

Workers employed by French and foreign subcontractors

What you need to know...

Your rights concerning:

- pay and employment contract,
- working conditions,
- health and safety at work,
- union rights...

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FRENCH LABOUR LAW IS
OFTEN ONLY PARTIALLY
RESPECTED, WHEN NOT
TOTALLY IGNORED,
BY SOME EMPLOYERS
(EMPLOYMENT CONTRACT,
PAY AND WORKING TIME,
ETC.)

EUROPEAN UNION ENLARGEMENT
HAS OPENED UP BORDERS AND LED
TO MANY WORKERS COMING TO PROVIDE
SERVICES IN FRANCE. THE DEVELOPMENT
OF SUB-CONTRACTING CHAINS MAKES
EMPLOYERS' SOCIAL RESPONSIBILITIES
TOWARDS THEIR WORKERS LESS CLEAR
AND THUS MANY FRENCH AND FOREIGN
WORKERS' RIGHTS ARE NOT BEING
RESPECTED. THE CGT HAS PUBLISHED
THIS BROCHURE IN ORDER TO INFORM
YOU ABOUT YOUR RIGHTS. WE ARE READY
TO MEET, INFORM AND DEFEND YOU.



French labour law is applicable to all workers coming from the European Union and elsewhere, with or without a work permit.

Reminder of French law

Transnational posting of workers. **Labour code L.342.1 and following. European directive 16.12.1996**

A contractor, who is based outside France, can temporarily post workers to France if there is an employment contract and the work relationship continues during posting.

Such workers are subjected to the same laws, regulations and collective agreements as those applicable to French workers in the same sector regarding individual and collective rights (right to strike), working time, compensatory rest, leave, pay, overtime, temporary work and health and safety at work.

If the posting lasts more than one month, the worker concerned is entitled to benefit from the occupational health service.

Foreign workers posted in France

Sub-contracting

Sub-contracting is used by a company to outsource - under its supervision - all or part of a public contract, which is signed with a client, to another company that is called a sub-contractor.

(31.12.75 law)

Financial solidarity

In the event of default, the principal company and the client can be held responsible in the name of financial solidarity. The employer must pay the workers and social security contributions.

Workers can obtain legal compensation of a minimum of six months' pay.

(L.324-II-I Labour code)

Temporary agency work

Temporary agency workers have the same rights as the workers of the user company.

Concealed work

This is the case when the following are not declared:

- an economic activity or a worker
- some of the hours worked

The following can be subjected to penalties: employers, client companies or contracting authorities, who consciously use people for concealed work.

Hierarchy of standards

Labour Code

It regulates industrial relations and provides minimum standards.

Collective agreements and sector-level agreements

They supplement the Labour Code and result from collective bargaining between employer and union representatives with a view to adapting Labour Code measures to particular sectors – and even improving on them. Several different agreements can apply on the same site, depending on the sectors of each of the companies present.

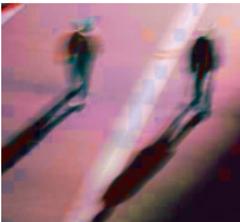


N.B. *Measures in collective agreements that are applicable to companies cannot be less favourable to workers than those in the Labour Code.*

Company agreements

They are negotiated by company management and union representatives.

They improve rules that are defined by legislation and collective agreements. However, since a law that was adopted on 4 May 2004, company agreements can depart from some of the aspects covered in the sector-level agreement (in a way that is less advantageous for workers).



Employment contract

An employment contract sets out – within the framework of the relevant collective agreement - rules concerning recruitment and working conditions of a worker in a given company.

Employment contracts cannot include measures that are less favourable to the worker than those in the Labour Code and the relevant collective agreement. They have to be signed by the employer and worker.

Employment contracts should be written in French and respect French legislation.

Non-French workers, who are posted in France for a subcontracting activity, should have an employment contract that is written both in French and the language of the country of origin.

Compulsory elements of employment contracts

The Labour Code and collective agreements include compulsory elements that vary depending on the type of contract, worker's grade and recruitment conditions.

Trial period

The trial period enables workers to make sure that the position concerned is in line with their expectations. It also enables employers to ensure that the workers they have recruited are suited to the particular position.

During the trial period, workers and employers can part ways at any moment, provided that the period of notice (which varies depending on the worker's socio-occupational group and the type of employment contract) indicated in the collective agreement is respected.

Pre-dismissal interview

In the event of dismissal and if there are no worker representative bodies in the company, any worker, who is called to a pre-dismissal interview, can request the presence of an external advisor, who is registered with the public authorities (Préfecture).

Working time

Legal working time

Legal working time is 35 hours per week or, if calculated on an annual basis, 1,600 hours per annum. Legal working time can be different from actual working time if there is overtime.

Actual working time

Actual working time is the time during which workers are at their employers' disposal and must follow their orders, without being able to freely attend to their own affairs.

Overtime

Overtime is any time worked beyond 35 hours per week or 1,600 hours per annum. Overtime is paid at higher rates, which are set by the Labour Code.

Annual overtime quota

The amount of overtime that can be worked per annum cannot exceed what is called the “annual overtime quota”. The Labour Code and collective agreements set the number of hours in the quota.

Annual overtime quotas can only be exceeded if the Labour Inspectorate agrees. Worker representative bodies must be consulted.

Overtime pay

Extra pay for overtime varies according to company size.

Plus 10 % for companies with fewer than 10 workers.

For the others:

- Plus 25 % from the 36th hour,
- Plus 50 % from the 43rd hour.

