

# JSTE

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## Preliminary report about the state of art of the integration and employment policies in France

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## **IMMIGRANT INTEGRATION ON THE FRENCH TERRITORY**

Each new comer on the French territory have to register with the French Office of Immigration and Integration (OFII) within 3 months after one's arrival.

### **THE FRENCH OFFICE OF IMMIGRATION AND INTEGRATION (OFII)**

Created in 2009, the French Office for Immigration and Integration (OFII) brings together all the competences of the National Agency for the Reception of Foreigners and Migration (ANAEM) (excluding the employment of French nationals abroad) and part of the missions of the Agency for Social Cohesion and Equal Opportunities (ACSE).

The OFII is now the only State operator in charge of the integration of migrants during the first 5 years of their stay in France.

The OFII is also responsible for managing procedures for professional and family immigration, managing the national system for receiving asylum seekers, managing return and reintegration assistance, contributing to solidarity development, and combating illegal employment.

Within this framework, it works with all the institutional actors in France and abroad, prefectures, diplomatic and consular posts, in order to provide the best possible service to migrant populations and employers of legal foreigners.

### **Professional immigration**

The OFII assists the company in the procedure for introducing its future foreign employee to France, after the employer has demonstrated that it has been unable to hire a person with the professional skills it needs on the French labor market.

The OFII is also the one-stop counter for beneficiaries of the new professional immigration measures where the employment situation is not opposable:

- The temporary residence permit bearing the words "skills and talents".
- The temporary residence permit bearing the mention "employee on assignment".
- Young Professionals
- The introduction of employees in professions under stress that are included in ministerial lists or covered by international agreements.

### **Family immigration**

The OFII receives the applications for family reunification and, in the event of failure by the mayor, carries out checks on the applicant's housing and resources. Once the Prefect has issued a decision in favor of reunification and the visa issued by the Consulate has been obtained, the OFII helps the applicant for family reunification to prepare for the arrival and installation of his family, which is cared for in its country of origin and in France by the OFII's reception and integration system.

### **Reception of foreigners and organization of their integration process**

The integration process in France begins in the OFII territorial office responsible for the migrant's place of residence.

During half a day, the foreigner benefits from several reception services:

- a collective presentation
- a language evaluation test
- a personalized interview during which the foreigner signs the Republican Integration Contract (CIR)

### **The CIR: a contract, some trainings**

By signing the CIR, the foreigner undertakes to follow the training prescribed by the auditor during the personal interview:

- Principles and values of the French Republic - module 1 mandatory (duration: 1 day)
- Living and accessing employment in France - module 2 mandatory (duration: 1 day)
- Language training aimed at level A1 of the CEFR (3 possible courses of 200, 100 or 50 hours) - training prescribed according to the score obtained on the language test carried out on the platform.

The OFII also offers the possibility to continue to learn the French language. Indeed, signatories can access training courses preparing for level A2 (necessary for the residence card) and B1 oral for access to French nationality.

Participation in the prescribed training is mandatory. In case of unjustified absence, the Prefect may oppose the issuance of a multi-year residence permit.

### **Reception of asylum seekers and refugees**

The OFII coordinates and leads the National Asylum Seekers and Refugees Reception System. It is responsible for the management of entries into the Reception Centers for Asylum Seekers (CADA) and the Provisional Refugee Accommodation Centers (CPH). The OFII also participates in the initial reception of asylum seekers.

### **Solidarity development: resettlement assistance and return aid**

The OFII sets up specific resettlement assistance programs tailored to the needs of migrants who wish to create an economic activity in their country of origin and offers them financial and technical support.

The OFII ensures the implementation of schemes to assist the voluntary return of foreigners in an irregular situation who wish to return to their country and supports those without resources who wish to benefit from humanitarian return assistance.

The OFII also carries out a mission to inform, support and listen to foreigners in administrative detention centers (CRA). Within this framework, material assistance is provided to them to ensure the organization of their departure and facilitate their detention conditions.

## Medical check-up

The objective of the medical visit is to allow migrants to take stock of their own health.

This preventive medical check-up is one of the main missions of the OFII: it is an obligatory step for all foreigners admitted to stay in France for more than three months. More than a simple health examination, it enables the persons concerned to receive information and, if necessary, to obtain guidance for medical treatment. All information gathered during this visit is confidential and covered by medical secrecy.

## THE FRENCH EMPLOYMENT POLICY BY THE MINISTRY OF LABOR, EMPLOYMENT AND INCLUSION

### Workplace equality, discrimination and harassment

The employer's decisions (hiring, remuneration, training, promotion, sanctions, transfer, dismissal...) must be based on professional criteria and not on the employee's origin, sex, age, marital status, political opinions, union activity, health... Any employee or candidate for a job, internship or training period in a company is protected against discrimination at work.

