job fell sharply, especially from the early 1980s to the early 1990s (table 24).

Table 24: Employment of youth and older workers, 1983 to 1993

Sectors	Employment 15-24 years old (thousands)		Employment 50-59 years old (thousands)		Total employment (thousands)		Variation 15-24 (%)	Variation 50-59 (%)	Variation of total employment (%)
	1983	1993	1983	1993	1983	1993	83/93	83/93	83/93
Agriculture	137	63	623	303	1 808	1 187	-54.0	-51.4	-34.3
Food and agro-industry	123	79	113	78	628	592	-35.8	-31.0	-5.7
Energy	27	4	51	34	269	244	-85.2	-33.3	-9.3
Intermediate goods	155	70	252	190	1 380	1 100	-54.8	-24.6	-20.3
Capital goods	224	75	291	243	1 814	1 401	-66.5	-16.2	-22.8
Consumption goods	223	84	230	164	1 351	1 101	-62.3	-28.7	-18.5
Construction	257	138	280	252	1 704	1 507	-46.3	-10.1	-11.5
Retail and wholesale trade	434	278	439	376	2 595	2 568	-35.9	-14.4	-1.0
Transport and Telecom	134	62	204	213	1 300	1 358	-53.7	-4.4	+4.5
Market services	614	585	534	701	4 002	5 457	-4.7	+31.3	+36.4
Finance and banking	71	36	95	100	666	749	-49.3	+5.3	+12.5
Non-market services	380	472	667	806	3 980	4 898	+24.2	+20.8	+23.1
Total	2779	1946	3779	3460	21497	22162	-30.1	-8.4	+2.9

Source: Gautié (1997). Calculations based on data of the *Enquêtes Emploi*, INSEE, 1983 and 1993.

While the total number of people employed rose by 2.9 per cent between 1983 and 1993, the number of employed aged between 15-24 and 50-59 fell by 30.1 per cent and 8.4 per cent respectively. The drop in youth employment during this period was 85.2 per cent in the energy sector, 66.5 per cent in capital goods, 62.5 per cent in consumer goods and 49.2 per cent in the banking sector (Gautié, 1997). Experience in the iron and steel industry was a good illustration of the difference between France and Germany concerning the effects of the crisis on youth employment. Throughout the 1980s the decline in total employment in this sector was about the same proportionately. German firms continued to hire youth through the apprenticeship system but in France the three social partners signed the "*Convention Générale de la Protection Sociale pour la Sidérurgie*" (1977-1991) to protect prime-age workers. The result was that at the beginning of the 1990s, less than 5 per cent of workers in the sector were aged under 25 or over 50 (Galtier et al., 1994).

These figures make it clear why such a large and active LMP was targeted at youth in France. There are three standard models of labour market entry for young people in Europe:

negotiated entry, via the German apprenticeship model, *competitive entry* through deregulation of the labour market as in the United Kingdom under a Conservative government), and *subsidized entry*, as in France, where active LMP, and especially subsidized jobs²⁷, play a key role and are a functional substitute for the German apprenticeship system, which is a form of “bargained flexibility” (Garona and Ryan, 1991; Gautié, 1997).

4.2.1.2 Older workers

As shown in table 24, the employment of workers aged over 50 (and under 60, which is the legal retirement age in France) has decreased since the beginning of the 1980s. The model presented in box 6 may indicate the reasons for this. Older workers in France have low and non-transferable skills. As seniority played a key role in the wage career, such workers were costly for firms. But in contrast to youth, older workers are insiders. The downsizing sectors were traditional industries, often with strong trade unions. As mentioned above, *early retirement, co-financed by the state and the employers was a satisfactory way of separating from these workers, who generally were happy to retire.*

But not all older workers were able to take early retirement. After the administrative authorization for dismissal was abolished in 1986, many more workers over 55 were laid off. A new law was therefore passed (*contribution Delalande*, 1987) to prevent these lay-offs, which were very costly for the insurance system because the workers concerned were entitled to high unemployment benefit and they were likely to become long term unemployed. Employers have to pay a special contribution to UNEDIC, the equivalent of one to six months’ wages of laid-off workers aged 50 or over. Since a modification introduced in 1992, the size of the firm is also taken into account.

