

## **Between risks and social rights: The French further education and training system facing the new employment relationship**

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### **Introduction**

At the start of 2001, French unions and employers began negotiations on continuing vocational training. These negotiations, launched by Medef (the main employers' organisation), were part of a more wide-ranging project to reorganise labour relations with, as Medef's objective, a view to changing the overall framework of industrial relations. Other themes had been discussed over the previous two years, including reforming unemployment benefits and how to structure different levels of negotiations. After ten months of discussions on continuing education, the negotiations broke down. Nevertheless, there was a consensus on many of the ideas raised. In 2003, a new round of negotiation began. It ended with a general agreement between all the partners – an exception in the French industrial relations system – that has been translated in the labour law. The change in the FVET system is said to be a step towards lifelong learning.

However, lifelong learning is more a slogan than a reality. In France, as in most of the OECD countries, the national expenditure for further education and training (FVET) has decreased since 1995. And the basic roots of a lifelong learning policy remain unclear.

- The debate about the Knowledge society shows two tendencies. A part of the literature promotes a narrow conception of knowledge (scientific and technical), mainly devoted to economic production and claims for more commodification of knowledge. Other part put the emphasis on a wider conception (including social knowledge, “citizen” knowledge...) and fights again the market of knowledge (Méhaut, 2004)
- As in other fields of the welfare policies, FVET policies are in tone between risk (FVET as an insurance for employability) and personal development (FVET as a tool for a career) (Ramaux, 2003).

The 2003 and 2004 reforms could be analysed as double compromise: between risk and welfare on the one hand, between individual insurance and collective rights over resources on the other hand.

This double compromise will be the red file of the paper. In a first section, we analyse the main debates about the reform of the welfare state, applied to labour market policies. The second section analyses the reform of the FVET system, and tries to locate the new devices between risk and welfare, insurance and social rights.

## **I. Risks, employment risks or social rights?**

Risk was a key concept for the welfare policies in France (for example, for the protection against industrial accidents). Risk is also used, in a broader and sometimes misunderstood meaning, to name other fields of the social protection, such as “family risks” (allowance for children) or “retirement risk”. In both cases, this broader use is due to the fact that retirement (or birth) could decrease the household income and that social insurance (with employer and individual mandatory contributions). In the field of employment and labour market, risk was used in terms of industrial accidents, occupational diseases, as well as in terms of unemployment. But more and more, “risk” names any kind of employment situation (unstable employment, risk for employability, skill obsolescence...). However, very different propositions are made about the links between risks and the reform of the welfare state.

### **I.1. Beck, Ewald, and Kessler: the risk society?**

Beck was late translated into French (Beck, 2001). But, as well as Giddens proposals, “the risk society” is very similar to the analysis and proposals of the neo-liberal and employer organisations’ analysts. Ewald and Kessler (2000) and Kessler (2000) who were the instigators of the employers’ organisation (Medef) for the “refondation sociale” negotiations (aiming at a huge change within French industrial relation system) spoke about the increase of risks within the modern society. Like Beck, they defined risks in an extensive way: major collective risks (environmental risks, new diseases...), classical “social risks” (industrial accidents, retirements...), and new risks (unemployment, exclusion...). Risks not only change in their extension but also in their frequency (for example unemployment). They also put forward the hypothesis that individuals have a growing perception of the risks, and that new behaviours could be forecasted, more preventive and using more individual insurances. These new behaviours are a necessity. The risks are not exogenous to the individual but are produced by himself: not taking into account health increase the predictable risk of disease and justify private insurance. According to Ewald and Kessler, in the field of employment, the same trends are obvious. Unemployment is mainly due to individual’s behaviours; employability is an individual attribute and will depend upon the individual initiative, fighting against skills’ obsolescence.

The imputability of the risk will then lead to a clearer share of the burden between the individual and the social and collective welfare systems. It is only on this topic that Ewald and Kessler differ from Beck. Beck put the emphasis on the growing difficulty to impute to somebody the more diffuse and unclear responsibility of risks.

With this analysis, Kessler (2000) suggested:

- a change of the welfare State, which was built on “old” risks and not on the new ones;
- a weakening of the role of the family as a safety net against new risks
- an increasing role of the market (private insurance, capital saving) which is now able to offer a safer protection against risks.

The “refondation sociale” of the welfare system will then be built up on:

- a “competitiveness” rule ( and in the same text, as a kind of slip of the tongue, he also use compatibility) : in a global world, the costs and returns of the welfare systems must be compatible with what is done in other countries ;
- an efficiency rule ;
- a fairness rule (lower level of transfer between social groups and clearer rules when transfers occur ) ;
- a rule of responsibility: any right is linked to duties, there will be incentives for the best and prudent behaviours, you get a return according to your contribution.

We will later see that some of these proposals were also at the start of the negotiation regarding FVET, on the employer side. However, we must first discuss the reality of the new risks in the field of employment.

## **I.2. New risks within the employment field?**

In the recent literature about employment risks, three types of analysis prevail.

### *I.2.1 A remaining high level of employment stability?*

Like Auer or Lendhorf, some recent papers put the emphasis on the question of employment stability. The common thesis of a growing instability is challenged. Based on the employment survey from 1969 to 2002, L’horty (2004) shows that there was not a strong increase of instability (instability is defined as the risk to quit employment from one year to another, either for unemployment or inactivity). The 2002 level is close to the 1969 one. As shown in table 1, there were some fluctuations along the period.

