

ACTIVITY REPORT 2016



DGT

The General Directorate for Labour





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"The greatness of a profession, is above all, uniting human beings: there is only one true luxury, and that is human relationships."

Saint-Exupéry (*Wind, Sand and Stars*)



Message from the General Director

“In our time where everything is moving, there can be no continuity without adaptation”
Charles de Gaulle, 3 November 1967

In the context of its mission to draft regulations, the General Directorate for Labour (DGT) has once again found itself at the heart of current events in 2016.

Following the reforms which result from two Acts dated 6 and 17 August 2015, the “Labour” Act dated 8 August 2016 on labour, the modernisation of social dialogue and the safeguarding of professional careers and its implementing texts have continued the process of recasting labour law. The DGT has been a major stakeholder and was actively involved in this project.

Labour law, which is a “living law”, is not developed “in chambers”. It requires a permanent, internal discussion with regional services, and an external discussion, first and foremost, with social partners. This dialogue enables the DGT to perform its role as a sovereign central administration to the best of its capabilities, and to contribute, through reflection and action, towards public social policy. To this end, it takes care to consider the evolutions of the working world, of social realities and of companies’ performance within the framework of the public policies which it implements. These are the conditions which are essential for the effectiveness of the law and of social performance.

The profound transformation of our collective labour relations system and the new methods of regulation which leave a greater place for social dialogue do not lead to a withdrawal of the DGT’s role, far from it. On the contrary, its scope of intervention has expanded. By way of example, the management of new systems which measure the audience and the representativeness of trade unions and employers’ associations now constitutes an important part of its action. In 2016, the implementation of these new rules resulted in the culmination of the 4-year cycle of professional elections within companies, the launch of the process to measure the representativeness of employers and the organisation of the vote in order to gather the votes of all employees in companies with less than 11 employees, referred to as the microenterprise vote.

Furthermore, one of the DGT’s main missions is to ensure the correct application of the rules which fall within its field of competence. For this purpose, it relies, first and foremost, on the labour inspection system for which it is the central authority. In this regard, the process for reforming the labour inspection system has continued in 2016. The DGT has worked hard to consolidate the new organisation “in a system mode”. 2016 has also seen the implementation of new powers for monitoring officers (strengthening of their investigative powers, expansion of the scope of work or activity stoppages, new administrative fines in the event of a breach of employees’ fundamental rights). The DGT is responsible for accompanying this reform and coordinating networks.

Furthermore, 2016, the first year in which the 3rd governmental occupational health plan (3^{ème} plan gouvernemental de santé au travail, PST 3) was implemented was an important year as regards occupational health, as it was marked by the launch of multiple PST 3 actions on a national level and by the development of regional occupational health plans (plans régionaux de santé au travail, PRST).

Constantly reflecting on the development of labour and its legal framework, the effectiveness of the DGT is dependent on its team’s technical expertise and dedication. Its values are perfectly summarised by the words of Saint-Exupéry, chosen by its officers to feature on its medallion: “The greatness of a profession, is above all, uniting human beings: there is only one true luxury, and that is human relationships.”

Reading its second activity report will allow you to discover the essential parts of a year of the DGT’s activity and the immediate consequences of the labour policies that it leads on the day-to-day professional life of all.

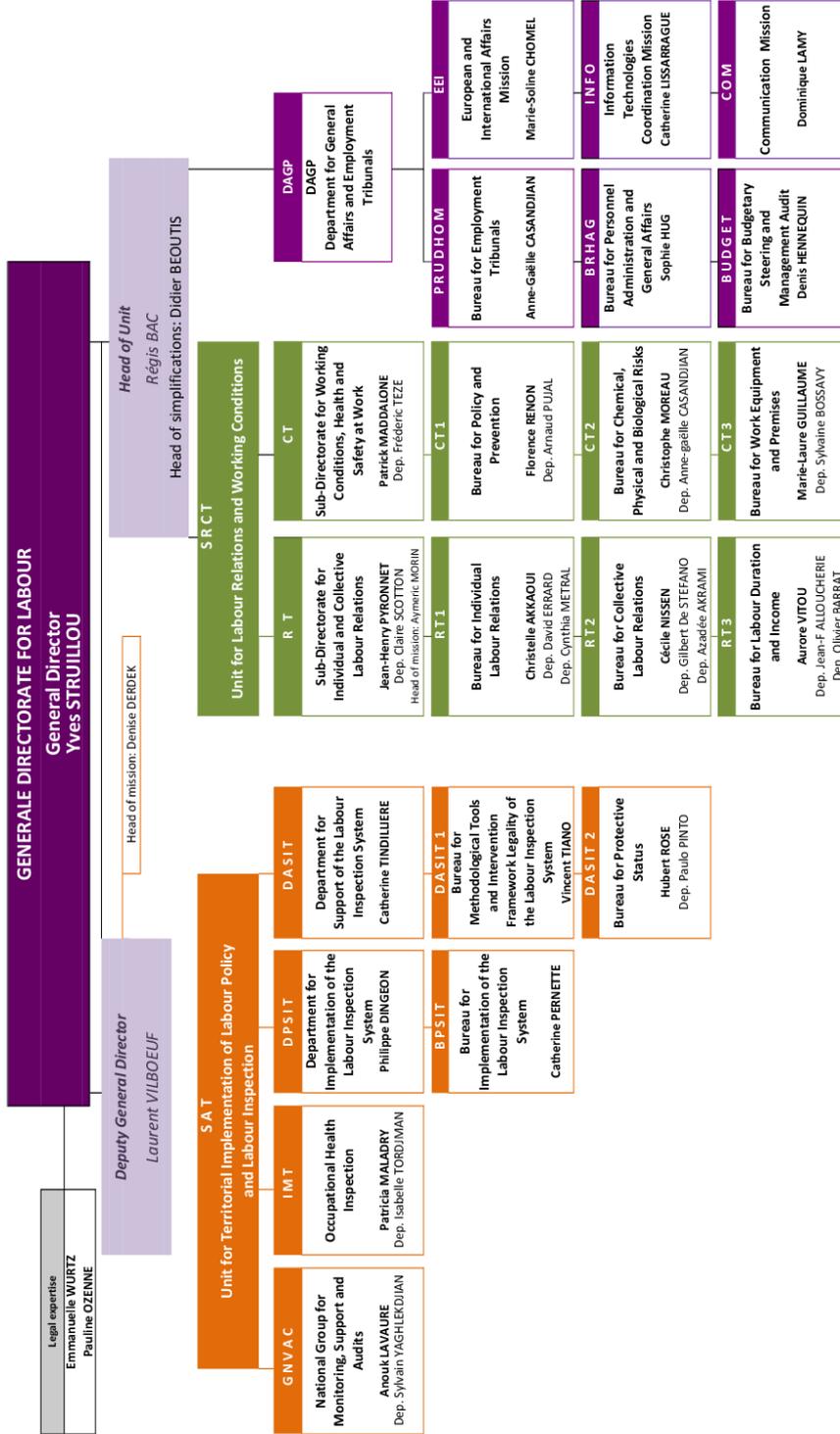
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General Director for Labour

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Organisational Chart



I - THE DGT IN 2016: A FEW FACTS & FIGURES



218 Officers make up the General Directorate for Labour



64% are women



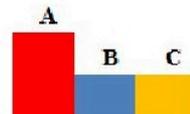
36% are men



27 departures



40 arrivals



178 category A Officers
20 category B Officers
20 category C Officers



3 successful competitive examinations



4 internal mobility agents



10 promotions

28 short contracts representing a total duration of 102 months (15 contracts of which represent a total duration of 36.5 months in the context of functioning and 13 contracts of which represent a total duration of 65.5 months, in the context of the “labour act” task-force and the representative unit)

- 94 conventional branches in joint committees (71 PCM)
- 635 joint committee meetings (20,000 summons/year)
- 399 agreements examined for extension
- 815 extending decrees

Number of texts (acts, decrees, orders) published:

- RT1: 11 pilot decrees, 1 Ordinance (Mayotte), 18 parliamentary bills/government bills (excluding Labour Act)
- RT2: Act dated 8 August 2016 (21 articles of Title II, art. 58, 59, 64...), 20 decrees et 3 orders published
- RT3: Act dated 8 August 2016 (Articles 8, 11, 12, 22 et 54) et 11 implementing decrees

Number of hierarchical appeals:

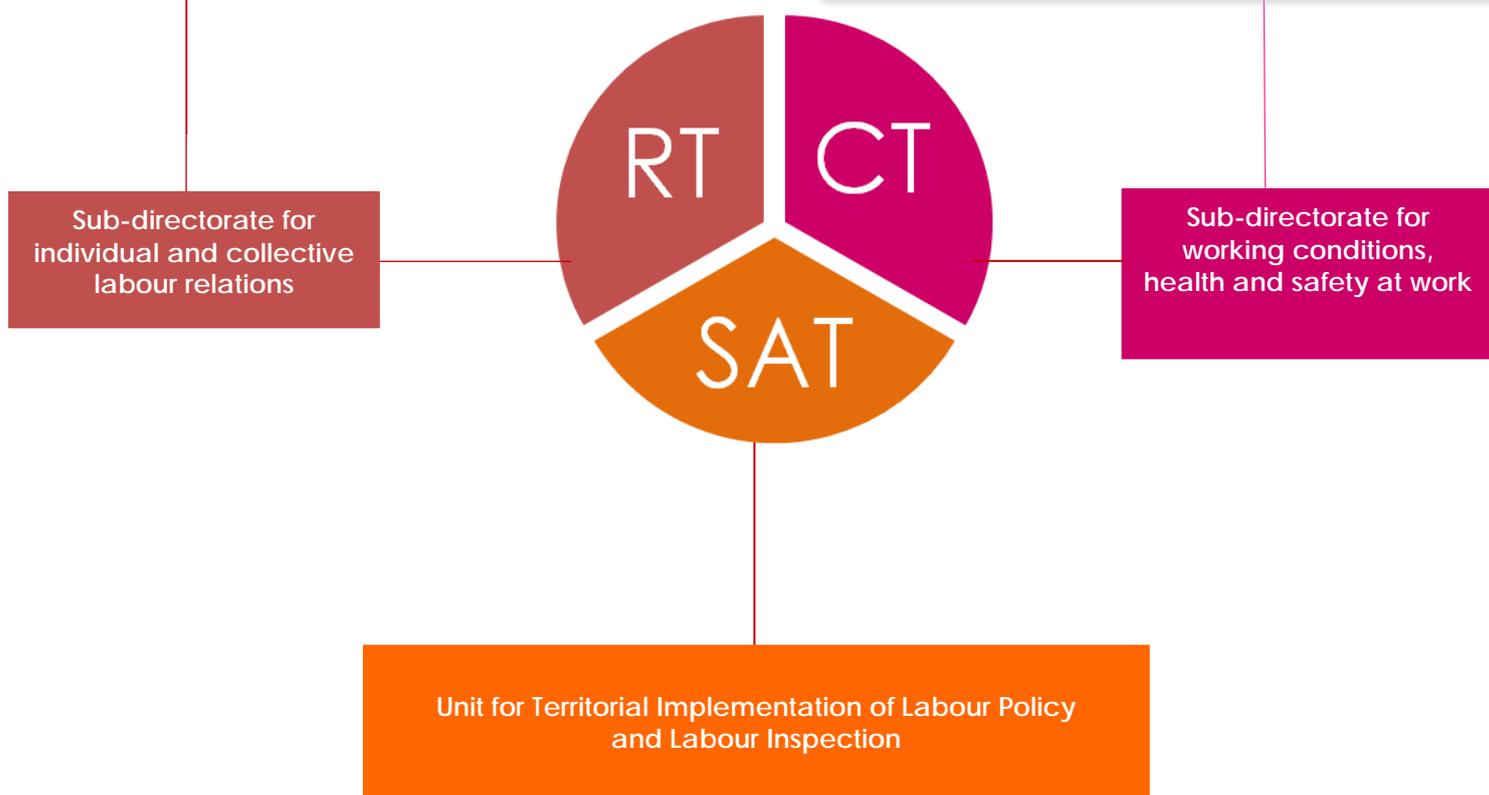
- CT1: 227 appeals of which 177 relating to ability
- CT3: 13

Number of judicial appeals and their repartition:

- CT1: 80 judicial appeals of which 67 relating to ability
- CT2: 19 new judicial FCAATA (fund for early retirement for asbestos workers) appeals (of which two before the Council of State) and 1 CE appeal on the texts (demand for repeal R. 4222-10)
- CT3: 1

Number of texts (acts, decrees, orders) published:

- CT1: 4 decrees and 4 orders of which 4 industry framework orders under the C3P (Personal account on strain)
- CT2: 2 decrees and 26 orders of which 20 FCAATA classification orders (1718 institutions registered at the end of 2016)
- CT3: 2 decrees, 4 orders and an opinion in the JORF (Official Journal of the French Republic, EPI(Equipement de protection individuelle)



- 1159 hierarchical appeals regarding 1578 individual decisions
- 935 initial requests before the Administrative tribunal
- 491 appeals
- 166 instructions for applications for approval by the SST (occupational health services) and opinions delivered to DIRECCTEs (Regional Directorates for Enterprises, Competition Policy, Consumer Affairs, Labour and Employment) in 2015
- 97 observation letters drafted by MITs (Occupational medical inspector) in 2015
- 1537 occupational doctors' opinions challenged
- 60 field surveys carried out jointly with labour inspectors in 2015 (69% of regions)

II - THE GENERAL DIRECTORATE FOR LABOUR (DGT)

The **General Directorate for Labour (DGT)**, created by Decree no. 2006-1033 dated 22 August 2006, prepares, organises and coordinates the labour policy to improve collective and individual relations, working conditions in companies as well as the quality and effectiveness of the law that governs them. It contributes towards defining the position held by France in the international and European institutions which fall within its scope of competence.

In addition to drafting laws and regulations and developing actions relating to its sphere of competence (labour relations, assistance and monitoring of collective bargaining, working conditions, protection of health and safety in the working environment), the DGT also acts as the central authority for the labour inspection system. As such, it is charged with the application of ILO Convention no. 81 dated 11 July 1947.

The public policies led by the DGT are relayed throughout the national territory through the action carried out by Regional Directorates for Enterprises, Competition Policy, Consumer Affairs, Labour and Employment (directions régionales des entreprises, de la concurrence, de la consommation, du travail et de l'emploi, DIRECCTE).



Its missions

To carry out its duties, the DGT is comprised of 2 services.

The service for territorial development of labour policy and for labour inspection activities (SAT) contains four entities:

→ The National Group for Monitoring, Support and Audits (groupe national de veille, d'appui et de contrôle, GNVAC) is responsible for following-up on and monitoring situations, at national level, which require intervention, either alone or in collaboration with territorial services, to ensure compliance with labour law provisions. It also carries out the role of liaison office as provided for by Directive 96/71/EC dated 16 December 1996 for the terms and conditions of employment.

→ The Department for Implementation of the Labour Inspection System (département du pilotage du système d'inspection du travail, DPSIT) prepares and ensures the implementation of national labour policy guidelines by regional services, and, in this context, is responsible for establishing the national inspection programme, ensuring coordination and monitoring the overall consistency of the labour inspection's work. It develops interactions with the occupational services in each European country.

→ The Department for Support of the Labour Inspection System (département de l'appui au système d'inspection du travail, DASIT) provides technical and methodological support as well as expertise to regional services. It ensures the maintenance of information systems used to implement labour policies. In addition, it hears hierarchical and judicial appeals regarding dismissals of protected employees. Lastly, it responds to professional conduct questions which arise during the course of the labour inspection's work.

→ The Occupational Health Inspection (inspection médicale du travail, IMT) is responsible for providing technical guidance to regional occupational health doctors. It takes part in the creation of labour policy guidelines on occupational health and ensures that they are implemented by occupational health doctors. It runs the network and analyses the information received on a national level. It provides expertise for the drafting of legislation on occupational health. It participates in the French National Medical Council. It provides assistance to companies and occupational health professors so that the specificities of occupational health are always better considered.



The Unit for Labour Relations and Working Conditions (service des relations et des conditions de travail, SRCT, is comprised of two sub-directorates and one department:

→ The Sub-directorate for Individual and Collective Labour Relations (RT) is responsible for developing and monitoring the execution of rules and activities which namely concern:

- the contract of employment (execution, performance, termination), the different types of contract, the exercise of freedoms and obligations arising from the contract of employment, transnational labour relations, combating illegal labour and fraudulent posting of workers ,corporate social responsibility, etc.;
- support for social dialogue, the extension of collective agreements, restructuring of industries, access to collective agreement law, information on collective bargaining in particular through the publication of an annual report, staff representative bodies, measuring the audience for employers' professional organisations and employee trade union organisations and establishing their representativeness in industries at a national and cross-industry level, financing education in economic, social and union affairs;
- working hours in all aspects and arrangements, employee saving schemes, minimum wage and salaries, equal pay between men and women.