The long-term effects of such EPL and LMP are debatable. The intensive recourse to early retirement has a *stigmatizing effect* on all older workers in that it reinforces the employers’ belief that older workers are no longer employable. There seems to be a contradiction here with the measures taken to prevent firms laying off this type of worker. The Delalande law may have a negative effect on the workers it is intended to protect: firms may be very reluctant to hire older workers, knowing that it will be very costly to fire them. However, no systematic evaluation has yet been made of the impact of this measure.

4.2.2. Long-term unemployment

Many economists believe that long term unemployment stems from labour market rigidities, among which EPL and unemployment benefit play a key role. But the empirical evidence is not clear. The debate is crucial for France because the country has high EPL and very generous unemployment benefits.

4.2.2.1 Unemployment compensation

A comprehensive survey carried out by Atkinson and Micklewright (1991) found inconclusive evidence of the effects on unemployment of the amount of the unemployment benefit (i.e. replacement rate). On the other hand longer unemployment spells seem to be correlated with longer benefit duration, but there is no consensus on the relationship (see Cases, 1996, for a survey of French studies).

²⁷ “Explicit” subsidies tend to substitute for the “implicit” ones shown in box 6.

Cross-country studies (on macro data), often find a strong correlation between unemployment compensation and unemployment, especially long term unemployment. According to Nickell and Layard (1999):

The impact of high benefit replacement ratio on unemployment is well documented ... Another important feature of the benefit system is the duration of entitlement. Long term benefits generate long term unemployment (p. 3070).

The shortcomings of such studies have to be stressed. On one hand, they often use the OECD classification to assess the “generosity” of unemployment compensation systems. But in the case of France the degree of generosity seems to be overestimated.²⁸ As mentioned above, since the AUD was introduced, the benefit has decreased and its duration has been restricted. But, above all, nearly half the unemployed in France receive no benefit of any kind. On the other hand, microeconomic studies are too inconclusive for us to reject the possibility that the correlation established by cross-country macro studies relies (at least in part) on a reverse causality, which runs from unemployment to benefits rather than the other way round. In a context of mass unemployment and low exit rates from unemployment, there are incentives for high benefits (especially when trade unions are involved in the unemployment compensation system). Nevertheless, because of budgetary constraints, benefits have become less generous in France over time, particularly for outsiders.

4.2.2.2 *Employment protection*

One of the main findings of a recent comprehensive study undertaken by OECD (1999) is that:

stricter EPL is associated with lower turnover in the labour market, with both jobs and unemployment spells tending to last longer. Fewer workers experience unemployment in any given year, but those becoming unemployed have a greater probability of remaining unemployed for a year or more (p. 50).

This picture matches the situation described in Chapter 2.

The correlation between EPL and long-term unemployment²⁹ relies on a very simple but convincing hypothesis: if high EPL reduces the number of dismissals, then it is particularly stigmatizing to be dismissed. Saint-Paul and Kugler (2000) give both theoretical and empirical evidence of this process. In their model, firms choose which employees to dismiss, and therefore tend to fire low quality workers. They choose very carefully when firing costs are high. When hiring and firing cost are both high, firms tend to hire from the pool of employed job seekers, rather than from the pool of unemployed, who are more likely to be poor workers. Using micro-data, the authors found that the ratio between the job-finding probability of unemployed workers

²⁸ For a detailed criticism of OECD calculations, see Szpiro (2000).

²⁹ According to the seminal work of Bentolila and Bertola (1990), the impact of firing costs on average employment is insignificant; these costs reduce both firing and hiring (apparently in the same proportion). But lower job creation increases the duration of unemployment: this is an even more direct effect of the EPL on long-term unemployment. In fact, according to some theoretical models, EPL should have a *negative* impact on global employment. First, firing costs reinforce the power of insiders, and thus increase real wages and unemployment, according to Lindbeck and Snower (1988). Second, “firing costs induce firms to use quits rather than firings to adjust their labour force downwards, which, by somewhat indexing job destruction on job creation, makes the cost of adjustment dependent on the state of the labour market, which potentially creates a “high unemployment” trap where firms do not hire because low labour demand will force them to retain their workers in the future” (Saint-Paul, 1996, p. 13). Third, from a “Schumpeterian” perspective, as firing costs slow labour reallocation to new sectors, they may lower the incentives to innovate.

and employed job seekers was smaller in Spain (where EPL is stricter), than in the United States. Furthermore, using US data, they found that discrimination against the unemployed increased over the 1980s in the states that raised firing costs by introducing exceptions to the employment-at will doctrine.