(table 1)

Analysing in deeper details the risks, he splits data according to industry-level, job tenure, age and skills, labour market experience... :

- According to the age, there was a higher risk for the >50 at the start of the period, but a decreasing risk now;
- There is a low level of risk (and very little changes) for the 30-50;
- Job tenure (more than 5 years) remains a good protection;
- And the higher skilled employees are those with the lowest level of instability;

When combining all the variables, he concludes both on a stable level of risk and on a change of its distribution between various groups of employees.

With other goals and methods, but based on similar data, Bodighel (2003) analyses the role of job tenure. He shows that job tenure is stable (and even increasing slightly) over the past 30 years. Job tenure is the best protection against unemployment for the 30-50 years old, but its power is decreasing for the young and for the > 50.

One can conclude about the remaining power of internal labour markets (or of implicit contracts, like Bodighel).

However, these analysis:

- Use yearly panel data; they cannot analyse quicker job rotation within the year, and do not grasp the risk in a biographic perspective.
- Do not give a clear picture of the risk diffusion: a general diffusion or a renewal of labour market segmentation? Young new comers on the labour market are clearly facing a high level of risk (for more than 2/3 of them) (Céreq, 2001) and they are sometimes said to be experimenting the new general labour market rules. But the surveys also provided evidence of a process of stabilisation: after 3 years on the labour market, 80% of a cohort is in stable employment.
- Do not allow taking into account the real effect of inactivity or unemployment on the individual or households. There is no gender analysis. And, as a matter of fact, if inactivity spells were more common for the women in the 70's when they had children, it did not have the same impact on the households' earnings. The family structure was a stable and «breadwinner» one. It is clear now that inactivity has another meaning and other consequences in single households and/or for women with a stronger commitment to wage earning activity than before.
- Do not allow to grasp the growing feeling of labour market insecurity which is shown for most of the individuals (Cerc, 2002), feeling that resembles what Beck said about the «risk society»;
- And putting the emphasis on transitions from employment to unemployment or inactivity, they do not allow to take into account the within employment transitions.

### *1.2.2 Transitional labour markets?*

A second set of papers is inspired by the transitional labour markets analysis. But they do not put the emphasis on the same transitions, and do not have the same consequences on labour market policies.

Following Schmidt (in Schömann, 2003) and Shömann (2003), some analyses are promoting a new conception of labour market policies and of social policies. In a first step, analyses also started from increasing risks of transitions between employment and non-employment, and more broadly between employment and other social status. The question is to provide more security to the transitions, combining private and public policies and devices, able to anticipate the risk. They put the emphasis only on the «risky» transitions, and lead to rather classical suggestions about policies. The main (important) change would be to shift from passive to active policies, anticipating the risk and giving the individuals a stronger safety net along the lifetime. But tools are classical: a share of the burden between the individuals, the employers and the public bodies, new policies aiming to overcome the segmentation between status (policies focusing on the individual whatever is its present or past situation) and promoting the right over resources in a preventive way. One can say that they share the liberal hypothesis of the risk society, but promote a non-liberal «third» way policy, outside of the core of the employment relationship.

In a broader meaning, but also inspired by TLM theory, Gazier (2003) put the emphasis on all the transitions: between employment positions, between employment and unemployment, but also within employment and between all the situations combining employment and other social and mixed positions (educational leave, parental leave, other social activities in unions, associations...). The proposals put the emphasis on a more global conception of the individual development and welfare, inside and outside of the productive sphere. Social policies are more oriented towards individual and collective welfare. The hypothesis is that this new welfare will increase individual productivity and labour market efficiency. They are not only a way to build a new protection against risks. And they are close to the conception of the new individual in a knowledge society, developing its productive ability within as well as outside the job.

Some labour law specialists also promote similar proposals.

### *1.2.3 A new share of the risks or a new labour market status?*

This third type of literature put the emphasis on the changes of the employment relationship. The French labour laws were built with the hypothesis of an asymmetrical relationship between the employer and the employee. The labour contract could not be regarded as a commercial one. The wage relationship on the one hand and the authority of the employer over the wage earner during the wage contract are the two pillars of the labour laws. But this was mainly for the case of typical employment relationship, with a stable contract and clear roles of employers and employees. If they share the hypothesis of a growing employment risk (Morin 2001), the new labour law analyses try to take into account the global change of the employment contract: they study not only the precarious employment, the risk of quitting, but also the change within the standard employment relation (the role of the new human resource management), as well as the merging of new forms of distribution of the power, which are not pure direct wage relationship (in the case of subcontracting, for workers directly selling their services...).

The table below provides a good example of this kind of research (Morin 2002, Morin Dupuy Larré, 1999, Dupuy Larré, 1999).

Horizontally, the authors examine the share of power within the work (organisation).

Organisation symbolises the way the tasks are distributed, the span of control of the individual on his own job.

Vertically, they examine the share of risk (wage and employment risks). Risk (wage and/or employment) depends on the nature of the contract (under labour law or not, or moving from the standard to atypical employment relationship).

