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EOR IN FRANCE: FATAL ATTRACTION

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International companies looking to hire quickly in France without establishing a local entity are increasingly drawn to Employer of Record (EOR) solutions.

Behind this apparent flexibility, however, lies a far more complex and potentially risky reality.

EORs appeal to foreign companies seeking to enter the French market while avoiding local administrative burdens. They offer to act as the legal employer not only for administrative purposes, such as payroll of registrations with public authorities.

Unlike in some jurisdictions, EOR is not recognised as a standalone legal arrangement in France. Employees may only lawfully be supplied to a third-party client through:

- Registered temporary staffing agencies; or
- Umbrella employment arrangements, known as *portage salarial*.

These two recognised schemes are easy to conflate with an EOR offer, which can appear simpler and more flexible to foreign employers. Warnings about financial risks and potential legal consequences, including criminal liability, are rarely prominent on EOR providers' websites. Unfortunately, by the time those risks materialise, the scheme is already in place.

How does EOR work?

- The employee signs an employment contract with the EOR provider.
- The client company enters into a service agreement with the provider.
- There is no direct employment relationship between the client and the employee.

In theory, because no employment relationship exists between client and employee, the client has no authority to supervise the employee, provide instructions, monitor working time, conduct appraisals, or take action in case of misperformance, misconduct or any other violation of employment obligations.

In practice, the client does all of the above, since the employee is performing work for the client's benefit in France. The client will therefore be treated as a co-employer. In a worst-case scenario, the client could face criminal liability and related penalties for illegal labour-hire.

A recipe for disaster

Employees engaged through an EOR operate as full-time employees for the client and have no real working relationship with the EOR provider, which has no visibility over the work being performed. Yet because the client feels insulated by the EOR arrangement, it often fails to request the EOR to monitor working time, and sometimes paid leave as well, while still implementing its own bonus schemes.

In short, the client acts as a de facto employer without any recognised legal relationship with the employee.

Problems typically surface when the client decides to part ways with the employee.

Any termination procedure must be carried out by the EOR, as the registered legal employer. The client has no authority to intervene in the dismissal process and must rely entirely on the EOR to act.



Under French employment law, there is no at-will employment. Dismissal is only lawful on substantive grounds. The EOR provider, however, has no such grounds, since the work was never performed on its behalf.

Even if the client can demonstrate genuine cause, including poor performance, misconduct, or gross misconduct, those grounds cannot validly support a dismissal because the client is not the legal employer.

Where parties attempt to reach a negotiated separation or out-of-court settlement, employees are often in a strong position to demand a substantial financial package, particularly if they are aware that the client is eager to bring the arrangement to a swift end.

This can lead to protracted negotiations, significant legal complexity, and high termination costs, making EOR a far less flexible option than it appears.

If no agreement is reached, the employee will almost certainly bring a claim against both the EOR and the client as co-employer. The dismissal will in all likelihood be found to be without cause, and additional claims such as unpaid overtime, bonus entitlements, or harassment may follow and are likely to succeed.

Recommendation

EOR appears to be smoke and mirrors.

A foreign company does not need to set up a full corporate presence in France; it can simply register as a foreign employer.

Doing so offers genuine, lasting protection against the legal and financial risks that EOR arrangements too often conceal.