In the case of France, employed job seekers do not seem to have a higher job-finding probability than the unemployed. But workers who have gone through a period of unemployment earn less in their new job than others, controlling for observable characteristics. At the beginning of the 1990s, the average loss for a person who had been unemployed for less than one year when hired in a new job was 8 per cent compared with previous earnings. It could be more than 50 per cent for people who had been unemployed for two years or more (Bacache et al., 1995). The loss may result from "stigmatization". Discrimination also occurs among the unemployed (which is consistent with the theoretical model): dismissed workers tend to experience longer spells of unemployment. At the end of the 1980s and beginning of the 1990s, the proportion of unemployed workers who were employed a year later was 45 per cent for new entrants, 39 per cent for those who were unemployed after termination of a precarious job, and only 27 per cent for those who were laid off (Saint-Paul, 1996). *The stigmatization effect seems to be real, particularly as in France there is no "seniority rule" for dismissal ("last hired first fired") unlike in many US industries. Once the number of lay-offs has been decided, the employer chooses which workers to fire³⁰ (Bessy, 1994). This tends to reinforce the vicious circle. As insiders know that they are likely to become outsiders if they are laid off, they will try to promote job protection. For the unemployed, it may increase the probability of becoming long term unemployed, thus outsiders.*

5. Reforms affecting EPL and LMP

5.1. Policies on taxes and working time

The last decade has seen no major reform affecting EPL. On the other hand, there have been two important changes in the field of LMP:

- since 1993, growing priority has been given to promoting the employment of unskilled workers by reducing their labour costs. Instead of resorting to targeted subsidized jobs, it has been decided to lower the employers' social contributions on all earnings from 1 to 1.3 per cent of the minimum wage. But this measure is more a question of tax policy than LMP;
- since 1998, a series of laws have been adopted to reduce the working week to 35 hours. The Government hopes that this will help create new employment and preserve some existing jobs. During the transition period (the implementation of the 35h laws is progressive), a social plan can be refused if the possibility of saving jobs by reducing working time has not been explored.

These reforms are quite important but they have little direct effect on the interaction between EPL and LMP. Discussions are in progress on other possible measures, especially in the "social re-foundation" negotiations proposed by the employers' organization.

³⁰ Despite special legal protection for the disabled and union delegates, and non-discrimination based on characteristics which are not related to individual productivity.

5.2. The “social re-foundation”

In 1999, the employers’ organization (*MEDEF, Mouvement des Entreprises de France*) launched the “social re-foundation” project. This has the very ambitious aim of reforming the entire functioning of the labour market, particularly EPL and unemployment compensation, but also active LMP. Discussions with trade unions are focusing on two proposals put forward by the employers.

5.2.1. A new employment contract

The employers’ first proposal is to introduce a new employment contract, of a maximum duration of five years. MEDEF refers to *the Emplois Jeunes* scheme (box 5), which relies on temporary jobs in the non-profit sector for a maximum of five years. This new type of contract, named “project contract” (*contrat de projet*) or “mission contract” (*contrat de mission*) would correspond to the period necessary to start manufacturing a new product, or to begin a new activity, or to accomplish any kind of non-permanent activity. In other words, it would be a fixed-term contract free of the existing legal restrictions. MEDEF proposes that this new form of contract should not be regulated by the Labour Code but that the conditions of use should be negotiated at branch and firm levels. So far there has been strong opposition from the trade unions to these proposals: such an employment contract would undermine the structure of EPL, whose main pillar is still the open-ended contract (*contrat à durée indéterminée*). But discussions are still in progress and the union position could change.

5.2.2. The reform of the unemployment insurance system

The second proposal emerged in the context of renegotiating the UNEDIC agreement. UNEDIC is governed by a convention between the employers, the unions and the state, because unemployment compensation is considered a public service which is only “delegated” to UNEDIC. Every modification to the agreement proposed by the social partners must be approved by the Government. This convention had to be renewed in 2000 and MEDEF proposed a fundamental reform of the existing system in the shape of a new programme called the PARE (*Plan d’Aide au Retour à l’Emploi*).

