



International  
Labour  
Office



THE STATE OF APPLICATION OF THE PROVISIONS  
FOR SOCIAL SECURITY OF THE INTERNATIONAL  
TREATIES ON SOCIAL RIGHTS RATIFIED BY

# France

ILO  
TECHNICAL  
NOTE



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## Outline

CHAPTER I. Adequacy of social security benefits: income and poverty indicators and standards

CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits

CHAPTER III. Integrated Management of compliance and reporting obligations of France under social security provisions of the ratified international treaties on social rights

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

**List of international abbreviations:**

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

**National abbreviations:**

Pôle Emploi	Public employment service
CMU	Universal Health Coverage
ASPA	Non-contributory old-age pension
RSA	Active solidarity revenue
ASS	Specific solidarity allowance
PACS	Civil solidarity agreement
PPAE	Personalized project of access to employment
ORE	Reasonable job offer
CDAS	Social Assistance Committees of the <i>départements</i>
CCAS	Central social assistance committee
ANESM	National Agency for the Evaluation and Quality of Social and Medical Welfare Establishments

*CHAPTER I. Adequacy of social security  
benefits: income and poverty indicators and  
standards*

- [Country profile by Eurostat indicators, National indicators and ILO minimum standards](#)
- [Fig. 1. Income and poverty – single person, 2014](#)
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- [Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age \(67\) with 30 years of contributions between 2013 and 2053](#)

## Country profile by Eurostat indicators, National indicators and ILO minimum standards

<b><u>Eurostat</u></b>	<b>EU-Avg 2013</b>	<b>2005</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 531.5	€ 686.8	€ 697.5	€ 708.1
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 664.4	€ 858.5	€ 871.8	€ 885.2
At-risk-of-poverty rate - 50%, before social transfers	19.5%	18.5%	17.4%	17.6%	17.7%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	6.4%	6.9%	6.9%	6.6%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	6.5%	8.8%	9.0%	8.8%
In-work poverty rate - 50% threshold	5.2%	2.6%	3.5%	3.6%	3.9%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	6.3%	3.3%	2.8%	2.4%
Aggregate replacement ratio	55%	57%	65%	66%	68%
Severe material deprivation (% of total population)	9.6%	5.3%	5.3%	4.9%	4.8%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		2.2%	2.5%	
Social protection expenditure as % of GDP	25.0%	31.5%	34.2%	34.6%	
Gini coefficient before social transfers	36.1%	34.3%	36.0%	35.8%	35.1%
Gini coefficient after social transfers	30.5%	27.7%	30.5%	30.1%	29.2%

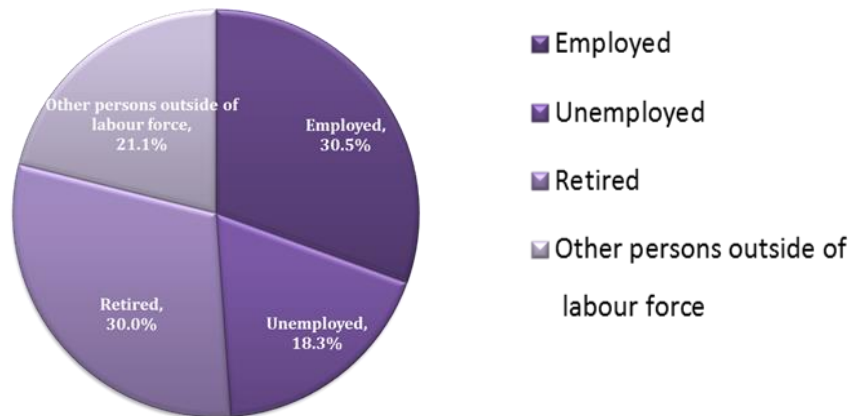
### **National indicators**

Minimum guaranteed income (RSA)	€ 509.3	2014, Official public website of the French administration
Minimum salary	€ 1445.4	2014, National Statistical Institute
Minimum pension	€ 800.0	2014, Official public website of the French administration
Average salary	€ 3005.5	2014, United Nations Economic Commission for Europe
Average pension	€ 1288.0	2012, National Statistical Institute

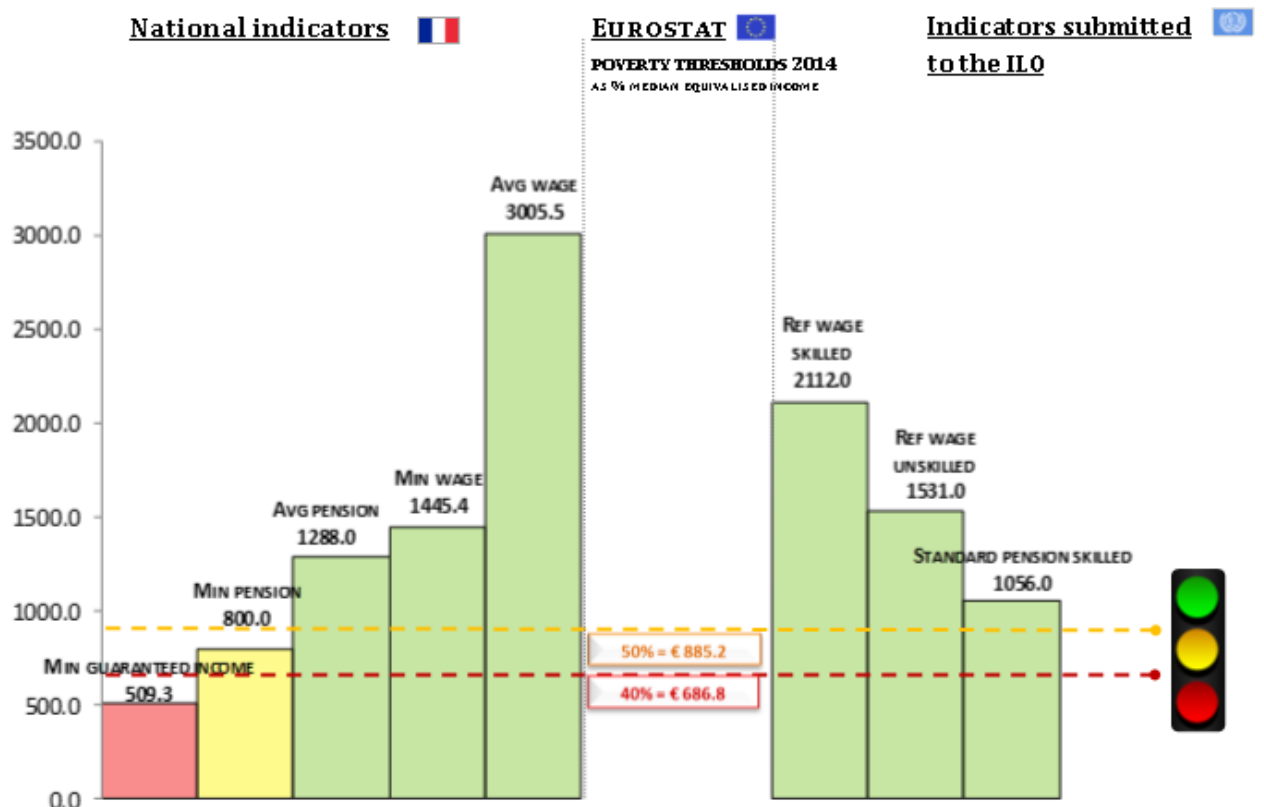
### **Standard benefits amounts under the ECSS**

Standard benefits amounts to be added based on the revised methodology in the detailed report 2016.

**Fig. 1. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013**



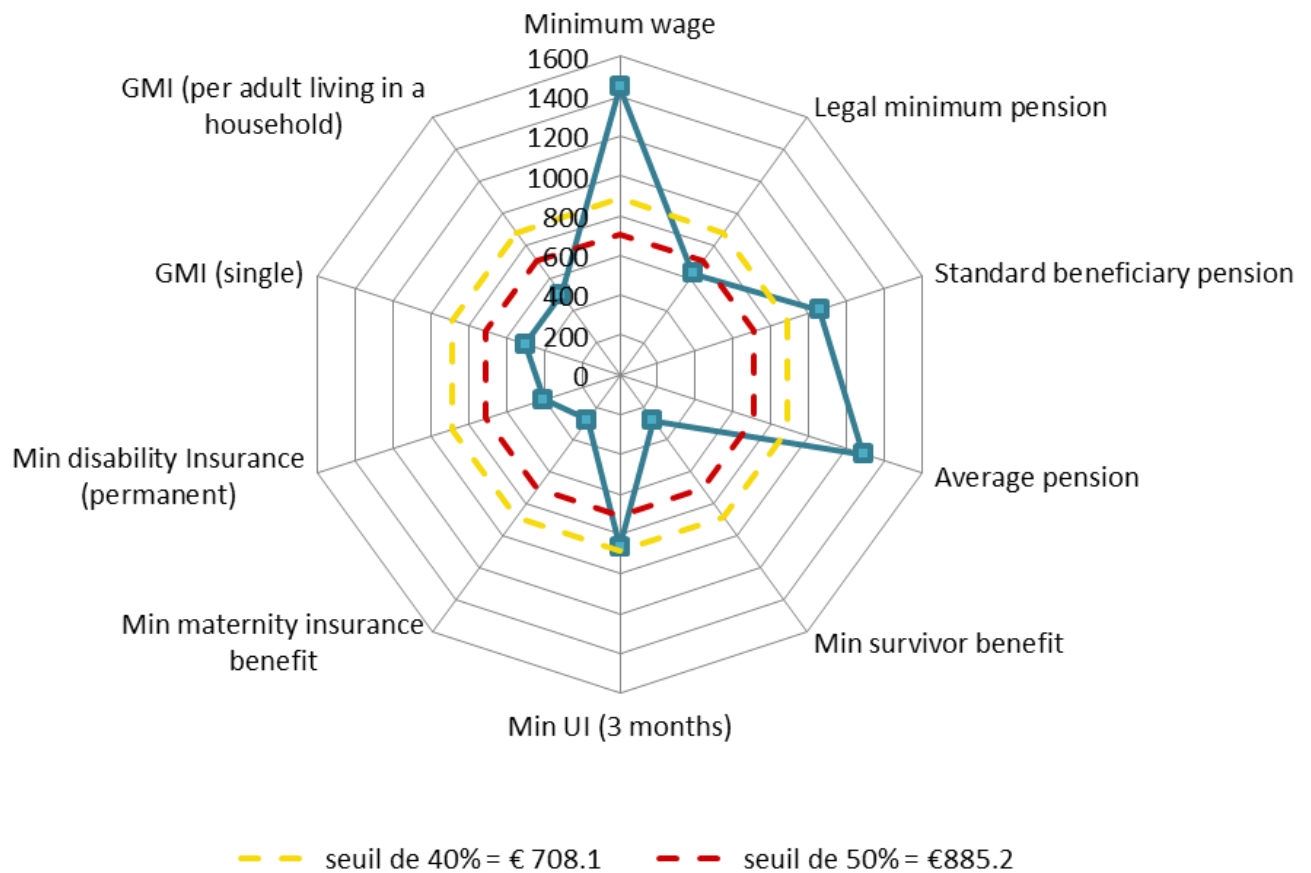
**Fig. 2. Income and poverty- single person, 2014**



**People below Eurostat 40% and 60% poverty thresholds as percentage of total population and in absolute numbers :**

	2013		2014	
<b>Under 40%</b>	3.1%	2'040'903	2.9%	1'924'222
<b>Between 40% and 60%</b>	10.6%	6'978'572	10.4%	6'900'657
<b>Total population of the country</b>	65'835'579		66'352'469	

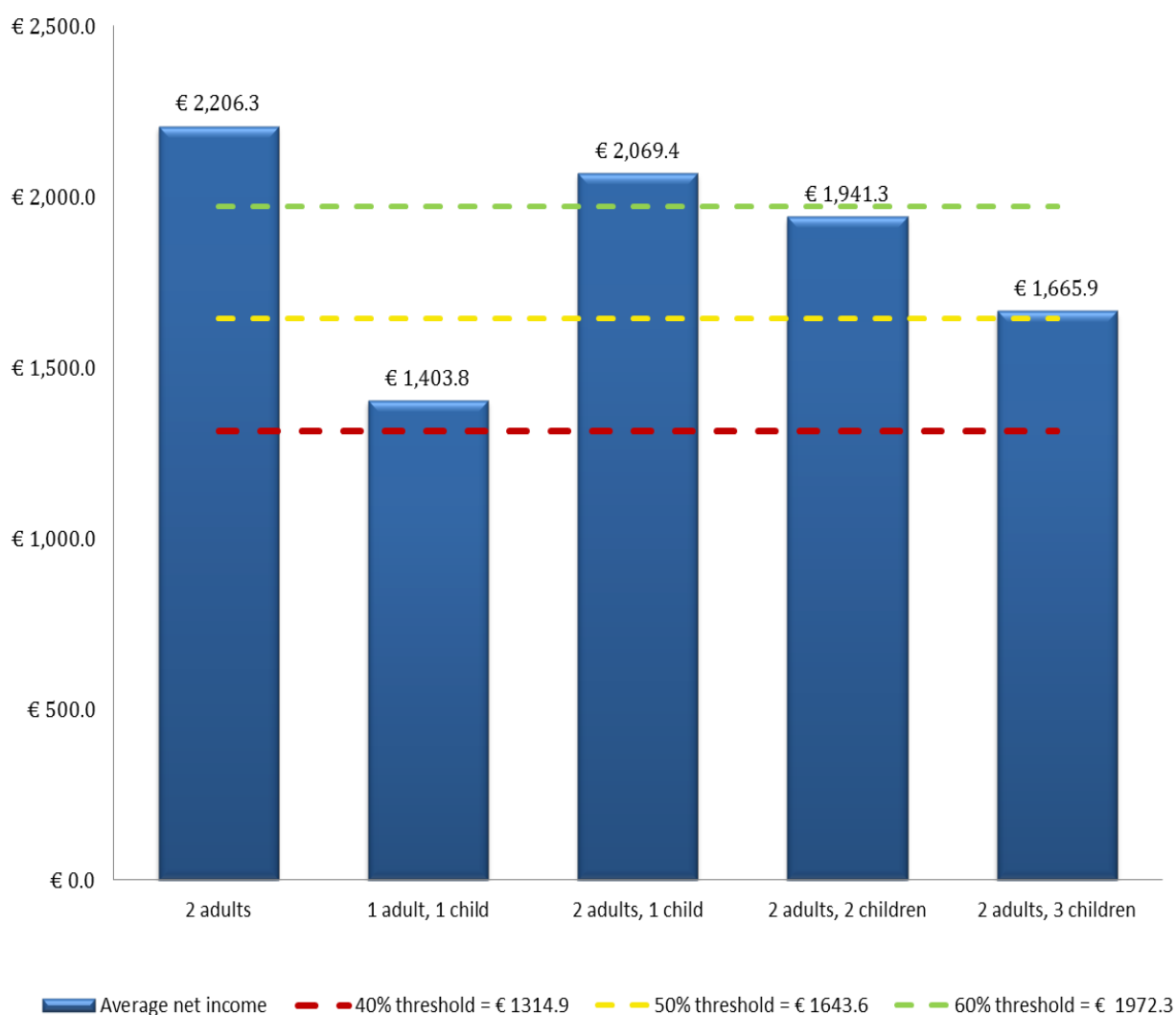
**Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2014**



Benefits/payments	Amount per month	Sources
Minimum wage	€ 1445.4	INSEE, 2014
Legal minimum pension	€ 629.0	MISSOC, 2014
Standard beneficiary pension	€ 1056.0	The Report on the ECSS, 2014
Average pension	€ 1288.0	INSEE, 2014
Survivor benefit	€ 283.6	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 863.2	MISSOC, 2014
Maternity insurance benefit	€ 279.8	MISSOC, 2014
Disability Insurance (permanent)	€ 401.4	MISSOC, 2014
GMI (single)	€ 499.3	MISSOC, 2014
GMI (per adult living in a household)	€ 499.3	MISSOC, 2014
At-risk-of-poverty threshold, 40%	€ 708.1	Eurostat, 2014
At-risk-of-poverty threshold, 50%	€ 885.2	Eurostat, 2014

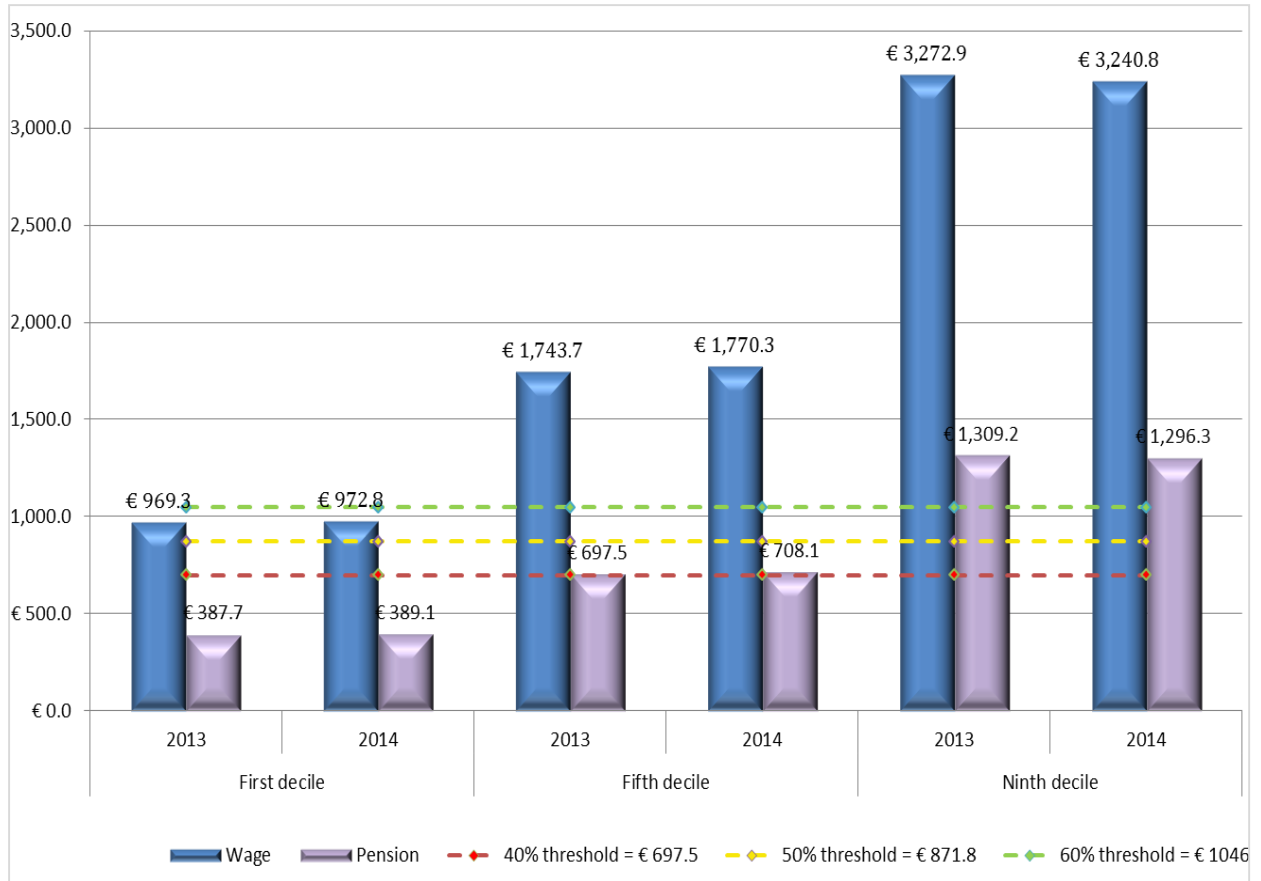


**Fig. 4. Income and poverty indicators by type of household, 2012**

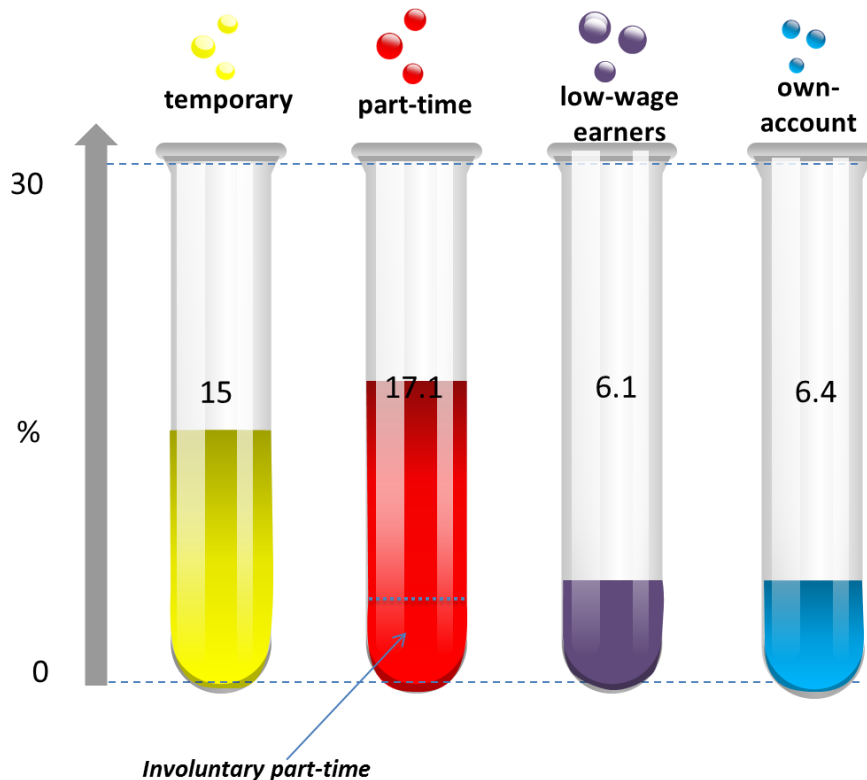


Household composition:	2012	
	Average net income	At risk of poverty rate (60% threshold)
<b>2 adults</b>	€ 2406.8	7.9%
<b>1 adult, 1 child</b>	€ 1373.3	35.2%
<b>2 adults, 1 child</b>	€ 2120.9	9.8%
<b>2 adults, 2 children</b>	€ 2042.8	11.2%
<b>2 adults, 3 children</b>	€ 1740.2	23.2%

