

# GROWTH AND ECONOMIC ACTIVITY BILL

Press kit  
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## Growth and Economic Activity Bill

**The Growth and Economic Activity Bill is a wide-ranging piece of legislation designed to stimulate growth, investment and employment.**

The Bill has three sections. The first is entitled **Lifting restrictions**, because unnecessary constraints are keeping France from getting back on track. This Bill is not about the regulated professions or Sunday trading. Rather, it seeks to unlock growth potential and economic activity by removing – in a very down-to-earth manner – a series of roadblocks in a wide range of sectors. The second section is called **Investment**, because our economy needs investment to really take off. We need to maintain France's high-quality infrastructure, we need housing and, in order to modernise, we need production-oriented investment. Finally, the third section is entitled **Work**. Job creation must be our number one priority. We will never achieve the goals set out in this Bill without the support and the work of everyone who will benefit from it – France's young people most of all. Therefore, it introduces reforms to certain parts of the labour market, including Sunday trading.

**This Bill is designed to foster economic activity**, not to put anyone at a disadvantage. Under its provisions, a great many sectors, including the regulated legal professions, retail trading and coach transport, will be opened up and streamlined. It provides for reforms in a number of areas, such as regional development, insolvency proceedings, industrial tribunals and employee shareholding. It also introduces greater transparency (which is needed to keep our economy in good shape) with respect to fees charged by regulated professions and motorway operators. Finally, it will boost financing for the economy through investment. Here the idea is to sell off some of the government's shareholdings and put the money into priority areas for investment, streamline and redirect employee savings, and improve employee access to shareholding.

**This Bill will also introduce tangible and rapid improvements to the daily life of French citizens.** To this end, once it has been voted on, the Minister will have the orders it provides for – and which are ready – adopted as quickly as possible (the majority within a timeframe of four months). The same will apply to their implementing decrees which are currently being drawn up. By next summer, the fees of the regulated professions will be able to be adjusted downwards, there will be greater transparency regarding toll roads and motorway concessions, industrial tribunal proceedings will be speeded up, new coach routes will run across France and a great deal of red tape will be cut for businesses and households.

**These are all concrete reforms which will very rapidly affect daily life. In addition to bolstering economic activity, they are designed to help restore confidence and hope.**

**The Bill is aimed at the marginalised members of society**, young people, outsiders, the most vulnerable, those who do not, at the moment, enjoy the same economic opportunities as the most privileged for whom everything is always much easier. For these people, the Bill will introduce, consolidate or uphold a number of real entitlements. These include the ability to travel throughout France, as this should not be the preserve of the most advantaged, the right to carry on the profession for which they have been trained and to set up shop anywhere, and access to cheaper goods and services by increasing the retail offering and making fees of the regulated professions more transparent.

The Bill fights vested interests and is progressive and forward-looking. It will give a second, or even third, chance to those who did not know how, or were unable, to act the first time around.

It promotes transparency and streamlining, and caters for those whom the system has left behind. In a nutshell, it is an authentic socially-oriented Bill.

The Bill is resolutely in step with the times and it addresses the actual issues with an eye to bringing about real change. It is not divisive or conflictual and it does not stigmatise. It occupies the middle ground between what should be kept and what needs to be altered.

Lastly, the Bill does not close doors but opens windows, and it will do credit to the Parliament's majority.

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# LIFTING RESTRICTIONS





## Reviewing fee schedules for regulated legal professions

The Growth and Economic Activity Bill introduces a new basis for setting and reviewing the rates charged by regulated legal professions. The aim is to bring rates down by adjusting them to the costs actually borne by legal professionals. New fee schedules will be set by decree in 2015, after the government has conferred with the Competition Authority, whose powers are to be expanded.

### STATE OF PLAY

The rates currently charged by administrateurs judiciaires (official receivers), commissaires-priseurs judiciaires (auctioneers), greffiers de tribunaux de commerce (commercial court clerks), huissiers de justice (process servers), mandataires judiciaires (trustees in bankruptcy) and notaires (notaries) are set by the State.

**As the rules for setting them were in many cases established long ago** (for notaries in 1978, for receivers and trustees in 1985, for process servers in 1996), some of the fees paid by citizens and businesses no longer have any relationship to the costs actually borne by those professionals.

For example, a notary's fees on the sale of a 100 sq. m. house in Clermont-Ferrand almost doubled between 2000 and 2012, going from €1,039 to €1,938<sup>1</sup> reflecting a proportional increase in property prices, but not any change in the cost of providing the service.

A few figures should illustrate this point:

- Property prices increased by 253% between 1996 and 2013 on sales of older homes
- The number of property transactions and conveyances went from 500,000 sales of older units in 1992 to over 800,000 in 2012

### MEASURES

#### REVISION OF THE RULES FOR SETTING RATES

Four principles will guide the process of setting rates:

**Principle 1 – Reasonable margins.** At the behest of the Minister for the Economy, the Competition Authority will be issuing an opinion in early 2015 on margins in common practice among legal professionals and recommending that rates be brought more into line with actual costs.

**Principle 2 – A rate band.** The regulated rates for routine services (e.g. low-value

property purchases, affidavits) will set a ceiling not to be exceeded, as they currently do, but reductions may also be negotiated down to a pre-established floor to prevent dumping. This measure will help lower rates, particularly once additional notary offices open as a result of less stringent rules for setting up shop.

**Principle 3 – Solidarity.** On the largest transactions, notaries may still charge proportional rates (to be capped by decree) to offset the obligation for the profession to perform routine services either free of charge or for rates that lag

1 According to the Inspection générale des finances (Inspectorate General of Finance), based on statistics collected by the Conseil supérieur du notariat (the representative body for notaries).

behind their actual cost (based on the principle of internal equalisation).

**Principle 4 – Periodic review.** Rates will be periodically reviewed to guarantee that fees charged are related to the costs borne by professionals.

**Principle 5 – Transparency.** Once the law authorises negotiations over fees, legal

professionals will be required to display their rates.

The Competition Authority will be granted expanded powers to advise the Government on rate-setting. It may issue opinions on regulated rates, either at the request of the Minister for the Economy or on its own initiative.

## GOALS

**Reduce the fees paid by individual and business clients** – Once reasonable margins have been set, rates will go down.

**Ensure greater transparency for clients** – The rates charged will more adequately reflect actual service provided and will not exceed the level required to cover the professional's costs plus the equalisation amount.

**Guarantee fair compensation for legal professionals** – New rate schedules will be established on the basis of objective criteria and will include an equalisation system.

**Encourage legal professionals to become more efficient**, above all by investing more and organising their work more effectively.

## Making it easier for legal professionals to set up shop

The Growth and Economic Activity Bill simplifies the procedure for opening a legal professional's office.

### STATE OF PLAY

A variety of legal professions (e.g. notaries, process servers, auctioneers, trustees in bankruptcy) are currently subject to de jure or de facto restrictions to entry, referred to in France as *numerus clausus*. **What this means is that a professional who wants to set up shop must either purchase an existing practice or join one as a partner.** New office openings are extremely uncommon, and for decades they have failed to keep pace with either population growth or the rise in the number of legal graduates entering the job market.