→ The Sub-Directorate for Working Conditions and Health and Safety at Work is responsible for establishing the guidelines, rules and action plans to improve working conditions, preventing and protecting employees from occupational hazards and monitoring their execution. This includes:

- the general organisation of occupational hazard prevention (monitoring governmental action plans, specifying the content of priority actions, monitoring and assessing the results, specifying and coordinating study and research actions, implementing provisions relating to workplace health and safety committees, drafting rules relating to occupational medicine, supervising the National Agency for the Improvement of Working Conditions (ANACT) and the French Agency for Food, Environmental and Occupational Health and Safety (ANSE);
- the protection of health in working environments (drafting rules on the prevention of chemical, biological and physical risks, drafting and monitoring, in cooperation with the Directorate of social security (DSS), the implementation of guidelines and rules relating to compensation for risks – chart of occupational diseases, early retirement for asbestos workers);
- construction site and worksite equipment (drafting rules on the fabrication and use of working equipment and work sites – hazards on building and construction industry sites, electrical hazards – monitoring the personal safety equipment market, authorising and approving expert bodies in the fields of machinery, personal safety equipment and electrical installations).



→ The Department for General Affairs and Employment Tribunals (département des affaires générales et des prud'hommes, DAGP. It is responsible for:

- organising the appointment of labour tribunal members and the secretariat of the Higher Council of the Labour tribunal (conseil supérieur de la prud'homie, CPS), drafting and implementing rules regarding the Labour tribunal, training labour tribunal members; it carries out this task in collaboration with the Ministry of Justice;
- crosscutting management missions for European and international affairs,
- following-up on questions related to corporate social responsibility (responsabilité sociale des entreprises, RSE);
- supporting tasks (human resources, logistics, budget and communication), in relation with the support directorates for the social ministries' general secretary.



Its environment

Advisory boards

HIGH COUNCIL FOR SOCIAL DIALOGUE (HCDS)

Role	Composition
<p>Created by Act no. 2008-789 dated 20 August 2008 on reforming democracy in the workplace and working time and by Decree no. 2008-1163 dated 13 November 2008, the HCDS is consulted regarding the list of representative trade union organisations per professional industry and trade union organisations which are recognised as being representative at a national and general level. The secretariat of the HCDS is carried out by the DGT's services.</p>	<ul style="list-style-type: none"> • one president • five representatives of national and general employee trade union organisations • representatives of representative employer's organisations on a national level • three representatives of the Minister of Labour • three experts chosen by the Minister of Labour.

NATIONAL COMMISSION ON COLLECTIVE BARGAINING (CNNC)

Role	Composition
<p>Created by the Act dated 13 November 1982 on collective bargaining and the settlement of collective labour conflicts, the CNNC gives its opinion on the setting of the minimum wage, the evolution of effective wages, the principles of "equal pay for equal work" and equality between men and women at work, as well as on draft bills and decrees relating to collective bargaining. In addition, it must research which resources should be used to facilitate the development of collective bargaining.</p>	<ul style="list-style-type: none"> • presided by the Minister of Labour, • one representative for the Minister of Agriculture • one representative for the Minister of Economic Affairs • the president of the social section of the Council of State • representatives for employee trade union organisations and representative employer's organisations at a national level including representatives for farmers, craftsmen, liberal professions and public enterprises. <p><u>Three subcommittees have been set up within the Commission:</u></p> <ul style="list-style-type: none"> • the subcommittee for conventions and agreements; • the subcommittee for wages and salaries; • the subcommittee for restructuring occupational fields.

BOARD OF DIRECTION ON PARTICIPATION, PROFIT SHARING, EMPLOYEE SAVINGS AND EMPLOYEE SHAREHOLDING
(COPIESAS)

Role	Composition
<p>Created by the Act dated 3 December 2008 on labour income (Article 20), COPIESAS is responsible for promoting employee savings and share ownership, assessing mechanisms and making any suggestions which would encourage their dissemination.</p> <p>The General Secretariat under the authority of the Minister of Labour organises the Council's work and drafts its reports. The General Directorate for Labour acts as the general secretariat for COPIESAS.</p>	<ul style="list-style-type: none"> • one president • ten members representing the social partners • the Director-General for Labour • The director of the Civil Affairs and Seals Directorate • the Director-General of the Treasury and Economic Policy • the director of tax legislation • the director for developing research, studies and statistics • the director of social security • the president of the Council for Employment, Income and Social Inclusion or his/her representative • the president of the Retirement Advisory Council or his/her representatives • the president of the Financial Market Authority or his/her representative • two members of Parliament and two senators • 12 experts chosen for their competence and their experience.

NATIONAL WORKING CONDITIONS ADVISORY BOARD (COCT) AND REGIONAL COMMITTEES

Role	Composition
<p>The COCT and the Regional Working Conditions Policy Committee (CROCT) were reformed in 2016, under the influence of social partners, to strengthen their strategic role of directing public policies on occupational health and safety and improve working conditions.</p> <p>This reform is achieved through Article 26 of the Act dated 17 August 2015 on social dialogue and employment and the Decree dated 22 December 2016 implementing it.</p> <p>It is placed under the authority of the Minister of Labour.</p> <p>It exercises an advisory role by participating in public policy-making, in particular with regards to the national action strategies such as the Occupational Health Plan and by taking part in the coordination of actors involved in these fields.</p> <p>Furthermore, it is consulted on draft laws and regulations which contribute towards the implementation of these public policies.</p>	<p><u>Directing role:</u></p> <ul style="list-style-type: none"> • the National Working Conditions Advisory Board, a plenary body presided by the Minister of Labour comprised of four boards (social partners; ministerial departments; social security, expertise and prevention bodies; experts); • the Standing policy group (Groupe permanent d'orientation, GPO), in restricted formation comprised of the board of social partners, of the State (Ministries of Labour and of Agriculture) and of the French National Health Insurance Fund for Employees (CNAMTS, occupational risks department), newly created in 2016. <p><u>Advisory function:</u></p> <ul style="list-style-type: none"> • a General Commission, presided by the president of the social section of the Council of State, and six specialised commissions. <p><u>At a regional level:</u></p> <ul style="list-style-type: none"> • CROCT are presided by the regional prefect. • In 2016, a smaller body was created within CROCTs: the standing regional policy group (Groupe permanent regional d'orientation, GPRO), presided by the regional prefect and comprised of the board of social partners, DIRECCTE and the pension and occupational health fund (CARSAT). It directs regional policy on occupational health and, in particular, delivers opinions in the context of the regional governance of occupational health services (accreditation policy, multiannual contracts of objectives and means (CPOM)).

HIGHER COUNCIL FOR LABOUR TRIBUNALS (CSP)

Role	Composition
<p>Created by the Act dated 6 May 1982 on labour tribunals, implemented by Decree no. 84-360 dated 10 May 1984, the CSP is called on to deliver opinions and issue suggestions as well as to carry out studies on the organisation and operation of labour tribunals. In this regard, it puts forth all measures which may be useful to the Ministry of Justice and the Minister of Labour. It is consulted on draft laws and regulations regarding the establishment, jurisdiction, organisation and operation of labour tribunals, the appointment, status and training of labour tribunal members as well as the procedures carried out before the labour tribunal.</p>	<ul style="list-style-type: none">• one president• two Minister of Justice representatives• two Minister of Labour representatives• one Minister of Agriculture representative• representatives for the most representative employee trade union organisations and representative employer's organisations, at a national level.• the secretariat is ensured by the Minister of Labour.

Partners

The DGT is supported by a network of operators and partners. It plays a supervisory role over some of them, on its own or in collaboration with other ministries.

The National Agency for the Improvement of Working Conditions:

Its mission: to improve working conditions by focusing on the organisation of labour and professional relations.

How? It develops and disseminates tested methods and tools with one objective: the sustainable coexistence of the quality of working life with economic performance.



The Agency for occupational health and safety:

Its mission: assess health risks with a view to clarifying public decision-making regarding subjects such as food, the environment, work, health, animal welfare and plant health.



How? It offers a crosscutting reading of health matters. It assesses all the risks (chemical, biological, physical, etc.) to which an individual might be exposed, whether in the workplace, during commutes, leisure time or through their diet.



Anses' stand at the Paris International Agricultural Show 2017

The Nuclear Safety Authority:

Its mission: to regulate nuclear safety and ensure radiation protection in France, on behalf of the State.

How? It is responsible for drafting regulations by delivering its opinion to the Government on draft decrees and ministerial orders or by taking regulatory decisions of a technical nature, to ensure compliance with the rules and requirements to which the installations and activities that it monitors are subject, to provide information to the public, including in cases of emergencies.



The national health insurance fund for employed workers:

Its mission: to establish the health insurance policy in France and to guide the bodies responsible for implementing it. The Occupational Accident – occupational disease branch (AT- MP) oversees the management of occupational risks, to avoid any deterioration of workers' health due to their work.



How? It advises employers, employees and their representatives, monitors the state of workers' health, follows up on and contributes towards the traceability of occupational exposure. It plays a role in the management of risks, through the objectives and management agreement (COG) entered into with the French State. The new COG, signed on 30 December 2013 for the 2014-2017 period confirms the actions taken.

It highlights, both the priority given to preventive actions, which must be supported by a better coordination between national and regional operators and the development of partnerships with other actors involved in prevention, and the need to assess the impact of these actions.

The French National Cancer Institute:



Its mission: to coordinate actions to fight cancer. It is the agency which provides health and scientific expertise in cancerology to the State. Work-related cancers are often underestimated as both their identification and their recognition as the consequence of occupational exposure can be difficult.

How? The cancer plan focuses on better knowledge of situations of risk at work, on strengthening the protection and monitoring of workers who are exposed to carcinogenic agents, as well as improving job maintenance for persons with cancer.

The DGT takes part in the action to strengthen primary prevention at work in order to reduce exposure to carcinogenic agents; it also participates, in collaboration with the DGEFP (General Delegation for Employment and Vocational Training), in four actions to improve job maintenance for persons with cancer in order to safeguard their paths to return to employment.



Santé et sécurité au travail

The French Institute for Research and Security:

Its mission: to develop and promote a culture of prevention of occupational accidents and of occupational diseases. Its role is built around four main aspects: identifying, analysing, disseminating and promoting.

How? It acts in collaboration with other institutional stakeholders in the field of occupational risk prevention. It offers tools and services to companies and employees who are subject to the general Social security regime.

Public Health France:

Since 1st May 2016, the French Institute for Health Promotion and Health Education (Inpes), the French Institute for Public Health Surveillance (InVS) and the Establishment for Public Health Emergency Preparedness and Response (Eprus) have become Public Health France which has taken over all of their tasks, competences and powers.



The National Public Health Agency (Public Health France) is a public administrative institution, placed under the authority of the Ministry of Health. Governed by the Act dated 26 January 2016 on modernisation of our health system, the Ordinance dated 14 April 2016 and the Decree dated 27 April 2016, the Agency took over on 1st May 2016.

Through its extensive missions and competencies, which range from epidemiological monitoring and providing education to the public on risk prevention, particularly in the event of health emergencies, Public Health France provides France with a centre of reference and of expertise in public health, similar to institutions in other countries.

The French Radioprotection and Nuclear Safety Institute (IRSN):



Its mission: to ensure the management, exploitation and consolidation of dosimetric data regarding the exposure of 385,000 workers to ionising radiation. The IRSN participates towards the drafting and review of regulations led by the General Directorate for Labour and carries out specific expert assessments in relation with radiological events which have affected workers at the request of the Directorate-General.

It is placed under the joint authority of the Ministries of Ecology, National Education, Research, Health, Industry and Defence.

How? The IRSN is charged with the task of carrying out continuous surveillance. The data on exposure of workers is centralised in the national database, "SISERI" (information system for monitoring professional exposure to ionising radiation), which enables the IRSN to monitor the evolution of exposure and to carry out epidemiological studies on specific groups of workers.

The Organisation for Prevention of Occupational Hazards in Construction and public works industry (OPPBTB):

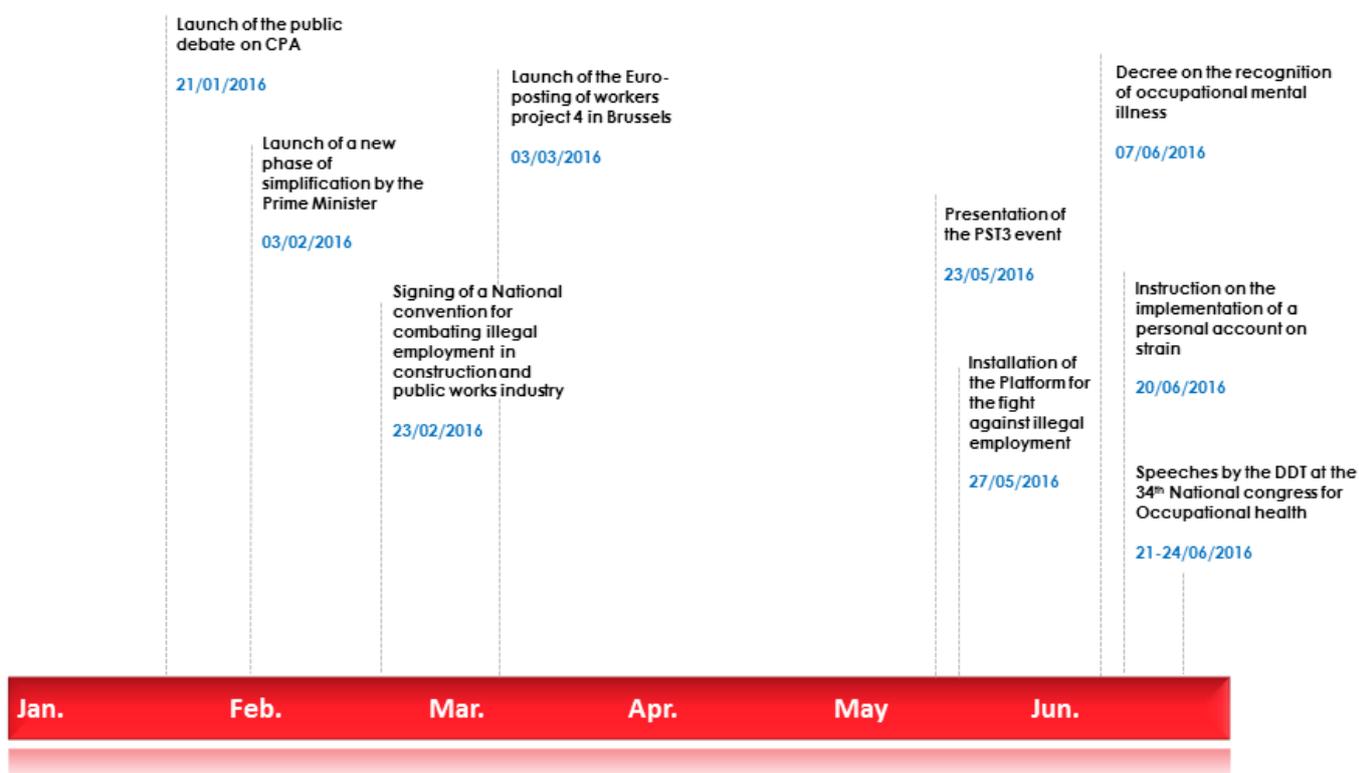
Its mission: to raise awareness among workers in the construction industry on risk prevention and the improvement of working conditions. The OPPBTB focuses mainly on providing advice to companies in this sector on the prevention of occupational accidents and diseases.

