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France: Employers obligation to provide skill development plans or training

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France

Phase:

Anticipation

Type: Employers obligation to provide skill development plans or training

Last modified: 10 October, 2019

 Native name: **Code du travail**

 English name: **Labour code**

Article

L.2242-20 to L. 2242-21, L. 5151-1 to L. 5151-6, L.6111-1, L. 6312-1, L. 6315-1, L.6321-1, L. 6321-2, L.6321-6, L.6323-13, L.6331-1 to L. 6331-6

Description

Employers are required to finance the vocational training system. Furthermore, the legislator and the case law forced them to be more active through schemes like the personal training account, the obligation to negotiate so-called anticipatory management of employment and competencies or the commitment to organise a career interview for each employee. According to the labour code, the employer is obliged to ensure the adaptation of employees to their workplace.

Personal training account (*Compte personnel de formation, CPF*)

According to article L. 6111-1, all private sector employees are required to have a personal training account (CPF), valid from their first entry in the labour market until their retirement. The CPF allows employees with 16 years of age or more to acquire training entitlements that are registered in the account for the whole working life. Changing jobs or alternating between work and unemployment does not affect an individual's right to training.

The CPF is part of the occupational personal account (*Compte personnel d'activité, CPA*), which aims at securing the individual's professional career by strengthening freedom of action and removing obstacles to mobility. The CPA can be opened by any person with 16 years of age or older, who is employed, looking for a job or accompanied by public employment services in a career orientation and integration project. The service is accessible from an [online website](#).

From 1 January 2019, training entitlements acquired under the CPF are monetised and deducted in euros. From 2020, if an employee works at least half of the legal or contractual working time for the whole year, the employer credits the CPF with up to €500 per year (subject to a total maximum of €5,000) at the end of the year. If the employee works less than half of the legal or contractual working time for the whole year, the employer credits the CPF at the end of that year in proportion to the time worked.

Rights stated on the account can be supplemented at the time of use if the holder does not have sufficient money to complete the course taken. It can be topped up by the employer, the employee, sectoral-level collective agreements or the public employment services. In case of unemployment, the account can be supplemented by the state or the competent regional employment authority. Collective agreements at company level might also provide for additional financial contributions paid by the employer towards personal training accounts.

In order to be eligible for the CPF, courses must be mentioned on an official list accessible online. Examples of listed courses include training programmes awarding a professional qualification, accreditation of prior experiential learning and training courses dedicated to business creation.

The account holder has full control over the use of the CPF, which cannot be debited without her consent.

Skills development plan (*Plan de développement des compétences*)

According to L. 6312-1, an employer must offer training as part of the skills development plan, which aims at ensuring that employees adapt to their workplace and maintain their ability to retain their jobs, particularly in light of technological developments.

Even though not legally compulsory, the skills development plan is a document that gathers all the training initiatives selected for employees.

The plan can support the employer in complying with legal duties mentioned in article L. 6312-1. Employee representatives need to be informed and consulted about the employer's decision to set up such a plan.

The skills development plan distinguishes between the following two initiatives:

- **Mandatory training initiatives**, pursuant to collective agreements: They aim at developing skills directly applicable to the performance of the employee's duties or linked to a planned change or modification of the employee's duties within the employment contract. As the employee is not required to express her consent to these mandatory initiatives, her refusal to take part in them can constitute grounds for dismissal, unless the employer offers the employee a skill assessment or a validation of prior experience (*Validation des acquis de l'expérience* - VAE). Even though these initiatives take place during working hours, the employee is entitled to the contracted remuneration and social protections.
- **Other training initiatives**, referred to as non-compulsory: They aim at developing skills applicable to other professional roles different than the employee's current one either within or outside the company. In all cases, the employer needs to obtain the written consent of the employee. The employee's refusal to take part in them cannot constitute grounds for dismissal. If these initiatives take place during working hours, the employee is entitled to the contracted remuneration and social protections. If these initiatives take place outside of working hours, they need to comply with the time limit per employee as defined by company-level collective agreement. In case of no company-level collective agreement, article L. 6321-6 provides for a limit of 30 hours per year, per employee. Before undertaking training, the employer needs to agree with the employee on the amendments to the employment contract with respect to change of qualification and increase in remuneration among others.

The skills development plan may include as well the following actions:

- Skill assessment;
- Validation of Professional Experience (*Validation des acquis de l'expérience* - VAE);
- Fight against illiteracy.

Career interview (*Entretien professionnel*)

According to article L. 6315-1, employees are entitled to a career interview at least every two years. The interview allows employees to consider their career development in terms of qualifications and roles. Every six years, the employer has to produce an individual written evaluation for all employees. In companies with 50 employees or more, the latter document is used by the employer to check whether the employee has benefited from sufficient training. A copy of the document is as well delivered to the employee. If the employee did not benefit from a career interview and at least one non-compulsory training initiative, a financial bonus is automatically credited to the employee's CPF.

