



# Rethinking Unemployment Insurance: Rules and Governance

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Unemployment insurance plays a key role in the current pandemic. However, this should not hide the need to adapt this system, whose operating rules no longer fit the current labour market, and are an exception compared to other countries. In particular, unemployment benefit in France is slightly pro-cyclical, i.e. slightly more generous in periods of low unemployment than high unemployment. Reinforcing its counter-cyclical effect would allow better compensation when it is difficult to access employment, but requires long-term steering, with an adjustment of unemployment benefit (eligibility conditions and duration of compensation) according to indicators of economic activity.

Improving the unemployment insurance system also requires a better coordination with other social benefits received by the unemployed. In this respect, a merger of the *Revenu de solidarité active* (RSA, minimum income), the *Allocation de solidarité spécifique* (ASS, unemployment assistance), the *Prime d'activité* (PA, in-work benefit) and *Allocations logement* (AL, housing allowances) into a single means-tested basic income would make it possible to achieve greater coherence. Similarly, all income support schemes for individuals with reduced activity and low activity income should be coordinated. The calculation of unemployment benefit should be revised to limit income

losses due to unemployment and to avoid situations where unemployment insurance increases disposable income while activity income remains unchanged.

In order to carry out the reforms, a change in the governance of unemployment insurance must take place. This governance should better coordinate reconnection to (or maintenance of) employment and unemployment compensation. It must ensure the representation not only of employees of the private sector, but also of the public sector and the self-employed. Thus, the parameters of unemployment insurance and the organisation of support for jobseekers could be drawn up within a *Conseil de négociation de l'accompagnement et de l'indemnisation des demandeurs d'emploi* (CNAID, Council for Negotiating Support and Compensation for Jobseekers) composed of representatives of all the stakeholders. Another authority, the *Haut Conseil de l'assurance-chômage* (HCA, High Council for Unemployment Insurance), would coordinate and prepare the studies needed to draw up these unemployment insurance rules. Finally, the integration of the unemployment insurance budget into the Social Security Financing Act would make it possible to strengthen the coordination between unemployment insurance and social protection, while at the same time promoting its democratic control.

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The economic recession of 2008-2009 and the Covid-19 epidemic put the unemployment insurance system under strain. The debt of UNEDIC (managing the funding of unemployment insurance) should be around 63.1 billion by the end of 2020<sup>1</sup> and the need for coordination between unemployment insurance and other public policy tools has never been greater.

Since its creation in 1958, the rules of unemployment insurance have been determined by national inter-professional agreements negotiated every two or three years between the social partners. The law determines the general principles of compensation and financing, and the terms of application are detailed in these agreements, which come into force after approval by the Minister of Labour. In the absence of an agreement or approval, the implementing measures for the law are determined by government decree.

The *Avenir Professionnel* Law of 5 September 2018 has strengthened the control of the executive. It stipulates that the government provides the social partners with a global framework that defines the deadline by which they must reach an unemployment insurance agreement, as well as the objectives of the negotiations. If negotiations fail, the government “takes over” by intervening through decrees. This is precisely what happened in 2018-2019 (see Box).

The current organisation of unemployment insurance, where the executive draws up a framework communicated to the social partners, is inefficient, as it does not allow for real coordination between the parameters of unemployment insurance and all social benefits, compulsory contributions and employment policies. Moreover, it does not allow for the involvement of all stakeholders to change the coverage and financing of unemployment insurance so as to reach a wider range of occupations and sectors. Finally, it creates a dualism between the public employment service and unemployment insurance, which is a source of inefficiency. It is therefore desirable to change these practices.

This is all the more desirable given that the shock of the sanitary crisis has a deep effect on the labour market, as highlighted in the first part of this Note. The second part of this Note recalls that the rules governing the operation of the unemployment insurance system, which were essentially introduced in 1958, are poorly adapted to the current context and constitute an exception regarding international comparisons. The third part sets out the issues involved in improving the coordination of unemployment insurance with the entire socio-fiscal system and the public employment service. The fourth part presents recommendations for changes in the governance of unemployment insurance to improve this coordination.

### Experimentation of the framing document in 2018

The “framing document” sent to the social partners on 25 September 2018 called on them to take a series of measures to generate savings of between €1 and €1.3 billion on average per year over three years.

The Government asked:

- To review the rules for combining the allowance with income from a reduced or retained activity in order to combat job insecurity and encourage people to return to long-term employment;
- To set at five years the continuous period of previous employment giving entitlement to unemployment benefit for employees who resign and are planning to change jobs;
- To determine the rules governing the relationship between the new allowance for self-employed workers, the back-to-work allowance and the rules applicable when returning to work;
- To introduce new rules to encourage companies to favour a reorganisation of work through social dialogue in order to cope with cyclical developments so that they have less of an impact on unemployment insurance;
- To create the conditions for better support for jobseekers;
- To propose a better link between unemployment insurance and the solidarity system, if necessary by creating a long-term unemployment benefit.

The failure of the negotiations between the social partners led the government to intervene with two so-called “deficiency decrees” published on 26 July 2019 and laying down the rules for unemployment insurance until 2021. These decrees provided in particular for changes to the conditions for eligibility for unemployment insurance (over the last 24 months, six months worked rather than four), a joint change in the calculation of the reference daily wage and the duration of compensation, the degressive nature of unemployment benefits for high earners from seven months of compensation, and the introduction of a bonus-malus on employers’ contributions. In the context of the Covid-19 crisis, most of these measures were suspended. The measures concerning the recalculation of the reference daily wage and the bonus-malus were cancelled by the Council of State on 25 November 2020 following appeals by trade unions and employers’ organisations.

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<sup>1</sup> UNEDIC (2020): “Situation financière de l’assurance-chômage”, *References*, 18 June.

## Labour market conditions during the 2020 recession

### A very violent shock

The lockdown has exerted an unprecedented and violent shock on labour markets across the OECD. According to Google data, between February and April 2020, trips to the workplace collapsed by more than 40%, public transport trips by almost 50%, and trips to cafés, museums and restaurants by almost 50%. Even trips to food shops and pharmacies fell by 20% (OECD, 2020).<sup>2</sup>

France is one of the countries where “non-pharmaceutical” measures to fight the epidemic, i.e. restrictions on activities and travel, have been the strongest.<sup>3</sup> Along with Spain and Italy, it is thus the country that has imposed the longest generalised lockdown of its population with very few authorised exceptions and the outright closure of many establishments.<sup>4</sup> In France and Spain, travel has been reduced by 50% or more, compared to only 30% in Germany.