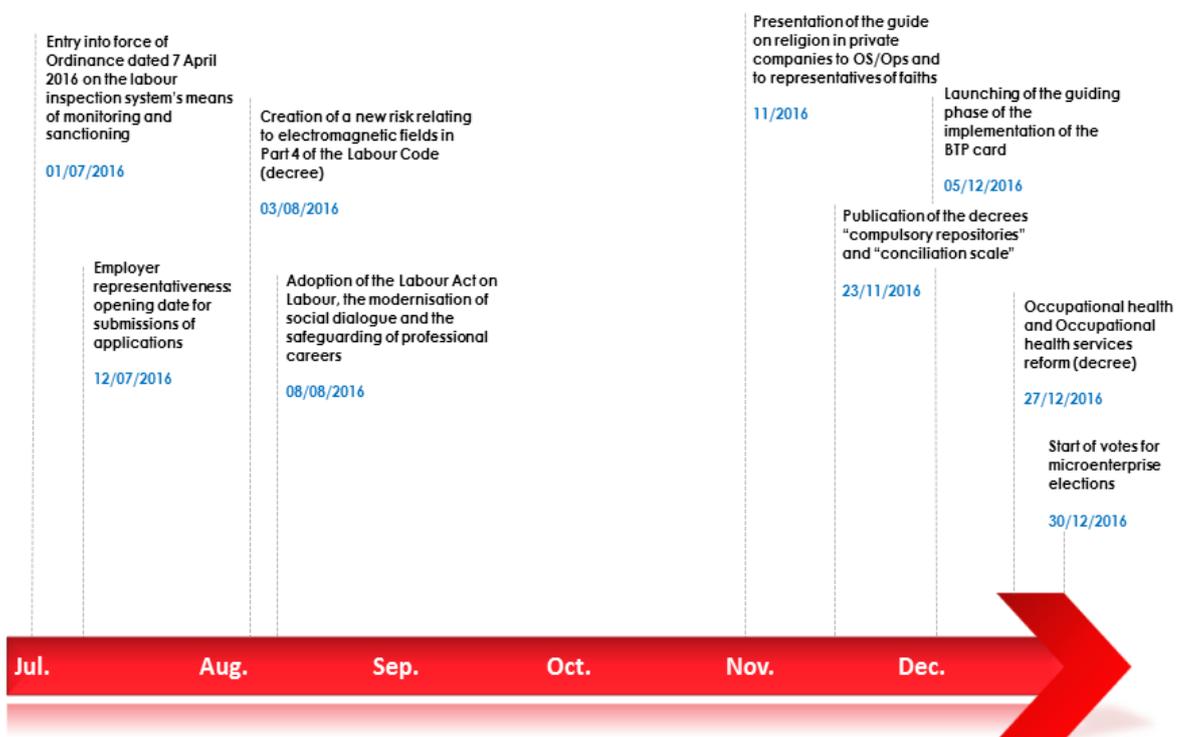


How? It offers companies in the construction industry a wide array of useful tools, particularly to analyse and assess risks, with a view to helping them improve their level of prevention; it offers specific training for construction trades and helps companies to set up their training plan. These training sessions are organised by trainers specialising in the construction industry and aim to teach risk management and technical preventive measures according to profession; it disseminates comprehensive and up-to-date information through practical tools, such as its website.

III - THE FOCUSES OF THE DGT'S INVOLVEMENT AND ACTION IN 2016

1. The highlights of 2016





2. The Labour Act and its implementing decrees



For the DGT, 2016 was marked by the adoption of the Act dated 8 August 2016 relating to labour, the modernisation of social dialogue and the safeguarding of career paths. This Act has introduced substantial changes in the field of labour relations.

With the objectives of better protecting employees and expanding the sphere of competence of collective bargaining, particularly with regards to negotiation at firm level, this rewriting resulted in the implementation of a new architecture with three levels:

- “public order”, which sets out the rules which cannot be derogated from;
- the “scope of collective bargaining”, which represents the field which is open to collective bargaining and which sets out the most appropriate articulation between sectoral negotiation and negotiation at company level;
- “supplementary provisions”, which include all provisions which apply in the absence of a collective agreement.



Working time

In particular, the Act dated 8 August 2016 rewrote the part of the Labour Code relating to working time, breaks, annual leave and special leave, such as family-related leave, leave for dependants, etc...

As regards work, break and leave times, the Act establishes the principle of prevalence of company-level agreements. In addition to this rewriting, which was continued in the regulatory field through the publication of two implementing decrees dated 18 November, the Act also made a few substantive amendments.

As an example, under certain conditions it now allows for a negotiated organisation of working time to cover a period of up to three years; it strengthens the legal framework of flat-rate pay mechanism for days worked to guarantee the protection of employees' health and safety, namely by confirming the existence of a right to disconnect; it extends the right to benefit from two extra days of leave per dependent child to male employees and widens the definition of a dependent child to all children with disabilities, without restriction as to age, who live in the household.

As regards working time, 2016 was also the year in which the provisions of the Act dated 6 August 2015 on Growth, Economic Activity and Equal Economic Opportunity, regarding exceptions to Sunday rest were implemented, particularly with the creation of nine new international tourist zones (ZTIs) and the accompaniment and monitoring of collective bargaining and collective agreements prior to the opening of establishments located within these ZTIs on Sundays.

The DGT played a key role in the Observatory for trade in international tourist zones created by the Order dated 20 June 2016, and jointly presided by the Ministers of Labour and of Economic Affairs. This Observatory is responsible for assessing the reform on the opening of businesses in international tourist zones on Sunday, monitoring its international promotion, and evaluating its effects on trade, economic activity, employment, and social dialogue.

Two plenary meetings presided by the Ministers of Labour and of Economic Affairs have been held, as have three thematic subcommittee meetings (commercial organisation and urban planning, assessment of activities and of employment, international promotion and hosting).

Payslips

The Act dated 8 August 2016 amended the legislative part of the Labour Code to promote the payslip dematerialisation process. The aim is to breathe new life into dematerialisation by reversing the rule of option: if the employer decides to dematerialise payslips, he/she may provide employees with payslips in dematerialised form, unless said employees object to this change. The Act guarantees the integrity, confidentiality and availability of payslips provided in electronic format.

Decree no. 2016-1762 dated 16 December 2016 specifies the terms under which the employer may provide payslips to employees in electronic format.

Agreements for the preservation and development of employment

The Act dated 8 August 2016 also provides companies with the opportunity to conclude agreements for the preservation or development of employment.

With a majority agreement concluded at firm level, or at group-level, the stipulations of an agreement for preservation or development of employment automatically replaces "labour contract clauses which are contrary or incompatible", including for remuneration and working times.



Nevertheless, the agreement cannot result in the reduction of the employee's monthly remuneration as defined in a specific implementation decree, dated 28 December 2016.

Professional equality

In terms of equality between women and men in working life, 2016 was marked by the publication of the Decree dated 29 June 2016 on the procedures for consulting with staff representative institutions.

In particular, this decree specifies the arrangements for implementation of the rulings procedure which would allow a company to request that the labour administration take a formal position regarding the compliance of its agreement, or, in the absence of an agreement, of its action plan regarding equality between women and men in working life, which, if necessary, would be enforceable against it.



Modernising occupational health

With regards to occupational medicine and occupational health services, a fundamental reform was carried out in 2016. This reform is in keeping with the successive reforms which have been carried out since 2004 to strengthen multidisciplinary within these services.

It relies, in particular, on the serious thought given to ability as part of an IGAS (Inspectorate General for Social Affairs) mission entrusted to member of Parliament, Michel ISSINDOU, as well as on consultations with all relevant stakeholders, and namely social partners within the standing policy group of the national Working Conditions Advisory Board (COCT).

Article 102 of Act no. 2016-1088 dated 8 August 2016 and Decree no. 2016-1908 dated 27 December 2016 on the modernisation of occupational medicine, adopted pursuant to said Article 102, are in keeping with this evolution by allowing actual, equal and adapted individual monitoring of the state of health of workers through an adjustment of the type and frequency of medical examinations according to the risks actually involved, far from the automatic aptitude assessment provided by the previous arrangements.

Thus, the Act improves the monitoring of workers' state of health by clearly affirming these principles, with a preventive aim and with a view to promoting job maintenance. It also sets out the principle according to which the state of health of all workers is monitored by the medical labour inspector , and under his/her authority, by the collaborating doctor, the occupational health intern and the nurse.

Henceforth, every worker will receive an informational and preventive visit carried out by a health professional referred to in Article L. 4624-1 (medical labour inspector , intern, collaborating doctor, foreign doctor, or nurse in occupational health) within less than 3 months from the date on which he/she took up his/her new employment. The maximum period for renewal of this informational and preventive visit is 5 years.

A flexible adaptation of the arrangements (possible referral to the medical labour inspector) and frequency of worker monitoring (less than the maximum 5 years) depending on their state of health, age and the working conditions and occupational risks which define their post (for example: disabilities, night work, etc.) is possible. Such adaptations are specified by written protocols, drafted by medical labour inspectors , which therefore constitute the framework under which they delegate part of said monitoring to health professionals under their authority.

However, workers assigned to posts which present particular risks to their health and safety, that of their colleagues or of third parties operating in the immediate working environment shall continue to benefit from an individual and enhanced medical supervision and particularly from a medical aptitudinal test which is taken before assignment to a post and renewed every 4 years, at the latest, by an medical labour inspector , with an intermediate test being carried out midway by a health professional referred to in the first subparagraph of Article L. 4624-1. Article R. 4624-23 specifies the nature of posts which present health risks: to a list of posts established by regulation (exposure to asbestos, carcinogenic, mutagenic or toxic agents referred to in Article R. 4412-60, the risk of falling from a height during assembly and disassembly of scaffolding, etc), the employer may add posts which he/she identifies, in consistency with his/her assessment of risks carried out as part of the single risk assessment document (DUER) and the assessment made by the medical labour inspector , which appears, where appropriate, in the company records, following opinion of the CHSCT (Joint committee on hygiene, safety and working conditions) or of the staff representatives.

This reform also sets out the adapted monitoring arrangements applicable to workers holding a fixed-term contract or a temporary contract which guarantee the individual surveillance of their state of health at an equivalent frequency to that of workers with permanent contracts, namely by extending the possibility of issuing a notice of ability to work for multiple employments, within a limit of three, to

workers holding temporary contracts. It updates the provisions of the Labour code relating to monitoring the state of health of workers who are exposed to particular risks or who are subject to a particular regime, as well as those relating to the missions and functioning of occupational health services in order to help them adapt to the new arrangements implemented on the individual monitoring of workers' state of health.

As regards the challenging of medical opinions, the legislator decided to unify litigation proceedings (Article L. 4624-7), with the labour tribunal being able to render decisions both on the dismissal of a worker and on his/her ability to work at his/her post. Thus, the judicial judge will be more likely to render a decision much faster, without having to wait for the administrative judge's ruling.

Finally, the Act revises the arrangements for reclassification, both by strengthening the protection of employees who are incapable of working following a non-occupational accident or disease by bringing them in line with the more favourable protection afforded to employees who are declared incapable of working following an occupational accident or disease, and by specifying the limits of the reclassification obligation to which the employer is subject.

In particular, in his closing speech at the 34th National Congress on Occupational Medicine and Health, the General Director for Labour spoke about the implementation of the occupational medicine reform, included in the Labour Act.

Detection of asbestos before work

For many years and through numerous means, the DGT has sought to insert a legislative article in the Labour code aiming to protect the health of workers and the environment by creating an explicit obligation to detect asbestos before starting works, for all work operations (real estate which is built upon or not built upon, industrial equipment and installations, transport equipment and other items such as vessels and aircraft). The Senate, in its report no. 668 of July 2014, and the High Council for Public Health, in its report of June 2014, had also highlighted the weaknesses of the legislative framework for detecting asbestos, described as the "weak link of prevention".

The creation of an Article L. 4412-1, by Article 113-II of Act no. 2016-1088 dated 8 August 2016, provides a response to the recommendations made in these reports. It determines the responsibility of designating a person deemed competent to carry out detection and sets out the principal's general prevention obligations, while leaving the practical arrangements and the tailored normative provisions as well as situations of exemption to regulations.

The creation of a detection obligation before starting works also secures the decision made by inspectors from the Labour Inspection, who, as part of their surveillance role, are currently led to demand detection by means of formal notice regarding the assessment of risks and to order cessation of work where worker exposure is observed. The information provided by inspectors from the Labour Inspection shows that more than 25% of decisions of cessation of works are the result of asbestos-containing material which was not detected before the start of works.

The obligation is enforced by an administrative penalty as well as a criminal penalty. The administrative penalty can only be issued after adversarial proceedings and after the circumstances, the seriousness of the breach, the offender's behaviour and its resources and costs have all been considered.

The draft implementing decree was submitted to the national Working Conditions Advisory Board for consultation in November 2016. It plans for 6 sectoral implementation orders and multiple exemption categories, in emergency situations or in the event of repair or maintenance work resulting in low levels of dust, for which alternative preventive measures will be set up.

The public service of access to law for companies with less than 300 employees

The situational analysis of microenterprises and SME expectations launched as part of the microenterprise and SME HR plan shows that employers struggle to access and to understand the rules to which they are subject. Being primarily focused on the economic sustainability of their companies, these employers have neither the necessary time, nor the competence required to address this issue.

Furthermore, by exploiting the information observatory's data, which illustrates the number and type of referrals to DIRECCTE's informational services, it appears that a high number of requests of information on applicable law come from employees of SMEs with less than 50 employees.

Article 61 of the Act dated 8 August 2016 (new article L 5143-1 of the Labour Code) establishing a public service for access to law, driven by DIRECCTE aims to resolve this situation. It is a question of leaning on appropriate relays outside of the administration but who are favoured contact points for these companies and which distribute information and culture on labour law. This also enables them to be supported in their management of human resources.

The first achievement of this collaboration with external relays resulted in the signature of a national agreement with the Union of Accountants to promote joint information actions. This agreement could be taken-up on a regional level. Other agreements with partners will be launched in 2017.

Continuing the process of progressive transformation of employment inspectors into labour inspectors



The Act dated 8 August 2016 has continued the process of progressive transformation of employment inspectors into labour inspectors, initially launched in 2013. Pursuant to Article 6 of Act no. 2013-185 dated 1 March 2013 establishing a generation contract, 540 employment inspectors had been reclassified as labour inspectors between 2013 and 2015.

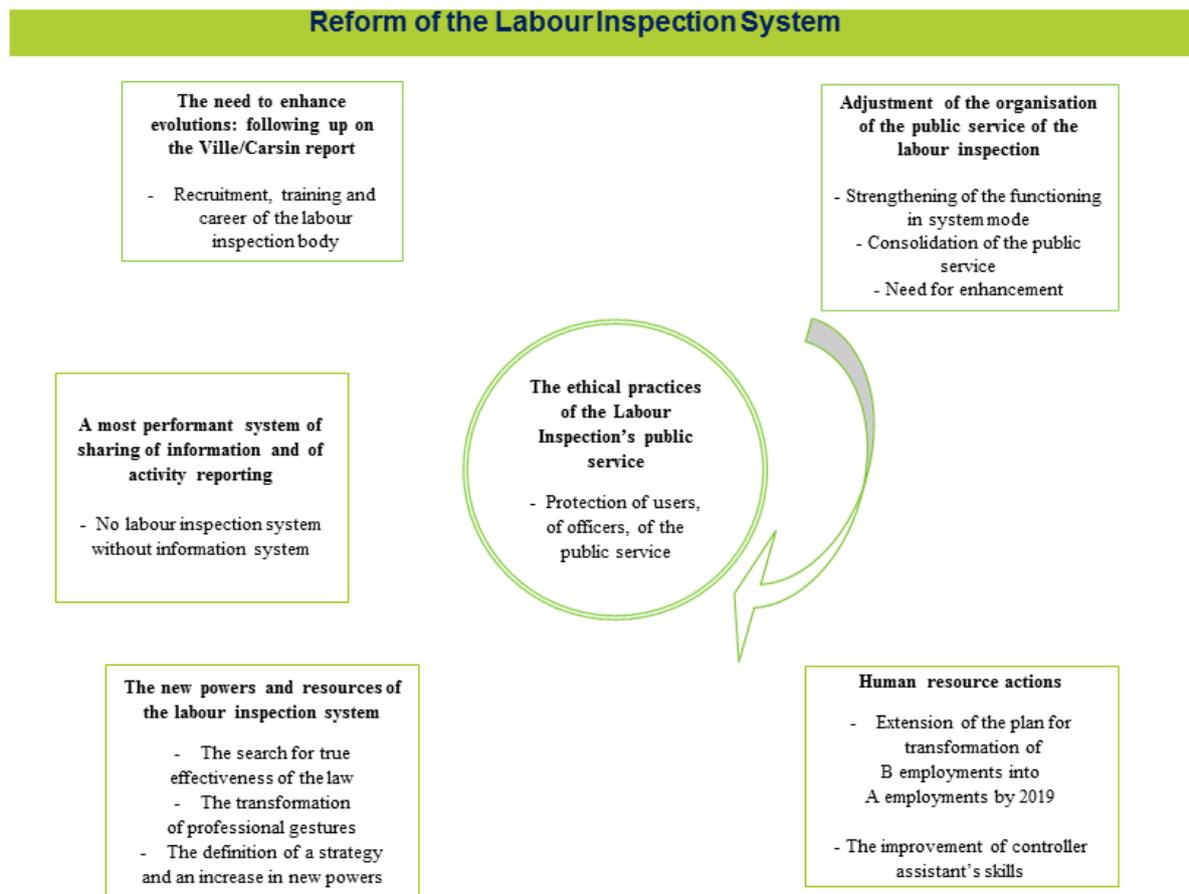
Article 51 of the Labour Act therefore enables:

- The continuation, for four more years until 2019, of the transformation process which enables employment inspectors to benefit from such a reclassification: the competitive examination is open to all employment inspectors who can prove 5 years of effective service, within the limit of a quota of 250 posts each year and includes compulsory training during a 6-month work placement, with a possible extension for a maximum period of 3 months followed by the establishment as a labour inspector if the work placement is considered satisfactory.
- The opening of an aptitude list: posts can also be filled through an aptitude list, within a limit of one fifth. The conditions for registration on this list are specified by decree.