#### CONSEQUENCES

##### Limited service available

**There are fewer and fewer legal offices, although the number of legal formalities required has risen from year to year as the population has grown.**

France's population has increased by 10 million in the past 30 years, and yet:

- The number of notary's offices has declined by 600 in less than 25 years (from 5,134 in 1981 to 4,564 in 2014), even as property sales have increased significantly in number and in value (by over 250% between 1998 and the present)
- The number of process server's offices has decreased by 18% since 1980. Closings in rural areas have not been offset by an equivalent increase in the number of new offices in urban areas, where there is higher demand for their services.

##### Regional disparities

As a result of such restrictions to entry, an adequate service offer is no longer available across the entire country.

For example, the ratio of notaries to population varies by a factor of four, with no correlation to economic activity. The Paris area is among the regions with the lowest ratios, although it has the highest level of economic activity as well as the highest property prices and transaction volume. **There are currently 4 offices per 100,000 inhabitants in the Paris area (Paris, Seine-Saint-Denis, Val-de-Marne), versus 12 in the Aveyron département.**

##### Unequal access

The limited supply created by the existing rules has made it increasingly expensive for newcomers to set up shop. Because offices are either inherited or sold off to the highest bidder, professionals with insufficient capital are effectively kept out of the market.

##### Impediments to career growth, particularly for women

**Due to existing restrictions, many professionals find it impossible to achieve partner status.** They spend years as mere employees, often performing work similar to that of partners, but for much lower pay (the ranks of the salaried notaries tripled between 2005 and 2012).

This is particularly true of women:

- 80% of all notaries who are public officers are men, whereas 84% of the employees are women

- 80% of all auctioneers who are public officers are men, whereas 56% of the employees are women
- 73% of all process servers who are public officers are men, whereas 72% of the employees are women

### **The greying of legal professions**

The current setup has created a “demographic wall” that France will hit within 5 to 10 years. It is therefore essential to set about facilitating the opening of offices and creating new firms immediately.

- The average age for notaries is 49
- The average age for auctioneers is 53
- The average age for process servers is 49

## **MEASURES**

Tomorrow, a salaried notary or a process server with a diploma will be in a position to choose between buying an existing office’s goodwill, as is common today,

and opening their own office and building up their own client base, either alone or in partnership with other professionals.

## **GOALS**

**Promote equal opportunity and mobility within the profession, in particular for young people and women.**

**Ensure national coverage that matches local needs more adequately.**

**Encourage the development of more innovative service offers to meet the**

**needs of businesses and the population more effectively.**

**Create jobs,** both for legal professionals themselves and in useful support functions (e.g. human resources, accounting, secretarial work).

## Broadening the scope of representation for lawyers to an entire appellate jurisdiction

Lawyers in France are only allowed to represent their clients officially in a specific tribunal de grande instance (TGI – court of first instance). This power of official representation is referred to as postulation. The Growth and Economic Activity Bill extends the principle of territorial monopoly governing lawyers' postulation rights to encompass an entire appellate jurisdiction.

### STATE OF PLAY

Postulation is full and binding legal representation of a party in a given jurisdiction. **In concrete terms, the lawyer acts on behalf of his or her clients in a specific jurisdiction by preparing documents and carrying out actions required for their claims.**

Lawyers are currently free to plead anywhere in France. **However, their role in postulation is still subject to a territorial monopoly.** A lawyer may only "postulate" before the court of first instance (TGI) of the bar to which he or she is admitted and in the court of appeals above that TGI.

### CONSEQUENCES

#### **An illogical, economically inefficient system**

This situation leads to a number of incongruities. A lawyer retained to plead before a TGI other than the TGI of the bar of which he or she is a member, even if it is only a few dozen miles away, is required to have a "local lawyer" prepare the necessary procedural documents.

For example, a member of the Saint-Malo bar is not allowed to postulate in the TGI in nearby Rennes, nor is a member of the Annecy bar in the TGI in nearby Chambéry.

#### **A dual expense that decreases the client's disposable income**

**The client therefore has to pay two lawyers:** one who pleads in court, presenting the facts of the case, and another who "postulates", taking the necessary procedural steps. The latter's remuneration is based on a regulated local rate involving a combination of fixed fees and proportional fees. But rather than being calculated as a percentage of the settlement amount ultimately set by the judge, the proportional component is equal to a percentage of the initial claims, which may be extremely high.

#### **An outmoded system**

All lawyers admitted to the bar of a given court of appeals may appear directly in that court, but they are not allowed to do so before the TGI in the same jurisdiction.

## MEASURES

The Growth and Economic Activity Bill will not undermine the postulation monopoly held by lawyers, who will continue to be the only ones with the right to carry out formalities for their clients.

**It will, however, broaden the territorial scope for postulation** to encompass an

entire appellate jurisdiction **by allowing lawyers to plead before all TGIs within this jurisdiction.** At the same time, while rates will no longer be regulated, lawyers will henceforth be required to provide a written fee agreement before taking on a case.

## GOALS

**Reduce expenses for citizens.** A 30% decrease in litigation costs would save litigants a total of €43.2 million annually.

**Enhance the transparency of fee information** provided by lawyers to their clients.

## Creating a new company lawyer status

The Growth and Economic Activity Bill creates a new company lawyer status that ascribes legal privilege, or attorney-client privilege, to lawyers in the work they perform for companies.

### STATE OF PLAY

Legal professionals today can only work for companies as salaried staff members. Likewise, a lawyer who wishes to work for a company must give up his or her status as a lawyer and become a mere salaried legal professional.

In many countries, several of them in Europe (Germany, Spain, the United Kingdom), opinions and analyses are issued by legal professionals with the special status of company lawyer. **A company lawyer is at one and the same time a lawyer providing independent analysis and an employee of a company. The professional confidentiality rule applies to his or her legal opinions. More importantly, this status allows company lawyers to take part in exchanges of confidential information with other lawyers in connection with their work for a company.**

### CONSEQUENCES

The current non-existence of a company lawyer status places French companies at a disadvantage. **Companies' opinions**

**are in no way protected and cannot be included in negotiations or discussions carried out by lawyers representing companies.**

In addition, the lack of company lawyer status in France makes companies **less inclined to have in-house legal professionals** draft memorandums, because they fear that such documents may be used against them in legal proceedings.

Lastly, this state of affairs may render **foreign business partners and subsidiaries somewhat wary in their dealings with a French company's legal department.** In extreme cases, it may even induce companies to relocate their legal departments to countries that offer company lawyers adequate protection (e.g. Germany, Denmark, Spain, the United Kingdom, Sweden). The outcome is that the entire value chain in France gets penalised, as legal departments shifted abroad tend to make use of non-French lawyers and legal professionals.