The consequence has been a collapse in the flow of job vacancies by more than 25% between the second quarter of 2020 and the same quarter of the previous year, with a fall of more than 50% in the entertainment, hotel and catering, tourism and leisure sectors, and almost 40% in transport and logistics.<sup>5</sup> The number of jobseekers registered with Pôle emploi (French Public Employment Service) has risen sharply, mainly due to the end of fixed-term contracts and temporary work assignments, as well as fewer people leaving for employment: 390,000 additional people were registered in category A, B or C between February and August 2020 (+ 7%).<sup>6</sup> Indeed, most of the people on permanent contracts have been protected by a programme of unprecedented scale, as in many other European countries, to maintain employment through short-time working.

In total, hours worked in France fell by 19% between the second quarter of 2020 and the fourth quarter of 2019

(adjusting for seasonal effects). The European average was 13.5% over the same period. Employment fell by 573,000 over one year in the second quarter of 2020 (- 2.3%),<sup>7</sup> and the employment rate fell to 63% compared with 63.4% two quarters earlier.<sup>8</sup>

### The central role of partial unemployment

The expansion of short-time working in France has been unprecedented. In April 2020, up to nearly 45% of employees were actually placed for all or part of their hours in “partial activity”,<sup>9</sup> mainly those working in small companies.<sup>10</sup> This is about one and a half times more than in Germany during the same period, despite the country being particularly used to this system.<sup>11</sup> This proportion fell below 10% during the summer thanks to the end of the lockdown, which nevertheless remains a much higher proportion than during the 2009-2010 crisis.

This strategy has, at least temporarily, stabilised the unemployment rate.

However, despite the considerable effort of the State, the prospects for total job destruction are between 800,000 and 900,000 –mainly due to the expected closures of enterprises–<sup>12</sup> which naturally raises fears of a major influx into unemployment insurance. The unemployment rate is forecast at 9.5% at the end of 2020 (INSEE)<sup>13</sup> a loss of 26 billion for 2020 is currently anticipated (compared to 2 billion in 2019) for the unemployment insurance and the debt would reach 63 billion.<sup>14</sup> Indeed, in addition to the growing expenditure on compensation for the unemployed –an essential role in stabilising demand in this period of exceptional crisis– the unemployment insurance scheme also covers one third of short-time working expenditure, estimated at over €35 millions by the end of 2020. In 2021, the deficit of the insurance system is estimated at €7 billion, of which €2 billion is for partial activity.<sup>15</sup> In these exceptional circumstances, the employment insurance system has to adapt to best ensure its stabilising role while promoting the

<sup>2</sup> OECD (2020): *Perspectives de l'Emploi*, OECD Publishing, Paris.

<sup>3</sup> As of 10 April 2020, the indicator (between 0 and 100) published by Oxford University to measure the stringency of the response to the Covid-19 epidemic (“stringency index”) shows a score of 87.96 in France and Italy, 85.19 in Spain and 76.85 in Germany, see <https://ourworldindata.org/grapher/covid-stringency-index?time=2020-03-31>.

<sup>4</sup> OECD (2020): *Perspectives de l'Emploi de l'OCDE*, 18 December.

<sup>5</sup> Pôle Emploi (2020): “Les offres d'emploi diffusées par Pôle Emploi aux 1<sup>er</sup> et 2<sup>e</sup> trimestres 2020”, *Statistiques, Études et Évaluation*, no 20.024, August.

<sup>6</sup> Pôle emploi data available on <https://statistiques.pole-emploi.org/stmt/defm?ff=A,B,C&ss=1>

<sup>7</sup> INSEE (2020): “Au deuxième trimestre 2020, l'emploi salarié baisse de nouveau nettement dans le secteur privé et chute dans la fonction publique”, *INSEE Informations Rapides*, no 2020-227, 8 September.

<sup>8</sup> INSEE (2020): “Au deuxième trimestre 2020, un marché du travail sous l'influence du confinement”, *INSEE Informations Rapides*, no 2020-203, 13 August.

<sup>9</sup> DARES, DGEFP and Pôle Emploi (2020): *Tableau de bord : situation sur le marché du travail durant la crise sanitaire*, 29 September.

<sup>10</sup> UNEDIC (2020): *Premier bilan de l'activité partielle depuis le début de la crise Covid-19*, September.

<sup>11</sup> OCDE (2020): “Job Retention Schemes During the Covid-19 Lockdown and Beyond”, *OECD Policy Brief*.

<sup>12</sup> The OFCE thus estimates the number of jobs that could be destroyed by potential bankruptcies at 250,000 by 1<sup>st</sup> January 2021, see Guerini M., L. Nesta, X. Ragot and S. Schiavo (2020): “Dynamique des défaillances d'entreprises en France et crise de la Covid-19”, *OFCE Policy Brief*, no 73, June.

<sup>13</sup> INSEE (2020): “Point de conjoncture”, *INSEE Conjoncture*, 8 September.

<sup>14</sup> UNEDIC (2020): “Situation financière de l'Assurance-chômage”, *References*, 18 June.

<sup>15</sup> *Projet de loi de finances 2021*, referred to the *Commission des finances, de l'économie générale et du contrôle budgétaire* (Finance, General Economy and Budgetary Control Committee) and registered to the Presidency of the *Assemblée nationale* (French National Assembly) on 28 September 2020, no 3360.



conditions for recovery. To this end, more than ever before in its history, the scheme needs to be properly coordinated with the other personal support schemes.

## A special governance compared with other countries

### Historical heritage

In 1958, the desire to introduce unemployment insurance for all private sector professions was largely motivated by the evolution of the French economy, in particular the anticipation of the arrival of the baby boomers on the labour market, the major structural changes caused by growing industrialisation, entry into the common market and trade liberalization.

After considering several debated scenarios,<sup>16</sup> the government and the social partners opted for parity-based governance, in which representative employers and trade unions are responsible for determining the parameters of unemployment insurance and its management. The agreement of 31 December 1958, concluded between the employers' and employees' trade union organisations in the private sector, created the ASSEDIC<sup>17</sup> funds, which paid unemployment insurance benefits, and UNEDIC, which coordinated the ASSEDICs. The ASSEDIC funds were responsible for affiliating companies, receiving, informing and registering jobseekers, collecting social insurance contributions and paying unemployment benefits.