The PARE would be a personal “contract” instead of a collective unemployment insurance. The rights and duties of a worker who qualified for unemployment benefits from UNEDIC under the new system are set out below.

- The “contract” established between the beneficiary and UNEDIC relies on a “personal action project” (“*projet d’action personnalisé*” - PAP). The unemployed are obliged to accept the proposals for skill evaluation or training, and any job offer corresponding to their profile, which is determined at the beginning of the PAP; if a job offer is refused unemployment benefits are reduced by at least 20 per cent and they may be withdrawn completely. The PAP runs for 6 months: it can be renewed for 6 months if the beneficiary has not found a job at the end of this period. A further six-month period begins with a complete skill evaluation (*bilan de compétence*);
- UNEDIC offers a variety of active measures to the beneficiary, in addition to an unemployment benefit which remains constant (in contrast to the present situation).

The PARE is very close to programmes in other European countries (such as the Danish “activation plan” which is also based on an individual contract specifying the rights and duties of those who qualify for unemployment benefits. Nevertheless, only two of the five main unions in France agreed with this formula, and signed a new UNEDIC convention with MEDEF in June

2000. The others, particularly the CGT (traditionally close to the Communist party) opposed the obligation to accept a job. They called on the Government to declare the agreement void, and this was done a month later, in July 2000. The Government intervened for a number of reasons, the most important being that this programme would increase the existing dualism. According to the calculations of the Ministry of Labour, the number of people covered by unemployment insurance would remain the same - that is only about 40 per cent; moreover, the restriction of active measures to UNEDIC beneficiaries would reinforce the exclusion of other groups of unemployed.

From there, two things might happen: either the trade unions and the employers' organizations will agree to start new discussions or UNEDIC will become a state-ruled organization, with optional involvement of the social partners. At the beginning of November 2000, the government was still trying to promote the first option.

6. Overview and conclusions

6.1. What have we learned ?

6.1.1. Increasing segmentation

The growth of atypical employment has segmented the French labour market. *Insiders* with high seniority, hold the permanent full-time jobs and have high employment stability. Skilled prime-age males make up the core of this category. On the other hand, *outsiders* bear the burden of flexibility. They hold part-time and temporary jobs which enable firms to continually adjust to short- and middle-term environmental shifts. The outsiders are exposed to precarity; they are vulnerable to unemployment and have difficulty obtaining permanent jobs. Some of them do find a permanent job, but it is not known if they ever become insiders. It is also not known if there are "traps" that lock outsiders in atypical jobs and if the pool of outsiders is made up of the same workers. No doubt the reality lies somewhere between the *partition model* (no bridge between outsiders and insiders) and the *job queue* model (atypical employment is a temporary stage before a permanent job, which means that outsiders eventually become insiders).

In spite of increasing segmentation, the traditional "employment norm" remains valid. Flexibilization has not changed the structure of the employment relationship: it has been contained at the margin. At a very global level, job stability and job security have not declined during the last decade in France (Auer and Cazes, 2000). There is a notable discrepancy between the growing feeling of insecurity among French workers and the stability of average job tenure. The segmentation process may explain this paradox, as the media and researchers have mainly focused on the margin, where growing instability has prevailed. Attention has turned away from the core (to which the majority of workers belong), where stability has remained high, and even slightly increased.

6.1.2. A very partial trade-off between EPL and LMP

To assess the relation between EPL and LMP, it is necessary to distinguish between different types of worker, and also between active labour market policy and passive labour market policy. There seems to be a partial trade-off between EPL and LMP in the youth labour market. But the situation is ambiguous: as labour market programmes rely on temporary schemes, which often pay less than the regular wage, and as their effect on employment is modest, some argue that LMP tends to maintain a secondary labour market for youth. According to this analysis, LMP would reinforce the consequences of low EPL, instead of compensating

for them. Women workers (mainly those who are low skilled and new entrants in the labour market), do not constitute a separate target category for active labour market policy. In their case, LMP does not offset the consequences of low EPL³¹. At the opposite extreme, prime-age males are the core of the insiders: they benefit from high EPL, but also from important LMP (both active and passive) when they are laid off. In their case, there seems to be strong complementarity between high EPL and high LMP, both active and passive. Finally, for older workers there also seems to be a complementarity between high EPL and important LMP, mainly passive measures. These outcomes correlate with both the welfare state regime and labour market functioning.