3. The Labour inspection system (LIS)

3.1 Consolidating the organisation of the labour inspection system and implementation of networks by the department for steering the labour inspection system

The new organisation of the labour inspection system has been put in place in every regions and has started to produce results.



Within the DGT, the unit for territorial implementation (SAT) was redesigned and the GNVAC was created. The French national network against illegal work and networks for special risks have been created.

As part of the reform of the labour inspection system, the process of progressive transformation of labour controllers in inspection sections into labour inspectors, initially launched in 2013, continues.

The Ordinance on inspection powers was promulgated on 7 April 2016. A preparatory inquiry dated 12 July 2016 specifies the challenges associated with the implementation of penalties resulting from this ordinance in terms of penalty strategy and in strengthening the collaboration with public prosecutors.

Considerable thought has been given throughout many seminars and has enabled the redefinition of the inspection system's framework function, the role of each actor and the links between the different levels. Work continued during the framework seminar in July 2016.

However, 2016 was dedicated, in part, to adjusting the new organisation charts for regions which have merged and to developing our services' new functioning under a system mode which involves all inspection system officers and requires implication of the executive staff .

On the basis of files on the fundamental aspects of the organisation of Work Centres (Poles T), discussed by the heads of Work Centres and DIRECCTEs and presented in Ministerial Technical Committee on October 2016, DIRECCTEs were invited to reflect on and revisit their organisation, particularly as regards the following matters: steering and implementation of Work Centres, of the network for special risks and of regional thematic networks, medical inspection within DIRECCTEs and the labour inspection system, the generalisation of sections which mainly handle transport, the role played by information services and central labour sections, the territorial control unit and URACTIs (Control Unit with regional jurisdiction for fighting illegal work).

The objective of the LIS reform was, in particular, to promote a more collective approach to controllers' actions and to strengthen competencies in certain complex areas.

→ The network of contact points for "regional plans for occupational health" (PRST)

Two PRST contact point meetings took place in the months of May and October 2016. These meetings enabled the DGT to broach various current issues with correspondents (legal texts being drafted or published, implementation of regional bodies, themes such as falls from heights, chemical risks, prevention of occupational exclusion), to present the arrangements for transposing national actions on a regional level and to discuss the role of DIRECCTEs, to suggest steering tools (an action monitoring template, a dedicated information system), as well as broaching the subject of the involvement and link between various PRST partners.

In addition to these highlights, exchanges of information and, when requested by regional services, support often provided regional on site , contribute towards the mobilisation of this network which interacts with technical bureaus and some external partners (MAAF, MSA, OPPBTP, CNAMTS).

→ The network of contact points for road transport

A meeting organised in September 2016, to which the Directorate-General for Infrastructure, Transport and the Sea (Direction générale des infrastructures, des transports et de la mer ,DGITM) was invited, was the opportunity to broach the subject of the functioning of road transport sections and inspections of companies in the road sector, regarding the new organisations related to the merge of large regions (new modes of operation, new geographical perimeter, etc.). This meeting was also the opportunity to establish an initial report on the functioning in a system mode, the key focus of the inspection system reform in a context of high political stakes, namely European, and objectives regarding the monitoring of compliance with european social regulations to be achieved.

2016 was also marked by:

- A reinvestment in monitoring the road goods and passenger transport sector, particularly as regards compliance with ESCs and as regards complex fraud and fraudulent posting of workers in road transport, a priority field in the National Plan for fighting illegal work;
- Remobilising the national DGT-DGITM partnership;
- Coordination of inspection organisation (joint communication DGT-DGITM dated 5 July 2016);
- Preparation of a seminar on monitoring posting in transport.

→ Multidisciplinary units

Multidisciplinary units within DIRECCTE Work centres are comprised of controllers, prevention engineers, regional prevention technicians (in the agricultural sector) and regional health doctors. A seminar held in November 2016 redefined the missions, composition and functioning of these units. Exchanges between the DGT and the close to forty participants produced lines of thought and courses of action for 2017, particularly on the arrangements for transferring information, the clarification of some missions, the sharing of tools produced regionally and the national support requirements which are both thematic and organisational.

→ The network of agricultural contact points and Regional Prevention Technicians

The 15 regional contact points were brought together for an organised day event at the DGT, held over one day. Furthermore, the DGT and the Ministry of Agriculture (MAAF) organised the yearly seminar for the 29 Regional Prevention Technicians.

Support to the DIRECCTE services was also fruitful in 2016, resulting in an instruction on the safety procedures for shredders, issued in August.

In addition, the DGT organised six information days on the Joint committee on hygiene, safety and working conditions (CPHSCT), in collaboration with the MSA's central office, for MSA officers and the labour inspection system. Moreover, a new training course has been set up at the INTEFP (National Institute for Labour, Employment and Occupational Training) on viticulture and wine-making inspections.

The DGT has also led three work groups: viticulture and wine-making occupational risks, woodland construction sites and phytopharmaceuticals and has also co-piloted a work group on tractors with the MAAF, following the publication of European Regulation no. 167/2013.

More broadly, the department for steering the labour inspection system acts as an interface between the labour inspection system and the MAAF: exchanges of information, interventions in various bodies, technical opinions on draft laws, coordination of DGT bureaus on agricultural matters, co-drafting of notes and circulars...

→ The network of maritime contact points

Assistance and support to regional services is provided through inter-regional maritime contact points and directly for overseas territories. In 2016, the priority was to train officers, accompanied by the reorganisation and development of the INTEFP training course for maritime labour inspectors with the introduction of a training course on hyperbaric conditions and the organisation of information days on the "Host state" mechanism, co-hosted by the DGT and the Directorate of Maritime Affairs in 3 ports, for officers of the Departmental Directorate of Territories and the Sea (DDTM) and labour inspection system.

The 4 interregional contact points have met on two occasions at the DGT in 2016. Furthermore, the year was punctuated by a key moment: a 2-day interministerial seminar on the monitoring of maritime labour law.

Finally, the department for steering the SIT collaborates with the Directorate for Maritime Affairs as regards information sharing, interventions in various bodies, technical opinions on draft laws, coordination of the DGT bureaus on maritime matters, in particular collective bargaining, co-drafting of texts...

→ The special risks network (RRP)

The DGT continued its management and organisation of the special risks network (RRP) in 2016, around two key events: a meeting in April 2016 with the representatives of these networks and a seminar in November, in collaboration with INTEFP, with a better representation of each DIRECCTE, also including French overseas departments. The DGT wanted the HR Directorate to be represented during this seminar on the question of officer protection.

These meetings have enabled the DGT to establish a report on the implementation and the functioning of RRP following the territorial reform introduced in 2016. Some RRP were not able to merge and/or struggle to legitimise their activities. Indeed, networks are focused on the function of individual or collective support and some have not yet started performing monitoring activities. Interactions with the DGT and other RRP provide support to develop this monitoring competence and to disseminate good practices.

In 2016, the DGT guided the role played by the head of the RRP who has become the preferred interlocutor and the central point for exchanges between the central administration and the services at this level on matters regarding asbestos and which ensures the quality of reports to the DGT.

These meetings also enable the DGT to contribute towards developing the skills of RRP officers by providing them with information on the work carried out by the DGT and particularly on regulatory and doctrinal evolutions.

Monitoring actions within the framework set by the programme's operational budget 2017 and illustrated by experience feedback provided by DIRECCTEs were presented to RRP to take part in the establishment and implementation of action plans regarding asbestos.

→ The reorganisation of the labour inspection system also concerns medical labour inspectors (MIT).

Their position in DIRECCTEs and the reorganised inspection system was the subject of an instruction issued by the DGT on 31 July 2015. Applicable since the 1st September 2015, this instruction sets out the role of medical labour inspector, their position and the priorities of their activity, in view of their status and their professional duties as defined by the Public Health Code.

It provides for a report on its implementation in all DIRECCTEs. A questionnaire was sent by the deputy director-general and the occupational health inspection service to DIRECCTEs, heads of Work centres and medical labour inspector. The operational proposals which result from this report will be studied and returned to the DIRECCTEs, heads of Work centres and medical labour inspector in 2017.

Report on the implementation of the DGT's instruction dated 31 July 2015, on the place of medical labour inspectors in DIRECCTEs and in the reorganised inspection system

A very unequal implementation of the DGT's instruction dated 31 July 2015 was observed. DIRECCTEs must make more use of the medical competences at their disposal.

Medical labour inspectors are a gateway between medical labour inspectors, occupational health professors, the ethical practice of health professionals and the inspection system. They have access to precious information and data, the analysis of which must be considered for the establishment, implementation and assessment of regional policies on occupational health as well as for the labour inspection's activities.

Particular attention must be paid to the human and material resources at the disposal of medical labour inspectors in most regions, (even more so where temporary posting is concerned) to enable them to make the missions entrusted to them more effective.

Efforts must therefore be continued to comply with the provisions of the DGT's instruction, namely in terms of the positioning of occupational health inspectors, of cooperation and support provided to them but also as regards calling on their unique competences within DIRECCTEs.

The application of these principles and the effective organisation put in place by DIRECCTEs must contribute towards increasing the attractiveness of the function and thus the recruitment of medical labour inspectors (45% of job vacancies at the end of 2017). A new DGT instruction will be sent to DIRECCTEs in 2017 based on this report.

3.2 New powers

The work of the DGT towards strengthening the labour inspection's prerogatives have resulted in the publication of the Ordinance dated 7 April 2016 and the Decree dated 25 April 2016 which consolidates controllers prerogatives by recalling the principles of independence and free decision, by strengthening their powers of investigation (broadening the opportunities to request analyses and widening the scope of the right of communication) and of intervention (expanding the scope of work and activity stoppages, procedures aiming to removing youth from hazardous working situations) and by modernising penalties. In particular, new administrative penalties are introduced for breaches of employee's fundamental rights as is the opportunity to have recourse to plea agreements.

This important reform, which is a key issue in terms of the effectiveness of the labour inspection's activity, leads to an evolution of occupational skills for the entire labour inspection system particularly regarding officers' knowledge of administrative law, monitoring and sanctioning strategies, internal collaborations with various system actors and external collaborations with public



prosecutor offices and the organisation for the implementation of these new prerogatives. It therefore required intense work to accompany the labour inspection system in 2016, which has continued in 2017. As regards the means of action and sanctions which are most concerned, i.e. temporary work stoppages, carcinogenic, mutagenic or toxic for reproduction (CMR) activity stoppages, administrative fines and plea agreements, supporting documents (Q/A, DGT sheets, flowcharts) have been distributed to the services as soon as the Ordinance was published and many letters and decision templates were also distributed upon its entry into force. To carry out this concrete effort to provide assistance, the DGT relied on work groups involving representatives of regional services.

Collaborative work with the central administration of the Ministry of Justice has allowed for the establishment of a new sanctioning strategy and its operational arrangements in conjunction with the justice system's services, through the instruction dated 12 July 2016.

To provide a better understanding of this reform, to steer its implementation and to carry its doctrine, the DGT took part in many meetings organised by the labour inspection system on the matter through meetings of the heads of Work centres, of the labour inspection, through the seminar on management, the training of ITS and IETs and various regional days.

In addition, the DGT contributed towards defining an action plan to train the entire labour inspection system, in particular on administrative fines. Moreover, it participated significantly towards the development of a training module on administrative litigation.

Furthermore, by responding to questions submitted to it daily, the DGT provides significant legal and methodological support regarding the implementation of these new powers.

As regards litigation, the DGT has set up an internal support unit to meet DIRECCTEs needs as regards the processing of legal actions, whether they be administrative appeals or full remedy actions.

3.3 The fight against illegal work and illegal posting – construction industry card

[The National Committee for Combating illegal work - Meeting dated 30 May 2016](#)

The National Committee for Combating illegal work met on 30 May 2016 under the presidency of the Prime minister.

It allowed for the establishment of a report on the national plan for combating illegal work 2013-2015 which broached the subject of the fight against illegal work for the first time in the framework of a comprehensive approach. Its purpose was to fight cases of fraud through a more effective prevention policy, by better targeting controls, improving the coordination of supervisory bodies and enhancing officers' skills. It therefore represented a renewal compared to the previous plans by highlighting cases of fraud rather than only combating concealed work in the professional sectors where it is most present.

This plan led to major advances on several points:

- A true focus by monitoring services on complex fraud in the fight against illegal work;
- A mobilisation of services which results in internal reorganisations, a regionalisation of services, a reform of the labour inspection (URACTI, GNVAC, illegal work network, etc.);
- A comprehensive renovation of our legislative and regulatory arsenal and a strengthening of means of intervention;
- The start of a European cooperation;
- A regional adaptation of the national Plan resulting in enhanced implication between services

These significant advances must be strengthened and amplified to meet the needs of the development and increasing complexity of fraudulent posting of workers. This is the aim of the national plan for combating illegal work 2016-2018 which was presented at this meeting and which has 3 main objectives.

More than ever, the plan's aim is to fight against complex illegal work frauds which create situations of unfair competition at the expense of French companies and which constitute serious infringements on employees' rights.

The effectiveness of this policy requires the development of a real prevention and intervention strategy. The plan foresees new resources to reach such a goal: a national interministerial body to steer the National plan against illegal work (PNLTI) to guide and coordinate actions, the sharing of databases expected in 2017, a more offensive intervention as regards project owners and principles and any final beneficiary of fraudulent operations as well as penalty strategies adapted to situations of complex frauds which aim to put an end to the fraud.

Lastly, Europe has become an essential stage in the fight against illegal work. The plan provides for a development, through various means, of operational cooperation on some files or some sectors or territorial areas.

The information system for the international provision of services



The new version of the SIPSI teleservice was made available to foreign companies on 21 July 2016 and was associated at the same time with a national database which did not exist before, and which is available to labour inspection controllers.

This availability is the result of a conception, development and reception phase carried out in a very short timeframe, by the teams of social ministry's directorate for information systems, project supervisor and the General Directorate for Labour (department for the steering of the labour inspection system), project owner.

Simultaneously, the legal framework was finalised by a consultation with the CNIL, with the Council of State followed by the publication of Decree no. 2016-1044 dated 29 July 2016 which renders the dematerialised declaration on SIPSI mandatory. This obligation entered into effect on 1st October for posting declarations (except for transport). Lastly, the regional SIPSI contact points, appointed by DIRECCTEs have received training, again within very tight deadlines.

Despite being made available in the middle of the summer, a time which is not very conducive to communication, SIPSI was the subject of a certain amount of success with foreign companies and increased in workload faster than was expected.



With more than 7,300 declarations received every month (compared with 6,800 in 2015), the quantities processed are already much higher than those previously collected and recorded by the former methods of transmission despite the system being only made compulsory on 1st October.

Nevertheless, SIPSI went through multiple periods of instability which resulted in the active involvement of the DGT's teams to detect any abnormalities in relation to the DSI and to provide assistance with DIRECCTE contact points to the hundreds of companies and controllers using the service daily. At the same time, urgent and important evolutions needed to be carried out, one of which was the integration of posting certificates which are specific to the transport sector.

In particular, the database created by the new version of SIPSI must facilitate the carrying out of investigations regarding the most serious and most complex posting frauds by providing controllers with national traceability throughout service provider and their principal's interventions.

[The European Platform for tackling undeclared work](#)

The European Commission, the member States and the social partners are brought together within a European Platform for tackling undeclared work, set up in May 2016. The Platform, presided over by the Commission, assisted by two vice-presidents (Yves CALVEZ - France; Renars LUSIS - Latvia) is comprised of 28 high level representatives, one Commission representative and four representatives of social partners at a European and inter-branch level, and 20 observers (ILO, EU-OSHA, sectoral social partners, EEA representatives). France called and actively advocated for the implementation of this platform to enhance cooperation between European countries in the fight against unfair social competition; the DGT wishes to be actively involved, in collaboration with the institutional actors of the fight against illegal work, to promote active cooperation and to make the European platform a true operational tool to service the fight against illegal labour.

Indeed, the responsibility to combat undeclared work is a national one, however the stakes are common to all member States; undeclared work can also arise in transnational circumstances.

In this regard, the platform is a place for exchange, mutual learning and the promotion of cooperation, which enables the sharing of good practices and information, the development of knowledge and of analyses, and facilitates cross-border cooperation and transversal understanding. Its operation and its work programme were finalised last October. It studies how to improve policies and the means to tackle undeclared work and promote cooperation between national authorities and other actors. It also focuses on raising awareness. It holds two plenary meetings per year. It has 3 priorities:

- to gain better knowledge of the different forms of undeclared work;
- to help the member States learn from one another through the exchange of good practices;
- to encourage joint activities.