## MEASURES

**A company lawyer status that extends counsel-client privilege to opinions and documents produced by lawyers will be established.**

- A company lawyer must either hold a CAPA professional lawyer's certificate or have at least five years of experience working as a legal professional for companies

- He or she must be admitted to the bar on a special company lawyers' list
- He or she is required to uphold the code of ethics and professional responsibility for lawyers
- He or she must work exclusively for a specific company
- He or she is prohibited from having his or her own clientele and from pleading in court

## GOALS

**Create new vistas and greater career flexibility for junior lawyers.** Holders of the CAPA professional lawyer's certificate will be in a position to choose between joining a law firm and working for a company, with the option of shifting easily between the two while remaining members of the bar. Roughly 25% of all young holders of the CAPA certificate join the salaried staff of companies, as they are

unable to find employment in line with their qualifications.

**Offer companies new opportunities to enhance their efficiency, security and competitive strength.**

**Make France more competitive from a legal standpoint, both in Europe and beyond.**



## Offering legal and accounting professionals co-ownership opportunities

The Growth and Economic Activity Bill will create the basis for co-ownership between legal and accounting professionals.

### STATE OF PLAY

The current rules on becoming a co-owner of a firm in a regulated profession are highly restrictive:

- It is impossible for professionals to become joint owners unless they practice together within the same firm
- It is impossible to establish tie-ups among regulated professions operating in the same “family of activity”

The current system discourages inter-professional relations. It leaves few options open to professionals, particularly younger ones who are trying to get a start in their field. It makes it harder for them to invest, innovate and enhance their skills.

### MEASURES

**Authorise co-ownership by legal and to a lesser degree accounting professionals** (entitled to one third of voting rights at most).

For example, a lawyer and a notary will have the opportunity to become partners in the same structure, and therefore to make all-inclusive offers to their clients. **From the professionals’ standpoint**, such structures will be particularly advantageous in medium-sized cities. They will make it easier for junior professionals to get started and for company ownership to be transferred. Firms of this kind will be able to achieve critical mass faster and to maintain it afterwards. For businesses and individual clients, this change will mean more comprehensive service of the kind they often need.

**Authorise persons practising the same profession, but within different structures, to become co-owners of a *société d’exercice libéral* (SEL – professional practice).**

For example, a young notary who wants to open an office could take on a notary working for a different structure as co-owner.

**Authorise professionals in Europe with recognised qualifications who practise the same profession to become co-owners of a *société de participations financières de profession libérale* (SPFPL) – in essence a holding company that invests in regulated professional practices.**

## GOALS

**Encourage the creation of firms by facilitating access to new sources of funding.**

This change will give professionals opportunities to access additional resources that they can use to invest, hire staff, expand their premises and the like.

**Make it easier to open offices and enhance national coverage.**

Expanded co-ownership opportunities for legal professionals will foster more effective sharing of expenses and make it easier to open an office and maintain operations in areas with low population density.

**Broaden the range of services available to citizens and businesses by creating synergy among professionals within a single firm.**

**Encourage investment, particularly in on-line platforms.**

Co-ownership opportunities will give legal professionals the means and the resources they need to establish on-line platforms and gain a foothold in this promising new segment.

**Boost the influence of French companies in Europe.**

The additional financial and legal means available to French legal professionals will provide them with the resources they need to develop their work in Europe, together with their counterparts from other countries. Nationally-based firms will be in a position to compete with existing European organisations through external growth and thus to handle a greater volume of activity.

## Deregulating coach transport services

Opening up the operation of national coach routes, to provide French passengers with a transport service to supplement the use of trains and private cars.

### STATE OF PLAY

Today, 83% of journeys in France are by private car and 17% by public transport. The French use public transport less than their European neighbours (14.9% in France versus 16.7% on average). Aside from train and air travel, coach travel remains almost entirely dominated by transport authorities (at central government, regional, *département* and municipal levels), which determine routes and prices.

**The system is cumbersome and complex, and it limits the development of national routes.**

Since 2011, private-sector operators have been able to operate national routes as part of an international service, subject to three conditions:

They cannot offer intra-regional services

Journeys within France are authorised as part of a primarily international route provided that a) the proportion of passengers in the coach travelling within France is not more than 50% and b) journeys within France must account for less than 50% of the operator's revenue

After consultation with the local authorities, the Directorate General for Infrastructure, Transport and Maritime Affairs (DGITM) grants permission. The *Autorité de la Concurrence* (Competition Author-

ity) emphasises that the theoretical seven-month timeframe is often exceeded for national routes.

### CONSEQUENCES

**Coach travel accounts for a very small proportion of overall travel in France:**

Coaches carried around 110,000 passengers in 2013

They accounted for 0.0005% of total long-distance journeys

Trains (excluding TGVs) carry ten times as many passengers per day as coaches do in one year

Inadequate public transport services mean that the French use private cars more than other European citizens (83% in France versus 78% in Italy, which has a highly developed motorway system)

**Existing coach routes are at full capacity (e.g. Paris–Lille) and do not meet passenger demand because of the constraints that prevent their development.**

There is a real need. For example, getting from Clermont-Ferrand to Périgueux by train takes 5 hours, including one change. The same journey by coach would take around 3 hours.

To get from Bordeaux to Lyon, train passengers must change in either Paris or Tours. A coach route could connect Bordeaux and Lyon directly, with major economic benefits.

France is lagging behind other European countries in terms of intercity coach services, restricting the activity and mobility of the French people.

	Year of deregulation	Market characteristics
UK	1985	30 million passengers per year / 4% of long-distance journeys
Sweden	1999	2 million passengers per year / 5% of intercity journeys
Germany	2013	180% increase in the number of passengers in one year (8.3 million in 2013) A threefold increase in the number of coach licences

## MEASURES

The Growth and Economic Activity Bill allows **coach routes to operate across France**.

All efforts will be focused on the public interest. As regards intra-regional routes, the transport authority will be able to ban coach routes that would compete with public transport services (coach or regional express train). Such bans would be subject to the agreement of the new Rail and Road Activities Regulation

Authority (ARAFER), a successor to ARAF that will have extended powers. The new Authority will conduct an economic survey to determine whether routes would undermine a public service.

## GOALS

**Make it easier for French people to travel within France:** in a year's time, five million people could be travelling by coach annually.

**Make travel less expensive:** coach travel is cheap for its users, which is of particular benefit for young people. **On aver-**

**age, a coach journey costs half the price of a train journey** (based on the ten most popular coach routes). Coach passengers currently consist mainly of young people: half of all coach passengers are under 30. Coach travel will also appeal to people travelling alone and retired people.

Example: a return journey from Lille to Paris for four people, reserved two days in advance.

	Coach	Train
Journey time	3 hours	1 hour
Total price	€114 (-70%)	€396

After the initial build-up period, the opening-up of the coach sector will boost passengers' purchasing power by around €800 million per year.

**Expand economic activity in the sector and create jobs in France:** according to the Competition Authority, deregulating the sector could create some 10,000 jobs, mainly at local level.