6.2. Lessons for state intervention

Our study leads to the conclusion that the French “EPL/LMP” pattern is in need of fundamental reform. The global context has changed significantly since the beginning of the nineties. This means that increased deregulation of the employment relationship does not seem to be a good target for EPL. On the other hand, the necessary reform of LMP may be strongly facilitated by this new context.

6.2.1. A new context

6.2.1.1 *The return of growth*

Economic growth has been quite significant in France since 1997, as in the rest of continental Europe. Many economists agree that this is not just a cyclical upswing: after two decades of low growth, France may experience a new era of sustained growth, based partly on the “new economy”. While GDP growth was lower between 1997 and 2000 than between 1987 and 1990, employment growth was higher. This may be a consequence of increased flexibility. Possible explanations include the reduction of the tax wedge (social insurance contributions) on low wages, the expansion of part-time jobs, and the reduction of working time. If this process continues, it may have important consequences for employment levels (unemployment fell from 12.5 per cent in 1996 to 9.5 per cent in 2000), and on labour market functioning. The negative effects of labour market rigidity on job creation are often mentioned, *but less attention is paid to the reverse causality: rigidity may be a consequence of poor employment growth and increasing unemployment*. In France, priority was given to protecting middle-aged (male) workers. The result was a self-reinforcing process. As insiders tended to protect themselves, they caused a deterioration in the prospects of outsiders (youth, long-term unemployed). Insiders were strongly motivated to fight for more protection and/or LMP measures because lay-offs seemed to lead to long term unemployment. *The return of growth will probably help to break this vicious circle.*

6.2.1.2 *Rising educational levels*

Insiders were all the more anxious to avoid being laid off because their average school attainment was low in absolute terms, as well as compared to the prime-age workers in many other OECD countries. As a consequence, their human capital was mainly firm-specific, therefore non-transferable. *With a much higher educational level (see table 23), prime-age workers will certainly be more mobile in future. They will focus less on laws to preserve jobs, and they will be more concerned by LMP measures which help them maintain and preserve their employability.* Lifelong learning will become more and more the condition of lifelong earning.

³¹ Of course, not all women are outsiders; moreover, as women’s tenure tends to increase, we can assume that the proportion of female insiders also tends to increase.

6.2.1.3 *The reduction of working time*

At the end of the 1990s, the Aubry³² laws were adopted in order to reduce the normal working week to 35 hours. It is too soon to draw a detailed picture of their consequences, but it appears that in many firms, they have increased “functional” flexibility in the organization of working time. In many enterprises, therefore, functional flexibility may partly replace external (or numerical) flexibility, which relies on atypical employment. But care must be taken in drawing such an optimistic conclusion: recent data show, for instance, that temporary agency work is still growing at a sustained rate.

6.2.2. What reforms?

6.2.2.1 *Unnecessary deregulation*

There are two reasons why increased deregulation of the labour market does not seem to be a good approach.

- First, the stringency of existing regulations seems to be overestimated. Atypical employment has expanded a lot during the last 15 years and France actually has one of the highest job creation rates among the OECD countries.
- Second, rigidity results not only from legislation (which is sometimes circumvented), but also from trade union behaviour and/or from agreements between employers and employees. Even in the United States, in spite of very soft labour market legislation, insiders have been relatively preserved from downsizing during the last decade: in the large corporations, the average job tenure and the proportion of workers with ten or more years of service have increased during this period (Auer and Cazes, 2000). *The behaviour of insiders, which is as important as legislation, may change in future, given the new context.*

6.2.2.2 *The necessary reform of LMP*

Labour market policy seems to need reform, in order to focus more on outsiders, and to prevent the unemployed from becoming long term outsiders. LMP should be designed to offset the consequences of the increasing segmentation of the labour market. Some active measures are currently targeted at insiders, but overall the latter benefit from generous passive measures (unemployment benefits, early retirement). However, once again, the emerging new context will bring change. Some reforms are already underway.