		RISK		
		Individual	Mixed	Collective
ORGANISATION	Individual	1	4	7
	Mixed	2	5	8
	Collective	3	6	9

Source : Dupuy, Larré, 1999

As an example, cell n°1 could define the situation of a self-employed individual in handicraft activities. He organises all his productive activity by himself, bears the uncertainty of the production process and of its result, and directly bears the economical risk (work, income and employment risk). Cell N° 9 shows the opposite situation for the “fordist” wage earner in a big firm: low span of control on his job and tasks, and risks are collectively ruled and shared.

The other cells show intermediary situations (all existing today in France). Cells 3,5,6,8 and 7 could be regarded as atypical wage earning relationships: cell 8 where the employee has a high level of autonomy within his job but remains in a classical risk relation (case for working at home), cell 3 with a high level of organisational dependence but with a lot of risk (in some trade activities). Cell 6 could represent the case where, in classical organisations, a part of the wage now depends on the result.

Cell 5 shows the trend which characterises the new labour organisations and management: a growing autonomy within the job, but more risk on the wage and employment side (see for example the question of competencies based management, Mehaut 2004).

Here, the question of risk is not only outside the employment relation but also inside. And employment (wage) risk is the other side of the changing organisational patterns also allowing the individual to more autonomy and sometimes more choices.

Examining the same question and the evolution of the labour laws, Supiot (1999) shows the tensions within the labour law contract and the welfare system. He advocates for a new status (labour market status) able to cover all the individuals (whatever the cell they are in) and aiming to protect him whatever is, or will be, their situation along the lifetime. The “labour market status” will not be based on the employment situation at a time period, but on the individual global belonging to the labour market and society. The status will not only provide a safety net within the employment relationship, but also facilitate other activities contributing to the individual and social well-being and reproduction: education and training in a lifelong perspective, household work with a free choice for men and women, other kind of social activities (in associations, international aid...). These new kind of social rights will be partly based on the individual productive contribution. But they also could be provided by other actors (state, regional or local authorities). They will unify the previously segmented devices, and be attached to the individual all his life. But the proposal is very different from the neo-liberal position: it does not promote a minimum public welfare (poor assistance). And it is not an insurance against risks, as the use of the rights is left to the individuals, even before a risky situation. The new social rights will be ruled by collective regulations (law and collective bargaining), they will be acquired progressively through any kind of productive activity (short term or long term employment situation, independent work...). Part will be allowed by the state (educational provisions). And they will be used freely along the lifetime.

## **II The on-going reform of the FVET system: an analysis between risks and transitions**

Coming back now to the reform of the FVET system, we will try to provide a comprehensive analysis, showing how various influences are exerted on the employers organisations as well

as on the unions, and what kind of compromises have been made during the negotiation. In further steps of the research, we will follow the negotiation at the industry and firm level, and use a similar grid. As the process of the reform is at the beginning, it is not an evaluation of its results.

## **II.1 Continuing education within the overall context of "reorganising labour relations"(refondation sociale), an overview of the agreement and law**

The negotiations upon FVET were launched at the employers' initiative as part of a much broader project for what the Medef calls "reorganising labour relations". In the face of a leftwing government, the employers' organisation was seeking to regain control of labour related issues, an area where state intervention is frequent. By launching various negotiations on topics such as unemployment insurance, wealth at work, the hierarchy of norms, and vocational training, the Medef's ambition was to transform the framework of labour relations in France by empowering unions and employers (including via "minority" agreements i.e. signed by only a fraction of employees' unions), defining new negotiation practices (reinforcing the company's role and diminishing that of industry-wide agreements...), whilst advocating a more liberal and less regulated approach to the labour market.

From the very start, this general framework overshadowed the 2001-2003 vocational training negotiations, and they began after a major conflict over unemployment insurance. The Medef and certain trade unions had agreed to reform unemployment benefits, which would become conditional upon the job seeker's individual, contractual agreement to actively seek employment. The CGT and FO were opposed to this agreement, which would later give rise to a conflict with the government over its application. But the negotiations also began in the aftermath of legislation on the 35-hour working week, which necessarily involved determining what constituted actual time worked. Conflict emerged over how training time should be treated, with certain industries seeking to exclude it as much as possible from actual time worked.

Although it is entitled "agreement on employee's access to life long learning", the document in fact contained a set of proposals going beyond just training issues and aimed at quite radically transforming the approach. It covered all issues related to career development and employee mobility, training being just one of many tools and not an end in itself.

The themes covered can be grouped into four chapters (although they are not in this order in the draft agreement).

### *II.1.2 Training as means of career development*

Noting changes underway both in work organisation and in mobility, the text emphasises the need for employee career development both within and outside their present company. In this respect, the very first article stresses the need to put together a career plan. This career plan, which may be discussed with the employer, must be accompanied by a skills assessment and by career guidance.

It may also involve the validation of prior vocational skills and experience. A law was passed in 2001 in order to foster and enlarge validation of prior experience. All public vocational certificates, and also private or industry based certificates if they want to be taken into account in the "national repertory of certifications and diplomas", have to be delivered not only after attending a course, but also by the way of validation of experience. The individual can claim for such a validation (for the complete diploma, or for some part), giving the proof of knowledge and competencies acquired in work experience or in other social activities (association, elective duty...). Social partners agree to promote the validation, and to define, later, a national inter-industry framework of certificates.

An “education and training passport” will be created, and used at the individual’s choice. The passport will summarize education and training activities (initial and further, with or without certification) as well as the work experience and competencies. It could take into account European Union suggestions and could be used in case of internal or external mobility.