### COACHES ARE NOT NECESSARILY MORE POLLUTING THAN TRAINS, AND POLLUTE MUCH LESS THAN PRIVATE CARS

Today's coaches must meet very demanding emissions standards and produce less CO<sub>2</sub> than private cars even when they are far from full (on average, when they carry eight passengers or more). The comparison with train travel depends on how full and modern the train is. By way of example, however, for regional routes, CO<sub>2</sub> emissions per passenger kilometre are around 30% lower for coaches than trains.

Since 1 January, all new coaches sold in France (and in Europe) must comply with the Euro 6 standard, which has sharply reduced emission limits, particularly particle emissions. As a result, particle emissions from today's coaches are half those in 2013, and one-thirteenth of the level seen in 2001.



## Strengthening regulations governing road activities

Improving governance of motorway tolls for the benefit of users, and of motorway works contracts. Allowing the opening-up of the coach passenger transport sector.

### STATE OF PLAY

#### MOTORWAYS

Motorway companies are authorised to collect tolls in return for financing, designing, building, extending, maintaining and operating their networks.

In 2013 and 2014, the *Cour des comptes* (Government Audit Office) and the Competition Authority noted a **sharp increase in toll prices** (for both individuals and companies) that was out of proportion to motorway companies' actual costs. According to their research:

- Toll prices have risen on average 35% faster than inflation – a **25% increase in ten years**. Consumer spending on tolls has increased **50% in nominal terms over the same period**.
- Motorway concession companies' turnover has continued to rise even in cases where motorway traffic has fallen sharply, solely because of toll increases

That situation is partly due to the way negotiations take place between motorway companies and the French government regarding amendments to concession contracts. Both the Govern-

ment Audit Office and the Competition Authority have concluded that **negotiations are too much in favour of motorway concession companies, to the detriment of users** and the government's financial interests.

As regards works contracts, the Competition Authority noted a **lack of transparency and checks on the way those contracts are awarded**, which could help explain why a large proportion of them are awarded to construction groups to which some motorway concession companies belong. The powers of the current *Commission Nationale des Marchés* (National Contracts Commission) are very limited compared with those usually given to a regulator.

#### COACHES

Private-sector intercity passenger transport is currently only authorised in very specific segments – such as national journeys forming part of an international route – and is subject to authorisation by the public authorities.

## MEASURES

The Growth and Economic Activity Bill expands the remit of the Rail Activities Regulation Authority (ARAF) – which is in the process of becoming the **Rail and Road Activities Regulation Authority (ARAFER)** – to include the regulation of the motorway sector and of regular road passenger transport services.

ARAFER's role will include monitoring price negotiations with motorway concession companies, and to ensure:

- **An improved framework and greater financial control regarding motorway investments** offset by toll increases. This will prevent motorway concession companies receiving excessive remuneration from investments that are not put out to competitive tender and will limit toll increases.
- **A more effective response to competition issues in the public works sector**, caused by the fact that most concession companies belong to construction groups, by **introducing a genuine regulatory framework** for

those companies' contracts, involving oversight by an independent regulator and a lower threshold above which work must be put out to competitive tender.

**ARAFER will also analyse the impact of deregulating coach routes** (inter-regional and intra-regional) and will be able to propose measures that allow transport authorities (at central government, regional or *département* level) to ban or limit intra-regional services if they expect that this will compromise the finances of a subsidised public service – such as a regional express train service. This will allow controlled expansion of coach services, ensuring that they do not threaten the economic equilibrium of a subsidised public service at the intra-regional level.

The cross-cutting powers granted to ARAFER by the Bill will enable it to perform audits and surveys, collect data and carry out any necessary research in the sector, as well as carrying out checks, investigations and taking action as it is entitled to do in the rail sector.

## GOALS

**Limit increases in motorway tolls for the benefit of consumers, individuals and companies, particularly road haulage companies.**

**Ensure that companies in the construction sector, particularly SMEs, have better access to contracts awarded by motorway companies by requiring more of those contracts to be put out to competitive tender.**

**Allow development of intercity coach services, while ensuring that they do not compromise the finances of a subsidised public service, i.e. a transport service on the same route within a given region.**



## Reducing the time and cost involved in obtaining a driving licence

The Growth and Economic Activity Bill addresses one of the measures announced by the government in June 2013 to reduce waiting times for B-licence driving tests.

### STATE OF PLAY

#### Excessively long waiting times for tests

Today's 1,300 driving licence and road safety inspectors are unable to provide enough practical B-licence tests to meet demand. The amount of time that an applicant has to wait between two tests has been rising constantly in the last few years.

Some figures:

- **Three months** (98 days) on average nationally in 2013
- **Five months on average** in certain *départements*, including the Île-de-France
- One and a half months on average in other European countries
- **Over one million applicants** for the B-licence test each year in France

#### Waiting times increase the cost of obtaining a licence.

Learning to drive is expensive. In France, it costs **€1,600 on average** to obtain a licence, and the figures vary widely. The cost is lower for those who choose accompanied driving or who drive an automatic car, for example (around €1,100), but can be much higher for those who fail their first test after traditional instruction.

Applicants facing a waiting time of several months are effectively forced to have a large number of lessons to maintain their level of driving ability. **For the 40% of applicants who fail their first test, the price of failure is around €200 per month until they are able to take their second test.**

## MEASURES

On 13 June 2014, the government announced plans to reform the entire driving licence system, to make it more accessible, modern and transparent. Together, the measures should reduce the waiting time for a driving test to 45 days in two years' time.

To achieve that objective, the reform aims to make examiners focus on B-licence tests, by allowing other authorised operators to provide highway code tests, and practical tests for certain HGV licences.

The Bill sets out the following conditions:

- Authorised operators must be able to show that they have the practical resources to organise tests, that they are impartial towards candidates and independent with respect to those who provide or market driving instruction services
- They must organise tests in accordance with the programme determined by the authorities, using examiners who meet minimum qualification and professional integrity standards
- Fees charged by authorised operators for sitting tests will be regulated by decree after approval by the Competition Authority
- Anyone may work as an examiner subject to the authorisation conditions set by the authorities, and authorisation may be withdrawn or suspended if examiners fail to meet their obligations

**Together, these measures will increase the potential number of B-licence tests by up to 170,000 per year, by reassigning examiners who previously provided other tests.**

## GOALS

**Reduce waiting times for driving tests and thereby cut the cost of obtaining a licence.**

- Driving test waiting times: for every month the waiting time is reduced, an applicant saves €200 on average
- Waiting times for retaking the test: reduced to 45 days in two years' time

**Make it easier to obtain a licence in order to increase social and professional mobility.**

Mobility remains crucial for people wanting to start work, and is therefore a major issue. Having a driving licence is a recruitment criterion for 65% of employers.

### **GENERATE ECONOMIC ACTIVITY**

The measure will generate economic activity by opening up a new area of activity to the private sector.