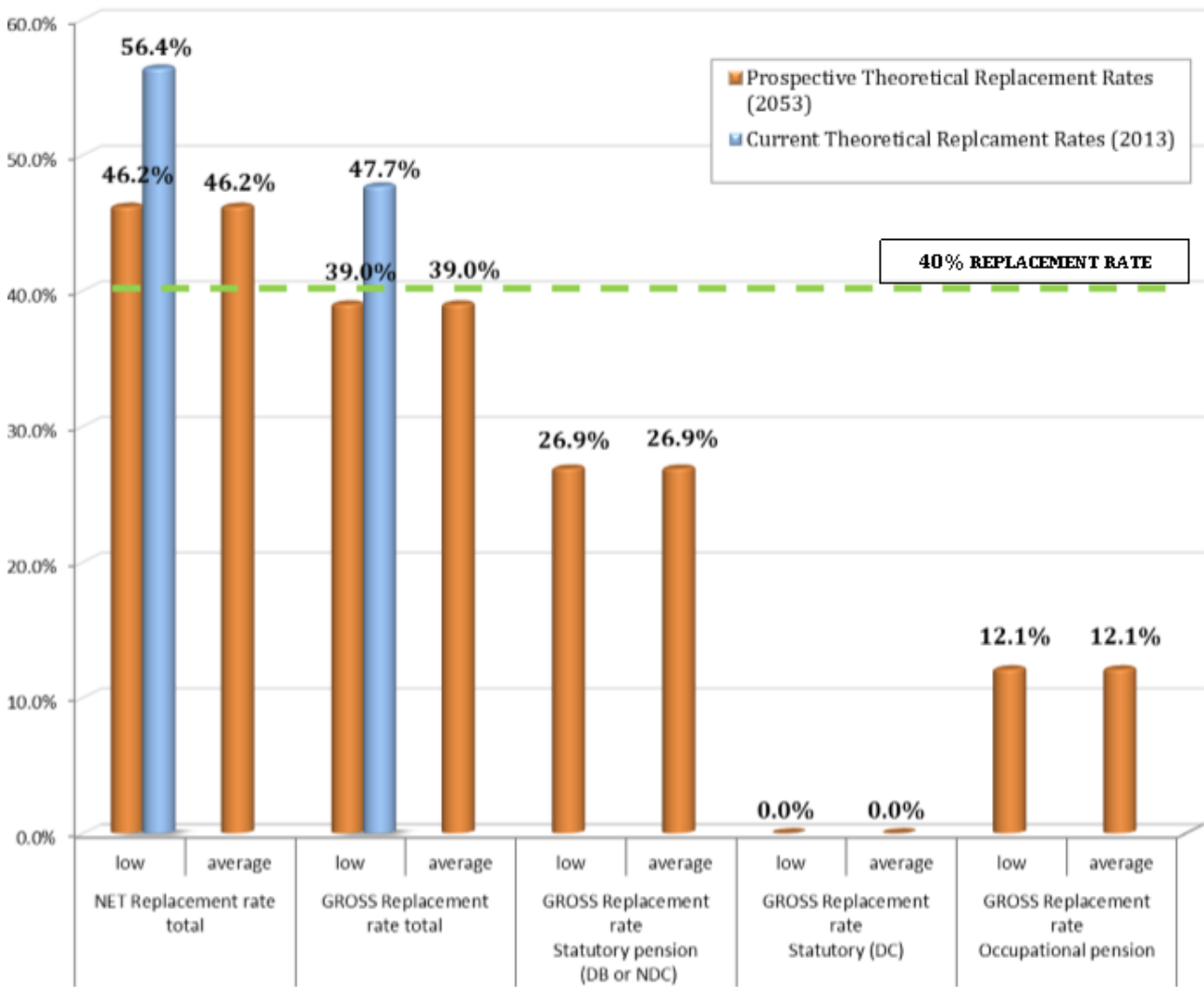
**Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat thresholds in 2013-2014, by decile**



**Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012**



**Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053**



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work. 10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
<b>2053</b>	46.2%	46.2%	39.0%	39.0%	26.9%	26.9%	0.0%	0.0%	12.1%	12.1%
<b>2013</b>	56.4%		47.7%							

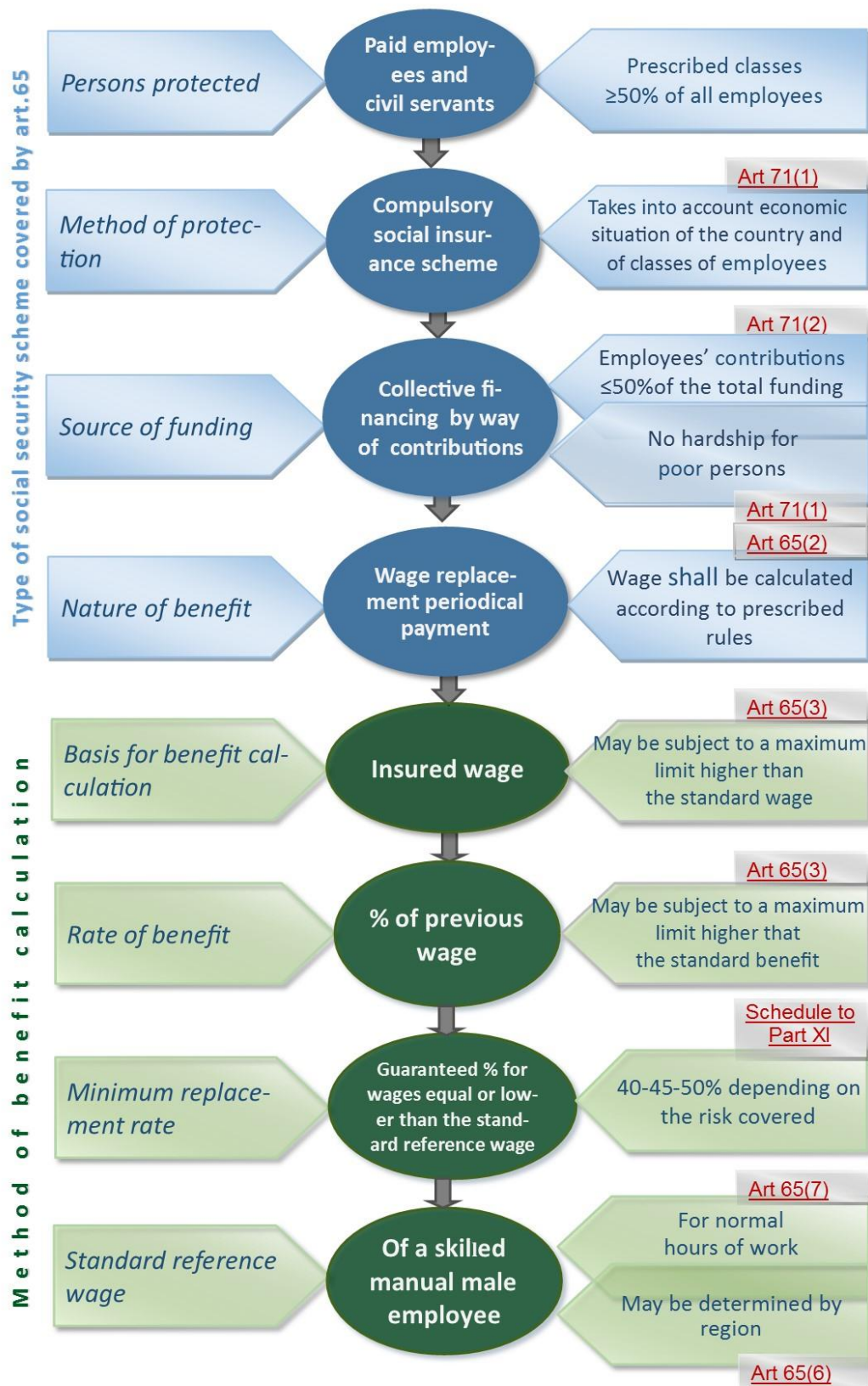
Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I



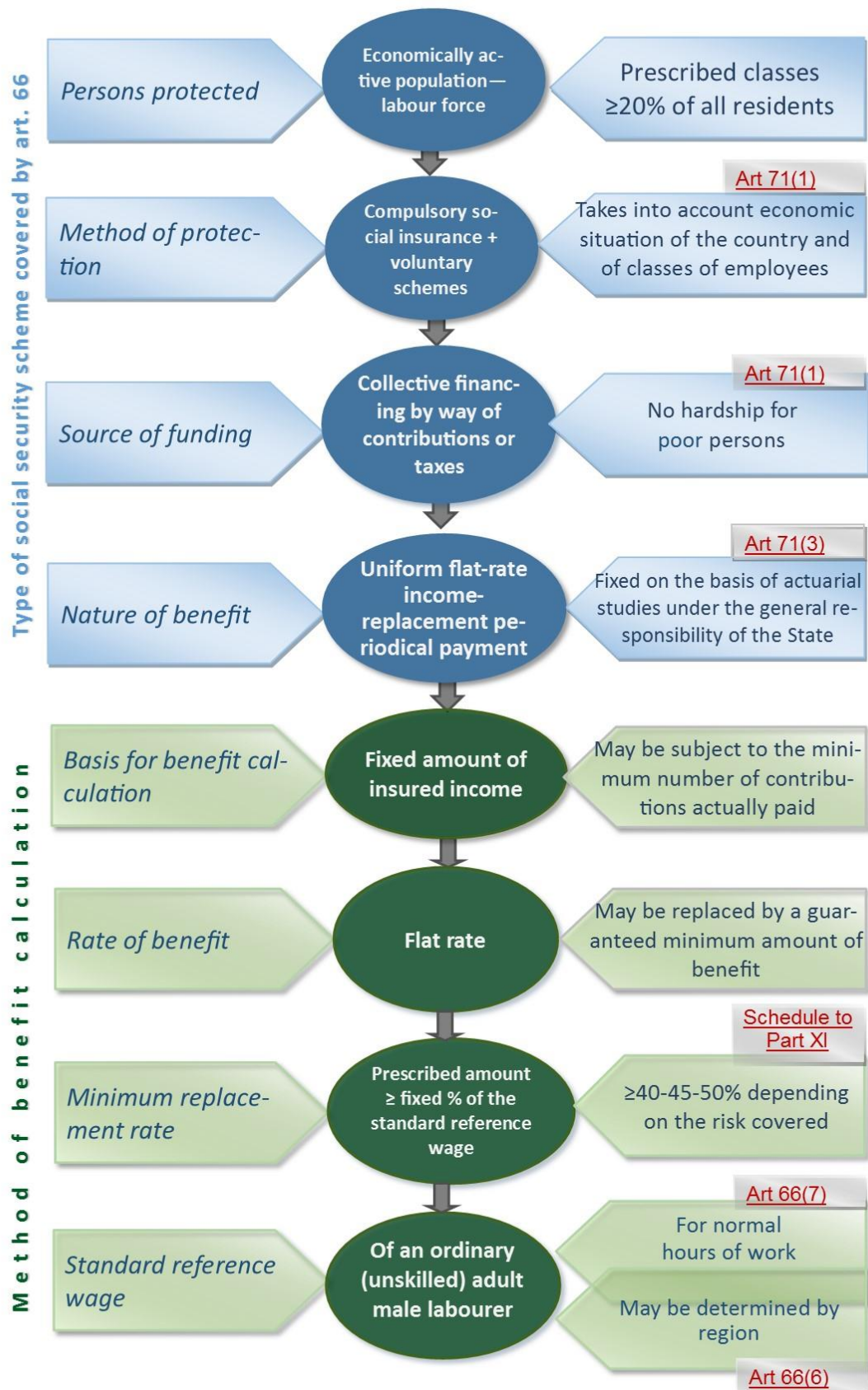
*CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits*

- [Fig. 1. Article 65: Type of social security schemes and method of benefit calculation](#)
- [Fig. 2. Article 66: Type of social security schemes and method of benefit calculation](#)
- [Fig. 3. Article 67: Type of social security schemes and method of benefit calculation](#)
- [Extracts from the Government Reports \(2010-2015\) on the ECSS concerning the Reference Wage](#)
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- [Fig.10. Comparison of the reported reference wage to other wage indicators in France](#)

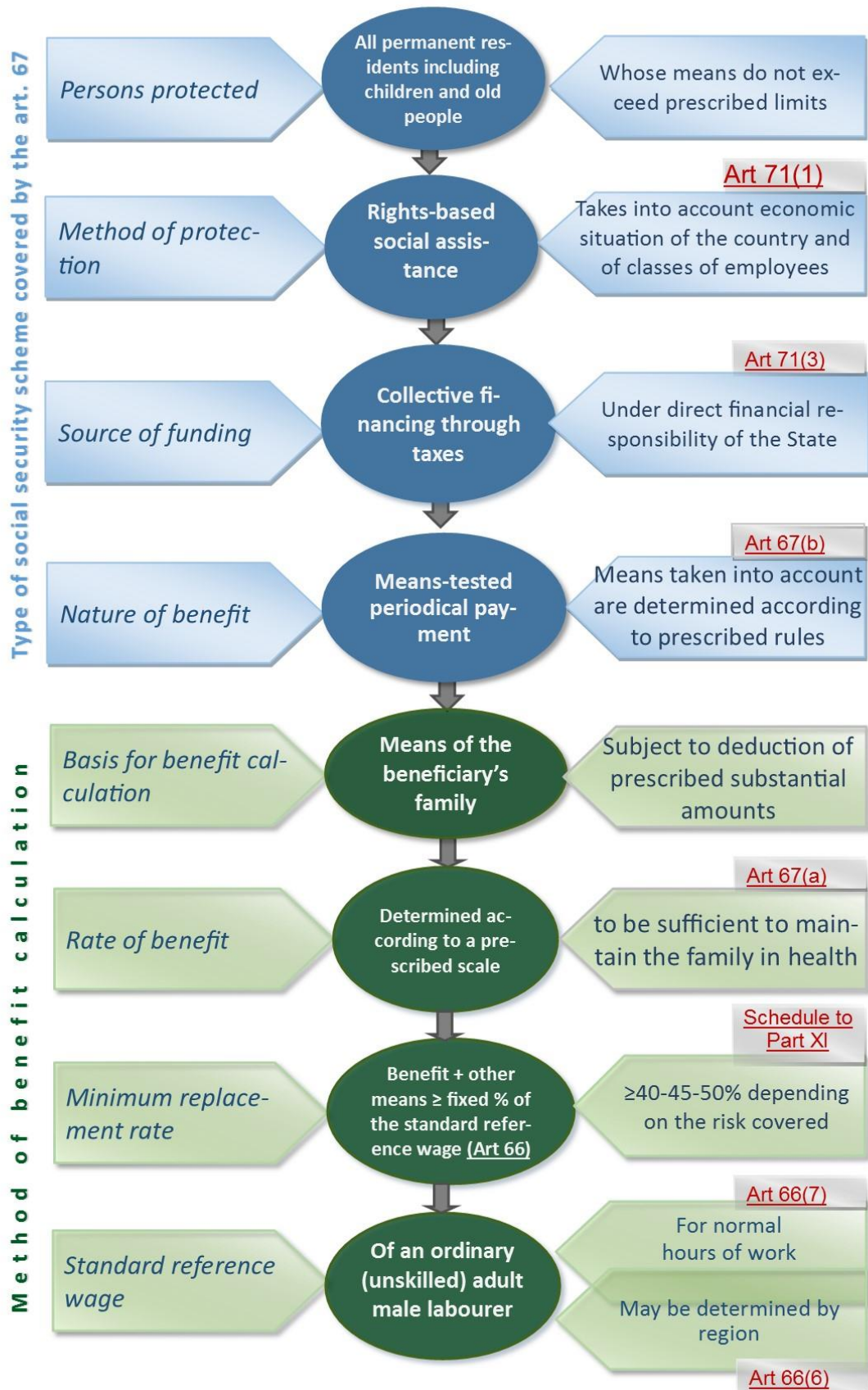
**Fig. 1. Article 65: Type of social security schemes and method of benefit calculation**



**Fig. 2. Article 66: Type of social security schemes and method of benefit calculation**



**Fig. 3. Article 67: Type of social security schemes and method of benefit calculation**





## **Extracts from the Government Reports (2010 - 2015) on the ECSS concerning the Reference Wage**

### ***Report of France under Article 74 of the European Code of Social Security and its Protocol (1 July 2014 - 30 June 2015)***

Voir les mesures présentées au point XI du présent rapport.

