

'ORDONNANCE' ON "THE NEW ORGANISATION OF SOCIAL AND ECONOMIC DIALOGUE AND ENCOURAGING THE EXERCISE AND IMPORTANCE OF TRADE UNION RESPONSIBILITIES"

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Legal Briefings - By **Emma Röhsler** and **Sophie Brézin**

CONSOLIDATION OF THE EMPLOYEE REPRESENTATIVE BODIES - THE NEW SOCIAL AND ECONOMIC COMMITTEE AND ITS ROLE

This briefing summarises the Macron reforms to works councils and other employee representative bodies.

The current position

There are three types of employee representative bodies: works councils, personnel delegates and a health and safety committee - each with a different role.

Companies with 11 or more employees on average each month for 12 months over 36 months must organise elections amongst the employees for the election of personnel delegates. Where the company has 50 or more employees on average (using the same test), the employer must organise elections for a works council and put in place the health and safety committee.

At the time of elections for a works council, it is possible for companies with under 300 employees to specify that two or three of the employee representative bodies are combined into a single representative body (*délégation unique du personnel*).

The reforms: the introduction of the social and economic committee

Each company will now have only one employee representative body – to be known as the social and economic committee (*comité social et économique*). This will mean that for all companies, the employer only has to organise one set of meetings with the employee representatives to cover the mandatory subjects for which they have a mandate.

The test governing the trigger for when such body must be put in place is slightly changed – where the company has an average of 11+ employees on average over 12 months, the employer must organise elections for the social and economic committee.

The trade union delegations (*délégués syndicaux*) remain separate, although can opt to integrate the social and economic committee.

The role of the social and economic committee

[Click here to see a summary of the role of the social and economic committee.](#)

Information and consultation periods

The *ordonnance* repeats the current position on timing of consultation i.e. that the social and economic committee must be provided with a sufficient time period to give its opinion and must be provided with detailed information by the employer in relation to the matter on which it is consulted.

The *ordonnance* confirms that a decree will fix the maximum consultation periods – at the end of such period, the social and economic committee is deemed to have given its opinion and the employer can proceed (as is currently the case). A collective agreement may however be entered into to derogate from these maximum periods or provide a shorter period

The maximum time period can be extended by order of a Judge – but only if the Judge's decision is made before the expiration of the initial period (the Judge must give his or her decision within 8 days of the claim)

We will publish an update briefing once the decree setting out the maximum consultation periods is available. As a reminder, the current maximum periods are:

- One month, where no expert is nominated
- Two months, if an expert is nominated
- Three months if the health and safety committee must also be consulted

- Four months if a combined health and safety committee must be consulted

Employees and workers represented by the social and economic committee

The type of individuals covered by the social and economic committee is expanded to also cover the following, in addition to employees of the company:

- all workers (as defined by article L.4111-5 of the Labour Code, in relation to health and safety and working conditions)
- employees from external companies not reporting directly to the company
- temporary workers, in relation to remuneration and working conditions

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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