## Increasing retail planning expertise to remove obstacles to competition and give consumers more choice

The Growth and Economic Activity Bill will remove one of the obstacles to competition arising from retail planning rules, by extending the Competition Authority's remit.

### STATE OF PLAY

Currently, the location of shops depends on local planning rules, along with specific retail planning procedures including approval by retail development committees at *département* and national levels. Those rules are produced by local elected officials and form part of plan-

ning documents, particularly PLUs (local planning policies) and SCOTs (regional consistency plans). They are intended to ensure harmonious development within a region while making that region more commercially attractive.

### PLANNING DOCUMENTS

- PLU (*Plan local d'urbanisme* - local planning policy)
- PLUI (*Plan local d'urbanisme intercommunal* - intercommunal local planning policy)
- SCOT (*Schéma de cohérence territoriale* - regional consistency plan)
- *Schéma de développement régional d'Île-de-France* (Paris region development plan)

### CONSEQUENCES

**Competition between retailers is sometimes insufficient.**

Efforts to develop local economies and improve retail offerings do not adequately take into account independent

analysis of consumer needs. **That situation means that local markets become focused on existing large stores, due to obstacles that prevent new players from entering the market but fail to benefit small town-centre retailers.**

### A DIVERSE RETAIL OFFERING PROMOTES PRICE COMPETITION

Consumer organisation UFC-Que Choisir has shown the effect of price competition by comparing two stores from the same group, both located in Marseille, but with differing proximity to rival retailers. At the store with no local competition, the price of the average shopping basket is 3.5% higher than the group average. At the store that has comparable rivals located nearby, the price of the average shopping basket is 1.9% lower than the group average. The price difference between the two stores is 5.4%.

### MEASURES

**The Growth and Economic Activity Bill gives the Competition Authority new powers to ensure that the location of stores supports fair competition and provides consumers with genuine choice.**

The Competition Authority, acting on its own initiative or in cases referred to it by the prefect or the Minister for the

Economy, may give an opinion on draft planning documents setting out rules for land use and the breakdown of retail space, before they are finally adopted. The Competition Authority will therefore be able to check that those documents will help maintain an acceptable level of competition. Its opinions will be made public.

### KEY FIGURES

**1.4**: the average number of shops per **1,000** inhabitants in France, compared with **2.6** in Europe.

The retail sector accounts for **11%** of France's GDP and employs almost **3** million people.

## THE STRUCTURAL INJUNCTION

The structural injunction is a new measure introduced by the Growth and Economic Activity Bill, supplementing provisions relating to retail planning. **It will enable the Competition Authority to force operators with over 50% of a given retail market to dispose of part of their business**, if such a disposal is the only way to restore effective competition and after major retailers with dominant positions in a given sector have made proposals to adjust their pricing policy or to reorganise their local operations.

## GOALS

**Give consumers the most diverse retail offering possible, thereby maximising price competition and the resulting increase in purchasing power.**

Allow new players to enter the market, promoting competition and innovation.

Allow suppliers access to a larger number of stores.

Resolve situations where regional-level dialogue has proved to be difficult.



## Meeting demand for middle-income social housing

The Growth and Economic Activity Bill aims to increase considerably the supply of middle-income social housing in France, in order to support the construction industry, make it easier and cheaper for middle-class families to find housing and reduce pressure on social housing.

### STATE OF PLAY

Middle-income social housing means rent-controlled housing for families whose incomes are too high to qualify for social housing, but too low to be able to afford or remain in private housing.

**There is an urgent need for this type of housing, and there are particular shortages in certain areas including the Greater Paris region.**

Various methods have been adopted to solve the problem. The French government's Order of 20 February 2014 introduced a new middle-income social housing regime.

Tax incentives – including a 10% VAT rate and a 20-year exemption from the TFPB developed land tax – were also introduced on 1 January 2014 to encourage the construction of such housing.

### MEASURES

#### MAKE INCENTIVES SIMPLER AND EASIER TO UNDERSTAND

The aim is to make the various measures adopted in support of middle-income social housing easy to understand and consistent, to encourage their use. Accordingly, the zoning condition applicable to the Order of 20 February 2014 will be removed. That condition came on top of the zoning condition provided for by tax legislation on middle-income social housing, and made the system harder to understand.

**Make the system more effective to ensure rapid growth in middle-income social housing**

The measures contained in the Bill, or to be taken under executive powers, will:

- Allow subsidiaries created by social housing organisations to build, manage and acquire middle-income social housing. They will be able to manage affordable housing through management contracts.
- Encourage growth in middle-income social housing by enabling towns to specify, within their planning documents, areas within which **permitted floorspace will be increased by up to 30% for these housing projects**
- Allow local authorities to implement local policies encouraging the development of middle-income social housing. Those responsible for administering government incentives for rented social housing will be able to

play a local role in allocating affordable housing incentives. Where requirements identified in local housing plans

justify it, they will be able to take part in creating this kind of housing.

### INCREASE PERMITTED FLOORSPACE

Through their planning documents, towns may decide to create districts within which building rights (i.e. the amount of floorspace permitted for a given area of land) are increased unilaterally and on a one-off basis by 30% for middle-income social housing projects.

### GOALS

- Support activity in the construction sector, which was particularly hard-hit by the economic crisis
- Make it easier for middle-class families to access suitable, affordable housing
- Remove obstacles preventing families from moving – some people are forced to turn down jobs that would involve moving house because they are unable to find alternative housing
- Create a less abrupt transition between social housing and private housing, with the aim of eventually reducing pressure on social housing



# INVESTMENT



## Stimulating investment and speeding up major projects to boost growth

### STATE OF PLAY

**Today, major industrial and urban development projects take far too long to complete**, because of complex regulations, such as the authorisations associated with building permits and the many environmental assessments required.

In order to meet project sponsors' expectations, and still maintain a high level of environmental protection, the Government has undertaken modernisation of environmental law as part of the simplification policy being monitored and driven by the Administrative Streamlining Board. Innovative experimental programmes involving a **single authorisation** for Installations Classified on Environmental Protection Grounds have been implemented for specified periods and parts of the country, and **project certificates** were initiated in 2014.

**The single authorisation**, particularly in the case of Installations Classified on Environmental Protection Grounds, is intended to coordinate the examination of applications and the issuance of a sin-

gle document covering all of the decisions that the government has to make when authorising such projects.

**The project certificate** is a guaranteed response issued within two months by the Prefect of the *département*. This document ensures that the economic partners in a given project will have a single point of contact in the administration. It gives a commitment about the required procedures and processing times. It also provides legal security in the form of guarantee that, with few exceptions, no changes will be made to the relevant laws in the 18 months following the issuance of the certificate and it gives access to preliminary administrative examination of applications for future authorisations.

