

April 24, 2015
2015-054

flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

France – New Decree to Foster Proper Compliance for Cross-Border Work

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A recent French decree¹ has been issued to combat fraud in relation to the posting of workers and illegal work. The decree reiterates the requirement to notify in advance the French labor inspectorate of all assignments to France – whatever the length of the assignment – to appoint a representative in France, and to keep relevant documentation, as specified.

The decree sets out the responsibility of the receiving company (client or contractor) for failures to comply.

The new rules took effect on 1 April 2015.

Why This Matters

A non-French employer must declare in advance all assignments to France, whatever the length of stay and the purpose of the stay. In addition, receiving companies are held jointly responsible for compliance failures. Foreign companies sending assignees to France should be mindful of the rules as failure to comply may result in fines and criminal prosecution.

Clients or contractors are required to check that the sending employer has fulfilled its obligations. They must request that the sending company rectify its compliance failures and inform the labor inspectorate.

The so-called loi Macron, currently undergoing parliamentary review, is proposing to increase the fines to up to EUR 150,000 and to provide the labor inspectorate with the power to suspend the execution of a contract for a period of time, whilst maintaining employees' rights under their employment relationship. (For prior coverage of the loi Macron, see [Flash Alert 2015-013](#), 29 January 2015.)

FIDAL Note

Sending and receiving employers must familiarize themselves with the requirements so that they may effectively fulfill their obligations and avoid potential penalties and other sanctions.

Footnote:

1 See *Décret n° 2015-364 du 30 mars 2015 relatif à la lutte contre les fraudes au détachement de travailleurs et à la lutte contre le travail illégal*, published the *Journal Officiel* n°0076 du 31 mars 2015 page 5872. The decree is in application of Articles 1 to 5, 9 and 10 of Law No. 2014-790 of 10 July 2014 to fight unfair social competition which itself is a transposition of EU Directive 2014/67 implementing Directive 96/71 / EC on the posting of workers.

<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030419658&dateTexte=&categorieLien=id>

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