The main objective of this scheme was to provide involuntarily unemployed people with a replacement income and to provide an incentive to return to work while maintaining financial equilibrium. Unemployment insurance was, and still is, governed by agreements concluded between the social partners, which can be applied after approval by the Minister of Labour. It is also governed by Articles L.5422 of the Labour Code, which lay down the main principles of compensation and contributions. The law also stipulates that the agreements must ensure the long-term balance of the scheme and be approved by the Minister dealing with Employment issues.

Since its creation, UNEDIC has been involved in the negotiation of unemployment insurance agreements by carrying out studies and evaluating their costs. UNEDIC also implements the agreements. When it was set up, it was decided that the missions of the unemployment insurance scheme were limited to the strict payment of benefits; employment policy, vocational training and the reclassification of the unemployed were attributions of the Ministry of Labour.

The creation of unemployment insurance, entrusted to the social partners, has three important characteristics which still have an influence today:

- The separation between support towards employment and unemployment compensation;
- The separation between assistance and insurance schemes;
- Coverage of private sector employees exclusively.

These characteristics, largely related to the political context at the time, were probably justified in a context of low unemployment, the near absence of minimum income and the expansion of private sector employment. But the rise in unemployment, the introduction of a minimum income at the end of the 1980s, its activation in the 2000s and changes in employment in the public and private sectors have profoundly changed the functioning of the labour market since the late 1950s. Progress has certainly been made with the creation of the Public Employment Service in 2005, followed by the merger of the ANPE and ASSEDIC into *Pôle emploi* in 2008, but we are still in the middle of the ford regarding the articulation of the rules of support and compensation (see below). Unemployment insurance must evolve to adapt to this new environment.

### International comparisons

Compared with the vast majority of European countries and the United States, the social partners in France have a very strong influence on unemployment insurance.<sup>18</sup> Indeed, in all countries except France, unemployment insurance rules are defined by the legislature or the executive.

In the United States and the United Kingdom, there is no formal consultation of the social partners, who have very little influence on the determination of unemployment insurance rules. Unemployment insurance is managed by the state.

In countries where tripartite commissions exist, the influence of the social partners depends on formal rules but also on national practices which imply that they can have a strong influence despite the absence of binding rules, and vice versa. In Austria, Belgium, Estonia, Germany, Latvia, Lithuania, Luxembourg, and Slovenia the social partners are systematically involved in all decisions on the design of unemployment insurance and assistance. In Denmark, Hungary, the Netherlands, Portugal, and Sweden, governments have reformed unemployment insurance after periods of crisis, despite opposition from the social partners, who have consequently lost much of their influence on the design of the rules. In Bulgaria, Cyprus, the Czech Republic,

<sup>16</sup> UNEDIC (1983): *Historique du régime d'assurance-chômage : 1958-1982*.

<sup>17</sup> Acronym for *Association pour l'emploi dans l'industrie et le commerce* (Association for Employment in Industry and Commerce). An ASSEDIC was a private law association governed by a joint Board of Directors. There were 30 ASSEDICs throughout France.

<sup>18</sup> The information in this section comes from the documents published by Eurofound (2013): *Social Partners' Involvement in Unemployment Benefit Regimes in Europe*, Report, and by UNEDIC (2019): *L'assurance-chômage en Europe. Étude de 15 pays, Département prospectives juridiques*, Direction des affaires juridiques, 12 July.

Greece, Poland, Romania, Slovakia, and Spain, the influence of the social partners on unemployment insurance rules is weak or non-significant.

The involvement of the social partners is not limited to the design of unemployment insurance rules, it is also about management. Participation in the management of unemployment insurance is important in countries that have adopted the Ghent model, where trade union membership is a condition for access to unemployment insurance. This system, created at the beginning of the 20th century in the city of Ghent, was subsequently adopted in Denmark, Finland, Iceland and Sweden. Although the rules of unemployment insurance are defined by law in these countries, the social partners participate in the management of unemployment insurance and/or the public employment service within the framework of a tripartite organisation. This is also the case in Germany, where the unemployment insurance managing authority with competence for the compensation and support of jobseekers is managed by a tripartite commission.

All in all, international comparisons reveal the particularity of France, which is the only country whose unemployment insurance rules are in principle set by the social partners. Everywhere else, unemployment insurance rules are determined by the executive or the legislature, in many cases after consultation with the social partners. In this respect, the *Avenir Professionnel* Act of 5 September 2018 has created an ambiguous situation, since it gives the executive the power to issue ultimatums, which does not make it possible to establish the conditions for a real consultation or even negotiation.

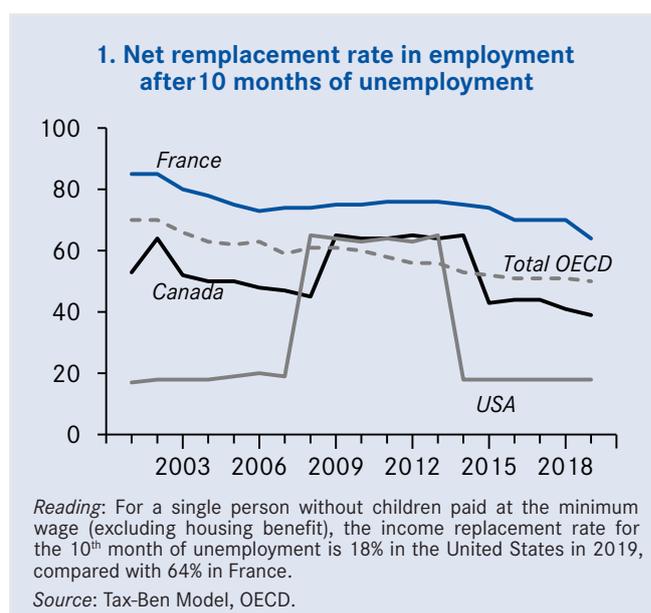
## The challenges of better coordination

Unemployment insurance expenditure in 2019 in France represented 1.5% of GDP, excluding the contribution to the financing of the public employment service. This is almost three times more than in OECD countries (0.6 per cent).<sup>19</sup> As a result of the crisis, this ratio is expected to reach 1.9 per cent by 2020.<sup>20</sup> This spending should be coordinated with overall public spending to best steer the evolution of aggregate demand and be consistent with the entire social protection system. Indeed, the income of the unemployed is made up not only of unemployment benefit, for those who are eligible, but also of a whole set of conditional transfers. All these must form a rational scheme to avoid conflict with the redistributive objectives of the entire socio-fiscal system. Moreover, the effectiveness of unemployment insurance is

not only based on compensation, it is also conditioned by the ability to combine income and employment support in order to best reconcile compensation, access to employment and vocational retraining. Unemployment insurance must also be able to limit, where possible, the loss of earned income for all workers, not just employees. Finally, the design of unemployment insurance rules must be able to benefit from expertise based on a comprehensive information system covering all incomes and career paths.