**At the same time, the Honorary Prefect, Jean-Pierre Duport, has been holding discussions at the request of the Prime Minister on speeding up public-sector and private-sector projects relating to housing, urban development and spatial planning.**

### MEASURES

The Growth and Economic Activity Bill calls for:

- Empowering the Government to issue orders to implement the recommendations of the task force for speeding up projects led by Jean-Pierre Duport and the work on modernising environmental law overseen by the Minister of Ecology, Sustainable Development and Energy. In addition to speeding

up construction projects, the goal of the bill is to clarify and streamline the environmental assessment process and to continue reforming public participation in the process, in keeping with the principle of non-deterioration of acquired rights.

- Extending the use of the single authorisation for installations classified for environmental protection purposes to

the entire country for projects of major economic importance, extending the use of the project certificate to the Greater Paris Region for projects of

major economic importance and, following these preliminary extensions, introducing a single environmental permit

## GOALS

- Meeting the goal of issuing building permits within five months set by President Hollande
- Supporting the construction industry, which has been particularly hard hit by the crisis
- Speeding up and securing major growth-boosting projects, such as the Grand Paris project

## Developing employee share ownership and fostering an entrepreneurial culture

The Growth and Economic Activity Bill includes reforms of two employee share ownership schemes. The reforms are aimed at attracting and retaining businesses and talent in France by giving employees a bigger stake in the companies that employ them.

### STATE OF PLAY

Employee share ownership is a means of compensating employees for the risks taken by their companies. It reinforces employees' involvement in their employers' business by giving them a stake in the company's equity.

The founders' share warrants introduced by the Jospin administration enable young companies to give their employees the option to buy shares in their company, while distributions of free shares

give employees an equity stake in their company.

The purpose of the reforms is to encourage companies to give more of their employees a stake in the company, extending ownership beyond the most senior levels of management. The reforms should also make France more attractive for the most mobile international executives.

### FRENCH IT START-UPS

IT start-ups are high-growth companies, with average revenue increases of **43%** per year, and average international revenue growth of **100%** per year.

Start-ups' labour force: **22%** growth per year and **91%** of employees hired under permanent contracts.

Employee share ownership: **30%** of employees own shares and **90%** of start-ups offer shares to employees, which means that **46%** of the equity in start-ups is owned by their executives and employees.

An engineer or developer earns on average two times less in France than in Silicon Valley.

Senior executives earn on average **2** times more than their employees.

**Founders' share warrants are an instrument for employee share ownership that is specific to start-ups in the first two years of their lives.** It is a very attractive tax incentive for employee share ownership that targets start-ups' equity warrants. The incentive is available to listed and unlisted companies that are less than 15 years old, if they are valued at less than 150 million euros and at least 25% of their equity is owned by individuals.

**This incentive is attractive, but its effectiveness has been hampered because it is ill suited to the start-up life cycle.**

A start-up that owns a subsidiary cannot give the subsidiary's employees founders' share warrants. This creates inequality between the subsidiary's employees and those of the parent company. On the other hand, when a start-up is created through the merger of two start-ups that are eligible for the incentive, the new entity is not eligible.

And yet, **consolidation of start-ups through mergers and acquisitions is critical for the creation of new industry champions to drive growth and jobs.**

Therefore, the founders' share warrants scheme had to be reviewed to fit the real-world situation of start-ups and to help build industry champions.

**There are not enough free distributions of shares.** The Government's objective is to increase free distributions of shares in large companies, as well as in innovative and conventional SMEs, and to extend them to all employees. The way free distributions of shares work now undermines France's attractiveness, particularly for high-potential executives and for locating corporate headquarters in France.

**THEREFORE, THE BILL HAS TWO OBJECTIVES:**

- **Encouraging companies to implement employee share ownership policies for all employees and not just senior executives.** Such distributions will be exempt from employers' social contributions in the case of SMEs that have never paid dividends;
- **Reviewing the taxation of free distributions of shares to bring it into line with the rest of the French tax system.**

## MEASURES

The Growth and Economic Activity Bill will make employee share ownership more attractive for both employees and employers.

The Bill calls for start-ups to be able to attribute founders' share warrants to all of their employees, including those working in subsidiaries. The Bill also calls for start-ups created through mergers of other start-ups to remain eligible for this scheme.

The Bill aims to simplify taxation of free distributions of shares and to unify the tax rules on capital gains, which means adapting the social security contribution rules for employees. The changes to the rules on employers' social contributions on free distributions of shares will bring them into line with the rules for social

Changes affecting free distributions of shares

	Before		After	
Employees' taxes	Capital gains subject to income tax, with two separate categories (wages/capital gains on sales of securities)		Capital gains on free distributions of shares will be subject to the same tax rules as capital gains on securities	
Social contributions	For employees	For employers	For employees	For employers
	Special employee's contribution of 10% due when shares are acquired and collected when they are sold. Capital gains on acquisition of the shares are subject to the General Social Security Contribution and the Social Security Debt Redemption Contribution	Employer's contribution of 30% due when shares are distributed	Elimination of the employee's special contribution and application of the same social contribution rules for capital gains on acquisitions as for investment income	Employer's contribution rate cut to 20%, due on the date the employee acquires the shares, and introduction of a per-employee exemption from contributions for SMEs that have never paid dividends
Holding period requirements for SMEs that are less than 8 years old	Two-year minimum acquisition and holding periods.		One-year minimum acquisition period and two-year minimum acquisition and holding periods	

GOALS

- Giving employees a greater stake in the success of their company
- Supporting and accelerating development of the French Tech industry, which encompasses all of France's growth companies, which already account for more than two thirds of net new jobs
- Attracting and retaining corporate headquarters in France, along with the best talent





## Streamlining company savings schemes to expand their use for financing the real economy

The complexity of company savings scheme rules create inequality between people working for small companies and employees of large groups: only 10% of very small enterprises' employees have access to a company savings scheme, as opposed to 80% of employees in large companies. Furthermore, the total savings of 100 billion euros held by such schemes is not used adequately to finance the real economy.

### STATE OF PLAY

Company savings schemes allow employees to have a stake in the growth of their company and earn extra income, **which is to be used primarily for savings and not for immediate consumption**. The schemes may involve profit-sharing, share ownership or savings plans (company savings plans, intercompany savings plans, retirement savings plans).

**Some of these schemes are hard for employees and employers to understand**. There is a lack of harmonisation, which gives rise to inequality between

employees, since such schemes are very rare in smaller companies.

**Not enough of these savings is used to finance the real economy**, which is a key priority in the Government's policy to reform financing of the economy.

**After the steering body for company savings schemes and employee share ownership (COPIESAS) submitted its report to the Government on 26 November 2014, management and labour representatives met to discuss the findings.**

### MEASURES

#### DEVELOPMENT OF COMPANY SAVINGS PLANS HAS VARIED DEPENDING ON THE SIZE OF COMPANIES

In companies with more than **50** employees, **83%** of the employees have access to at least one form of company savings scheme. This figure drops to **20%** in companies with **10 to 49** employees and to **12%** in companies with fewer than **10** employees.

The Growth and Economic Activity Bill is intended to be the practical implementation of the company savings scheme reform that the President of the Republic announced at the Social Conference in July 2014. For this purpose, the Bill is based on the findings of the steering body for company savings schemes and employee share ownership (COPIESAS), which submitted its report to the Government on 26 November 2014.

