

New UE member countries: additional information on the entry into France of their nationals

May 19, 2004

As we noted late February in an information note, the nationals of the new EU member countries who wish to reside and work in France will for the next five years still have to apply for a work permit. This general rule has many exceptions, however, as briefly resumed below.

It should be kept in mind, however that so far no ministerial directives have clearly defined how – concretely – the different bodies and institutions are to deal with the new provisions. We are in fact still in a transitional period, and some time and patience will be needed in expectation of future changes.

This being said, an internal document of the Ministry of Health, dated January 26, 2004 contains some interesting indications on several specific points¹:

1) Residence permits for workers (seconded, or receiving a salary in France)

Nationals of the new EU member countries authorized to work in France must also obtain a resident permit issued by the French administration. In this connection, the Ministry of Health document notes that:

“They are given a **residence card for community [EU] nationals, valid for five years**, bearing the mention “*travailleur salarié*” if they have a work contract for an **indeterminate duration**. If they have a fixed term contract, they are given a **renewable nine-month temporary work permit**”

2) Liberal services (e.g. independent workers and their salaried employees)

One of the exceptions to the requirement of a temporary work permit concerns the provision of services: “as of May 1, 2004, any firm established in one of the new member countries is entitled to provide services in France with its salaried employees”. In that case, **the salaried employees do not have to obtain a temporary work permit**. Depending upon the nationality of the employee and the seat of the firm for which he works, one must distinguish between three specific cases:

- a. the employee is a national of one of the new member countries, and his firm is also established one of these countries: the employee **does not need a temporary work permit** (Example: a Slovak national working for a Polish firm)
- b. the employee is a national of an EU member country, but he is working for a firm established in a third country: **the employee must obtain a temporary work permit**. (e.g. a Slovak national working for a Turkish firm)
- c. the employee is a national of a non-EU country, but the firm he is working for is established in one of the new EU member countries: **the employee does not need a temporary work permit, but only if he has worked for the firm at least one year**; if not, he will have to obtain a work permit. (Example: a Byelorussian national working for a Polish firm).

3) Non-workers

L'Élan was recently asked many questions concerning the position of nationals of the new EU member countries who wish to reside in France without working there. Circular No. NOR/INT/D/04/00006 C of January 20, 2004 (implementation circular for the so-called “Sarkozy Law”), together with a circular of the Ministry of Social Affairs, specifies in that connection that:

¹ The language quoted below is a free translation of the French texts.

- persons are free to reside in any of the member countries as long as they can prove that they are covered by social security (“*couverture sociale*”) and that they have sufficient means to meet their needs’, but
- ...they are no longer required to have a residence permit issued by the French administration. We still do not know, therefore, to whom they have to prove that the person has a “*couverture sociale*” and sufficient means.

Reminder:

On May 1, 2004, ten new member countries have joined the EU: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Although the free movement of persons, including workers, represents one of the fundamental principles of the EU, at present only salaried workers from Cyprus and Malta are free to reside and work in France. For a period of five years, nationals of the other new EU member countries continue to need a temporary work permit (*Autorisation Provisoire de Travail*, or *APT*), which may be refused.

After two years – i.e. May 2006 – an opening of the labor market in sectors experiencing a labor shortage may be envisaged. For the time being, however, general entry requirements and admission procedures remain unchanged. The impatriate worker will always have to apply for an APT with the appropriate DDTEFP, which may reject his application. However, the DDTEFP will give the application a so-called “community preference”: the request is thus more likely to be granted than that of a non-EU national. Moreover, if the application is granted, the EU-impatriate will be “assimilated to a French national” (*assimilation au national*), and enjoy the same social rights and privileges as a French national.

However, this temporary limitation of the right of free movement does not apply in all cases:

1. Starting on May 1, 2004, **researchers** enjoy a complete freedom to reside and work in France. No need, therefore, to apply for an APT; the situation of the French labor market need not be taken into account.
2. **Young workers:** in order to promote Europe-wide employment, workers between the ages of 18 and 35 who are nationals of one of the new EU member countries may come to France for limited stays in order to develop their skills in a particular branch. To that end, however, their country of origin and France must have concluded a bilateral agreement, as is presently the case for Poland and Hungary. The future young impatriate must also have a sufficient proficiency in the French language. The young impatriate must file an application for an APT, which will automatically be granted for a maximum of one year, subject to a single renewal for a maximum of six months. Beyond that period, then impatriate will have to return to his country, and will not be allowed to extend his stay even if he were to find another employer in France.
3. **Seasonal Workers:** same treatment as young workers.
4. **Non-salaried workers:** since May 1, 2004 merchants, liberal professionals and artisans enjoy a complete freedom to settle and offer their services in France. To exercise their profession in France, however, they must register in the corresponding commercial, trade or professional register. This presupposes that their diplomas be recognized in France. If they are not, the guarantees of free movement will not apply to them – as is the case, for instance, with regard to some medical and nurse’s diplomas.

5. **Students** since May 1, 2004 also have the right to come freely to France, as long as they can satisfy the French authorities that they are duly registered in an agreed educational institution, that they have the means to pay for their studies, and that they are covered by medical insurance. Entry visas for France are no longer required for Polish and Estonian students, and it is expected that this will soon be the case also for Hungarians and Lithuanians.

All students from the new EU member countries have the right to work on a part time basis. They may be accompanied by their family, and spouses have the right to work, even where she/he is not a national of an EU member country.

Residence cards for these students and the members of their families are granted for periods of one year, renewable form then duration of their studies. On the other hand, French government scholarships for foreign students are not available for nationals of the new EU member countries.

6. **Providers of services:** French firms may enter into contracts with any firm from one of the new EU member countries, and the foreign firm is entitled to second its employees to France to meet the terms of the contract. In that case, it will not be necessary to obtain an APT. On the other hand, the foreign employee must enjoy the same conditions of work as French workers (minimum salary; paid leave; working hours; collective bargaining...) The foreign firm must also inform the labor inspection of the place and conditions under which the services are performed.