## Long-term management and counter-cyclicality of expenditure

Unemployment insurance is a key component of counter-cyclical labour market policies. It played an important role in most OECD countries during the 2008-2009 crisis. Without even changing the rules, the volume of benefits increases considerably in times of crisis with higher inflows into unemployment. Some countries, such as Canada and the United States, have institutionalized rules that significantly increase compensation during recessions and decrease it during recoveries (Figure 1). Available evaluations<sup>21</sup> indicate that these rules are effective, as they provide better compensation when access to employment is more difficult. In addition, they increase the counter-cyclicality of compensation expenditure, thereby helping to stabilize activity.<sup>22</sup>



The available data show that in France the generosity of unemployment insurance is on average significantly higher

<sup>19</sup> OECD (2020): *Données sur les dépenses sociales*. Available at [www.oecd.org/social/expenditure.htm](http://www.oecd.org/social/expenditure.htm)

<sup>20</sup> Under the assumptions of 41.4 billion in compensation expenditure forecast by UNEDIC, excluding short-time working (compared with 41.1 in 2019) and a GDP down 9% in 2020. If the contribution to the financing of short-time working and Pôle emploi is included, total expenditure will reach 2.4% of GDP, cf. UNEDIC (2020): *Situation financière de l'assurance-chômage pour 2020-2021*, 21 October.

<sup>21</sup> Andersen T. (2014): "Tuning Unemployment Insurance to the Business Cycle", *IZA World of Labor*.

<sup>22</sup> Landais C., P. Michailat and E. Saez (2018): "A Macroeconomic Approach to Optimal Unemployment Insurance: Theory", *American Economic Journal: Economic Policy*, vol. 10, no 2.

than in the United States, but also slightly pro-cyclical. While maintaining a high replacement rate, introducing a dose of counter-cyclicality requires good coordination with macroeconomic policies and long-term steering. This is difficult to implement in the current system because the obligation to renegotiate the agreement every three years increases the pressure to balance the accounts at the bottom (or shortly after the bottom) of the cycle, and creates an incentive to lower contributions at the top of the cycle (instead of generating surpluses to steer the bottom of the cycle, as was the case in 2006-2007 and even more so in 2001-2002). This situation has not led to a consensus on the long-term steering of unemployment insurance expenditure, a topic of strong tension between UNEDIC and the State.<sup>23</sup>

It should be noted that the need to establish long-term management that is consistent with the economic imperatives of responding to cyclical variations in activity has been strongly reinforced by the Covid-19 crisis. During this period, both eligibility conditions and maximum duration of compensation were modified to support the income of people employed on short-term contracts. These two parameters could be adjusted systematically depending on the economic situation, following the example of the rules in force in Canada and the United States.

**Recommendation 1.** Establish a long-term steering of unemployment insurance expenditure that provides for an adjustment of unemployment compensation (eligibility conditions and maximum duration of compensation) following indicators of economic activity in order to strengthen the counter-cyclicality of expenditure and ensure the financial sustainability of the scheme.

### Reducing income inequality

Unemployment insurance interacts with various tax and transfer systems which together contribute to reducing income inequality and insuring individuals against risks in the labour market. Coordination of these schemes is particularly important at the lower end of the income distribution. In addition, unemployment insurance operates a significant redistribution between high and low incomes which is not coordinated with the overall socio-fiscal system.

First of all, the rules of unemployment insurance affect the receipt of a means-tested set of social benefits, resulting in reciprocal financial externalities between unemployment insurance and the assistance benefits budget. Figure 2, based on a theoretical test case, shows that for jobseekers at the end of their entitlement, previously paid at the SMIC,

the minimum social benefits and the increase in housing allowances can help to mitigate the loss of income when they switch to the *Allocation spécifique de solidarité* (ASS, unemployment assistance). Accumulation intensifies at the end of insurance benefits, i.e. when the switchover to the assistance schemes takes place, but it is possible from the first few months of compensation. For example, the amount of housing benefit increases at the time of the switch to ASS for jobseekers previously paid at the SMIC, thus compensating for part of the loss of unemployment insurance benefit. France is no exception: all OECD countries provide for the possibility of combining and compensating unemployment benefits with and other social benefits. And *de facto*, this combination within households in a given year seems very significant in France because of the extent of the social protection system in our country (see Figure 3). The use of data from the Tax and Social Income Survey shows that, in practice, households with a member who becomes unemployed actually receive a number of transfers (family allowances, housing, etc.), corresponding to around 12 to 15% of their disposable income. However, these transfers vary little on average during the period of unemployment, so that most of the insurance against loss of income due to unemployment is provided by unemployment benefits.

In practice, there are three issues at stake for better coordination between unemployment insurance and low-income transfer schemes:

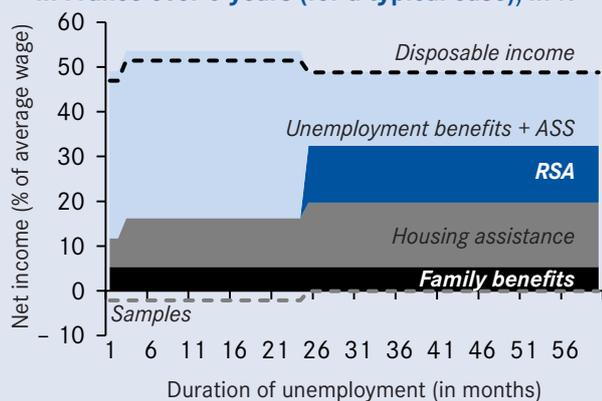
- The harmonization of ASS (unemployment assistance) with the other social minima;
- Harmonization of income support schemes for individuals with reduced working hours, or with a low level of earned income;
- Harmonization of transfer rules between high and low incomes.

