

2024

WORKATION IN: FRANCE

Overview of Mandatory Employee Protection Law



Workation in France – Mandatory employee protection law

In a connected world, performance of the employment contract in different jurisdictions is becoming increasingly more common. The most popular phenomenon here is probably the so-called "workation". When employers allow work from abroad, it is not uncommon for mandatory employment regulations to be ignored, regularly unintentionally and out of lack of knowledge.

However, according to Art. 8 (1) 2 and Art. 9 (1) Rome I Regulation, mandatory employee regulations must be taken into account. Usually, these concern personal occupational health and safety law enacted in the public interest for reasons of public welfare.

When allowing an employee to work on secondment in **France**, the following mandatory regulations are to be observed by any employer based in an EU member state regardless of the applicable laws in that state and any contractual choices of law.

Pursuant to article L.1262-4 of the French Employment Code, the following provisions are mandatory in the event of a foreign employer seconding an employee to work in France:

1° Individual and collective freedoms in the employment relationship;

2° Discriminations and equality between men and women

3° Protection during pregnancy, maternity and paternity leave and leave for care of young children, absences for family reasons;

4° Conditions of provision of, and guarantees owed to, employees by temporary employment agencies;

5° Exercise of the right to strike;

6° Working time, compensatory rest, public holidays, annual paid holiday, working time and night work of young workers;

7° Construction industry paid-holiday and schemes to cover loss of work due to bad weather;

8° Remuneration within the meaning of article L. 3221-3 (notably the minimum wage), payment of salary, including increases for overtime;

9° Rules relating to health and safety at work, minimum working age, employment of children;

10° Unlawful labour;

11° Reimbursement of work-related expenses (travel, meals and lodging).

An employer seconding an employee to France for more than twelve months will become subject to the provisions of the employment code applicable to undertakings having their place of business in France, with the exception of the provisions on the formation of the contract of employment, performance, variation, and transfer of the contract of employment, termination, fixed-term contracts.

The following list is only intended as an overview and cannot replace specific advice in a particular case. The list contains certain restrictions which apply in principle, but which may be varied because of the sector of activity, government authorisation or collective or company-wide agreements.

1. Minimum wage France has mandatory minimum wage provisions. As from 1st May 2023, the minimum gross hourly wage is 11.65€ and the minimum gross monthly wage for a standard working month of 151.67 hours is 1766.92€. Furthermore, collective bargaining agreements applicable to specific sectors of the economy will also include minimum salary levels which also must be complied with.

2. Minimum paid leave Pursuant to article L.3141-3 of the Employment Code, an employee is entitled to paid leave of 2.5 working days per month of employment, or 30 working days per year (a working day means Monday-Saturday).

3. Public holidays The following are public holidays throughout France pursuant to article L.3133-1 of the Employment Code

Name	Date
New Year	1st January
Easter Monday	

1st May	1st May
8th May	8th May
Ascension Thursday	
Whit Monday	
14th July	14th July
The Assumption	15th August
All Saints' Day	1st November
11th November	11th November
Christmas Day	25th December

4. Maximum working time

In principle, the maximum daily working time cannot exceed ten hours (article L.3121-18 of the Employment Code). The maximum number of working hours is 48 hours per week, and the number of hours may not exceed 44 hours per week over any consecutive twelve-week period. (articles L.3121-20 and L.3121-22 of the Employment Code).

5. Minimum rest periods

An employee is entitled to eleven consecutive hours of rest per day (article L.3131-1 of the Employment Code). It is forbidden for an employee to work more than six days per week; an employee must receive 24 consecutive hours of rest per week to which the daily rest of 11 hours should be added; the standard rest day is Sunday (articles L.3132-1, L.3132-2 and L.3132-3 of the Employment Code).

6. Occupational safety laws

The Fourth Part of the Employment Code (articles L.4111-1 – L.4831-1 (legislation) and R.4121-1 - R.4822-1 (regulations)) contains detailed health and safety provisions in the workplace which will apply to seconded workers.

By analogy with remote-working from home, an employer has a general strict liability duty to ensure that the place of work (whether at home or otherwise) is fit for the performance of work.

7. Maternity Protection provisions

In principle, maternity leave commences six weeks before the presumed date of birth and lasts for ten weeks after birth. Paternity leave (or leave to take care of new-born children) lasts for 25 calendar days.

A contract of employment of the mother may not be terminated during pregnancy or the period of maternity leave.

Modifications to the conditions of employment can be introduced on medical grounds. A pregnant mother can request not to work night shifts.

8. Protection of young people at work

A young worker is defined as an employee or trainee under 18 years of age.

In principle, a young worker may not work more than a maximum of 35 hours per week or 8 hours per day. After 4.5 hours work, the young worker shall be granted 30 minutes' rest.

In principle, working at night is prohibited.

Young workers must have 12 hours' consecutive rest per day.

Employees under 21 are entitled to 30 working days as paid holiday per year, whatever their length of service.

Certain types of work are prohibited for young workers if they would be at risk.

9. Anti-discrimination provisions

No employee shall be subject to discrimination in terms of recruitment, termination, salary, incentives, grant of shares, training, position, qualification, classification, promotion, working hours, evaluation and performance, transfer or renewal of contract by reason of origin, gender, morals, sexual orientation, gender identity, age, family situation or pregnancy, genetic characteristics, specific vulnerability on economic grounds, the fact of belonging or not, whether true or supposed, to an ethnic community, nation or supposed race, political opinions, union or social activities, political office, religious beliefs, physical appearance, surname, place or residence or address of bank, health, loss of autonomy or handicap, ability to speak a language other than French, or whistle-blower or assistant to a whistle-blower (article L.1132-1 of the Employment Code).

Differences in treatment are allowed if they respond to an essential and determining business needs insofar as the purpose is legitimate and proportionate. Certain differences in treatment, such as because of age or fitness for work, are allowed if they are objective, reasonably justified and appropriate.

10. Reporting obligations to authorities when taking up work

Any employee seconded to France must be declared to the works inspectorate of the place of work in France (article L.1262-2-1 of the Employment Code) before taking up employment in France. The declaration must be made online (SIPSI).

The employer must appoint a representative in France with regard to the French works inspectorate.

Non-EU nationals must have a work permit in order to perform employment duties in France

11. Miscellaneous

Attention should be drawn to the social security obligations and declarations applicable to each case.



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