3.4 Workers' health protection

As regards the prevention of occupational hazards, multiple actions have been taken in 2016, in collaboration with DIRECCTE's services.

Firstly, due to the hazardous nature of asbestos, which remains one of the priority hazards in the 3rd work health plan 2016-2020, the monitoring of such a substance has been continued for many years by labour inspection services as part of their national priority activities.

With much information being received by the DGT regarding the inadequate quality of training provided by training organisations, particularly for interventions falling within the scope of sub-section 4,

and which are not subject to certification, a targeted monitoring action was developed as part of the national programmes for 2015 and 2016. This action is led jointly within DIRECCTEs by the Work Centre, which monitors compliance with regulatory provisions, the regional monitoring service (SRC) of the 3E Centre which is responsible for the monitoring of vocational training funds, and the C Centre, in collaboration, where necessary, with the relevant Departmental Directorate for the Protection of Populations (DDPP) for aspects relating to the offence of fraud.

Over all regions, the monitoring action has been half completed. However, the results from the regions having completed their operation, beyond compliance of organisations, will be very useful in view of a forthcoming regulatory reform.

Furthermore, in 2014, the General Directorate for Health and the General Directorate for Labour instructed the French National Institute for Public Health Surveillance, now Santé Publique France, to set up a monitoring device for workers who are potentially exposed to manufactured nanomaterials, given the absence of a strong assumption regarding the potential risks on human health. The "Epinano" protocol aims to ensure a general monitoring of the potential effects of exposure on health on the medium and long terms, and to enable the implementation of ad hoc research studies. The mechanism, based on company volunteering, was not developed as expected. Given the strategic importance of this database (single prospective cohort on emerging risks) and of its place in the Work Health Plan, in 2016 it was decided to establish a different entryway into the cohort, by relying on medical labour inspectors and speakers on the prevention of occupational hazards (IPRP) from the Services for Health at Work (SST), who possess legal jurisdiction in matters of health monitoring.

It should also be highlighted that the fourth edition of the national SUMER (Medical Surveillance of Employee Exposure to Occupational Hazards) investigation 2016-2017 led by the DGT and the Labour statistics directorate (DARES) was launched in 2016. The Occupational health inspection service and the Medical labour inspectors actively contribute towards this investigation by providing support to medical labour inspectors and the Services for Health at Work (SST). From one period to the next, its scope widens and its questioning improves.

Coordination is ensured by the Directorate for Research, Studies and Statistics (DARES) and by the General Directorate for Labour (DGT) through the medium of occupational health inspection (IMT). The Directorate General for administration and civil service (DGAFP) and the Evaluation, Forecasting and Performance Department (DEPP) of the Ministry of National Education, now also contribute within their perimeter of competence. The scientific committee is comprised of experts in statistics, epidemiology, ergonomics, occupational psychodynamics, toxicology, etc. from various prevention or research institutions. The quality of the expertise of occupational research doctors and their strong involvement contributes towards the recognition of these tools as a vital database both on a national and European level.

The 2016-2017 SUMER investigations mobilised all medical labour inspectors **Erreur ! Signet non défini.** as regards training, information and assistance to medical labour inspectors on the new methodology which is to be implemented and which was affected by the successive occupational health reforms. This new national investigation updates the list of health risks due to labour, particularly by considering chemical and psychosocial risks. The aim of the investigation is to contribute towards improving employee's health and prevent occupational exposure through knowledge and the monitoring of their development.

3.5 The information system serving the labour inspection's activities: WIKI'T

Rolling-out Wiki'T in the Ministry services and assistance - "managing change"

Wiki'T, the Labour inspection's new information system, which is available to regional services and central government officers, was rolled out from October 2015 to the end of January 2016 in the regional services. Its roll out within the central government was completed in September 2016.

The assistance provided to services was organised into 4 phases:

- A training phase implemented by the DGT with the Institute for Labour, Employment and Vocational Training (INTEPP) which results in the continuous organisation and training of members of the network of national instructors, "relay" instructors and tool administrators, the setting up of further training session for control unit assistants and control unit leaders, and the completion of production and promotion for e-learning modules.
- A communication phase on e-learning and the new versions in production, with the addition of a continuous flow of information and instructions on the tool's homepage
- A social dialogue phase supported by consultations with various national bodies
- A phase of assistance for use with the production of numerous user guides and flowcharts, the organisation of the functional administrator network, the organisation of the Wiki'T regional leaders network, support for implementation of regional monitoring committees, etc.

Based on users' feedback and the project team's personal experience, 3 improved versions were put into service in 2016 (April, July and December) including multiple types of evolutions related to:

- Researching and sharing information between users between services
- Drafting assistance (simplifying the drafting of letters of observation for example)
- Feeding Wiki'T with data from "external sources" (interfaces)
- Considering amendments to texts and new texts, for example, new powers provided to the Labour inspection by the Ordinance dated April 2016.

3.6 Assisting DI(R)ECCTEs

For many years, the DGT has assisted regional services by providing them with technical support.

In 2016, two prime examples are notable:

1. 1. The bureau of protective statuses continued the action taken a few years ago, after the publication of the Circular dated 30 July 2012, to improve the quality of administrative decisions made by the labour inspector or by the ministerial authority in the field of protection of workers who exercise representative duties. In addition to providing legal support to the services, the bureau has hosted regional meetings and brought together legal contact points on the matter. Furthermore, it has substantially contributed towards the actions of INTEFP's training programme, both initial and continuing, and, more particularly, has developed a new training module on writing workshops.
2. 2. Actions have been taken to improve the protection of workers who are exposed to the chemical risks caused by containers and recipients of goods.

The opening of maritime containers in ports and on logistic platforms as well as containers of transported goods can expose workers to hazardous gases, which are rarely reported despite retrospectively identifiable and ascribable symptoms (difficulty breathing, discomfort, dermatitis, etc.), which occur either due to fumigation treatment or due to the goods themselves or their containers.

Given the stakes as regards the protection of workers (particularly dockers or workers in warehouses, logistic platforms, or consumer stores), the DGT published a Circular on 7 May 2015 on the prevention and the protection of workers against chemical risks posed by containers and other recipients of goods. Following the publication of this Circular, a national work group comprised of controllers, prevention engineers, occupational health doctors and members of DASIT1/DPSIT/CT2 bureaus within the DGT was created and has met on multiple occasions in 2016 with a view to producing a methodological monitoring guide for officers of the labour inspection system.

The creation of the guide was supported by the work group's trip to Le Havre in October 2016. This fieldwork enabled the group to meet companies who were faced with this issue and to make various findings which were useful to develop perspectives for action on this subject, in particular for DIRECCTE Normandy and its PRST. This action taken in Normandy was co-organised with DIRECCTE, in coordination with a conference also held in Le Havre on this subject by the INRS and the CARSAT Normandy in which the DGT intervened.

The publication of the monitoring guide, planned for 2017, will constitute a supporting document for inspections carried out by officers, namely in the regions which include, or which with time will include, specific action on this subject in their PRST and will also support the interministerial and European works of the DGT on this subject.

3.7 Assessment of LIS' action



In autumn 2012, faced with the evolutions of the economic and social environment, the "Strong Ministry" ("Ministère Fort") reform aiming to modernise the functioning of our services was launched. Its objective was to strengthen the effectiveness of the labour inspection system by rethinking its organisation, by favouring a collective approach to actions but also by providing it with new powers and tools.

It was in this context of adjustment, optimisation and improvement of the quality of our services that the General Directorate for Labour decided in 2014, as part of the implementation of this reform and in accordance with the commitments made in the context of the Circular dated 29 October 2013, to work on integrating a process for assessment and valorisation of the effects that labour inspection system's (LIS) activities have. On the basis of these considerations, two assessment projects, with complimentary approaches, were launched early 2016:

- An initial "**territorial phase**" which consists of setting up a mechanism allowing officers to assess collective actions taken at a local level by DIRECCTEs. Assisted by a consulting firm specialised in the assessment of public policies, three territories have started a phase to test the process since January 2016. The first four months of the year were dedicated to the actual conception of each collective action (issue, stakes, expected results, etc.) as well as the arrangements for assessment (objectives, obstacles, risks, methodology used, etc.). Since then, each of the groups has entered a phase of data collection which continues until May 2017 when the first analyses are to commence and will result in the drafting of assessment reports. These experiments will result in the dissemination of a methodological guide at the end of 2017 to be used by SIT officers, whilst new experiments will begin early 2018 and will aim to progressively roll out this process nationally.
- A second "**national phase**" aiming to assess the activities carried out by the inspection system on a subject relating to labour policy: fraudulent posting of workers. Between January and June 2016, a group of 12 DGT and DARES officers and two DIRECCTE officers met once per month (two-day sessions) as part of action-learning sessions organised by INTEFP and of which the objective was the drafting of terms of reference. Completed in June 2016, the DGT approached the DFAS at the end of the year to launch the market. The objectives of this assessment are numerous: gain better knowledge of the

effects of LIS's activities, of the new organisation put in place and of the new legal tools at the disposal of controllers; identify the conditions for successful coordination between actors both at a national and local level; capitalise and valorise, both internally and externally; better involve the main partners in the strategy of combating fraudulent posting of workers.

Along with these two projects, and with a view to closely monitoring the effects of the reform on our services, a sociological study based on multiple interview sessions and carried out since 2014 on DIRECCTE officers was relaunched at the end of 2016.

Experiment within the Departmental Unit of Seine et Marne

One of the three experiments in the "territorial phase" is carried out in the Seine et Marne département, in Chessy. It concerns two control units and the collective action is focused on the existence of work facilities (hygiene facilities) for employees in shopping centres. The first results for the integration of this "assessment" component within collective actions are highly positive:

- A very structuring, effective and inclusive tool to assist the creation of actions;
- Optimisation of the effectiveness of collective actions by using tools (like flowcharts to better appreciate the potential effectiveness of each of the actions terms);
- Revitalisation of working groups;
- Strengthening of exchanges and sharing of professional practices;
- Enables the development of a monitoring strategy which mobilises the entire labour inspection system (monitoring officers, information, monitoring assistants but also SESEs, ESICs).

The modelling of intervention strategies and of intervention follow-ups facilitates decision-making for officers and allows them to save time to provide individual thought to assess each case.

3.8 The Senior Labour Inspectors Committee (SLIC)

The DGT is the European leader for the next SLIC campaign on "the health and safety of temporary agency workers and posted workers". Preparatory work started in November 2016. Monitoring actions in companies are planned for October 2017 to October 2018.

The study report on "the impact of the economic crisis on European labour inspections" was adopted by SLIC. The DGT presided over the group to ensure the successful completion of these works.

The regulatory mechanism for protection of employees as well as of controllers during their on-site interventions for the removal of asbestos was presented during the seminar hosted by the Dutch presidency in Europe.

During the conference on "decent work", also organised under the Dutch presidency, France, Spain and Portugal presented their cooperation activities to combat the fraudulent posting of workers.

4. Social dialogue

4.1 Second edition of the vote to measure the audience of trade unions for employees in companies with less than eleven employees or private household workers



#ElectionTPE

The second edition of the vote aiming to gather the votes of all employees of companies with less than 11 employees, referred to as the microenterprise vote, was held from 30 December 2016 to 13 January 2017 (and until 20 January 2017 for Overseas territories), after having been postponed following two disputes which could not be settled before the beginning of the dates initially set for the elections (from 28 November to 12 December 2016).

This regional election targeted more than 4.5 million electors who could vote either by post or electronically.

Since the first edition of the microenterprise vote, the purpose of the vote was enhanced by two acts. The Act dated 18 December 2014 on the appointment of labour tribunal members provides that the procedure for the appointment of labour tribunal members must be established based on the audience of trade union organisations and professional organisations. The Act dated 17 August 2015 on social dialogue and employment plans for the establishment, as early as July 2017, of joint regional general committees (CPRI), the composition of which must be established based on the audience for the microenterprise vote and the employer audience.

The first task carried out in the context of the microenterprise vote was to draft an electoral list based on data from December 2015 collected from the social declarations made by companies of less than eleven employees.

From 10 May to 23 May 2016, 32 applications were submitted to the DGT and to DIRECCTEs/DIECCTEs. Ultimately, 31 trade union organisations were candidates in the Microenterprise elections:

- 12 at national/multiregional and general level;
- 10 at national and professional level;
- 9 at regional and general level.

An information and communication campaign was led to raise awareness among microenterprise electors on the stakes of the election. Two letters were sent to each elector: the first, at the end of August 2016, informing employees of their registration on the electoral roll (region, branch and board corresponding to the company or institution in which the employee exercised his/her main activity in December 2015). The second letter, sent in December 2016, contained the voting documentation and the campaign documents for the organisations which were candidates.

The 2016 microenterprise vote was characterised by two new developments which aimed to simplify the steps taken by electors. The employees who wished to change information regarding their registration could do so directly online through the e-appeal procedure without needing to travel to their regional DIRECCTE or to send their request by post. Furthermore, a microenterprise employee who had not received their voting documentation could request that this document be resent to their place of residence up until 12 January 2017.

Following 3 days of counting postal votes, the Ministry of Labour presented the microenterprise vote results to the members of the National Committee for Voting Operations (CNOV) on Friday, 3 February 2016. The results were also announced in each region by the Regional Committees for Voting Operations (CROV) and were then published on the dedicated ministry website and in the DIRECCTEs/DIECCTEs.

Results - Throughout France	
Number of registered employees	4,502,621
Number of voters	330,928
Participation rate	7.35%
Blank and spoilt votes	7,306
Votes cast	323,622

4.2 Reform of the representativeness of employers

2016 was a key year for the reform of the representativeness of employers which was launched by the Act dated 5 March 2014 on employment, vocational training and social democracy, which aims to establish the representativeness of professional employer organisations based on objective and reliable criteria.

In the context of the Act dated 8 August 2016, the procedures for calculating the employer audience were changed, in accordance with the agreement dated 2 May 2016 signed by the three representative employer organisations at a national and general level (Medef, CGPME and UPA). The threshold of 8% required to fulfil the audience criteria at the professional branch and national general levels is calculated either based on the number of companies which are members, or based on the number of employees employed by the member companies.

In collaboration with social partners in the context of the High Council for Social Dialogue (HCDS for its French acronym), the DGT drafted two decrees and one order which made use of said legislative developments and which specified the practical arrangements for implementation of the reform. The DGT also set out the entire candidacy process for the representativeness of employers: application forms, an entirely dedicated internet site, the online declaration information system and the monitoring of applications.

Pursuant to these texts, 500 professional organisations submitted their application between 12 July and 10 November 2016 for professional branches and up to the 10 December for the national inter-branch and multi-branch levels. In total, these professional organisations submitted 603 applications under 373 application zones (occupational fields, occupational groupings, national inter-branch and national multi-branch).

Initially, the data constituting these files, required to calculate employers' attendance, was subject to a control and to certifications by official auditors (Commissaires aux comptes, CAC). Their intervention was prepared by the DGT and the National Company of Official Auditors (Compagnie nationale des commissaires aux comptes, CNCC), which published a "technical opinion" on 8 April 2016. The DGT provided the CACs with an IT tool which allows them to access companies' aggregated data contained in their social declarations to monitor the information reported by professional organisations. 560 CACs have been given such authority.

In November, the DGT set up a team of around ten people responsible for monitoring applications. First, an examination of their completeness was carried out, followed by a legal examination to ascertain that the seven representativeness criteria, provided for by the Act dated 5 March 2014, were fulfilled.

The results of the first measurement of the employer audience are presented on 26 April 2017 at the HCDS.

4.3 The restructuring of collective agreement branches

Launched by the Act dated 5 March 2014 on Vocational Training, Employment and Social Democracy, the restructuring of collective agreement branches aims to reduce the number of branches from around 700 to 200 by 2019.

The restructuring of collective agreement branches arises from the need to rationalise the contractual landscape around strengthened branches, which are fully capable of fulfilling their purpose (to negotiate guarantees applicable to employees in a branch of activity, to regulate competition between companies within the same industry, etc.). Multiple reports have highlighted the need to progress on the matter (Poisson in 2004, Combrexelle in 2013 and Quinqueton in 2015).

Works are carried out under the aegis of the CNNC's subcommittee for restructuring occupational fields which brings together social partners at national and cross-industry level under the presidency of the DGT, on average every six weeks.

The sub-committee's first works have focused on branches without negotiation for the last 20 years and which received less than 11 votes during the last professional elections: 179 branches were in this case.

687 collective agreements were recorded before the beginning of works (source: DARES). Today, 150 have been restructured (report dated 31 March 2017), following extensive research and analysis regarding which branches were to be restructured and comprehensive exchanges with social partners.

