

Focus on French Labor Law Changes Coming Into Effect in the Second Half of 2022

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REMINDER: EMPLOYERS ARE OBLIGATED TO REIMBURSE EMPLOYEE TRAVEL COSTS REGARDLESS OF THE DISTANCE BETWEEN THE EMPLOYEE'S RESIDENCE AND THE WORKPLACE

According to the French National Association of Human Resources (HR) Directors, since the rise of remote work during the COVID-19 pandemic, 30% of HR directors are facing requests from employees regarding a potential change of residence¹.

The French Labor Code requires employers to reimburse 50% of the cost of tickets purchased by employees for travel by public transport between their usual residence and their place of work whatever the distance between this residence and the place of work.

A decision of [5 July 2022, rendered by the Paris Court of Justice](#) supports the principle of the employee's free choice of residence. The decision is a reminder that the employer cannot validly refuse to reimburse public transport costs on the ground that the employee has chosen to move away from their place of work for personal reasons.

However, this decision was rendered in relation to facts prior to the health crisis. With remote work now more prevalent following the pandemic, it is likely that more litigation will result.

The requirement to reimburse half of employee travel costs is on top of any specific relocation bonus, relocation voucher, or other financial assistance to employees provided for by the applicable collective bargaining agreement or set up by the employee representative institution (Social and Economic Committee/Works Council).

NEW INFORMATION THAT MUST BE PROVIDED TO EMPLOYEES AT THE TIME OF HIRING

Since 1 August 2022, employers are required to provide employees with additional information at the start of employment as set out in the [European Directive 2019/1152 of 20 June 2019 \(the Directive\)](#).

France has not taken any measures to transpose this directive within the three-year period allowed to European Union member states. Therefore, as of 1 August 2022, the provisions of the French Labor Code must be interpreted taking into account the requirements of the Directive.

The new obligation applies to “workers,” as that term is interpreted by the Court of Justice of the European Union. This includes employees, regardless of the type of contract they have, as well as trainees, apprentices, and workers on job-sharing platforms.

On top of the usual mandatory information relating to place of work, position, start date, duration of paid leave, remuneration, or applicable collective bargaining agreement, workers must also now be informed of:

- the duration of the trial period and any conditions attached;
- the right to training;
- the complete procedure to be followed in case of termination of the contractual relationship (including the length of the notice period);
- the identity of the social security bodies collecting the social security contributions and the social protection provided by the employer (including complementary collective health coverage schemes); and
- for temporary contracts, the expected working hours, or, if not applicable, details of the variable working hours and their remuneration.

In addition, the Directive specifies that information relating to the place of work, position, the duration of the trial period and the employment contract, remuneration, and working hours must be provided to the employee within a maximum period of one week from the beginning of the employment contract. The other information listed in the Directive must be provided within one month.

NEW TOOLS TO FIGHT INFLATION AND PROMOTE PURCHASING POWER OF THE FRENCH

The law on emergency measures to protect purchasing power²:

- The value-sharing bonus (*"prime de partage de la valeur"*) now replaces the exceptional purchasing power bonus (*"prime exceptionnelle de pouvoir d'achat,"* known as “PEPA”) created in the context of the “yellow jackets” crisis in 2019. Companies are able to implement this bonus, in an amount up to €3,000 per calendar year per beneficiary, or €6,000 under certain conditions, in particular relating to implementation of a voluntary profit-sharing agreement (*"accord d'intéressement"*), in order to benefit from the tax and social security exemption regime.
- This bonus, voluntarily set up by collective agreement or unilateral decision of the employer, is exempt from all social security contributions payable by the employer and the employee within the limits of the above mentioned ceilings. In addition, up to 31 December 2023, employees receiving remuneration of less than three times the legal annual minimum wage (i.e., €60,442.20 gross for 2022) during the 12 months preceding the payment of this bonus,

will be exempt from income tax and generalized social contribution (CSG-CRDS) on the bonus within the limits of the above mentioned ceilings.

- Payment of this bonus can be in one lump sum or by instalments. However, it cannot validly be a monthly payment because it would be considered as a salary item and not as an exceptional bonus with a specific social and tax treatment.
- The implementation of voluntary profit-sharing agreements ("*accords d'intéressement*") is encouraged in small companies. Voluntary profit-sharing may be set up for a maximum of five years (three years previously) regardless of the size of the company. In addition, in companies with fewer than 50 employees, the employer can introduce voluntary profit-sharing unilaterally in the absence of a staff representative institution or in case of failed negotiations (subject to prior consultation).

The Amending Finance Act for 2022³:

- Employers can pay days or half-days of rest (RTT) acquired but not taken between 1 January 2022 and 31 December 2025. If employees request it, employers may agree to pay a portion of employees' unused rest days. In such case, the company pays an amount equivalent to the salary the employee would have received if he/she had used the RTT day. This monetary value of the RTT is free from social security contributions and income tax up to €7,500 per year, but remains subject to CSG-CRDS and is included in the amount of the reference tax income. This measure is mainly of interest to companies that were placed in partial activity during the COVID-19 pandemic, whose employees have accrued a large number of rest days without being able to take them.
- Please note: any overtime or additional hours are also counted in the €7,500 ceiling. Until now, the annual income tax exemption ceiling for overtime was €5,000.
- The partial activity scheme for vulnerable employees is again in place since 1 September 2022. The amount of the allowance paid to employees suffering from serious pathologies (e.g., in particular: chronic respiratory pathology, high blood pressure, diabetes, severe chronic renal failure, cancer undergoing treatment) remains at 70% of their gross hourly pay per hour off. However, employers will only be reimbursed for 60% of this amount.

Other ongoing social projects:

- Unemployment insurance and pension reform. These sensitive subjects that triggered general strikes on a national scale in 2018 and initiated the yellow jackets movement will again be the focus. A bill on the first emergency measures to strengthen and improve the functioning of the labor market should be made public during September. The reform of the pension system will not be resumed as announced in 2020, although an implementation phase as early as summer 2023 is envisioned.
- Implementation decrees on the protection of whistleblowers. We expect these decrees to be issued in September and specify the terms of implementation of the internal procedure for collecting and processing whistleblower reports in companies with more than 50 employees, as well as the terms of mandatory personal training account (PTA) funding by the employer of

a whistleblower whose employment contract has been illegally terminated. Funding of the PTA allowed employees to follow a training course leading to a professional qualification or certification.

FOOTNOTES

¹ Challenges Magazine, *Covid: HRDs faced with employees who have moved and want to rearrange their work*, 8 June 2021.

² [LAW no. 2022-1158 of 16 August 2022 concerning emergency measures for the protection of purchasing power.](#)

³ [LAW no. 2022-1157 of 16 August 2022 on the rectifying finances for 2022.](#)

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