**Partie Paiements périodiques :** « *Le Comité invite le Gouvernement à revoir la méthode de détermination du salaire de référence à la lumière des explications fournies dans la note technique préparée par le Bureau, laquelle est annexée aux présentes conclusions, et dans laquelle toutes les options envisagées aux articles 65 et 66 du Code sont calculées pour la même période de référence (2010) pour laquelle l'ensemble des données est disponible. Il est demandé au Gouvernement de confirmer l'option retenue et de mettre à jour les statistiques utilisées dans la note, avec une indication quant à la source précise des données pour une référence future.* »

Les autorités françaises ont bien noté la nécessité de mise à jour de la technique de détermination du salaire de référence et communiqueront, comme convenu lors de la 131<sup>ème</sup> réunion du Comité Gouvernemental de la Charte sociale européenne et du Code européen de sécurité sociale, l'ensemble des données nécessaires dans le rapport détaillé 2016. Sous réserve de cette prochaine analyse détaillée, il n'est pas à ce stade prévu de changement d'option de calcul.

### ***Report of France under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011)***

#### **Art 65 (6) b : skilled worker - p. 8-9**

*La rémunération de l'ouvrier qualifié type est déterminée à partir des Déclarations annuelles de données sociales (D.A.D.S.) que chaque employeur est tenu de remplir et d'adresser à l'organisme de recouvrement des cotisations sociales dont il relève, D.A.D.S. qui font l'objet d'une exploitation par l'Institution Nationale de la Statistique et des Etudes Economiques (I.N.S.E.E.) (nomenclature en 17 branches d'activité économique).*

*Pour 2009, année connue la plus récente, le nombre le plus important d'ouvriers qualifiés masculins occupés à temps plein figure dans la branche de la construction. Le salaire moyen annuel brut s'élève à 25 352 € (2112 € par mois). Le salaire moyen annuel net de cotisations et de contributions sociales à 19 491 (1624 € par mois).*

*Montant du salaire mensuel brut de l'ouvrier qualifié masculin de la construction : 2 112 €*

#### **Art 65 (4) b : unskilled worker - p.19**

*La rémunération du "manoeuvre-type" est déterminée à partir des Déclarations annuelles de données sociales (D.A.D.S.) que chaque employeur est tenu de remplir et d'adresser à l'organisme de recouvrement des cotisations sociales dont il relève, D.A.D.S. qui font l'objet d'une exploitation par l'Institution Nationale de la Statistique et des Etudes Economiques (I.N.S.E.E.) (nomenclature*

*en 17 branches d'activité économique). En l'absence d'une catégorie «manoeuvre ordinaire», c'est la catégorie "Ouvrier non qualifié" qui a été retenue.*

*Pour l'année 2009, année connue la plus récente, le nombre le plus important de "manoeuvres" masculins occupés à temps plein figure dans la branche de la construction.*

*Temps de base : l'année. Salaire moyen national. Prestations familiales versées au cours de l'année 2009.*

*Montant du salaire annuel brut du "manoeuvre-type" de la construction : 18 373 €  
(1531.1€ par mois)*

**Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102**

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations <sup>1</sup> -2010	Government <sup>2</sup>
<b>Article 65 (para 6): a skilled manual male employee</b>				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 <sup>3</sup> (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 <sup>4</sup> group with the highest number of male employees: <b>typical skilled male worker in manufacturing</b>	2077euros <sup>5</sup> (for reference: in construction – 1801 euros)	<i>Ouvriers qualifiés masculins occupés à temps plein figure dans la branche de la construction :</i>  <i>Full-time manual male workers in Construction :</i>  <b>2112 euros (2009)<sup>6</sup></b>
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	3000 euros <sup>7</sup> (full-time and part-time employees)	
<b>Article 66 (para 4): an ordinary male labourer</b>				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: <b>typical unskilled male worker in manufacturing</b>	1838 euros <sup>8</sup> (for reference: in construction - 1387)	<i>Ouvriers non qualifiés occupés à temps plein figure dans la branche de la construction :</i>  <i>Full-time unskilled workers in Construction (sex not specified):</i>  <b>1531.1 euros (2009)<sup>9</sup></b>

\* Gross wages are used unless stated otherwise

<sup>1</sup> ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

<sup>2</sup> Reference wage reported by the Government on the application of ECSS and C.102

<sup>3</sup> ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow) <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

<sup>4</sup> ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

<http://unstats.un.org/unsd/cr/registry/isic-4.asp>

<sup>5</sup> Structure of earnings survey (SES)– Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

<sup>6</sup> Report of France under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 8-9

<sup>7</sup> Structure of earnings survey (SES) – Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en)

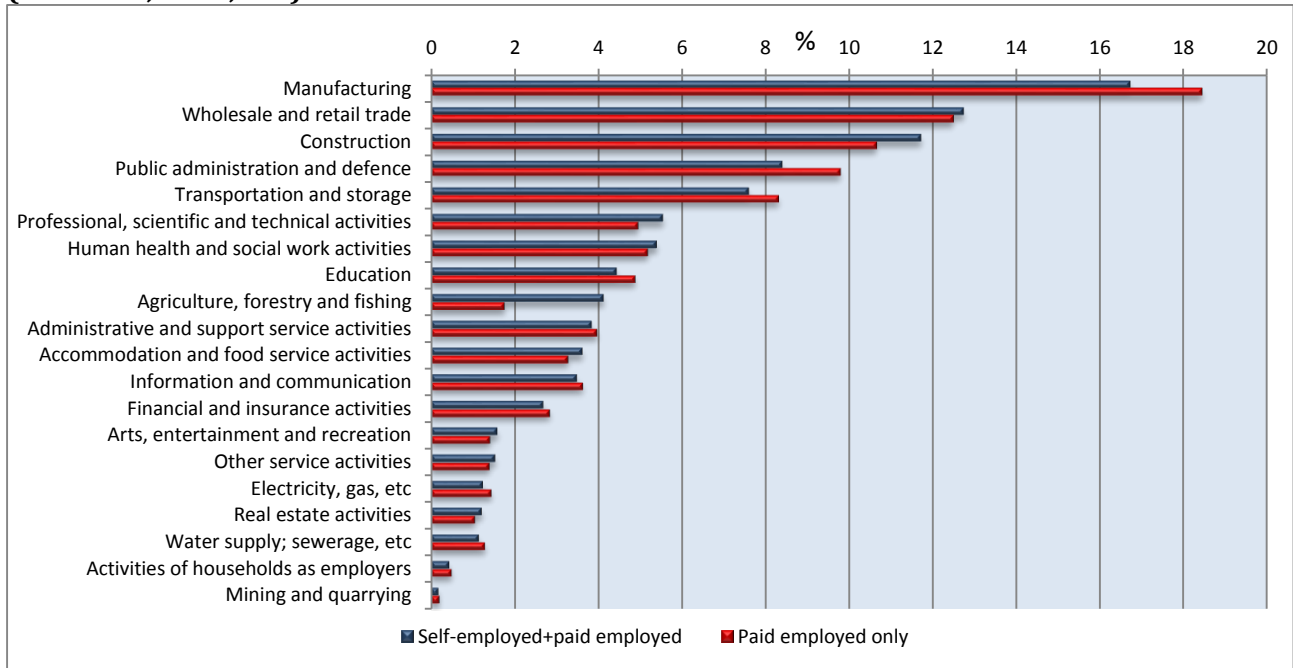
<sup>8</sup> Structure of earnings survey – Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

<sup>9</sup> Report of France under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.19

## ILO assessment of the options offered by articles 65-66:

### OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Manufacturing

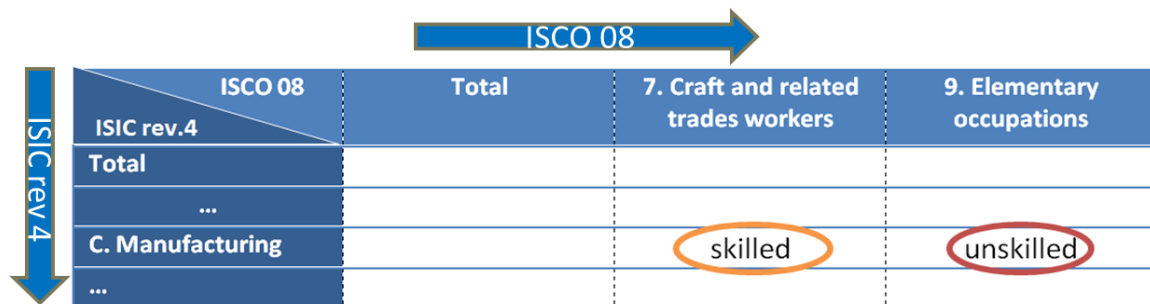
Fig.4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa\\_egaps&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en)

Fig 5. The average wages of a typical skilled/unskilled manual male employee are determined by cross-tabulating of the two classifications

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008



ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group require skills at the second ISCO level.

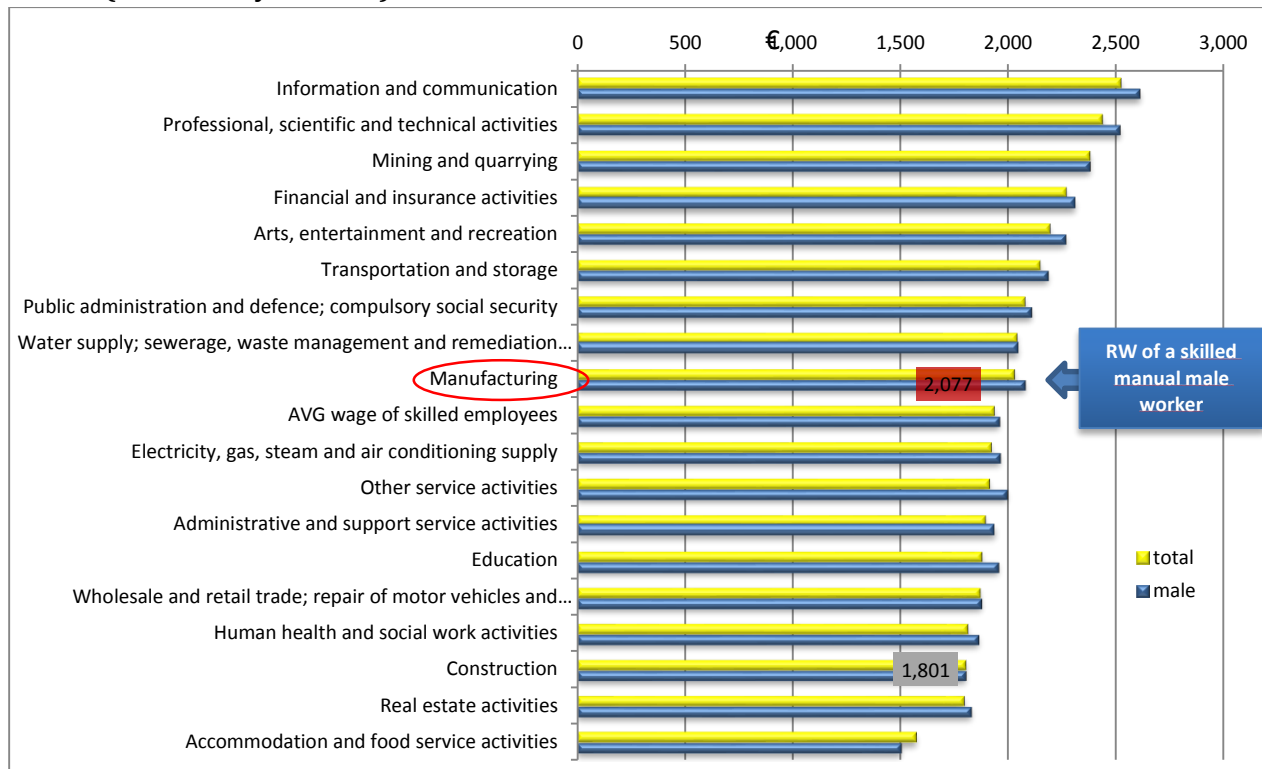
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

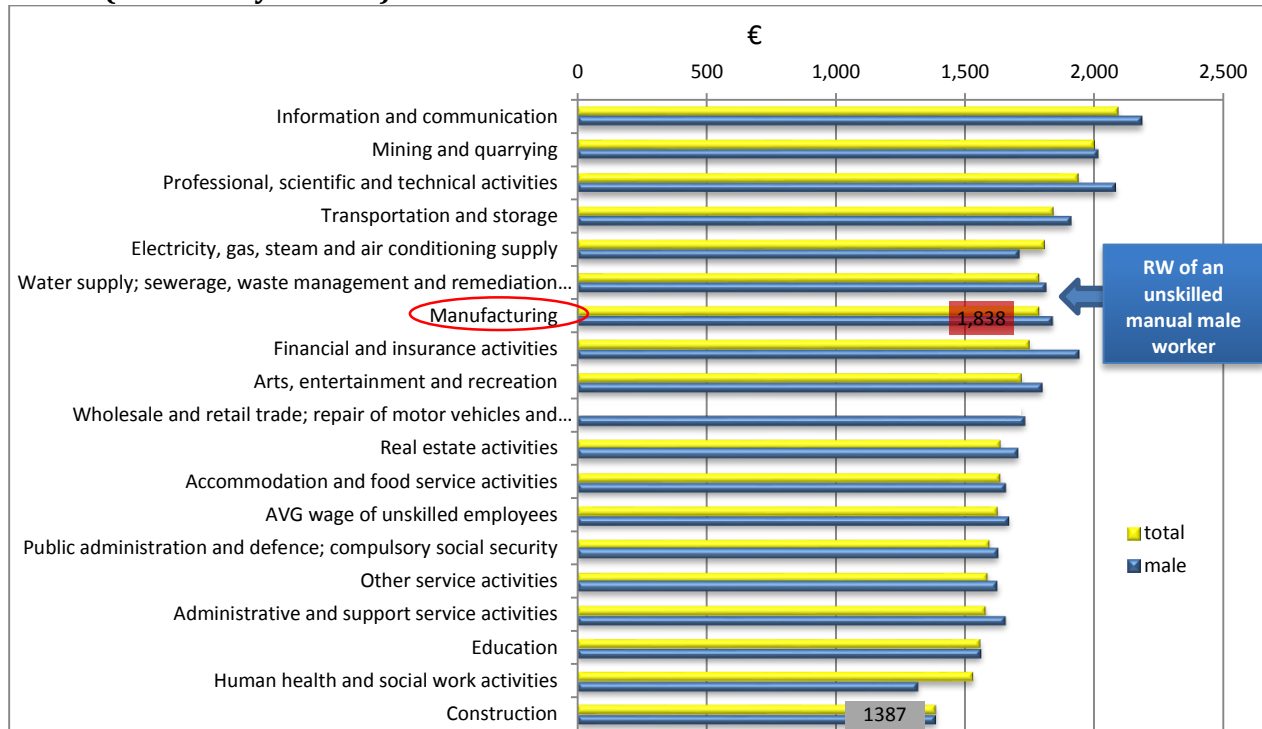
Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

**Fig.6. Average monthly wages of skilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



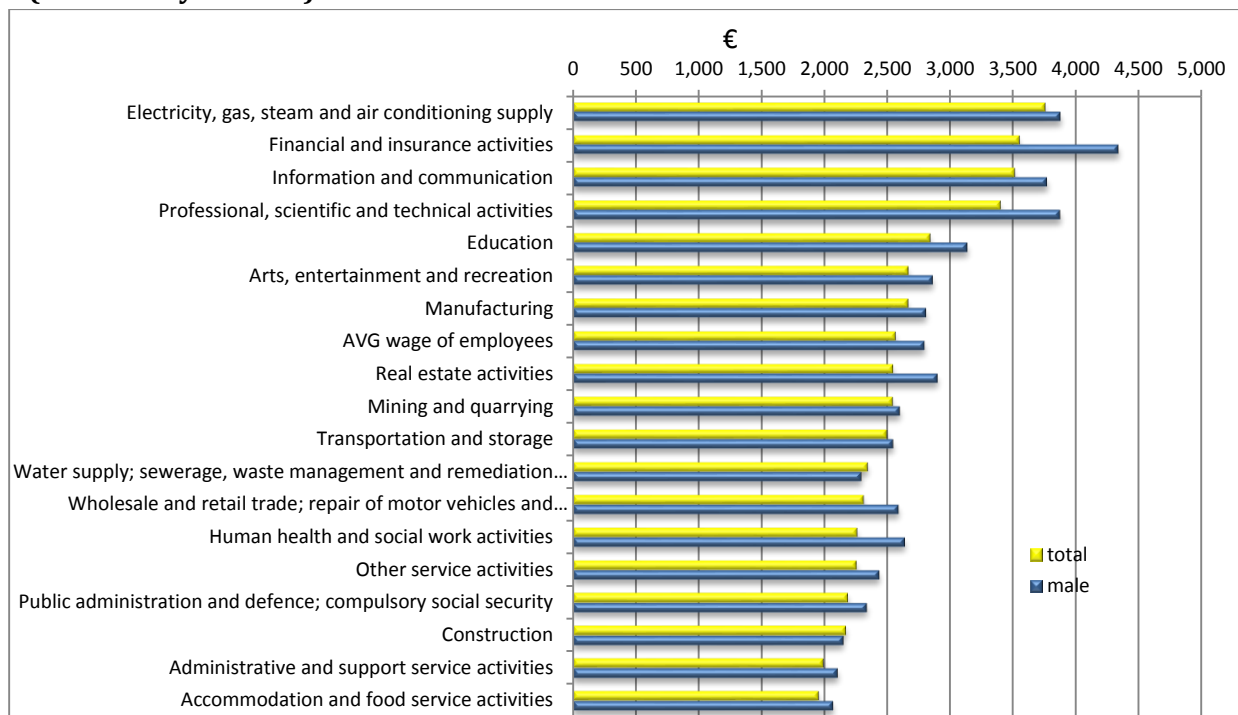
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.7. Average monthly wages of unskilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



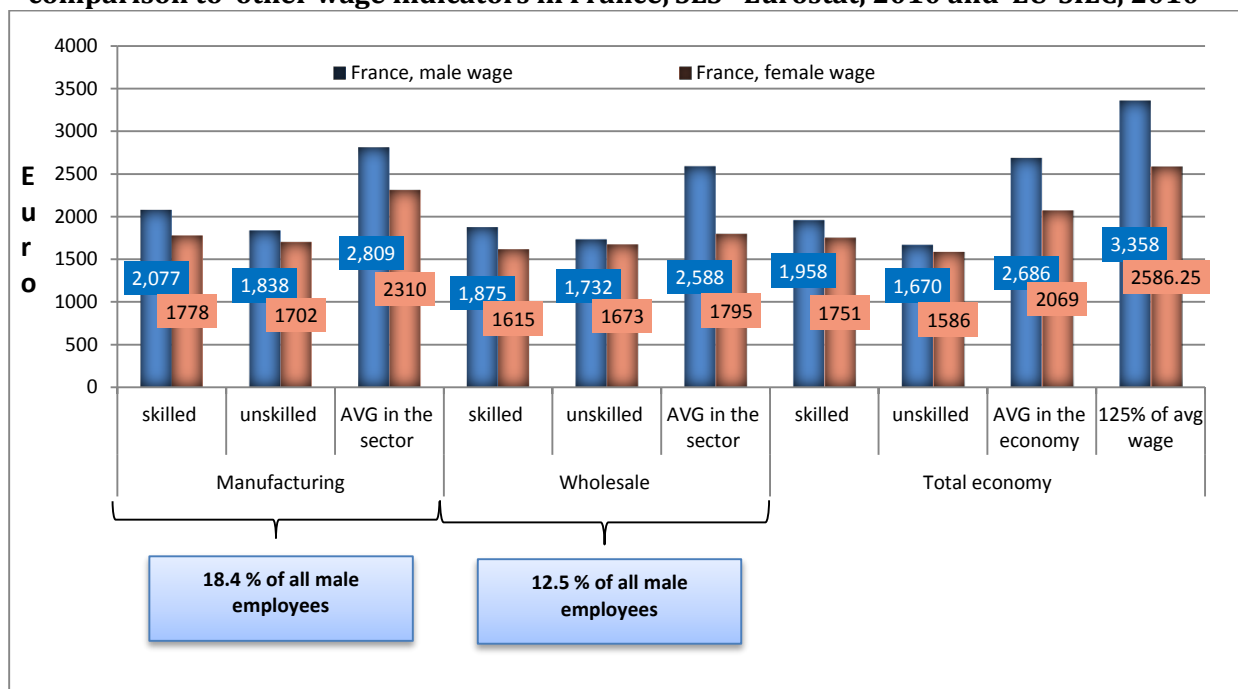
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.8. Average monthly wages of employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



