

THE PRINCIPAL CLAUSES OF THE FRENCH EMPLOYMENT CONTRACT

- LES PRINCIPALES CLAUSES DU CONTRAT DE TRAVAIL EN FRANCE

Probationary period – *période d’essai*

The probationary period is a transition period, allowing the employer to assess the working skills of the employee regarding his previous experiences. The employer also assess whether the employee is suitable for the company. The probationary period is optional and for this period to be valid, it is mandatory that the employer includes this clause in the employment contract. At the end of this probationary period, the employer as well as the employee may, if the collective agreement does not require otherwise, terminate the contract without any further formalities or notice periods.

The probationer holds the same rights and obligations like the other employees, however, certain benefits are excluded. The probationary period for junior social servants (*employés*) shall not exceed 2 months and for executives (*cadres*) 4 months. The possibility to extend the probationary period must be included in the employment contract and can only be renewed once.

Remuneration – *rémunération*

Similar to the Swedish law, the salary shall not be lower than the minimum wage (*Salaire Minimum Interprofessionnel de Croissance, SMIC*) of 9.67 euros gross per hour or 1 466.62 euros gross per month. A foreign employee must be aware of the differences of the amount of pay on the payslip. The Swedish payslip shows the net salary, unlike the French payslip (*bulletin de paie*), which shows the gross salary. Furthermore, it is important for an employer to pay attention to the following, see example below:

Holiday pay – *congés payés*

It is the employer's obligation to pay annual leave to all the employees. The holiday pay is irrespective of the employee's length of employment. The paid leave covers 2.5 working days per month for the same employer, except if there is existing provisions in the collective agreement, which are more favorable. If so, they are applicable. The leave shall not exceed 30 working days ($2.5 \times 12 = 30$) or 5 weeks of vacation. This applies to an employee who has been working for at least 12 months.

It is very important to pay attention to that a working week in France is equivalent to 6 days. According to Swedish law, an employee is entitled to 5 weeks of vacation, but this represents only 25 vacation days. A workweek is equivalent to 5 days.

The holiday pay is determined by the collective agreement or by the employer. The vacation period is between the 1st of May and the 31st of October. It is the employer's duty to plan the annual leaves and shall inform the employees 1 month before the start of their vacation.

Non-competition clause – *clauses de non-concurrence*

The clause shall be included in the employment agreement or in a collective agreement. The non-competition clause prohibits former employees, during a certain period of time and within a specific geographical area, to exercise competitive activity, which can be harmful for the former employer. This clause also prohibits a former employee to start a company in the same area of business as the former company he worked for. This clause aims to protect the previous employer's interests.

There is no law nor regulation that defines the conditions of validity and application of the non-competition clauses. They are either stipulated in the employment contract or in the collective agreement. This clause is permitted to the extent it does not make it entirely impossible for an employee to work.

In the absence of legal provisions, case law has defined the conditions for the validity of non-compete agreements under more restrictive conditions:

- It shall be necessary to protect the company's legitimate interests,
- It shall be limited in time,
- It shall be geographically limited,
- It should take into account the characteristics of the employee's employment, and
- It shall also include an obligation for the employer to pay compensation to the former employee

These conditions are cumulative and if one of these conditions are not included, the contract will be null and void. In case of conflict between the provisions of the collective agreement and the employment contract, the employer shall apply the provisions that are the most favorable for the employee.

Most of the collective agreements, which includes a non-competition clause only provides provisions concerning:

- The employer has the right to determine the non-competition clause towards an employee,
- The clause shall be specified in written form in the employment contract, and eventually that
- The non-competition clause must comply with certain rules and limits specified in the collective agreement.

Mobility clause – *la clause de mobilité*

A mobility clause means that the employee agrees in advance that the place of work may change. Meaning that if the business moves and the employee does not want to change area he may be

dismissed. For this clause to be applicable, the employer shall specify the geographical area (if this affects a workplace that is not mentioned in the clause, the employee may refuse to relocate).

This means that if the company moves and changes field and the employee does not want to change the city, he may be terminated. For this clause to be applicable, the employer should specify the geographical area (if this affects a workplace that is not mentioned in the clause, the employee may refuse to relocate). The relocation of the place of work shall be justified and that the employee must be informed within a reasonable time.

End of contract clause (Clause de fin de contrat) :

The employee must make a notice on resignation , dismissal, departure or retirement . The notice period varies according to the reason for termination.

At the time of the trial : If the employer terminates the test period , it must respect a notice period, which vary according to the time spent in the company :

- less than 8 days : 24-hour period ;
- 8 days to 1 month : 48 hours;
- greater than 1 month: 2 weeks;
- exceeding 3 months : 1 month.

On resignation, the law does not provide for minimum notice period. It is therefore the provisions of the collective agreement that are applicable.

At dismissal, the law sets a minimum period, which depends on the employee's seniority in the company:

Seniority in the company	Duration of notice period
Less than 6 months	Nothing save any specific rules in the collective agreement
From 6 months to 2 years	1 month
2 years and more	2 months

Specific rules in the collective agreement may apply. It is therefore important to also check the collective agreement applicable to the company.

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