

Administrative cooperation in France

Email address of the national liaison office

bureau.liaison@dgt.travail.gouv.fr

Access to information on posting via Internet:

<http://travail-emploi.gouv.fr/informations-pratiques,89/fiches-pratiques,91/detachement-de-salaries,407/>

Address of the labour inspectorate in France

<http://www.direccte.gouv.fr/>

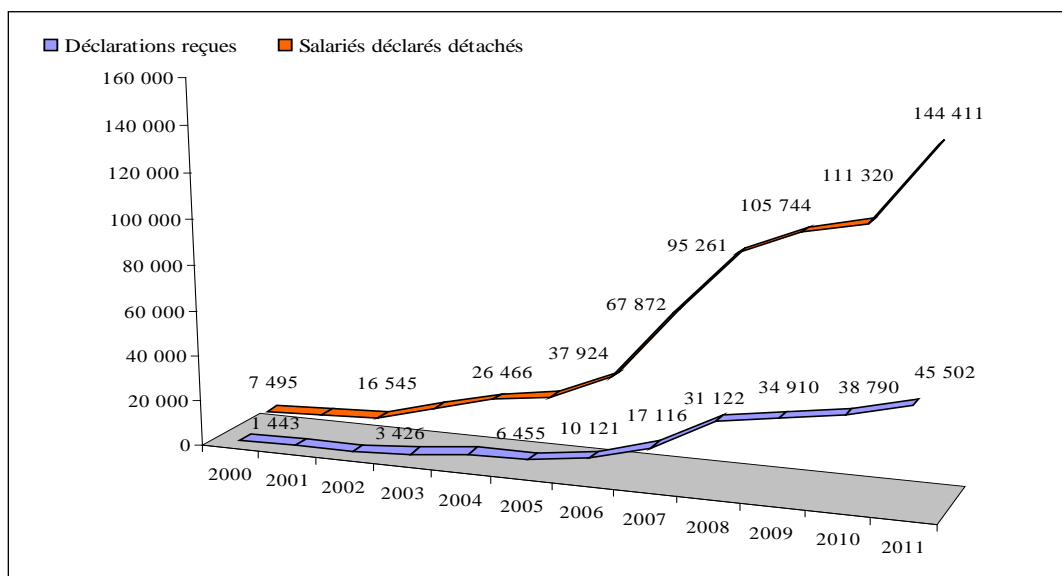
1. The context of worker posting in France

France is both an important destination state for posted workers and a state which sends out many workers for posting.

During the past five years, the number of employees from other countries who are declared as posted in France has grown fourfold (144,000 posted employees in 2011 as compared to 38,000 en 2006), with particularly strong growth between 2010 and 2011 (+30% as compared to +5% for the previous two years).

The main sectors involved are construction (a third), industry (a fourth) and temporary employment (nearly a fifth).

Chart: Declarations Received (blue); Declared Posted Workers (red)



The number of posting declarations received by labour inspectorate services grew by 17% over one year.

In 2011, the three countries of Luxembourg, Poland and Germany accounted for over half of the posting declarations counted in France. A third of these declarations was made by six other countries (Romania, Portugal, Spain, Belgium, Italy and Slovakia).

In 2011, over 19% of employees declared as posted in France were Polish, ahead of French employees (13%), who were primarily posted by temporary employment companies in Luxembourg, and Portuguese workers (11%). The number of Romanian and Bulgarian employees who were declared as posted continued to show strong growth (+37% and +96%, respectively).

Figures on control of foreign companies by labour inspectorate services

In 2011, there were an estimated 1,400 to 2,100 verifications of foreign companies by labour inspectorate services in France. Nearly two out of three controls concerned a company which had made a posting declaration: 61% of these controls concerned the public works sector, and 18% concerned temporary employment, followed by agriculture (10%) and industry (7%). Nearly three out of four verifications of companies, which did not declare posting concerned public works (73%) followed by agriculture and industry (7% each).

The main frauds detected ranged from failure to declare posting to non-payment of salaries, excessive working hours, concealment of activity, concealment of employees, bargaining, the loan of illicit labour and even abuse of vulnerability.