Compulsory compensatory rest

A system of compensatory rest can apply - with the agreement of the Labour Inspectorate - to some or all of exceptional overtime above the annual quotas and/or above 41 hours per week for companies with more than 20 workers.

Maximum working time

Apart from dispensation granted by the Labour Inspectorate, the following limits cannot be exceeded:

- 10 hours per day,
- 48 hours per single week,
- Average weekly working time calculated over a 12-week period cannot exceed 46 hours.



N.B. *Average weekly working time calculated over a 6-month period cannot exceed 44 hours.*

Daily rest periods must last 11 consecutive hours (see collective agreements for certain exceptions).

Pay

Monthly pay includes the pay for the number of hours worked plus overtime or minus hours that have not been worked. Some of the latter are specifically compensated : annual leave, sick pay and bad weather payments, etc. The total represents gross pay, to which various benefits and bonuses are often added.

Basic pay

BASIC PAY AS SET IN THE COLLECTIVE AGREEMENT

For each point on the pay scale, minimum pay is set in collective agreements.

Pay should not be less than current minimum levels set by collective agreements and the current national minimum wage (SMIC: EUR 8.27 on 1 July 2006) in force when the work contract is signed, but it can be higher.



N.B. : Basic pay as set in collective agreements is a monthly sum for 151.67 hours' work per month (i.e. 35 hours per week).

Public holidays and specific leave (family events)

See the Labour Code, as well as national and company collective agreements.

Travel allowances

National collective agreements and some company agreements provide for travel allowances. These allowances vary according to grade : manual workers, supervisory staffs, executives and professional engineers.

There are **special travel allowances** for non-sedentary workers, who – given available public transport – cannot return home each evening.

These allowances correspond to normal daily expenses above those the workers concerned would spend if they did not have to travel for work; they cover:

- Accommodation,
- Board regardless of the type of accommodation (hotel or bed-sit),
- Other additional expenses.

Payslip

Rules concerning payslips apply to apprentices, workers and anyone - whatever their status and workplace - working for one or several employers, regardless of the amount and nature of their pay and the form, nature and validity of their contract.

The following information on payslips is compulsory:

- The collective agreement that applies to the company
- Basic hourly pay
- The number of hours worked during the period concerned
- The amount of overtime and overtime bonuses
- Compensatory rest for overtime
- Bonuses and allowances paid by the company
- Employer's and worker's social security contributions
- The number of days of annual leave acquired since the beginning of the reference period (from 1 April to 31 March)
- The number of days of annual leave taken since the previous 1 May
- The number of days of leave that remain to be taken before the following 1 May
- End of mission bonus (for temporary agency workers).



N.B. : *Pay slips must be kept throughout working life: they serve as proof to claim rights in the event of a dispute with the employer and also to calculate pension rights, etc.*

Health and safety at work

Everyone's business

The law specifies that it is everyone's responsibility (both employers and workers) to take care of their own health and safety and that of their colleagues.

Workers must absolutely and in all circumstances:

- immediately bring to their superior's attention and that of worker representatives the existence of any serious or imminent danger and exercise their right to withdraw their labour (the period concerned must be paid),
- respect all safety rules and instructions received,
- use all individual and collective protective equipment provided,
- refuse any work for which they do not have a permit (e.g., for working in high voltage zones; a special driving licence for forklift trucks, etc.),
- replace unusable and deteriorated individual and collective protective equipment,
- plan prevention by incorporating work techniques, organisation and conditions in a coherent whole.

Employers have the duty to ensure that all workers have a medical check-up with a doctor from the occupational health service. Time thus spent is paid and considered as working time.

A medical check-up is compulsory:

- on recruitment or, at the very latest, before the end of the trial period,
- once every 24 months (twice a year for workers in high-risk jobs, e.g. welders),
- on returning to work after an absence in certain cases.

Accidents at work

All accidents at work should be brought to the attention of the first-aid room and registered.

Worker representation in companies

Worker representation is organised via elected representatives at company-level. Membership of a trade union and trade union mandates are civil liberties that are anchored in the French Constitution. These rights are protected by law in all companies.

Worker representative bodies (instances représentatives du personnel, IRP)

Worker representative (délégué du personnel, DP) in companies with more than 20 workers

They provide information and advice to workers. They intervene in the event of disputes over pay, working conditions, working time and paid leave, etc.

Works council (comité d'entreprise, CE) in companies with more than 50 workers

Elected members of works councils are consulted before any important decision concerning the company's economic functioning, working conditions, working time, vocational training, work organisation and production techniques, etc.

Works councils manage social and cultural activities for workers.

Health and safety at work committee (Comité d'hygiène, de sécurité et des conditions de travail, CHSCT)

They monitor the implementation of laws and regulations concerning health and safety at work. They deal with everything concerning health at work and intervene in the event of accidents or in cases of workers' unfitness for work and redeployment.

Trade union representative (délégué syndical, DS)

An individual who represents the union and is authorised to negotiate and sign agreements in the company on:

- pay increases,
- reduction in working time,
- profit-sharing agreements, etc.





Why join a union ?

- Joining a union provides you with the means to defend yourself and claim individual and collective rights.
- It gives access to information about your payslip and collective agreement and also to legal services via the CGT's structures.
- It provides help for defending yourself at employment tribunals, if necessary.

i JOIN THE UNION...

Surname..... Firstname.....

Occupation

Company

Address

.....

This form should be sent or given to the union representative in your company or to your local union structure.



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