



BEWARE OF UNDECLARED, OR “DISSIMILATED” WORK!

September 2008

Nicolas Sarkozy has made it one of the goals of the French presidency of the European Union: businesses that use undeclared labour will be severely punished. In order to enforce the law, control organizations in France and among the various European countries are increasing their efforts to cooperate. A “National Anti-fraud Delegation” was set up in April. Two of its priorities are to fight against misuse of secondment and the fraudulent use of trainees.

But what exactly is “dissimulated” or undeclared work? The following are deemed to be undeclared work: employers not providing their employees with pay slips or employing them without first filing a “DUE” (*declaration unique d'embauche*—one-time employment declaration) for each employee. It is also considered undeclared work when the pay slip mentions a number of hours less than those actually worked. Finally, employers who do not have a Siret or Siren registration number, a K-bis certificate of incorporation or registration, or who do not pay their social charges or taxes are also guilty of undeclared work. “Fake status” is also covered: fake trainees, fake independent contractors, fake volunteers, fake representing manager, fake seconded workers (who should have been hired under a local French contract), etc.

The following laws have reinforced penalties and sanctions against the above offences: the 23 July 2008 economic modernisation act no. 2008-724; decree no. 2008-371 of 18 April 2008 and no. 2008-553 of 11 June 2008. The penalties are now as follows:

Employers (individuals) are liable for three years in prison and a 45,000-euro fine, and businesses (legal entities) incur a 225,000-euro fine. In addition employers (individuals) can also be banned (without a time limitation) from undertaking an activity related to business administration. Businesses (legal entities) could be closed down or excluded from public markets. Employers also have to pay the unpaid social charges, based on six months of the legal minimum wage.

The employees face two possible situations: either they are declared victims and receive compensation equal to six months of salary, or they are declared accomplices and lose their unemployment benefits and have to pay a criminal fine of 4,000 euros and an administrative fine of 3,000 euros.

Do not hesitate to contact us for more information!

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