Eight-one criminal proceedings were initiated, and 19 reports and three referrals to the public prosecutor were made.

2. Exchange of information with other member states

Article 4 of Directive 96/71 dated December 16, 1996, concerning the posting of workers provides for the designation of one or more liaison offices in each member state to enable cooperation as concerns supervising labour conditions and the hiring of posted workers.

In particular, cooperation consists in calling upon other European liaison offices for the exchange of information necessary for investigations and administrative enquiries made by control services, supplying these services with legal assistance and distributing information on labour laws which apply to the posting of workers and the interpretation of these laws.

Liaison offices in the 27 Member States have access to a computer application (IMI – the Internal Market Information system) which is made available by the European Commission and enables providing more complete answers, as well as shorter processing times.

The implementation of decentralised liaison offices

To reinforce cooperation effectiveness, in addition to the national liaison office at the General Directorate for Labour, France has chosen to implement decentralised liaison offices in charge of exchanges with bordering countries.

Thus, bilateral agreements have been signed with Germany, Luxembourg, Belgium, Italy and Spain to enable the implementation of the following decentralised liaison offices:

- DIRECCTE Alsace;
- DIRECCTE Lorraine
- DIRECCTE Nord-Pas-de-Calais;
- DIRECCTE Provence Alpes Côte d'Azur and Rhône-Alpes;
- DIRECCTE Aquitaine and Languedoc-Roussillon.

These decentralised liaison offices are authorised to handle requests concerning companies from neighbouring countries which intervene in French border regions and vice-versa (as in the case of the Franco-Spanish and Franco-Italian liaison offices) or throughout French territory (as in the case of the Franco-German and Franco-Luxembourg offices).

The missions and means of referral and exchange of information are the same for all liaison offices, whether national or decentralised.

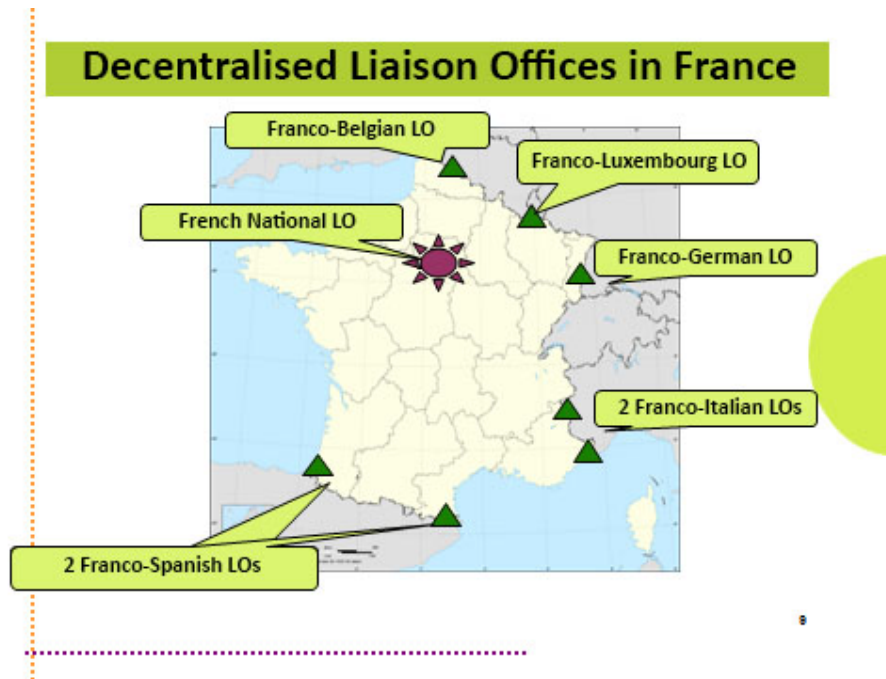
The interest of implementing a decentralised liaison office

Decentralised liaison offices implement and develop their own local network and pertinent contacts.

They thus provide support for control services through a geographical and linguistic proximity which facilitates exchange and contact between administrations.