The measures include:

- Simplifying, harmonising and expanding access to company savings schemes, particularly for people working in companies with fewer than 50 employees, but without undoing any of the specific features of the individual schemes
- Putting the more than 100 billion euros already held in such savings schemes today to work for the real economy.

The Bill presented to the French cabinet contains some preliminary measures to simplify company savings schemes.

They include alignment of some of the technical procedures relating to profit-sharing and employee share ownership:

- The timing of profit-sharing and share ownership payments will be aligned

- Setting up a company retirement savings scheme will now be possible with the approval of two thirds of the employees in companies with no union representatives or works committees. At present, only ordinary company savings schemes can be set up with the approval of two thirds of the employees in such companies.
- The procedures for tacit renewal of profit-sharing agreements will be simplified.

**In addition to these preliminary measures, the parliamentary debate on the Growth and Economic Activity Bill will result in further measures based on the findings of the COPIESAS report and the discussions now underway between management and labour representatives. As the Prime Minister announced at the Social Conference in July 2014, a cut in social security contributions to encourage the expansion of company savings schemes in smaller companies and the use of such savings to finance the real economy is now under consideration and should be included in the Growth and Economic Activity Bill when it is debated by Parliament.**

## GOALS

- Expanding company savings schemes, especially for employees of smaller companies who currently have little stake in the growth and success of their companies
- Putting the large amounts of such savings to work for the real economy

## Improving management of government holdings

Enabling the government to finance its priorities through active management of its holdings, which means through the sale of such holdings

### STATE OF PLAY

The government provides a great deal of financing for French companies through its equity holdings in 74 companies in such varied sectors as aerospace, defence, transport, services and broadcasting. Its equity portfolio is valued at some 110 billion euros.

**The government's equity portfolio should be put to work to boost growth and economic activity.** For this purpose, the government should be able to sell

off some of its holdings to free up capital that can be used to pay down debt and invest in new growth sectors.

This is the purpose of the active management policy for government holdings announced during the cabinet meeting on 2 August 2013. **Putting government capital to work for French companies is a rightful use of such resources and an economic policy instrument that the government intends to apply.**

### MEASURES

The Growth and Economic Activity Bill contains measures concerning the use of the government's holdings. There are three series of measures.

#### **Supporting the industrial development of public-sector firms**

The Bill contains provisions for supporting the industrial development of certain public-sector firms.

More specifically, it authorises the Government to implement the **planned business alliance between the French government-owned firm Nexter and the German company KMW**. This plan was announced on 1 July 2014. It will create a European leader for land-based weapon systems, that combines the com-

plementary expertise and know-how of the two companies and gives them the critical mass to ensure the growth of their exports. The transaction will create a dynamic that aims to reproduce the success that the Airbus Group has achieved in the aerospace sector in the land-based sector.

#### **OPENING UP THE CAPITAL OF CERTAIN GOVERNMENT-OWNED COMPANIES**

By selling equity in certain companies, the government will free up resources for paying down debt and investing in new growth sectors, and also attract new shareholders with strategies to expand business, investment and employment.

### WHICH COMPANIES ARE CONCERNED?

The authorisations to sell equity concern the Lyons and Nice-Côte d'Azur Airports. These authorisations enable the Government to sell shares in these companies, when the time comes, in conjunction and in consultation with the local authorities concerned.

### CLARIFICATION OF THE GOVERNMENT HOLDING REQUIREMENTS FOR GDF-SUEZ

The Act of 29 March 2014 on reconquering the real economy authorised the government to reduce its holding in GDF-Suez below the threshold of one third of the voting rights in view of the possibility of acquiring double voting rights. These provisions will be supplemented to ensure their full implementation.

#### MODERNISING AND SIMPLIFYING THE RULES FOR GOVERNMENT INTERVENTION

The Order of 20 August 2014 on the governance and corporate financing of government-owned companies will be ratified and supplemented with some measures to modernise and simplify the rules on government equity holdings.

More specifically, government-owned companies in which the government decides to sell its shares on the financial market will be required to put a resolution to the general meeting of shareholders on making an offer of shares reserved for employees in order to promote employee share ownership.

### GOALS

- Modernising management of government holdings to implement the new policy on government share ownership
- Enabling the government to sell some of its holdings to pay down its debt and finance its priorities, such as investment in strategic companies (as it did for PSA Peugeot-Citroën and Alstom)

WORK



## Easing restrictions on Sunday and evening work

Reconciling economic efficiency and social justice by allowing retailers to open on Sundays in places in which this stimulates economic activity, whilst at the same time making the system fairer by requiring all companies, irrespective of their size, to compensate their employees who work on Sundays adequately for that work. Until now, no such requirement existed in more than 600 tourist areas open on Sundays.

### STATE OF PLAY

Shops which open for business on Sundays are currently the exception to the rule. There are three types of exception: permanent sector-specific exceptions, exceptions subject to municipal or prefectural authorisation and regional exceptions.

**Permanent sector-specific exceptions:** these cover the retail food trade, with stores permitted to open on Sunday mornings until 1pm. They also include businesses important to daily life or that meet the demands of industrial production: hotels, cafés and restaurants, florists, home furnishing stores, the entertainment industry, public services, and energy and industrial services provided around the clock.

**Exceptions subject to municipal authorisation:** these exceptions are known as 'dimanches du maire' and are granted at the discretion of the local mayor, by municipal order or – in the case of Paris – by order of the Prefect, for a maximum of five Sundays each year.

**Tourist areas and Special Consumer Zones (PUCEs):** there are 640 tourist areas and 31 PUCEs in France. In the tourist areas, companies may employ their staff on Sundays during peak periods. Employers may require their staff to work on Sundays and no provision is made for increased pay. Airports are also open. In PUCEs, employees must volunteer to work on Sundays. They receive double pay and are entitled to an equivalent amount of leave, except where a collective agreement provides for alternative entitlements.

### CONSEQUENCES

**The current system causes a loss of business activity that is harmful to the economy and creates a serious disparity between employees who earn extra compensation and those who do not.**

**A net loss of economic activity in certain areas (with many tourists opting to spend the weekend in London rather than in Paris, for example) and, in addition, competition from online retailers who are open all the time (for instance, Amazon generates 25% of its turnover on Sundays).**

**There is inequality between areas in which adequate compensation for Sunday work is a requirement (PUCEs, for example) and those in which it is optional (tourist areas).**

**The system is ill-defined and extremely complex.** Legislation currently in force has increased the number of exceptions and types of area (retail or tourist), thus triggering:

Problems of competition between those businesses permitted to open and those that are not (due to the sector in which they operate or geographical boundaries)

#### **Difficulties in monitoring trading**

Uncertain legal arrangements due to a lack of clear and coherent legislation and different regional rules from one area to the next (for example, the whole of Bordeaux is a tourist area but in Paris only a few streets are).