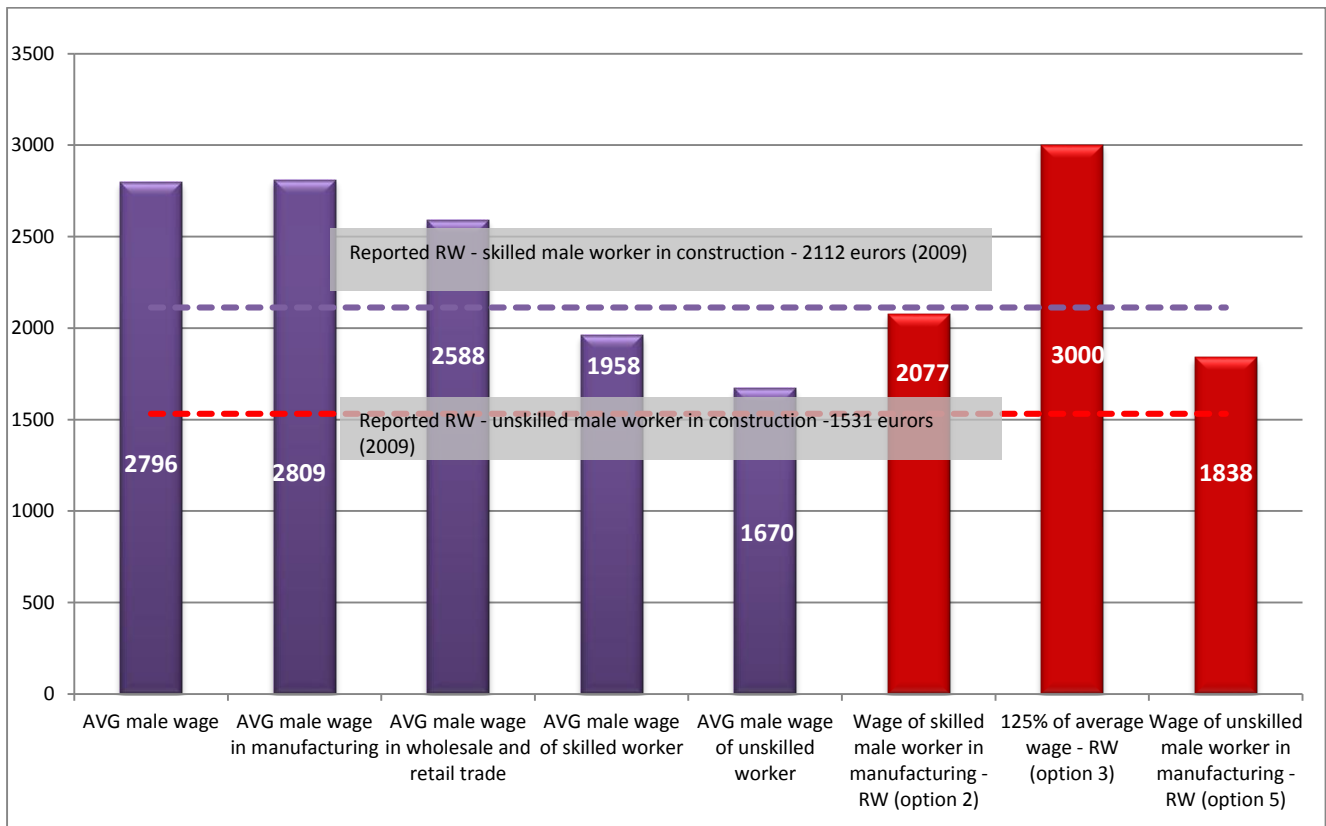
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.9. Average monthly wages of male and female skilled and unskilled employees in the 2 sectors (Manufacturing and Wholesale) with the highest number of male employees, in comparison to other wage indicators in France, SES -Eurostat, 2010 and EU-SILC, 2010**



Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en) and [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en) - 125% of average wage (include both full-time and part-time employees)

**Fig.10. Comparison of the reported reference wage to other wage indicators in France, 2010, euros**



Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en) and [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en) for option 3 – 125% of average wage (working time includes both full-time and part-time employees)





*CHAPTER III. Integrated Management of compliance and reporting obligations of France under social security provisions of the ratified international treaties on social rights*

- [Table 1. Up-to-date social security standards in force](#)
- [Table 2. Pending comments of the supervisory bodies](#)
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- [Table 4. Up-to-date standards on which reports are due in 2017](#)
- [Next detailed report of France under Article 74 of the ECSS. \(Extract from CEACR 2015 Conclusions\)](#)
- [Coordination of reporting between the ECSS and C102. Form for the annual report on the European Code of Social Security](#)
- [Fig. 1. Time management of the 5 years reporting cycle \(2011-2016/17\) on international and European social security standards](#)
- [Fig. 2. Time management for reporting on social security standards in 2016](#)

Table 1. Up-to-date social security standards in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties	<i>Right to Social Security Art.9</i>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1, 13§1§2§3, 14, 30	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing &amp; Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

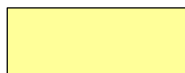


Social Security Standards in force for France



Social Security Standards not in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICECSR	<i>Right to Social Security Art.9</i>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3§1§3§4, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, 13§2§3,14	
					Art.3§2	Art.27§1b,c		Art.15§3		Art.13§1,30	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

<b>Social Human Rights</b>	<b>Right to health</b>		<b>Right to work</b>		<b>Right to just conditions of work</b>	<b>Right of the family and children to protection</b>	<b>Right of mothers to protection</b>	<b>Rights of persons with disabilities</b>		<b>Right to an adequate standard of living</b>	<b>Financing &amp; Organization</b>
<b>International treaties</b>											
<b>ICECSR</b>	<i>Right to Social Security Art.9</i>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
<b>UN Conventions</b>					CRPD	CRC	CEDAW	CRPD			
<b>ESC Revised</b>	Art.11, 13§1		Art.1§1§3	Art.23	Art.3	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1	
					Art.15§2					Art.13§1§2 §3, 14, 30	
	<i>Right to Social Security Art.12§1§2§3</i>										
<b>Protocol</b>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
<b>ECSS</b>	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing &amp; Organization Part XII</i>
<b>C102</b>	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
<b>ILO Conventions</b>					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

<b>Social Human Rights</b>	<b>Right to health</b>		<b>Right to work</b>		<b>Right to just conditions of work</b>	<b>Right of the family and children to protection</b>	<b>Right of mothers to protection</b>	<b>Rights of persons with disabilities</b>		<b>Right to an adequate standard of living</b>	<b>Financing &amp; Organization</b>
<b>International treaties</b>											
<b>ICECSR</b>	<b>Right to Social Security Art.9</b>										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
<b>UN Conventions</b>					CRPD	CRC	CEDAW	CRPD			
<b>ESC Revised</b>	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1§3		Art.4§1 Art.13§1§2 §3, 14, 30	
	<b>Right to Social Security Art.12§1§2§3</b>										
<b>Protocol</b>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
<b>ECSS</b>	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing &amp; Organization Part XII</i>
<b>C102</b>	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
<b>ILO Conventions</b>					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

 Report in 2017

**Table 4. Up-to-date standards on which reports are due in 2017**

## **Next detailed report of France under Article 74 of the ECSS**

*(Extract from CEACR 2015 Conclusions)*

In accordance with the reporting cycle for the Code, the Government is due to submit a detailed report in July–August 2016 covering the five-year period from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on the application of Convention No. 102, the Government is also due to provide a detailed report in June–August 2016 for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government’s attention to the alignment of reporting requirements under the Code and Convention No. 102 and the similarity of the report forms for both instruments, the objective of which is to reduce the administrative burden and avoid the need to duplicate reports. It is for this reason that the report form for the Code explicitly provides that, where a Government is bound by similar obligations resulting from the ratification of ILO Convention No. 102, it may provide the Council of Europe with copies of the reports submitted to the International Labour Office on the application of this Convention. The Committee emphasizes that this simplified procedure may be used next year to report on all the Parts of the Code which have been accepted. Similarly, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee to assess the application of Convention No. 102.

Furthermore, by 31 October 2016, France is also due to provide a report on the application of the provisions which have been accepted of the European Social Charter, in the context of the thematic group “Health, social security and social protection”, which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social services (Article 14), the right of elderly persons to social protection (Article 23) and the right to protection against poverty and social exclusion (Article 30). The Committee notes that these Articles of the Charter are directly related to a significant number of provisions of the Code and ILO social security Conventions and constitute a unique legal space of international social security law. As the reference period for the report under the Charter (1 January 2012–31 December 2015) falls within the reference periods for the detailed reports under the Code and Convention No. 102, the Government is invited to coordinate its compliance and reporting obligations under these instruments with a view to improving the quality and coherence of the information provided. Such coordination should subsequently be extended to include the submission of reports on the application of the social security provisions of United Nations human rights treaties, and particularly the International Covenant on Economic, Social and Cultural Rights.

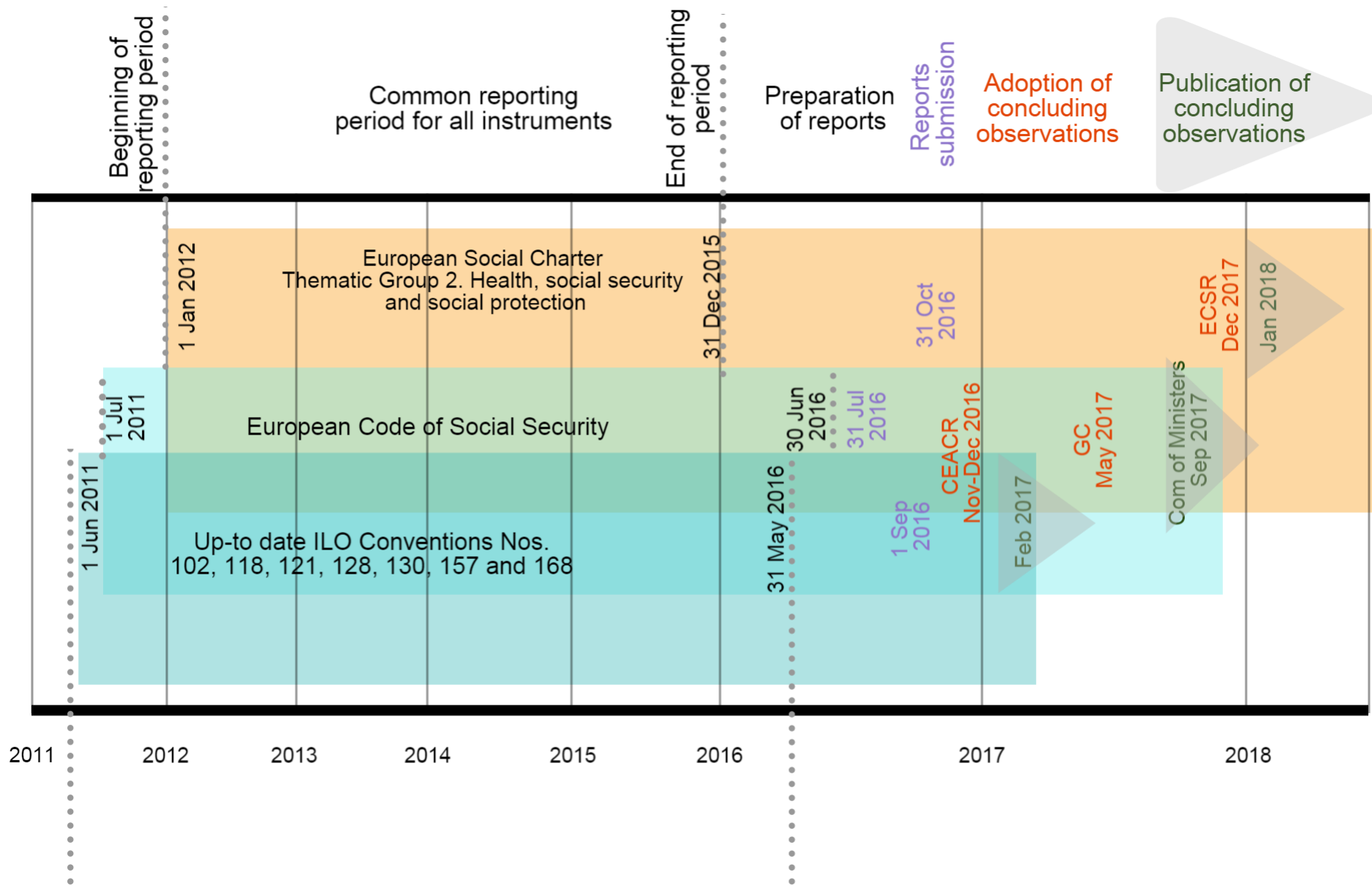
With regard to the coordination of compliance obligations, the Committee recalls that, when drawing up its conclusions on the application of the Code by a specific country, it takes into consideration the relevant comments made by other supervisory bodies, such as the European Committee of Social Rights and the Committee on Economic, Social and Cultural Rights of the United Nations. With a view to facilitating the integrated management of the obligations of France under the social security provisions of the principal European and international treaties on social rights, the Committee refers the Government to the coordination table and the reporting schedules presented in the attached ILO technical note, as well as to the structured compilation of comments made by the respective supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply a rights-based approach to its policy of budgetary consolidation supplemented by a legal consolidation of all international obligations requiring France to ensure full compliance with social security rights.

**Coordination of reporting between the ECSS and C102**  
**Form for the annual report on the European Code of Social Security (as modified**  
**by the Protocol additional thereto)**

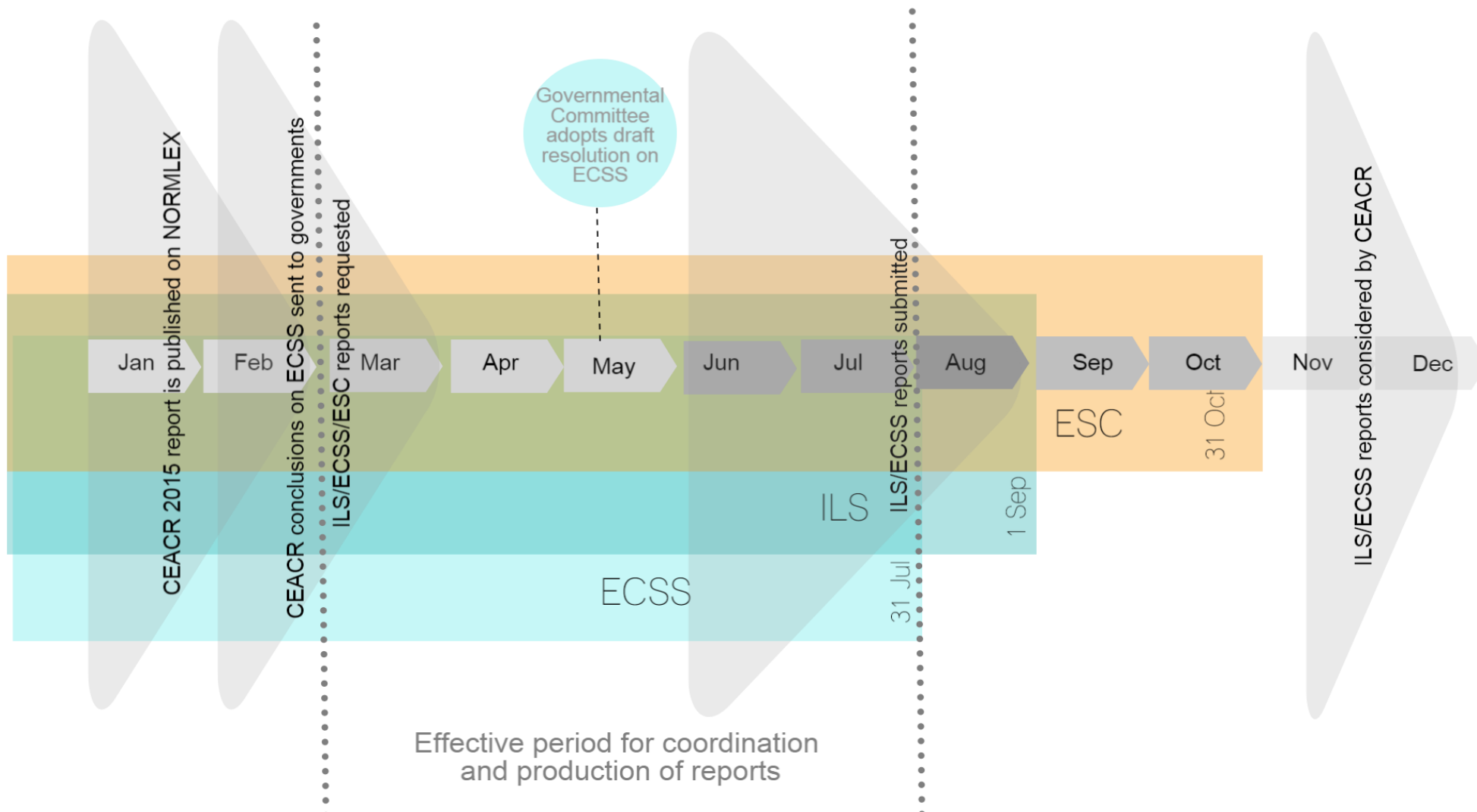
If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

**Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards**







**Fig. 2. Time management for reporting on social security standards in 2016**



*Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy*

- [Table 1. International treaties on social rights ratified by France](#)
  - [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)
1. **[United Nations](#)**
    - [International Covenant on Economic, Social and Cultural Rights](#)
    - [Convention on the Rights of the Child](#)
    - [Convention on the Elimination of All Forms of Discrimination against Women](#)
    - [Convention on the Right of Persons with Disabilities](#)
  2. **[Council of Europe](#)**
    - [European Social Charter](#)
    - [European Code of Social Security](#)
  3. **[International Labour Organization](#)**
    - [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)
  4. **[EU Country-Specific Recommendations: 2015](#)**

**Table 1. In force international treaties on social rights ratified by France**

<b>Body</b>	<b>International treaty</b>	<b>Entry into force for France</b>	<b>Next report due on</b>
<b>United Nations</b>	<b>ICESCR</b>	<b>4 Nov 1980</b>	<b>Submitted 23 May 2013, tbc in 2016</b>
	<b>Convention on the Rights of the Child</b>	<b>7 Aug 1990</b>	<b>Submitted 8 Oct 2012, tbc in 2016</b>
	<b>Convention on the Elimination of All Forms of Discrimination against Women</b>	<b>14 Dec 1983</b>	<b>Submitted 14 Feb 2014, tbc in 2016</b>
	<b>Convention on the Rights of People with Disabilities</b>	<b>18 Feb 2010</b>	<b>18 Mar 2012</b>
<b>Council of Europe</b>	<b>European Code of Social Security</b>	<b>18 Feb 1987</b>	<b>1 Jul – 31 Aug 2016</b>
	<b>European Social Charter</b>	<b>7 May 1999</b>	<b>31 Oct 2015</b>
<b>International Labour Organization</b>	<b>Convention 102</b>	<b>14 Jun 1974</b>	<b>1 Jun - 1 Sep 2016</b>
	<b>Convention 103</b>		
	<b>Convention 121</b>		
	<b>Convention 128</b>		
	<b>Convention 130</b>		
	<b>Convention 168</b>		
	<b>Convention 183</b>		
<b>European Union</b>	<b>Country-Specific Recommendation of 14 July 2015</b>		

**Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations**

<b>Instrument</b>	<b>Supervisory body</b>	<b>Type of a State party report/Reporting cycle</b>	<b>Comments of a supervisory body</b>
International Covenant on Economic, Social and Cultural Rights <b>(ICESCR)</b>	Committee on Economic, Social and Cultural Rights <b>(CESCR)</b>	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child <b>(CRC)</b>	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women <b>(CEDAW)</b>	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities <b>(CRPD)</b>	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security <b>(ECSS)</b>	ILO Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; European Committee on Social Rights <b>(ECSR)</b> ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter <b>(ESC)</b>	European Committee on Social Rights <b>(ECSR)</b> ; Governmental Committee <b>(GC)</b> of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; Conference Committee on the Application of Standards <b>(CAS)</b> .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

## 1. United Nations

### **International Covenant on Economic, Social and Cultural Rights – Concluding observations 2008**

*[UN Office of the High Commissioner for Human Rights website link, Treaty bodies database](#)*

The Committee notes with concern that as a result of the extensive use of fixed-term, temporary and part-time employment contracts, a large number of employed persons – especially young people, single parents and persons without professional qualification – do not have job security and are paid the statutory minimum wage (SMIC, or salaire minimum interprofessionnel de croissance), which is not sufficient to enable them and their families to enjoy an adequate standard of living. The Committee is particularly concerned about the over-representation of women in temporary, part-time and low-paid jobs.