Training then becomes just one of many means of implementing a career plan. Whilst a rather restrictive interpretation of training prevailed in the 1971 legislation (training interpreted mainly as training courses, in a formal situation where knowledge is transmitted), a much wider concept was proposed, ranging from training in the workplace to different forms of self-study, with or without the use of new information and communication technologies.

### *II.1.2 Tentative steps towards modifying structural inequality*

Various other measures tackled with the problem of unequal access to training. It was on this point that the 2001 agreement was the most cautious, and at times contradictory, and in the unions' viewpoint accomplished the least. The 2003 agreement goes a step further.

As regards very small companies (less than 10 employees), the agreement will tripled their compulsory training contributions (from 0.15 to 0.45% of the total wage bill), in line with the thinking behind the 1971 legislation. This measure reflects a will to develop training in small companies where an increasing number of employees are concentrated, and shows the global consensus between the partners to keep and develop the French style of compulsory training levy (for bigger firms, the level of the compulsory contribution increases from 1.5 to 1.6% of the wage bill).

The agreement also provided for more targeted efforts in favour of employees on fixed term contracts and for those working in temporary job agencies.

It called upon each industry to make a particular effort towards priority groups (in particular the unskilled), to be designated during industry-wide negotiations and develop specific recommendations on gender equality.

The agreement also reorganised the various employment and training contracts existing before. On the one hand, it created a “contract for professionalisation”, targeting the young unemployed and the other unemployed peoples. The contract provided a fixed term (or not) labour contract, including education and training period within or out of the job. The wage will be a percentage of the minimum wage. At the end of the contract, if opportunities of employment are not provided within the firm, the social actors at the level of the industry or at a local level must organise offers in other firms. On the other hand, the agreement proposed a new device called “period of professionalisation”. This new device targets employees with high level of risk for their job, due to a rapid technological change and/or to skill obsolescence. Organised as “sandwich periods” (with education and training), they must provide a skill certificate (public or private credential) and could include a validation of prior job experience. 50-year-old employees, or those with more than 20 years of tenure could claim for it. We are clearly here in logic of “risk”, as the period is explicitly said to aim at preventing firing and/or unemployment. The framework, targets and credentials, will be defined at the industry-level. And the costs are shared through an “insurance” principle, provided by the group training funds (but the insurance is for the firm, not for the individuals).

### *II.1.3 Creating new opportunities for the individual*

The measures above were also part of a will to develop individual training initiatives on the part of employees and to create a third way of gaining access to continuing education. This

would be half way between the training plan (solely at the employer's initiative, aimed at adapting the employee to the job) and personal training leave (in existence since 1971, where the employee is free to choose but which is most often used for long-term training courses, and relatively rarely used - approximately 20 000 personal training leaves are taken each year).

Inspired by the education accounts already developed by some Scandinavian companies, the 2001 agreement instated the principle of a concerted development plan. In each company and after collective agreement, education accounts could be created. Each employee would "pay in" to their individual account, for example by "paying in" overtime, extra time resulting from the shorter working week, or part of future pay increases or leave entitlements. The individual holder of each account (managed in cash by the company) could then approach the employer to discuss a training project (for career development). When an agreement is reached, the employer would contribute the equivalent of whatever the employee had already "paid in" to the account. These sums would then cover all or part of the employee's wage during the training period. The employer would also pay for the direct cost of training. In principle, once the training, duly negotiated with the employer, was completed, the employee would receive some form of recognition for the new qualifications obtained through the training.

This was a radically new approach, in that it involved a collective, group decision (to create the accounts) linked to a bilateral commitment between the individual and the employer. It called upon individual employees to make their own contribution, whilst obtaining further resources from the employers. It was a system for joint investment in training.

Part of the discussions between unions and employers concerned the level of mutual commitment. At the end of the last session of negotiations, an equal commitment by both parties was agreed upon. However, this was to be *ex post* equality, since the employer only contributed to the account once the training plan negotiated with the employee had actually been completed. Another part of the discussions focused on the ability to transfer this account should the employee leave the company. It was agreed that the amount "paid in" by the employee could be transferred, either by transferring an account to a new company or by depositing it with a group fund. However, since by definition the employer's share is not transferable, the new employer may not necessarily feel obliged to sign an agreement on a career development plan.

This system of individual accounts assumes that each employee is able and willing to provision their account. Generally, such systems are known to be quite successful with executives, the more qualified and the better paid, but they often prove less successful for the less trained and lower paid. Entitling employees to such a new system would probably exacerbate existing disparities. It was a part of the 2001 dispute, both between unions and employers, and between employer's organisations (as it was expensive).

The 2003 final result keeps the same purpose, but the device is rather different. Each individual get a yearly "theoretical" education and training right of 20 hours, which could be cumulated for 6 years. If an employee wants to use his right, he negotiates with his employer on the goals and the organisation of the training. The course must improve the skills and not only follow job adaptation. It must end with a diploma or a certificate. The firm will pay the training fees and other related expenditure (travel...). The course may be attended outside or during the working time (or both). For the part, which is out the regular working time, the employee will get a lump sum of 50% of his net wage. And at the end of the course, the employer must take into account the new skills and competencies (change in the job content, upgrading...).

This new track, which is added to the two existing before (the firm's training plan and the

individual training leave) is redefining the borders between them.