## MEASURES

The Growth and Economic Activity Bill is largely based on the Bailly report, which was presented to the Government in August 2013.

### **Sunday trading will remain the exception, but restrictions will be eased by:**

Allowing mayors to authorise retailers in their municipalities to open on twelve Sundays a year rather than the current five

Guaranteeing that each retailer will be permitted by law to trade on five of those Sundays, to be chosen by the mayor

Creating international tourist areas in which Sunday and evening trading will be possible throughout the year in those places in which this may be justified on the basis of specific criteria. This will extend to areas that attract high numbers of tourists and railway stations for which Sunday and evening work will mean the creation of thousands of additional jobs.

### **Sunday working will be made fairer:**

- From now on, all employees working on Sundays shall receive adequate compensation for that work, irrespective of the size of the company. Until now, no such requirement existed for France's 600 tourist areas.
- No person shall be required to work on Sundays against his or her will, because the voluntary nature of such work will be a prerequisite for the retailer to open. If there is no agreement (at sector, region or company level) on the voluntary nature of such work or on the level of adequate compensation paid to employees, the store will remain closed.
- All retailers already permitted to open under the current scheme will have three years from the effective date of the new legislation in which to negotiate agreements with their employees if such agreements do not already exist.

## GOALS

**Stimulate economic activity.** Thanks to the new life that it will breathe into the locations concerned, the opening of shops on Sundays, and in the evenings in the international tourist areas, will stimulate economic activity through an increase in consumer spending and incidental expenditure (dining, entertainment).

**Eliminate inequality between Sunday workers.** All workers in the areas in question, including tourist areas, will be entitled to adequate compensation, to be negotiated between employers and their employees.

**Facilitate daily life.** To allow those who do not have the time to do their shopping during the week to do it at the weekend, whilst still respecting the principle of a rest day that is conducive to family and social life.

**Support the tourism industry, an asset for French competitiveness.** Tourism is a major industry in the French economy. We must allow shops to open on Sundays in tourist areas to enhance France's appeal.



## Reforming the labour court system

The industrial tribunal system is a burden for far too many employees and managers of SMEs, and must be made more efficient, simpler, easier to understand and more effective.

### STATE OF PLAY

**Industrial disputes are not being settled quickly enough:**

- The average time taken by an industrial tribunal to deal with a dispute is increasing year on year (6.3 months longer than 13 years ago) and is currently more than 15 months. It can even take as long as 29 months if the case is referred to a professional judge.
- The appeal process takes on average 16 months

**The current procedure is unsatisfactory in qualitative terms:**

- The average rate of conciliation is just 6%
- 20% of cases are ruled on by a professional judge (32% in Paris and 25% in Bordeaux)
- The average appeal rate of cases is 65%
- Rulings are reversed in 71% of appealed cases (in 30% of those cases, the ruling is reversed in its entirety)

### MEASURES

**The Growth and Economic Activity Bill will reform the industrial tribunal system, making it simpler, more efficient, more transparent and more effective.**

**The industrial tribunal system will be improved** by providing better initial and ongoing training to officials working within the system; such training will be mandatory. In addition, the obligations of professional conduct imposed on officials will be more stringent and there will be a major overhaul of the disciplinary procedure. These measures will lend greater authority to the rulings given.

**The deadlines for the settlement of disputes will be significantly reduced** and

made subject to limits from as early as the conciliation phase – a smaller adjudication panel must rule within three months. Furthermore, it will be possible to speed up the procedure considerably by passing from the conciliation stage directly to a hearing by a professional judge.

Disputes will be joined when it is in the interest of the proper administration of justice for proceedings pending before several industrial tribunals falling within the jurisdiction of the same court of appeal to be decided jointly.

## GOALS

- To ensure that rulings are given much more efficiently
- To improve the quality of the rulings given through better training and by applying a more stringent code of conduct applicable to officials working within the industrial tribunal system
- To improve the representation of employees and employers in proceedings before industrial tribunals.

## Providing greater protection for insolvency proceedings

Doing everything possible to enable companies experiencing financial difficulties to continue to do business with a view to protecting as many jobs as possible. Streamlining the commercial courts' handling of cases involving the largest companies.

### STATE OF PLAY

At present, the outcome of a good many compulsory receivership proceedings is that companies in financial difficulties are liquidated, stripped of their assets or forced to lay off their employees because the shareholders are unable or unwilling to provide the financing needed to save the business, even when the company could have genuine prospects of recovery.

The liquidation of the company is the worst scenario not only for the employees, the business and the means of production, but also for creditors, both public and private, who lose their entire

investment, and for employees lose their jobs.

Our current legislation enshrines the principle of shareholder primacy for the purpose of protecting ownership rights, even when such primacy leads to the destruction of the company, jobs and other rights, such as creditors' rights.

Furthermore, troubled companies with a number of subsidiaries would benefit from being dealt with jointly before the same court, so that an overall solution may be found which best protects the business and jobs.

### MEASURES

The Growth and Economic Activity Bill gives the court the option, as a last resort, of requiring the people who control a company in financial difficulties to sell their shares to people putting forward a viable plan to rescue the company and protect jobs. There will be more balanced discussions between creditors, employees and shareholders. The rights of shareholders will be defended subject to strict and specific conditions relating to the financial difficulties of the company and will be placed under the control of the court. In return, the new

shareholders will have to draw up and finance a plan that offers the company a new opportunity to continue its business and protect as many jobs as possible.

The Bill also creates specialist commercial courts to deal with large companies experiencing financial difficulties. This gives French companies a better chance of survival and improves the prospects of protecting jobs. The companies concerned will be few in number, but will include SMEs and large mid-tier companies.

## GOALS

- Provide greater opportunities for a company to continue its business and retain its employees even if it is facing financial difficulties
- Improve the courts' management of cases involving large companies in financial difficulties

## Reclassifying the offence of obstruction

As set out in the speech made by President Hollande to the Strategic Attractiveness Council on 19 October 2014, the criminal penalties attached to the offence of obstruction of the functioning of the bodies representing employees' interests will be replaced by financial penalties.

### STATE OF PLAY

In the case of an employer, the offence of obstruction consists of undermining the exercise of trade union law, the designation of bodies representing employees' interests (staff representatives, trade union representatives, representatives of the trade union section, European Works Council, group-level works council, company-level works council, Health, Safety and Working Conditions Committee) or the performance of the duties and role of employee representatives.

#### Examples:

- Failing to provide access to information which must be supplied to employee representatives by law
- Failing to call employee representatives to meetings with due notice

**Size of penalty.** The offence of obstruction is currently punishable by one year's imprisonment and a €3,750 fine.

### MEASURES

The penalties for the offence of obstruction of the functioning of bodies representing employees' interests will be reviewed to:

- **Remove the prison sentence for the offence of obstruction.** This sentence

is hardly ever applied, but may deter foreign investment

- **Replace it with financial penalties that provide a sufficient deterrent**

### GOALS

- Improve France's appeal

- Modernise legislation





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