### Harmonization of ASS (unemployment assistance) with other social minima

When unemployment insurance was created in 1958, the assistance system was in its infancy. In 1984, the creation of ASS improved the situation of the long-term unemployed, who were no longer eligible for unemployment insurance benefits. ASS was covered by the Solidarity Fund, a public administrative institution under the Ministry of Labour, which was abolished in 2018. ASS still exists despite the introduction of the RMI (minimum income) in 1988 and the RSA which replaced it in 2008. People who have worked for at least five years in the last ten years are eligible for ASS. Its amount is close to that of the RSA for a single person, but varies according to the family composition of the household. In addition, ASS provides pension rights without any time limit, whereas RSA does not. These two benefits cover the same risk. Some people may even combine the two, since the RSA is a differential allowance. As pointed out in a previous

<sup>23</sup> Cour des comptes (2014): *La situation et les perspectives des finances publiques*, Report.

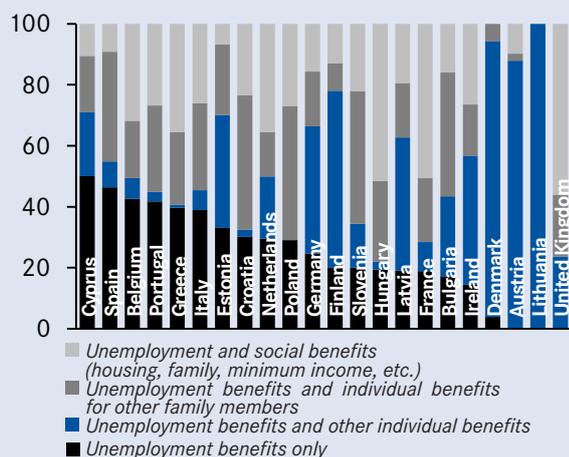
## 2. Benefits received by an unemployed person in France over 5 years (for a typical case), in %



*Reading:* After 5 months of unemployment, a worker previously on minimum wage, in a couple with two children but whose spouse does not work, receives more than 50% of the average wage in France.

*Source:* Tax-Ben Model, OECD.

## 3. Accumulation between unemployment and other benefits (for a typical household case)



*Reading:* This Figure shows how people who have been unemployed for a whole year are compensated, through social benefits that depend on family circumstances or through individual benefits received by their spouse. Case of households in which at least one member has been unemployed for the whole year.

*Source:* EU-SILC, 2017.

*Note du CAE,*<sup>24</sup> a coherent system should merge ASS, RSA, the activity bonus and housing allowances into a single means-tested basic income including financial incentives to return to work. The consultation on the universal activity income is part of this perspective.

## Harmonization of income support schemes for individuals with low earned income or reduced working hours

Over the past few years, social partners wanted to complete the income of people employed in unstable jobs with unemployment insurance through the “reduced activity” scheme (*activité réduite*). The latter allows unemployment insurance recipients to combine compensation and earned income and to increase their potential duration of compensation. It also aims to support people with low activity income. Reduced activity has taken on a predominant role, since approximately half of unemployment insurance recipients have an earned income each month.<sup>25</sup> However, the objective of reduced activity is similar to that of the “*Prime d’activité*” (“in-work bonus”), i.e. another social benefit for low-income workers. The two schemes are all the more similar in that it is possible to combine earned income and unemployment benefit indefinitely thanks to reduced activity, via the reloading of entitlements. However, unlike the in-work bonus, the reduced activity benefit is not means-tested. Moreover, the combination of the rules for calculating the reference daily wage and the rules for reduced activity enables persons in non-permanent jobs to increase their total income by registering for unemployment while their earned income remains unchanged.<sup>26</sup> Finally, this system creates very significant inequalities between people working part-time in permanent jobs and those working on short contracts, since the latter can receive monthly up to five times more compensation for the level of past income. There are therefore two uncoordinated schemes to achieve the same objective: the improvement of low incomes from work.

Furthermore, for employees paid close to the minimum wage, the failure to take into account the in-work bonus in the compensation rules may lead, when they lose their job, to a reduction in their net replacement rate when this bonus is re-evaluated. This explains the fall in the replacement rate that appears in 2019 in Figure 1. Similarly, the annual rate of increase of the minimum wage may lead to a fall in the replacement rate if the flat-rate part of the daily unemployment allowance is not re-evaluated at the same rate, as it has been in recent years.<sup>27</sup> This leads to the net replacement rate of earned income varying erratically with the level of wages, with uncontrolled effects on work incentives. In order to make the system more coherent, a previous *Note du CAE*<sup>28</sup> recommended that the calculation of the reference daily wage should be modified so that the

<sup>24</sup> Bargain O., S. Carcillo, E. Lehmann and Y. L’Horty (2017): “Improving the Fight Against Poverty Through Monetary Aids”, *Note du CAE*, no 41, April.

<sup>25</sup> UNEDIC (2019): *Rapport d’activité 2018 : l’UNEDIC au service de la gestion et de la décision*, July.

<sup>26</sup> See Cahuc P. and C. Prost (2015): “Improving the Unemployment Insurance System in Order to Contain Employment Instability”, *Note du CAE*, no 24, September.

<sup>27</sup> ARE’s gross daily amount comprises a fixed part equal to 12.05 euros in 2020 and a variable part equal to 40.4% of the reference daily wage (SJR). This sum may not be less than 57% or more than 75% of the SJR.

<sup>28</sup> Cahuc and Prost (2015), *op. cit.*

same average monthly income would give entitlement to the same monthly unemployment benefit, regardless of the number of days worked per month. The *Conseil d'Etat* (the French Supreme Court for Administrative Justice), in its decision of 25 November 2020, considered that the new rules for calculating the reference daily wage in the decree of 29 August 2019 violated the principle of equality, as they could lead to situations where, for the same number of working hours, this wage could vary from a single to four times. Nevertheless, it is desirable to amend the current rules in order to improve the smoothing of monthly income and avoid situations in which total income increases by becoming an unemployment insurance recipient when earned income remains unchanged.