With their counterparts in neighbouring countries, they speed both preventive actions and coordinated control actions.

They elaborate computer tools related to legislation on posting and the current control procedures used by neighbouring countries.



Information obtained by liaison offices

Information obtained from a foreign liaison office can provide elements to complement the procedures undertaken by control agents, in particular as concerns infractions related to a lack of proper establishment or the concealment of salaried workers, employment of foreigners without a work permit and even illicit loaning of labour or bargaining.

Requests primarily concern the verification of significant activity by the foreign company in its home territory, the affiliation of employees to a social protection system, the application of posting rules by service provider companies (respect of the minimum wage or conventional salaries, working hours, payment of overtime) and the respect of obligations by temporary employment companies (mission contract and assignment contract, financial guarantee).

The great majority of these requests highlight situations where the remuneration of foreign workers posted on French soil has no relationship to work done.

Liaison office activity figures

An assessment of liaison office activity reveals an increase in exchanges. As an example, the activity of a sole national liaison office increased by nearly 50% in one year.

In 2011, the countries most called upon by the national liaison office were Romania (30% of requests), Poland (16%), Portugal, Slovakia, Bulgaria and Spain (7%).

The sectors most often targeted by these enquiries are building and public works (56%), followed by temporary employment (18%) and agriculture (12%).

Control organisms authorised to call upon liaison offices

All control agents who are authorised to note infringements concerning illegal labour practices may call upon the liaison offices:

- Work inspectors and controllers;
- Criminal investigation officers and agents (police);
- Tax and customs agents;
- Agents from social security bodies (URSSAF and MSA);
- Officers and sworn agents of the Maritime Affairs Office;
- Sworn civil aviation officers;
- Officers or agents in charge of controlling land transport;
- Sworn agents of the Job Centre

The controlling bodies most frequently asking for information are, far and away, labour inspectorate services at 76.5%.

3. Structures for coordinating the combat against undeclared work in France

The National Committee to Combat Fraud (CNLF) is presided by the Prime Minister and is in charge of orienting an anti-fraud policy to protect government funds, whether they stem from mandatory contributions or from other sources, as well as fraud involving social services. When this Committee meets to examine issues related to combating illegal labour, it is known as the National Commission to Combat Illegal Employment (CNLTI) and is presided by the Minister of Labour if the Prime Minister is not available.

A local Committee to Combat Fraud (CODAF), under the authority of prefects and prosecutors and comprised of local social protection bodies and representatives of state services, has been set up in every French department.

In addition, there is a National Delegation to Combat Fraud (DNLF) with a mission to:

- coordinate actions carried out to combat fraud by state services and organisms responsible for social protection,
- improve knowledge of fraud and promote the development of file exchanges between the pertinent administrations,
- contribute to the implementation of a national policy of prevention and communication,
- steer the activity of operational committees to combat illegal labour.

It acts as secretary to the National Committee to Combat Fraud and the National Commission to Combat Illegal Employment.

4. The national plan to combat illegal work

The combat against posting fraud in the context of providing service internationally is one of the priority goals in the new 2013-2015 plan to fight illegal employment, which was presented by the Prime Minister during the CNLTI meeting on November 27, 2012.

Action by control services in the combat against concealed labour must focus in particular on frauds organised around the posting of workers, on statutes which have been deflected from their original goal and on the fraudulent consequences of cascading subcontracting agreements.

The national action plan aims to reinforce training and inter-institutional cooperation and provide leadership to confront this complex delinquency.

It also encourages control services to use the levers of action available to them, both as concerns sanctioning employers (in particular administrative sanctions) and guaranteeing the social rights of employees who have been harmed.

Partnership with social partners to prevent illegal work

Since 1992, seventeen partnership agreements have been signed on the national level to combat illegal work in a number of sectors (agriculture, private security, building and public works, temporary employment, removal companies, events, etc.).

To develop the commitment of branches and professional sectors to combating illegal work, the new 2013-2015 plan against illegal labour includes a certain number of actions aiming to re-activate these agreements, draw up new ones in other sectors and rely more heavily on professional and trade union organisations, as well as communities and consular bodies.