



Guidelines and Tips: Posting employees in France

You are a company not established in France wishing to send one or more of your employees to provide a service in France, or

You are an employee of a company not established in France who is about to carry out a mission in France on behalf of your employer.

The posting of employees is a situation in which a company established outside of France sends its employees to France to provide a service on a temporary basis. These posted employees benefit from the labour conditions applicable in France within the framework set out below. Social contributions, however, often remain those applicable in the employer's country of origin.

To be able to post employees to another Member State, companies must meet and fulfil several conditions and formalities as well as apply the provisions set out by French labour law to its posted workers in several areas.

Alternatively, the employer can choose to contract a sales agent, implement a distribution or franchise agreement, or open a subsidiary company in France.

Conditions to be met by the employer in order to post employees

1. Be regularly established in the state of origin and actually perform substantial activities there,
2. Have employees who normally work for him in the state of origin,
3. Match one of the four following cases:
 - Performance of an **international provision of service** agreement between a service provider company established outside of France and a company receiving the service established or conducting business in France.

Cet article ne constitue pas une consultation juridique, et ne saurait aucunement contribuer à engager la responsabilité du cabinet ou de son rédacteur.

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- Performance of services carried out in another establishment or another company from the same group of companies (**Intra-company or intra-group mobility**),
- Performance of a **labour supply agreement** between a foreign temporary employment agency (TEA) and a user company in France,
- Performance of an operation for the **employer's own account**.

Before posting: necessary formalities

The company posting employees must provide the labour inspectorate of the place where the service is provided with a prior declaration of posting before the start of its activity in France by using the "SIPSI" teleservice.

This declaration can be completed in French or in English (as well as in German, Italian or Spanish).

A company representative also needs to be appointed in France, unless posting happens for the employer's own account.

This representative can be any person capable of carrying out this task (one of the posted employees for example).

As an exception, the posting of employees on the employer's own account does not require any prior declaration or representative.

During posting: guaranteed rights for the posted employee

As an employer posting employees in France, you are subject to the provisions of the French Labour Code and collective agreements on several points, including remuneration ; health and safety rules ; duration of work, compensatory rest, public holidays, paid annual leave, working hours and night-work ; and maternity, paternity and childcare leave.

The employer thus has to determine which collective agreement is applicable to his activity.

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When no better stipulations are put forth by the applicable collective agreement, legal provisions are as follows:

Working times: the statutory working time is 35 hours per week from 00:00 Monday to 24:00 Sunday. That statutory duration may be exceeded within the framework of overtime, whilst respecting the maximum periods.

Overtime: Any hour worked beyond the legal weekly duration gives rise to an increase in wages, or to equivalent compensatory rest where applicable.

Unless otherwise stipulated by convention, overtime is counted per civil week, from Monday 00:00am to Sunday 00:00 pm. The total amount of overtime cannot exceed 220 hours per year (in the absence of a conventional agreement on the quota of overtime).

Payment of overtime is increased as follows (unless stipulated otherwise by convention) :

- 25% for the first 8 hours over the legal duration of work (between the 36th and 43rd hour of work),
- 50% for any subsequent hours (as from the 44th hour).

Night work: any work carried out between 21:00 and 06:00 is deemed to be night work. Night work is regulated and must give rise to consideration.

Daily and weekly rest: All employees must benefit from a daily rest of at least 11 consecutive hours between two working days.

Besides, an employee should not work more than 6 days per week and should benefit from a weekly period of rest of a minimum of 35 consecutive hours. This weekly rest is normally granted on Sunday, but there are some exceptions.

Paid leave: 2.5 days per effective month of work (calculated on a pro rata basis for a period of activity of less than a month). However, the employer has the option to choose to pay paid leave indemnities equal to 1/10th of the amounts received by his employee during the posting.

Maternity leave: at least from 6 weeks prior to the birth to 10 weeks after the birth; employees cannot be dismissed during their pregnancy, maternity leave, nor during a period of 10 weeks after the end of the maternity leave. Posted employees are also entitled to paternity and adoption leave.

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Bank holidays are 11: January 1st, Easter Monday, May 1st, Ascension Day, Whit Monday, July 14th, August 15th, November 1st, November 11th and December 25th.

Health and safety at work: the employer must comply with the rules relating to worker safety, which involves assessing occupational risks, conducting preventive, informational and training actions for employees and introducing suitable organization and resources.



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