The Committee notes with concern that legislation aimed at improving access to employment for persons with disabilities (Act No. 102/2005 of 11 February 2005) is not effectively implemented, and that the unemployment rate of persons with disabilities is still three times higher than the average unemployment rate.

The Committee remains concerned about the extent of poverty in the State party, as well as about the high number of persons living exclusively on social cash transfers.

The Committee notes with concern that in spite of the introduction of universal health care coverage (CMU) in July 1999, persons belonging to disadvantaged and marginalized groups, such as asylum-seekers and undocumented migrant workers and members of their families, continue to encounter difficulties in gaining access to health care facilities, goods and services, due to lack of awareness concerning their rights, the complexity of administrative formalities, such as the requirement of continuous and legal residence in the territory of the State party, and language barriers.

### **Convention on the Rights of the Child – Concluding observations 2009**

No relevant information on social security.

### **Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2008**

*[UN OHCHR website link, Treaty bodies database](#)*

26. The Committee remains concerned about the persistence of the disadvantaged situation of women in the labour market, reflected in the fact that the number of women in the higher echelons of the labour market remains low and that women are concentrated in certain low-wage sectors. The Committee is deeply concerned that the wage gap in the private sector between women and men persists, that women are predominantly found in part-time positions and that as a consequence women generally receive lower pensions. Furthermore, the Committee remains concerned at the relatively high unemployment rate among women with disabilities and immigrant women and at the lack of statistical data on the above matters.

27. The Committee urges the State party to intensify its efforts to ensure de facto equality for women in the labour market, so as to achieve full compliance with article 11 of the Convention. It recommends that the State party take proactive and concrete measures to eliminate occupational segregation, both horizontal and vertical, and narrow and close the pay gap between women and men. In that regard, the Committee recommends that the State party implement its plan of curbing wage gaps, including through financial sanctions as of 2010 for companies that do not have a plan to redress wage inequalities. Furthermore, the Committee urges the State party to create more opportunities for women to have access to full-time employment. The Committee recommends that the State party continue its efforts to allow women and men to reconcile family and professional responsibilities and for the promotion of equal sharing of domestic and family tasks between men and women by providing, inter alia, more and improved childcare facilities. The Committee further recommends that the State party encourage men to share responsibility for childcare, including through awareness-raising activities and by taking parental leave. In the area of pensions, the Committee recommends that the State party implement the President's expressed desire to increase the minimum old-age pension, improve the retirement pensions for people in agriculture and crafts and provide retirement pensions for homemakers who had not worked professionally. The Committee recommends the State party to undertake special measures to assist women with disabilities to enter into the labour market. The Committee finally recommends that the State party collect relevant statistical data to improve policy formulation.

## **Convention on the Right of Persons with Disabilities**

No conclusions available.

## 2. Council of Europe

### European Social Charter

*[Official website of the European Social Charter, link to conclusions](#)*

#### **Article 1 – Right to work – Conclusions 2012**

##### **Paragraph 1 - Policy of full employment**

###### **Employment situation**

The Committee notes that with the resumption of growth in 2010, labour market trends have begun to improve in France, notably as regards the overall unemployment rate. However, youth unemployment remains high and above the EU-27 average.

The report mentions that despite a difficult economic context, the labour force grew during the reference period. The Committee notes that the employment rate was 63.8% in 2010 (compared to 64.1 % in the EU-27 on average).

The unemployment rate showed only a moderate increase (below 0.5 percentage points) between 2009 and 2010, standing at 9.8% in 2010, against 9.7 % in the EU-27 on average.

The youth unemployment rate amounted to 23.7% in 2010, slightly above the EU-27 average (21.1% in 2010). The long-term unemployment rate, as a percentage of all unemployed persons, was 40.2% in 2010, close to the EU-27 average (39.9% in 2010).

The report acknowledges that foreigners have a weaker foothold in the labour market. The employment rate of foreigners stood at 52.8% in 2009 (compared to 64.7% for nationals).

###### **Employment policy**

According to Eurostat, public expenditure on active labour market policies in France amounted to 0.98 % of GDP in 2009, which is slightly above the average of the EU-27 countries (where the average public spending on active labour market measures as a % of GDP that year was 0.78%). The Committee notes that the level of spending on active measures has slightly increased since the last report (0.7% in 2005).

The report fails once again to provide information on the number of participants in active measures. It therefore requests that the next report indicates activation rates i.e. the average number of participants in active measures as a percentage of total unemployed.

The Committee recalls that labour market measures should be targeted, effective and regularly monitored. It asks in this respect whether the employment policies in place are monitored and how their effectiveness is evaluated.

###### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 1§1 of the Charter.

##### **Paragraph 3 - Free placement services**

The Committee notes from another source (European Commission, Recommendation for a Council Recommendation on the National Reform Programme 2011 of France) that the new one-stop shop public employment service (Pôle Emploi) has so far shown mitigated results. In 2009-2010, its main objective was the merger of the two pre-existing administrative entities. Outsourcing of placement services has so far yielded mixed results in achieving the return to



work targets. At the same time, Pôle Emploi resources dedicated to individualized support of job seekers remain underdeveloped (71 full-time persons per 10 000 unemployed, which is significantly below the levels recorded in some peer countries).

The Committee recalls from its previous conclusion that the estimated placement rate by public employment services in 2006 was 87% (Conclusions 2008). The current report does not provide the placement rates for the reference period. However, it states that the number of registered jobseekers in 2010 (in metropolitan France) amounted to 4,019,100 persons, a 5% rise over the level in 2009. It also indicates that in 2010 there was a -0.1% decrease in the number of vacancies registered by Pôle Emploi, as well as a -1.5% decrease in the number of vacancies filled (both in comparison to 2009).

The Committee asks the next report to provide a number of clarifications in respect of the work of the Pôle Emploi: (i) the average time taken to fill the vacancies registered by it, (ii) whether there are plans to increase the number of staff involved in placement services, and (iii) how it co-ordinates work with the private employment services.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 1§3 of the Charter.

## **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

### **Paragraph 1 - Safety and health regulations**

The Committee asks for information in the next report on whether the occupational health and safety policy is regularly re-assessed in the light of new risks.

The Committee asks for the next report to provide information on the participation of the labour inspectorate in the development of a health and safety culture among employers and workers and on the sharing of knowledge of occupational hazards and prevention acquired during inspection activities (in the form of practical instructions, prevention measures and advice).

The Committee confirms that a system for consulting employers' and workers' organisations exists at the level of the national and regional authorities and at company and civil service level. It asks for information in the next report on how consultation on the annual review of health, safety and working conditions and on prevention measures is organised in practice in establishments with fewer than 50 employees.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 3§1 of the Charter.

### **Paragraph 2 - Safety and health regulations**

The Committee asks for information in the next report on the way in which the medical supervision of domestic employees is organized in practice. It notes that the case-law of the Court of Cassation quoted in the report relates to the reclassification of the legal tie between a self-employed worker and a contracting company into an employment contract. Except in cases of such reclassification, self-employed persons remain excluded from the protection afforded to workers in most activities, and enjoy solely the protection afforded by special regulations applicable to the most dangerous activities. Underlining that all workers, all workplaces and all sectors of activity must be covered by the regulations, the Committee confirms that the

occupational health and safety legislation and regulations do not afford self-employed workers a protection in conformity with Article 3§2 of the Charter.

### **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 3§2 of the Charter on the ground that the occupational health and safety legislation and regulations do not afford self-employed workers adequate protection.

### **Paragraph 3 - Enforcement of safety and health regulations**

#### **Occupational accidents and diseases**

The Committee previously concluded (Conclusions 2007) that the situation was not in conformity with Article 3§3 of the Charter on the grounds of the manifestly high number of occupational accidents. It deferred its conclusion (Conclusions 2009) pending receipt of information on measures taken to stem the increase in occupational diseases excluding musculoskeletal disorders; on recent surveys relating to the level of under-reporting of occupational accidents; on the inclusion in the statistics of occupational accidents in the civil service; and on the trends in the number of such accidents in undertakings with fewer than 50 employees.

According to EUROSTAT data, the number of accidents at work (not including accidents on the journey between home and work) decreased sharply over the reference period (from 466 105 in 2008 to 241 260 in 2010), as did the incidence rate for such accidents (from 3 658.47 in 2008 to 1 702.08 in 2010). This rate is now between the average observed in the EU-15 and the EU-27 (2 269.42 in 2008 and 1 582.71 in 2010). In contrast, the number of fatal accidents increased sharply (from 222 in 2008 to 367 in 2010), as did the average incidence rate for such accidents (from 1.67 in 2008 to 2.49 in 2010), which is now much higher than the rate observed in the EU-15 and the EU-27 (from 2.27 in 2008 to 1.87 in 2010). The report, which makes a distinction between employment covered by the general social security scheme, the agricultural scheme (employees and non-employees) and the civil service scheme (civil servants and non-statutory employees), indicates that the number of occupational accidents in the general scheme is stabilising (from 703 976 in 2008 to 658 847 in 2010) at a relatively low level, whereas the number of fatal accidents is continuing to decline (from 569 in 2008 to 529 in 2010). The number of occupational accidents (78 138 in 2010) and the number of fatal accidents (127 in 2010) in the agricultural scheme (employees and non-employees) is stabilising, following a previous downward trend.

The report also indicates that the number of reported cases of occupational diseases in the general scheme increased significantly over the reference period (from 45 411 in 2008 to 50 688 in 2010), as did the number of reported cases of fatal occupational diseases (from 425 in 2008 to 533 in 2010). The number of reported cases of occupational diseases in the agricultural scheme (employees and non-employees) (5 173 in 2010) has been stable since 2006.

In reply to the Committee's requests, the report provides data on the number of occupational accidents in undertakings with fewer than 50 employees and states that, in accordance with Article L-176-2 of the Social Security Code, a committee on the under-reporting of occupational accidents and cases of occupational disease assesses the real cost of under-reporting every three years.

The Committee takes note of this information. It notes that the data for undertakings with fewer than 50 employees reflect the trend observed for all undertakings in the general scheme. It also notes that the current figures are slightly up on the previous report of the committee on the under-reporting of occupational accidents and cases of occupational disease. In addition, it

notes that the disparity between the EUROSTAT data and the figures in the report may be put down to different definitions of occupational accidents (from the fourth/first day of absence). It nevertheless requests that the next report explain the disparity between the number of fatal accidents published by EUROSTAT (367 in 2010) and that indicated in the report (529 for the general scheme; 127 for the agricultural scheme; no figure indicated for the civil service scheme). It also requests that the next report indicate the measures taken to contain the substantial increase in fatal accidents and the large number of cases of fatal occupational diseases. It also repeats its request for information concerning the measures taken to stem the increase in cases of occupational disease other than musculoskeletal disorders. The Committee would alert the Government to the fact that if this information is not provided in the next report, it will not have the information it requires to establish that the situation in France is in conformity with Article 3§3 of the Charter.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 3§3 of the Charter.

### **Paragraph 4 - Occupational health services**

The Committee asks for information on means of control that the duty to have recourse to health services is implemented in practice. Given the progressive nature of the obligation set out in Article 3§4 of the Charter, it also wishes to have information on the access of independent workers, domestic workers and temporary workers to occupational health services.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 3§4 of the Charter.

## **Article 4 - Right to a fair remuneration – Conclusions 2014**

### **Paragraph 1 - Decent remuneration**

It previously concluded (Conclusions 2007 and 2010) that the situation in France with regard to the level of remuneration was in conformity with Article 4§1 of the Charter.

The Committee determines in the present case that the SMIC after social contributions and personal income tax corresponds to 51.03% of the net average income of single workers without children and 53.32% of this income after payment of the employment bonus. It notes that these proportions, and that of the minimum remuneration in the civil service, are between 50% and 60% of the net average wage. It observes that the report contains no information establishing that the SMIC makes it possible to ensure a decent standard of living and asks that the next report provide updated information on the transfers and benefits for which workers in receipt of the SMIC are eligible, as noted in a previous report (such as housing assistance; allowances for young children; family allowances, single parent's allowances). In particular it wishes to receive detailed figures concerning the housing assistance available to a full-time worker who is paid the SMIC.

The Committee also asks that the next report provide updated information on the amendments introduced by Decree No. 2013-123 of 7 February 2013 on the basis of adjustment of the national minimum wage and the youth guarantee set up under the multi-annual plan to combat poverty and foster social inclusion, which are mentioned in the report but fall outside the reference period.

The Committee also reiterates that the payment of a lower minimum wage to younger workers is not in breach of the Charter if it both furthers a legitimate aim and is proportionate to achieve that aim (General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 65/2011, decision on the merits of 23 May 2012, §60). To be able to examine the situation of France in this respect, it requests that the next report provide details of the assisted employment contracts and the authorised deductions from the SMIC. It also wishes to receive precise information on the RSA paid in addition to employment income.

### **Conclusion**

Pending receipt of the requested information, the Committee defers its conclusion.

## **Article 8 - Right of employed women to protection of maternity – Conclusions 2011**

### **Paragraph 1 - Maternity leave**

The Committee takes note of the information contained in the report submitted by France.

#### **The right to maternity leave**

There has been no change to the situation previously considered in conformity with the Charter (Conclusions 2003 and 2005). Maternity leave of 16 weeks is available to all employees; it may be extended in certain cases. A minimum of eight weeks' leave is compulsory, including six weeks following the birth.

#### **The right to maternity benefits**

The Committee previously found the level of maternity benefit to be adequate. The amount of daily benefits represents approximately 95% of the daily salary received in the previous 3 months. In 2009, the ceiling was fixed at € 76.54. In the civil service, there is an entitlement to keep the same salary during maternity leave.

The Committee previously found that periods of unemployment were not taken into account in calculating the amount of time worked and that this situation was not in conformity with the Charter as the failure to take into account periods of unemployment as time worked could constitute a restriction which might prevent the acquisition of a right to benefit. However, according to additional information provided by the Government, women who are unemployed when their maternity leave starts receive benefits which are based on their previous employment contributions. According to another official source, the benefit will correspond to 100% of their average daily salary, with a ceiling at € 76.54. In addition, the report indicates that for those women who find work during their pregnancy but do not have the required number of hours of work to be entitled to maternity benefits (200 hours of work in the previous three months), up to three months of unemployment separating the current employment from the last is now taken into account (Articles L. 311-5 and R. 311-1 of the Code of Social Security). The Committee considers that the situation is in conformity with the Charter.

### **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 8§1 of the Charter.

## **Article 11 Right to protection of health – Conclusions 2013**

### **Paragraph 1 - Removal of the causes of ill-health**

Follow-up of collective complaint Médecins du Monde – International v. France (complaint No. 67/2011, decision on the merits of 11 September 2012)

The Committee recalls that, in its decision on the merits of 11 September 2012 of complaint No. 67/2011 lodged by Médecins du Monde – International against France, it found that there had been a violation of Article E in combination with Article 11§1 of the Charter on the ground that the State Party had failed to meet its positive obligation to ensure that migrant Roma, whatever their residence status, including children, enjoy an adequate access to health care. The Committee takes note of the different measures announced aimed at improving Roma integration and, in particular, their access to health care. It considers however that the measures adopted by the Government do not sufficiently ensure adequate health care for migrant Roma, and thus reiterates its finding of non-conformity in Complaint No. 67/2011.

### **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 11§1 of the Charter on the ground that migrant Roma do not enjoy an adequate access to health care.

### **Paragraph 2 - Advisory and educational facilities**

Follow-up of collective complaint Médecins du Monde – International v. France (complaint No. 67/2011, decision on the merits of 11 September 2012).

The Committee recalls that, in its decision on the merits of 11 September 2012 of complaint No. 67/2011 lodged by Médecins du Monde – International against France, it found that there had been a violation of Article E in combination with Article 11§2 of the Charter on the ground that that there were insufficient opportunities for pregnant Roma women and children to have access to free and regular consultations and screening.

The Committee takes note of the different measures announced aimed at improving Roma integration and, in particular, their access to health care. It considers however that the measures adopted by the Government do not sufficiently ensure free and regular consultation and screening for pregnant Roma women and children, and thus reiterates its finding of nonconformity in Complaint No. 67/2011.

### **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 11§2 of the Charter on the ground that opportunities for pregnant Roma women and children to have access to free and regular consultations and screening are insufficient.

### **Paragraph 3 - Prevention of diseases and accidents**

Follow-up of collective complaint Médecins du Monde – International v. France (complaint No. 67/2011, decision on the merits of 11 September 2012).

The Committee recalls that, in its decision on the merits of 11 September 2012 of complaint No.67/2011 lodged by Médecins du Monde – International against France, it found that there had been a violation of Article E I combination with Article 11§3 of the Charter on the ground that that there was an insufficient policy on prevention of diseases and accidents in the Roma community.

The Committee takes note of the different measures announced aimed at improving Roma integration and, in particular, their access to health care. It considers however that the measures adopted by the Government do not sufficiently ensure a policy on prevention of diseases and accidents in the Roma community, and thus reiterates its finding of non-conformity in Complaint No. 67/2011.

## **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 11§3 of the Charter on the ground of a lack of prevention of diseases and accidents in the Roma community.

## **Article 12 Right to social security – Conclusions 2013**

### **Paragraph 1 - Existence of a social security system**

The Committee takes note of the information contained in the report submitted by France.

### **Risks covered, financing of benefits and personal coverage**

The Committee previously requested (Conclusions 2009) up-to-date figures on the personal coverage under each branch of social security.

The Committee notes that the report does not provide this information. It notes from the report under the Social Security Code that all resident population are covered for healthcare through the Universal Health Coverage (CMU). 68.0% of the population (excluding current recipients of the benefit) are covered against the risk of unemployment and 76.6% against the risk of invalidity.