Similarly, the law protects employees against sexual and moral harassment, providing for civil and criminal penalties against those found guilty of such acts. It also provides that the employer shall take all necessary measures to prevent such acts.

Equal treatment between women and men in the workplace implies the fulfillment of several specific obligations by the employer, particularly in terms of equal pay.

- **Discrimination in the hiring** of a person on the basis of age, gender, state of health or any of the 20 criteria for discrimination is strictly prohibited by law.
- **Recruiting without discrimination:** from the drafting of the job offer to the recruitment phase, the employer must ensure that no reference is made to a discriminatory ground.
- **Protection against discrimination** implies that any decision made by the employer must be based on professional criteria. Failure to do so may result in civil and criminal penalties.
- **Professional equality between women and men** implies respect for principles such as equal pay and career development.
- **The gender equality index**, how to calculate it and thus put an end to unjustified wage gaps. The Ministry of Labor publishes a spreadsheet to help companies calculate their Index and a "Frequently Asked Questions" section to resolve any implementation difficulties.
- **Hiring discrimination:** There are several legal recourses and opportunities for support and advice. The time limit is 5 years for a civil recourse and 3 years for a criminal recourse.
- **Moral harassment** takes the form of repeated acts that have the purpose or effect of worsening working conditions that may affect the employee's human rights at work and his or her dignity, impair his or her physical or mental health or compromise his or her professional future.
- **Sexual harassment** is a criminal offense, punishable by 2 years' imprisonment and a fine of 30,000 euros plus a fine in the event of aggravating circumstances, for example, if the acts are committed by a person who abuses the authority conferred by his or her position. If it is

committed by an employee, the employee will, in addition, be subject to disciplinary action by the employer.

- **The diversity label** was created by the French government in 2008 with the social partners and experts to recognize effective commitment to preventing discrimination and promoting diversity.
- **The contract for job diversity and gender equality in the workplace** is open to companies with no workforce threshold conditions, to help finance an exemplary action plan to promote gender equality in the workplace.

### The 20 criteria of discrimination prohibited by law

The Defender of Rights is responsible for fighting discrimination in the field of employment, housing, education and access to goods and services on the basis of 20 criteria prohibited by law:

1. Age
2. Physical appearance
3. Ethnicity and non-ethnicity
4. Belonging or not belonging to a nation
5. Whether or not belonging to a race
6. Belonging or not to a particular religion
7. The state of health
8. Sexual identity
9. Sexual orientation
10. Pregnancy
11. Marital status
12. Disability
13. The patronymic
14. Sex
15. Union activities
16. Genetic characteristics
17. The morals
18. Political opinions
19. The origin
20. Place of residence
21. Employment contracts

### Employment contracts

The employment contract exists from the moment a person (the employee) undertakes to work, in return for remuneration, for the account and under the direction of another person (the employer). The employment contract must generally be in writing. It specifies the remuneration, the qualification, the working hours and, more generally, the attributions of the employee. It entails a certain number of obligations for both the employee and the employer. There are different types of employment contracts depending on their duration, the employer's activity or the nature of the work entrusted to the employee.

- **The open-ended employment contract (CDI)** is the normal and general form of the employment relationship. By definition, it does not stipulate the date on which it ends.
- **The construction site or operation contract** is a contract for an indefinite period of time (CDI) concluded for the duration of a construction site or operation.
- **The fixed-term contract (CDD)** is only possible for the execution of a specific and temporary task.
- **The fixed-term contract with a defined purpose** is reserved for the recruitment of engineers and managers. The duration of a fixed-term contract is between 18 and 36 months and normally ends with the completion of the project for which it was concluded.
- **The senior fixed-term contract** is intended for people over 57 years of age who have been looking for work for more than 3 months or who are beneficiaries of a personalized reclassification agreement.
- **The temporary employment contract** is only possible for the performance of a specific and temporary task, called an assignment, and only in the cases listed by law.
- **The part-time employment contract** is concluded with an employee whose working time is less than the duration - legal or conventional - practiced in the company.
- **Intermittent work** is an alternation of periods worked and non-worked corresponding to fluctuations in activity. This contract can be used for permanent jobs which, by their very nature, involve such alternation (e.g. ski instructors).
- **Seasonal contracts** are characterized by the performance of tasks that are normally expected to be repeated each year, at roughly fixed dates, according to the rhythm of the seasons (harvesting, picking, etc.) or collective lifestyles (tourism, etc.).
- **The harvest contract**, a special type of seasonal contract, allows you to hire an employee to prepare for the harvest, carry out the harvest (e.g. grape picking, carrying hoods and baskets), and tidy up and clean the equipment.
- **The positions of adult relays** are reserved for unemployed people of at least 30 years of age for social and cultural mediation missions, in city policy districts and other priority areas of city contracts.
- **The Job-Service Enterprise Title (TESE)**, offered by the URSSAF network, enables employers who meet the conditions to simply fulfill the main administrative obligations related to the recruitment and employment of an employee.
- **The associative employment voucher (CEA)** is intended for non-profit associations, foundations with legal personality, as well as electoral financing associations. Its purpose is to lighten and simplify employers' obligations.
- **The universal employment service voucher (CESU)** is a system that allows an individual employer to declare and pay for personal service activities. The CESU has the advantage of simplifying the employer's declaration procedures.
- **The "pre-financed" CESU**, sometimes referred to as a "CESU voucher", is a means of payment for personal services. Like meal vouchers, it is pre-financed in whole or in part by the employer, the social and economic committee or a financial institution.