**Table 4**

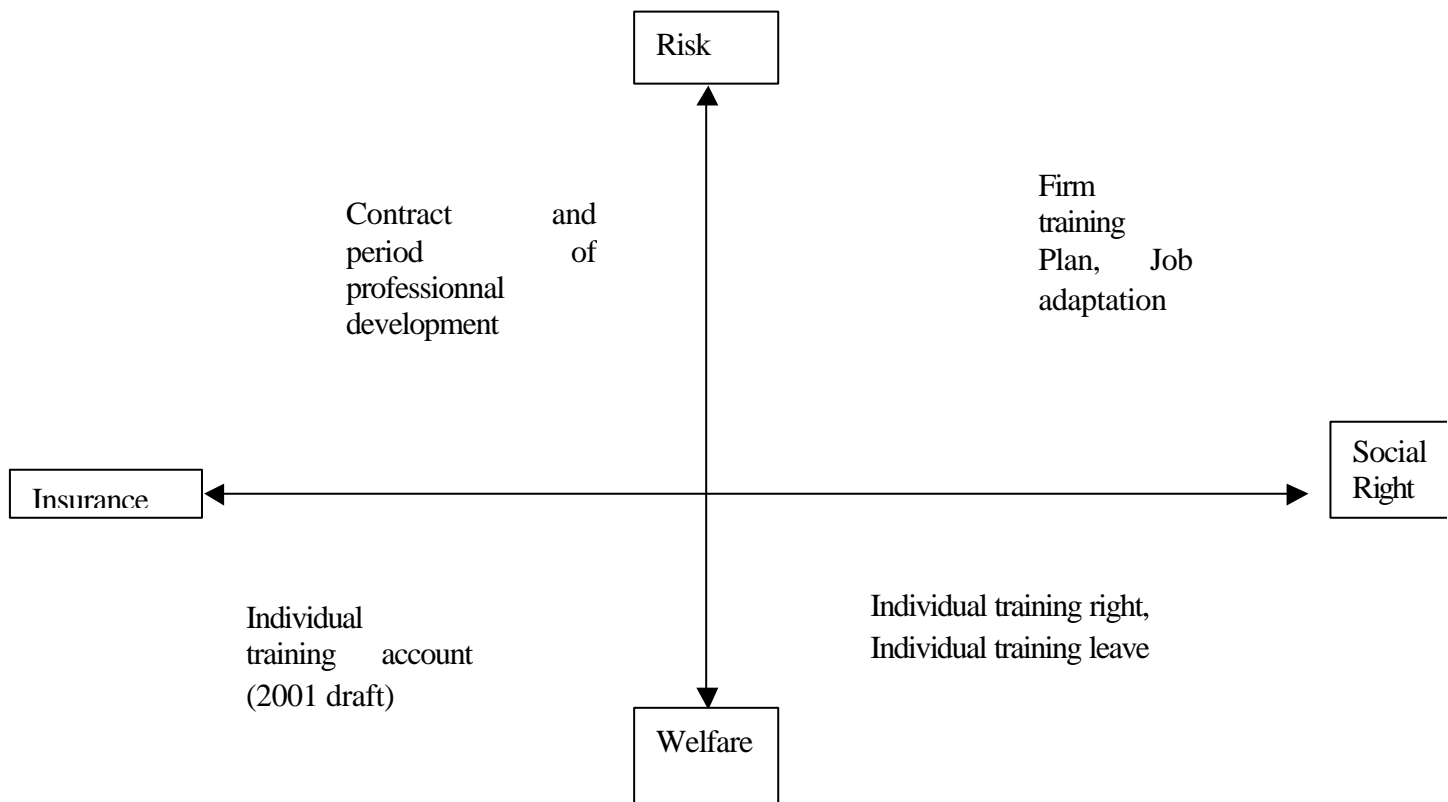
The Three Tracks To Vocational Training

	Firm Training Plan	Individual Training Right	Individual Training Leave
Who Decide ?	Employer	Negotiated between The employer and The Individual	The Individual
Social Partners	Advice of the Firm council	Framework, with industry and firm collective agreement	Bipartite Fund
Training Time	Paid by the employer During working time	Out or (partly) during the normal working time	Training leave
Funded By	The firm	The firm: training fees and lump sum (50% of the net wage)	The bipartite fund, Firm's Compulsory contribution
Goals	Adaptation to the work place	Vocational Evolution	Id and Personal development

All of these measures, which gave rise to the most debate during the negotiations, represented a break with the 1971 legislation by placing the individual at the heart of the system.

## II.2 Between continuity of the classical FVET system, risk and transitions.

Examining the content of the 2001 and 2003 agreements, it looks more like an addition of various measures, some based on the previous FVET system (the compulsory levy), others more original. Using risk or welfare, and insurance or social right, we can situate the various components of the agreement, as shown below (see also Gautié, 2003, for a presentation of social policies opposing neo-liberal and socio-democrat using similar criteria).



### *II.2.1 An attempt to take into account individual trajectories.*

Analysing the project of 2001, some words are different from the 2003 agreement. The introduction put the emphasis on the individual's initiative, as the "individual must face his skill obsolescence and develop his own occupational capacities". The employee was said to be an actor and with a co-responsibility upon his professional evolution. One of the leaders representing the employer's organisation spoke about the employee "building his own parachute in order to face the risk of unemployment" (see also Osterman, 1999 for a very similar sentence about neo-liberal policies). Most of these words and sentences are not present in the 2003 agreement, which seems to take more distance with the "risk" debate and comes back to a more classical notion of "rights" and welfare.

