



Employment Law in France: The Basics

Insights

1.22.13

France, the largest country in Western Europe, with a population of approximately 64 million people, and which borders eight different countries plays an integral role in Europe and the worldwide market. Given its central geographic location, highly developed infrastructure and qualified workforce, many companies around the world have chosen to do business in France. However, it is imperative that companies who are already doing business in France and companies who are considering doing business in France be aware of the country's strict employment and labor laws as they apply to employment contracts, wage and hour, terminations and anti-harassment and discrimination laws. The purpose of this article is to provide a brief overview of some of the basic principles of employment law in France and to inform employers of recent developments in potential labor reform.

Sources of Employment Law in France

The primary sources of employment law in France are the French Constitution, the French codified collection of employment law provisions known as the "Code du Travail", Collective Bargaining Agreements known as "Conventions Collectives de Travail" and work regulations known as "Règlement Interieur" applicable to discipline and health and safety standards.

Employment Contracts

In France, there are two types of employment contracts. An employee can be employed pursuant to an open-term contract ("contrat à durée indéterminée") or pursuant to a fixed-term contract ("contrat à durée déterminée"). Employment contracts should be in writing although not required unless the contract is for a fixed term or if a Collective Bargaining Agreement requires that it be in writing. An open-term contract, as the title suggests, is for an indefinite period of time.

Any written employment contract should contain the following specific information regarding the particular employment:

- The identity of the employee and employer;
- The employee's duties and responsibilities;
- Duration of the contract;
- The place of work;
- The amount of compensation;

- Whether there is a specific probationary period at the commencement of the employment;
- Any applicable notice periods relevant to the employment;
- Amounts of paid leave available; and
- Regular working hours.

Pursuant to article L. 1221-3 of the Code du Travail, the employment contract must be in French although translations of the contract in alternative languages may be provided to the employee along with the French version.

Collective Bargaining Agreements

Collective Bargaining Agreements are sometimes applicable nationally and others at a localized level and typically relate to a particular sector of the industry or commerce. Collective Bargaining Agreements are binding upon employers even if that employer was neither a part of the collective bargaining negotiations nor a member of any employer representative group who participated in the collective bargaining negotiations. Thus, it is important for an employer in France to regularly verify the provisions of an applicable Collective Bargaining Agreement so that the employer is consistently aware of any changes and/or updates that have been made. This is especially important to ensure that an employee is being compensated in accordance with the minimum compensation required by the particular agreement.

Working Hours and Overtime Requirements

Regular working hours in France are 35 hours a week. Any hours worked in excess of 35 hours will be considered compensable overtime. The first eight hours of overtime are paid at a rate of 25 percent higher than the employee's regular rate of pay. Any overtime hours worked in excess of eight are compensated at a rate of 50 percent more than the employee's regular rate of pay. The 35-hour work week does not apply to certain executives which are exempt from overtime requirements.

Terminations

In France, like most European countries, there is no employment "at will" meaning that an employer can not terminate an employee unless it is for a reason recognized by the Code du Travail. Legal reasons for terminating an employment contract include the following:

- The expiration of the contract term, if applicable;
- Resignation by the employee if the resignation is a clear decision on behalf of the employee which should be confirmed in writing by the employer;
- Termination by mutual agreement which must be set forth in a formal written agreement and signed by both the employee and employer;
- Death of the employee;
- Retirement by the employee;

- Dismissal on personal grounds for misconduct by the employee if the employer follows the legal procedures and notice requirements applicable to the particular employee. Notice requirements will vary depending upon the level of misconduct of the employee and are set forth both in Code du Travail and relevant case law;
- A Redundancy, which is the termination of an employee for economic grounds, typically when a particular job function is eliminated. The procedure for implementing a redundancy is very specific and set forth in detail in the Code du Travail.

Sexual Harassment Law

In May of 2012, the French Constitutional Council repealed the sexual harassment law in effect at the time, Section 222-33 of France's Penal Code, which defined sexual harassment as the "act of harassing others to gain sexual favors". Under the former law, violations carried a jail sentence of one year and a fine equivalent to \$18,500. The Council determined that the definition of sexual harassment set forth in the law was far too vague and did not offer enough protection to potential victims because it did not appropriately address all forms of sexual harassment. After its repeal and to the outrage of many throughout the country, France was without a sexual harassment law for almost three months. The timing of the repeal also gained international attention because it came within a year after then International Monetary Fund Chief, Dominique Strauss-Kahn, a French citizen, was charged with sexually assaulting a maid in New York City. The charges, although ultimately dropped, led to his resignation and put the issue of sexual harassment into the spotlight.

Finally, in July of 2012, the French Parliament passed much tougher and broader sexual harassment legislation. The new law now defines harassment as "imposing on someone, in a repeated way, words or actions that have a sexual connotation and either affecting the person's dignity because of their degrading or humiliating nature or putting him or her in an intimidating, hostile or offensive situation." The law extends to the workplace and provides for a possible two-year jail sentence and a fine of up to 30,000 euros for violations. The most serious offenses, such as harassing a disabled individual, are punishable by a jail sentence of up to three years.

Anti-discrimination Law

France, like the United States, also has strict laws prohibiting discrimination in the workplace. The Code du Travail prohibits discrimination based upon an individual's sex, lifestyle, sexual orientation, age, family situation, non-membership, whether genuine or assumed, of an ethnic group, nation or race, political beliefs, trade union activities, religious beliefs, physical appearance, surname, state of health or disability. Moreover, the definition of discriminatory practices provided by the Code du Travail applies to recruitment, access to placement or in-company training programs, pay, job classifications, promotions, transfers from one workplace to another, terminations and renewal of employment contracts. Notably, employers can be held both civilly and criminally liable for violations of the antidiscrimination laws.

Recent Developments in French Labor Law

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Last week, French employer groups and three major labor unions agreed to enact major labor reforms. These reforms, which will be the most significant in decades, are expected to provide employers with more flexibility to terminate employees for economic reasons, lessen the costs incurred by employers when implementing layoffs and allow employers to temporarily cut wages in an economic downturn. French President Francois Hollande is hoping that such measures will improve economic competitiveness internationally and decrease unemployment rates domestically. Employer groups and labor unions have struggled for months to come to an agreement with unions heavily opposing greater flexibility in work contracts and demanding more job security for short term workers. The draft reforms are expected to be prepared in early 2013.