The Committee requests that the next report provide information on the personal coverage (i.e. the percentage of persons insured against these risks out of the total active population) of unemployment, sickness, old-age, maternity and invalidity benefits.

### **Adequacy of the benefits**

The Committee notes from Eurostat that 50% of the median equivalised income amounted to €833 in 2011 and €802 in 2010.

### **Old-age benefit**

The Committee notes from another source<sup>1</sup> that in 2012, the minimum invalidity pension for first and second categories of invalidity amounted to €279.98. The ASI was €396.21 and the resources complement stood at €179.31. The Committee thus notes that the total minimum contributory and non-contributory invalidity benefit amounted to around €854 per month in 2012.

In 2010, according to the report, this amount stood at €824. The Committee takes into consideration all different elements making up the invalidity branch of social security and concludes that the situation is in conformity with the Charter. It asks, however, whether all persons in the first and second categories of invalidity would receive this amount as minimum invalidity benefit.

As regards the minimum level of the old-age benefit, the Committee notes from the report that the minimum non-contributory level of old-age pension (ASPA) amounted to €777 in 2012 and €708 in 2010, to which the housing benefits may be added (on average €200 per month, see above).

### **Sickness benefit**

The Committee asks what the minimum level of sickness benefits is.

### **Unemployment benefit**

The Committee previously asked (Conclusions 2009) for the minimum level of unemployment benefit in combination with other forms of assistance for which unemployed persons might be

entitled. It notes from the report that the minimum level of the benefit to return to work (ARE) before 1 July 2012 was €27.66 per day or €839 per month. According to the report the active solidarity revenue (RSA) is also paid, if necessary, to top up the unemployment benefit to the guaranteed minimum. The Committee notes that the minimum level of unemployment benefit is adequate.

The Committee also asked what the eligibility criteria for the specific solidarity allowance (ASS) was, and whether it could be paid as supplement to the unemployment benefit. In reply, the report states that the ASS can be paid in case a job seeker has exhausted his/her rights to the unemployment insurance benefit. Besides, job seekers belonging to certain professions (e.g. artists, fishermen) can also apply for the ASS, provided they are included on the list of job seekers, are looking for a job, can justify five years of gainful employment, and their resources do not exceed a certain limit. Resources taken into account for determining the entitlement to this allowance include all personal resources declared to the tax authorities (including real and personal income), and those of a spouse or a partner or a person with whom a civil solidarity agreement (PACS) has been concluded.

The Committee further asked how often the decisions were taken to withdraw unemployment benefit on the basis that the job offer had been refused without legitimate ground. In reply, the report states that the applicant may be penalised for non-compliance with his/her obligations, including refusal to accept employment or to define and update the personalised project of access to employment (PPAE). In these cases, the applicant may be temporarily removed from the list of job seekers (which implies in practice the temporary suspension of income replacement) and can also have his replacement income reduced or abolished by the Prefect. A tripartite committee is responsible, at the request of the applicant, to give an opinion on the decision to cancel the replacement income made by the Prefect.

The PPAE is established jointly by the employment centre and the job seeker. It defines the scope of the job search taking into account (i) training, qualifications and skills of the job seeker acquired through professional experience; the job seeker's personal and family situation; and the situation of the local labour market.

The PPAE also defines the reasonable job offer (ORE) that the job seeker is obliged to accept.

A job seeker is sanctioned in case of refusal of two OREs without a justified cause. The nature and characteristics of the job sought, the privileged geographical area and expected salary are the components of a reasonable job offer. Despite the introduction in 2008 of the objective definition of ORE, largely inspired from foreign practices including German and Scandinavian, the rule has not had an effective application: only 40 job seekers were indeed punished by removal from the list of job seekers for having refused two OREs in 2010. There is no domestic case law regarding the withdrawal of income replacement for refusing the ORE.

## **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 12§1 of the Charter.

## **Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security**

France has ratified the European Code of Social Security on 17 February 1986 and has accepted parts II and IV-IX of the Code. The Committee notes from Committee of Ministers Resolution CM/ResCSS(2012)6 on the application of the European Code of Social Security by France (period from 1 July 2010 to 30 June 2011) that the law and practice in France continue to give full effect to the parts of the Code which have been accepted.

## **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 12§2 of the Charter.

### **Paragraph 3 - Development of the social security system**

The Committee takes note of the legislative developments which took place during the reference period. It notes that Act No. 2011-1906 of 21 December 2011 on the financing of social security in 2012 raised the income ceiling for eligibility to complementary medical insurance benefit, which finances about 50% of the cost of the individual contract of private supplementary insurance. Measures are also envisaged under this Act with a view to optimizing public spending on health care.

The Committee also takes note of the legislative developments in the field of old-age benefits which took place in 2008 and then the reform of 2010 aiming at maintaining and consolidation of the old age benefit and assuring its financing. The reform has aimed at prolonging the active life through introduction of three measures, which will enter into force progressively: raising the age of entitlement to the pension from 60 to 62 years; extending the period of insurance necessary to obtain full pension as of 2018; and raising the age of eligibility to full pension irrespective of the length of insurance from 65 to 67 years as of 2023. The Act No. 2011-1906 of 21 December 2011 on financing of social security for 2012 has accelerated the 2010 reform by advancing the timing of raising the age of retirement. Beyond and without changing the parameters of the 2010 reform, the new Government who came to power in May 2012 expanded the modalities of maintaining the right to retirement at 60 years for people justifying long professional careers.

In reply to the question asked in the previous conclusion regarding the burden of health insurance costs, the Committee notes that the burden of the cost of health care that falls on households has stabilised over the period 2009-2011 at 9.6%, after having risen between 2005 and 2008. France remains, however, one of the OECD countries where the share of health care covered by the basic insurance system is one of the highest. It stood at 75.8% of expenditures in 2011, while complementary schemes covered an average of 13.5% of expenditures.

The basic health insurance scheme is complemented by a supplementary professional or voluntary scheme (CMUC). People with lower incomes who do not have the means to finance supplementary insurance may benefit from CMUC.

In reply to the question regarding the decision to reduce from four to one year the timeframe during which a survivor is entitled to benefits in kind, the report states that before 2000, health benefits in kind depended on the worker's membership in a professional insurance fund. In this context, a longer period during which such entitlements could be maintained in case of change of employment status was justified, as it ensured that workers, and especially their dependents, remained well protected during their change of status. Since the introduction of universal health coverage (CMU) in 2000, under which the continuity of enjoyment of these rights is guaranteed, this protection is no longer needed.

## **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 12§3 of the Charter.

### **Article 13 - Right to social and medical assistance – Conclusions 2013**



## **Paragraph 1 - Adequate assistance for every person in need**

### **Types of benefits and eligibility criteria**

The situation in France has not been in conformity with Article 13§1 of the Charter since 2000 on the ground that the minimum age for entitlement to minimum income benefits, except for young people under 25 who have a dependent family, is 25 years. The Committee has always held that in the absence of subsistence aid, the existence of other forms of supplementary or conditional assistance for young people would be insufficient to comply with the Charter. In this regard, it takes note of the information provided to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2009, Doc. T-SG (2011) final, the RSA was extended to young active people, provided they have been engaged in a professional activity for at least the equivalent of two years out of the last three (by the end of 2011, there were around 9 000 young beneficiaries from RSA). It also takes note of the information that different benefits and measures are directly addressed at young people or are available to them, as well as of the Government's argument that the current system is aimed at encouraging family solidarity to combat poverty. In this connection, while noting the progress represented by the extension of the RSA to some young people under 25, the Committee reiterates that under Article 13§1 of the Charter, the right to assistance presupposes that the person is unable to obtain resources "either by his own efforts or from other sources" and that family solidarity cannot be regarded as a sufficiently determinate "other source" of income for a person without resources, but rather takes the form of "a moral value not legally defined". Family solidarity does not provide persons in need with a clear and precise basis of social support, and in addition, many families may not be in a position to supply the necessary minimum level of assistance. The Committee therefore reiterates its previous conclusion of non-conformity on this ground.

### **Level of benefits**

To assess the situation during the reference period, the Committee takes account of the following information:

- **Basic benefit:** according to the Mutual Information System on Social Protection (MISSOC), the RSA benefit for a single person (not receiving housing benefits) amounted to €466.99 in 2011 or €410.95 (for a single person receiving also housing benefit), i.e. respectively around 28% and 25% of median equivalised income. This constitutes the basic amount for people with no salary. People with low salaries can also receive activity RSA to complement their income.
- **Additional benefits:** the report indicates that the low level of basic benefit can be explained by the fact that a number of additional benefits is available (housing benefits, reduced taxes, healthcare benefits, free access to certain services). According to the report, the amount of housing benefits was on average €227 in 2009 for a single RSA beneficiary. The Committee stresses that, in order to assess the level of assistance and its conformity with the Charter, it needs to have detailed figures on monthly basic and supplementary benefits to which a typical claimant living alone is entitled for the years covered by the reference period, or at least for the year at the end of the reference period. It reiterates its request that the next report provide the average amount of all relevant supplementary benefits paid to a single person living alone during the relevant reference period (the next reference period being 2012-2016). In the meantime, it notes respectively from MISSOC and Eurostat sources that in 2009, the basic benefit amount was €454.63 for a single person and that the poverty threshold (defined as 50% of median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold) was €818.50. It finds that the combined amount of basic and additional benefits was in 2009 at a lower level than the poverty threshold. In the absence of information on other

relevant additional benefits available and their average amounts, the Committee finds that it has not been established that the level of assistance is in conformity with Article 13 of the Charter.

- Medical assistance: health costs are met by the universal sickness cover scheme (CMU). The basic cover scheme (CMU-B) is free of charge for the beneficiaries of RSA. People whose income is below a certain amount, including beneficiaries of RSA, also get additional coverage through the complementary cover scheme (CMU- C). As of 13 December 2010, 1 849 people in France were covered by the CMU-B.

- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €833 per month in 2011.

The Committee notes that the information provided does not allow establishing that the level of social assistance is compatible with the poverty threshold.

### **Right of appeal and legal aid**

The Committee requests the next report to continue to provide updated information on the ongoing reform of the procedure in the social welfare courts. In the meantime, it considers that the situation is in conformity with the Charter on this point.

### **Personal scope**

The Committee noted in Conclusions 2009 that the residence condition was no longer required for EU nationals to be entitled to the minimum income benefit. It held, however, that the situation was not in conformity with the Charter because a five-year length of residence was still required for non-EU nationals with temporary residence permits.

The report points out that a number of exceptions exist, concerning refugees, stateless people, single parents and victims of labour accidents/occupational diseases. It confirms, however, that the length of residence condition applies in the other cases.

The Committee recalls that under Article 13§1 of the Charter, in the light of the Appendix to the Charter, foreigners who are nationals of States Parties lawfully residing in the territory of another State Party and lacking adequate resources, must enjoy an individual right to appropriate assistance on an equal footing with nationals (Conclusions XIII-4, Statement of Interpretation on Article 13) and conditions such as length of residence, or conditions which are harder for foreigners to meet, may not be imposed on them.

Accordingly, noting that the situation regarding non-EU nationals as regards their access to RSA has not changed, the Committee maintains its conclusion of non-conformity on this ground.

### **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 13§1 of the Charter on the grounds that:

- young persons in need aged under 25 are not all entitled to social assistance;
- it has not been established that the level of social assistance is adequate;
- grant of the RSA for foreign nationals with a temporary residence permit, unless EU nationals, is subject to five years of residence on French territory.

### **Paragraph 1 - Adequate assistance for every person in need – Conclusions 2015**

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information contained in the report submitted by France in response to the conclusion that it had not been established that the level of social assistance was adequate.

The Committee recalls that it must be such as to make it possible to live a decent life and to cover the individual's basic needs. In order to assess the level of assistance, the Committee takes into account basic benefits, additional benefits and the poverty threshold in the country, which is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold (Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits of 9 September 2014, §112).

The report states that the active solidarity income ("Revenu de solidarité active" or RSA) for a single person is €509. The report further explains that the amount of housing benefit varies depending on the geographical area where the person lives and his/her personal circumstances (whether he/she lives alone or in a couple, or is in charge of dependent persons), ranging from €237.67 to €290.96 for a single person, €288.12 to €350.92 for a couple and €323.05 to €396.61 for a single person or a couple in charge of a dependant person. Furthermore, the report states that these amounts may be complemented by other social benefits, such as electricity, gas, telephone, internet or transport subsidies, as well as free access to healthcare (CMU-C) and the exoneration from paying property taxes. The report explains that determining the amount of supplementary benefits in the abstract is difficult due to the fact that most social benefits depend on the personal circumstances of the applicant.

The Committee takes note of this information. It further notes that the poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value) corresponded to €873 per month in 2013. In order to assess the situation properly, the Committee asks that the next report specify the combined (total) amount of basic and supplementary benefits available for a single person, if necessary by providing information on and/or examples of total amounts received by "typical" single beneficiaries on a monthly basis. In the absence of such information in the present report, the Committee finds that it has not been established that the level of assistance is adequate in the meaning of Article 13§1 of the Charter.

### **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that the level of social assistance is adequate.

### **Paragraph 2 - Non-discrimination in the exercise of social and political rights**

It notes there have been no changes in the situation that it has previously considered to be in conformity with the Charter (Conclusions 2009).

### **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 13§2 of the Charter.

### **Paragraph 3 - Prevention, abolition or alleviation of need**

The Committee notes that the situation which it has found to be in conformity with the Charter (Conclusions 2009) has not changed. In addition, the report indicates that services and institutions implementing this provision are provided with sufficient means to give appropriate assistance, as necessary.

## **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 13§3 of the Charter.

## **Article 14 - Right to benefit from social services – Conclusions 2013**

### **Paragraph 1 - Promotion or provision of social services**

#### **Effective and equal access**

The report does not answer the Committee's question as to the social services for which fees are payable and what the average level of such fees is. It states that the legislation is a powerful tool for the allocation of public funding in principle but that it does have its limits. The Committee points out that fees may be charged for social services provided that they are not so onerous as to prevent effective access. For persons who do not have the necessary resources, service must be provided free of charge. The Committee asks for the next report to list those services for which a fee can be charged and what the average fee charged to users is. It also asks if these services are free for those who do not have the means to pay for them.

As to the remedies available for persons to assert their rights when they wish to contest a decision taken against them, the report states that most cases concerning social assistance are brought in the first instance before the Social Assistance Committees of the *départements* (CDAS), on appeal before the central social assistance committee (CCAS), and ultimately before the *Conseil d'Etat*.

The Committee refers to its previous conclusion (Conclusions 2009) for a description of the measures taken with regard to quality of services.

In answer to the question on total expenditure on social services, the report states that in total, taking account of the entire operations carried out by the social insurance schemes, the public authorities (excluding tax expenditure) and complementary bodies, the budgets of the social protection services amounted to 31.3% of GDP (or €598 billion) in 2009. Public spending on social cohesion alone (made up of the medico-social component of health spending, family policy spending and expenditure on measures to combat poverty and exclusion, and reincorporating the related tax expenditure) came to a total of €124 billion or 6.4% of GDP in 2010. The four main sectors to which this was allocated were as follows: families and children – €59.9 billion; persons with disabilities – €27.9 billion; the elderly – €18.7 billion; and social integration – €10.1 billion.

## **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 14§1 of the Charter.

### **Paragraph 2 - Public participation in the establishment and maintenance of social services**

The principal aim of Act No. 2002-2 of 2 January 2002 on social modernisation is to improve the rights of the users of social and medical welfare establishments and services. Similarly, Act No. 2008-1249 of 1 December 2008, which makes the active solidarity income (RSA) generally available and which reforms the integration policies, provides for the involvement of persons receiving the RSA in the functioning and assessment of the system. The Committee asks for the next report to include an assessment of this system set up by legislation.

On the subject of the monitoring of the quality of the social welfare services provided by charitable organisations and the voluntary sector, the report refers to the Social Modernisation Act, under which all social and medical welfare establishments and services must carry out an

internal assessment every five years and conduct two external assessments over a period of 15 years. This is a precondition for continuation of their authorisation. The National Agency for the Evaluation and Quality of Social and Medical Welfare Establishments (ANESM) is responsible for approving the bodies responsible for external assessments. The Committee asks what is assessed during the internal and external assessments, and if the ANESM – or another body – verifies the quality of the internal assessments.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 14§2 of the Charter.

## **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012**

### **Paragraph 1 - Vocational training for persons with disabilities**

The Committee reiterates its questions, raised in its conclusions 2007 and 2008 concerning: the number of persons receiving initial and continuing training in mainstream and specialised institutions; the number of requests for admissions to mainstream and specialised institutions; arrangements aimed at facilitating the integration of disabled persons and ensuring that the great majority of them can access mainstream vocational training.

Follow-up of collective complaint *Autism-Europe v. France* (complaint no. 13/2002, decision on the merits of 4 November 2003):

As regards school integration of autistic children, the report presents a new Autism plan 2008-2010, which pursues three objectives:

improving scientific knowledge of autism as well as professional training and practice – an assessment of current state of knowledge on autism was published in March 2010 and professional training on these issues, as well as the issuing of practice recommendations, were scheduled to start in 2011;

better identifying autistic persons so as to improve assistance to them and their families – the budget allocated to the diagnosis of autism has been increased, some standard criteria have been set to better assess the results of the Resource Centres for Autism (CRA), cooperation has started between CRA and MDPH; diversifying approaches while respecting individual fundamental rights – over 170 millions euros have been earmarked for setting-up by end 2012 some 4,100 extra places for autistic people (2,100 places for children in special education institutions; 2,000 places for adults in special institutions and home care services), end 2010 some 1,330 places for children and 342 places for adults had effectively been set up; in addition, 24 structures experimenting behavioural methods were set up in 2009 and 2010.

The report indicates that a number of measures are still under way and that the results achieved through this Plan are under assessment. While noting the new measures under way and the fact that their impact remains to be assessed, the Committee notes that the report does not indicate the impact of the previous Autism Plan and the changes resulting in practice from the adoption of the new WHO definition of autism. It also notes that it is currently seized of a new complaint (No. 81/2012, *Action européenne des handicapés (AEH) v. France*), registered in April 2012, concerning the problems regarding access of autistic children and adolescents to education and access of young adults with autism to vocational training. In the absence of sufficient information regarding the effective equal access of persons with autism to mainstream and special education, the Committee finds that the additional information provided in the report is not sufficient to make it reconsider its previous conclusion on this subject.

## **Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 15§1 of the Revised Charter on the ground that it has not been established that people with autism are guaranteed effective equal access to (mainstream and special) education.

## **Paragraph 2 - Employment of persons with disabilities**

The report indicates that:

- employment of disabled people has been facilitated (employability of those seeking employment is now systematically assessed and age limits for apprenticeship have been abolished for them; incentives have been made available to those wishing to resume employment; companies' procedures for recruiting disabled people have been simplified);
- work supply and demand have been brought closer (CAP-EMPLOI activities and interaction with the National Employment Agency have been strengthened);
- institutional partnerships have been improved (regional plans have been drawn up for the professional integration of disabled people, interaction between MDPHs and employment agencies has been improved, leading to an increase in the number of work agreements signed, AGEFIPH has been mandated to assess in June 2011 the impact of the measures taken);
- training opportunities have been extended and improved (regional policies have been drawn up, leading in 2009 to finance some 25,200 trainings for disabled people for a budget of 240 millions euros, i.e. 12% more than in 2006 – all in all disabled people benefited from some 102,044 trainings schemes, financed by different bodies);
- measures have been taken in favour of the adapted companies (EAs), i.e. companies employing through state's subventions (aides au poste) at least 80% disabled staff, and make state's participation to their financing more efficient.