4.4 The key events regarding social dialogue and collective bargaining

A decrease in the number of agreements concluded at cross-industry level

At cross-industry level, 29 agreements have been concluded in 2016 at national, regional and local levels. Following an important increase in 2015 (52 agreements), the level in 2016 has returned to that of 2014. In 2016, a cross-industry agreement on the reform of FONGECIFs was signed at national level (five in 2015, two in 2014). At sub-national level, three cross-industry agreements have been concluded: one regarding unemployment benefits in Mayotte, another on seasonal social mediators of the Landes area, and a third relating to Sunday work and evening work on the Vallée Village site.

Furthermore, 25 amendments to prior cross-industry agreements have been made (44 in 2015 and 24 in 2014), in particular regarding the employment of persons with disabilities, vocational training and fixed-term contracts of employment.

Industry-wide convention activity in slight decline

In 2016, 979 industry-wide agreements were signed, this is a level equivalent to that recorded in 2013 and 2014 over the same period (respectively 954 and 962) and slightly below that of 2015 (1,042).

The subject of wages is broached as often as in 2015, while other subjects are raised much less: employment contract, professional equality, supplementary pensions... Only the subject of classification is brought up more often than in 2015 (+58%).

More than two thirds of agreements were concluded at national level in 2016 (71%). This is a structural trend. Indeed, over the course of the last decade, this percentage of agreements concluded at national level has always remained between 64% (in 2007) and 75% (in 2009).

In 2016, two new collective agreements were signed, one in the railway industry and the second relating to private, non-profit education. Six collective agreements had been signed in 2015 and one in 2014.

The number of new professional agreements varies between 20 and 50 over the last five years. In 2016, 21 national professional agreements were concluded, compared with 38 in 2015. These agreements were concluded either in fields which do not yet have a collective agreement, or to implement provisions which are common to multiple collective agreements (cross-industry agreements or cross-field agreements).

In 2016, 956 agreements and amendments modified existing basic texts (collective agreement, professional agreement or inter-professional agreement) of which 57 national agreements and amendments to professional agreements (43 in 2015). These agreements and amendments represent 97% of conventional texts concluded this year, the highest percentage observed since 2010.

Wage and salary agreements and amendments represent slightly more than one third of all amendments in 2016 (41%, that is 399 wage and salary amendments), all geographical levels included. This percentage has increased by around six points compared to 2015 (382 wage and salary agreements) and returns to the same level as in 2013.

The relaunch of the ARESO mechanism: Support for social relations

In 2016, to assist companies and territories with the implementation of the Act on social dialogue, the DGT, in collaboration with the ANACT-ARACT network, wished to reactivate the process to support the quality of social relations, namely by working on preventing collective disputes of a relational nature and, more broadly, the quality of social dialogue.

In practice, the labour inspection is often faced with situations in which social relations have deteriorated, often described as situations which are likely to generate psycho-sociological risks, and for which the traditional monitoring and coercion tools are not sufficient to restore a sustainable, constructive social dialogue. In a time where social partners are increasingly called to negotiate and set the normative labour framework applicable within the company themselves, the restoration of social dialogue is often a prerequisite to engaging in any substantive action.

In this respect, to complete the range of arrangements and practices at the services' disposal today, the "Support for social relations" mechanism, which was designed and developed in the context of a partnership between the DGT, the regional services and the ANACT-ARACT network, can play a useful role which needed to be better mobilised.

The "Support for social relations" mechanism is a mechanism for intervention in companies and organisations (Microenterprises, SMEs, Associations, Groups, etc.) which are in situations of recurring disputes (curative intervention) or which wish to improve the quality of collective labour relations (preventive intervention). The mechanism relies on the membership of all parties to the dispute, to help them rebuild more efficient relations.

The strengthening of the mechanism was cemented in 2016 by:

- Steering the ARESO mechanism at national level in collaboration with ANACT by attempting to define the rules for remuneration and the bearing of costs incurred by intervenors and to unify the rules for companies' participation throughout the territory;
- Signing an agreement between ANACT and the DGT on 9 September 2016 of which the purpose is to set the conditions for the State's participation in financing interventions in companies up to an amount of 200,000 euros as well as the monitoring and capitalisation activities related to these interventions.
- Training 25 labour inspection system officers as intervenors, the presence of monitoring officers among intervenors being a source of credibility for company actors, employers and staff representative bodies, and contributing towards strengthening useable resources;
- Appointing a head of mission within the DGT for the management and monitoring of ARESO;
- Choosing of a contact point with the Work centre of each DIRECCTE in charge of managing the mechanism.

5. Current issues affecting companies

5.1 Religion in labour relations

The guide on religion was completed during 2016. Resulting from a collective work, this document was subject to wide consultation, as the Ministry of Labour intended. Therefore, social partners, but also the observatory for secularism, magistrates and academics with expertise on the subject, as well as religious authorities were consulted.

This guide is directed at employers, employees and trade union leaders of private companies which are not entrusted with a public service mission, whether on a temporary or permanent basis.

It is constructed based on the answers to thirty-nine very practical questions, which regard the main aspects of the employer-applicant/employee relationship: offer of employment and hiring, execution of work, behaviour within the company, organisation of working times and collective life. It also contains a reminder of the main legal concepts, as well as a document base allowing individuals to consult the main texts and orders regarding religion in companies.



Dans cette rubrique

Guide du fait religieux dans les entreprises privées : remarques liminaires

Les notions-clés du fait religieux dans les entreprises privées

Salariés : le fait religieux en questions / réponses

Employeurs : le fait religieux en questions / réponses

Nota Bene

Now available on the Ministry of Labour's website, it can be viewed online or downloaded in PDF format, both in its version for employers, as well as the version for applicants and employees.

<http://www.travail-emploi.gouv.fr>

5.2 LABOUR TRIBUNAL JUDGES

As regards the Labour tribunal, 2017 is a pivotal year, marked by the implementation of reforms, involving the DGT.

The reform on the appointment of Labour tribunal members

This reform, led by the DGT, brings together the other ministries concerned (Justice and Agriculture).

Enabling Act no. 2014-1528 dated 18 December 2014 on the appointment of Labour tribunal members replaced the direct election of labour tribunal members with an appointment based on the audience of trade union and professional organisations, determined in the context of the implementation of the measuring of trade union representativeness and employer representativeness.

On this basis, and following in-depth consultation with social partners in the context of a specific “reform of the method of appointment” monitoring group, implemented in 2015 and driven by the DGT, the Ordinance dated 31 March 2016 specified the legal framework necessary for the appointment of labour tribunal members before the end of 2017:

- the renewal of labour tribunal members occurs every three years, at the end of the cycle for measuring the trade union and employer audiences;
- employment member seats are distributed based on their audience, by organisation, section, board and labour tribunal, by joint order of the Ministry of Labour and the Ministry of Justice;
- the organisations which have received a seat present their list of candidates. These lists include, as part of the equality between men and women, an equal number (with an exception of one extra candidate) of candidates of each gender, per tribunal and per board;
- these candidates are subject to an examination as to their admissibility by the Ministry of Labour and Ministry of Justice’s services.

As it is now a question of an appointment to a public office, the conditions for candidacy to a function within the labour tribunal are reinforced in two areas:

- a capacity requirement: to be a candidate, individuals must now prove the exercise of a professional activity or of an labour tribunal mandate for a cumulative period of two years over a reference period of 10 years,
- a moral requirement: there can be no indication of an offence which is incompatible with the performance of duties in section B2 of the applicants’ criminal record;

The labour tribunal members are appointed by joint order of the Ministry of Labour and the Ministry of Justice. Following many exchanges with social partners in the framework of the High Council of the Labour tribunal (specific monitoring group, consultations for the key steps of the process), part of the regulatory texts implementing the Ordinance dated 31 March 2016 were adopted to specify the legal and operations terms of the new method of appointment:

- Decree dated 11 October 2016 on the appointment of labour tribunal members,
- Decree dated 28 February 2017 creating an automated processing system for personal data for the submission and management of applications to the function of labour tribunal member,
- Order dated 1 March 2017 setting out the chart for distribution of members between the labour tribunal sections for the labour tribunal term 2018-2021.

The upcoming publication of the order distributing the seats, followed by that of the order of appointment, in December 2017, will allow the legal framework of this reform to be finalised and will ensure the renewal of members before the end of 2017.

The reform package on the functioning of labour tribunal justice and labour tribunal procedures

This reform, driven mainly by the Ministry of Justice, involved the DGT, in particular, for the creation of a new trade union defender status which falls within the competence of the Ministry of Labour.

The reform was introduced by the Act dated 6 August 2015 for growth, activity and equal economic opportunity. Based heavily on the proposals made by Alain LACABARATS, former president of the social chamber of the Court of Cassation, in his report titled "*The future of labour courts: towards a 21st century labour tribunal*" ("*L'avenir des juridictions du travail : vers un tribunal prud'homal du XXI^e siècle*"), submitted on 16 July 2014 to the Keeper of the Seals, it aims to simplify procedures and to reduce timeframes.

The Act plans for:

- the creation of a trade union defender status, which assists or represents the employee or employer before the labour tribunal;
- a five-day initial training session common to employer and employee members;
- a strengthening of the professional conduct of labour tribunal judges, accompanied by a review of the disciplinary procedure;
- a reorganisation of the procedure which allows the tribunal to move directly from the conciliation phase to the ruling formation, either with the parties' agreement, or due to the nature of the case. An accelerated procedure is also introduced when the dispute concerns a dismissal or a request for judicial termination where conciliation has failed and parties agree, which enables them to bring their case before a judgment bureau in restricted formation, which renders a decision within three months.

5.3 The impact of digital technologies

The report on digital transformation and the quality of life in the work environment, submitted to the government by Mr. Bruno METTLING in September 2015 shows that though the development of digital technologies brings new opportunities and improves workers quality of life, it is also a factor of increased risk to their health, related in particular to the improperly managed increase in their workload and a blurring of the lines between private life and professional life.

These elements were included in the Act dated 8 August 2016 on labour, the modernisation of social dialogue and the safeguarding of professional careers through the right to disconnect for employees, the monitoring of the workload for employees paid a flat-rate on a per day basis and the social obligations for platforms to connect with collaborators electronically.

Thus, the Act completed the legal mechanism which governed employment on a per day basis in order to better protect the health and safety of employees: the new collective agreements regarding employment on a per day basis must, in particular, set out the arrangements for assessment of the employees workload by the employer and the arrangements for exchanging with the employee on this subject, in order to achieve a proper articulation between his/her activity and his/her private life and a better work organisation.

The Act also recognises the existence of a "right to disconnect" and obliges every company possessing a trade union representative, to negotiate on the way such a right is exercised in the framework of the negotiation on professional equality and the quality of life at work, as of 1 January 2017.

"Digital work" has developed substantially, under various and sometimes hybrid forms and statuses (self-employed workers, private individuals, employees, or even undeclared activities with undetermined statuses, etc.). Consequently, these new practices must be accompanied to encourage collaborative digital platforms to take greater social responsibility towards workers using this modern and practical means of exercising a professional activity.

In this context, the DGT carried out works regarding the difference between paid employment and self-employment.

The directions chosen appear in the Act dated 8 August 2016. It is a matter of protecting workers in their sometimes unequal relationship with intermediary principals who manage digital platforms. The Government chose to provide these workers with minimal social rights, under conditions which are adapted to the reality of their activities. Article 60 of the Act dated 8 August 2016 provides that these self-employed workers can profit from an insurance mechanism which covers workplace accidents for which the costs are borne by companies managing platforms. They also possess a right to have access to continuous vocational training and can, at their request, benefit from recognition of prior learning, the cost of which is borne by the companies managing platforms.

As regards collective labour relations and social dialogue, the Act dated 8 August 2016 also considered the situation of platform workers. In particular, it confirmed their right to establish a trade union organisation, to become a member of a trade union organisation, and to claim any collective interests they may have through such unions and to organise coordinated refusals to provide their services [...] with a view to defending their professional grievances. These refusals cannot, except in the case of abuse, result in their contractual liability nor can it be a cause of termination of their relations with platforms, nor justify any measures which would penalise them in the exercise of their activities.

A Decree and an implementing circular are to be published in 2017, as is a guide regarding the status of digital platform workers.

Lastly, the third Occupational Health plan (PST 3) proposes an action framework to monitor the terms of use of digital tools by raising companies' awareness of the need to include questions regarding digital technologies in risk assessments (regulation of the workload, tool configuration, etc.).

5.4 The fight against discrimination

In 2016, the DGT took part in thirteen meetings organised as part of the 2nd work session of the inter-partner dialogue group on combating discrimination in companies, presided by Jean-Christophe SCIBERRAS, and which led to the submission of a second report to the government on 16 November 2016 (after the report submitted on 13 May 2015).

Some proposals contained in these reports were included in our legal corpus as regards the fight against discrimination.



Thus, Act no. 2016-1547 dated 18 November 2016 on the modernisation of 21st century justice introduced a group action mechanism which is specific to discriminations occurring in the context of labour relations. This action allows individuals who are in a similar situation (employees, job applicants, work placement applicants) and who have suffered damages caused by the same person and of which the common cause is a breach of the same nature, to take legal action collectively with a view to putting such a breach to an end and to receiving compensation for their loss.

In accordance with the desire expressed by the dialogue group, the mechanism plans for a 6-month phase, which mandatory for the introduction of a group action before the French Regional Court (*Tribunal de Grande Instance*), and during which the employer engages in discussions with staff representative bodies on which measures would put an end to the alleged situation of collective discrimination.

Furthermore, Act no. 2017-86 dated 27 January 2017 on equality and citizenship introduced two new provisions aiming to prevent discriminatory practices and to better detect them when they occur within the company. On the one hand, the Act establishes an obligation to train employees entrusted with recruitment duties on the subject of non-discrimination during recruitment every 5 years for companies with more than 300 employees and for all those which carry out recruitment missions.

On the other hand, it now allows for the employers to be liable for discrimination revealed through testing (sending pairs of fake applications for employment).

5.5 Corporate social responsibility (CSR)

Corporate social and environmental responsibility (CSR) has become an important subject during reflections on the regulation of the negative consequences of globalisation and has led to recent initiatives being taken by the public authorities. The idea of encouraging companies to improve their social and environmental performance, to respect the rules of governance and of higher ethical standards, to invite them to become more transparent and to entertain discussion with their various "stakeholders" has developed and the CSR which was mainly set up in large companies (in particular, multinational companies), now also concerns their suppliers, agencies, SMEs, companies exercising their activities under all statuses, including those falling under the social economy.

Since the French Grenelle Environment forum, the DGT's European and International Affairs Mission (Mission Etudes, Europe et International, EEI) follows this theme which is of a transversal nature as the quality of life at work, working conditions, health/safety at work, prevention, social dialogue and sound corporate governance, equality between men and women are part of the areas covered by the CSR.

CSR is the combination between voluntary approaches taken by companies and the role played by public authorities, particularly the State, who must remain the guardian of general interest by setting the framework for the exercise of CSR. Today, a significant amount of room is given to social partners so that they ensure the development of CSR, through social dialogue. In 2016, the DGT's involvement revolved around three main areas:

→ Participation in the CSR Platform's works

This Platform, implemented by the Prime minister in June 2013 represents all stakeholders separated into 5 boards and is made up of around sixty members. It allows the actors concerned to debate within the same unit on various aspects of CSR and to establish reports and make recommendations. The DGT, as the representative of all social ministries actively participated in the Platform's work.

In 2016, the Platform's work was centred on the themes suggested by the Prime minister:

Indeed, in the mission statement that the Prime minister sent to the CSR Platform on 21 December 2015, the Prime minister states that the Government wishes to finalise the implementation of the National Plan of key actions for the development of corporate social responsibility (Plan national d'actions prioritaires pour le développement de la responsabilité sociétale des entreprises, PNRSE), "by benefitting as much as possible from the reflections and recommendations made by actors brought together within the Platform. This Platform will be able to provide its support to the different administrations involved in the updating of the national plan, which will be transferred to the European Commission. Furthermore, this reflection must ultimately work in relation with the national action plan for the implementation of the United Nations Guiding principles on business and human rights (UNGP), for which your Platform was also referred to for consultation purposes. The purpose of this work will be to reach a consensus on the actions which France shall commit to taking".

The Platform therefore provided the Prime minister with a contribution by the CSR Platform towards the National Plan of key actions for the development of CSR and an opinion of the CSR Platform on the Action plan for implementation of the United Nations Guidelines on business and human rights.

The DGT also took part in the work group on improving transparency and corporate governance, which finalised recommendations for the transposition of the “extra-financial reporting” directive by France.

Lastly, the DGT monitored the work carried out by the group dedicated to the implication of corporate responsibility within their value chain (subsidiaries and suppliers), particularly sought after due to the current events in relation with the bill on parent companies’ duty of care.