Commitment to fund vocational training

According to articles L. 6331-1 and L. 6331-6, employers contribute to funding vocational training through an earmarked contribution. Employers fund vocational training with a single, compulsory contribution. The latter amounts to 0.55% of the gross monthly salary for companies with fewer than 10 employees. The contribution rises to 1% of the gross monthly salary for companies with 10 or more employees, which are allowed to reduce their contribution to 0.8% if they agree to allocate the remaining 0.2% directly to the employees' CPF.

Anticipatory management of employment and competencies (*Gestion prévisionnelle des emplois et des compétences*, GPEC)

According to article L. 2242-20, the employer has an obligation to launch negotiations every three years on its corporate strategy with respect to the foreseeable effects on employment. The following list include topics covered by the negotiations:

- the introduction of an 'anticipatory management of employment and competencies' scheme, which includes supporting measures like training or validation of prior work experience;
- the conditions for internal occupational and geographical mobility (if applicable), which need to be specified even if introduced in the company through a collective agreement;
- the general three-year guidelines on vocational training and the targets, objectives and desired outcomes of the skill development plan;
- the forecasts on the use of employment contract typologies, working time arrangements, traineeships and the measures taken to reduce the use of precarious forms of employment;
- the conditions on which subcontractors are informed about strategic guidelines of the company that might have an effect on their profession, employment and skills;
- the career development of employee representatives and the exercise of their duties.

The outcome of the negotiation has to be assessed at the date of expiry of the agreement.

According to article L. 2242-21, negotiations may also cover:

- the channels for information and consultation with the works council on collective dismissals;
- the definition of employment categories threatened by economic and technological developments;
- the procedures for association with subcontractors on the anticipatory management of employment and competencies scheme;
- the conditions under which the company takes part in actions on the anticipatory management of employment and competencies at the territorial level;
- the implementation of mobility leaves under the terms planned by article L. 1237-18;
- the training and sustainable integration of young people into employment, the employment of older employees and the transmission of knowledge and skills, the prospects for the development of apprenticeship programmes, as well as the arrangements for the reception of apprentices and trainees and the improvement of the working conditions of older employees.

Comments

The personal training account (CPF) replaced the individual right to training (*Droit individuel à la formation* - DIF), which was created in 2003 and was rarely used.

The 2018 law '*pour la liberté de choisir son avenir professionnel*' amended the labour code in the field of vocational training. It brought significant changes with respect to:

- the personal training account (prior to the reform, vested rights were recorded in hours and not monetised);
- the creation and contents of skills development plans as it replaces the former training plan;
- the organisation and rules regulating career interviews.

Even if its provisions address a very wide range of topics, the law is directly related to employee mobility in the labour market and employers' duties in this respect. The reform generally aims at empowering people, irrespective of their situation in the labour market, and at making them active in the development of their own competencies and employability. The reform contributes to the overall labour market reforms implemented by the French president, which include the 2017 reform of the labour code and the reform of the unemployment insurance scheme.

As for GPEC, there have been several attempts to assess the impact of the policy initiatives discussed above, but there are essentially three obstacles in depicting a clear picture. First, in its annual reviews on collective bargaining, the Ministry of Labour includes GPEC agreements at company level in the wider 'collective agreements on employment', which includes as well collective agreements on other issues like employment of disabled people. Second, companies can also merge GPEC negotiations with other negotiations on different topics. Third, collective bargaining for GPEC is legally required every three years, meaning GPEC agreements are often multi-year. However, it is possible to notice that the percentage of company-level collective agreements on employment related to job management (GPEC, Employment Safeguard Plans, employee mobility) reduced from 31% in 2016 to 28% in 2017. At the sectoral level, two GPEC agreements were concluded in 2016, two in 2017 and three in 2018. The 2018 reform does not directly affect GPEC regulation but, in the current context, employers have a role to play, and sometimes legal duties to satisfy, to explain to their employees their interest in training and using available resources. For instance, the 2018 reform allows employees to receive information about the CPF and the CEP (*Conseil en évolution professionnelle* - career guidance public service) during the career interview.

Cost covered by

Companies
Employer

Involved actors other than national government

Public employment service
Trade union
Works council

Thresholds

No, applicable in all circumstances

Sources

- ▢ Labour code
- ▢ Ministry of Labour website, Compte personnel de formation (CPF)
- ▢ Ministry of Labour website, L'entretien professionnel
- ▢ Ministry of Labour website, plan de développement des compétences
- ▢ Ministry of Labour website, conseil en évolution professionnelle
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- ▢ Grimand, A., Malaquin, M. Oiry, O. 'Accords GPEC : de la loi aux pratiques – Leçons tirées de 12 études de cas', Groupe Alpha-CEREGE, October 2012
- ▢ Loi 2018-771 5 September 2018
- ▢ Juritravail (2019), compte personnel de formation (CPF) : 3 changements en 2019
- ▢ IFIS (2019), Réforme de la formation : quelles conséquences pour les RH et la GPEC ?
- ▢ List of training eligible to the personal training account (CPF)

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