The Committee notes the information provided on the different measures enacted to promote employment of disabled persons, it wishes to be kept informed of the impact of these measures on the employment rate of disabled persons in the ordinary labour market and reiterates its questions (see Conclusions 2008) concerning disabled workers' access from sheltered to ordinary employment.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by France under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Paragraph 3 - Integration and participation of persons with disabilities in the life of the community**

The Committee would like the next report to indicate whether the objectives set for 2015 in terms of accessible premises and transport have been achieved and, if not, to quantify the progress made compared to what remains to be done.

The Committee reiterates its questions concerning the concrete improvements achieved in practice and the availability of free transport or concessionary fares for disabled people.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by France under the Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

## **Article 16 - Right of the family to social, legal and economic protection - Conclusions 2011**

The Committee takes note of the information contained in the report submitted by France. As the notion of the "family" is variable, the Charter applies to every family according to the definition of this notion in domestic law. The Committee asks that the next report indicate how the "family" is defined in domestic law.

### **Family benefits**

The Social Security Finance Act for 2007 allowed the possibility of sharing family benefits between separated or divorced parents in the event of alternating custody.

Since 2008 families have benefited from favourable new tax provisions, particularly concerning the "family quotient" system, tax reductions and tax credits. All widowers with one or more dependants are entitled to the same number of "household units" as married taxpayers with the same number of dependants. For persons carrying on an occupation or looking for a job, the revised state budget for 2006, as amended by the Act of 5 March 2007 establishing an enforceable right to housing and concerning various measures to foster social cohesion, transformed the tax reduction for employment of a home help into a tax credit. The state budget for 2006 raised the rate of the tax credit for expenditure on childcare provided outside the taxpayer's home from 25% to 50%.

The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of median equivalised income. According to the report and MISSOC, in 2009 the monthly amount of child allowances was € 123.92 for two children, € 282.70 for three children, € 441.48 for four children, € 600.26 for five children, € 759.04 for six children and € 158.78 per additional child. The Committee notes that these amounts per month correspond to 7,5%, 17,2%, 26,8%, 36,4% and 46,1% of monthly median equivalised income. The Committee recalls that it previously considered that the amount of family benefits was sufficient. It notes that basic child allowances have risen compared with the previous reference period. Based on the information at its disposal, and also taking into account the various tax reductions, it considers that the amount of family benefits is sufficient.

### **Equal treatment of foreign nationals and stateless persons with regard to family benefits**

According to another source, the conditions of entitlement to family benefits for citizens of EEA countries living in France are the same as for beneficiaries who are French citizens. Foreign citizens, other than EEA or Swiss citizens, can receive family benefits for dependent children provided they meet certain conditions. When the family lives in France the conditions of entitlement to family benefits are assessed as for beneficiaries of French nationality. Children of foreign citizens must normally be resident in France and be effectively and permanently dependent on them (or the person they have designated to receive the benefits, such as a spouse or unmarried partner). To claim benefits the parent must also be normally resident in France and hold a certain type of residence permit and must be able to prove that the children have lawful immigration status. Under Articles L. 512-2 and D. 512-2 of the Social Security Code

relating to the payment of family benefits, to be entitled to benefits foreign children must be able to produce a document proving their lawful immigration status, such as a medical screening certificate issued by the National Agency for the Reception of Foreigners and Migration (ANAEM) on completion of the introduction or admission procedure for family reunion purposes. On 15 April 2010 the Court of Cassation<sup>3</sup> confirmed that foreigners are entitled to family benefits provided they prove that the dependent children in respect of whom the application is made have lawful immigration status under the family reunion procedure referred to in Book IV of the Code on Entry and Residence of Foreigners and the Right to Asylum.

In a decision of 29 September 2008<sup>4</sup> the Anti-Discrimination and Equality Commission (HALDE), noting that foreign parents who could not prove their children's lawful immigration status in France were not entitled to family benefits, deemed that this situation constituted discrimination and that the parents alone should be required to have lawful immigration status. The Committee recalls that the Charter provides for equal treatment in matters of family benefits. It asks the next report to indicate whether all families of foreign nationals or stateless persons are entitled to family benefits.

### **Follow-up to European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009**

The Committee refers to its conclusions on Article 31 and recalls that in its Decision on the Merits of 19 October 2009 of the Complaint No 51/2008, European Roma Rights Centre (ERRC) v. France, §89, it held that the population concerned by this collective complaint unquestionably includes families and that in view of the scope it has constantly attributed to Article 16 as regards housing of the family, the findings of a violation of Article 31 or Article E in conjunction with Article 31, amount to a finding that there has also been a breach of Article 16, and of Article E in conjunction with Article 16. The Committee notes that the situation has not changed, therefore it reiterates its finding of non-conformity on the ground that the housing conditions of travellers' families are not adequate.

### **Conclusion**

The Committee concludes that the situation is not in conformity with Article 16 of the Charter on the ground that the housing conditions of travellers' families are not adequate.

### **Article 23 - Right of the elderly to social protection – Conclusions 2013**

#### **Legislative framework**

In its previous conclusion (Conclusions 2009), the Committee considered that the scope of the Penal Code might in principle provide adequate guarantees to protect elderly persons from discrimination outside employment as required by Article 23 of the Charter. It requested further information on its implementation with respect to age discrimination, as well as on any other legislative or policy initiatives in this area. The report does not address this question.

The Committee reiterates its question about implementation of the anti-discrimination framework in practice.

The Committee asks for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction.



### **Adequate resources**

When examining the adequacy of resources of elderly persons under Article 23 of the Charter, the Committee takes into account all social protection measures guaranteed to elderly persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life. In particular, the Committee examines pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons. These resources will then be compared with the median equivalised income. However, the Committee recalls that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter. For this purpose, the Committee will also take into consideration relevant indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

According to the report, the basic retirement pension granted to a person who has validated the length of insurance required for his generation or, failing that, who has reached an age determined (depending on the generation considered: 60-62 years old or, in case of an incomplete insurance period, 65-67 years old, the age required for full rate pension) may not be lower than a minimum amount of €628.99 per month – the contributive minimum. It is increased to €687.32 per month (in 2013) if the insured has validated during his career a certain number of social security contributions (€665 in 2011, according to the Mutual Information System on Social Protection [MISSOC]). This system ensures a minimum of 85% of the net minimum wage (basic retirement pension and supplementary combined) for employees who were on the minimum wage and who have had full careers.

The Committee notes from the report that low-income pensioners aged 65 (or 60-62 if dependent) may be eligible to the solidarity allowance for the elderly (ASPA). ASPA is a non-contributory differential allowance which supplements the resources of the elderly to a guaranteed minimum amount of €787.26 per month for a single person in 2013 (€742.27 per month in 2011, according to MISSOC). Furthermore, cash benefits to which low-income persons are entitled (in particular beneficiaries of the ASPA) include different housing allowances, the amount of which varies depending on the recipient households, on average €200 per month. Moreover, these people benefit from health care while being exempt from monthly contributions to this effect.

The old-age pensioners who needs help because of dependence is entitled to a supplement for assistance by a third party of 40% of the pension but not less than €12 722 per year in 2013 (€1 060 per month in 2011).

The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value was estimated at €833 in 2011. The Committee considers that the level of guaranteed resources, taken together with available supplements and free health care coverage, is in conformity with the Charter.

The Committee further notes from Eurostat that in 2011, 1% of persons aged 65 and over received income falling below 40% of median equivalised income (compared to 1.9% in 2010 and 2.9% in 2007). The Committee takes note of this improvement, nevertheless it asks the Government what measures are taken to address the situation of this group.

In the meantime the Committee concludes that the situation is in conformity with Article 23 of the Charter.

### **Institutional care**

As regards the inspection of institutions, the Committee notes from the report that with the creation of Regional Health Agencies (ARS), the supervision of institutions was passed from the prefects to a public institution with legal personality and financial autonomy. The Committee

would like to receive more information about the monitoring of care quality and well-being of the elderly in residential care performed by this new institution.

### **Conclusion**

The Committee concludes that the situation in France is in conformity with Article 23 of the Charter.

## **Article 27 - Right of workers with family responsibilities to equal opportunity and treatment – Conclusions 2011**

### **Paragraph 1 - Participation in working life**

#### **Conditions of employment, social security**

As regards organisation of working time, employees with family responsibilities are entitled to work part-time under common-law. The Labour Code (Article L. 3123-7) also provides that an employee who so requests can be granted a reduction of working time in the form of one or more periods of at least a week because of the needs of his/her family life. The working hours are fixed in the annual limit set by law. This type of part-time work, however, requires prior agreement of the employer.

Article 27§1 requires State Parties to take account of the needs of workers with family responsibilities in terms of social security. The Committee asks whether workers are entitled to relevant social security benefits, in particular health care, during periods of parental/childcare leave. The allowances paid for parental leave are considered under Article 27§2.

On the question of whether periods of absence from work due to family responsibilities are taken into account in the calculation of pension schemes, the report clarifies that several situations can be distinguished according to the type of childcare leave taken by the employee and his/her level of resources. In some cases, employees will be compulsorily affiliated to an old age insurance scheme, and in others, for example in the case of an unpaid leave, parents can insure themselves on a voluntary basis.

#### **Child day care services and other childcare arrangements**

In France early childhood traditionally corresponds to the period up to age six. Within this age group, the age of three marks a specific cut-off point.

Up to the age of three, provision of day care for young children is entirely a matter for family policy, which offers a range of diversified solutions. Some children under three years are looked after at home by their mothers. Other children aged 0-3 are minded in day care centres, childminders and home private care. After the age of three, day care for young children is principally provided by kindergartens and leisure centres.

According to the report, childcare needs are assessed as a ratio of the number of under-threes to the number of places and facilities used in terms of collective and individual reception services. The rate of cover of needs is evaluated at 48.13% (1,118,267 children under the age of three out of a total of 2,323,589), broken down as follows (on 1 January 2008): collective reception 14.29%, childminders 25.15%, kindergartens 7.05% and paid home helps 1.36%.

The departments with the fewest reception facilities outside the parents' home are in the North of France (along the Belgian border) and in the South (Mediterranean coast); they have fewer than 39 places per 100 under-threes.

The Committee notes that in February 2009 the Government launched a plan to expand the supply of places for infants, geared to providing 200,000 new places for 2009-2012, broken

down fairly evenly between collective and individual reception services. It would like to be kept informed of the implementation of this plan and its impact in the departments with fewer facilities.

In connection with financial support measures, the Committee notes that the universal employment/service voucher (CESU) encourages companies to help their employees pay for childcare facilities or to invest in creating reception facilities.

The reduction, financed by the family allowance funds, in charges for collective childcare (covering all types of structures) in line with the parents' income in order to cut the parental contribution, and the defrayal of overall social contributions and a percentage of the net salary of childminders, subject to means testing, are helping to limit the financial contribution of less well-off families to the funding of childminding facilities.

In the case of recipients of minimum social benefits, with a view to encouraging their occupational integration, the Law of 1 December 2008 laid down a guarantee on access of their under-three year old children to collective day nurseries (or other alternative solutions defrayed from the public fund) on a ratio of one in twenty places.

Finally, the Committee notes that an unpaid statutory three-day period of leave per year to look after a sick child is provided by Article L. 1225-61 of the Labour Code. This can be extended to five days if the child is less than one year old.

### **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in France is in conformity with Article 27§1 of the Revised Charter.

## **Article 30 - Right to be protected against poverty and social exclusion – Conclusions 2013**

### **Measuring poverty and social exclusion**

The Committee refers to its statement of interpretation on Article 30 in the General Introduction to these Conclusions and invites the Government to take it into account when drawing up the next report.

The Committee asks that the next report contain detailed and up-dated information on poverty rates for specific target groups such as immigrants, Roma, children and single-parent families as well as on the geographical distribution (urban vs. rural, etc.). It also repeats its request for information on indicators used to measure social exclusion.

The Committee asks that the next report contain detailed and up-dated information on poverty rates for specific target groups such as immigrants, Roma, children and single-parent families as well as on the geographical distribution (urban vs. rural, etc.).

### **Approach to combating poverty and social exclusion**

According to the report the non-take-up of the RSA (*revenu de solidarité active*) was 49% in 2010 (and 28.9% for the CMU – *couverture médicale universelle*) indicating that efforts have to be made to better identify the needs of persons experiencing poverty and social exclusion. The Committee asks to be informed of any measures taken for this purpose.

In the employment field the *Pôle Emploi* was created in 2008 with a view to simplifying procedures for jobseekers. Moreover, the job scheme "jobs for the future" (*emplois d'avenir*) allows young people with no qualification to be employed full time for up to five years on the minimum wage (SMIC) and with a 75% subsidy from the State. From another source the Committee notes that the results of the employment-related initiatives for "active inclusion" have been far from satisfactory and for example the *Pôle Emploi* receives only 17% of job offers in the labour market and has had difficulties providing effective services. Nevertheless, the

Committee has found the situation with respect to employment policy and employment services to be in conformity with Article 1§1 and Article 1§3 respectively (Conclusions 2012).

**International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007**

The Committee refers to its decision on the merits and to Committee of Ministers Resolution ResChS(2008)7. While acknowledging the measures pertaining to housing announced by the Government in the resolution, the Committee recalls its conclusions on Articles 31§2 and 31§3 of the Charter (Conclusions 2011) in which it held that the follow-up to its findings had been unsatisfactory. The information in the present report does not lead the Committee to take any other view of the situation and it therefore holds that the violation of Article 30 of the Charter due to the insufficiency of the housing policy for the poorest has not been remedied.

**European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009**

The Committee refers to its decision on the merits and to Committee of Ministers Resolution ResChS(2010)5. While noting the measures pertaining to housing for Travellers announced by the Government in the resolution, the Committee recalls its conclusions on Articles 31§1 and 31§2 of the Charter (Conclusions 2011) in which it held that the follow-up to its findings had been unsatisfactory. The information in the present report does not lead the Committee to take a different view of the situation, which consequently remains in breach of Article 30 on the ground that housing policy for Travellers is inadequate.

Although the report contains no information on the restrictions on the right to vote in practice affecting Travellers and constituting discriminatory treatment, the Committee notes that outside the reference period the requirement for administrative attachment to a municipality for a three- year period (Section 10 of Act No. 69-3 of 3 January 1969) was declared unconstitutional by a decision of the *Conseil Constitutionnel* of 5 October 2012 (No. 2012-279 QPC). The Committee therefore considers that the situation in this specific respect has been brought into conformity with the Charter. However, it also notes that the constitutionality of the 3% quota limit on the number of voters without fixed domicile or residence (Section 8 of Act No. 69-3 of 3 January 1969) was upheld by the above-mentioned decision by the *Conseil Constitutionnel* and can therefore only conclude that the follow-up on this point has been unsatisfactory. It reiterates that on this point the situation is in breach of Article E taken in conjunction with Article 30 of the Charter.

**Médecins du Monde – International v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012**

The Committee refers to its decision on the merits and to Committee of Ministers Resolution ResChS(2013). In its decision the Committee found a breach of Article E taken in conjunction with Article 30 on the ground that housing policy for migrant Roma was insufficient in as much as treating migrant Roma in the same manner as the rest of the population, without taking measures adapted to the different situation which they were, in constituted discrimination.

The Committee adopted its decision on the merits outside the reference period and therefore the follow-up cannot be undertaken in this conclusion. However, the facts of the complaint concern the reference period and for this reason the Committee concludes that there is a breach of Article E taken in conjunction with Article 30 of the Charter.

**Conclusion**

The Committee concludes that the situation in France is not in conformity with Article 30 of the Charter on the grounds that:

- follow-up of decisions on the merits of Collective Complaints No. 33/2006 and 51/2008 remains unsatisfactory;
- there was discrimination of migrant Roma in respect of housing policy during the reference period (Collective Complaint No. 67/2011).

## European Code of Social Security

### Resolution CM/ResCSS(2015)6 on the application of the European Code of Social Security by France

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to the adopted by the Committee of Ministers resolutions](#)

#### The Committee of Ministers notes:

I. concerning Part II (Medical care), that Act No. 2013-504 of 14 June 2013 on employment security and Act No. 2013-1203 of 23 December 2013 on the financing of social security for 2014 modified certain conditions of access to universal supplementary health coverage (CMUc) and the assistance for the payment of supplementary health insurance, with the aim of generalising to all employed persons by 2016 access to supplementary health coverage. Furthermore, Decree No. 2013-1260 of 27 December 2013 modifying the conditions of entitlement to sickness, maternity, invalidity and survivors' benefits in kind and in cash has substantially lowered the annual conditions for entitlement to benefits in kind. Finally, the government indicates that it plans, by 2017, to generalise to the whole of the population the procedure known as "third-party payment" so that patients no longer have to advance medical fees for the purchase of medicaments or for consultations;

II. concerning Part IV (Unemployment benefit), the conclusion by the social partners of a new agreement on unemployment compensation, which entered into force on 1 July 2014. The specific characteristic of this agreement is the establishment of a new mechanism of "rechargeable rights" in order to enable unemployed persons who find employment without having used up all of their entitlement to unemployment insurance to conserve the remaining entitlement which can be used if they lose their job once again, on condition that they have worked for at least 150 hours. The Committee of Ministers notes the introduction of the concept of "rechargeable rights" which is intended to lengthen the period during which acquired unemployment insurance rights can be used so as to enable those concerned to confront more effectively the realities and needs of the labour market, particularly with regard to the increase in changes of job during active life and the resulting fragmentation of careers;

III. concerning Part V (Old-age benefit), notes the adoption of Act No. 2014-40 of 20 January 2014, the objective of which is to safeguard the future and the justice of the system of short-, medium- and long-term retirement benefits by ensuring the equilibrium of the whole pensions system, taking into account demographic developments and particularly the lengthening of life expectancy. Among its principal measures, the Act provides for an increase by 0.3 points in old age insurance contributions shared equally between employers and employees, and a progressive increase in the length of insurance required for entitlement to a retirement pension without reduction by one quarter every three years with a view to achieving 43 years for insured persons born as from 1973, that is in 2035. The Act also envisages the reinforcement of solidarity mechanisms for insured persons with "interrupted" careers; the taking into account of the arduousness of work (that is recognition of the fact that exposure to certain factors of arduous work can reduce life expectancy) through the creation on 1 January 2016 of personal accounts for the prevention of arduous work; the improvement of the entitlement of women to retirement benefits, particularly for those who accumulate low wages and part-time work, and

an improvement in the manner in which the consequences of maternity on women's careers are taken into account; and measures to take into account more broadly in the retirement system the difficulties experienced by young persons in gaining access to long-term employment, by facilitating the acquisition of quarters of old-age insurance;

The Committee of Ministers would be grateful if the government would explain the overall effect that it hopes to obtain through these measures in terms of reducing the deficit of the pension system and the number of retired persons living below the poverty threshold, given that they constitute 30 per cent of the poor population in France. The Committee of Ministers notes in this context that the social minimum pension (the solidarity allowance for the elderly) was €800 in 2014, which is well below the poverty threshold calculated as 60 per cent of the median income. It also recalls that, according to the information provided by the government in 2011, the old-age pension received by a skilled male employee after 30 years of contribution attains €787, or a replacement rate of 37.3 per cent, which is below the rate of 40 per cent required by the Code;