**Recommendation 2.** Modify the rules for calculating the unemployment benefit so that unemployment insurance limits the loss of income due to unemployment while not leading to situations where it increases disposable income when earned income remains unchanged.

#### Harmonisation of transfer rules between high and low incomes

In terms of redistribution between high and low incomes, the unemployment insurance system plays an important role in parallel to the tax and transfer system.<sup>29</sup> Individuals at low wage levels are much more exposed to the risk of unemployment. Comparing unemployment insurance contributions and unemployment benefits, the net result is negative for the first four wage deciles, and always positive beyond that (see Vidalenc, 2020).<sup>30</sup> On average, the gap between benefits received and contributions paid by workers in the first two deciles is 400 euros per year, while it becomes negative, equal to - 1 450 euros for the last decile (Figure 4).

Unemployment insurance thus induces a significant redistribution, complementary to the tax and transfer system. The abolition of employee unemployment insurance contributions from October 2018, the subsequent adjustment of the CSG (not capped at 4 PASS i.e. the annual social security ceiling, in contrast to unemployment contributions) to compensate for the loss of earnings, and the decreasing profile of unemployment benefits for high earners introduced in July 2019<sup>31</sup> have strengthened the redistribution stemming from unemployment insurance. The question of the base and modalities (wages of employees covered by unemployment insurance versus broader base, taking household income into account) of the redistribution operated by unemployment

**4. Annual balance between unemployment insurance contributions and unemployment benefits, by decile of salary**



*Reading:* For the first decile of daily salary at the beginning of a career, the balance between amounts contributed and amounts received is a deficit of 390 euros on average.

*Source:* FH-DADS 2003-2012.

insurance should be raised in a broader reflection on the coordination between unemployment insurance and the whole tax and benefit system. This could be carried out by the proposed High Council for Unemployment Insurance (see below).

#### Coordination of job retention, access to employment and unemployment compensation

##### Support towards employment

When the unemployment insurance system was created in 1958, the tasks of compensating and supporting the unemployed in finding work were completely separate. Support missions were not, in fact, a priority in a context of very low unemployment. In 1967, the creation of the National Employment Agency (ANPE), a public administrative establishment whose tasks were to produce statistics on jobseekers and support them in their search for work, confirmed the separation between the missions of compensation, entrusted to UNEDIC, and support for jobseekers, placed under the supervision of the State. The management of benefit delivery and employment support was only unified in 2008, with the creation of the *Pôle emploi* (French Public Employment Service), resulting from the merger of the ANPE and the ASSEDICs.

*Pôle emploi* is a public agency, with a Board of Directors comprising representatives of the State, social partners, local authorities and qualified personalities. *Pôle emploi* is responsible for the operational management of unemployment insurance, which includes the payment of

<sup>29</sup> Fontaine F. and B. Vidalenc (2020): "L'assurance-chômage, miroir de la segmentation du marché du travail", *Note IPP*, no 58, September.

<sup>30</sup> Vidalenc B. (2021): "Le recours à l'assurance-chômage : indemnités et durée d'indemnisation au cours des carrières professionnelles", *Focus du CAE*, no 052-2021, January.

<sup>31</sup> This measure has been suspended until 31 December 2019 due to the health crisis.

benefits, while the collection of contributions is entrusted to the URSSAF –the organisation which collects employee and employer social security contributions.<sup>32</sup> The parameters of unemployment insurance are always set by agreements between the social partners, which come into effect after approval by the Ministry of Labour.

UNEDIC is responsible for the regulatory transcription of agreements negotiated by the social partners, the financial management of unemployment insurance scheme, the production of statistics and analyses for the information and decision-making support of the social partners, and the monitoring and auditing of unemployment insurance management.<sup>33</sup> UNEDIC pays 11% of the funds collected to finance a significant part of the budget of *Pôle emploi*, whose objectives are defined by multi-year tripartite agreements negotiated between the State (which supplements the funding of UNEDIC), UNEDIC and *Pôle emploi*. The duality between the drafting of unemployment benefit rules and the support provided to jobseekers has several drawbacks:

- The rules on income and employment support must be coordinated as well as possible to achieve maximum synergy between these two dimensions of unemployment insurance. Employment support comprises a whole battery of rules and mechanisms, including the frequency of interviews, the consequences of not attending a job interview, the notion of a reasonable job offer, the notion of active job search, sanctions in the event of failure to comply with various obligations, and training offers. The implementation of these systems assumes a good transmission of information and shared objectives between the players in charge of income and employment support, which are more difficult to ensure in a dual system. At present, the duality of the structures leads to a lack of detrimental contact between those who draw up the rules and those who implement them;
- The funding of *Pôle emploi*, which is largely based on a fixed levy of 11% on UNEDIC's income, does not allow sufficient flexibility to make the right financial trade-offs between compensation and support. Indeed, this rule implies a pro-cyclical allocation to *Pôle emploi*, as UNEDIC's income is itself pro-cyclical. Counter-cyclical allocations, which increase the resources of *Pôle emploi* in times of rising unemployment, would be more appropriate. Moreover, this rule is giving rise to debate on the sources of the financial imbalance in unemployment insurance, since the levy on UNEDIC's income is put into a common pot, supplemented by the State, in order to finance employment support for all job seekers. Unified governance would have the advantage of being able to carry out the most relevant arbitrations to allocate resources to income and employment support.

**Recommendation 3.** Ensure a budgetary allocation to *Pôle emploi* that is independent from unemployment insurance revenues, in order to remove the pro-cyclical component of its financing.

### Short Time Work

The expansion of short time work, as a result of the current crisis, has a major effect on the unemployment scheme, as it leads to a rapid increase in the scheme's expenditure and a significant shortfall in terms of revenue, since partial activity benefits are subject neither to unemployment contributions nor to the CSG tax.

Before the health crisis, for each hour paid, the employer received a short time work allowance from the *Agence de services et de paiement* (ASP, Services and Payment Agency) of €7.74 per hour for companies with 1 to 250 employees, of which €4.84 was paid by the State, and €7.23 per hour for companies with more than 250 employees, of which €4.33 was paid by the State. UNEDIC provided funding of 2.90 euros per hour of compensation. Since 1<sup>st</sup> March 2020, the short time work allowance has no longer been a flat-rate benefit but is now proportional to the gross reference salary (capped), with a variable rate depending on the sector of activity. At the request of the Minister of Labour, UNEDIC has financed 33% of the allowances paid, including for new employees and employers who receive them, in accordance with the terms and conditions set out in financing agreements between UNEDIC and the State and between UNEDIC and the ASP.