These rights are clearly embedded in the concept of transitions, transitions within the firm (job evolution, moving from one job to another) and transitions out of the firm, which is also called a "professional project". The new agreement is breaking with the previous FVET system, which was mainly focused on internal labour markets, and on "organisational careers" (career paths built more on the organisational structure than on the individual competencies) (Mehaut 1995).

But the break is partial:

- The agreement, between employers and unions mainly present in big firms, still concerns the “earth” of the wage earner relationship: employees with fixed term contracts or under other atypical status get less rights. On the contrary of the 2001 draft, the individual training right is not transferable between firms in the case of voluntary quitting (some industry-level agreements will probably organise the transferability, as it is presently discussed in the building industry).
- As a paradox, the agreement is reinforcing the “French neo-corporatism”. The power and role of the industry-level organisations is reinforced in two ways. On the one hand, it is at this level that the priorities for the groups of employees who could enter the professional contracts and period will be decided as well as the priorities for the individual training right certificates. And these priorities will be compulsory for the employer and for the employee. On the other hand, the training group funds at the industry level, which collect and manage a part of the training funds (roughly 40%), are also reinforced: the increasing (more than doubling) mandatory training levy of SME’s and the smaller increase for the other firms will be collected and managed by these funds.
- Last but not least, the social actors, during the negotiation have demanded that the State contributes to the ITR. The idea was to give to the lowest educated people (lower than the French baccalaureate) the equivalent of the cost of one year of full time education. This additional right would lengthen the ITR and enlarge the opportunities for the less skilled workers. The cost would be share by the state and the local authorities, and eventually with additional funding from the group funds. Today, despite a lot of positive public statements (from the right and left political side), there is no concrete answer.

### *II.2.2 A step towards more individualisation*

In the previous system, the power of the firm was very high. The employer had a direct and full control over the firm’s training plan. Surveys showed that the individual’s initiative in the training choices was at a low level (Fournier 2001)

The individual education and training right (ITR) brings a new space for the individual choice. The right of the employee is a personal one, a right over a resource for an individual choice, to be negotiated with the employer. Within the professional period, by way of the accreditation of prior learning experience and with the individual education passport, the emphasis is also put on the individual.

These new rights do not take the form of individual accounts in money. They are «theoretical» rights over non-marketable resources, protected by collective rules. Their philosophical background is closer to the proposals of TLM theory (Gazier 2003) or of labour market status (Supiot, 1999) than to the proposals of the neo-liberal approach of risk and insurance. The difference between the 2001 draft, where the ITR took the form of an individual training account in money, is strong. Unions could be regarded as the winners of the negotiation on this topic. This could partly explain why the CGT signed the agreement, as this union is now claiming for a «social security» safety net for employment (Le Duigou, 2004). But as in any negotiation, the employer side get on the one hand the reinforced

corporatism (which allows the employers bodies and collective organisation a more direct control on the flow of funds) and a new share of the costs between employers and employees.

### *II.2.3 The share of the costs*

In the French tradition coming from the 1970 and 1971 FVET framework, the costs of further education and training was mainly on the employer side. For the employees, FVET was mainly during the working time, with full wage, and the employer paid the full costs of the training course and other expenditures. For the unemployed, the training costs were paid by the State and unemployment insurance, and the unemployment benefits were paid during the training period. Using the 2000 training survey, Fournier (2001) showed that, for the employees, for 50% of the cases, the employer had the initiative of the training (for 25% it is a co-initiative and for 25% a self initiative of the employee). And for 87%, the employee did not support any direct cost. In more than 70% of the cases, the courses were fully within the working time.

When implementing and negotiating the 35 Hours working time rules, some industries (especially the engineering and mechanical industry) made an attempt to transfer the training outside of the working time. They partly succeeded, and it was a matter of dispute within the employers' side during the 2001 round of negotiation. These industries did not want any change to their specific agreements. And they contributed to the failure of this first round. However, at the same time, some labour law courts delivered judgement saying that the obligation of job adaptation, through education and training was an employer's obligation and has to be free of charge for the employees (Gomez-Mustel, 2004).

The new system keeps some of these rules. Job adaptation is a duty for the employer and must be included in the firm training plan (not in the ITR). As a part of the firm training plan, courses and other training period are during the working time, time is paid, and the employer pays for other costs. But the new system also introduces a (small) part of co-responsibility and of share of the costs.

Within the firm's training plan, when the courses are aiming to develop employees' competencies, or for some training within the "professional period", a part of the time could be out of the regular working time. It is clearer for the ITR: the general rule is out of the working time, even if latter negotiation could reintroduce part of the courses within the working time. It is a real change for the unions, which now agree with the fact that part of education and training time could not be regarded as "pure working time". They also agree with the co-responsibility between employer and employee, as the ITR is a kind of bilateral contract with the individual giving time and eventually money.

Thus, a strange "grey time" appears (Favennec-Hery, 2004). The employee remains under employment contract, and keeps the various social protections (against industrial accident, social security). He is in an education and training course or period, out of the working time but in the framework of its individual contract with the employer. This time is not paid, but the employer will provide 50% of the wage...And the employee is not under the employer's supervision. So we are partly outside of the employment contract and partly within it. The cost of this "grey time", devoted to the competencies development, is shared between the employer and the employee (who gives time). It is very similar to the "transitional times" not clearly outside of the employment relation, not clearly within) and/or to the labour market status proposal (which claim for social time and social rights devoted to social activities and

investment of the individuals, as an individual contribution to his self development, and to the development of the society).