IV. concerning Part VII (Family benefit), the government's indication that, within the framework of the renovation of family policy, the Act on the financing of social security for 2014 introduced a modulation in the rate of the basic allowance according to the level of resources of families, with a view to rebalancing certain benefits on families in greatest need, including the basic allowance for a young child (PAJE). At the same time, the supplement for the free choice of the method of care (CMG) is henceforth subject to the sole condition of exercising an occupational activity, with the abolition of the condition of a minimum income drawn from an occupational activity. Finally, in accordance with the commitment set out in the pluri-annual plan to combat poverty and promote social inclusion, the above Act introduces a family supplement increased by 50 per cent for families whose resources are lower than the poverty threshold, and the 25 per cent supplement to the family support allowance paid, among others, to single-parent families;

V. concerning governance and financing of social security, the government's indication that, despite the measures to reduce social benefits, particularly for persons on low wages, the impact on social security of the measures adopted under the terms of the responsibility and solidarity pact will be fully compensated by the measures set out in the 2015 financial acts. With regard to medium- and long-term perspectives, it is also noted that, in January 2014, the Higher Council on the Financing of Social Protection adopted a report on the medium- to long-term funding prospects for social protection schemes and the conditions for the return to, and maintenance of, the financial balance of social protection schemes. Among the major future issues, the report refers in particular to the concentration of potential funding needs on health insurance schemes and then, as of 2040, the rise of expenditure related to dependency. The report concludes by summarising the discussions in the Higher Council on the Financing of Social Protection on the six major issues identified based on an analysis of these projections: the respective contributions of expenditure and income to the return to financial balance; the suitability of either separate or overall management for the various social protection contingencies; in relation to expenditure, the relative weight in the medium to long term of the various social protection contingencies; in terms of income, the respective proportion of contributions from households and from enterprises, and the adaptation of the logic of the various contingencies; the modalities for the management of the financial costs and debt of social protection schemes; and the means of following up and administering their financial situation between the short, medium and the long term;

Finally, the Committee of Ministers notes that, in September 2014, the Court of Accounts issued a report on the application of the laws on the financing of social security, in which it considered that the trajectory for rebalancing social expenditure remains a crucial issue and requires the modernisation of the framework for the administration of social funding, greater efforts on contributions through more effective measures to combat fraud and savings on expenditure;

VI. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, that the reference wage for the calculation of periodical payments under Parts IV, V, VI, VIII and IX of the Code was determined by the government in its 24th report, in accordance with Article 65(6)(b) of the Code, in relation to a skilled employee (without distinction on grounds of sex) in the construction industry, where the largest number of skilled male full-time employees are engaged. With regard to Part VII, the reference wage was determined in accordance with Article 66(4)(b) of the Code in relation to an ordinary labourer (without distinction on grounds of sex) in the construction sector, where the largest number of ordinary male full-time labourers are employed. The Committee of Ministers reminds the government that, in accordance with Articles 65 and 66 of the Code, skilled employees and ordinary labourers have to be male and selected in the group of economic activities with the largest number of male persons protected for all skill levels, which in France is represented by manufacturing;

VII. concerning social security and poverty reduction, that, in light of the available statistical data, the proportion of the population exposed to the risk of relative poverty has decreased slightly from 14.1 per cent in 2012 to 13.7 per cent in 2013. Confirming this trend, the risk of relative poverty among the retired population has also fallen to 8 per cent in 2013, compared with 8.7 per cent in 2012, in the same way as the proportion of children exposed to the risk of poverty, which fell from 19 per cent in 2012 to 18 per cent in 2013. These figures show the government's will to resolve and combat poverty by allocating all the necessary resources. The existence and maintenance of a very dense set of social benefits has made a major contribution, alongside the refocusing of certain benefits on low-income categories of workers;

Finds that the law and practice in France continue to give full effect to the Parts of the Code which have been accepted, subject to reviewing the method of determining the reference wage for the calculation of benefits;

**Decides to invite the Government of France:**

I. concerning Part II (Medical care), noting with interest that the above-mentioned measures are intended to improve the guarantees of entitlement to care through its full coverage and the suppression of cost sharing in medical costs, to continue providing information on the implementation of these measures, in practice;

II. concerning Part IV (Unemployment benefit), to provide information, in its next report, on the manner in which the new unemployment protection scheme is implemented and to indicate its effects on the capacity of unemployment insurance to cover periods of job seeking more effectively;

III. concerning Part V (Old-age benefit), although after adding the compulsory supplementary retirement pension (ARRCO), the above-mentioned rate attains the minimum required by the Code, to explain in its next report why, without the above-mentioned supplement, the retirement pension provided to a skilled worker after 30 years of employment barely attains



the rate of the social retirement pension paid to any person due to the fact of their residence on the national territory;

IV. concerning Part VII (Family benefit):

a. to provide information, in its next report, on the total savings that the renovation of the family policy will make for the national budget, the categories of beneficiaries of family allowances affected and the extent to which their entitlement to benefit has been reduced;

b. furthermore, as the reference wage of an ordinary labourer used in the previous reports for the calculation of the total value of family benefit appears to be excessively low, to renew in the next detailed report the calculations made under Article 44 of the Code on the basis of the revised reference wage. In so doing, to refer to the above-mentioned "Technical note" which has been transmitted to the government;

V. concerning governance and financing of social security, to provide information, in its next report, on the measures decided upon following the publication of the reports referred to above, with a view to preserving the viability of the social security system without undermining its capacity to prevent and reduce poverty;

VI. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, to review in its next report the method of determining the reference wage in light of the explanations provided in the above-mentioned "Technical note", in which all the options envisaged in Articles 65 and 66 of the Code are calculated for the same reference period (2010) for which full Eurostat data are available. The government is requested to confirm the option selected and to update the statistics used in the above-mentioned "Technical note", with an indication of the precise source of data for future reference;

VII. concerning social security and poverty reduction, to explain in its next report the role in the national system of minimum guaranteed benefits, the method used to establish their level and their role in combating poverty and social exclusion. In so doing, the government may wish to refer to the figures in the above-mentioned "Technical note" and update and complete the data as necessary.

## **CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by France**

As a result of its examination, the Committee finds that the law and practice in France continue to give full effect to the parts of the Code which have been accepted, subject to reviewing the method of determining the reference wage for the calculation of benefits.

*Part II (Medical care).* With reference to its previous comments, the Committee notes that the improvement in access to care is being pursued on two main fronts: the improvement of the access of all to quality supplementary health coverage intended to reduce the cost borne by the patient, and the generalization by 2017 of third party payment, through which fees for care can be paid directly to health professionals. The Committee also notes that Act No. 2014-1554 of 22 December 2014 on the financing of social security for 2015 set a National Objective for Health Insurance Expenditure (ONDAM) reduction at 2 per cent on average for 2015-17, producing savings of €10 billion over that period. ***The Committee requests the Government to indicate in its next detailed report the results achieved over the period 2011-16 in the improvement of access to healthcare, particularly for the most vulnerable categories, and of the financial situation of health insurance.***

*Part IV (Unemployment benefit).* ***The Committee would be grateful if the Government would provide a copy of the report on the financial situation of unemployment insurance that is due to be presented by the Government to Parliament and the social partners administering the National Inter-Occupational Union for Employment in Industry and Commerce (UNEDIC), in accordance with the requirements of the Act on the programming of public finances for 2014-19 with an explanation of the principal strategies adopted to contribute to the achievement of financial equilibrium in the medium to long term.***

*Part V (Old-age benefit).* *Reduction of the deficit of the old-age branch.* The Government indicates that the improvement in social financing continues to be based both on reducing the contributions paid by enterprises and increasing old-age contributions within the framework of the Accountability and Solidarity Pact establishing a strong dynamic for the reduction of the social contributions borne by enterprises and households. Accordingly, Act No. 2014-892 of 8 August 2014 to rectify social security financing introduced a reduction in labour costs for wages below 1.6 times the minimum wage (SMIC), through exemptions from social security contributions, reductions in the social contributions of small enterprises, as well as increases in old-age insurance contributions. The Government adds that the structural measures to improve the financing of the retirement system introduced by Act No. 2014-40 of 20 January 2014, aimed at guaranteeing the future and justice of the retirement system in the short, medium and long term, have begun to bear fruit. The deficit of the old-age branch of the general scheme fell from nearly €9 billion in 2010 to €1.2 billion in 2014. The proportion of elderly persons below the poverty threshold in 2011 was also substantially lower than that for other age groups (3.6 per cent of persons aged over 60 years, compared with 7.3 per cent of adults aged between 30 and 59 and 11 per cent of those aged between 20 and 29 years). The structural improvement in the financing of the old-age branch has been accompanied by a strengthening of existing solidarity mechanisms (the bonus for pensions under €1,200, the readjustment of the solidarity allowance for the elderly (ASPA), and the accumulation, subject to certain conditions, of the ASPA with income from work). ***The Committee would be grateful if the Government would indicate the most important items on which these savings have been made and, where appropriate, the manner in which they have affected the pension provided to a standard beneficiary determined within the meaning of Article 65 of the Convention.***

*Level of old-age benefit.* In reply to the Committee's previous comments, the Government confirms that the level of retirement benefit has to be assessed taking into account all of the compulsory retirement schemes, including compulsory supplementary schemes, such as the Association for the Supplementary Retirement Scheme of Employed Persons (ARRCO), and that, according to the latest data published by the Department of Research, Studies, Evaluation and Statistics (DREES), the replacement rate of average wages corresponds to the replacement criterion of 40 per cent required by the Code, even for persons in the least favourable situation, namely employed persons in the first quartile, for whom the replacement rate reaches 66 per cent of the reference wage. While noting this information, the Committee recalls that, without the addition of the ARRCO pension, the basic retirement pension provided to a skilled worker after 30 years of employment barely reaches the level of the social retirement pension provided to all persons by reason of their residence on the national territory. ***The Government is therefore invited to: (a) indicate which benefits of the compulsory supplementary retirement scheme are taken into account for the calculation of the replacement rate under Part V of the Code; and (b) show that the total pension provided to a standard beneficiary and to any protected person with a lower wage reaches the rate of 40 per cent required by the Code with reference to the methodology set out in the technical note attached.***

*Part VII (Family benefit).* The Committee notes the Government's indication that, within the framework of the renovation of family policies, the adjustment of the level of the basic allowance in line with the means of families with a view to focussing certain benefits on the most needy families, including the basic allowance of the young child's benefit (PAJE), has resulted in the reduction of this allowance by half for around 10 per cent of eligible households (some 180,000 families). The new ceilings for means in relation to the birth or adoption benefit, the basic allowance and the supplement for free choice of child care have also been made more restrictive, thereby excluding 30,000 families from the basic allowance and 10,000 families from the birth or adoption benefit, representing an accumulated saving of €240 million by 2017. Nevertheless, the Government indicates that, with a view to limiting the impact of the thresholds, a regressive supplement is granted to families whose means are close to the ceilings. ***Please indicate, the level of such ceilings and the total value of family benefit calculated in accordance with Article 44 of the Code based on the revised reference wage.***

*Part XI (Standards to be complied with by periodic payments).* *Articles 65 and 66. Reference wage.* The Committee notes the Government's indication that the authorities have noted the need to update the methodology for the determination of the reference wage and will provide all the necessary data in 2016 in the next detailed report. Subject to this forthcoming detailed analysis, the Government indicates that it is not at this stage planning to change the approach adopted for the calculation.

*Adequacy of social security benefits.* The Committee notes the Government's indication that minimum social benefits involve a complex series of rights which reflect the implementation of successive and diverse concepts of the role that they are intended to play. Minimum social benefits today are required to play a major role as a social shock absorber to attenuate the intensity of poverty by making a substantial contribution to raising the living standards of the poor up to the poverty threshold. According to the DREES, in 2012, minimum social benefits made it possible to diminish financial poverty by 1.8 points and to reduce the intensity of poverty by 6 percentage points. The lowest amounts (below €520 a month) are for minimum social benefits intended for persons who are assumed to be of an age and capable of working and are intended to encourage beneficiaries to re-establish their financial autonomy through employment. In contrast, the highest amounts (above €680) are paid to persons who

do not have the capacity to work, or only a very low capacity. The Government indicates that the accumulation is authorized of social minimum benefits with certain social benefits that are not taken into account in the calculation of entitlement (family and housing allowances). The Government adds that, to combat the effects of the crisis on families in the most difficult situations, several significant adjustments of social minimum benefits have been made, which means that, following several years in which it fell, the purchasing power of the active solidarity income rose in 2013 and 2014. As of 31 December 2013, 4 million persons benefited from one of the nine minimum social benefits which guarantee an individual and his or her family a minimum income. When spouses, children and other dependants are included, 10.9 per cent of the French population, or 7.1 million persons, were covered by these measures, of which the four most important in numerical terms (96 per cent of beneficiaries) are the active solidarity income (RSA) floor, the allowance for adults with disabilities (AAH), the minimum old-age benefit and the specific solidarity allowance (ASS). ***The Committee invites the Government to update and complete the ILO technical note of 2015 on the occasion of its next detailed report, which should also include, for the same reference period (see Article 65(4) of the Code) data on the population covered by social security, the amount of the reference wage determined by the Government and the calculation of the replacement rates achieved by benefits for all the Parts of the Code that have been accepted. The Committee will examine the issue of the adequacy of social security benefits based on the full information provided.***

*Article 74. Next detailed report on the application of the Code. (See above under Chapter III)*

### 3. ILO Conventions

#### **Social Security (Minimum Standards) Convention, 1952 (No. 102) - France (Ratification: 1974)**

**Direct Request (CEACR) - adopted 2011, published 101st ILC session (2012)**

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

With reference to its previous comments, the Committee notes the information provided by the Government in its report on the Convention, as well as in the annual reports of France on the application of the European Code of Social Security for the years 2009–11.

**Social security governance and financing.** *The Committee would like the Government to continue to provide information in its next annual report on the new measures of substance concerning social security financing, the implementation of the pension reform introduced by the Law No. 2010-1330 of 9 November 2010, and on the eventual social austerity measures taken in the context of the new degradation of the economic and financial situation in the country.*

## 4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

**Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of France and delivering a Council opinion on the 2015 Stability Programme of France (2015/C 272/14), (18.08.2015, C 272/51, Official Journal of the European Union).**

[Official Website of the European Commission](#)

(9) It will be crucial to intensify spending reviews and identify large areas of expenditure cuts so that they can deliver the expected results. France should make sure that spending reduction targets take account of the close-to-zero rate of inflation. At the same time, the savings resulting from the lower than expected costs of the public debt due to lower interest rates should be channelled to reducing the deficit. In addition, sizeable short-term savings cannot be achieved without curbing significantly the increase in social security spending, which represented 26 % of GDP in 2014, accounting for nearly half of all public sector expenditure. Healthcare expenditure savings of EUR 11 billion are planned for 2015-2017, but further efforts are needed to limit expenditure increases in this area. In particular, there is scope to implement further cost-containment policies in the area of pharmaceutical prices and hospital spending. The pension system will continue to face deficits up to 2020 and previous pension reforms will not suffice to eliminate the system's deficit. In particular, schemes for state officials and employees of state-controlled companies continue to weigh on the overall pension deficit. Moreover, the macroeconomic situation has a large impact on the sustainability of the pension system, in particular the situation of complementary pension schemes. Decisive action is needed to restore the financial health of the complementary pension system.

(11) Policy measures have been taken to reduce labour costs and improve firms' profit margins through the EUR 20 billion tax credit for competitiveness and employment and the EUR 10 billion additional cuts in employers' social security contributions planned under the responsibility and solidarity pact. These two measures account for 1,5 % of GDP and should

contribute to reducing the gap between France and the euro area average in terms of labour tax wedge. Implementation of these measures should continue in 2016 but, given their high cost for the public budget, it is important to assess their effectiveness at company level. This evaluation should take particular account of the rigidities affecting the labour and product markets, especially those affecting wages. The cost of labour at the minimum wage remains high compared with other Member States. The minimum wage should evolve in a manner that is more conducive for competitiveness and job creation. In addition, in a context of low inflation, its automatic indexation may lead to wage increases beyond what is necessary to preserve purchasing power.

(12) France should take decisive action to remove the regulatory thresholds in labour law and accounting regulations that limit the growth of French firms, in particular SMEs. Overall, there is scope for increasing competition in the services sector, in particular in professional services, retail trade and network industries. A number of regulations and tariffs for regulated professions constrain economic activity. New measures for improving competition in legal professions have been adopted through the recent law on growth, economic activity and equal opportunities, and their implementation will be crucial to ensure that barriers are removed on the ground. France should also take action to remove barriers in other sectors, in particular the health sector. The *numerus clausus* principle for access to health professions is still hampering access to services and could be reviewed without jeopardising quality and safety.

(14) The French unemployment rate remained high in 2014 and long-term unemployment deteriorated, reflecting poor economic growth. The overall unemployment rate stood at 10,2 %, as compared with 10,3 % in 2013 and 7,5 % in 2008, particularly hitting young people, older workers and the low-qualified. France suffers from labour market segmentation, with fixed-term contracts accounting for an increasing proportion of hires. Targeted efforts to reduce the level of segmentation, in particular through higher social contributions for very short-term contracts, have failed to curb this trend. Reviewing the legal framework governing labour contracts could help to reduce the segmentation. Recent reforms have created only limited scope for employers to depart from branch- level agreements through company-level agreements. This limits companies' ability to modulate the workforce according to their needs. Sectors and companies are given flexibility to determine case by case and after negotiations with social partners at which conditions working time should depart from 35 hours a week, but there are important cost implications. The law creating the *accords de maintien de l'emploi* has not brought the expected results. Very few companies have made use of the new arrangements for company-level agreements to increase the flexibility of working conditions. This scheme should be reviewed to give companies more scope to adapt wages and working time to their economic situation.

(15) The long-lasting deterioration in the labour market has affected the unemployment benefit system, calling into question the sustainability of the model. The new convention on the unemployment benefit system introduced on 1 July 2014 is insufficient to reduce the deficit. The various measures introduced are expected to yield EUR 0,3 billion in savings in 2014 and a further EUR 0,8 billion in 2015. Nevertheless, the deficit of the system is still projected to rise from EUR 3,9 billion in 2014 to EUR 4,4 billion in 2015 leading to a further increase in the system's debt to EUR 25,9 billion. Structural measures are needed to ensure the viability of the system. In particular, eligibility conditions, the degressive structure of benefits and the replacement rates for workers with the highest wages should be reviewed between the social partners in charge of managing the system.

HEREBY RECOMMENDS that France take action in 2015 and 2016 to:

2. Step up efforts to make the spending review effective, continue public policy evaluations and identify savings opportunities across all sub-sectors of general government, including on social security and local government. Take steps to limit the rise in local authorities' administrative expenditure. Take additional measures to bring the pension system into balance, in particular ensuring by March 2016 that the financial situation of complementary pension schemes is sustainable over the long term.

3. Ensure that the labour cost reductions stemming from the tax credit for competitiveness and employment and from the responsibility and solidarity pact are sustained, in particular by implementing them as planned in 2016. Evaluate the effectiveness of these schemes in the light of labour and product market rigidities. Reform in consultation with the social partners and in accordance with national practices, the wage-setting process to ensure that wages evolve in line with productivity. Ensure that minimum wage developments are consistent with the objectives of promoting employment and competitiveness.

6. Reform the labour law to provide more incentives for employers to hire on open-ended contracts. Facilitate take up of derogations at company and branch level from general legal provisions, in particular as regards working time arrangements. Reform the law creating the accords de maintien de l'emploi by the end of 2015 in order to increase their take-up by companies. Take action in consultation with the social partners and in accordance with national practices to reform the unemployment benefit system in order to bring the system back to budgetary sustainability and provide more incentives to return to work.