### Fight against illegal work

The expression "illegal work", legally enshrined in Law No. 2005-882 of August 2, 2005, covers a range of major frauds against social public order and economic, precisely provided for and defined by the labor code.

These frauds have in common that they violate elementary rules related to the exercise of an independent professional activity, in one's own name or in a company, as well as those related to the hiring and employment of employees. These are:

- Hidden work
- Bogus self-employment
- Illicit forms of job overlapping
- Replacement income fraud
- Illicit lending of labour
- Merchandise
- Offences involving foreign labour
- The intervention of foreign companies on the French territory
- Human trafficking and abuse of vulnerability

### Responsibility of natural persons

The law now allows any person involved in a case of illegal employment to be held responsible.

The law allows all natural persons who participate in fraud, regardless of their nationality and first and foremost the author of the illegal work, i.e. the person in charge of the economic activity carried out in illegal conditions.

In the vast majority of situations, it is the entrepreneur, taken in his or her own hands, who is responsible for the capacity, as the case may be, either as a self-employed worker or as a representative of a company, or as an employer.

This liability can be sought not only for criminal acts that he commits personally but also for those he commits per person (e.g. when employing a foreigner without a work permit).

### Liability of legal persons

Since March 1, 1994, the law has made it possible to hold, in addition to criminal liability of natural persons, that of legal entities when they commit some of the offences that fall within the scope of illegal work.

#### The criminal liability of legal persons

The main offences constituting illegal work or related offences allow the criminal liability of legal persons to be called into question when these offences were committed on their behalf.

These offences are as follows:

- Concealed work,
- employment of foreigners without a work permit,
- bargaining,
- the illicit lending of labor,
- collective accommodation not declared at the prefecture,
- working or living conditions incompatible with human dignity,
- remuneration that is clearly unrelated to the importance of the work performed,
- assistance for the entry, stay and movement of illegal foreigners.

This criminal responsibility does not, of course, exclude that of natural persons authors or accomplices of the same facts. Specific penalties independent of those incurred by natural persons are intended to punish the behaviour of legal persons who engage in these practices.

### **Responsibility of the beneficiaries of illegal work**

The law also allows, in most cases, to challenge all those (including individuals) who have benefited from the benefit in full knowledge of the facts carried out under illegal conditions.

It is of course the immediate and direct beneficiary of the service, i.e. the customer who placed the order, and called, depending on the circumstances and the professional sector, principal or client.

However, it can also be the final beneficiary of the service, or any other intermediary, even if he did not deal directly with the person who carried out the work under illegal conditions.

This mechanism makes it possible, for example, to seek the responsibility of the client for a fraud carried out by a subcontractor with whom he has not official business relationship.

The individual may be involved in a case of illegal employment in essentially two ways:

- either because he makes an employee (cleaning lady, child babysitter, secretary, janitor, mason) work as an employer on his personal account, which he does not declare and who, moreover, may also be a foreigner without a work permit,
- or because he uses as a client the services of a self-employed worker or a company that does hidden work.

The first case corresponds to a situation in which the individual can be sued for hidden work and, possibly, for employment of a foreigner without a work permit.

In the second case, the individual, who no longer acts as an employer but as a client, commits the crime of using a person who performs hidden work. He or she is therefore liable to the penalties that punish this fraud. Likewise, his civil liability may be engaged as a matter of financial solidarity if he has not formally verified the administrative situation of the professional he is employing.

To avoid these risks, it is therefore strongly recommended that all private individuals require a formal estimate from the professional they call upon, especially if the amount of the work performed is equal to or greater than €3,000.

### **Other possible responsible parties**

Finally, in the capacity of principal or project owner, can also be and in particular financially, depending on the nature of the offences, the local authorities and public administrative establishments.