## **Conclusion**

It is too early to evaluate the impact of the new system. It built a new general framework, with a lot of procedural rather than substantive rules.

Most of the concrete and precise conditions will be defined at the industry and firm level: it is the case for the more targeted groups to be defined at the industry level. And in some firms, the negotiation will probably extend the ITR right.

But it is possible to draw some knowledge from this first step of the reform.

a) Despite the initial ambitions, the new system is still focused mainly on the “classical wage earners”. Those with short-term contracts, those with low length of tenure will be out of some rights (for example, the ITR starts only after one year of tenure, and is not transferable: if you move from one firm to another every 2 or 3 years, you will never obtain a sufficient number of training hours). It was also planned, in the 2001 draft agreement to develop a network of bodies aiming to inform and give advice for the vocational and professional orientation of the individuals. This network must clearly cross the industry-level frontiers, and for the low skill jobs, must be built up at the local level. The 2003 agreement did not choose this solution, and most of the tasks will be performed by the industry training groups-funds. It is one of the limits of the French industrial relation system. Unions and employers organisations represent, for the former the classical wage earners and for the latter the big firms. They have difficulties to keep in mind other non-classical kinds of wage earning relationship. Within the employers’ organisations, the most powerful industry based organisations were the most critical about the “inter-industry” perspective, especially at the local level. And they were also firmly opposed to the individual training account, which could lead to a weakening of the industry based group funds. In the lifelong learning view, and also in the TLM one, this framework of social actors has strong limitations. Building lifelong rights (and/or insurance based solutions) needs a transversal point of view, out of the classical framework of industrial relation (Luttringer, 2004). The weakness of the public (State) policy (for 20 years the State has been less and less active in the field of FVET, transferring the responsibilities to the regional authorities and/or to the social actors) is a key question for a deeper evolution of the system. It is more and more an obstacle, as a new framework of national co-ordination did not accompany the transfer of the power to regional authorities between the regions, the state and the social actors.

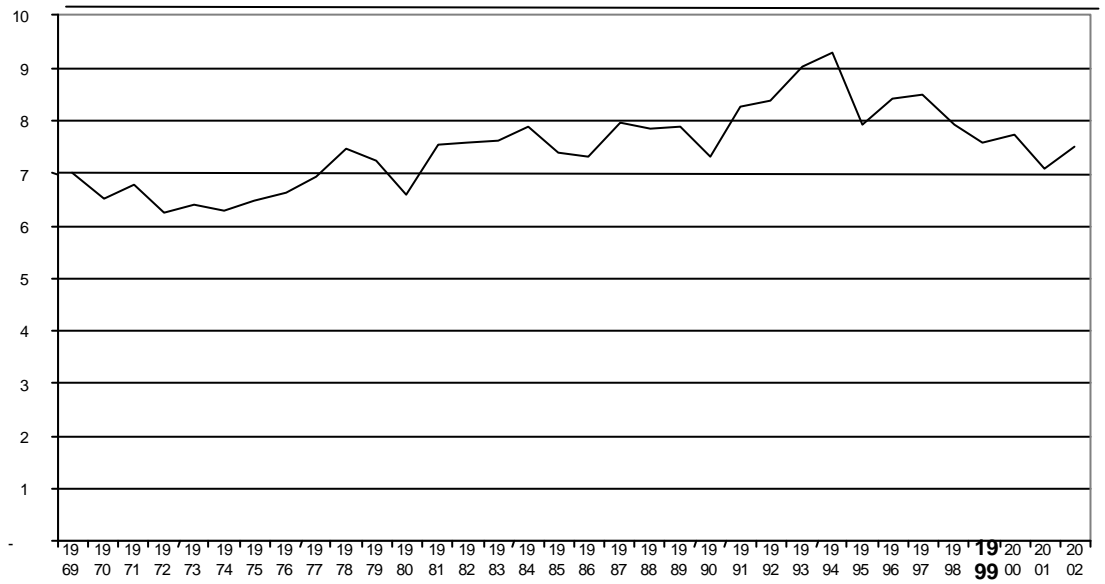
b) Nevertheless, the merging of an individual right to training, even with hard limitations, and the necessity to negotiate at the firm level (both about the firm collective rules and about its use at an individual level) could lead to an important change for the unions. In the past, they put the emphasis on collective rules and rights, and did not take into account the individual own choices. They were unable to give advice and to help the individuals. The new system, as well as the new human resource management (see also Brochier, 2001 and Mehaut 2004 about the competencies based management as a challenge for the unions), is a challenge for new practices. Some unions (mostly CFDT) have a clear view of this challenge and are working to develop new kinds of union’s activities. Starting from another point of view (individualisation of social rights and not “risk management”) they match the Abbot and Kelly point of view about the industrial relation in the risk society.

