



GMS Flash Alert

Immigration Edition

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France – Stricter Provisions to Combat Fraud Tied to Foreign Workers in France

On 12 February 2018, the Labor Minister, Muriel Pénicaud, presented to the press 16 measures to further combat illegal work in France.¹ Some of the measures include increased financial penalties, widespread publication of the sanctions for illegal work, extension of the prefects' powers to order the closure or cessation of activities of companies concerned, and reinforcement of the labor inspectors' investigative powers.

WHY THIS MATTERS

Employers with foreign workers/posted workers will need to tighten up their hiring practices and take steps to act in full compliance with existing laws². In addition, they should familiarize themselves with the proposed 16 measures announced by the minister of labor. Employers can expect increased audits and face the prospect, if irregularities are discovered, of financial penalties.

Employers seconding employees to France may have to adjust their procedures and practices in light of the proposals.

Context

European Union

At the European level, secondment is covered by a European Union Directive of 1996³, which was the subject of an amendment announced in October 2017 by the Council of Ministers of Labor.⁴ The member states' ministers of labor reached a compromise and the text is currently being discussed at the European Parliament and the Commission.

Current and Upcoming Developments in France

As noted above, on 12 February 2018, France's minister of labor presented 16 measures to combat illegal work, including increased financial penalties for companies.

On 7 March, the Council of Ministers will adopt an order that will increase the financial penalties from €2,000 to €3,000 per employee illegally employed and from €4,000 to €6,000, in the case of repeated offenses.⁵ In addition, if a foreign provider does not pay the fine, its services may be suspended.

The plan to strengthen the prefects' sanctioning powers and labor inspectors' investigative powers are also very significant steps. The government intends to extend the powers of prefects to close an establishment or order the cessation of a company's activity. It also wants the labor inspection officers to have easier access to the information they might need to be able to cross-check the information they have obtained with that of other authorities, such as social security institutions.

FOOTNOTES:

1 See the Press Dossier (in French) "[Bilan et Mesures du Plan National de Lutte contre le Travail Illégal](#)" on the Web site for the Ministère du Travail (Labor Ministry).

To see the minister's RMC-BFMTV interview on 12 February 2018 (in French), [click here](#). (Please note that this is a 3rd party (non-governmental, non-KPMG, non-FIDAL) website. Provision of this URL does not represent an endorsement by KPMG International or Fidal.)

This was also, reported by J-B. Duval, "'Travailleurs détachés: Muriel Pénicaud annonce le 'name and shame' contre les entreprises condamnées pour travail illégal,'" in *Huffington Post* (online), 12 février 2018.

2 "Employment Law," Law No. 2016-1088 relating to work, modernization of social dialogue and securing career paths. Article 1262-1 of the French Labor Code on secondment situations.

3 Directive 96/71 EC of the European Parliament and of the Council of 16 December 1996.

4 See the webpage "[Employment, Social Policy, Health and Consumer Affairs Council, 23/10/2017](#)," for further details. For an announcement of the endorsement of the amendment by the ministers of labor in October 2017, [click here](#). In addition, see the French government's 24 October 2017 press release "[Posted Workers: an Ambitious Agreement Reached](#)." Also, to see the Interinstitutional File: 2016/0070 from the Council of the European Union (24 October 2017), [click here](#).

5 See (in French) pages 16-17 of "Dossier de Presse: Bilan et Mesures du Plan National de Lutte contre le Travail Illégal," (12 février 2018) – [click here](#).

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