UNEDIC also participates in the financing of the *ad hoc* scheme for individual employers, according to terms to be determined by agreement. In addition, it is planned that public employers who are self-insured for the risk of unemployment will reimburse UNEDIC for the part advanced in the context of the Covid-19 epidemic according to rules to be defined by decree. Finally, there is still some uncertainty as to the financial participation of UNEDIC in the adjustments to the short time work provided for in the draft decree of September 2020 and for the "long-term short time work", as these are not yet specified in the texts.

Complementarities between short-time work and unemployment benefit require coordination of these schemes, which the current organisation does not encourage. For example, apart from the sectors that are severely disrupted by health restrictions (tourism, hotels, cafés, restaurants, and leisure activities) it seems little justification to compensate people who are lucky enough to

<sup>32</sup> In 2011, after a transitional period in which *Pôle emploi* took over this function.

<sup>33</sup> To do this, UNEDIC has adapted its organisation and missions to the new distribution of competences. It has grown from 15,000 employees within the UNEDIC-ASSEDIC perimeter in 2008 to a workforce of around 100 employees for UNEDIC's own functions, see Cour des Comptes (2016): *L'UNEDIC et sa gestion de l'assurance-chômage : exercices 2008-2014*, Report.

keep their jobs but with a reduced number of hours much better than those who involuntarily lose their jobs. In the future, the rules for unemployment insurance compensation and partial activity compensation should be developed within a coordinated budget.

### Adjusting the scope of unemployment insurance

When it was created, unemployment insurance was primarily intended to cover the risk of unemployment for employees in the private sector. This limited area has become increasingly problematic as different types of employment emerged (fixed-term contracts in the public sector, self-employment...). These developments have led to an adaptation of unemployment insurance, but an imbalance in the management of unemployment insurance.

Employers in the private sector have to affiliate their employees with unemployment insurance. On the other hand, for civil servants and non-civil servants of the State, local authorities and their public establishments, employees of public industrial and commercial establishments, State-controlled enterprises and semi-public companies, affiliation is not compulsory. These exceptions are not very consistent, especially since the Act of 2 February 2007, all public sector employees are eligible for unemployment benefit under the same conditions as private sector employees. The arrangements for financing unemployment insurance for public-sector employees<sup>34</sup> can lead to selection problems, leading employers whose employees have a low risk of unemployment to choose self-insurance and others to opt for unemployment insurance. Admittedly, in an insurance logic, civil servants are not called upon to contribute for a risk of job loss that does not concern them. It is nevertheless desirable to clarify the situation of the various employment statuses in the public sector vis-à-vis unemployment insurance in order to achieve a better balance between their employer's contribution to unemployment insurance and the compensation expenditure they incur. Unified management of unemployment insurance should make it easier to achieve this objective than the current management, where the rules concerning public sector employees are laid down following negotiations between the State and the social partners in the public sector.

From 1<sup>st</sup> November 2019, self-employed persons who have received an annual income of at least €10,000 in the two years preceding their cessation of activity, justified by

judicial liquidation, may receive unemployment benefit of €800 per month for six months. This compensation, which is significantly lower than that for employees, is financed by the State. It extends unemployment insurance coverage to categories hitherto excluded. However, it remains minimal and takes very little account of the diversity of self-employed workers, whose situation may be very similar to that of employees. This is particularly the case for economically dependent self-employed workers, whose income depends on a limited number of principals. Differences in the conditions of access to unemployment benefit between these workers and employees are difficult to justify since their risk factors for loss of income are very similar<sup>35</sup>. Adapting unemployment insurance to these changes in labour relations requires its scope to evolve beyond the scope of the social partners currently managing unemployment insurance.

From 1<sup>st</sup> October 2018, employee contributions for unemployment insurance for private sector employees have been abolished. Private sector employers pay a contribution equal to 4.05% of gross pay. UNEDIC has been compensated for the loss of income due to the abolition of employee contributions by a state payment financed by an increase in the CSG on all incomes. This change in the financing of unemployment insurance is consistent with the extension of its coverage beyond the scope of private sector employees. It is also part of a broader movement to finance social protection by taxes. It nevertheless implies that a significant proportion of unemployment insurance resources should come from income under the control of the State, which is not compatible, in the long term, with strictly parity-based management. All these elements should encourage an increase in the number of stakeholders involved in drawing up unemployment insurance rules, including representatives of the public sector and the self-employed (see below).

## Adapting governance

### Evaluating the effectiveness of unemployment insurance and developing shared expertise

The steering of unemployment insurance must be based on shared expertise based on systematic *ex post* evaluations. At present, the expertise missions of Pôle emploi and UNEDIC largely cover the same areas, but are not coordinated within a dedicated authority. Better synergies and economies of scale could be achieved by merging them.

<sup>34</sup> The way in which compensation for public sector employees is financed can take several forms:

- self-insurance without a management agreement: the employer pays the compensation of its former agents. This scheme is compulsory for the State and its public administrative establishments;
- self-insurance with a management agreement with *Pôle emploi*: the employer entrusts the management of compensation for its employees to *Pôle emploi*; the allowances and management fees are paid to *Pôle emploi*;
- membership of the unemployment insurance scheme: employers in the public sphere, outside the State and its public administrative establishments, may choose to join the unemployment insurance scheme either revocably after six years or irrevocably. They then pay unemployment insurance contributions, which vary from case to case.

<sup>35</sup> IGF-IGAS (2017): *Ouverture de l'assurance-chômage aux travailleurs indépendants*, Report.

This coordination of evaluation is essential in order to build a consensus on the consequences of the various parameters of unemployment benefit and on the effectiveness of the various measures to support jobseekers. This is not currently the case, as shown by the divergent evaluations between UNEDIC and Pôle emploi on the impact of the change in the rules for calculating unemployment benefit –largely based on the same data– during the 2019 unemployment insurance reform.