→ Participation towards the preparation of UNGPs

The DGT contributed towards the preparation of the National plan for the implementation of the United Nations Guiding principles on business and human rights (UNGPs), which is intended to be transferred to the European Commission, and driven by the Ministry of Foreign Affairs. This plan was submitted for consultation purposes to the CSR Platform, which delivered its opinion and recommendations in September 2016.

The ministries concerned then examined the various recommendations made by the Platform, and kept those that received approval from all stakeholders.

→ Monitoring the application of European texts

Directive 2014/95/EU amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (Reporting CSR Directive) was adopted in 22 October 2014. For some companies, it creates an extra-financial reporting obligation on a European level.

France, already having legislation on extra-financial reporting, was still required to transpose some elements of this CSR reporting Directive before 6 December 2016.

Simultaneously, French legislation on extra-financial reporting was also affected by the provisions of Act no. 2015-992 on energy transition dated 17 August 2015 (Art 70, 103, and 173), by Article 37 of Act no. 2016-1088 dated 8 August 2016 on labour, the modernisation of social dialogue and the safeguarding of professional careers, and by provisions contained in Act no. 2016-1691 dated 9 December 2016 on transparency, the fight against corruption and the modernisation of economic life, which, in part, accounts for the delay taken in transposing the directive.

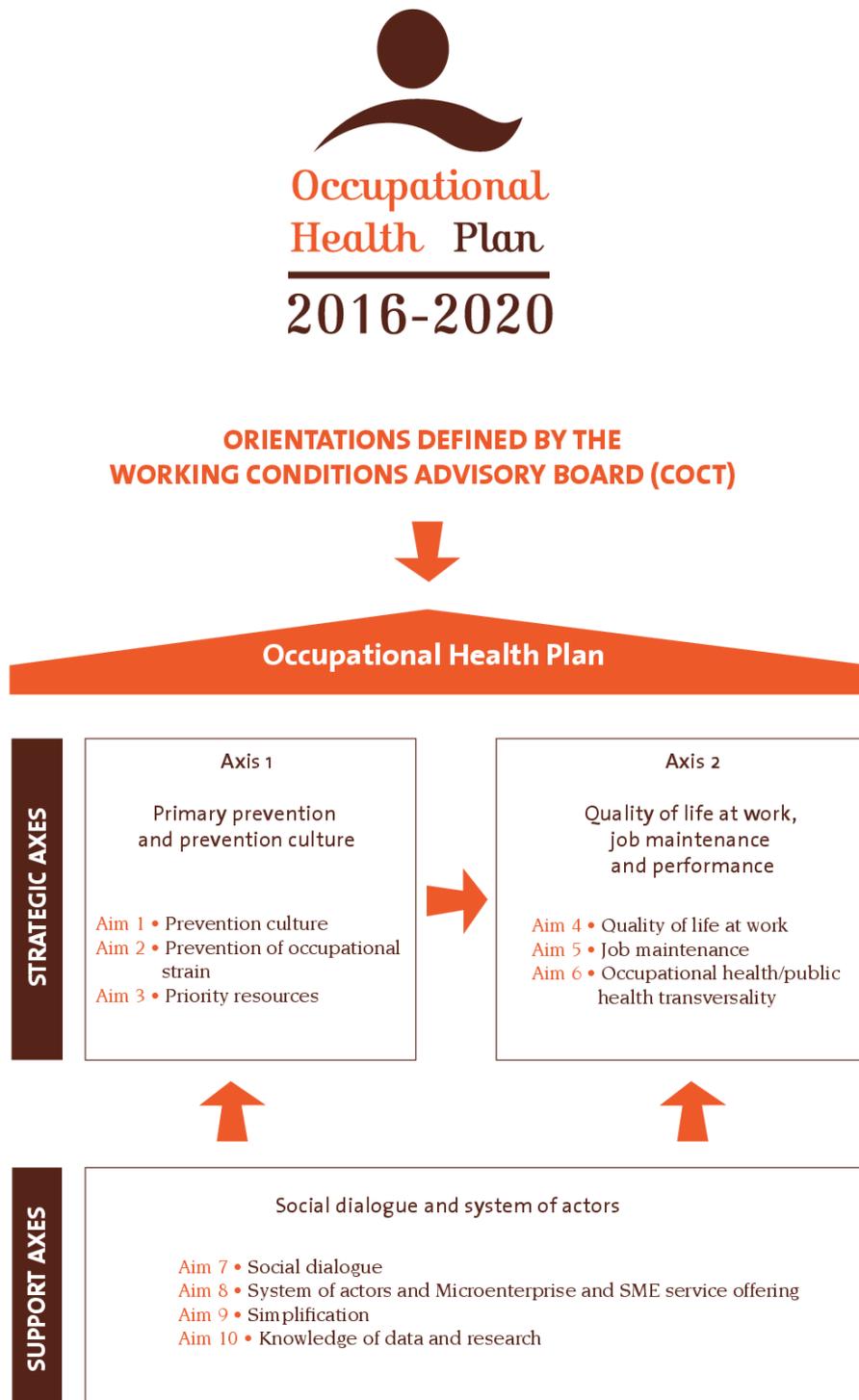
These various texts impose legislative and regulatory amendments regarding, in particular, the scope of application of the extra-financial report, its content, and the modalities for its presentation.

These amendments concern the Commercial Code (Article L. 225-102-1) as well as the Decree dated 24 April 2012 on the transparency obligations of companies in social and environmental matters.

Though Directive 2014/95/EU, dated 22 October 2014, creates new obligations for companies, particularly in the social sphere, compared with the French “CSR Reporting”, the Labour Code is not affected. The DGT’s help was requested on social aspects by the Ministry of Economic and Financial Affairs, leader player on the matter, throughout the year, in order to prepare the bills which would finalise the transposition of Directive 2014/95/EU.

6. Public policies for occupational risk prevention

6.1 The implementation of the 2016 - 2020 Occupational Health Plan



The PST3 is making an impression

On 23 May 2016, the DGT presented the third Occupational Health Plan to the Ministry of Social Affairs and Health in Pierre Laroque Hall during an event entitled: "A revolution for prevention". This day was the opportunity to present the ambitions and main actions planned by the PST3. It enabled partners to be informed and to exchange on these subjects.

As part of the 34th National Congress for medicine and health at work, held in Paris from 21 to 24 June 2016, the DGT organised a symposium on the PST3.

The **General Director** for Labour also spoke in the context of CNAMTS's "CPOM" symposium. It highlighted the DGT's commitment to draw conclusions from the first generation of CPOMs and to pursue their mobilisation, which is a factor of concrete and partner-based actions bringing together the SST, the Labour inspectorion, the regional Carsats, particularly as regards SMEs and microenterprises and as a tool to mobilise all prevention actors on the strategic issues set out within the PST3.



Developing regional plans for occupational health

The 2016-2020 occupational health plan, adopted on 8 December 2015, is subject to an adaptation in all regions.

In this context, DIRECCTEs perform an organisation and guiding function, which, in 2016, essentially consists of conducting the development phase of regional plans with their local partners. For this mission, they are assisted by the members of Regional Working Conditions Policy Boards (Comités Régionaux d'orientation des Conditions de Travail, CROCT), and by institutional and social partners.

- All 18 regions have set out the main themes and actions provided for by their plan through a territorial analysis based on which discussions and work groups were able to establish a multiannual, shared and coordinated plan.
- At territorial level, occupational health services and labour inspection system officers were also brought together.
- Arrangements for adaptation have been set out to allow for a close relationship between national actions and regionally adapted actions, whilst giving local partners leeway to meet territorial needs as regards occupational risk prevention and the preservation of health at work.

The interministerial asbestos action plan

Although it has been an illegal substance since 1997, asbestos remains an important current issue through its presence in construction materials and structures built prior to this date. The probability of encountering asbestos during renovation or maintenance works on buildings or infrastructures built between 1950 and 1997 is a cause for deep concern, with the aim to protect workers, the population and the environment.

Despite substantial regulatory evolutions since said ban on this substance, technical and financial difficulties regarding the implementation of such a ban remain, and are the source of malfunctions on

construction sites and additional work costs, leading the Government to strengthen interministerial coordination.

An interministerial asbestos action plan (*plan d'actions interministériel de l'amiante*, PAIA) was therefore launched in 2016 with the ambition to improve the prevention of risks related to asbestos by facilitating the implementation of regulations, by improving the skills of actors in the various spheres of activity concerned by this issue, by supporting research and development and by suggesting monitoring and assessment tools.

This plan creates a link between the answers that it provides regarding objectives, directions and recommendations of other national programmes, such as the 3rd Occupational Health Plan, of which it forms focus point 1.9. It was presented to the national Working Conditions Advisory Board in January 2016.

It mainly relies on contributions from four administrations which carry the main regulations on asbestos (labour, health, environment, housing) and is divided into 23 actions.

The implementation of the plan was carried out at the end of 2016 by the DGT, which also holds the secretariat of the National technical group for asbestos and fibres. Under the first measures, an interministerial portal should soon be created as a means of communication regarding the plan's implementation.

[Preventing addiction in the work environment: DGT/MILDECA agreement on the training of regional instructors in the context of preventing addiction in the work environment](#)

As part of the implementation of the "Addiction in working life" plan, a partnership between the interministerial mission for combating drugs and addictive behaviours (mission interministérielle de lutte contre les drogues et les conduites addictives, MILDECA) and the DGT/medical labour inspection service was put in place with the assistance of the EHESP School of Public Health (École des hautes études en santé publique). An agreement (2015-2017) signed in 2015 by MILDECA, EHSEP School of Public Health and the DGT, sets out the arrangements for implementation of an action to train regional instructors on the prevention of addiction in companies for occupational and prevention doctors and nurses (early detection and brief intervention method, training in providing assistance to companies and administrations in the development of collective addiction prevention programmes). The medical labour inspection service took part in the organisation of 2 training sessions for instructors in 2016, alongside MILDECA and the EHESP School of Public Health.

[The prevention of occupational road risks](#)

Occupational road risks (risque routier professionnel, RRP) are major occupational risks: every year, in addition to representing one of the leading causes for accidents in the workplace, occupational road accidents are the main cause for death at work. Yet, despite its seriousness, the RRP is still largely overlooked by companies, staff representatives and even employees.

Considering this worrying issue, the PST3 has targeted RRP as one of the main risks for which a prevention culture must be put in place over the 2016-2020 period. For this reason, there is also a plan to raise awareness and better train corporate managers to assess these risks and take them into account in the single risk assessment document (document unique d'évaluation des risques, DUER) and to improve knowledge of statistics. The labour inspection system is also mobilised to lead actions to monitor the implementation of European regulations on work and driving times in transport.

To introduce new momentum to RRP prevention, the CT3 bureau created a national reflection group which brought together all actors working towards the prevention of these risks (CNAMTS, CNRACL, CCMSA, DSCR, OPPBTP, associations, etc.). This group met for the first time on 2 December 2016 and its purpose was to establish a report on the actions carried out and to collectively set out the priority guidelines for future RRP prevention actions.

Simultaneously, the DGT prepared, alongside the DSCR, the Minister of the Interior and Minister of Labour's press conference dated 11 October 2016 which aimed to make the national call to companies in favour of road safety public. This call aims to encourage companies (particularly SMEs and Microenterprises) to sign a Charta containing multiple concrete and operational commitments for the safety of their employees' business trips.

6.2 Work-related strain

2016 saw the completion of the roll-out of the personal account on strain, with an entry into force on 1 July 2016 of the six last factors of occupational risks, referred to as "work-related strain".

This account, created by the Act dated 20 January 2014 guaranteeing the future and the justice of the pension system, allows for the measurement of employee exposure to one or more work-related strain factors which are likely to leave a lasting, identifiable and irreversible impact on health and the acquisition of rights. These rights can be used by employees to train in a profession which is less exposed to work-related strain, to organise their work time in favour of maintaining employment of seniors through part-time work or early retirement (no more than 2 years) in order to prevent the post-occupational consequences of prolonged exposure on health.

Among these risks, four (night work, work in successive alternating teams, repetitive work and work in a hyperbaric environments) entered into force on 1 January 2015. The six other factors, manual handling of loads, painful positions, mechanic vibrations (severe physical constraints), hazardous chemical agents, extreme temperatures, noise (more aggressive environment), entered into force on 1 July 2016 to give employers the time to put in place ways to assess their employees' exposure to these factors and to allow occupational branches to establish points of contact. 2016 was also marked by the approval of the first points of contact for occupational branches.

The Act dated 17 August 2015 on social dialogue and employment and its implementing texts published December 2015 simplified the work-related strain account mechanism, particularly by clarifying the definition and the threshold of certain risk factors, by easing the employers reporting obligation (namely with the annual declaration of exposures to work-related strain through the annual declaration of social data (DADS)).

Above all, the Act dated 17 August 2015 provided the possibility for a representative professional organisation to establish, in the absence of an extended collective branch agreement, an occupational branch point of contact which identifies the posts, professions or work situations which are exposed to one or more of the above risk factors beyond regulatory thresholds, after considering the collective and individual protection measures.

The branch reference system is a tool to assist the employer in the assessment of employee exposure to risk factors. The employer can therefore rely on the prior identification of posts, profession or work situations in his/her industry which are subject to exposure beyond the levels set by decree, carried out at industry level. Once approved by a joint order of the Ministry of Social Affairs and the Ministry of Labour, following opinion of the national Working Conditions Advisory Board, the industry reference system allows the employer who uses it to be considered to have acted in good faith and protects him/her against the application of penalties or surcharges for late payment if an employee makes a claim. The approved industry reference system therefore constitutes a reassuring tool for the employer.

At the end of 2016, four reference systems concerning 570,000 employees were approved for the agricultural machinery, wood and building materials, fishmonger-fish scaler and wholesale international trade industries. To date, around twenty repositories have been submitted to the DGT for approval and are under review. This approval process is the result of an assistance provided by the DGT teams which

are responsible for the implementation of the mechanism. The examination of approval requests consists of verifying whether there is a manifest error in the legal and regulatory provisions and checking the operable nature of the repository which aims to provide assistance to employers.

Furthermore, it should be noted that a prevention of work-related strain agreement was extended in 2016 to the non-domestic consulting distributors (beverage suppliers), which is therefore applicable to all employers in this industry.

Lastly, the Circular dated 20 June 2016 adds useful and concrete precisions to the establishment and approval of repositories and their scope when an employer refers to one.

The personal account on strain, much like the personal training account, is now an integral part of the personal activity accounts (compte personnel d'activité, CPA), the principle of which was set by the Act dated 17 August 2015. A consultation process with social partners was launched at the end of 2015 to discuss the various scenarios presented by France Stratégie's report. The main goal pursued by the personal activity account, which entered into force on 1 January 2017, is to allow every citizen of employment age to have access to all of their social rights (training, leave, part-time work, etc.) and to use them independently to build their career, in a context of digital evolution and increased professional and geographical mobility.

6.3 Live working

The publication of texts reorganising electrical risks as part of live working through a system of accreditation of training organisations authorised to train workers with a view to them being empowered by employers, substituting the previous principle of certification of workers provided for by the Decree dated 22 September 2011, will promote a uniformity of training offers and practices with the aim to increase prevention. Furthermore, the mechanism is original in that it involves professionals in the proper functioning of the system.

In 2016, the DGT's equipment and workplace bureau (CT3) actively led this reform within a work group comprised of all electrical experts representing the various sectors concerned, and following consultation with the COCT in particular; an activity which resulted in:

- The publication of the Decree dated 5 October 2016 on operations on electrical installations or in their vicinity. The text amends the regulatory part of the Labour Code to provide that any personnel working on electrical installations must have received specific authority from his/her employer, following the issuance of a document delivered by an accredited training organisation certifying that he/she has acquired the knowledge and skills necessary. Training organisations are accredited by the Minister of Labour for a maximum period of four years.
- The Order dated 21 November 2016 on the procedure and conditions of accreditation of training organisations for live work on electrical installations referred to in Article R. 4544-11 of the Labour Code. This Order specifies the procedure for processing applications for approval. In particular, it specifies which expert organisation is responsible, in support of the Ministry of Labour, for drafting a technical report on every request for approval or renewal made by training organisations and sets out the requirements that must be met by training organisations. In force since 1 January 2017, this Order will allow for an initial approval of training organisations on 1 January 2018.

6.4 Improving the recognition of occupational diseases

Pursuant to Article 27 of Act no. 2015-994 dated 17 August 2015 on social dialogue and employment, Decree no. 2016-756 dated 7 June 2016 on the improvement of recognition of mental illnesses as occupational diseases and of the functioning of regional committees for recognition of occupational diseases ("CRRMP"), is also in keeping with the work group piloted by the DGT, the DSS and the CNAMTS since 2013, aiming to improve and fluidify the functioning of CRRMPs.

Outside of situations covered by occupational disease charts, in which the professional origin of restrictively defined diseases is assumed, the recognition system relies on 20 CRRMPs, set up in 1993, and responsible for issuing a reasoned expert opinion on the existence of a direct link between an employee's occupation and his/her disease.