## References

- Abbot Kieth and Kelly Peter, *Theorising Industrial relations in the Risk Society*
- Auer Peter, Cases S, 2000, L'emploi durable persiste dans les pays industrialisés, RIT, vol 139, n°4
- Beck Ulrich, 2001, *La société du risque, Sur la voie d'une autre modernité*, Aubier
- Behaghel L , 2003, Insécurité de l'emploi, : le rôle protecteur de l'ancienneté a-t-il baissé en France ? *Economie et Statistique*, n° 366, pp.2- 23
- Brochier Damien, Kalck Paul, Marquette Christian, Monchatre Sylvie, 2001, *Les syndicats face à la logique compétence : nouveaux risques, nouveaux enjeux*, Bref Céreq n°173
- Clasquin B, Moncel, N, Harvey, M, Friot B (eds), 2004, *Wage and Welfare, New perspectives on employment and social rights in Europe*, Peter Lang
- David P. A, Foray D, 2003, *Economic fundamentals of the knowledge society, Policy Futures in Education*, January
- Dupuy Yves, Larré Françoise, 1999, *Entre salariat et travail indépendant*, Travail et emploi, N°77,
- Ewald François, Kessler Dominique, *les Noces du risque et de la politique*, Le Débat, n°xx
- Favennec-Héry Françoise, 2004, *Temps de formation, temps de travail, quelques observations*, Droit Social, N°5, 494-498
- Fournier, C., Lambert, M., Perez C. (2002) *Les Français et la formation continue, statistiques sur la diversité des pratiques*, Marseille : Céreq, Documents n°169, Série Observatoire, novembre, 130p.
- Gautié Jérôme, 2003, *Quelle troisième voie ? Repenser l'articulation entre marché du travail et protection sociale*, Centre d'études de l'emploi,
- Gazier Bernard, 2003, *Tous sublimes, vers un nouveau plein emploi*, Paris, Flammarion,
- Gomez-Mustel, Marie José, 2004, *Les enjeux de l'obligation d'adaptation*, Droit Social, N° 5, 499- 508
- Jobert Annette, Saglio Jean, 2004, *Ré-institutionnaliser la négociation collective en France*, à paraître, Travail et Emploi,
- Kessler Dominique, 2001, *L'avenir de la protection sociale*, Medef,
- Le Duigou Jean Christophe, 2004, *La sécurité sociale professionnelle : une utopie réaliste*, Impact 2007, note n°1, Juin
- L'Horty Yannick, 2004, *Instabilité de l'emploi : quelles ruptures de tendance ? Les papiers du Cerc*, n°2004-01
- Lichtenberger, Y., Méhaut, Ph. (2001), *Les enjeux de la refonte de la formation professionnelle continue –bilan pour un futur-*, Liaisons sociales, Mars.
- Luttringer Jean Marie, 2004, *Formation professionnelle tout au long de la vie et négociation collective*, Droit Social, n° Spécial Le nouveau droit de la formation, n°5, Mai, pp 472-491

- Maggi-Germain Nicole, 2004, La formation professionnelle continue entre individualisation et personnalisation, *Droit Social*, n° Spécial Le nouveau droit de la formation, n°5, Mai, pp 482-493
- Méhaut P, 2004, Knowledge economy, Learning society and lifelong learning, a review of the french literature, in M Kunh, R Sultana (eds) *The learning society in an international perspective*, 2004, à paraître
- Méhaut P, 2005, Education et formation tout au long de la vie : loin de la coupe au lèvre, contribution au rapport mondial sur l'éducation, Unesco, forthcoming
- Méhaut Philippe, 1995, The French System of training levies and the dynamics of the wage earning relationship. *International Contribution to labour Studies*, supplément au Cambridge economic journal.
- Mehaut Philippe, 2004, Competencies based management : what consequences for the labour markets ? *Economia et Lavoro*, Septembre 2004, à paraître
- Merle, V, 2004, Un accord historique ? *droit Social*, n° Spécial Le nouveau droit de la formation, n°5, Mai, p 455-463
- Merle, V., Lichtenberger, Y., 2001, 'Formation et éducation tout au long de la vie : 1971-2001 : deux réformes, un même défi', *Formation Emploi*, 76,169-190.
- Morin Marie Laure, 2002, L'externalisation du risque, Vers de nouvelles figures de l'employeur ? *Cadres CFDT*, n°403,
- Morin Marie Laure, Le risque de l'emploi, *La revue de la CFDT*
- Osterman P., 1999, *Securing prosperity*, Princeton University press
- Ramaux Christophe, 2003, Comment penser l'état social au-delà du risque et des assurances sociales ? *Forum de la régulation*, Paris, octobre
- Ramaux Christophe, *Refondation sociale et risque, quels enjeux, quelle alternative ?*
- Schmidt Günter, Gazier Bernard (eds), 2002, *The dynamics of full employment, Social integration through transitional labour markets*, Edward Elgar,
- Schömann Klaus, 2002, The theory of labour market transitions applied to the transitional labour market of education and training, in Schömann Klaus, O'Connell Philip, 2002, *Education, training and employment dynamics, Transitional Labour Markets in the European Union*, Edward Elgar Publishing,
- Schömann Klaus, O'Connell Philip, 2002, *Education, training and employment dynamics, Transitional Labour Markets in the European Union*, Edward Elgar Publishing,
- Séminaire du CERC, 2002, Les risques liés à la transformation de l'emploi, *Les papiers du Cerc*, n°2002-03
- Supiot A. (under the supervision of), 1999, *Au-delà de l'emploi, transformation du travail et devenir du droit du travail en Europe*, (Paris, Flammarion).

Table 1 Level of employment instability 1969-2002



Source : Lhorthy 2004