That is why we recommend the creation of a High Council for Unemployment Insurance in charge of this expertise. Based on the models of the Pension Guidance Council or the High Council for the Financing of Social Protection, this council, attached to the Prime Minister, would be responsible for:

- Coordinating the provision of information needed to calculate unemployment benefit and to monitor jobseekers;
- Describe the prospects for unemployment insurance in the light of economic, social and demographic developments and assess the conditions required to ensure its financial sustainability in an annual report;
- Participate in providing information on unemployment insurance and the effects of the reforms carried out or envisaged in order to accompany its evolution and conduct a broader reflection on the coherence between the redistributive effects of unemployment insurance and the tax and benefit system as a whole.

This independent council would formulate its analyses and recommendations in reports to the Prime Minister, communicated to Parliament and to the single tripartite authority in charge of the implementation of unemployment insurance arrangements. Its reports would be made public. This High Council would create a shared consensus on the consequences of unemployment insurance, as well as the coordination of *ex-post* evaluations and all expertise. It would rely in particular on academic research, the services of the *Direction de l'animation de la recherche, des études et des statistiques* (DARES, Treasury Research, Studies and Statistics Division), *Agence centrale des organismes de Sécurité sociale* (ACOSS, Central Agency for Social Security) and the *Direction de la Sécurité sociale* (DSS, Directorate of Social Security), whose missions would be supplemented in this respect.<sup>36</sup>

**Recommendation 4. Establish a *Haut Conseil de l'assurance-chômage* (HCA, High Council for Unemployment Insurance) to co-ordinate and prepare all forecasts, studies and evaluations necessary for the development of unemployment insurance rules.**

While the governance of unemployment insurance needs to evolve in order to improve the coordination between the socio-fiscal system and employment policies, it would nevertheless seem desirable in the future to maintain an active role for the social partners in defining the rules of unemployment insurance. The social partners, in direct contact with employees and enterprises, are in fact better able to understand and raise the expectations of those working in the field.

The current system with a framework letter drawn up by the executive and followed by negotiations between the social partners has not led to the hoped-for coordination. It must eventually be replaced by a system in which the State can assert its imperatives of balance and coordination, while taking into account the opinions and preferences of the social partners. To this end, we propose the creation of *Conseil de négociation de l'accompagnement et de l'indemnisation des demandeurs d'emploi* (CNAID, Council for Negotiating Support and Compensation for Jobseekers).

**Recommendation 5. Develop the parameters of unemployment insurance and the organisation of support for jobseekers within a Negotiating Council composed of representatives of all stakeholders: private and public sector employees, employers, self-employed workers, the State.**

The aim of this new organization is:

- To ensure better coordination of the parameters of unemployment insurance with the entire social and fiscal system at the design stage;
- To ensure better coordination between the objectives and modalities of support and compensation;
- To ensure the participation of all parties concerned in the design and implementation of unemployment insurance arrangements, thus ensuring that all interests are represented in the reforms and that feedback from various points of view is provided in the monitoring of implementation;
- Clarification of the financing of unemployment insurance.

The balance of power within the CNAID is decisive. As such, two main scenarios can be considered:

- The state has the ultimate decision-making power and the social partners have an advisory role, joining the vast majority of OECD countries. The CNAID thus meets at the request of the State upstream of reforms relating to support and compensation rules. This scenario has

<sup>36</sup> In this respect, it should be stressed that despite the progress made, particularly with the generalisation of the nominative social declaration (DSN), certain problems remain in the management and transmission of data both from the point of view of the administrative needs of *Pôle emploi* and the expert work required to steer unemployment insurance.

the advantage of promoting the exchange of views of all stakeholders, while leaving the State considerable room for decision to ensure consistency between its economic policy objectives and unemployment insurance. However, it has the disadvantage of limiting the power and thus the responsibility of the social partners in the design and management of unemployment insurance;

- Power is shared in a balanced way, through vote-based decision-making rules, between the state, employee, employer and self-employed representatives (e.g. one third of the votes for the state, one third for employer and self-employed representatives and one third for employee representatives). The CNAID thus meets at the request of parties representing at least 30% of the votes. The rules on support and compensation for job-seekers are then set by a majority of votes. If an agreement is reached, it serves as a basis for preparing the articles of law submitted to parliament and for drafting decrees and orders. Only in the absence of an agreement is the State able to set the rules alone. This scenario limits the state's room for action. On the other hand, it has the advantage of better involving the intermediary bodies and thus facilitating the development of more consensual rules.

The new CNAID, drawing on the work of the High Council on Unemployment Insurance (see above), would draw up proposals on the parameters of unemployment insurance that would serve as the basis for legislative measures taken in the *Projet de loi de financement de la Sécurité sociale (PLFSS, Social Security Financing Bill)*. Indeed, in order to ensure the consistency of the entire socio-fiscal system, the rules proposed by the Council should be the subject of legislative proposals discussed in the Social Security Financing Bill.

### Recommendation 6. Integrate the unemployment insurance budget into the Social Security Financing Act.

The Social Security Financing Act would thus become the Social Protection Financing Act. It would include the main parameters governing unemployment compensation and would be completed by the necessary decrees for those aspects of regulation not covered by the law. This integration makes it possible to:

- To verify the effectiveness of the coordination between the parameters of unemployment insurance and the social tax system;
- To democratically control and legitimise decisions on unemployment insurance;
- Clarifying the financing of unemployment insurance, part of which has been financed from the state budget since November 2018;
- Better control the evolution of public expenditure as a whole.

This recommendation is in line with those of the Court of Auditors (*Cour des comptes*), which advocates integrating all social protection expenditure into a comprehensive finance law, incorporating not only social security expenditure, but also supplementary schemes and unemployment insurance.<sup>37</sup> The European Directive of 8 November 2011 is part of the same perspective. It states that “Member States shall put in place appropriate mechanisms for coordination between sub-sectors of general government in order to ensure the full and consistent integration of all these sub-sectors in budgetary programming, in the elaboration of country-specific numerical budgetary rules, in the establishment of budget forecasts and in the implementation of multi-annual programming”.

In conclusion, unemployment insurance reform cannot be limited to parameter adjustment. It must also profoundly modify its governance to better adapt to the current labour market. This *Note* suggests ways to achieve balanced and effective governance. ●

<sup>37</sup> Cour des comptes (2014): *La situation et les perspectives des finances publiques*, Report, Chapter VI.



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