In the absence of an occupational disease chart, recognition of work-related diseases is carried out through this complementary channel. This is the case for mental disorders.

Given the increase in the amount of mental disorders recognised as having an occupational origin (377 in 2014 compared with less than one hundred in 2011, that is four times more over 3 years), the Act dated 17 August 2015 on social dialogue and employment has provided for the legal recognition of these diseases through a complementary channel and leaves to a decree the task of defining the specific modalities for processing these dossiers. The Decree dated 7 June 2016 therefore provides for the strengthening of committee's medical expertise for dossiers concerning mental diseases.

Furthermore, for all other requests, it reduces the composition of committees for the simplest dossiers and improves the content of the dossier, particularly by adding an initial medical certificate to the declaration of occupational diseases.

7. Actions in favour of Microenterprises

7.1 The Labour inspection system's actions in favour of Microenterprises

2016 was the first year of experimentation of the labour inspection system's new forms of action for Microenterprises. The guide on the labour inspection system's action towards Microenterprises, drafted in the context of a national work group bringing regional services together, was completed at the end of 2015. In particular, this guide specifies 8 types of Microenterprises which allow for the labour inspection system to carry out collective actions.

These collective actions combine actions of information on the law applicable to social partners and companies themselves, and monitoring actions regarding previously identified subjects, to improve the effectiveness of the rule of law in these companies and ensure fair competition between them.

Two types of microenterprises (bakeries and shows/fairs/exhibitions) were the subject of action-learning sessions, in 2016/2017, organised by the INTEFP at the request of the DGT.

These action-learning sessions enabled participants to build a reproducible and poolable collective action methodology, the results of which are to be made available to all DIRECCTEs.



Bakery action in Haute-Corse on the subject of young apprentices and working time

This action was launched by preparatory work on coconstruction for the occupational branch and social partners to inform them on the action planned and the objectives pursued. A diagnosis of the main problems encountered, a presentation of the applicable regulations, and the announcement of controls and their purpose then allowed for a collective analysis of the action in order to create tools for prevention and the adoption of rules.

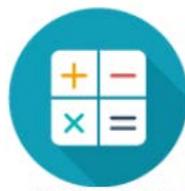
This action also brought together labour inspection professionals to promote the effectiveness of the rule of law whilst keeping in mind the issues encountered by professionals.

7.2 Microenterprise plan – HR Service offering



The DGT, along with the Dares (Labour statistics directorate) and the DGEFP (Employment and vocational training directorate) is a stakeholder in the service offering as regards human resources to assist the development of quality employment in Microenterprises and SMEs.

An action plan was established in each DIRECCTE to consider the local realities and bring together partners who are the closest to the companies concerned. Thus, a cross-cutting approach to companies, combining incentives to hire, human resource management and quality of life of employees, was initiated as close as possible to regions.



HIRING COST
SIMULATOR



HR MANAGEMENT
PARTNERS



USEFUL
RESOURCES

In this context, the DGT began a national reflection on the availability of a more diverse offer of information, with better tools and linked with the performance of the labour inspection system's monitoring function.

7.3 The public service of access to law for companies with less than 300 employees

The situational analysis of microenterprises and SME waits launched as part of the microenterprise and SME HR plan shows that employers struggle to access and to understand the rules to which they are subject. Being primarily focused on the economic sustainability of their companies, these employers have neither the necessary time, nor the competence required to address this issue.

Furthermore, by exploiting the information observatory's data, which illustrates the number and type of referrals to DIRECCTE's informational services, it appears that a high number of requests of information on applicable law come from employees of SMEs with less than 50 employees.

Article 61 of the Act dated 8 August 2016 (new article L 5143-1 of the Labour Code) establishing a public service for access to law, driven by DIRECCTE aims to resolve this situation. It is a question of leaning on appropriate relays outside of the administration but who are favoured contact points for these companies and which distribute information and culture on labour law. This also enables them to be supported in their management of human resources.

The first achievement of this collaboration with external relays resulted in the signature of a national agreement with the Union of Accountants to promote joint information actions. This agreement could be taken-up on a regional level. Other agreements with partners will be launched in 2017.

8. Administrative simplifications

8.1 The portal for “electronic submission”

Pursuant to Ordinance no. 2014-1330 dated 6 November 2014 and the Prime Minister’s Circular dated 6 November 2015, the General Directorate for Labour put in place an electronic portal, sve.travail-emploi.gouv.fr, which enables all users to contact the administration online, by offering direct access to existing teleservices or forms through which any information regarding steps taken by companies can be provided.

To facilitate its use by the internet user, the 104 procedures identified were grouped into 11 main categories (access to employment; contracts and careers; employment; training; individual and collective labour relations; leaving employment; staff representation; working times and leave; special forms of employment), which are in turn divided into sub-categories.



The number of procedures recorded on the website, and which is steadily increasing, reached 516 on 31 December 2016.

8.2 The “display” and “transferral of documents to the administration” decrees dated 20/10/2016

One of the measures of the “simplification shock” decided in 2013 was to “revisit” corporate obligations as regards the display and transferral of documents to the administration, in order to delete those which are obsolete and by favouring the availability of documents over the obligation of transferral to the labour administration.

For this purpose, Decrees no. 2016-1417 and 1418 dated 20 October 2016 adapted the regulatory provisions of the Labour Code, completing the legislative amendments made by Ordinance no. 2014-699 dated 26 June 2014. An instruction, dated 13 December 2016, given by the General Director to the services specified the conditions for the application of both decrees.

As regards display, given the development of telework and of electronic communication, a certain amount of communications “by way of display” have been replaced by communications “by any means”, which includes display, but also electronic means of communication (screen, website). However, communication through display only has been maintained when safety is an issue (particularly on construction sites).

As regards the transferral of documents to the administration, a certain number of documents will no longer be transferred but held at the administrations disposal by the employers, and disclosed to the administration upon request, at any time. This simplification measure is in keeping with the new context in which monitoring officers must perform their duties, by favouring on-site inspections.

By the same token, decree no. 2016-1331 dated 6 October 2016 simplified corporate obligations as regards [changing rooms and restaurant services at the workplace](#). Common changing rooms are to be compulsory only for employees wearing specific work clothing or personal protective equipment, and meals may be taken in work areas when the activity carried out within these areas does not involve the use or the storage of hazardous substances or mixtures.

8.3 The 5th wave of simplification measures for companies

In October 2016, the Government announced a fifth “wave” of simplification measures. For the DGT, this wave concerned the following measures which were the subject of texts over the course of the year:

- simplification of the procedure enabling the use of professional facilities as eating areas (Decree no. 2016-1331 dated 6 October 2016);
- simplification of requirements as regards employee changing rooms (decree no. 2016-1331 dated 6 October 2016);
- dematerialisation of the procedure for foreign companies declaring workers in France (decree no. 2016-1044 dated 29 July 2016 and no. 2016-1748 dated 15 December 2016);
- access to collective company agreements for all (Art. 16 of Act no. 2016-1088 dated 8 August 2016);
- using videoconferencing for sole personnel delegation sessions (Art. 16 VIII of Act no. 2016-1088 dated 8 August 2016);
- facilitate the organisation of professional elections electronically (Art. 58 II of Act no. 2016-1088 dated 8 August 2016);

8.4 The “Silence signals acceptance” process

The “simplification” mission contributed towards the inspection mission which refined the list of procedures subject to acceptance in the event of the absence of a response from the administration within certain time frames. An update was carried out following the changes brought by Act no. 2016-1088 dated 8 August 2016.

Indeed, this Act amended Article L.3122-9 of the Labour Code, to the extent that the scope of application of “night work”, initially set between 9pm and 6am, was extended to 7am. The derogation procedure for the time between 6am and 7am, and which was subject to the principle according to which “silence signals acceptance”, no longer had purpose and was therefore ended.



9. The main cases of European and International action



9.1 European action

The 2016 European semester

The “European semester” is a cycle of structural, macroeconomic and budgetary policy coordination for Member states, which is part of the European Union’s economic governance. It aims to enable Member states to take account of rules and objectives defined at EU level at an early stage in the establishment of their national budgets and other economic policies.

In 2016, and as is the case every year, the DGT contributed towards the exercise of the European semester for questions relating to the labour market.

France being in the category of countries under “enhanced surveillance” due to its excessive deficit, this exercise led to many bilateral meetings with the European Commission. The Government was able to present the many reforms carried out or under way to reduce the deficit, and the DGT was interviewed, in particular, on questions regarding the labour market.

In response to the recommendations made by the European Commission, the DGT (EEI mission) widely contributed towards the part of the 2016 National reform programme (on improving the functioning of the labour market, where substantial room has been given to the provisions of the Act on social dialogue and employment, adopted in 17 August 2015, as well as measures planned in the Labour Act bill.

The EPSCO Council /unformal Council

The DGT contributed towards preparing the “Employment, Social Policy, Health and Consumer Affairs” Council of ministers (EPSCO) on areas falling under its scope of competence.

Four EPSCO Councils were held in 2016: on 7 March, 16 and 17 June, 13 October and 8 December, as well as two unformal councils on 19 and 20 April and 14 and 15 July 2015.

These various Councils broached many subjects, including, as regards labour, the review of the 1996 directive on the posting of workers, 2016 European semester matters, the creation of a European framework for social rights, the effects of technological changes on Unit for Labour Relations and Working Conditions, the relaunch of social dialogue at European level, the review of the directive on “carcinogenic and mutagenic risks”, the place of seniors in the labour market, and even non-discrimination.

The meeting of General Directors for Labour (DGRT)

This regular meeting, which is held every 6 months prior to each EU presidency, is led by the European Commission. On 20 May 2016, it was held in Bratislava. There, Slovakia was able to present its presidency programme and the General Directors of Labour were able to discuss the implementation of a European framework for social rights, as suggested by the European Commission in its communication dated 8 March 2016. Given the National Parliamentary agenda, Yves STRUILLON was not able to attend this meeting but as France’s contribution was particularly expected, the DGT was represented by the EEI mission.

The DGT indicated that it supported the global approach made by the Commission regarding a European framework for social rights. This framework provides an answer to a high French demand that the President of the French Republic had highlighted before the congress of the European Trade Union Confederation in Paris in September 2016.

3 main axes are to serve as foundations:

- The role of social partners (development on reforms carried out),
- training to guarantee employability and ensure professional transitions (the personal activity account is an answer to the evolution of professional career paths with emphasis on lifelong training),
- the particular commitment made to youth, (particularly through the implementation of the European guarantee for youth, a policy coordinated at European level to combat youth unemployment).

On 25 November 2016, it was Malta that hosted the meeting in Valletta. The Commission interrogated the -General Directors of Labour on the main issues regarding the interpretation, transposition or application of the directive of working time and on the implementation, within Member states, of reforms allowing the application of the "working time" directive, whilst considering the specificities of some fields.

Transposition of European directives

The EEI mission monitors the transposition of European directives into French law as regards leadership, in collaboration with the SGAE and the DAJ. In 2016, the DGT completed the transposition of three European directives for which it played the leading role: Directive 2013/35 "electromagnetic fields", Directive 2014/54 "freedom of movement for workers" and Directive 2014/67 "posting of workers". Furthermore, the DGT plays the leading role for the transposition of Directive 2017/164 dated 31 January 2017 establishing a fourth list of indicative occupational exposure limit values (for the protection of workers' health and safety against risks arising from hazardous chemicals in the workplace), which must be transposed before 21 August 2018.

Monitoring the work of the European Parliament

The EEI mission monitors the work of the European Parliament, in collaboration with the DAEI and the SGAE.

In 2016, the DGT was mobilised in the context of work in the European Parliament resolution dated 14 September 2016 on social dumping in the European Union, led by the French MEP Guillaume BALAS. The French authorities welcomed the text and applauded its adoption.

Indeed, one of the main objectives of the French authorities is to strengthen the fight against strategies to bypass or misuse the provisions of current legislation the effect of which is to divert posting from its original purpose, to deteriorate the working conditions of many workers residing in the European Union without distinction as to nationality or origin, and to pervert the competition mechanisms.

The DGT offered multiple notes to MEPs on the subject, analysed the number of amendments submitted, and, in particular, was able to meet the rapporteur of the text.

Bilateral relations with other European Union Member States

In 2016, bilateral relations with European Union Member States were largely influenced by the context of the revision of Directive 96/71 on the posting of workers in the framework of the international provision of services. The DGT's services were mobilised to prepare the ministers bilateral meetings with his peers, particularly from Germany, Belgium, the Czech Republic, Italy, Poland or Romania.

On 25 and 26 May 2016, a seminar on the rights of posted workers and the fight against illegal labour was organised in Sofia by the Embassy of France in Bulgaria. The seminar had three objectives: the strengthening of bilateral administrative cooperation; information and the raising of awareness on the rights and obligations of employers and employees; the presentation, by OCLTI, of the fight against illegal labour under a judicial light in France to local police forces. Yves CALVEZ (former General Director for Labour) also spoke during this seminar.

9.2 International action

The International Labour Organization (ILO):

→ 105th International Labour conference of June 2016

The DGT took part in the delegation of the French Government to the ILC and, in particular, to the Commission on Decent work in global supply chains. In accordance with the mandate provided by the Prime minister, the CSR platform had contributed towards the governments mandate for this commission. The text resulting from the ILC makes a balanced observation, by recognising the existence of failures in supply chains, particularly concerning working conditions, wages and working time. In particular, States are invited to strengthen their labour inspection system, to promote social dialogue, to use the mechanism of public procurement and trade agreements, to promote due diligence and support companies in combating forced labour. Social partners are invited, among others, to participate in cross-boarder social dialogue and to promote international framework agreements. The ILO is called to implement a technical tripartite meeting or a meeting of experts responsible in particular for assessing the needs for a new rule.

→ The futur of work centenary initiative (ILO)

On the occasion of the ILO's centenary in 2019, the Director-General of the ILO, Guy RYDER, wanted to reflect on the future of work. Initially, he encouraged ILO constituents to question the evolutions of the world of work and the role and relevance of ILO in its one hundredth year.

In order to contribute with the ILO's French constituents (Government and social partners), Claude JEANNEROT, French Government delegate within the Governing Body of the ILO, planned monthly interviews with experts and qualified individuals. These interviews are carried out by the French Advisory Committee for the International Labour Organization, referred to as "Committee 144", of which the DGT is a member.

In 2016, the French contribution project was subject to many discussions and to thorough work by constituents. To give it more of an impact, it was decided that this project would give rise to a tripartite contribution, which would be submitted to the Minister at the beginning of 2017.

→ Drafting of ILO convention regular reporting

In 2016, the DGT drafted 10 regular reports on ILO conventions for the following conventions: C77 on the medical examination of young persons (industry), C78 on the medical examination of young persons (non-industrial occupations), C87 on the freedom of association and protection of the right to organise, C90 on night work of young persons(industry), C95 on protection of wages, C98 on the right to organise and collective bargaining, C131 on minimum wage fixing, C158 on termination of employment and C187 on the promotional framework for occupational safety and health.

→ Ratification of international instruments

The Minister of Labour, Employment, of Vocational Training and of Social Dialogue, Myriam EL KHOMRI spoke at the ILO on 7 June 2016, during the 105th International Labour Conference. On this occasion, she submitted the instruments of ratification of the additional protocol to Convention no. 29 on forced

labour. This protocol had been negotiated during the ILC of 2014 in the Committee on forced labour, to which the DGT took part.

Furthermore, on 22 February 2016 the ILO confirmed receipt of France's instrument of ratification of Convention no. 188 on work in the fishing sector.

National contact point (NCP)

The French national contact point (NCP) is responsible for promoting and ensuring compliance with the OECD guidelines for multinational enterprises.

The French NCP is an independent tripartite body, comprised of State representatives (including the DGT), trade unions and the MEDEF. The NCP's fourth yearly information meeting was held on 15 November 2016 on the theme: "Responsible business conduct: a step beyond the law?"

For more information: <http://www.tresor.economie.gouv.fr/pcn>

Following the [NCP report on implementation of the CECD guidelines in the textile and clothing sector](#) after the collapse of the Rana Plaza, a working group on responsible supply chains in the textile and clothing sector was created in 2015. This working group brings together multiple players: The State (including the DGT), textile distributors, federations of enterprises, audit systems pooling initiatives, NGOs and trade unions. It continued its work in 2016.

International cooperation:

In 2016, the DGT intervened in multiple foreign delegations. In August, for example, it met a Chinese delegation in the context of a project financed by the European Union on "the influence of employment and social protection policies on the distribution of income in the context of an economic crisis". This presentation was the occasion to broach the subject of the Labour Act drafting process.

In October 2016, the DGT was also invited to Greece by the International Labour Office to present the French labour administration. This intervention occurred before the representatives of the Greek labour administration, representatives of employees and employer organisations.

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