

POSTING OF EMPLOYEES TO FRANCE BY AN EMPLOYER BASED ABROAD

PART 2

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Introduction of European Directive (EU) 2018/957 of 28 June 2018 concerning the posting of workers (Order No. 2019-116 of 20 February 2019)

Objectives

- ✓ Framework for employee postings to France on a temporary basis;
- ✓ Increased application of French law in the role as host country;
- ✓ Fight against fraudulent arrangements;
- ✓ Limitation on social dumping linked to differences in status between posted employees and local employees;


New rules applicable with effect from 30 July 2020

- ✓ Increase in compulsory rules applicable to posted employees;
 - Implementation of the principle of equal treatment
 - Guarantee of equal "remuneration" in the broad sense of the term and not simply "minimum salary and additional remuneration";
 - Introduction of refunds of professional expenses;
- ✓ Setting a maximum duration of posting: after 12 months, all provisions of the Employment Code apply to employees;
- ✓ New obligations applicable to the user company (even when it is based outside of France) relating to posting of temporary workers and increased sanctions

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LAWS AND REGULATIONS APPLICABLE TO POSTED EMPLOYEES IN FRANCE WITH EFFECT FROM 30 JULY 2020**

	"Simple" posting	"Long-term" posting
Duration of posting to France	0 to 12 months* (exception up to 18 months if a request for justified extension is submitted)	More than 12 months*
Provisions of French laws and regulations must apply to employees posted to France	<ul style="list-style-type: none"> Guarantee of equal treatment with employees employed by companies in the same business segment registered in France; "Hard core" of statutory and contractual provisions, such as individual and collective employment freedoms, discrimination, gender equality at work, maternity protection, arrangements for loaning temporary workers and guarantees for temporary workers, right to strike, working time, night work, paid holiday, remuneration including extra remuneration for overtime work and statutory and contractual additional remuneration, workplace health and safety, illegal employment, minimum age for employment and child labour, refunds of professional expenses (travel, meals, accommodation), 	<ul style="list-style-type: none"> Application of <u>all provisions of the Employment Code</u>; <u>With the exception</u> of rules on training, performance, termination of the employment contract; changes for economic reasons; transfer; fixed-term employment contract; voluntary secure mobility; simplified employment cheques and payment orders.
Calculation method 	<p><i>* Calculation of cumulative posting of employees to the same job: in the event of replacement by another posted employee, the duration of 12 months is reached when the cumulative duration of the posting of the succeeding employees to the same job is equal to 12 months;</i></p> <p><i>** For postings in force on 30 July 2020, the duration of 12 months is calculated by taking into account the duration of the posting already worked on this date;</i></p>	