- *Early retirement, which was very popular until the beginning of the 1990s, will continue to decrease.* Early retirement was specially targeted at the generation of (mainly male) workers with little education, in the traditional production sectors which underwent downsizing during the two last decades; this generation is slowly disappearing. Moreover, with an ageing workforce, and the upcoming shortage of youth, the priority for firms is no longer to systematically phase out their older workers; part-time early retirement, with little state funding, will probably be the best way to harmonize the interests of employers and employees in many firms.
- The debate on a fundamental reform of the unemployment compensation system still continues. In a situation of mass unemployment, the priority was to avoid a financial crisis in the system, and therefore, choices had to be made. Priority was given to protecting the interests of the insiders, i.e. those who had the longest periods of

³² Martine Aubry was Minister of Labour from 1997 to 2000.

employment. At a global level, outsiders' interests were sacrificed to some extent. *With the dramatic decrease in unemployment expected in the next few years, the unemployment compensation system will be able to play a more active role.* At the end of 2000, a big step in that direction will probably result from the new UNEDIC convention.

- *More ambitious and comprehensive measures targeted at outsiders have been adopted;* the TRACE programme (see Chapter 3) is a good example. The evaluation of schemes targeted at hard-to-place youth in the Western countries indicated that only comprehensive schemes could have positive effects. Such schemes include a mix of services, ranging from financial help, housing assistance, well-adapted training, work experience and job search assistance. In other words, young people have a long journey to the "regular" labour market. As a result, TRACE was conceived as a pathway to integration, that can last 18 months. It is based on *individual* treatment: each beneficiary has a mentor who coordinates the different stages of the journey to employment; the stages include a wide variety of schemes (job search assistance, classroom and on-the-job training, temporary employment in the public sector). The mentor coordinates the work of different institutional actors at the local level (employment agency, vocational training centre, and various associations).

6.2.2.3 *Towards a new deal?*

The conditions are emerging for a new trade-off between EPL and LMP. According to the transitional labour markets theory, government intervention should move away from the rigid strategy of job preservation towards a more flexible strategy based on the promotion of lifelong employability: the priority is now to reconcile a degree of flexibility of employment with job security. In the case of France, what would be the best way of reaching this objective? A new deal needs to be active, individual and contractual. Three types of institutional reform are necessary.

- The *activation* of passive measures requires much closer cooperation between the unemployment compensation system (UNEDIC) and the public employment service (ANPE), which are still two separate institutions in France. At the beginning of 2000 only about 40 per cent of jobless workers were covered by the unemployment *insurance* system, about 10 per cent were receiving "assistance", and the remaining 50 per cent received no unemployment benefits. They had to rely on the minimum income. If access to the more active measures is restricted to the unemployed benefiting from insurance, this will reinforce labour market segmentation instead of reducing it. That is one reason why the initial "PARE" project was rejected.
- *Individualization* is necessary in a context of growing heterogeneity of the unemployed; mass measures are no longer valid. The particular needs of each jobless worker have to be taken into account; traditional LMP defined the targets by general characteristics such as age and duration of unemployment but the new LMP no longer deals with "pools" of unemployed (youth, long term unemployed) taking a "static" approach. Instead it helps *individuals* to plan their own journey on the labour market. This means strengthening the public employment service, in order to allocate a mentor to each client. Moreover, individualization implies action at the local level, which requires more decentralization, in order to enhance coordination between all the actors at local level. This level of coordination does not exist yet, as the problem of implementing the TRACE programme tends to prove.

- Finally, *contractualization* is the necessary complement to activation and individualization. Rights and duties must be defined on both sides (for the employment service as well as for the unemployed). Debates have often focused on the “workfare” approach, according to which state intervention is reduced to a simple allocation, and the counterpart (in terms of work) is usually seen as a sort of punishment; the workfare ideology is not far from the spirit of the “workhouses” introduced in the modern era by the Poor Laws in the United Kingdom. Contractualization derives from another approach, according to which the unemployed should be *entitled* to services (i.e. active measures), not only financial aid; these services are considered as a “social investment” in Esping-Andersen’s terms. There are counterparts for the unemployed, mainly in terms of active job search. It is the *contract* which commits both society and the individual; in a situation of mass unemployment, society is not able to honour its contract: there is a shortage of both active and passive measures. When unemployment has declined sufficiently, effective contractualization becomes possible: it is a way of reconciling *individualization* in policy implementation (which implies more effectiveness, but may also imply more stringent control) with the preservation of freedom and dignity for the individual.

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